SPECIAL MEETING AGENDA
EL SEGUNDO CITY COUNCIL
CITY COUNCIL CHAMBERS - 350 Main Street

The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items.

Unless otherwise noted in the Agenda, the Public can only comment on City-related business that is within the jurisdiction of the City Council and/or items listed on the Agenda during the Public Communications portion of the Meeting. The time limit for comments is five (5) minutes per person.

Before speaking to the City Council, please come to the podium and state: Your name and residence and the organization you represent, if desired. Please respect the time limits.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, 607-2208. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL

WEDNESDAY, SEPTEMBER 28, 2011 – 5:00 P.M.

5:00 P.M. SESSION

CALL TO ORDER

ROLL CALL

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.

SPECIAL ORDER OF BUSINESS:

CLOSED SESSION:
The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seq.) for the purposes of conferring with the City's Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City’s Labor Negotiators; as follows:
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a)) -0-matters

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -0-
Initiation of litigation pursuant to Government Code §54956.9(c): -0- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov’t Code §54957): - 0- matter

APPOINTMENT OF PUBLIC EMPLOYEE (Gov’t. Code § 54957) -0- matter

CONFERENCE WITH CITY’S LABOR NEGOTIATOR (Gov’t Code §54957.6): -6- matters

1. Represented Group: Police Support Services Employees Association (PSSEA)
   Negotiators: Doug Willmore, City Manager
                Deborah Cullen, Finance Director
                Richard Kreisler

2. Represented Group: City Employees Association (CEA)
   Negotiators: Doug Willmore, City Manager
                Deborah Cullen, Finance Director
                Richard Kreisler

3. Represented Group: Firefighters Association (FFA)
   Negotiators: Doug Willmore, City Manager
                Deborah Cullen, Finance Director
                Richard Kreisler

4. Represented Group: Police Officers Association (POA)
   Negotiators: Doug Willmore, City Manager
                Deborah Cullen, Finance Director
                Richard Kreisler

5. Represented Group: Police Managers Association (PMA)
   Negotiators: Doug Willmore, City Manager
                Deborah Cullen, Finance Director
                Richard Kreisler

6. Unrepresented Group: Executive Management Staff
   (includes all employees not in bargaining units)
   Negotiator: Mark Hensley, City Attorney
CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov't Code §54956.8): -0- matters
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SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL

WEDNESDAY, SEPTEMBER 28, 2011 – 5:30 P.M.

5:30 P.M. SESSION

CALL TO ORDER

ROLL CALL

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.

A. PROCEDURAL MOTIONS

  Consideration of a motion to read all ordinances and resolutions on the Agenda by title only.

  Recommendation – Approval.

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)
C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

E. CONSENT AGENDA

All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.

1. Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Firefighters' Association.
   (Fiscal Impact: Estimated Savings FY 2011/2012 of $997,430.00)
   Recommendation – (1) Adopt the Resolution approving the Memorandum of Understanding; (2) Alternatively discuss and take other action related to this item.

2. Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Police Managers' Association.
   (Fiscal Impact: Estimated Savings FY 2011/2012 of $205,490.24)
   Recommendation – (1) Adopt the Resolution approving the Memorandum of Understanding; (2) Alternatively discuss and take other action related to this item.

3. Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Police Officers' Association.
   (Fiscal Impact: Estimated Savings FY 2011/2012 of $1,059,921.37)
   Recommendation – (1) Adopt the Resolution approving the Memorandum of Understanding; (2) Alternatively discuss and take other action related to this item.

CALL ITEMS FROM CONSENT AGENDA

ADJOURNMENT

POSTED:

DATE: 9-27-11
TIME: 5 p.m
NAME:
AGENDA DESCRIPTION:
Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Firefighters’ Association. (Fiscal Impact: Estimated Savings FY 2011/2012 of $997,430)

RECOMMENDED COUNCIL ACTION:
1. Adopt the Resolution approving the Memorandum of Understanding.
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Resolution
2. Memorandum of Understanding – Exhibit “A”

FISCAL IMPACT:
Total Fiscal Impact: Estimated Savings FY 2011/2012 of $997,430

Amount Budgeted:
Additional Appropriation: None
Account Number(s):

ORIGINATED BY: Deborah Cullen, Finance/Human Resources Director
REVIEWED BY:
APPROVED BY: Doug Willmore, City Manager

BACKGROUND AND DISCUSSION
Staff and representatives of the El Segundo Firefighters’ Association met and conferred pursuant to Sections 3500 et. seq. of the California Government Code, for the purposes of obtaining a labor agreement. Agreement was reached on September 27, 2011.

The Agreement contains the following major provisions:

1. Term - October 1, 2011 – September 30, 2013 with the Association’s option to extend to September 30, 2014. Association shall notify the City of its decision to extend by March 30, 2013.

2. PERS Cost-Sharing – Employees will pay three percent (3%) of the employer contribution under Government Code Section 20516(f). As soon as practicable, the City will amend its PERS contract to implement the pre-tax cost-sharing arrangement under Government Code Section 20516(a).

3. Vacation buy-back suspended.

4. Suspension of 401(a) Deferred Compensation Matching.

5. Suspension of annual medical examinations.
6. Maximum City Funding of Insurance Premiums lowered from $1800 to $1600.

7. Dental Insurance – Dependent coverage eligibility age raised from twenty-three (23) to twenty-six (26).

8. Adoption of the discipline-related policy and procedure in accord with the Firefighters Procedural Bill of Rights.

9. Institution of an Agency Shop agreement.

10. Limited Layoff language guaranteeing no layoffs will occur unless general fund core gross revenues for any six month period fall seven and one-half percent (7.5%).

11. Cost of Living Adjustment (COLA) Language – Employees entitled to a Cost of Living Increase if general fund core gross revenues increase by $1.5 million during designated time periods. COLA to be determined by CPI-U for the Los Angeles-Riverside-Orange County region for the agreed-upon time period.

12. Clean-up language includes the following:
   a. Driver’s license information updated to conform to recent Department of Motor Vehicle changes
   b. Catastrophic Leave Program information updated to be consistent with City’s Policy.
   c. Employer-Paid Member Contribution language clarified.
   d. Disability Retirement Appeals Procedures Policy – effective date updated.
   e. Drug-Free Workplace Policy – effective date updated.
RESOLUTION NO.__________

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF EL SEGUNDO, CALIFORNIA AND THE EL SEGUNDO FIREFIGHTERS’ ASSOCIATION BARGAINING UNIT.

The City Council of the City of El Segundo does resolve as follows:

Section 1: Discussions which have taken place in the meet and confer process have resulted in a mutually agreeable Memorandum of Understanding between the City of El Segundo and this Bargaining Unit.

Section 2: Staff is authorized to implement all terms and conditions of the Memorandum of Understanding between the City of El Segundo and this Bargaining Unit. A copy of the Memorandum of Understanding is attached as Exhibit “A”.

Section 3: The City Clerk is directed to certify the adoption of this Resolution; record this Resolution in the book of the City’s original resolutions, and make a minute of this adoption of the Resolution in the City Council’s records and the minutes of this meeting.

Section 4: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 28th day of September, 2011.

________________________________________
Eric K. Busch,
Mayor
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS
CITY OF EL SEGUNDO )

I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution No. ______ was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 28th day of September, 2011, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NOT PARTICIPATING:

WITNESS MY HAND THE OFFICIAL SEAL OF SAID CITY this ______ day of __________, 2011.

Cindy Mortesen, City Clerk
of the City of El Segundo,
California
(SEAL)

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: __________________________
Karl H. Berger
Assistant City Attorney
MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF EL SEGUNDO

AND

EL SEGUNDO FIREFIGHTERS’ ASSOCIATION, I.A.F.F., LOCAL 3682

OCTOBER 1, 2011 THROUGH SEPTEMBER 30, 2013
<table>
<thead>
<tr>
<th>ARTICLE 1</th>
<th>GENERAL PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1.01</td>
<td>Preamble</td>
</tr>
<tr>
<td>Section 1.02</td>
<td>Recognition</td>
</tr>
<tr>
<td>Section 1.03</td>
<td>Management Rights</td>
</tr>
<tr>
<td>Section 1.04</td>
<td>Savings Clause</td>
</tr>
<tr>
<td>Section 1.05</td>
<td>No Strike Clause</td>
</tr>
<tr>
<td>Section 1.06</td>
<td>Maintenance of Existing Benefits</td>
</tr>
<tr>
<td>Section 1.07</td>
<td>Non-Discrimination Clause</td>
</tr>
<tr>
<td>Section 1.08</td>
<td>Notice to Meet and Confer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 2</th>
<th>SALARIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2.01</td>
<td>Salaries</td>
</tr>
<tr>
<td>Section 2.02</td>
<td>Schedule of Classes by Series</td>
</tr>
<tr>
<td>Section 2.03</td>
<td>Salary Schedule Calculation Methodology</td>
</tr>
<tr>
<td>Section 2.04</td>
<td>Regular Rate of Pay</td>
</tr>
<tr>
<td>Section 2.05</td>
<td>Base Salary Schedule - Step Advancement</td>
</tr>
<tr>
<td>Section 2.06</td>
<td>Firefighter Compensation/Probationary Period</td>
</tr>
<tr>
<td>Section 2.07</td>
<td>Change in Anniversary Date &amp; Range Number</td>
</tr>
<tr>
<td>Section 2.08</td>
<td>Salary Placement on Promotion</td>
</tr>
<tr>
<td>Section 2.09</td>
<td>Garnishments</td>
</tr>
<tr>
<td>Section 2.10</td>
<td>Flexible Spending Account</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 3</th>
<th>Incentive Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3.01</td>
<td>Paramedic Special Assignment Pay</td>
</tr>
<tr>
<td>Section 3.02</td>
<td>Paramedic License Incentive</td>
</tr>
<tr>
<td>Section 3.03</td>
<td>Fire Staff Premium Pay</td>
</tr>
<tr>
<td>Section 3.04</td>
<td>Hazardous Material Incentive Pay</td>
</tr>
<tr>
<td>Section 3.05</td>
<td>Light-Duty Pay</td>
</tr>
<tr>
<td>Section 3.06</td>
<td>Fire Investigator Premium Pay</td>
</tr>
<tr>
<td>Section 3.07</td>
<td>Tiller Premium Pay</td>
</tr>
<tr>
<td>Section 3.08</td>
<td>Driver’s License Premium Pay</td>
</tr>
<tr>
<td>Section 3.09</td>
<td>Requesting Incentive Compensation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 4</th>
<th>EDUCATIONAL PROGRAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 4.01</td>
<td>Incentive Pay</td>
</tr>
<tr>
<td>Section 4.02</td>
<td>Eligibility</td>
</tr>
<tr>
<td>Section 4.03</td>
<td>Continuous Training</td>
</tr>
</tbody>
</table>

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MSU Between the City of El Segundo and IAFF Local 3682
10/3/11 TO 9/30/13
Amended 9/27/2011: City Union C

011
ARTICLE 5  LONGEVITY ACHIEVEMENT PAY
Section 5.01  Tenure and Compensation Schedule  Page 11
Section 5.02  Eligibility  Page 11

ARTICLE 6  INSURANCE ACTIVE EMPLOYEES
Section 6.01  Basic Health and Medical Insurance  Page 12
Section 6.02  Optical Insurance Provider  Page 12
Section 6.03  Health Insurance Formula  Page 12
Section 6.04  Dental, Optical and Life Insurance  Page 12
Section 6.05  Long-Term Disability Insurance  Page 12
Section 6.06  Catastrophic Leave Program  Page 13
Section 6.07  Long-Term Care Group Insurance  Page 14
Section 6.08  Medical Insurance Continuation  Page 14
Section 6.09  Maximum City Funding  Page 14
Section 6.10  Reopen on Health Care Provider  Page 14

ARTICLE 7  INSURANCE RETIRED EMPLOYEES
Section 7.01  City Sponsored Medical Insurance Plans  Page 15
Section 7.02  Other Medical Insurance Plans  Page 15
Section 7.03  Eligibility Retiree Medical Insurance  Page 15

ARTICLE 8  SICK LEAVE
Section 8.01  Sick Leave Accrual  Page 15
Section 8.02  Sick Leave Usage for Family Care  Page 15
Section 8.03  Sick Leave Payment upon Separation  Page 16
Section 8.04  Sick Leave Pay upon Disability Retirement  Page 16
Section 8.05  Sick Leave Pay upon Death  Page 16
Section 8.06  Annual Payment for Hours Over Maximum  Page 16

ARTICLE 9  VACATION
Section 9.01  Accrual - 40-Hour Work Week  Page 17
Section 9.02  Accrual - 24-Hour Shift  Page 17
Section 9.03  Vacation Eligibility  Page 17
Section 9.04  Vacation Buy Back  Page 17
Section 9.05  Vacation Accrual on IOD  Page 18
Section 9.06  Promotion and Transfer Eligibility  Page 18
Section 9.07  Payout on Termination  Page 18
Section 9.08  Emergency Use  Page 18
Section 9.09  Limited Use Time  Page 18

ARTICLE 10  OVERTIME
<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>11.01</td>
<td>Eligibility / Program Administrator</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>11.02</td>
<td>Deferred Compensation Matching Funds</td>
<td>19</td>
</tr>
<tr>
<td>12</td>
<td>12.01</td>
<td>Three Percent at Fifty-Five</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>12.02</td>
<td>Survivors Benefit</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>12.03</td>
<td>Retirement Formula</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>12.04</td>
<td>PERS Payment Pick-Up</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>12.05</td>
<td>PERS Cost-Sharing</td>
<td>20</td>
</tr>
<tr>
<td>13</td>
<td>13.01</td>
<td>Uniform Maintenance Program</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>13.02</td>
<td>Cal OSHA/ Fed OSHA Uniform Requirements</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>13.03</td>
<td>Department Uniform Officer</td>
<td>22</td>
</tr>
<tr>
<td>14</td>
<td>14.01</td>
<td>General</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>14.02</td>
<td>Use of Other Leaves</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>14.03</td>
<td>Documentation</td>
<td>22</td>
</tr>
<tr>
<td>15</td>
<td>15.01</td>
<td>General</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>15.02</td>
<td>Initial Loan</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>15.03</td>
<td>Eligible Purchases</td>
<td>23</td>
</tr>
<tr>
<td>16</td>
<td>16.01</td>
<td>Selecting Members</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>16.02</td>
<td>Purpose</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>16.03</td>
<td>Meetings</td>
<td>24</td>
</tr>
<tr>
<td>17</td>
<td>17.01</td>
<td>Paramedic Training Reimbursement</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>17.02</td>
<td>Department Instructor Training</td>
<td>24</td>
</tr>
<tr>
<td>18</td>
<td>18.01</td>
<td>Reimbursement for Courses</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>18.02</td>
<td>Reimbursement for Tuition and Books</td>
<td>26</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Page</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------------------------------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>18.03</td>
<td>City Reimbursement Agreement</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>18.04</td>
<td>City Reimbursement Schedule</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>19.01</td>
<td>General</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>19.02</td>
<td>Method for Filling Vacancies</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>19.03</td>
<td>Guidelines</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>19.04</td>
<td>Parameters for Conferring</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>19.05</td>
<td>Determination of Appointment</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>19.06</td>
<td>Intent of Policy</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>20.01</td>
<td>Limited Maintenance and Repair</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>20.02</td>
<td>Administrative Offices (Fire Station #1)</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>21.01</td>
<td>Equal Benefits</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>21.02</td>
<td>Working and Reporting</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>21.03</td>
<td>Light Duty</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>21.04</td>
<td>Leave</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>21.05</td>
<td>Notice of Leave</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>21.06</td>
<td>Returning to Work</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>21.07</td>
<td>Comparable Position</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>21.08</td>
<td>Rights</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>22.01</td>
<td>Disability Retirement Appeal Procedures</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>22.02</td>
<td>Annual Fitness for Duty Procedures</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>22.03</td>
<td>Injury on Duty Procedures</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>22.04</td>
<td>Modified Duty Procedures</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>22.05</td>
<td>Rehire Policies</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>22.06</td>
<td>Rank for Rank Policy</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>22.07</td>
<td>Drug-Free Workplace Policy</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>22.08</td>
<td>Layoff and Recall Policy</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>22.09</td>
<td>Grievance Procedure</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>22.10</td>
<td>Shift Trade Policy</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td>22.11</td>
<td>No Smoking Policy</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>22.12</td>
<td>Medical Examination Policy</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>22.13</td>
<td>Military Leave Policy</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>22.14</td>
<td>Election Day Voting Policy</td>
<td>39</td>
<td></td>
</tr>
</tbody>
</table>
ARTICLE 23  UNION BUSINESS
  Section 23.01 Bulletin Boards
  Section 23.02 Union Meetings
  Section 23.03 Conduct of Union/Association Business
  Section 23.04 Agency Shop Clause

ARTICLE 24  HOLIDAYS
  Section 24.01 Accumulation
  Section 24.02 Annual Payment
  Section 24.03 PERS Pick-Up

ARTICLE 25  MISCELLANEOUS
  Section 25.01 Promotional Examination Requirements
  Section 25.02 Opportunity to Review Materials
  Section 25.03 Training Public and Employees

ARTICLE 26  SCHEDULE
  Section 26.01 Schedule - Suppression Employees

ARTICLE 27  TERM
  Section 27.01 Term

ARTICLE 28  LIMITED LAYOFFS
  Section 28.01 No Layoffs

ARTICLE 29  COLA
  Section 29.01 Cost of Living Adjustment

ARTICLE 30  SIGNATURES
  Section 30.01 Signatures

EXHIBIT I  Supplemental Procedures for Appeals
  By Firefighters of Punitive Action Under
  the Firefighters Procedural Bill of Rights
ARTICLE 1 - GENERAL PROVISIONS

Section 1.01  PREAMBLE

1. This Memorandum of Understanding is made and entered into between the El Segundo Firefighters' Association, affiliated with the International Association of Firefighters, hereinafter, referred to as "Union," and the management representatives of the City of El Segundo, hereinafter referred to as the "City", pursuant to the California Government Code Section 3500 et seq.

2. The parties have met and conferred in good faith regarding employment conditions and it is mutually agreed that this Memorandum of Understanding shall be effective as described in Section 1.08, below. It is further agreed that except as provided herein, there will be no other negotiations for salaries, benefits, and working conditions for the term covered by this Memorandum unless both parties agree otherwise; and the parties shall submit this Memorandum to the City Council with a joint recommendation that the body resolves to adopt appropriate motions and resolutions to implement the provisions of this Memorandum. Nothing herein prevents the City from meeting and conferring with the Union on proposed changes to the City's Personnel Rules and Regulations, which are within the scope of representation.

3. Any and all prior or existing Memoranda of Understanding, Letters of Agreement, Addendums, Side Letters, and other such documents between the parties are hereby superseded and terminated in their entirety, whether or not the specific subject matter of any such document is addressed herein.

Section 1.02  RECOGNITION

1. The City hereby confirms its recognition of the Union as representative of the employees in the representation unit containing positions specifically set forth below, and has agreed to meet and confer with the Union on all matters relating to the scope of representation pertaining to the said employees as authorized by law. For representation purpose, the unit shall consist of the following positions: Firefighter, Firefighter Special Assignment Paramedic, Fire Engineer, and Fire Captain.

Section 1.03  MANAGEMENT RIGHTS

1. Except as limited by specific and express terms of this agreement, the City hereby retains and reserves unto itself all rights, powers, authority, duty and responsibilities conferred on and vested in it by the laws and the Constitution of the State of California and/or the United States of America.

2. The management and the direction of the work force of the City is vested exclusively in the City, and nothing in the agreement is intended to circumscribe or modify the existing rights of the City to direct the work of its employees; hire, promote, demote, transfer, assign and retain employees in positions within the City, subject to the rules and regulations of the City; suspend or discharge employees for proper cause; maintain the efficiency of governmental operations; relieve employees for lack of work; take action as may be necessary to carry out the City's mission.
and services in emergencies; and to determine the methods, means and personnel by which the operations are to be carried out within the scope of representation.

Section 1.04  SAVINGS CLAUSE

1. If any provision or the application of any provision of this Memorandum as implemented should be rendered or declared invalid by any final court action or decree, or by reason of any preemptive legislation, the remaining sections of this Memorandum shall remain in force and effect for the duration of said Memorandum.

Section 1.05   NO STRIKE CLAUSE

1. California Labor Code Section 1962 provides that firefighters shall not have the right to strike, or to recognize a picket line of a labor organization while in the course of the performance of their official duties. Therefore, and irrespective of the term or existence of any Memorandum of Understanding or other rule or regulations, the parties acknowledge that such activity is unlawful.

2. Additionally, any other job action, including but not limited to slow downs, speed ups, "sick outs" and other activity actually or potentially having a negative impact upon the public health and welfare, is deemed illegal and is prohibited, irrespective of the term or existence of any Memorandum of Understanding e.g. see City of Santa Ana v. Santa Ana Police Benevolent Association (1989) 207 Cal.App. 3rd 1568, 255 Cal.Rptr. 688 regarding public safety organization "sick outs").

Section 1.06  MAINTENANCE OF EXISTING BENEFITS

1. The Memorandum of Understanding contains all of the covenants, stipulations and provisions agreed upon by the parties. It is understood that all items relating to employee wages, hours and other terms and conditions of employment not covered in this Memorandum of Understanding are covered by existing ordinances, resolutions, policies, and practices of the City, as well as the Personnel Rules and Regulations presently in effect. Therefore, for the life of this agreement, neither party shall be compelled to meet and confer with the other concerning any mandatory meet and confer issues whether specifically discussed prior to the execution of this agreement or which may have been omitted in the discussions which led up to the execution of this agreement, except as provided in this agreement or by mutual agreement of parties.

2. Nothing herein prevents the City and Union from meeting and consulting on the City’s Personnel Rules and Regulations, which are within the scope of representation. However, the mutual agreement of both the City and Union are required to effect any change.
Section 1.07   NON-DISCRIMINATION CLAUSE

1. The Union and the City recognize and agree to protect the rights of all employees to join and/or participate in the protected Union activities or to refrain from joining or participating in protected activities in accordance with Government Code Sections 3500 through 3510.

2. The City and the Union agree that they shall not illegally discriminate against any employee because of race, color, sex, age, national origin, political or religious opinions or affiliations and shall act affirmatively to accomplish equal employee opportunities for all employees. The City and the Union shall reopen any provision of this agreement for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this agreement dealing with State or Federal anti-discrimination laws.

Section 1.08   NOTICE TO MEET AND CONFERENCE

1. Except in cases of emergency as provided in Government Code Section 3504.5, the governing body of a public agency, and boards and commissions designated by law or by such governing body, shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the governing body or such boards and commissions and shall give such recognized employee organization the opportunity to meet with the governing body or such boards and commissions.

