

LOS ANGELES FIRE DEPARTMENT



MILLAGE PEAKS
FIRE CHIEF

September 13, 2010

BOARD OF FIRE COMMISSIONERS
FILE NO. 10-104

TO: Board of Fire Commissioners

FROM: Millage Peaks, Fire Chief *u.s.*

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN
THE LOS ANGELES FIRE DEPARTMENT AND
THE LOS ANGELES FIRE DEPARTMENT FOUNDATION, INC

FOR FINAL ACTION	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Discussion:

The Los Angeles Fire Department Foundation (Foundation) was incorporated as a California non-profit public benefit corporation by filing the articles of incorporation, with the Secretary of State of California on February 25, 2010. The Foundation was established with the full support of the Fire Chief and the Board of Fire Commissioners.

The purpose of this Memorandum of Understanding (MOU) is to establish a written understanding between the Board, the Fire Department, and the Foundation, to define each party's respective role and responsibilities. This MOU defines and sets forth the financial relationship between the Fire Department and the Foundation. Additionally, this MOU authorizes the Foundation to raise funds to support the needs of the Fire Department in furtherance of its stated mission.

This MOU delineates responsible parties, their roles and responsibilities, provisions of law, separability, and defines the term and scope of the agreement. It will establish the mutual obligations agreed to by the Los Angeles Fire Department and the Los Angeles Fire Department Foundation, for a term of three (3) years.

Recommendation:

It is respectfully requested that the Board approve and file the attached Memorandum of Understanding.

Board Report Prepared by the Planning Section

**MEMORANDUM OF UNDERSTANDING
BETWEEN
LOS ANGELES FIRE DEPARTMENT
AND
LOS ANGELES FIRE DEPARTMENT FOUNDATION, INC.**

This Memorandum of Understanding (this “MOU”) is entered into effect as of October 1, 2010, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Fire Commissioners (the “Board”), the Los Angeles Fire Department (the “Fire Department”), acting by and through its Fire Chief (the “Fire Chief”), and the Los Angeles Fire Department Foundation, Inc., a California non-profit public benefit corporation (the “Foundation”).

RECITALS

WHEREAS, the Fire Department is a Department of the City of Los Angeles; the Chief Administrative Officer of the Fire Department is the Fire Chief: and

WHEREAS, the Board and Fire Department support the establishment of the Foundation; and

WHEREAS, the Foundation was incorporated as a California non-profit public benefit corporation by filing the articles of incorporation, a copy of which are attached hereto as Appendix A (as amended from time to time, the “Articles”), with the Secretary of State of California on February 25, 2010; and

WHEREAS, the purpose of this MOU is to establish a written understanding between the Board and the Fire Department, and the Foundation, to define each party’s respective role and responsibilities, and to set forth the financial relationship between the Fire Department, and the Foundation, on the other.

NOW, THEREFORE, consideration of the recitals and mutual obligations herein contained, the Fire Department and Foundation hereby agree that the understanding between them is as follows:

I. REPRESENTATIVES OF PARTIES

- A. The representatives of the respective parties are authorized to administer this MOU and to whom formal notices, demands, requests and communication shall be given are as follows:

For Fire Department: Millage Peaks, Fire Chief
Los Angeles Fire Department
200 North Main Street, Room 1800
Los Angeles, CA 90012
(213) 473-9989

For Foundation: Karen Wagener, President
Los Angeles Fire Department Foundation
1875 Century Park East, Suite 200
Los Angeles, CA 90067
(310) 552-4139

- B. All notices required or permitted by this MOU shall be in writing and may be delivered in person, or may be sent by regular, certified or registered mail or by facsimile transmission during normal business hours, and shall be deemed sufficiently given if served in a manner specified in this paragraph.

II. TERM

The term of this MOU shall be for 3 years beginning on the Execution Date.

III. ROLES & RESPONSIBILITIES OF PARTIES

- A. The Fire Department and Foundation hereby agree that the understanding between them as to the respective roles, responsibilities and financial relationship is as follows:

1. Authority Fundraising. This MOU authorizes the Foundation to raise funds to support the needs of the Fire Department in furtherance of its specific purposes including those set forth above.
2. Employment Practices. The Foundation will make all hiring, retention and compensation decisions with respect to its employees, consultants and advisors. All such decisions shall be subject to all applicable laws. The employees, consultants and advisors of the Foundation will not be deemed employees, consultants and advisors of the Board, the Fire Department or the City of Los Angeles.
3. Indemnification. The Foundation shall defend, indemnify and hold harmless the City from any and all liability , including but not limited to claims, losses, .suits , injuries , damages, costs and expenses arising from or as a result of any acts, errors or omissions of the Foundation or its officers, agents or employees. The Foundation shall acquire and maintain such insurance protection as is necessary to protect the interests of the Foundation
4. Intellectual Property. Prior to usage of any of the LAFD trademarks, the Foundation agrees to enter into a license agreement, pursuant to which the **City of Los Angeles** shall grant to the Foundation a non-exclusive, royalty-free, license to use the Fire Department's trademarks for the term of the MOU in connection with the Foundation's purposes during the existence of the Foundation.

5. Limitation of Overhead: Overhead will be no higher than the limits recommended as best practice by Charity Navigator and Guidestar who set the standards for non-profit organizations.
6. Funding Requests. The Fire Department will provide the Foundation with information relating to the Fire Department's approved funding requests. The Foundation may use such information in determining the use of the Foundation's assets.
7. Financial Statements. Annual financial statements of the Foundation will be provided by the Foundation to the Fire Chief and the Board.
8. Disposition of Assets Upon Dissolution. Pursuant to the Articles, upon dissolution, the net assets of the Foundation will be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or shall be distributed to local government, for a public purpose. Upon dissolution, any funds raised with the support or cooperation of the Fire Department for the Fire Department shall be transferred to another non-profit benefit corporation with similar purposes or to the Fire Department for public purposes.

IV. PROVISION OF LAW AND SEPARABILITY

The parties agree that this MOU is subject to all applicable federal, state, and local laws, the Los Angeles City Charter, and any applicable rules and regulations enacted by independent commissions of the City (collectively, "Laws"). If any article, part, or provision of this MOU is in conflict or inconsistent with such laws, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such MOU article, part, or provision will be suspended and superseded by such Laws and/or court ruling, and the remainder of this MOU will not be affected thereby, unless the essential purpose of this MOU will be materially impaired thereby.

V. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between parties. Any prior agreements, promises, negotiations, or representations not set forth in this MOU are of no force or effect. Any amendment to this MOU shall be in writing and signed by the parties.

IN WITNESS WHEREOF, the parties hereto have agreed and signed this MOU as of the Effective Date.

**LOS ANGELES FIRE DEPARTMENT
FOUNDATION, Inc.**, a California
non-profit public benefit corporation

ATTESTED BY:

Name: Karen Wagener
Title: President

Name:
Title:

Name: Ron Rogers
Title: Chairman

APPROVED AS TO FORM:

Los Angeles Fire Department, a Department
of the City of Los Angeles, acting by and
through its Fire Chief

**Los Angeles City Attorney
Carmen A. Trutanich
CITY ATTORNEY**

Name: Millage Peaks
Title: Fire Chief

Name: Janet Jackson
Title: Deputy City Attorney