2. In cases of emergency when the governing body or such boards or commissions determine that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or such boards, and commissions shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

ARTICLE 2 - SALARIES

Section 2.01   SALARIES

1. Effective October 14, 2008, the past practice of "compounding" base salaries shall terminate, whereby base salaries were previously supplemented and increased in amounts determined by the percent of incentives/special compensation pay.

2. Effective October 14, 2008, the base salary of each affected employee shall be increased by 3.75%.

3. Effective the first payroll period commencing on or after July 1, 2009, the base salary of each affected employee shall be increased by 3.75%.

4. Effective the first payroll period commencing on or after July 1, 2010, the base salary of each affected employee shall be increased by 3.75%.

5. Attached to this Memorandum of Understanding as Exhibit 1, and incorporated herein by reference as though set forth in full, is the actual computation of base salaries as reflected by the above provisions of this Section 2.01. Exhibit 1 consists of a document entitled "Schedule 1."
Section 2.02  SCHEDULE OF CLASSES BY SERIES

1. The following respective range numbers are hereby allocated and assigned to the following respective positions in the service of the City, hereinafter set forth:

| Firefighter  | 483  | Steps A - F |
| Engineer     | 497  | Steps A - E |
| Captain      | 510  | Steps A - E |

Section 2.03  SALARY SCHEDULE CALCULATION METHODOLOGY

1. The methodology used in computing adjustments in monthly salary shall be as follows:

2. Adjustments are to be computed from the amount shown in the base salary columns, step A through F of Range 483, and step A through E of Ranges 497 and 510 of the Base Salary Schedule. First subtract from each step the flat dollar base enhancements incorporated in accordance with sections 6.04 and 6.05, and then multiply each step by the percent of the new salary adjustment. Once all of the salary steps have been computed, each salary figure shall be rounded off to two (2) decimal places, then the flat dollar enhancement in sections 6.04 and 6.05 (removed above) will be added to each step and this amount will comprise the new base salary schedule. Taxable pay will be calculated by subtracting the Public Employee Retirement System (PERS) employer paid member contribution picked up by the employer in accordance with Internal Revenue Code Section 414(h)(2), (which is calculated at 9% of the resulting regular rate of pay). Hourly rates for each step are calculated by multiplying the respective unrounded salary step plus applicable incentives (regular rate of pay) by twelve (12) and then dividing by two thousand nine hundred twelve (2,912) and rounding off the result to the nearest two (2) decimal places.

Section 2.04  REGULAR RATE OF PAY

1. This MOU periodically refers to the "regular rate of pay." The "regular rate of pay" is defined in 29 CFR § 778.108 et. seq. The "definition" used in this MOU is for general reference and does not override the specific definitions set forth in the FLSA. Therefore, as used in this MOU, the "regular rate of pay" is the remuneration paid to or on behalf of the employee except gifts, travel expenses, other reimbursable expenses, payments not mandated by the MOU or other rules/regulations, retirement and insurance contributions by the City, overtime and holiday pay. These are examples only and not intended to be an all-inclusive definition of the "regular rate of pay." Applicable statutes/case law shall prevail over any MOU definitions inconsistent with statues/case law.
Section 2.05  **BASE SALARY SCHEDULE-STEP ADVANCEMENT**

1. The advancement of a new employee from Step A shall be on the new employee's anniversary date which is established as the day immediately following satisfactory completion of his/her first six months service; Steps B, C, D and E (F for Firefighters only) contemplate one year's service in each of such classification subject to the limitations of the paragraph below and the advancements there from shall be on the anniversary date of the employee; Step E (F for Firefighters only) contemplates continued service in such step until further advancement is indicated by reason of longevity.

2. If the employee's anniversary date falls in the first week of the pay period, the effective date of the increase will be the first day of that pay period; if the anniversary date falls in the second week of the pay period, the effective date of the increase will be the first day of the following pay period. An employee in the fire service shall be presumed to merit an increase in pay unless his or her current performance evaluation on file rates him or her below standard or unsatisfactory and the Fire Chief notifies the Personnel Officer and employee in writing at least ten days in advance of the scheduled increase that the increase in pay should be withheld, stating reasons. If employee's performance subsequently improves to a satisfactory level, the pay will be granted upon the issuance of a satisfactory performance report.

Section 2.06  **FIREFIGHTER COMPENSATION/PROBATIONARY PERIOD**

1. Fire service employees shall be appointed to the position of Firefighter and compensated at Step A of the range assigned to Firefighter (463) for the first six (6) months from their date of hire. They shall be on probation during the first twelve (12) months from their date of hire.

Section 2.07  **CHANGE IN ANNIVERSARY DATE AND RANGE NUMBER**

1. An employee advanced from one range to another, shall receive a new anniversary date, which is the date of the change. Other changes in salary, unless specifically directed by the Council or as provided in the second paragraph of the Section herein entitled “Base Schedule-Step Advancement” herein shall not change the anniversary date, except for promotions made in accordance with the Personnel Merit System ordinance and the Personnel Rules and Regulations. The City Council reserves the right at any time, and in its sole discretion, to change the range number assigned to any officer or employee and to determine the particular step in any range number which is to be thereafter assigned to any such officer or employee.

Section 2.08  **SALARY PLACEMENT ON PROMOTION**

1. In all cases where an employee is promoted to a classification for which a higher rate of compensation is provided, then such employee so promoted shall enter into such higher classification at the lowest rate of compensation provided for such higher classification which exceeds by not less than five percent of the base rate of the affected employee.
2. All supervisors shall be paid a base rate not less than the next higher base rate than any of their subordinates. In the event that a supervisor is paid a base rate of pay equal to or lower than one of his/her subordinate's base rate, the supervisor's base rate shall be advanced to a step in his/her salary range which is next higher than any subordinate's base pay exclusive of longevity pay, educational incentive pay, and special assignment pay.

3. Any affected employee assigned to and performing the duties of a paramedic and who is promoted, shall suffer no decrease in base salary (pre-promotion base salary being measured by base salary plus any paramedic bonus). This Section shall not apply to paramedics who suffer a salary decrease because of a reassignment out of the paramedic program (as opposed to a promotion).

Section 2.09 GARNISHMENTS

1. Effective July 1, 1989, employees whose City paychecks are garnished shall have caused to be deducted from their paycheck a one time per occurrence set-up fee of $35 and $10 for every paycheck in which their wages are garnished.

Section 2.10 FLEXIBLE SPENDING ACCOUNT

1. The City shall allow employees to participate in the Flexible Spending Account pursuant to the terms and conditions of the Internal Revenue Code.

ARTICLE 3 - INCENTIVE COMPENSATION

Section 3.01 PARAMEDIC SPECIAL ASSIGNMENT PAY

1. Effective October 14, 2008, Paramedics shall be entitled to receive special assignment pay as follows:

   a. While assigned to the trainee level, no paramedic special assignment pay shall be provided;

   b. During the first year of paramedic service after accreditation, special assignment pay equal to fifteen percent (15%) above base salary pursuant to Schedule 1, PM level 2.

   c. During the second year and following years of paramedic service, paramedic special assignment pay equal to twenty percent (20%) above base salary pursuant to Schedule 1, PM level 3.

   d. Paramedics working under any of the staffing policies to replace a firefighter position shall be compensated at pay equal to PM level 1 pursuant to Schedule 1.

*Trainee level is completed upon accreditation as a paramedic by the County of Los Angeles.
Section 3.02  PARAMEDIC LICENSE INCENTIVE

1. Effective October 14, 2008, permanent sworn employees with a minimum of two years with the El Segundo Fire Department not assigned to special assignment paramedic duties that possess a California Paramedic License and have Accreditation by the County of Los Angeles will be compensated at the monthly amount set forth in Schedule 1 PM Level 1.

2. The members qualifying for this incentive may be utilized on paramedic assessment apparatus. These employees will be used on rescue ambulances to cover for members in the special assignment paramedic status when no special assignment paramedic can be reasonably called in from off duty.

When no special assignment paramedic can be reasonably called in from off duty, then the following procedure will be used.

a. If the opening occurs on a rescue ambulance, move the special assignment paramedic from the assessment apparatus to the rescue ambulance.

b. Move an on-duty qualified paramedic Engineer or Captain to the assessment apparatus and hire back a Firefighter (the on-duty Battalion Chief will decide based on operational need as to which on-duty member would best be moved.)

c. If there is no on-duty qualified paramedic Engineer or Captain, check availability for an off-duty qualified paramedic Engineer or Captain who has signed up and attempt to rehire (Engineers will be considered first then Captains.)

d. If there are none on the availability rehire list, then attempt to force hire an off-duty qualified paramedic Engineer or Captain (Engineers will be force hired first before Captains.)

e. If no off-duty qualified paramedic Engineers or Captains can reasonably be called in from off-duty, then a firefighter will be force hired to fill the vacancy.

3. Members who have never been certified/licensed or who have decertified (no longer licensed) and seek certification or recertification (licensure) will be sponsored by the City at the member’s request. Certification, recertification or licensure shall be at the member’s own time and expense including all fees for testing, licensure and any other associated costs with the exception of continuing education currently provided by the City’s EMS Educator. Educational reimbursement will not be provided for outside training required for the initial recertification/licensure, or in situations where the employee did not attend classes provided in-house by the City’s Nurse Educator or other City provided resource. Once a member has in his/her possession a California Paramedic License and Accreditation from Los Angeles County and makes those documents

MOU Between the City of El Segundo and IAFF Local 3682
10/1/11 TO 9/30/13
Amended 9/27/2011: City Union

022
available for inspection by the City, they shall be compensated as per the provisions in this MOU.

4. The City shall continue to provide an EMS Educator.

Section 3.03 FIRE STAFF PREMIUM PAY

1. Effective October 14, 2008, uniformed personnel who are assigned Fire Department work outside of the Suppression Division shall receive fire staff premium pay equal to Fifteen percent (15%) above the employee’s regular rate of pay to which they are entitled.

Section 3.04 HAZARDOUS MATERIALS FIRST RESPONDER OPERATIONAL INCENTIVE PAY

1. Unit members will receive incentive pay for possession of hazardous materials certification (operational level - first responder).

2. Effective October 14, 2008, pay for operational level of hazardous material certification (FRO) shall be at the monthly amount set forth in Schedule 1, HAZ MAT.

Section 3.05 LIGHT-DUTY PAY

1. When an employee is assigned to light duty because of a temporary physical disability or condition, she/he shall be paid at the rate of her/his normal duty assignment without regard to the temporary duty schedule.

Section 3.06 FIRE INVESTIGATOR PREMIUM PAY

1. The assignment of cause and origin/arson investigators (also described as “fire investigators”) shall be created with the assignment requirements being designated by the Fire Chief. Employees selected to serve in this assignment shall receive a $50.00 per month stipend. The stipend shall commence with the employee providing evidence of having successfully completed mandated training and qualification to be certified to perform the duties of the assignment.

Section 3.07 TILLER PREMIUM PAY

1. If the City makes operational a TRACTOR/TRAILER TILLER TRUCK, Personnel agree to participate in special training to operate said equipment. This training will be provided by the City during their regular duty shifts. Personnel certified by the City to operate said equipment shall receive a monthly stipend of $50.00.

Section 3.08 DRIVER’S LICENSE PREMIUM PAY

1. All employees, whether in the rank of Engineer or not, who possess a Class “A” Driver’s License will be paid a $50/month stipend in addition to the stipend for EMT/Class “B” (inclusive
of PERS retirement). This stipend will commence with the purchase of the equipment and submission by the employee of proof of the license. Pursuant to California Department of Motor Vehicle changes effective January 1, 2011, all employees who possess a Commercial Class “A” driver’s license or who possess a California Class “C” driver’s license with a firefighter endorsement and are qualified to operate a class “A” vehicle by El Segundo Fire Department Standards, will be paid a $50/month stipend.

2. The City will provide the training and the means (i.e., equipment) to obtain the Class “C” license with a firefighter endorsement qualified to operate a class “A” vehicle. In the event the City elects not to provide the training or means to obtain the required license, the requirement for the respective license shall be dropped and otherwise qualified employees shall remain eligible for the stipend until such time as the City again provides the said training and means.

Section 3.09 REQUESTING INCENTIVE COMPENSATION

1. Members eligible to receive incentive compensation shall make a request in writing in order to receive such compensation (NOTE: through an approved form through channels to the Fire Department Personnel Officer. They shall also provide copies of the necessary proof of their eligibility to receive the incentive as outlined below:

Incentive Compensation
Paramedic special assignment pay: Required Proof
Accreditation, license and certification by County of Los Angeles and State of California as a Paramedic.

Paramedic license incentive:
Accreditation, license and certification by County of Los Angeles and State of California as a Paramedic.

Hazardous Materials FRO incentive:
California State certification as a Hazardous Materials First Responder Operational Level – with Weapons of Mass Destruction component.

Educational Programs-Class A & B CDL:
Valid and current California Class B license and medical certification.

Educational Program - EMT-D:
A current EMT-D certification

Educational Program - Units:
Official or unofficial transcript listing required units.

Educational Program - Certificate:
Certificate, or official or unofficial transcript listing certificate earned.

Educational Program - Degrees
Diploma, or official or unofficial transcript listing degree earned.

In addition, for incentive items that are renewed (Paramedic, HM-FRO, Class A & B CDL, and EMT-D,) members must provide proof of renewal prior to the date of expiration of the last provided proof of eligibility. Failure to provide proof prior to the expiration will result in the loss of the effective incentive compensation, retroactive back to the date of expiration. The employee can have the incentive
pay reinstated in the first payroll period following provision of proof of eligibility. The reinstatement shall be retroactive to the date the member met the qualifications for an incentive item as indicated in the proof of eligibility.

ARTICLE 4 - EDUCATIONAL PROGRAMS

Section 4.01 INCENTIVE PAY

EFFECTIVE October 14, 2008

1. Employees with two or more years of service with the El Segundo Fire Department and possessing a valid Commercial Class "B" Driver’s License, or who possesses a California Class "C" driver’s license with a firefighter endorsement and who are qualified to operate a Class "B" vehicle by El Segundo Fire Department Standards and possessing a valid EMT-D certification or Los Angeles County Paramedic Accreditation shall be compensated in the monthly amount of $50.00.

2. Effective October 14, 2008, additional educational incentive compensation shall be as follows and as set forth in the applicable range in Schedule 1, attached and incorporated into this MOU as Exhibit 1.

   a. Fire Science Certificate or successful completion of twenty units of college level courses in Fire Science and two years of service with the El Segundo Fire Department – pursuant to Schedule 1, Fire Units;

   b. Associate of Arts Degree with at least twenty units in Fire Science and 7.5 years of service with the El Segundo Fire Department – pursuant to Schedule 1, AA Degree;

   c. Bachelor’s Degree in Public Administration, Political Science, Chemistry or other major course of study approved by the Fire Chief and 10 years of service with the El Segundo Fire Department – pursuant to Schedule 1, BA Degree;

   d. Master’s Degree in Public Administration, Political Science, Chemistry or other major course of study approved by the Fire Chief and 15 years of services with the El Segundo Fire Department – pursuant to Schedule 1, MA Degree.

   e. The above amounts shall not be cumulative.

Section 4.02 ELIGIBILITY

1. Prior to an employee engaging in a major course of study, he/she must receive written approval from the Fire Chief for the eligibility of the specific type of College Degree to guarantee his/her eligibility for incentive pay as provided herein. Each employee who qualifies for educational incentive pay shall remain eligible during the course of his/her employment with the City, with the following exceptions: After qualifying for educational incentive pay, an employee shall cease to receive such pay during any time period that: the employee does not meet

MOU Between the City of El Segundo and IAFI Local 3582
10/1/11 TO 9/30/13
Amended 9/27/2011: City Union
the requirements for educational incentive pay; the employee is suspended without pay; or the employee’s most recent performance evaluation is rated below standard or unsatisfactory. An employee who has lost his/her eligibility to receive this incentive under the terms stated above shall have their incentive pay reinstated the first payroll period following his/her re-qualification.

Section 4.03 CONTINUOUS TRAINING

1. The City currently provides the training and the means to obtain the EMT-D certification and the Class “B” Restricted Driver’s License. In the event the City elects not to provide the training or means to obtain the required certification or license, the requirement for the respective certification or license shall be dropped and otherwise qualified employees shall remain eligible for educational incentive pay until such time as the City again provides the said training and means.

ARTICLE 5 - LONGEVITY ACHIEVEMENT PAY

Section 5.01 TENURE AND COMPENSATION SCHEDULE

1. Effective October 14 2008, employees shall be compensated for continuous City fire service longevity requirements as follows:

a. Upon completion of six and one-half years of service, monthly payments pursuant to Schedule 1, “Long 6.5 Level 1”;

b. Upon completion of thirteen years of service, monthly payments pursuant to Schedule 1 “Long 13 Level 2”;

c. Upon completion of nineteen and one-half years of service, monthly payments pursuant to Schedule 1 “Long 19.5 Level 3”;

d. Upon completion of twenty-six years of service, monthly payments pursuant to Schedule 1 “Long 26 Level 4”.

Section 5.02 ELIGIBILITY

1. After qualifying for longevity pay, an employee shall cease to receive such pay during any time period that: the employee does not meet the requirements for longevity pay; the employee is suspended without pay; or the employee’s most recent performance evaluation is rated below standard or unsatisfactory. An employee who has lost his/her eligibility to receive this incentive under the terms stated above shall have their incentive pay reinstated the first payroll period following his/her re-qualification.
ARTICLE 6 - INSURANCE ACTIVE EMPLOYEES

Section 6.01  BASIC HEALTH AND MEDICAL INSURANCE

1. The City will consult with employees through the insurance committee and consider all suggestions and presentations on the types of insurance plan or plans to be purchased. The City reserves the right to determine the insurance carrier with whom the City will contract for coverage.

Section 6.02  OPTICAL INSURANCE PROVIDER

1. The optical insurance plan to be selected by the City will be the Teamsters’ proposed vision plan provided through Vision Care Plan or a plan with similar benefits.

Section 6.03  HEALTH INSURANCE FORMULA

1. The monthly City-paid health insurance premium contributions for medical/mental health insurance will be equal to the average dollar cost of the premium for an employee and two (2) or more dependents under the HMOs available to the employees under the Public Employees’ Medical and Hospital Care Program in the “Los Angeles Area”, as that term is defined by CalPERS.

2. The Firefighters’ Association has filed a January 2, 2009 grievance regarding the manner in which the City has implemented Section 6.03 during the prior 2003-08 MOU. Adoption of this 2008-11 MOU shall not constitute a waiver by any party of any position/defenses it may elect to assert in the pending grievance/related litigation, nor is adoption of this MOU evidence of support for the position that may be asserted by any party to the grievance/related litigation.

Section 6.04  DENTAL, OPTICAL AND LIFE INSURANCE

1. Effective July 1, 2008 the City will add to each step of the employee’s base salary a flat dollar amount equal to 100% of the premiums for the agreed upon dental, optical and life insurance for employees and eligible dependents. This flat dollar amount shall be adjusted yearly equal to 100% of the new premiums and added to base salaries prior to the first payroll period in December. Any insurance premiums the employee becomes obligated to pay will be deducted from the employee’s paycheck and if eligible through the City’s established flex plan under section 125 of the Internal Revenue Code. Effective the benefit year beginning January 1, 2012, the City will extend dental coverage for dependents to the age of 26 as is the current practice for medical insurance.

Section 6.05  LONG-TERM DISABILITY INSURANCE

1. The City will pay on behalf of each qualifying employee 100% of premiums for California Association of Professional Firefighters group Long-Term Disability Insurance. These payments shall be
reported to the taxing authorities as ordinary income of the employees.

2. An employee who has qualified for Long-Term Disability as a result of an injury or illness shall be required to implement a 50/50 integration benefit (50% of the available LTD benefit being funded by any and all accrued leaves) under the LTD Plan after their FMLA time expires. This 50/50 option will continue until the employee returns to duty, terminates employment, or exhausts all accrued leaves. During use of the integration benefit process, the City will continue the employee’s medical insurance and retirement payments as if the employee were not on leave.

3. Employees of the Firefighters Bargaining Unit may participate in the City’s Catastrophic Leave Program. Members on Long-Term Disability Leave, upon exhausting all accrued leaves, will be considered for the use of the City’s Catastrophic Leave Program.

Section 6.06 CATASTROPHIC LEAVE PROGRAM

The Catastrophic Leave Program is as follows:

a. Purpose

To establish a program whereby City employees may donate accumulated time to a catastrophic sick leave bank to be used by permanent part-time and full-time employees who are incapacitated due to a catastrophic illness or injury.

b. Definition

A catastrophic illness or injury is a chronic or long term health condition that is incurable or so serious that, if not treated, it would likely result in a long period of incapacity.

c. Procedures

There is established a joint-employer/employee committee composed of an individual from each recognized employee organization and a representative of City Administration charged with administering the Catastrophic Leave Bank.

Employees may transfer sick leave, vacation or compensatory leave to the Catastrophic Leave Bank to be donated to an employee who is experiencing catastrophic illness and has exhausted all personal sick leave. Such a transfer can be made on July 1 of each year on forms provided by the City of El Segundo. The employee to receive the donation will sign the "Request to Receive Donation" form allowing publication and distribution of information regarding his/her situation.

Sick Leave, vacation and compensatory time leave donations will be made in increments of no less than one day. These will be hour for hour donations.

Employees must, at the time of donation, have a minimum of one hundred (100) hours of accumulated illness/injury leave remaining after a donation has been made.
5. The donation of time is irrevocable. Should the recipient employee not use all of the donated time for the catastrophic illness or injury, any balance will remain in the Catastrophic Leave Bank to be administered by the committee and utilized for the next catastrophic leave situation.

Section 6.07  LONG TERM CARE GROUP INSURANCE

1. Effective July 1, 2003 the City will pay on behalf of each qualifying employee 100% of premiums for California Association of Professional Firefighters Supplemental Long Term Care Rider Composite Plan.

Section 6.08  MEDICAL INSURANCE CONTRIBUTION - ON DUTY DEATH

1. If it is determined by the Workers’ Compensation Appeals Board and/or the Public Employees’ Retirement System that an Association member has died as a direct and proximate result of the performance of duties in the course and scope of his/her employment, then the City shall continue to make group medical insurance premium payments on behalf of the surviving spouse until age 65, Medicare eligibility, whichever comes first, and to the children of the deceased member until age 18. Said medical premium payments on behalf of the children of a deceased member shall continue if at age 18, the child commences uninterrupted college enrollment, but not to exceed the age of 23.

2. The City-paid medical insurance premiums described herein shall be in an amount required to fund the level of medical insurance benefits, which the deceased member was receiving at the time of his/her death. For example, if at the time of death, the member was enrolled in a specific HMO Plan, then future premium payments made pursuant to this Section shall be in an amount required to maintain comparable plan benefits.

Section 6.09  MAXIMUM CITY FUNDING OF ACTIVE EMPLOYEE/RETIREE INSURANCE PREMIUMS

Effective October 1, 2011, the cumulative monthly City-funding of any PERS medical insurance plans for active employees and/or retirees, shall not exceed $1600.00 per month.

Section 6.10  REOPEN ON HEALTH CARE PROVIDER

1. During the term of this agreement, either party may reopen the contract in order to consider alternatives to the PERS medical plan. The City agrees that it will only propose plans that provide for a cost-effective, comprehensive medical package for employees and their families (i.e., provides comparable benefits to current plan including portability). There will be no change in insurance plans prior to the January 2010 plan year without agreement of the parties.
ARTICLE 7 - INSURANCE RETIRED EMPLOYEES

Section 7.01  CITY SPONSORED MEDICAL INSURANCE PLANS

1. The City will pay 100% of the premium for the agreed upon health insurance, under the City’s insurance plans, for retired employees and eligible dependents, to the maximum dollar amount being equal to the contribution made for current employees with coverage which is the same as that of the retiree.

Section 7.02  OTHER MEDICAL INSURANCE PLANS

1. The City shall contribute up to $120.00 per month to employees who service retire while under the employ of the City of El Segundo toward any medical insurance coverage which the retiree should select for himself or herself if the selected medical coverage is not provided under the City’s insurance plans. Retirees with non-City medical coverage shall submit proof of their annual coverage for medical insurance to the City at any time during the year and the City will issue them a reimbursement check. Partial year coverage shall be compensated on a pro-rated basis.

2. The above limitation shall not apply for retirees who retired before December 1989 and in December 1989 were not receiving a City contribution to medical insurance. The monthly limitation for such employees shall be $75.00.

Section 7.03  ELIGIBILITY RETIREE MEDICAL INSURANCE

1. Effective July 1, 1989, employees shall have a minimum of five (5) years of City service as a prerequisite to receive from the City service retiree medical insurance contributions and continued participation in the City’s group insurance plans except as may be mandated by law (e.g., COBRA).

ARTICLE 8 - SICK LEAVE

Section 8.01  SICK LEAVE ACCRUAL

1. Permanent employees shall accumulate sick leave at the rate of one eight-hour day accumulation for each month’s service not to exceed a maximum of 1056 hours. Members of the Fire Service in the positions of firefighter, paramedic, fire engineer, and fire captain who work shifts shall accumulate sick leave at the rate of one twelve-hour day accumulation for each month’s service, not to exceed a maximum of 1584 hours. Sick leave shall be available for immediate use beginning from date of hire.

Section 8.02  SICK LEAVE USAGE FOR FAMILY CARE

1. Affected employees are eligible to utilize a maximum of six (6) days (three shifts) of sick leave per calendar year in order that care may be provided to immediate family members suffering from illness or injury. The City shall require each affected employee utilizing sick leave for said purpose to provide in
writing a sworn statement evidencing the facts justifying the use of sick leave in this regard in compliance with the California Family Rights Act, Labor Code Section 233.

Section 8.03 SICK LEAVE PAY UPON SEPARATION

1. Upon separation from service of an employee, the City shall pay for the employee’s unused sick leave accumulation according to the following schedule at the same rate the employee would have received had he/she used the benefit to receive full pay while absent on the date of the cash-out payment:

   a. 50% after ten (10) years of service.
   b. 90% after twenty (20) years of service.

2. Employees with 25 years or more of City service who have reached age 47 or more may, in each of their final three years of employment, cash out up to 1/3 of their accrued unused sick leave up to a maximum of 90% as long as they maintain a 120 hour post distribution balance during employment. The cash out is limited to one time per calendar year with the exception of the final 1/3 cash out to be made on separation. The first two payments are limited to the maximum dollar value of deferred compensation “catch up” permitted by law for the calendar year in which the cash out is received. In no event can an employee cash-out a cumulative total greater than that permitted above.

Section 8.04 SICK LEAVE PAY UPON DISABILITY RETIREMENT

1. Employees separating from service because of a disability retirement, after five (5) years of service, will be compensated at 90% of the employee’s accumulated, unused sick leave at the same rate the employees would have received had he/she used the benefits to receive full pay while absent on the date of the cash-out payment.

Section 8.05 SICK LEAVE PAY UPON DEATH

1. Employees who die while under the employ of the City will receive 75% of their accrued unused sick leave. Benefits shall be paid to employee’s beneficiaries and/or estate at the “regular rate of pay”.

Section 8.06 ANNUAL PAYMENT FOR HOURS OVER MAXIMUM

1. On the first day of December of each year, employees who maintain a balance of 1056 hours (Firefighters assigned to fire suppression, 1584 hours) of Sick Leave accrual shall be paid at the “regular rate of pay” for one-half the Sick Leave accumulated and not used during the preceding twelve-month period. Payment shall be made on or before December 10.
ARTICLE 9 – VACATION LEAVE

Section 9.01 VACATION ACCRUAL 40-HOUR WORK WEEK

1. Members of the Union who work 40 hours a week shall accumulate vacation time not to exceed the total aggregate of two years accumulation in accordance with the following schedule:

   a. Twelve (12) working days per year with full salary for the first seven (7) years of continuous service with the City;

   b. Eighteen (18) working days per year with full salary after seven (7) years and until the completion of fourteen years of continuous service;

   c. Twenty-four (24) working days per year with full salary after fourteen (14) years of continuous service.

Section 9.02 VACATION ACCRUAL 24-HOUR SHIFT

1. Employees who work on a shift basis shall accumulate vacation time not to exceed the total aggregate of two years accumulation in accordance with the following schedule:

   a. Six (6) shifts per year with full salary for the first seven (7) years of continuous service with the City.

   b. Nine (9) shifts per year with full salary after seven years and until the completion of fourteen (14) years of continuous service.

   c. Twelve (12) shifts per year with full salary after fourteen (14) years of continuous service.

Section 9.03 VACATION ELIGIBILITY

1. One (1) captain, one (1) engineer, one (1) paramedic and one (1) firefighter per shift shall be granted vacation leave upon approved application being made and consistent with the needs of the Department. Effective October 1, 2011, the use of unsecured vacation shall be allowed, as provided by the rehire policy, more than one member in a rank per shift will be able to use accrued vacation time.

2. Vacation leaves may be taken only after an employee has completed one year’s continuous service with the City.

Section 9.04 VACATION BUY BACK

1. Each affected employee shall be provided the option of converting one hundred percent (100%) of annual accrued vacation leave to cash, at the regular rate of pay of pay existing at the time of distribution, during one (1) calendar year pay period as selected at the discretion of the employee. During the term of this MOU only, no vacation buy back will be allowed.
Section 9.05  VACATION ACCRUAL ON IOD

1. An employee on a City approved industrial disability leave may exceed his/her maximum vacation accrual by 50% of his/her annual vacation leave. (Example: employee on IOD with 288 hours accrued vacation may accrue an additional 72 hours, i.e. 50% of his 144 annual accrual).

Section 9.06  PROMOTION AND TRANSFER ELIGIBILITY

1. Vacations shall be honored with respect to all transfers even if that vacation period has already been taken by another member. In addition, vacations shall be honored with respect to promotions, however this is contingent on volunteer members being available to work. Vacations honored under this provision that allow two members to be on vacation during the same period shall not be available to other members should the transferred or promoted member cancel said vacation period.

Section 9.07  PAYOUT ON TERMINATION

1. Upon termination of employment during a pay period, pay shall be prorated and paid for each day worked in said pay period and the terminal salary warrant shall include accrued vacation pay to the time of termination.

Section 9.08  EMERGENCY USE

1. For personal emergencies, that is, a serious illness of an “immediate family” member of the employee or the employee’s spouse and for cases of extreme and unusual hardship of an emergency nature, employees, upon request, shall be entitled to utilize accumulated vacation leave or compensatory time-off, for which prior notification is required; however, in certain instances notification requirements may be waived.

Section 9.09  Limited Use Time

1. Current Limited use off time may to be used in the same manner as vacation time and may result in an overtime. All El Segundo Fire Association Limited Use Time banks must be exhausted by September 30, 2012.

ARTICLE 10 - OVERTIME

Section 10.01  GENERAL

1. Effective July 1, 2006

a. All of the members of the Fire Department shall be subject to call for service at any time.

b. All employees working a 182 hour/24 day work period shall receive premium overtime compensation at the rate of one and one-half (1.5) times their “regular rate of pay,” for all time worked or
regarded as having been worked because of a paid leave of absence in excess of their daily work shift or in excess of 182 hours in a 24 day work period. This MOU periodically refers to the "regular rate of pay." The "regular rate of pay" is defined in 29 CFR § 778.108 et. seq.

c. All employees working a 40 hour/7-day work period, a 9/80 or other modified 40 hour schedule shall receive premium overtime compensation at the rate of one and one-half (1.5) times their regular rate of pay for all time worked or regarded as having been worked because of a paid leave of absence in excess of their daily work shift or in excess of 40 hours in a 7-day work period.

Section 10.02 OVERTIME UNDER FLISA

1. Effective July 1, 2006

   a. The City shall compensate personnel who temporarily work an 8-hour day at their regular rate of pay based on a 56-hour per week work schedule. The employee’s hourly rate shall be modified to a 40-hour per week rate if the Fire Chief reassigns the employee to that shift for an extended term.

Section 10.03 RECALL/FORCED HIRE COMPENSATION

1. Effective July 1, 2006

   a. Employees subject to recall shall be paid a minimum of four (4) hours at time and one-half. Employees subject to forced rehire shall be paid a minimum of four (4) hours at time and one-half. The Battalion Chief will release a recalled/rehired suppression employee when there is no circumstance justifying a hold-over of the person or whenever scheduling does not justify a hold-over of the person.

ARTICLE 11 - DEFERRED COMPENSATION PROGRAM

Section 11.01 ELIGIBILITY / PROGRAM ADMINISTRATOR

1. Union members are eligible to participate in the City’s approved deferred compensation programs. The contributions made to this program shall be borne solely by the employee (i.e. no City contributions). In the event the City contemplates changing the program administrator, the City will first consult with the Union.

Section 11.02 DEFERRED COMPENSATION MATCHING FUNDS

1. Effective July 1, 2007 the City shall match contributions made by the employee to the City's Deferred Compensation Plan established under Section 457 of the Internal Revenue Code to a maximum of 5% of the employee’s regular rate of pay. The City shall deposit the matching funds on behalf of the employee into the City’s Deferred Compensation Plan established under section 401(a) of the Internal Revenue Code on or before December 10th of each year. The matching contribution shall be based on the
contributions made by the employee to the 457 plan for the calendar year. For fiscal years ending in 2011, and 2012 only, the city shall make no contributions to the employees 401A deferred compensation account. The City shall re-implement the deferred compensation plan starting January 1, 2013.

**ARTICLE 12 - RETIREMENT - PERS**

**Section 12.01 THREE PERCENT AT FIFTY-FIVE**

1. All sworn firefighting employees currently represented by the Union who are safety members of PERS shall have their retirement benefits calculated pursuant to the three percent (3%) at age 55 formula set forth in Section 21362 of the California Government Code. In addition, each such employee shall be entitled to the Level 3 Survivors’ Benefits and entitled to elect to receive credit for prior military service in accordance with Section 21024 of the California Government Code.

**Section 12.02 SURVIVORS BENEFIT**

1. The City of El Segundo has modified its PERS contract to provide level four survivors benefit for unit members.

2. As soon as practicable, the City shall modify its PERS contract to provide for the Government Code § 21548 PRE-RETIREMENT OPTION 2W DEATH BENEFIT.

**Section 12.03 RETIREMENT FORMULA**

1. Employees shall have their retirement calculated on single highest year in accordance with Section 20042 of the California Government Code.

**Section 12.04 PERS PAYMENT PICK-UP**

1. The employees shall pay their required nine percent (9%) contribution to PERS. In accordance with Resolution No. 4497 The City shall pick-up this nine percent (9%) contribution, meaning that while employees pay their own nine percent (9%) member contribution, the City shall treat this contribution as an employer contribution for purposes of employee federal and state income tax withholding as authorized by Internal Revenue Code (IRC) Section 414(h)(2).

2. The City’s pick-up of the contribution shall be limited to the percentages noted herein. Increases in the City's pick-up percentage shall not occur without mutual agreement of the parties.

**Section 12.05 PERS “COST-SHARING”**

1. Effective as soon as is reasonably possible, the City shall amend its contract with PERS to provide for a Government Code § 20516(a) authorized sharing by sworn (safety) members of the unit of representation of the cost of optional retirement benefits. In conjunction with the contract amendment, sworn unit members shall participate in cost sharing by contributing three percent (3%) of compensation earnable as of October 1,
2011 toward the cost of optional benefits elected by the City on or after January 1, 1979. This member contribution shall be normal contributions over and above normal contributions otherwise required by statute and shall be treated as normal contributions to the extent mandated by statute.

2. The parties also acknowledge that implementing the above Government Code §20516(a) PERS contract amendments as to sworn unit members will entail the passage of an unspecified period of time. Therefore, the parties further agree that for the period retroactive to the adoption date of this MOU, through and including the effective date of a Government Code §20516(a) PERS contract amendment, this MOU shall reflect the parties' agreement to utilize Government Code § 20516(f) to effectuate an interim agreement which shall provide that effective retroactive to the adoption of the date of this MOU, sworn unit members shall participate in PERS cost sharing by contributing three percent (3%) of compensation earnable as of October 1, 2011 toward the current service cost of benefits. Prior to the effective date of the above described Government Code § 20516(a) PERS contract amendment, such employee cost-sharing shall, to the extent authorized by the IRS and/or Franchise Tax Board, be implemented through pre-tax payroll deductions in the manner contemplated by Government Code § 20516(f).

The parties understand, agree and acknowledge that implementation of a Government Code § 20516(a) PERS contract amendment regarding "local fire safety" employees is contingent upon all "local fire safety" employees in the City being concurrently subject to the contract amendment. Therefore, if all "local fire safety" employees not represented by the Association do not agree to the Government Code § 20516(a) method of cost-sharing, then the cost-sharing for the unit members shall continue to be effectuated by the Government Code § 20516(f) method of implementing cost-sharing.

3. This provision shall terminate upon the expiration of this MOU, at which time the cost-sharing arrangement will be discontinued unless the parties mutually agree otherwise.

ARTICLE 13 - UNIFORM AND SAFETY EQUIPMENT

Section 13.01 UNIFORM MAINTENANCE PROGRAM

1. Each newly hired employee within a represented classification shall be provided at City cost, with three (3) complete uniforms. A "complete" uniform shall be defined as including required badges, patches, shirts, pants, boots, jackets, jacket liner, belt, tie, tie clip, hat, hat piece, collar piece, name tags and buckles. Further, the City shall at its own cost replace items fitting within the aforesaid uniform description where such items are rendered unserviceable through normal wear and tear. If boots can be re-soled without negatively impacting integrity of the boot, then replacement will not occur. The determination of the Fire Chief as to uniform items being replaced consistent with this section shall be final and binding.
and shall not be subject to a grievance procedure or to judicial review.

2. Additionally, each member of a represented classification shall be provided with an annual uniform maintenance allowance of $325, distributed quarterly on a prorated basis.

Section 13.02 CAL OSHA/FED OSHA UNIFORM REQUIREMENTS

1. In the event that Cal OSHA, Federal OSHA or an equivalent body changes the uniform requirements for unit employees, the City shall provide or pay the cost of the newly mandated item(s) up to 2 uniforms and 1 pair of shoes per employee.

Section 13.03 DEPARTMENT UNIFORM OFFICER

1. The duties of the Department Uniform Officer may be assigned in the Firefighters' bargaining unit. The assigned personnel will manage the purchase, replacement and distribution of uniforms and turnout gear.

ARTICLE 14 - BEREAVEMENT LEAVE

Section 14.01 GENERAL

1. A maximum of four (4) days (which shall be defined as two (2) shifts or 48 hours) paid bereavement leave per incident of death in the immediate family is provided separate and distinct from sick or other leave benefits. "Immediate family" shall be defined as spouse, child, mother, father, grandparents or sibling.

Section 14.02 USE OF OTHER LEAVES

1. No other emergency leave shall be provided, except as outlined in Sections 8.02 and 9.10.

Section 14.03 DOCUMENTATION

1. Members who use bereavement leave or emergency leave shall be required to write a fire department correspondence through channels to the Fire Chief indicating the reason they requested the leave. The Fire Chief shall sign the letter and include it in the member's fire department personnel file.

ARTICLE 15 - COMPUTER LOAN PROGRAM

Section 15.01 GENERAL

1. Contingent upon the City determining that sufficient funds exist for said purpose, provision to each affected employee of a maximum of $4000 cumulative interest free loan to purchase personal computer hardware and software. The City's determination in this regard is not subject to administrative or judicial appeal. Loans shall be repaid through payroll
deductions over a three-year period. Outstanding loan balances must be paid off at the time that an employee separates from City service and the City shall be authorized to recover any loan balance by making deductions from the employee's final check.

2. City shall retain title, as security, to any equipment purchased with funds from the above-described loans, until such time as the loan is fully paid off. City is to be notified of any exchange or updating of equipment.

3. "After-the-fact" financing is allowed only with prior approval of the Director of Finance or his/her designee.

Section 15.02 INITIAL LOAN

1. All participants to the loan program will be eligible for an initial, interest free loan in the amount of $4,000 (four thousand dollars). An employee with an outstanding balance on a prior computer loan as of July 1, 1997, will have that amount currently due from the previous loan subtracted from the amount the employee can borrow interest free under this program. Subsequent loans or amounts in excess of the above maximum interest free loan, would be at an interest rate of 3%. All loans would include a 36-month repayment term.

Section 15.03 ELIGIBLE PURCHASES

1. Eligible purchases shall be expanded to include ergonomic-related furniture and equipment and anti-viral software shall be required as a prerequisite in granting requested loans.

ARTICLE 16 - SAFETY COMMITTEE

Section 16.01 SELECTING MEMBERS

1. The Fire Department Safety Committee shall at a minimum consist of one member from each suppression position: Battalion Chief, Captain, Engineer, Firefighter/Paramedic, and Firefighter. Each position shall select their volunteer representative. If there are no volunteers, the Fire Chief may appoint a position representative. Review of the representatives shall be made at approximately 18-month intervals, and/or at the request of the committee at any time. In addition to being comprised of suppression personnel, the Safety Committee shall also consist of one member from the Fire Prevention Division and one member from the Environmental Safety Division.

Section 16.02 PURPOSE

1. Using a proactive risk management approach, make recommendations for abating unsafe conditions in order to prevent accidents and improve safety in all department operations.

2. Review policies and procedures of the department as they pertain to safety, and make recommendations for correction or change.
3. Review equipment, uniforms, and protective gear to assure their quality as related to safety considerations.

4. Review accidents related to equipment, apparatus, and facilities, as well as make recommendations regarding any corrective measures needed to limit future occurrences.

5. Issue department safety bulletins at the direction and approval of the Fire Chief.

6. All recommendations will be forwarded to the Fire Chief. He will take any final actions, ensuring compliance with local policies or ordinances, and/or any state or federal regulations.

Section 16.03 MEETINGS

1. The committee shall meet at the discretion of their selected chairperson.

ARTICLE 17 - TRAINING REIMBURSEMENT

Section 17.01 PARAMEDIC TRAINING REIMBURSEMENT

1. Employees who participate in the Paramedic Training Program will be required to reimburse the City, for the cost associated with training paramedics upon voluntary separation from City service. The rate of reimbursement is as follows:

   a. Voluntary separation during the Paramedic Training Program - 100% of the City's expended costs for training. Reimbursement is not required if the City receives credit back from the training program.

   b. Voluntary separation during the first year following state certification as a paramedic - 100% of the City's expended costs for training.

   c. Voluntary separation during the second year following state certification as a paramedic - 50% of the City's expended costs for training.

   d. Voluntary separation during the third year, and thereafter, following state certification as a paramedic - no reimbursement.

2. The City's costs will be limited to the following:

   a. Primary Paramedic Training.

   b. State Accreditation Fee.

   c. L.A. County Accreditation Fee.

Section 17.02 DEPARTMENT INSTRUCTOR TRAINING

1. Employees sent to training at City expense, for the purpose of training and instructing members of the department in training disciplines, shall commit to serve as a department instructor
for a minimum of two (2) years. Any member who chooses not to honor this commitment will be required to reimburse the City for costs associated with the training according to the following schedule:

a. Voluntary separation during the training program - 100% of the City's expended costs for the training. Reimbursement is not required if the City receives credit back from the training program.

b. Voluntary separation from department instructor during the first year following the training course(s) - 100% of the City's expended costs for the training.

c. Voluntary separation from department instructor during the second year following the training course(s) - 50% of the City's expended costs for the training.

d. Voluntary separation during the third year, and thereafter, following the training course(s) - no reimbursement.

e. Members who voluntarily separate from the City will be exempted from this provision, unless the member leaves within the first six (6) months after completion of the training.

2. To determine reimbursement costs, the City's cost will be limited to the following:

a. Fees for the course(s).

b. Travel, per diem and lodging expense.

ARTICLE 18 - EDUCATIONAL REIMBURSEMENT

Section 18.01 REIMBURSEMENT FOR COURSES

1. For unit employees hired after July 5, 1975, the City will pay the employee $375 for each job related course (3-unit semester or 4-unit quarter system) the employee completes at an accredited college, university, or California State Fire Academy accredited state or regional class taken during the employee's non-work hours in which a minimum "C" grade is received in said course. The employee is required to obtain the prior approval of the Fire Chief. The maximum an employee can receive in any calendar year period is $1,500.

2. During the term of this agreement, the parties shall confer regarding designation of those California State Fire Academy courses which shall result in eligibility for reimbursement. The designation of classes shall include, but need not be limited to those classes that previously have been approved. Once the initial designation list has been compiled, the Fire Chief shall first confer with Union representatives and shall then be authorized to add newly designated courses which the Fire Chief considers appropriate.
Section 18.02 REIMBURSEMENT FOR TUITION AND BOOKS

1. An additional benefit will be offered to employees hired after July 5, 1975. Those employees will have the option of receiving reimbursement for tuition and books as outlined below. (The employee may select only one reimbursement option during a calendar year)

   a. The employee must submit a memo to the Fire Chief detailing courses and the time frame required to obtain job-related Associate or Bachelor degree at an accredited college or university.

   b. The employee must receive approval (prior to enrollment) from the Fire Chief to receive reimbursement for tuition and books.

   c. Tuition and book reimbursement is not to exceed $2,000 for each affected employee per calendar year.

   d. Reimbursement requires obtaining a grade of "C" or higher, and submission of appropriate receipts to the Fire Chief and the Director of Administrative Services.

   e. The Fire Chief or his/her designee shall keep a log of employees requesting and receiving educational reimbursement.

   f. Employees must maintain an overall satisfactory department evaluation to remain eligible for educational reimbursement.

   g. Once approval has been obtained the employee must meet the criteria outlined above to receive the reimbursement.

Section 18.03 CITY REIMBURSEMENT AGREEMENT

1. Employees who participate in the Educational Reimbursement Program will be required to sign the following agreement:

   a. Educational Reimbursement - "I certify that I successfully completed the course(s), receiving at least a grade of "C" or better." (Attach copy of grade verification) "Further, I agree to refund the City or have deducted from my final paycheck any Educational Reimbursement funds received under this program if I should leave the City's employ, voluntarily or through termination, with cause, within one year after completion of the course work for which I am to receive reimbursement, in accordance with the following schedule."

Section 18.04 CITY REIMBURSEMENT SCHEDULE

1. Below is the reimbursement schedule for the full months worked between course completion and resignation dates and the percentage of the total reimbursement to be refunded to the City.
ARTICLE 19 -TEMPORARY APPOINTMENTS

Section 19.01 GENERAL

1. Where an employee is qualified for and is required for an appreciable period of time to serve temporarily in and have the responsibility for work in a higher class or position, when approved by the City Manager, such employee, while so assigned, shall receive the entrance salary rate of that class or whatever step thereof that is not less than five percent above his or her present rate, whichever is higher. For the purpose of this section, "appreciable period of time" is defined as ten consecutive working days (eight working days if on Four/Ten Plan) or longer.

Section 19.02 METHOD FOR FILLING VACANCIES

1. Rank for rank rehires shall be the standard method used for filling vacancies with the exception of long term vacancies expected to be longer than eight (8) weeks.

Section 19.03 GUIDELINES

1. Long-term vacancies (more than 8 weeks) may be filled with provisional appointments made at the direction of the Fire Chief. The following guidelines shall be used when considering filling a vacancy by provisional appointment.

   a. The Fire Department Personnel Officer (FDPO) shall obtain a diagnosis in writing from the attending physician.

   b. The FDPO will refer to the Medical Disability Advisor, 2nd Edition, by Presley Reed, M.D., to assist in determining the duration of the employee's absence. This would be the average of the minimum and maximum expected length of disability in the category for very heavy work.

Section 19.04 PARAMETERS FOR CONFERRING

1. The FDPO will confer with the Union to determine whether or not a provisional appointment should be made. Provisional appointments will normally be made when each of the following statements is true:

   a. An employee to be provisionally appointed is reasonably available and has qualified for the position by competitive examination.

   b. The provisional appointment is needed to relieve an over burden of staffing replacement hours.
c. The provisional appointment will not cause an over burden of staffing replacement hours.

d. The provisional appointment does not fall 45 days prior to a promotional examination in the same classification as the provisional appointment.

e. The provisional appointment can be reasonably justified as an operational necessity.

**Section 19.05 DETERMINATION OF APPOINTMENT**

1. The FDPO and the Union will reduce to writing a recommendation to the Fire Chief as to whether or not a provisional appointment should be made. The recommendation will be made within ten (10) days of a known vacancy and include the agreed upon answers to the statements listed above and/or the agreed upon differences of opinion of the FDPO and the Union.

2. The Fire Chief will consider the recommendation and make the final determination. If the recommendation is not made within ten (10) days, the Fire Chief will make a decision based on the information available at that time.

**Section 19.06 INTENT OF POLICY**

1. This policy shall not be abused or used outside the intent of filling longer-term disability positions, except for dynamic emergency situations that dictate rank for rank rehires.

**ARTICLE 20 - MAINTENANCE AND REPAIRS**

**Section 20.01 LIMITED MAINTENANCE AND REPAIR**

Fire Department members shall perform limited maintenance and repair such as outlined below:

1. **CARPENTRY**
   
a. Members will perform minor, unskilled carpentry maintenance and repair. Such carpentry responsibilities shall not include maintenance or repairs requiring special skills, knowledge, or tools beyond household handyman level.

2. **PAINTING**
   
a. Members will perform touch-up painting. Such touch-up painting shall exclude painting of entire walls, rooms, or structures.

The foregoing Limited Maintenance Agreement shall pertain to all fire facilities:
Section 20.02 ADMINISTRATIVE OFFICES (FIRE STATION #1)

1. The City will maintain and clean the administrative office area and greenhouse windows in Fire Station #1. For the purpose of this provision, the administration office area is defined as the lobby, secretarial area, Fire Chief's Office, Fire Prevention Bureau offices, and Conference Room. Unit employees shall continue to be responsible for the maintenance and cleaning of all other areas in this facility and all areas of Fire Station #2 as presently provided.

ARTICLE 21 - MATERNITY LEAVE

Section 21.01 EQUAL BENEFITS

1. Except as provided herein, a female employee disabled because of pregnancy, childbirth, or a related medical condition shall have the same benefits as are provided to other employees who are temporarily disabled for (non-industrial) medical reasons.

Section 21.02 WORKING AND REPORTING

1. It is the employee's right to continue to work while she is pregnant. Members who become pregnant and are physically capable of performing their jobs may, at their discretion, remain in active-duty positions, and are not required to report their condition to the employer.

Section 21.03 LIGHT DUTY

1. The City shall transfer a pregnant female employee to a less strenuous or hazardous position for the duration of the employee's pregnancy if she so requests, with the advice of her physician or the employee's other licensed health-care provider, where that transfer can be reasonably accommodated. The position will have an equivalent rate of pay and benefits. However, the City shall not be required to create additional employment that the City would not otherwise have created, nor shall the City be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

Section 21.04 LEAVE

1. A female employee disabled because of pregnancy, childbirth, or a related medical condition shall be entitled to take up to four months of leave of absence or the amount of accrued sick leave and vacation (if such leave is used), whichever is greater, due to such disability. The definition of "disabled because of pregnancy" includes that provided in California Code of Regulations Section 7291.2(g) and includes severe morning sickness or the need for time off for prenatal care. The date on which the leave should commence and the date on which the employee shall resume duties, shall be determined by the employee and her physician or the employee's other licensed health-care provider. Leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the
employee's physician or her other licensed health-care provider. At the end of the employee's period(s) of pregnancy disability or at the end of four months pregnancy disability leave, whichever occurs first, a California Family Rights Act ("CFRA") eligible employee may request to take CFRA leave of up to 12 workweeks for the birth of her child, if the child has been born by that date. There is no requirement that either the employee or child have a serious health condition in order for the employee to take CFRA leave. There is also no requirement that the employee no longer be disabled by her pregnancy before taking CFRA leave for reason of the birth of her child.

Section 21.05 NOTICE OF LEAVE

1. Any employee who plans to take pregnancy disability leave shall give the City reasonable notice (generally at least 30 days) of the date the leave will commence and the estimated duration of any leave. If 30 days advance notice is impractical (e.g., medical emergency or unforeseen occurrence) the employee shall inform the City of her need for pregnancy disability leave as soon as practicable.

   a. The City reserves the right to require written confirmation from the employee's physician or the employee's other licensed health-care practitioner that she is or will be disabled by pregnancy, childbirth, or related medical conditions as a condition of granting pregnancy disability leave.

   b. The City reserves the right to require written verification from the employee's physician or the employee's other licensed health-care practitioner that her disability has ceased before the employee returns to work.

Section 21.06 RETURNING TO WORK

1. When the employee is ready to return from pregnancy leave the employee shall be entitled to return to her original position unless either:

   a. The job ceases to exist because of legitimate business reasons unrelated to the employee's pregnancy disability leave (e.g., layoff); or

   b. Each means of preserving the job for the employee would substantially undermine the City's ability to operate safely and efficiently.

Section 21.07 COMPARABLE POSITION

1. If the employee cannot return to her original position because of either of the foregoing reasons, she shall be entitled to a comparable position unless either:

   a. There is no comparable position available; or

   b. For employees whose pregnancy disability does not qualify as a Family Medical Leave Act ("FMLA") leave, a comparable position is available, but filling the available position...
with the returning employee would substantially undermine
the City's ability to operate safely and efficiently.

c. "Employment in a comparable position" means employment in a
position, which is virtually identical to the employee's
original position in terms of pay, benefits, and working
conditions, including privileges, prerequisites and status.
It must involve the same or substantially similar duties and
responsibilities, which must entail substantially equivalent
skill, effort, responsibility, and authority. It must be
performed at the same or geographically proximate worksite
from where the employee was previously employed. It
ordinarily means the same shift or the same or an equivalent
work schedule.

Section 21.08 RIGHTS

1. Nothing contained herein shall limit the rights of the employee
under the California Family Rights Act, the Federal Family and
Medical Leave Act or other statutory and/or case law.

ARTICLE 22 - POLICY AND PROCEDURE AGREEMENTS

Section 22.01 DISABILITY RETIREMENT APPEAL PROCEDURES

1. The parties have agreed upon a disability retirement appeal
procedure dated May 2010.

Section 22.02 ANNUAL FITNESS FOR DUTY PROCEDURES

1. The parties have agreed upon an annual fitness for duty policy
and associated forms as indicated by initialing and dating the
forms and policy on June 9, 2003.

Section 22.03 INJURY ON DUTY PROCEDURES

1. The parties have agreed upon a injury on duty procedures dated
June 18, 2003

Section 22.04 MODIFIED DUTY PROCEDURES

1. This is a temporary light duty procedure, as part of occupational
injury and illness policy.

2. When an employee is assigned to light duty the employee shall be
assigned to a 40-hour workweek schedule (9-80 schedule). The
attending physician will identify any work restrictions and
limitations. The fire administration will determine if an
appropriate temporary light duty assignment is available meeting
the restrictions detailed by the attending physician. Final
approval for temporary light duty assignments rests with the Fire
Chief. Temporary light duty assignments shall be for thirty (30)
days. The Fire Chief may grant extensions as needed or requested.

3. While on light duty the employee will wear the department-
approved uniform. Exceptions to the requirement to wear the
department-approved uniform may be granted by the Fire Chief based on the nature of the injury and the work to be performed.

4. In order to return to full duty the employee must provide written documentation per City Practices authorizing the return to unrestricted duty.

5. An employee assigned to temporary light duty may make a request to the Fire Chief for a modified 40-hour workweek and/or work location. The nature of available assignments and the needs of the employee will be considered in the decision. The Fire Chief will consider each request for a modified schedule/location on a case-by-case basis.

Section 22.05 REHIRE POLICIES

1. City officials and Association representatives met and agreed to Rehire/Staffing Policy and Procedures. That agreement is reflected in a revised Rehire/Staffing Policy and Procedures dated December 19, 2003. Either party may cause a reopening of the meet and confer process regarding proposed changes to the Rehire/Staffing Policy and Procedures incorporated herein. There shall be no modification to the Rehire/Staffing Policy and Procedures absent an agreement of the parties to do so.

Section 22.06 RANK FOR RANK POLICY

1. The City agrees that when it rehires employees of the Fire Department it will rehire in rank, in accordance with the Rehire/Staffing Procedures, if there is available for rehire an employee holding the same rank as the absent employee.

Section 22.07 DRUG-FREE WORKPLACE POLICY

1. The City of El Segundo Drug-Free Workplace Statement and Substance Abuse Policy (dated July 1, 2008) is accepted by the Union. During the term of this agreement the city shall assess the need for revisions to the Drug-Free Workplace Statement and meet and confer with the Association for any proposed modifications to cause compliance with Lanier v. City of Woodburn.

Section 22.08 LAYOFF AND RECALL POLICY

1. Definitions

a. Layoff - A reduction in the workforce, resulting in temporary or permanent unemployment, of one or more employees.

b. Bumping - Moving to a lower classification or special assignment in which there is no vacancy and displacing an employee who has less seniority in that classification or special assignment as determined by appointment date to the affected classification.
2. Grounds for Layoff
   a. Whenever, in the judgment of the City Council, it becomes necessary to reduce the workforce, an employee may be laid off, reduced in classification or displaced (bumped) by another employee. Such layoff, reduction or displacement shall result from action of the City Manager or his/her designee. The City Manager shall recommend to the City Council each classification to be affected by any such change. Employees of the Fire Department shall be laid off in the following order:
      1. Temporary, part-time and seasonal employees;
      2. Probationary employees;
      3. Employees who have finished their probationary period.

3. Notice to Employees
   a. An Employee filling a full time position shall be given fourteen (14) calendar days notice of layoff, seventeen (17) calendar days if by certified mail, indicating the circumstances, which made the layoff necessary. Employees reduced or displaced (bumped) shall be given five (5) calendar days notice, eight (8) calendar days if by certified mail, indicating the circumstances which made the change necessary. In the event of an emergency, the City Council may approve a reduction in the notice requirements, if so recommended by the City Manager.

4. At-Will Employees
   a. The City Manager retains the right to layoff or alter the work assignment of the following employees at any time without notice or right of appeal: Emergency Employees, temporary or seasonal employees, part-time employees, original probationary employees, promotional probationary employees and employees designated at-will. The promotional probationary employee shall revert to his/her previously held classification and position without loss of seniority.

5. Benefit Payoff
   a. In the event an employee is laid off, he/she shall receive payment, at the employee's request, for any earned unused sick leave (in accordance with the M.O.U.), prorated vacation or holiday time as quickly as possible but not later than fourteen (14) days after the layoff.

6. Procedures for Layoff
   a. Permanent employees shall be laid off in order of seniority in City service, that is the employee with the least City service shall be laid off first, followed by the employee with the second least seniority in City service, etc. Seniority shall be determined by hire date.

7. Procedures for Reduction or Displacement
   a. Employees shall be reduced or displaced (bumped) in order of their seniority in the affected classification or special
assignment, that is the employee with the least seniority in
the classification or special assignment shall be reduced or
displaced (bumped) first, followed by the employee with the
second least seniority in rank, etc. Seniority shall be
determined by promotion or assignment date. Temporary
appointments or "Acting" assignment dates shall not be used
for the purpose of calculating seniority in rank. For the
purpose of this section Paramedic Assignment shall be
considered below Fire Engineer and above Firefighter.

8. Bumping Rights

a. Employees shall have the right to bump down to a lower
classification or special assignment to which they were
previously assigned, provided that the employee has greater
seniority in that assignment, thus bumping an employee in
that classification or special assignment with the least
seniority to a lower classification or special assignment.
To bump down into a lower classification or special
assignment the employee must qualify for the position
including any required certifications or licenses.
Employees properly laid off in the bargaining unit shall not
have bumping rights to any other City departments.
Employees laid off from other departments of the Employer
shall not have any bumping rights to positions within Fire
Department Suppression Division.

9. Breaking Ties

a. In cases where employees have the same date of hire (i.e.
equal seniority), seniority shall be granted to the employee
with the highest score on the examination in which the
employee participated and received the appointment. The
following criteria shall be used to determine seniority (in
case of a tie or the testing process is not applicable, the
next criteria shall be used).

1. Overall raw score.

2. Raw score of the oral interview.

3. Raw score of the Practical (Engineers)

4. Raw score of the written examination.

5. The earliest date and time of application.

10. Salary Placement

a. An employee who is assigned to a lower classification as a
result of a displacement (bump) shall be placed on the step
of the salary range of the new classification, which is the
closest to the compensation of the employee in the previous
classification, but in no case higher, and the employee will
be assigned a new salary anniversary date on the effective
date of the appointment. The employee shall, however,
retain seniority while his/her name remains on the
reemployment list or lists.
11. Reemployment List

a. The names of permanent employees who have been laid off under this section (including employees who have bumped down) shall be placed, in order of seniority from highest to lowest, on a reemployment list for their classification or any lower classification for which the employee is qualified by education and/or experience. Persons on such lists shall retain eligibility for appointment therefrom for a period of three years from the date their names were placed on the list. As a vacancy within a classification or lower related classification becomes available, the name appearing at the top of the list shall be offered the opportunity to fill the vacancy. The name of an individual selected from the list to fill the vacancy who refused the reemployment offer shall be permanently removed from the reemployment list without right of appeal. Laid-off employees do not earn seniority credit or benefits while on the reemployment list.

12. Letter of Layoff

a. The City shall provide all employees who were laid off from the City a service letter setting forth that the employee was laid off and is eligible for reemployment. Those employees who were displaced to lower positions will be granted, upon the employee's request, a letter from the City stating the employee was reduced in status as a result of a layoff and is eligible for reemployment to the higher-level position.

13. Rights of Reemployment

a. If a person is reemployed by the City within three (3) years, the employee's seniority, sick leave and vacation accrual rates shall be reinstated. Any accumulated sick leave and/or vacation earnings shall also be reinstated to the extent that the employee did not receive compensation for such earnings at the time of layoff. Upon reemployment, employees will be placed on the same salary step held at the time of layoff.

14. Appeal

a. If the above procedures, except for Section B - Grounds for Layoff and Section D - At-Will Employees, are misapplied and adversely affect a laid-off or displaced employee, the adversely affected employee may file an appeal, setting forth what sections of this Section were violated, to the City Manager.

Section 22.09  GRIEVANCE PROCEDURE

Effective October 1, 2011

1. Purpose

a. To promote improved employer-employee relations by establishing procedures for the fair and orderly resolution of disputes between the City and the Union and/or the City and employees represented by the Union.
b. To provide that grievances shall be settled as near as possible to the point of origin.

c. To provide that the grievance procedures shall be as informal as possible.

2. Definition

a. A "Grievance" shall be defined as a controversy between the City and the Union or an employee or employees covered by this agreement. Such controversy must pertain to any of the following:

1. Any matter involving the application of any provision of this agreement; or

2. Any matter involving the violation(s) of any provision or intent of this agreement; or

3. Any matter that affects the working conditions of the employee or the application of all rules, regulations, policies and/or laws affecting the employees covered by this agreement; or

4. Any protests of ratings or performance evaluations.

3. Evaluations

a. If an employee disagrees with their performance evaluation, Steps 1 and 2 of the grievance procedure shall apply to challenge the content of the employee's evaluation or performance review. If the grievance is not resolved at Step 2, the issue may be presented to the Director of Administrative Services within five (5) business days after termination of Step 2. A meeting with the employee, Union representative and the Director of Administrative Services will be arranged at a mutually agreeable location and time to review and discuss the grievance. Such meeting will take place within ten (10) business days from the date the grievance is received by the Director of Administrative Services. The Director of Administrative Services may invite other members of management to be present at such meeting. The Director of Administrative Services will give a written reply by the end of the seventh (7th) business day following the date of the meeting. The findings of the Director of Administrative Services shall be final.

4. Discipline

a. An appeal of discipline is not subject to the grievance procedure. An appeal of discipline is distinct from a grievance in that it is an action taken by an employee to request an administrative review of disciplinary action initiated against him or her and is subject to the following procedure, which shall supersede contrary provisions in Ordinance 586. Where necessary, the City shall propose necessary modifications to bring the Ordinance into compliance with Government Code § 3254.5 (FBOR.). Pursuant to Government Code Section 3254.5, the administrative appeal shall be conducted in procedural compliance with Section 11500 et. seq.
5. **Procedure**

a. There shall be an earnest effort on the part of both parties to settle grievances promptly through the steps listed below.

1. **Step 1** - An employee's grievance must be submitted in writing by the employee, fully stating the facts surrounding the grievance and detailing the specific provisions of this agreement alleged to have been violated within fifteen (15) business days after the employee could have been reasonably expected to have had knowledge of the circumstance(s) giving rise to the grievance. The supervisor or management representative shall reply in writing to the employee by the end of the fifteenth (15th) business day following the presentation of the grievance and giving of such answer will terminate Step 1.

2. **Step 2** - If the grievance is not settled in Step 1, the grievance will be presented to the Fire Chief within ten (10) business days after termination of Step 1. A meeting with the employee, Union representative and Fire Chief will be arranged at a mutually agreeable location and time to review and discuss the grievance.

3. Such meeting will take place within ten (10) business days from the date the grievance is received by the Fire Chief. The Fire Chief may invite other members of management to be present at such meeting. The Fire Chief will give a written reply by the end of the seventh (7th) business day following the date of the meeting, and the giving of such reply will terminate Step 2.

4. **Step 3** - If the grievance is not settled in Step 2, the grievance will be presented to the City Manager within five (5) business days after termination of Step 2. The Grievant(s) or Union Representative and the City Manager shall, within seven (7) business days after receipt of a grievance initiated at this Step, arrange a meeting to be held at a mutually agreeable location and time to review and discuss the grievance. Such meeting will take place within ten (10) business days from the date the grievance is referred to Step 3. The City Manager will give a written reply by the end of the seventh (7th) business day following the date of the meeting, and the giving of such reply will terminate Step 3. The findings of the City Manager shall be final and binding except as provided in Step 4 below.

5. **Step 4** - In cases, and only in such cases, which involve the alleged violation of the Personnel Ordinance, the Classification and Salary Resolution, the Personnel Rules or a Memorandum of Understanding, the employee may, by written notification to the Director of Administrative Services within two (2) working days, request submission of the issue to the Los Angeles County Civil Service Commission, Public Employee Relations Board (PERB), or Los Angeles...
County Employee Relations Commission (ERCOM), whichever may apply, stating specifically the paragraphs of the Ordinance, Resolution, Rules or Memorandum of Understanding which the Grievant(s) alleges are being violated. The Director of Administrative Services shall then submit said request, together with copies of all the pertinent forms, documents, and materials concerned, to the Los Angeles County Civil Service Commission, to review all such evidence and information as it relates to the specific violation alleged by the employee(s).

6. Representation

   a. Employees may be represented by persons of their choice at meetings with the Fire Chief, Director of Administrative Services, City Manager or Los Angeles County Civil Service Commission. When the grievance is processed with Union participation, the Union agrees to pay half of the cost of hearings conducted by the Los Angeles County Civil Service Commission, to a maximum annual (fiscal year) amount of three-thousand dollars ($3,000). In addition, Union shall pay half the cost of any FBOR mandated Administrative Law Judge. In such a case where a grievance is processed without the Union's approval or participation, the individual(s) shall not incur the same cost.

7. Witnesses

   a. In the event an employee represented by the Union is required by any party to appear at any meeting in any Step in this Procedure while otherwise in a paid status, the employee shall not suffer any loss of pay as a result of that appearance.

8. Time Limits

   a. Time limits and procedures, as set forth above for each of the Steps, may be extended or waived by mutual agreement between the parties, but neither party shall be required to so agree. The parties agree that in the event the Union or any member should fail to comply with any of the time limitations set forth in this Procedure, such failure shall constitute a waiver of its right to prosecute the grievance further, unless good cause exists for the failure and the City has suffered no prejudice as a result. In the event the City or any of its representatives should fail to comply with any of the time limits prescribed in this Procedure, such failure shall compel the City to grant the remedy requested in the grievance.

Section 22.10      SHIFT TRADE POLICY

1. During this negotiation process fire department officials and Association representatives met and agreed to the Rehire/Staffing Policy and Procedures that included shift trades. That agreement is reflected in a revised Rehire/Staffing Policy and Procedures dated November 11, 2003.
Section 22.11  NO SMOKING POLICY

1. Effective July 1, 1987, unit employees shall not be permitted to smoke and/or use tobacco products on duty in City facilities at any time.

2. Any unit employees hired after July 1, 1987, shall, as a condition of initial and continued employment, refrain from smoking and/or using tobacco products at any time on or off duty.

Section 22.12  MEDICAL EXAMINATION POLICY

1. Firefighters shall be annually examined by a local medical doctor selected by the City, except Fire Fighters under thirty-five years of age, who shall be examined every two years.

2. For fiscal years ending in 2012, 2013, the ESFA agrees to forego their annual medical examinations. Annual medical exams will resume in calendar year 2014.

Section 22.13  MILITARY LEAVE POLICY

1. City shall provide military leave in accordance with law.

Section 22.14  ELECTION DAY VOTING POLICY

1. Covered employees who are assigned to work on the day of any Federal, State or Municipal elections, who desire to vote, shall be obligated to cast absentee ballots whenever legally available. The parties agree that this provision is not intended to infringe upon any employee voting rights set forth in Section 14000 et. seq. of the California Elections Code. If any portion of this provision is found to violate Section 14000 et. seq., as part of a final adjudication by a court of competent jurisdiction, then the parties agree to discuss alternative voting arrangements for covered employees forthwith which balances employee voting rights and the legitimate scheduling needs of the Fire Department.

Section 22.15  JURY DUTY

1. Employees shall be entitled to a leave of absence for jury Duty, subject to compliance with all of the following conditions:

   a. The employee must provide written notice of the expected Jury Duty to his or her supervisor as soon as possible, but in no case later than 14 days before the beginning of Jury Duty (defined as the date on which the employee is directed by jury summons to either commence telephone contact with the jury administrator and/or appear in court.)

   b. During the first two weeks of Jury Duty, an employee shall be entitled to receive his or her regular compensation.

   c. For any portion of Jury Duty that extends beyond the first two weeks, such extended Jury Duty period shall be without pay unless, the employee presents written evidence that the
court estimated during voire dire that the trial would be of
two or less weeks duration, or in the alternative the
employee presents written evidence that he/she advised the
court that City compensation was limited to two weeks, that
the employee asked to be excused because of this hardship,
and the request was denied.

d. Any compensation for the first two weeks of Jury Duty,
except travel reimbursement pay, must be deposited with the
Director of Human Resources.

e. While on Jury Duty, the employee must report to work or use
vacation leave for the remainder of the employee’s scheduled
duty days, when relieved of jury duty for the day and prior
to the end of the scheduled duty day.

f. The employee must provide documentation of his or her daily
attendance on Jury Duty.

Section 22.16 FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT

Effective October 1, 2011

Attached to this MOU as Exhibit I, is the discipline-related policy
and procedure which has been drafted in accord with the requirements
of Government Code § 3250 et. seq., the Firefighters Procedural Bill
of Rights Act.

ARTICLE 23 - UNION BUSINESS

Section 23.01 BULLETIN BOARDS

1. The Union shall be provided a bulletin board location at each
fire station for its posting of information concerning official
Union business and activities. All posting shall contain the
date of the posting and the identification of the document as a
Union sponsored publication. All postings shall be done by an
authorized Union representative. Management shall have a right
to remove and/or prevent the posting of materials that contain
personal attacks upon the qualifications, skills, credibility,
honesty or character of any City employee of any rank.

Section 23.02 UNION MEETINGS

1. The Union shall be limited to ten (10) meetings per year during
regular business hours. Additional meetings can be held after
hours or on weekends.

2. Meetings held during regular business hours shall begin at 0730
hours and end at 1130 hours with employees returning to work
details by 1145 hours, except that meetings may be longer with
approval of the Fire Chief or his designee.

Section 23.03 CONDUCT OF UNION/ASSOCIATION BUSINESS

1. Effective July 1, 2000, each fiscal year representatives
designated by the Union shall be entitled to seven (7) twenty-
four (24) hour shifts of time with pay in order to attend related
conferences, seminars, workshops, meetings, etc. No more than
four (4) shifts, or the equivalent number of hours may be taken by any one representative on any one occasion. Time used to participate in the processing of grievances or during the formal "Meet and Confer" process shall be in addition to, and shall not count against, the time off with pay granted above. A maximum of four (4) of these shifts not used during a calendar year may be carried over into the next year, however, in no circumstance shall the Union or its representatives be entitled to more than eleven (11) shifts per fiscal year. Employees requesting to utilize this paid leave shall secure approval from the President of the Association and submit the request to the Fire Chief ten (10) days in advance of the requested time off. Employees shall not be penalized any hours for utilizing this time, for the purpose of calculating FLSA compensation.

Section 23.04 AGENCY SHOP CLAUSE

Effective October 1, 2011

Pursuant to California Government Code Section 3502.5, the parties agree to institute an "Agency Shop" agreement whereby an employee in the unit of representation covered by this Agreement is required, as a condition of continued employment, either to join the El Segundo Firefighters' Association or pay it a service fee in an amount not to exceed the standard initiation fee, periodic dues and general assessments of the organization. As a result, each bargaining unit employee must either:

1. Elect to join the Union and pay union dues; or
2. Pay an agency fee for representation; or
3. With a bona fide religious exemption, pay a fee equal to the agency fee to be donated to selected charities.

Union Dues/Agency Fee Collection

Effective January 1, 2012, the Finance Department shall deduct union dues, agency fee and religious exemption fees from all employees who have signed a written authorization and a copy of that authorization has been provided to the Finance Department. Employees on leave without pay or employees who earn a salary less than the union deduction shall not have union dues or agency fee deduction for that pay period.
The Union shall notify the City of any agency fee payers who elect to only pay fair share fees. The Union shall notify the City of the amount of the fair share fee to be deducted from the fair share fee payer’s paycheck.

The Union shall notify in advance all affected employees and the City if the amount will change.

**New Hire Notification**

Effective January 1, 2012, all new hires in this general bargaining unit shall be informed by Human Resources, at the time of hire, that an Agency Shop agreement is in effect for their classification. The employee shall be provided a copy of this Memorandum of Understanding and a form, mutually developed between the City and the Union that outlines the employee’s choices under the Agency Shop agreement. The employee shall be provided thirty (30) calendar days from the date of hire to elect their choice and provide a signed copy of that choice to the Finance Department. The Union may request to meet with new hires at a time and place mutually agreed upon between the Department Head and the Union.

**Failure to Pay Dues/Fees**

Should an employee fail to make an election and provide the City a signed copy of the Agency Shop employee election form, the Union shall notify the City, requesting the employee be terminated from employment for failure to make an election. Within ten (10) working days of each new hire in the bargaining unit, the City shall notify the Union of all new hires, providing the Union the employee’s name, classification and date of hire.

**Religious Exemption**

An employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting a union shall not be required, as a condition of employment, to join the union and pay union dues or pay an agency fee for representation.

An employee claiming religious exemption status shall be required to provide to the Union proof of affiliation with such a religious body or sect.

In lieu of union dues or agency fee, the employee claiming religious exemption shall be required to make a contribution equal to the Agency Fee, to one of the following non-labor, non-religious charitable organizations: South Bay Police & Fire Memorial Foundation; Alisa Ann Ruch Burn Foundation; Muscular Dystrophy Association; El Segundo Education Foundation.

**Records**

On an annual basis, the Union shall provide the Human Resources Director with a copy of the Union’s certified financial report. The City shall provide the Union a list of all unit members and dues paying status with each union dues check remitted to the Union.

MOU Between the City of El Segundo and IAFF Local 3682
10/1/11 TO 9/30/13
Amended 9/27/2011: City - Union
Rescission of Agreement

The Agency shop agreement may be rescinded at any time during the term of the Memorandum of Understanding by a majority vote of all employees in the bargaining unit. A request for such vote must be supported by a petition containing the signatures of at least thirty percent (30%) of the employees in the unit. The election shall be by secret ballot and conducted by California State Mediation and Conciliation and in accordance with state law.

Indemnification

The Union shall provide full protection to the City by indemnifying, defending and holding the City harmless from and against all claims and liabilities as a result of implementing and maintaining this agreement.

ARTICLE 24 - HOLIDAYS

Section 24.01 ACCUMULATION

1. Employees who work shifts and are regularly required to work holidays shall accumulate holiday pay at the rate of one hundred forty-four hours per year in lieu of holidays. Employees who terminate employment shall be paid holiday pay on a pro rata basis.

Section 24.02 ANNUAL PAYMENT

1. The City shall have the option to issue eligible employees one check annually inclusive for sick leave pay, and holiday pay in November, but not later than on or about December 10. Benefits shall be paid at the employee's regular rate of pay existing at the time the check is processed.

Section 24.03 PERS PICK-UP

The City will pay 100% of the members' PERS contribution on Holiday pay. This provision shall not be applicable during the term of this MOU only and will be re-instated immediately upon the expiration of this MOU.

ARTICLE 25 - MISCELLANEOUS

Section 25.01 PROMOTIONAL EXAMINATION REQUIREMENTS

1. Effective July 1, 2003

a. Candidates for Fire Captain promotional examinations shall be required to have 4 years firefighting experience and possess an AA or AS Degree, which includes a curriculum in Fire Science or 10 years of firefighting experience with the El Segundo Fire Department. If the promotional testing is declared to be open-competitive the requirements for outside candidates shall be equivalent to the educational requirement and/or equivalent to the time in rank in a full-time professional fire department.
2. Effective July 1, 2006

   a. Candidates for Battalion Chief promotional (or closed promotional) examinations shall be required to have eight (8) years experience in the fire service including 4 years as a captain, possess a Bachelor’s Degree or 10 years of service as a Fire Captain with the El Segundo Fire Department. If the promotional testing is declared to be open-competitive the requirements for outside candidates shall be equivalent to the educational requirement and/or equivalent to the time in rank in a full-time professional fire department.

Section 25.02  OPPORTUNITY TO REVIEW MATERIALS

1. No employee shall have any comment adverse to his/her interest entered into the employee’s personnel file, or any other file used for any personnel purposes by the employer, without the employee having first read and signed the instrument containing the adverse comment indicating the employee is aware of such comment, except that such entry may be made if after reading such instrument the employee refused to sign it. The employee’s signature on the instrument indicates notice of the adverse comment, but does not indicate agreement by the employee with the comment. Should the employee refuse to sign, that shall be noted on that document, and signed by a witness, not a party to the issuance of the instrument. The employee may attach a rebuttal to the instrument containing the adverse remark to be included in the Human Resources or Fire Department personnel file.

Section 25.03  TRAINING PUBLIC AND EMPLOYEES

1. As part of their duties, suppression personnel may be required to instruct and participate in training for the public and other City Personnel. Examples of such training and participation include first aid, CPR, CERT, Confined Space Rescue Awareness, breathing apparatus, fire extinguisher operation, and various public education programs.

2. The determination as to whether to use on-duty personnel or off-duty personnel to conduct such training is within the Fire Administration’s discretion to decide. If on-duty personnel are used Administration will determine whether to hire back additional personnel. The decision will be based on operational reasons. When personnel are hired back from off duty to instruct or participate in such training they will be paid at a rate consistent with the MOU.

ARTICLE 26 - SCHEDULE

Section 26.01  SCHEDULE - SUPPRESSION EMPLOYEES

1. The work schedule shall be two (2) consecutive twenty-four (24) hour shifts on duty followed by ninety-six (96) consecutive hours off duty, based upon a 24-day work cycle.
ARTICLE 27 - TERM

Section 27.01 TERM

1. The term of this MOU shall be October 1, 2011 through September 30, 2013 with an option of extending to September 30, 2014 solely by the Fire Association. The Fire Association shall inform the City of its decision whether or not to extend the agreement no later than March 30, 2013.

2. This Agreement shall remain in effect during any negotiations and shall continue to remain in full force and effect until such time as a new agreement is reached.

Article 28 - Limited Layoffs

Section 28.01 No layoffs

1. The City agrees to guarantee that no layoffs of unit members will occur during the term of this MOU unless at any time during the term of the contract the general fund actual core gross revenues as defined in Section 29.01 for any six month period fall seven and one half percent (7.5%) below the prior fiscal year actual core gross revenues for the same six month period.

2. Before instituting any layoffs the City will agree to meet and confer in good faith with the Association to explore alternative cost saving approaches.

ARTICLE 29 - COLA

Section 29.01 Cost of Living Adjustment

If general fund actual core gross revenues increase by $1.5 million or more in fiscal year 2011-2012 compared to fiscal year 2010-2011 and/or by $1.5 million in fiscal 2012-13 as compared to 2011-2012, then the employees covered under this MOU will be entitled to a COLA increase effective the pay period including October 1 of the fiscal year immediately following the qualifying fiscal year(s). In other words, if the general fund actual core gross revenues in fiscal year 2011-12 and/or 2012-13 are $1.5 million or more greater than those in the previous fiscal year, the COLA increase will take effect October 1, 2012 and/or 2013. The amount of the COLA increase will be based upon the percentage increase in the Consumer Price Index (CPI-U) in the Los Angeles-Riverside-Orange County geographic area for the twelve month period ending the most recent August 31. Core gross revenues for this section shall mean all revenues except Net of All Transfers, other Licenses and Permits (account numbers: 3400-3499) and Charges for Services (account numbers: 3800-3899).
ARTICLE 30 - SIGNATURES

Section 30.01 SIGNATURES

1. This Memorandum of Understanding, October 1, 2011 to September 30, 2013 consisting of fifty-two (52) initialed pages, including the cover, index, Exhibit I and signature pages, is made and entered into between the Union and the City as amended 9/27/2011.

For the Union:

Chris Thomason
President

Surt Crowson,
Vice-President

Tony Del Castillo
Vice President

Joseph Inez,
Treasurer

Adam Kruse,
Secretary

For the City:

Doug Willmore,
City Manager

Kevin Smith,
Fire Chief

Deborah Cullen,
Director of Finance/Human Resources

Martha Dijkstra,
Human Resources Manager

MOU Between the City of El Segundo and IAFF Local 3682
10/1/11 TO 9/30/13
Amended 9/27/2011: City and Union
EXHIBIT I

SUPPLEMENTAL PROCEDURES FOR APPEALS BY FIREFIGHTERS
OF PUNITIVE ACTION
UNDER THE
FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT

The following appeals procedures are adopted pursuant to Government Code § 3254.5
of the Firefighters Procedural Bill of Rights Act and are intended to supplement Rule 14
and Rule 15 of the City of El Segundo Personnel Rules and Section 2.28.070, entitled
“Hearing on Appeals” and Section 2.28.150, entitled “Employee Appeals” of Chapter
2.28, entitled “Personnel Merit System” of the City of El Segundo Municipal Code.

1. DEFINITIONS

a. The term “firefighter” means an employee who is considered a
“firefighter” under Government Code § 3251(a) except for the Fire
Chief who is identified as such. The classifications of employees
who are firefighters include: firefighter, firefighter special assignment
paramedic, fire engineer, fire captain, and battalion chief.

b. The term “punitive action” means any action defined by Government
Code § 3251(c), i.e., “any action that may lead to dismissal,
demotion, suspension, reduction in salary, written reprimand, or
transfer for purposes of punishment.”

2. SUPPLEMENTAL APPEALS PROCEDURES FOR PUNITIVE ACTIONS
INVOLVING FIREFIGHTER DISMISSAL, DEMOTION, OR SUSPENSION
FOR MORE THAN FIVE WORKDAYS

These procedures shall supplement Sections 2.28.070 and 2.28.150 of Chapter
2.28 of the City of El Segundo Municipal Code and Rules 14 and 15 of the City of El
Segundo Personnel Rules.

A firefighter who is suspended for more than five (5) workdays, but not for a
period in excess of thirty-one (31) workdays, shall be entitled to an appeal hearing before the City of El Segundo City Council ("City Council"), which hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

A firefighter who is suspended more than thirty-one (31) workdays; demoted; or dismissed from employment shall be entitled to an appeal hearing before the Los Angeles County Civil Service Commission ("Commission") which hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.  

a. Notice of Discipline as Accusation – The final notice of discipline which may be issued at the conclusion of any pre-disciplinary procedures shall serve as the Accusation as described in Government Code § 11500, et seq.

i. Pursuant to Government Code § 3254, subsection (f), a dismissal, demotion or suspension for more than five workdays shall not be effective sooner than 48 hours of issuance of the final notice of discipline.

ii. The notice shall be prepared and served in conformity with the requirements of Government Code §§ 11500, et seq. The notice shall include a post card or other form entitled "Notice of Defense" which, when signed, will acknowledge service of the accusation and constitute notice of defense under Government Code § 11506.

iii. The accusation shall include or be accompanied by a statement to the respondent (firefighter) stating that the respondent may request a hearing by filing a notice of defense as provided in Government Code § 11505 within 15 days after service of the accusation, and that failure to do so will constitute a waiver of respondent’s right to a hearing. The statement to respondent should be prepared in conformity with the requirements of Government Code § 11505.

---

1 The Los Angeles County Civil Service Commission and the El Segundo City Council shall be referred to collectively in these rules as "Commission/ City Council" inasmuch as the same procedures apply to each. Which body conducts the hearing will depend upon the punitive action being appealed.
iv. A copy of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code shall be provided to the firefighter with the notice of discipline.

b. Request for Appeal Hearing - A firefighter seeking to appeal to the Commission/ City Council must file a timely Notice of Defense within 15 days after service of the accusation, in compliance with Government Code § 11506. Failure to file a timely Notice of Defense shall constitute a waiver of the respondent's right to a hearing, unless the City Manager (or designee) in his or her discretion nevertheless grants a hearing.

c. Administrative Law Judge - Pursuant to Government Code § 11512, the City has determined that appeals shall continue to be heard by the Commission (or its designee)/ City Council with the administrative law judge presiding at the hearing, pursuant to California Government Code section 11512(b). The administrative law judge shall rule on the admission and exclusion of evidence and advise the Commission/ City Council on matters of law. The Commission/ City Council shall exercise all other powers relating to the conduct of the hearing.

d. Time and Place of Hearing - Pursuant to Government Code § 11508, unless otherwise decided by the Commission/ City Council, a hearing shall be conducted at the City of El Segundo City Hall at a time to be determined by the Commission/ City Council.

e. Notice of the Hearing – Notice of the hearing shall be provided to the parties at least 10 days prior to the date of the hearing and in a form consistent with Government Code § 11509.

f. The burdens of proof and production of evidence shall be borne by the employer. The standard of proof shall be by a preponderance of the evidence.

g. The Commission/ City Council shall issue its decision pursuant to City of El Segundo Municipal Code Section 2.28.070. The decision of the Los Angeles County Civil Service Commission, or the City Council, as the case may be, shall be in writing. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail and accompanied by a proof of service.
h. The decision of the Los Angeles County Civil Service Commission, or the City Council, as the case may be, is final. The decisions and findings of the Los Angeles County Civil Service Commission, or the City Council, as the case may be, shall be subject to review of courts only, pursuant to Government Code § 11523.

3. SUPPLEMENTAL APPEALS PROCEDURES FOR PUNITIVE ACTIONS NOT INVOLVING FIREFighter DISMISSAL, DEMOTION, OR SUSPENSION FOR MORE THAN FIVE WORKDAYS

Appeals from punitive actions other than suspensions for more than five workdays, demotion, or dismissal, shall be conducted in accordance with the appropriate procedures set forth in Rule 14 of the City of El Segundo Personnel Rules. The Los Angeles County Civil Service Commission shall have no jurisdiction over an appeal under this section. Nothing herein shall be interpreted to establish a property interest in any assignment.

In addition, pursuant to Government Code §§ 11425.10 and 11445.20, the following informal hearing procedure shall be utilized for an appeal by a firefighter of a punitive action not involving a dismissal, demotion, or suspension for more than five workdays. Examples of punitive actions subject to the informal hearing procedure, include, but are not limited to, written reprimands and non-disciplinary transfers resulting in a loss of compensation (e.g., non-disciplinary transfer out of a premium pay assignment). The appeal is an opportunity for the firefighter to present written material and arguments why a punitive action should not occur or offer alternatives to the action.

a. Effective Date of Punitive Action – Pursuant to Government Code § 3254, subsection (f), punitive action other than a dismissal, demotion or suspension for more than five workdays shall not be effective sooner than 48 hours of issuance of the final notice of discipline.

b. Notice of Appeal – Within five (5) work days of receipt by a firefighter of notification of punitive action as set forth above in paragraph (1)(b), the firefighter shall notify the Fire Chief in writing of the firefighter’s intent to appeal the punitive action. The notice of appeal shall specify the action being appealed and any substantive and procedural grounds for the appeal.

c. Presiding Officer – In an informal hearing, the Fire Chief or his/her designee shall be the Presiding Officer. If the Fire Chief cannot serve
as the Presiding Officer because of actual bias, prejudice or interest as defined by Government Code § 11425.40, then the City Manager or designee shall serve as the Presiding Officer. The Presiding Officer, or his or her designee, shall conduct the informal hearing in accordance with these procedures. The decision of the Presiding Officer shall be final and binding.

d. Burden of Proof- The Fire Department (“Department”) shall bear the burden of proof at the hearing.

i. If the punitive action involves charges of misconduct (i.e., allegations that the firefighter has violated one or more federal, state, or local laws, and/or City or Fire Department regulations, procedures, or policies), the Department shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge(s) and that the punitive action was reasonable under the circumstances.

ii. If the action being appealed does not involve allegations of misconduct by the firefighter, the limited purpose of the hearing shall be to provide the firefighter the opportunity to establish a record of the circumstances surrounding the action. The Department’s burden of proof shall be satisfied if the Department establishes by a preponderance of the evidence that the action was reasonable. The Department’s burden of proof may be satisfied even though reasonable persons may disagree about the appropriateness of the action.

e. Conduct of Hearing-

i. The formal rules of evidence do not apply, although the Presiding Officer shall have discretion to exclude evidence which is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.

ii. The parties may present opening statements.

iii. The parties may present evidence through documents and testimony.
aa. Witnesses shall testify under oath.

bb. Subpoenas may be issued pursuant to Government Code §§ 11450.05 - 11450.50.

cc. If the punitive action being appealed is a written reprimand and/or does not involve a loss of compensation, the parties shall not be entitled to confront and cross-examine witnesses.

d. Following the presentation of evidence, if any, the parties may submit oral and/or written closing arguments for consideration by the Presiding Officer.

f. Recording of the Hearing- If the punitive action involves the loss of compensation, then the hearing shall be stenographically recorded by a certified court reporter. Otherwise, the hearing may be tape recorded. The per diem cost of the court reporter shall be equally borne by the parties. The cost to receive a transcript of the hearing shall be borne by the party requesting the transcript.

g. Representation- The firefighter may be represented by an association representative or attorney of his or her choice at all stages of the proceedings. All costs associated with such representation shall be borne by the firefighter.

h. Decision- The decision shall be in writing pursuant to Government Code § 11425.50. The decision shall be served by first class mail, postage pre-paid, upon the firefighter as well as his/her attorney or representative, shall be accompanied by an affidavit or certificate of mailing.

i. Judicial Review in Limited Circumstances - Where the cross-examination of witnesses was allowed during the informal hearing, either party may seek judicial review of the decision pursuant to Code of Civil Procedure § 1094.6. Where the cross-examination of witnesses was not allowed, neither party may seek judicial review of the decision; the Presiding Officer's decision is final and binding, without further appeal or review.
AGENDA DESCRIPTION:
Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Police Managers’ Association. (Fiscal Impact: Estimated Savings FY 2011/2012 of $ 205,490.24)

RECOMMENDED COUNCIL ACTION:
1. Adopt the Resolution approving the Memorandum of Understanding.
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Resolution
2. Memorandum of Understanding – Exhibit “A”

FISCAL IMPACT:
Total Fiscal Impact: Estimated Savings FY 2011/2012 of $ 205,490.24

  Amount Budgeted: 
  Additional Appropriation: None
  Account Number(s):

ORIGINATED BY: Deborah Cullen, Finance/Human Resources Director
REVIEWED BY:
APPROVED BY: Doug Willmore, City Manager

BACKGROUND AND DISCUSSION
Staff and representatives of the El Segundo Police Managers’ Association met and conferred pursuant to Sections 3500 et. seq. of the California Government Code, for the purposes of obtaining a labor agreement. Agreement was reached on September 26, 2011.

The Agreement contains the following major provisions:

1. Term - October 1, 2011 – September 30, 2013 with the Association’s option to extend to September 30, 2014. Association shall notify the City of its decision to extend by March 30, 2013.

2. Employer-Paid Member Contribution (EPMC) -- Employees will pay three percent (3%) of the EPMC.

3. Vacation Buy-Back – Reduced from a maximum of two hundred (200) hours to thirty-five (35) hours.

4. Vacation Accruals – Annual accrual adjusted to bring unit more in line with other police safety group.
5. Deferred Compensation – 401(a) one percent (1%) match eliminated.

6. Retirement Formula –As soon as practicable, the City shall amend its contract with PERS to establish a two-tier retirement formula of 3%@55 for new hires.

7. Concessions Reopener - The City will reopen meet and confer on concessions if a budget review for Fiscal Year 2012 reveals City deficit estimates for Fiscal Year 2011-2012 were inaccurate by an agreed-upon amount.

8. Limited Layoff language guaranteeing no layoffs will occur unless general fund core gross revenues for any six month period fall seven and one-half percent (7.5%).

9. Cost of Living Adjustment (COLA) Language – Employees entitled to a Cost of Living Increase if general fund core gross revenues increase by $1.5 million during designated time periods. COLA to be determined by CPI-U for the Los Angeles-Riverside-Orange County region for the agreed-upon time period.

10. Clean-up language includes the following:
a. Catastrophic Leave Program information updated to be consistent with City’s Policy.
b. Disability Retirement Appeals Procedures Policy — effective date updated.
RESOLUTION NO.______

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF EL SEGUNDO, CALIFORNIA AND THE EL SEGUNDO POLICE MANAGERS’ ASSOCIATION BARGAINING UNIT.

The City Council of the City of El Segundo does resolve as follows:

Section 1: Discussions which have taken place in the meet and confer process have resulted in a mutually agreeable Memorandum of Understanding between the City of El Segundo and this Bargaining Unit.

Section 2: Staff is authorized to implement all terms and conditions of the Memorandum of Understanding between the City of El Segundo and this Bargaining Unit. A copy of that Memorandum of Understanding is attached as Exhibit “A”.

Section 3: The City Clerk is directed to certify the adoption of this Resolution; record this Resolution in the book of the City’s original resolutions, and make a minute of this adoption of the Resolution in the City Council’s records and the minutes of this meeting.

Section 4: This Resolution will become effective immediately upon adoption and

PASSED AND ADOPTED this __28th__ day of __September__, 2011.

_____________________________________
Eric K. Busch,
Mayor
CERTIFICATION

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS
CITY OF EL SEGUNDO )

1, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution No. _______ was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 28th day of September, 2011, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NOT PARTICIPATING:

WITNESS MY HAND THE OFFICIAL SEAL OF SAID CITY this ______ day of ____________, 2011.

Cindy Mortesen, City Clerk
of the City of El Segundo,
California
(SEAL)

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: __________________________
   Karl H. Berger
   Assistant City Attorney
EXHIBIT “A”

COMPREHENSIVE MEMORANDUM
OF
UNDERSTANDING

EL SEGUNDO POLICE
MANAGERS’ ASSOCIATION

October 1, 2011 – September 30, 2013
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE 1</th>
<th>GENERAL PROVISIONS</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1.01</td>
<td>Preamble</td>
<td>1</td>
</tr>
<tr>
<td>Section 1.02</td>
<td>Management Rights</td>
<td>1</td>
</tr>
<tr>
<td>Section 1.03</td>
<td>Savings Clause</td>
<td>2</td>
</tr>
<tr>
<td>Section 1.04</td>
<td>No-Strike Clause</td>
<td>2</td>
</tr>
<tr>
<td>Section 1.05</td>
<td>Association Dues Deduction</td>
<td>2</td>
</tr>
<tr>
<td>Section 1.06</td>
<td>Compaction – Statement of Intent</td>
<td>2</td>
</tr>
<tr>
<td>Section 1.07</td>
<td>Completion of Meeting and Negotiating</td>
<td>2</td>
</tr>
<tr>
<td>Section 1.08</td>
<td>Non-Discrimination</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 2</th>
<th>SALARY</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2.01</td>
<td>Cost of Living Adjustment</td>
<td>3</td>
</tr>
<tr>
<td>Section 2.02</td>
<td>Regular Rate of Pay Defined</td>
<td>3</td>
</tr>
<tr>
<td>Section 2.03</td>
<td>Salary Schedule Calculation Methodology</td>
<td>4</td>
</tr>
<tr>
<td>Section 2.04</td>
<td>Step Advancement – Accelerated</td>
<td>4</td>
</tr>
<tr>
<td>Section 2.05</td>
<td>Notice Requirement to Withhold Step Increase</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 3</th>
<th>EDUCATIONAL INCENTIVE PAY</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3.01</td>
<td>Educational Incentive Pay</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 4</th>
<th>TUITION AND BOOK REIMBURSEMENT PROGRAM</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 4.01</td>
<td>Policy and Eligibility</td>
<td>4</td>
</tr>
<tr>
<td>Section 4.02</td>
<td>Undergraduate Studies</td>
<td>5</td>
</tr>
<tr>
<td>Section 4.03</td>
<td>Post-Graduate Studies</td>
<td>5</td>
</tr>
<tr>
<td>Section 4.04</td>
<td>Certification Requirement for Educational Compensation</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 5</th>
<th>PROMOTIONS</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 5.01</td>
<td>Salary Differential upon Promotion</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 6</th>
<th>NO-SMOKING CLAUSE</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 6.01</td>
<td>Establishment</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 7</th>
<th>OVERTIME COMPENSATION</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 7.01</td>
<td>Pay for Shift Schedule</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ARTICLE 8</th>
<th>PHYSICAL FITNESS INCENTIVE PROGRAM</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 8.01</td>
<td>Purpose</td>
<td>6</td>
</tr>
<tr>
<td>Section 8.02</td>
<td>Department Policy</td>
<td>6</td>
</tr>
<tr>
<td>Section 8.03</td>
<td>Program Components</td>
<td>6</td>
</tr>
</tbody>
</table>
Section 8.04 Physical Fitness Incentive Program Pay ................................................................. 7
Section 8.05 Payment of Physical Fitness Incentive Program Pay – Death of Employee ............... 7

ARTICLE 9 COMPREHENSIVE MEDICAL EXAMINATION .......................................................... 7
Section 9.01 Annual Comprehensive Medical Examination ......................................................... 7
Section 9.02 Heart Scan .............................................................................................................. 8

ARTICLE 10 EXECUTIVE LEAVE ............................................................................................... 8
Section 10.01 Entitlement .......................................................................................................... 8

ARTICLE 11 MARKSMANSHIP PAY ......................................................................................... 8
Section 11.01 Marksmanship Pay ............................................................................................. 8
Section 11.02 Payment of Marksmanship Pay – Death of Employee ............................................ 8

ARTICLE 12 COMPENSATORY TIME ..................................................................................... 8
Section 12.01 Maximum Accrual ............................................................................................... 8
Section 12.02 Payment of Compensatory Time – Death of Employee ........................................ 9

ARTICLE 13 HOLIDAY LEAVE .................................................................................................. 9
Section 13.01 Holiday Leave – Captains ................................................................................. 9
Section 13.02 Personal Leave/Floating Holiday – Captains ......................................................... 9
Section 13.03 Holiday Pay – Lieutenants ................................................................................... 9

ARTICLE 14 SICK LEAVE ........................................................................................................ 10
Section 14.01 Sick Leave – Leave with Pay Due to Illness – Accumulation of Same ..................... 10
Section 14.02 Sick Leave Accumulated for Physical Examination ............................................. 10
Section 14.03 Sick Leave – Payment of Seventy-Five Percent (75%) of Accrual ......................... 10
Section 14.04 Sick Leave Accrued – Payment on Separation Prior to December 1 ................... 10
Section 14.05 Payment of Sick Leave Accrual – Disability Retirement ....................................... 10
Section 14.06 Payment of Sick Leave Accrual – After 20 Years of City Service ......................... 10
Section 14.07 Payment of Sick Leave Accrual – On Separation from The City of El Segundo ........ 10
Section 14.08 Payment of Sick Leave Accrual – Death of Employee ........................................... 10
Section 14.09 Sick Leave Accumulated for Care of Immediate Family ....................................... 11

ARTICLE 15 VACATION LEAVE ............................................................................................... 11
Section 15.01 Vacation Time Use ............................................................................................. 11
Section 15.02 Vacation Accrual Schedule .................................................................................. 11
Section 15.03 Vacation Accrual Based on Total Service Time in a PERS or Comparable Agency ...... 11
Section 15.04 Vacation Time Accrual – Payment in Lieu Of ......................................................... 11
Section 15.05 Vacation Time Accrual – For Temporary Industrial Disability ............................... 12
Section 15.06 Payment of Vacation Time – Death of Employee .................................................... 12
ARTICLE 16 BEREAVEMENT LEAVE ................................................................. 12
   Section 16.01 Bereavement Leave with Pay ........................................... 12

ARTICLE 17 JURY DUTY ........................................................................... 12
   Section 17.01 Provisions ....................................................................... 12

ARTICLE 18 EXCEPTIONAL LEAVE .......................................................... 13
   Section 18.01 Provision ........................................................................ 13

ARTICLE 19 PERSONAL EMERGENCY LEAVE ........................................... 13
   Section 19.01 Personal Emergencies – Use of Eligible Leaves ............... 13

ARTICLE 20 HEALTH BENEFITS ............................................................... 13
   Section 20.01 Medical Contract ............................................................. 13
   Section 20.02 City Medical Contribution .............................................. 13
   Section 20.03 Optical, Dental, and Life Insurance ............................... 13
   Section 20.04 Employee Assistance Program (EAP) ........................... 14
   Section 20.05 Medical Insurance Continuation – On Duty Death ........... 14

ARTICLE 21 UNIFORMS AND SAFETY EQUIPMENT ................................. 14
   Section 21.01 Provision of Uniforms and Safety Equipment ................. 14
   Section 21.02 Uniform Allowance ....................................................... 14

ARTICLE 22 RETIREMENT BENEFITS ....................................................... 14
   Section 22.01 PERS Retirement Formula ............................................. 14
   Section 22.02 PERS Pickup Reported as “Compensation Earnable” ....... 15
   Section 22.03 Monetary Value of Employer-Paid Member Contributions (EPMC) ......................................................... 15
   Section 22.04 Optional Contract Provisions ........................................ 15
   Section 22.05 Retiree Health Insurance Contribution Program ............... 15

ARTICLE 23 DIRECT DEPOSIT and FLEXIBLE SPENDING ACCOUNT .... 15
   Section 23.01 Direct Deposit ............................................................... 15
   Section 23.02 Flexible Spending Account ........................................... 16

ARTICLE 24 COMPUTER LOAN PROGRAM ............................................. 16
   Section 24.01 Initial Loan ................................................................... 16

ARTICLE 25 DEFERRED COMPENSATION .............................................. 16
   Section 25.01 Deferred Compensation Plan (457) ............................... 16
   Section 25.02 Deferred Compensation Plan (401a) ............................. 16
   Section 25.03 Deferred Compensation “Catch Up” Provision ................. 16
ARTICLE 26 CATASTROPHIC LEAVE PROGRAM

Section 26.01 Purpose ................................................................. 16
Section 26.02 Definition .............................................................. 16
Section 26.03 Procedures ............................................................ 16

ARTICLE 27 LAYOFF PROCEDURES .............................................. 17

Section 27.01 Grounds for Layoff .................................................... 17
Section 27.02 Notice to Employees .................................................. 17
Section 27.03 At-Will Employees ................................................... 17
Section 27.04 Procedures for Layoff ................................................. 17
Section 27.05 Breaking Ties .......................................................... 17
Section 27.06 Reduction to a Vacant Position .................................... 18
Section 27.07 Displacement Rights ................................................ 18
Section 27.08 Salary Placement ..................................................... 18
Section 27.09 Reemployment List .................................................. 19
Section 27.10 Letter of Layoff ....................................................... 19
Section 27.11 Rights on Reemployment .......................................... 19
Section 27.12 Appeal ................................................................. 19

ARTICLE 28 GRIEVANCE PROCEDURE ......................................... 19

Section 28.01 Definition of Terms ............................................... 19
Section 28.02 Time Limits .......................................................... 19
Section 28.03 Procedure for Filing a Grievance ............................... 20
Section 28.04 Grievance Procedure .............................................. 20
Section 28.05 Matters Excluded From the Grievance Procedure ........ 20
Section 28.06 Conferences ......................................................... 21

ARTICLE 29 PDR LIMITED APPEALS ............................................. 21

Section 29.01 Provisions ........................................................... 21

ARTICLE 30 TEMPORARY SERVICE IN HIGHER CLASSIFICATION ...... 23

Section 30.01 Acting Pay ............................................................ 23

ARTICLE 31 POLICIES ................................................................. 23

Section 31.01 Occupational Injury and Illness Policy ....................... 23
Section 31.02 Disability Retirement Policy ..................................... 23
Section 31.03 Fitness for Duty Policy ............................................ 23
Section 31.04 Substance Abuse Policy and Drug-Free Workplace Statement 23
ARTICLE 32  TERM OF AGREEMENT ........................................................................... 23
Section  32.01  Term............................................................................................... 23

ARTICLE 33  LIMITED LAYOFFS ........................................................................... 23
Section  33.01  No Layoffs ...................................................................................... 23

ARTICLE 34  CONCESSIONS .................................................................................. 23
ARTICLE 1  GENERAL PROVISIONS

Section 1.01  Preamble

This Memorandum of Understanding (MOU) is entered into with reference to the following:

A. The El Segundo Police Managers’ Association (hereinafter referred to as the “Association”) is the exclusively recognized employee organization for all personnel employed by the City of El Segundo (hereinafter referred to as “City”) in the unit of representation including the following classifications and positions (hereinafter referred to as “affected employees”): Police Lieutenant and Police Captain. During the life of this agreement, such exclusive recognition may only be modified pursuant to the provisions of City Resolution No. 3208.

B. In the interest of maintaining harmonious relations between the City and the affected employees, authorized representatives of the City Council of City and the Association have met and conferred in good faith, exchanging various proposals concerning wages, hours and the terms and conditions of employment of affected employees within the lawful scope of representation of Association pursuant to California Government Code Sections 3500 et. seq. and City Resolution Number 3208.

C. The authorized representatives of the City Council of City and the Association have reached a mutual agreement as to certain wages, hours and other terms and conditions of employment of the affected employees, this memorandum of which shall be submitted to the City Council of City for its consideration and if adopted, for implementation of its terms and conditions by appropriate ordinance, resolution or other lawful action. This MOU is a comprehensive statement of agreed-upon wages, hours and other terms and conditions of employment.

D. Unless otherwise provided for herein, all terms and conditions described herein shall be effective upon adoption of the MOU by the City Council.

Section 1.02  Management Rights

A. Except as limited by the specific and express terms of this MOU, the City hereby retains and reserves unto itself all rights, powers, authority, duty, and responsibilities confirmed on and vested in it by the laws and the Constitution of the State of California and/or United States of America.

B. The management and the direction of the work force of the City is vested exclusively in the City, and nothing in this MOU is intended to circumscribe or modify the existing right of the City to direct the work of its employees; hire, promote, demote, transfer, assign, and retain employees in positions within the City, subject to the rules and regulations of the City; suspend or discharge employees for proper cause; maintain the efficiency of governmental operations; relieve employees from duties because of lack of work; take action as may be necessary to carry out the City’s mission and services in emergencies; and to determine the methods, means, and personnel by which the operations are to be carried out.
Section 1.03 Savings Clause

If any provision or the application of any provision of this MOU shall be rendered or declared invalid by any final court action or decree, or by reason of any preemptive legislation, the remaining sections of this MOU shall remain in full force and effect for the duration of said MOU.

Section 1.04 No-Strike Clause

A. The El Segundo Police Managers’ Association agrees that during the term of this MOU their members employed by the City of El Segundo will not strike or engage in any work stoppage or slowdown, engage in any concerted failure to report for duty, or fail to perform their duties in whole or in part for the purpose of inducing, influencing, or coercing a change in the conditions, or compensation, or the rights, privileges, or obligations of employment.

B. The Association also agrees that their members employed by the City of El Segundo will not refuse to cross a picket line in performance of their normal and customary duties, nor will the aforementioned employee organization attempt to influence, either directly or indirectly, other employees to honor an existing picket line in the performance of their normal and customary duties as employees.

C. It is understood that any affected employee violating this provision may be subject to discipline up to and including termination by the City.

D. It is understood that in the event this provision is violated the City may be entitled to withdraw any rights, privileges or services provided for in this MOU or in City policy from any affected employee and/or the Association.

Section 1.05 Association Dues Deduction

The City agrees to:

A. Provide official dues deductions for all affected employees who subscribe to Association membership;

B. Provide official payroll deductions for City-approved Association insurance and welfare plans, not to exceed five programs.

Section 1.06 Compaction – Statement of Intent

The City strives to compensate affected employees at a reasonable level above the classification they supervise. Additionally, the City strives to compensate captains at a reasonable level above lieutenants. Typically a difference of five percent (5%) is targeted, with the specific percentage determined by internal and external comparability data, City finances, and other labor relations factors and consideration.

Section 1.07 Completion of Meeting and Negotiating

A. This MOU contains all of the covenants, stipulations and provisions agreed upon by the parties regarding terms and conditions of employment. Therefore, for the life of this MOU, neither party shall be compelled to meet and confer with the other party concerning any mandatory meet and confer issue which is covered by this MOU.

B. The wages, hours, benefits and other terms and conditions of employment covered by this MOU, including those wages, hours, benefits and other terms and conditions of employment in existence and spelled out by the City’s Personnel Rules, Administrative Code and other Ordinances and
Resolutions approved by the City Council prior to this MOU, although not specifically referred to by this MOU, shall constitute the wages, hours, benefits and other terms and conditions of employment for the term of this MOU.

C. Disagreements involving the interpretation and application of this section will be resolved by accessing the Association’s Grievance Policy at Level IV (City Manager).

Section 1.08 Non-Discrimination

A. The Association and the City recognize and agree to protect the rights of all affected employees to join and/or participate in protected Association activities or to refrain from joining or participating in Association activities.

B. The Association and the City agree that they shall not illegally discriminate against any employee because of race, color, sex, age, national origin, political or religious opinions or affiliations and shall act affirmatively to accomplish equal employment opportunities for all employees. The Association and the City shall reopen any provision of this MOU for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU in compliance with State or Federal anti-discrimination laws.

ARTICLE 2 SALARY

Section 2.01 Cost of Living Adjustment

1. If general fund actual core gross revenues increase by $1.5 million or more in fiscal year 2011-12 compared to fiscal year 2010-2011 and/or by $1.5 million in fiscal 2012-13 as compared to 2011-12, then the employees covered under this MOU will be entitled to a COLA increase effective the pay period including October 1 of the fiscal year immediately following the qualifying fiscal year(s). In other words, if the general fund actual core gross revenues in fiscal year 2011-12 and/or 2012-13 are $1.5 million or more greater than those in the previous fiscal year, the COLA increase will take effect October 1, 2012 and/or 2013. The amount of the COLA increase will be based upon the percentage increase in the Consumer Price Index (CPI-U) in the Los Angeles-Riverside-Orange County geographic area for the twelve month period ending the most recent August 31. Core gross revenues for this section shall mean all revenues except Net of All Transfers, other Licenses and Permits (account numbers: 3400-3499) and Charges for Services (account numbers: 3800-3899).

Section 2.02 Regular Rate of Pay Defined

A. The "regular rate of pay" is the hourly rate which includes all remunerations paid to or on behalf of the employee (including Educational Incentive Pay and the City paid nine-percent (9%) CalPERS Employer Paid Member Contribution) except gifts, travel expenses, other reimbursable expenses, payments not mandated by the MOU or other rules/regulations, retirement and insurance contributions by the City, overtime and holiday pay. Use of the term "regular rate of pay" is not intended by any party to create overtime eligibility unless specifically provided for in this MOU.

B. Affected employees shall be paid their regular rate of pay for the following:

1. Overtime.


5. Earned Compensatory Time Sell Back.

6. Physical Fitness Incentive Program Pay.

7. Marksmanship Pay.

Section 2.03 Salary Schedule Calculation Methodology

An affected employees' regular rate of pay is calculated in dollars and cents rounded off to two (2) decimal places to the right of the decimal point, and adjusted to reflect the intent to maintain the specific and proportional percent differences between salary ranges and salary steps previously approved by the City.

Section 2.04 Step Advancement – Accelerated

The Police Chief may recommend to the Director of Human Resources for approval by the City Manager that an affected employee receive an accelerated advancement of part or all of the next salary step increase in the Basic Salary Range (A – E Steps) based on exemplary job performance. The accelerated salary advancement shall not change the affected employee's anniversary date.

Section 2.05 Notice Requirement to Withhold Step Increase

The City shall have the option during or after the term of this MOU to provide affected employees written notice of the intent to withhold a salary step increase and the reasons for same no later than the end of the pay period which begins after the affected employee's anniversary date.

ARTICLE 3 EDUCATIONAL INCENTIVE PAY

Section 3.01 Educational Incentive Pay

A. Effective July 1, 2008, affected employees holding a Master's Degree shall be eligible for educational incentive compensation to be paid per pay period as follows:

1. Police Lieutenants: $398.97

2. Police Captains: $451.40

B. The parties are of the opinion that Educational Incentive Pay qualifies as compensation earnable pursuant to Section 20636 of the California Government Code and Section 571(a)(1) of the California Code of Regulations. However, the City makes no representation of law as the validity of that opinion and does not warrant its validity.

ARTICLE 4 TUITION AND BOOK REIMBURSEMENT PROGRAM

Section 4.01 Policy and Eligibility

The following college-level tuition and book reimbursement program shall be applicable to all affected employees.
Section 4.02 Undergraduate Studies (Studies undertaken in pursuit of an Associate's or a Bachelor's degree)

A. The City shall reimburse each affected employee pursuing undergraduate studies in an amount equal to 100% of tuition and book expenditures incurred while employed by the City and while a student at any accredited college or university having its campus in the State of California. However, the tuition reimbursement described herein, shall not exceed the per-unit tuition cost required by the University of California or California State University, whichever is higher.

B. Tuition and book reimbursement shall be provided only for those classes in which a certified college or university transcript evidences the employee attaining a grade of “C” or better (or where classes are taken “pass/fail,” evidence must be provided of a “pass” grade) in classes approved pre-enrollment by the Chief of Police or his/her designee.

Section 4.03 Post-Graduate Studies (Post-Graduate studies are defined as those undertaken in pursuit of a degree beyond a Bachelor’s).

A. The City shall reimburse each affected employee pursuing post-graduate studies in an amount equal to 100% of tuition and book expenditures incurred while employed by the City and while pursuing said studies at the University of California or California State University.

B. The City shall reimburse each affected employee pursuing post-graduate studies at other accredited institutions, in an amount equivalent to 80% of the tuition and book expenditures incurred while employed by the City and while pursuing said studies.

C. Tuition and book reimbursement shall be provided only for those classes in which a certified university transcript evidences the employee attaining a grade of “C” or better (or where classes are taken “pass/fail,” evidence must be provided of a “pass” grade) in classes approved pre-enrollment by the Chief of Police or his/her designee.

Section 4.04 Certification Requirement for Educational Compensation

Affected employees who participate in the Educational Reimbursement Program will be required to sign the following agreement:

Educational Reimbursements—“I certify that I successfully completed the course(s), receiving at least a grade of “C” of better, or a grade of “pass,” if the course was offered on a pass/fail basis. (Attach a copy of grade verification). “Further, I agree to refund the City or have deducted from my final paycheck, any educational reimbursement funds received under this program if I should leave the City’s employ, voluntarily or through termination, with cause, within one year after completion of the course work for which I am to receive reimbursement, in accordance with the following schedule.”

<table>
<thead>
<tr>
<th>Employee Separation</th>
<th>Percentage Payback</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 month after course completion</td>
<td>100% refund</td>
</tr>
<tr>
<td>2 months after course completion</td>
<td>100% refund</td>
</tr>
<tr>
<td>3 months after course completion</td>
<td>90% refund</td>
</tr>
<tr>
<td>4 months after course completion</td>
<td>80% refund</td>
</tr>
<tr>
<td>5 months after course completion</td>
<td>70% refund</td>
</tr>
<tr>
<td>6 months after course completion</td>
<td>60% refund</td>
</tr>
<tr>
<td>7 months after course completion</td>
<td>50% refund</td>
</tr>
<tr>
<td>8 months after course completion</td>
<td>40% refund</td>
</tr>
<tr>
<td>9 months after course completion</td>
<td>30% refund</td>
</tr>
<tr>
<td>10 months after course completion</td>
<td>20% refund</td>
</tr>
<tr>
<td>11 months after course completion</td>
<td>10% refund</td>
</tr>
<tr>
<td>12 months after course completion</td>
<td>0% refund</td>
</tr>
</tbody>
</table>
ARTICLE 5  PROMOTIONS

Section 5.01  Salary Differential upon Promotion

In all cases where an affected employee is promoted to a classification regulated by this MOU for which a higher rate of compensation is provided, then such employee so promoted shall enter into such higher classification at the lowest rate of compensation provided for such higher classification which exceeds by not less than five percent the base rate of compensation, excluding special assignment pay, received by said employee in such given classification at the time of such promotion, unless otherwise ordered by the City Council. All supervisors shall be paid a higher base salary than any of their regularly assigned subordinates (exclusive of longevity pay, educational incentive pay, special assignment, or any other form of compensation). In the event that a supervisor is paid a base salary equal to or lower than one of their regularly assigned subordinate’s base salary, the supervisor shall be granted a higher base salary (exclusive of longevity pay, educational incentive pay, special assignment or any other form of compensation) even if the supervisor’s new base salary is not the same as an existing pay step in the Salary Schedule. Notwithstanding the above, the supervisor’s salary shall not exceed the salary range for which he/she is eligible by length of service and performance.

ARTICLE 6  NO-SMOKING CLAUSE

Section 6.01  Establishment

Affected employees initially hired on or after July 1, 1988, shall, as a condition of initial and continued employment, refrain from smoking and/or using tobacco products at any time on or off duty.

ARTICLE 7  OVERTIME COMPENSATION

Section 7.01  Pay for Shift Schedule

Police Lieutenants shall be paid time and one-half of their regular rate of pay for time worked on a shift basis in excess of their regular work shift, in any one day or more than forty hours per week, excluding hours worked involving hold-over for non-shift work, or work due to staff meetings or training.

ARTICLE 8  PHYSICAL FITNESS INCENTIVE PROGRAM

Section 8.01  Purpose

It is the purpose of the El Segundo Police Department Physical Fitness Incentive Program to improve the level of physical fitness and health among sworn police personnel so that their field performance will be enhanced and also to improve their overall degree of wellness as an enrichment to their personal lives as well as a productivity benefit to the City.

Section 8.02  Department Policy

It will be the policy of the Police Department to work with employees individually and assist those that need to improve their lifestyle habits in order that fitness levels can be improved.

Section 8.03  Program Components

The Physical Fitness Incentive Program will consist of two basic components; they are a fitness examination and a fitness assessment.

A. Fitness Examination:
An annual fitness examination is a mandatory component of the Physical Fitness Incentive Program. The examination will be comprehensive and will include the cardio-vascular system, the pulmonary function, a complete blood work-up, body composition analysis, the lower digestive tract, and a strength assessment. It will also include a complete medical history review with a physician and a subsequent review of the findings as well as an exercise/nutritional prescription.

B. Fitness Assessment:

1. The fitness assessment is a voluntary component of the Physical Fitness Incentive Program and will be administered by a department fitness coordinator and fitness committee.

2. The fitness assessment will be a test to measure components of physical fitness which are:
   a. Cardio-vascular
   b. Strength
   c. Body composition
   d. Flexibility

3. The fitness assessment will be administered quarterly and will apply standards developed and used by the Cooper Aerobics Institute, Dallas, Texas, and include sliding scales based on age and sex.

4. A profile will be developed following the fitness assessment which will categorize participants into levels of fitness.

Section 8.04 Physical Fitness Incentive Program Pay

A. Affected employees will receive their regular rate of pay for meeting the following physical fitness standards:

<table>
<thead>
<tr>
<th>Fitness Level</th>
<th>Pay per Quarter (3 Calendar Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excellent</td>
<td>16 hours of pay</td>
</tr>
<tr>
<td>Good</td>
<td>8 hours of pay</td>
</tr>
<tr>
<td>Fair</td>
<td>4 hours of pay</td>
</tr>
</tbody>
</table>

B. The parties are of the opinion that Physical Fitness Incentive Program Pay qualifies as compensation earnable pursuant to Section 20636 of the California Government Code and Section 571(a)(1) of the California Code of Regulations. However, the City makes no representation of law as the validity of that opinion and does not warrant its validity.

Section 8.05 Payment of Physical Fitness Incentive Program Pay – Death of Employee

In the event of an affected employee’s death, earned, but not yet distributed Physical Fitness Incentive Program Pay shall be compensated in an amount equal to one-hundred percent (100%) of the value of such physical fitness incentive program pay based upon the affected employee’s regular rate of pay at the time of death and shall be distributed to the affected employee’s beneficiary.

ARTICLE 9 COMPREHENSIVE MEDICAL EXAMINATION

Section 9.01 Annual Comprehensive Medical Examination

Affected employees are provided a fully-paid, comprehensive medical examination each year. The City currently utilizes the Westchester Medical Group/Center for Heart and Health for the
examinations. The results of the examination include extensive written documentation and feedback, fitness consultation, recommended further testing and/or adjustments to current lifestyle practices and ongoing monitoring.

Section 9.02 Heart Scan

Effective July 1, 2008, each affected employee shall be eligible to receive a heart scan to be conducted once every two (2) years at City expense. Eligibility for the heart scan shall be determined by the examining physician at the Westchester Medical Group/Center for Heart and Health during the employee’s annual medical examination. The physician shall determine whether or not undertaking a heart scan is reasonable and appropriate.

ARTICLE 10 EXECUTIVE LEAVE

Section 10.01 Entitlement

A. Affected employees shall be granted fifty-six (56) hours executive leave per calendar year.

B. Twenty-eight (28) hours of executive leave hours may be carried over and accumulated from year to year; not to exceed a cap of eighty-four (84) hours.

C. Such hours are not eligible for pay out upon retirement or separation of employment.

ARTICLE 11 MARKSMANSHIP PAY

Section 11.01 Marksmanship Pay

A. Affected employees will receive their regular rate of pay for meeting the following firearms standards:

<table>
<thead>
<tr>
<th>Class</th>
<th>Pay for Proficiency per Quarter (3 Calendar Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distinguished Expert</td>
<td>8 hours of pay</td>
</tr>
<tr>
<td>Expert</td>
<td>6 hours of pay</td>
</tr>
<tr>
<td>Sharpshooter</td>
<td>4 hours of pay</td>
</tr>
<tr>
<td>Marksman</td>
<td>0 hours of pay</td>
</tr>
</tbody>
</table>

B. The parties are of the opinion that Marksmanship Pay qualifies as compensation earnable pursuant to Section 20636 of the California Government Code and Section 571(a)(1) of the California Code of Regulations. However, the City makes no representation of law as the validity of that opinion and does not warrant its validity.

Section 11.02 Payment of Marksmanship Pay – Death of Employee

In the event of an affected employee’s death, earned, but not yet distributed Marksmanship Pay shall be compensated in an amount equal to one-hundred percent (100%) of the value of such marksmanship pay based upon the affected employee’s regular rate of pay at the time of death and shall be distributed to the affected employee’s beneficiary.

ARTICLE 12 COMPENSATORY TIME

Section 12.01 Maximum Accrual

A bank shall be established for the accumulation of compensatory time off, with a maximum accrual of
eighty (80) hours.

Section 12.02 Payment of Compensatory Time – Death of Employee

In the event of an affected employee's death, earned, but not yet used Compensatory Time shall be compensated in an amount equal to one-hundred percent (100%) of the value of such compensatory time based upon the affected employee's regular rate of pay at the time of death and shall be distributed to the affected employee's beneficiary.

ARTICLE 13 HOLIDAY LEAVE

Section 13.01 Holiday Leave – Captains

Police Captains shall be entitled to the following holidays:

January 1st
The third Monday of January
The third Monday in February
The last Monday in May
July 4th
The first Monday in September
November 11th
Thanksgiving day and Friday thereafter
December 24th
December 25th
December 31st

provided, however, (a) that in the event any of the hereinbefore mentioned holidays falls on the last day a Captain is off on his or her regular days off period, the following day shall be observed as a holiday for the purpose of this section; provided, further, however, (b) that in the event any of the hereinbefore mentioned holidays falls on the first day of a Captain's regular days off period, the previous day shall be considered as a holiday for the purpose of this section.

Section 13.02 Personal Leave/Floating Holiday – Captains

In addition to the holidays enumerated in Section 12.01, each Police Captain who has completed six (6) months of service shall be entitled to select one (1) day per calendar year as a Personal Leave/Floating Holiday with the approval of the Police Chief. The City may, at its discretion, grant additional hours of leave which may be utilized in the calendar year in which it is granted.

Section 13.03 Holiday Pay – Lieutenants

A. Police Lieutenants shall be paid for one hundred-four (104) hours in lieu of holidays once a year on or about December 10.

B. In the event of the death of an affected employee serving as a Lieutenant or upon separation from service, affected employees serving as a Lieutenant shall be paid holiday pay on a pro-rata basis. Additionally, affected employees serving as Lieutenants less than one (1) year shall be paid holiday pay on a pro-rata basis.

C. Upon the request of an affected employee serving as Lieutenant and with department head approval, time off may be taken in lieu of holiday pay.
ARTICLE 14  SICK LEAVE

Section 14.01 Sick Leave – Leave with Pay Due to Illness – Accumulation of Same

Sick Leave with pay may be granted for an absence from duty because of personal illness, injury or legal quarantine not compensable under the provisions of the Workers’ Compensation Laws of the State of California. Affected employees shall accumulate sick leave at the rate of one (1) eight (8) hour day accumulation for each month’s service not to exceed a maximum of 1056 hours. Hours worked in addition to a regular work week shall not entitle an employee to additional sick leave accumulation. Sick leave taken by an employee shall be deducted from his or her accumulated credit.

Section 14.02 Sick Leave Accumulated for Physical Examination

The City will allow up to two (2) days of accumulated sick leave each year to be used for purposes of physical examinations, subject to submission of a doctor’s verification.

Section 14.03 Sick Leave – Payment of Seventy-Five Percent (75%) of Accrual

Effective the first day of December of each year, affected employees who maintain a balance of 1056 hours of sick leave accrual shall be paid for seventy-five percent (75%) of the sick leave accumulated and not used during the preceding twelve-month period. Payment shall be paid at the affected employee’s regular rate of pay and be paid on or before December 10.

Section 14.04 Sick Leave Accrued – Payment on Separation Prior to December 1

Affected employees who separate employment prior to the first day of December while maintaining a balance of more than 1056 hours of sick leave shall be paid for seventy-five percent (75%) of their unused accrued sick leave accumulated since the preceding December 1. Payment shall be paid at the affected employee’s regular rate of pay.

Section 14.05 Payment of Sick Leave Accrual – Disability Retirement

Upon separation from service because of a disability retirement, affected employees with five (5) years of City service will be compensated for one-hundred percent (100%) of the affected employee’s accumulated unused sick leave at the affected employee’s regular rate of pay at separation.

Section 14.06 Payment of Sick Leave Accrual – After 20 Years of City Service

Upon separation from service, affected employees with twenty (20) years of City service will be compensated for one-hundred percent (100%) of the employee’s accumulated, unused sick leave at the affected employee’s regular rate of pay at separation.

Section 14.07 Payment of Sick Leave Accrual – On Separation from The City of El Segundo

An affected employee who has been employed by the City for five (5) or more years who separates from the City with unused sick leave to their credit, will be compensated in an amount equal to one-half (1/2) the value of such sick leave based upon the affected employee’s regular rate of pay at the time of separation.

Section 14.08 Payment of Sick Leave Accrual – Death of Employee

In the event an affected employee who has been employed by the City for five (5) years or more in a full-time position, dies with unused sick leave to his or her credit, an amount equal to one-hundred percent (100%) of the value of such sick leave based upon the affected employee’s regular rate of pay at the time of death and shall be distributed to the affected employee’s beneficiary.
Section 14.09 Sick Leave Accumulated for Care of Immediate Family

The City shall allow up to twelve (12) days of accumulated sick leave each calendar year to be use for purposes of medical emergencies, doctor visits and homecare of members of the immediate family. Usage would also be permitted under the following instances:

1. The birth of a child of an employee, and to care for a newborn.

2. The placement of a child with an employee in connection with the adoption or foster care of a child by an employee.

3. To care for a member of the immediate family who has a serious health condition.

For the purpose of this section, "immediate family" shall mean the children, parents, grandparents, and siblings of the affected employee, the affected employee’s spouse or significant other.

All applicable sections of City Personnel Rules relative to the documentation and verification of sick leave usage remain in full force and effect.

ARTICLE 15 VACATION LEAVE

Section 15.01 Vacation Time Use

Affected employees shall accrue vacation time on a monthly basis. Vacation leaves may be taken only after an affected employee has completed six (6) months of continuous service with the City.

Section 15.02 Vacation Accrual Schedule

Affected employees shall accrue vacation time according to the following schedule:

A. Ninety-six (96) hours per year with full salary for first five (5) years of continuous service with the City.

B. One hundred-twenty (120) hours per year with full salary after five (5) years and until the completion of ten (10) years of continuous service.

C. One hundred forty-four (144) hours per year with full salary after eleven (11) years and until the completion of fourteen (14) years of continuous service.

D. Two hundred and thirty (230) hours per year with full salary after fourteen (14) years of continuous service.

Section 15.03 Vacation Accrual Based on Total Service Time in a PERS or Comparable Agency

Affected employees who have successfully completed their initial probationary period and/or achieved E step placement in their assigned salary range shall accumulate vacation time based on their total years of service in a PERS or comparable agency.

Section 15.04 Vacation Time Accrual – Payment in Lieu Of

Affected employees who have completed one (1) year of service may receive payment in lieu of accrued vacation time up to a maximum of one hundred percent (100%) the annual accrual to which they are entitled by length of service. Effective from October 1, 2011 through the end of the contract, employees shall only be permitted to sell back thirty-five (35) hours of accrued, unused vacation leave.
per calendar year.

Section 15.05  Vacation Time Accrual – For Temporary Industrial Disability

Employees on temporary industrial disability may accrue vacation time for longer than two (2) years.

Section 15.06  Payment of Vacation Time – Death of Employee

In the event of an affected employee’s death, earned, but not yet used Vacation Time shall be compensated in an amount equal to one-hundred percent (100%) of the value of such vacation time based upon the affected employee’s regular rate of pay at the time of death and shall be distributed to the affected employee’s beneficiary.

ARTICLE 16  BEREAVEMENT LEAVE

Section 16.01  Bereavement Leave with Pay

A.  Affected employees shall be entitled to twenty-four (24) hours of bereavement leave upon the death of an immediate family member with pay per incident which shall increase to forty (40) hours per incident in those circumstances where one-way travel to a funeral or other memorial service is five hundred (500) or more miles measured from El Segundo City Hall.

B.  For the purpose of this section, immediate family shall include the children, parents, grandparents, and siblings of the affected employee, the affected employee’s spouse or significant other.

ARTICLE 17  JURY DUTY

Section 17.01  Provisions

Employees shall be entitled to a leave of absence for Jury Duty, subject to compliance with all of the following conditions:

1.  The employee must provide written notice of the expected Jury Duty to his or her supervisor as soon as possible, but in no case later than fourteen (14) days before the beginning of Jury Duty (defined as the date on which the employee is directed by jury summons to either commence telephone contact with the jury administrator and/or appear in court.)

2.  During the first two (2) weeks of Jury Duty, an employee shall be entitled to receive his or her regular compensation.

3.  For any portion of Jury Duty that extends beyond the first two (2) weeks, such extended Jury Duty period shall be without pay unless, the employee presents written evidence that the court estimated during voir dire that the trial would be of two (2) or less weeks duration, or in the alternative the employee presents written evidence that he/she advised the court that City compensation was limited to two (2) weeks, that the employee asked to be excused because of this hardship, and the request was denied.

4.  Any compensation for the first two (2) weeks of Jury Duty, except travel reimbursement pay, must be deposited with the Director of Human Resources.

5.  While on Jury Duty, the employee must report to work during any portion of a day that the employee is relieved of Jury Duty for three (3) or more consecutive hours.

6.  The employee must provide documentation of his or her daily attendance on Jury Duty.
ARTICLE 18  EXCEPTIONAL LEAVE

Section 18.01  Provision

The Exceptional Leave Program provides the City Manager discretion to award up to four (4) days per calendar year in recognition for extraordinary service of members of the Association, especially where sizable amounts of time are expended outside of normal business hours and beyond the normal requirements of the job. Awarded days may be used for time off or if unused, may be cashed in at the end of the calendar year.

ARTICLE 19  PERSONAL EMERGENCY LEAVE

Section 19.01  Personal Emergencies – Use of Eligible Leaves

For affected employee’s personal emergencies, that is, a serious illness of an immediate family member of the affected employee or the employee's spouse and for cases of extreme and unusual hardship or an emergency nature, affected employees, upon request, shall be entitled to utilize accumulated vacation leave, compensatory time-off, or personal leave day/floating holiday, for which prior notification is required; however, in certain instances, notification requirements may be waived.

For the purpose of this section, immediate family shall include the children, parents, grandparents, and siblings of the affected employee, the affected employee’s spouse or significant other.

ARTICLE 20  HEALTH BENEFITS

Section 20.01  Medical Contract

The City contracts with the California PERS for the Public Employees’ Medical and Hospital Care Program for medical insurance.

Section 20.02  City Medical Contribution

The cumulative monthly City funding of any PERS medical insurance plans for active employees and/or retirees, shall not exceed $1,800.00 per month.

Section 20.03  Optical, Dental, and Life Insurance

The City will pay 100% of the premiums for the agreed upon dental, optical and life insurance for affected employees and eligible dependents.

A. Selection of the vision insurance plan carrier shall be made by the City.

B. The City reserves the right to determine the dental insurance carrier with whom the City will contract for coverage; however, the City agrees to consult with affected employees through the insurance committee and consider all suggestions and presentations on the insurance plan to be purchased.

C. The City shall make available any city-wide improvements to the dental benefit, to the Association.

D. The City will provide affected employees with $50,000 of life insurance at City cost. The City reserves the right to determine the insurance carrier with whom the City will contract for coverage. Additional insurance coverage for the affected employee (up to $100,000 maximum coverage) and for family members may be purchased at group rates, to the extent authorized by the carrier.
Section 20.04 Employee Assistance Program (EAP)

The City will make available to affected employees an Employee Assistance Program which provides confidential assistance, referrals and counseling to affected employees and members of the affected employee's immediate family. The program is designed to provide professional assistance and support to help affected employees and their families resolve problems and issues that affect their personal lives or job performance.

Section 20.05 Medical Insurance Continuation – On Duty Death

A. If it is determined by the Workers’ Compensation Appeals Board and/or the Public Employees’ Retirement System that an affected employee has died as a direct and proximate result of the performance of duties in the course and scope of his/her employment, then the City shall continue to make group medical premium payments on behalf of the surviving spouse until age 65, Medicare eligibility, whichever comes first, and to the children of the deceased affected employee until age 18. Said medical premium payments on behalf of the children of a deceased affected employee shall continue if at age 18, the child commences uninterrupted college enrollment, but not to exceed the age of 23.

B. The City-paid medical insurance premiums described herein shall be in an amount required to fund the level of medical insurance benefits which the deceased affected employee was receiving at the time of his/her death. For example, if at the time of death, the affected employee was enrolled in a specific HMO Plan, then future premium payments made pursuant to this article shall be in an amount required to maintain comparable plan benefits.

C. City funded premiums shall be subject to the monthly limitation in ARTICLE 20.02.

ARTICLE 21 UNIFORMS AND SAFETY EQUIPMENT

Section 21.01 Provision of Uniforms and Safety Equipment

The City shall provide required uniforms and safety equipment to affected employees. For purposes of this article, safety equipment shall include a weapon selected by the Police Chief.

Section 21.02 Uniform Allowance

A. Patrol lieutenants shall receive $53 per month of active duty. Non-patrol lieutenants and captains shall receive $40 per month of active duty.

B. The parties are of the opinion that Uniform Allowance qualifies as compensation earnable pursuant to Section 20636 of the California Government Code and Section 571(a)(1) of the California Code of Regulations. However, the City makes no representation of law as the validity of that opinion and does not warrant its validity.

ARTICLE 22 RETIREMENT BENEFITS

Section 22.01 PERS Retirement Formula

A. The City has implemented the 3% at 50 PERS retirement formula for all affected employees.

B. Tier II - The City shall amend its contract with the Public Employees’ Retirement System to implement the 3%@55 retirement formula, in accordance with Government Code Section 21363.1, for unit employees hired on or after the effective date of the PERS contract amendment.
Section 22.02 PERS Pickup Reported as “Compensation Earnable”

A. The City shall pay on behalf of each affected employee six (6) percent (6%) “employee contribution” to CalPERS.

B. The City shall report a set dollar amount equal to the nine six percent (9-6%) “employee contribution” to the California Public Employees’ Retirement System as compensation earnable.

Section 22.03 Monetary Value of Employer-Paid Member Contributions (EPMC)

A. Effective the first payroll period commencing on or after October 1, 2011 through the end of the contract, each unit employee shall pay three percent (3%) toward PERS Employer-Paid Member Contribution. The three percent (3%) shall be treated as an employer contribution for purposes of employee federal and state income tax withholding, as authorized by Internal Revenue Code (IRC) Section 414(h)(2) and Resolution No. 4497.

B. The City shall prepare a Resolution for Council adoption resolving that the City shall pay the six percent (6%) of the employer-paid member contributions (EPMC) paid to CalPERS and report such contribution as an item of special compensation on behalf of all members of the Association.

C. The value of EPMC shall be calculated on all “compensation earnable” excluding the special compensation of the monetary value of the EPMC paid to CalPERS by the employer under California Government Section 20636(c)(4).

Section 22.04 Optional Contract Provisions

A. The City shall provide “Level 4” 1959 Survivors Benefits.

B. The City shall provide the Single Highest Year formula.

C. The City shall provide the Military Service credit as public service option.

D. The City shall provide the Pre-Retirement Option 2W Death Benefit.

Section 22.05 Retiree Health Insurance Contribution Program

Pursuant to the limitations and guidelines set forth in this MOU, the City will contribute to a retiree health insurance contribution program for service and disability retirees who participate in the Public Employees’ Medical and Hospital Care Program.

ARTICLE 23 DIRECT DEPOSIT and FLEXIBLE SPENDING ACCOUNT

Section 23.01 Direct Deposit

It is agreed between the City and the Association that it is in the mutual interest of the City and its employees that all affected employees utilize the currently available direct deposit system. Affected employees who do not desire to utilize direct deposit shall make their wishes known in writing to the Director of Human Resources, together with a statement of their reasons therefore. Exceptions to this direct deposit policy shall not be unreasonably denied.
Section 23.02 Flexible Spending Account

The City will maintain the Flexible Spending Account pursuant to the terms and conditions of the Internal Revenue Code. Each employee of the Association is eligible to participate in this voluntary program. The flexible spending account allows for payment of employee paid insurance premiums, non-reimbursed medical expenses and/or dependent care expenses with pre-tax dollars.

ARTICLE 24 COMPUTER LOAN PROGRAM

Section 24.01 Initial Loan

Affected employees may apply for up to a $4,000 interest free loan to purchase personal computer hardware and software. Loans are repaid through payroll deductions over a three (3) year period. Outstanding loan balances must be fully paid off at the time an employee separates from the City.

ARTICLE 25 DEFERRED COMPENSATION

Section 25.01 Deferred Compensation Plan (457)

A deferred compensation plan has been established as a benefit to affected employees. Each affected employee is eligible to participate in the plan.

Section 25.02 Deferred Compensation Plan (401a)

The City will pay an amount equal to the affected employee’s contribution to deferred compensation up to a maximum of one percent (1%) of the affected employee’s total pay, for all Association employees participating in City approved deferred compensation plans. Effective October 1, 2011, the 401(a) 1% match for members of this unit shall be eliminated.

Section 25.03 Deferred Compensation “Catch Up” Provision

Affected employees with twenty (20) or more years of City service who have reached the age of forty-seven (47) or older can cash out one-third (1/3) of all accrued leave at their regular rate of pay, up to the deferred compensation maximum “catch up” permitted by law, during the affected employee’s last three years of employment. In no event, can an employee cash-out a cumulative total greater than that permitted herein, and in no event shall the post-distribution leave balance be less than 120 hours.

ARTICLE 26 CATASTROPHIC LEAVE PROGRAM

Section 26.01 Purpose

To establish a program whereby City employees may donate accumulated time to a catastrophic sick leave bank to be used by permanent, part-time and full-time employees who are incapacitated due to a catastrophic illness or injury.

Section 26.02 Definition

A catastrophic illness or injury is a chronic or long term health condition that is incurable or so serious that, if not treated, it would likely result in a long period of incapacity.

Section 26.03 Procedures

A. There is established a joint-employer/employee committee composed of an individual from each
recognized employee organization and a representative of City Administration charged with administering the Catastrophic Leave Bank.

B. Affected employees may transfer sick leave, vacation or compensatory leave to the Catastrophic Leave Bank to be donated to an employee who is experiencing catastrophic illness and has exhausted all personal sick leave. Such a transfer can be made on July 1 of each year on forms provided by the City of El Segundo. The employee to receive the donation will sign the “Request to Receive Donation” form allowing publication and distribution of information regarding his/her situation.

C. Sick Leave, vacation and compensatory time leave donations will be made in increments of not less than one (1) day. These will be hour for hour donations.

D. Affected employees must, at the time of donation, have a minimum of one hundred (100) hours of accumulated illness/injury leave remaining after a donation has been made.

E. The donation of time is irrevocable. Should the recipient employee not use all of the donated time for the catastrophic illness or injury, any balance will remain in the Catastrophic Leave Bank to be administered by the committee and utilized for the next catastrophic leave situation.

ARTICLE 27 LAYOFF PROCEDURES

Section 27.01 Grounds for Layoff

Whenever, in the judgment of the City Council, it becomes necessary to reduce the workforce, an employee may be laid off, reduced in classification or displaced by another employee. Such layoff, reduction or displacement shall result from action of the City Manager or his or her designee. The City Manager shall recommend to the City Council each classification to be affected by any such change.

Section 27.02 Notice to Employees

An employee filling a full time position shall be given fourteen (14) calendar days prior notice of layoff. Employees transferred, reduced or displaced shall be given five (5) calendar days notice. The City Council may approve a reduction in the notice requirements, if so recommended by the City Manager.

Section 27.03 At-Will Employees

The City Manager retains the right to layoff or alter the work assignment of the following employees at any time without notice or right of appeal: emergency employees, temporary or seasonal employees, part-time employees, original probationary employees, promotional probationary employees and employees designated at-will. The promotional probationary employee shall revert to his/her previously held classification and position without loss of seniority.

Section 27.04 Procedures for Layoff

A permanent employee in a classification affected by a reduction in force shall be laid off based on seniority in City service that is the employee with the least City service shall be laid off first, followed by the employee with the second least City service, etc. Seniority shall be determined by hire date. City seniority shall be used to effectuate the procedures set forth in this Article. Seniority for part-time employees shall be calculated as one-half (½) time from the date of hire with the City.

Section 27.05 Breaking Ties

In cases where two (2) or more employees have the same date of hire (i.e. equal seniority), retention
points for job performance shall be credited on the basis of the average of the overall evaluation ratings for the last three (3) years, provided the last rating had been filed more than thirty (30) days prior to the date of the layoff notice. Retention points are as follows:

Exceeds Standard - 24 points
Meets Standard - 12 points
Below Standard - 0 points

In the event of a tie in seniority, the employee with the lowest average of retention points shall be laid off first. In the event that one or more of the affected employees do not have overall evaluation ratings for the last three (3) years on file, ties shall be broken by a coin toss.

Section 27.06 Reduction to a Vacant Position

An employee designated for layoff as a result of abolition of a position or classification may be offered appointment to a vacant position in a lower classification, if the employee is qualified by education and/or experience for such position. If there is more than one qualified employee to be offered such appointment(s), the offer(s) shall be based on seniority, with the employee with the highest seniority offered the position first, then the next highest seniority, etc. If the employees have the same seniority, then the procedure for breaking ties set forth above shall apply. An employee accepting such appointment shall be placed on the step for the lower classification most closely corresponding, but in no case higher, than the salary step of his/her previously held position, and the employee will be assigned a new salary anniversary date on the effective date of the appointment.

Section 27.07 Displacement Rights

A. An employee designated for layoff as a result of abolition of a position or classification may displace ("bump") an employee in a lower classification in which the employee has prior service, provided the laid off employee has greater seniority than the employee in the lower classification.

B. An employee designated for layoff with greater seniority may displace ("bump") a less senior employee in a lower classification, for which he/she is immediately qualified to perform.

Section 27.08 Salary Placement

An employee who is assigned to a lower classification as a result of a displacement (bump) shall be placed on the step of the salary range of the new classification, which is closest to the compensation of the employee in the previous classification, but in no case higher, and the employee will be assigned a new salary anniversary date on the effective date of the appointment. The employee shall, however, retain seniority while his/her name remains on reemployment list or lists.
Section 27.09  Reemployment List

The names of permanent employees who have been laid off under this section (including employees who have bumped down) shall be placed, in order of seniority from highest to lowest, on a reemployment list for their classification or any lower classification for which the employee is qualified by education and/or experience. Persons on such lists shall retain eligibility for appointment therefrom for a period of three (3) years from the date their names were placed on the list. As a vacancy within a classification or lower related classification becomes available, the name appearing at the top of the list shall be offered the opportunity to fill the vacancy. The name of an individual selected from the list to fill the vacancy who refuses the reemployment offer shall be permanently removed from the reemployment list without right of appeal. Laid-off employees do not earn seniority credit or benefits while on the reemployment list.

Section 27.10  Letter of Layoff

The City shall provide all employees who were laid off from the City a service letter setting forth that the employee was laid off and is eligible for reemployment. Those employees who were displaced to lower positions will be granted, upon the employee's request, a letter from the City stating the employee was reduced in status as a result of a layoff and is eligible for reemployment to the higher level position.

Section 27.11  Rights on Reemployment

If a person is reemployed by the City within three (3) years, the employee's seniority, sick leave and vacation accrual rates shall be reinstated. Any accumulated sick leave and/or vacation earnings shall also be reinstated to the extent that the employee did not receive compensation for such earnings at the time of layoff. Upon reemployment, employees will be placed on the same salary step held at the time of layoff.

Section 27.12  Appeal

An employee who 1) has not been provided a letter of layoff, per Section 24.10, shall be treated as if he/she had been terminated for disciplinary purposes and shall be permitted to appeal the decision per the Disciplinary Appeal Procedure; or 2) has not been provided proper bumping or displacement rights, may file an appeal to the Director of Human Resources.

ARTICLE 28  GRIEVANCE PROCEDURE

Section 28.01  Definition of Terms

A.  **Grievance** – A grievance is an allegation of a violation, misinterpretation or misapplication of a specific written department or agency rule or regulation or a specific provision of a MOU. A grievance is distinct from an appeal in that it is a violation, misinterpretation or misapplication of a specific written department or agency rule and/or policy or a specific provision of a MOU.

B.  **Grievant** – A grievant is an employee or group of employees allegedly adversely affected by an act of omission of the agency.

C.  **Day** – A day is a business day (Monday – Friday).

D.  **Immediate Supervisor** – The first level supervisor of the grievant.

Section 28.02  Time Limits

A.  **Compliance and Flexibility** – With the written consent of both parties, the time limitation for any step may be extended or shortened.
B. **Calculation of Time Limits** – Time limits for the appeal provided in each level shall begin the day following receipt or a written decision of appeal by the employee or employees.

C. **Failure to Meet Timeliness** – Failure at any level of this procedure to communicate the decision on a grievance by the City within the specified time limits shall permit lodging an appeal at the next level of the procedure within the time allotted had the decision been given. If the grievance is not processed by the grievant or grievants in accordance with the time limits, the decision last made by the City shall be deemed final.

**Section 28.03 Procedure for Filing a Grievance**

A. In filing a formal written grievance, the employee shall set forth the following information.

1. The specific section of the departmental or agency rules or regulations allegedly violated, misinterpreted or misapplied.

2. The specific act or omission which gave rise to the alleged violation, misinterpretation or misapplication.

3. The date or dates on which the violation, misinterpretation or misapplication occurred.

4. What documents, witnesses or other evidence supports the grievants' position.

5. The remedy requested.

**Section 28.04 Grievance Procedure**

Grievances will be processed following the procedures set forth below.

A. **Level I** – Within ten (10) days of the date the employee reasonable knew or should have known of the incident giving rise to the grievance, the employee should make an effort to resolve the grievance with the employee's immediate supervisor. The supervisor shall hold discussions and attempt to resolve the grievance within five (5) days from the time the employee meets with the supervisor to discuss the employees' grievance.

B. **Level II** – In the event such efforts do not produce a mutually satisfactory resolution, the grievant shall have ten (10) days to file a formal written grievance with the employee's immediate supervisor after the fifteen (15) day time period provided in Level I. The immediate supervisor shall, within five (5) days, provide a written response to the grievant.

C. **Level III** – If the formal written grievance is not resolved by the immediate supervisor, the grievant may present the grievance in writing to the department head within five (5) days of the written response from the immediate supervisor. The department head shall respond in writing within ten (10) days.

D. **Level IV** – If the grievance is not resolved by the department head, the grievant may present the grievance in writing to the City Manager within five (5) days of the Department Head’s written response. The City Manager or his/her designee will conduct an informal hearing and render a decision. Each party shall have the right to present witnesses and evidence at the hearing. The conclusions and findings of this hearing shall be final.

**Section 28.05 Matters Excluded From the Grievance Procedure**

A. The grievance procedure cannot be used for the purpose of resolving complaints, requests or
changes in wages, work hours or working conditions.

B. The grievance procedure cannot be used to challenge employee evaluations or performance reviews.

C. The grievance procedure cannot be used to challenge the merits of a reclassification, lay-off, transfer, denial of reinstatement, or denial of a step or merit increase.

D. The grievance procedure cannot be used in cases of reduction in pay, demotion, suspensions or a termination which are subject to the formal appeal process outlined in Ordinance 586.

Section 28.06 Conferences

Grievant(s) and City representatives, shall, upon mutual agreement, have the right to a conference at any level of the grievance procedure.

ARTICLE 29 POBR LIMITED APPEALS

Section 29.01 Provisions

The following administrative appeal process is established pursuant to Government Code § 3304.5. It shall supplement, though not replace, the disciplinary appeal process established pursuant to the City of El Segundo Ordinance utilizing the Los Angeles County Civil Service Commission hearing process (Municipal Code § 1-6-16.)

This procedure shall not apply to disciplinary actions for which officers already are entitled to receive an appeal pursuant to the City Ordinance utilizing the Los Angeles County Civil Service Commission hearing process (set forth in Municipal Code § 1-6-16). It shall only apply to punitive actions, as that term is defined by Government Code § 3303, for which officers do not already receive an appeal hearing before the Los Angeles County Civil Service Commission.

A. Right to Administrative Appeal

1. Any public safety officer (as defined by Government Code § 3301) who is subjected to punitive action (as defined by Government Code § 3303) consisting of a written reprimand, a transfer for purposes of punishment, a reduction in salary caused by a reassignment resulting in a loss of incentive, specialty, assignment, bonus, or similar pay, or a suspension for five (5) or less days, is entitled to an administrative appeal only pursuant to this procedure. An officer shall not be entitled to appeal an action prior to its imposition.

2. An officer who appeals a punitive action under this procedure shall bear his/her own costs associated with the appeal hearing, including but not limited to any and all attorney fees. The cost of a hearing officer shall be equally borne by the Association and the City.

B. Appeal of Written Reprimands

1. Within five (5) calendar days of receipt by an officer of notification of punitive action consisting of a written reprimand, the officer shall notify the Chief of Police in writing of the officer's intent to appeal the written reprimand.

2. The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.

C. Hearing Officer (Appeal of Written Reprimands Only)
1. The City Manager shall hear appeals of written reprimands, and may adopt, modify or reject the written reprimand. The City Manager’s decision shall be final and binding.

2. The City Manager level administrative appeal shall not be a trial-type evidentiary hearing. The limited purpose of the hearing shall be to provide the officer with an opportunity to establish a record of the circumstances surrounding the action and to seek modification or rejection of the written reprimand. There shall be no subpoenas issued (for people or documents.)

D. Appeal of Other Punitive Action

1. Appeal of punitive action consisting of suspensions of five (5) or less days, a transfer for purposes of punishment, or a reduction in salary caused by a reassignment shall be subject to appeal by means of the officer filing an appeal with the Chief of Police within five (5) calendar days of receipt by the officer of notice of punitive action being implemented on a date certain. The officer shall notify the Chief of Police in writing of the officer’s intent to appeal said action.

2. The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.

3. The appeal shall be presided over by a hearing officer selected from a list of nine (9) provided by the State Mediation and Conciliation Service. The hearing officer shall be selected by alternate striking of names by the respective parties.

E. Conduct of Hearing (5 Days or Less Suspensions, Transfers for Purposes of Punishment, Reduction in Salary Caused by a Reassignment.)

1. The formal rules of evidence do not apply, although the hearing officer shall have discretion to exclude evidence that is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.

2. The parties may present opening statements.

3. The parties may present evidence through documents and direct testimony.

4. The parties shall not be entitled to confront and cross-examine witnesses.

5. Following the presentation of evidence, if any, the parties may present closing arguments.

6. The hearing shall be audio recorded.

7. The officer may be represented by a representative of his or her choice at all stages of the proceedings. All costs associated with such representation and the presentation of the officer’s case shall be borne by the Association.

8. The Department shall also be entitled to representation at all stages of the proceedings. The Department shall bear its cost of representation and of presentation of its case.

9. The hearing officer fees shall be equally borne by the City and the Association.

10. The decision of the hearing officer shall be final subject to the right of each party to the proceeding to contest the hearing officer’s determination by means of a C.C.P. § 1094.5 petition for writ of mandate.
ARTICLE 30  TEMPORARY SERVICE IN HIGHER CLASSIFICATION

Section 30.01 Acting Pay

Where an affected employee is qualified for and is required for an appreciable period of time to serve temporarily in and have the responsibility for work in a higher class or position, when approved by the City Manager, such affected employee, while so assigned, shall receive the entrance salary rate of that class or whatever step thereof that is not less than five percent above his or her present rate, whichever is higher. For the purpose of this section, “appreciable period of time” is defined as ten (10) consecutive working days, or eight (8) working days if on four/ten (4/10) plan, or longer. The acting pay shall retroactively commence to the first day of the acting assignment.

ARTICLE 31  POLICIES

Section 31.01 Occupational Injury and Illness Policy

The parties have agreed upon an Occupational Injury and Illness Policy, dated July 22, 2003.

Section 31.02 Disability Retirement Policy

The parties have agreed upon a Disability Retirement Policy dated May 2010.

Section 31.03 Fitness for Duty Policy

The parties have agreed upon a Fitness for Duty Policy, dated July 3, 2003.

Section 31.04 Substance Abuse Policy and Drug-Free Workplace Statement

The parties have agreed upon a Substance Abuse Policy and Drug-Free Workplace Statement dated July 1, 2008.

ARTICLE 32  TERM OF AGREEMENT

Section 32.01 Term

The term of this MOU shall be October 1, 2011 through September 30, 2013 with a PMA option to extend one additional year to September 30, 2014. The PMA shall inform the City of its decision whether or not to extend the agreement no later than March 30, 2013.

ARTICLE 33  LIMITED LAYOFFS

Section 33.01 No Layoffs

1. The City agrees to guarantee that no layoffs of unit members will occur during the term of this MOU unless at any time during the term of the contract the general fund actual core gross revenues, as defined in Article 2, for any six-month period fall seven and one-half percent (7.5%) below the prior fiscal year actual core gross revenues for the same six-month period.

2. Before instituting any layoffs, the City will agree to meet and confer in good faith with the Association to explore alternative cost-saving approaches.

ARTICLE 34  CONCESSIONS

Section 34.01 City employees were asked to reduce pay and benefits in the amount of $2.9 million to resolve a
predicted General Fund deficit for FY 2011/2012. This reduction would result in a structurally balanced budget for the fiscal year. At the conclusion of FY 2011/2012 if the budget results reveal City estimates were inaccurate by $2.9 million and pay and benefit reductions for City employees were not necessary, the City will negotiate with the PMA a resolution for the possible restoration of the agreed to contributions. Further, if any portion of concessions is restored by the City, the PMA would only be eligible for that amount or a Cost of Living Adjustment (COLA) as outlined Article 2, Section 2.01 for FY 2011/2012, whichever is greater.

Signed by the City:

Doug Willmore,
City Manager

Deborah Cullen,
Finance/Human Resources Director

Martha Dijkstra,
Human Resources Manager

Date: 9/27/11

Signed by the Association:

Lt. Ray Garcia,
PMA President

Date: 9/27/11
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: September 28, 2011
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action regarding approval of a Memorandum of Understanding (Labor Agreement) between the City of El Segundo and the El Segundo Police Officers' Association. (Fiscal Impact: Estimated Savings FY 2011/2012 of $1,059,921.37)

RECOMMENDED COUNCIL ACTION:
1. Adopt the Resolution approving the Memorandum of Understanding.
2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Resolution
2. Memorandum of Understanding – Exhibit “A”

FISCAL IMPACT:
Total Fiscal Impact: Estimated Savings FY 2011/2012 of $1,059,921.37

Amount Budgeted:
Additional Appropriation: None
Account Number(s):

ORIGINATED BY: Deborah Cullen, Finance/Human Resources Director
REVIEWED BY:
APPROVED BY: Doug Willmore, City Manager

BACKGROUND AND DISCUSSION
Staff and representatives of the El Segundo Police Officers’ Association met and conferred pursuant to Sections 3500 et. seq. of the California Government Code, for the purposes of obtaining a labor agreement. Agreement was reached on September 27, 2011.

The Agreement contains the following major provisions:

1. Term - October 1, 2011 – September 30, 2013 with the Association’s option to extend to September 30, 2014. The Association shall notify the City of its decision to extend by March 30, 2013.

2. Employer-Paid Member Contribution (EPMC) -- Employees will pay three percent (3%) of the EPMC.

3. Longevity Pay – Longevity pay shall be reduced from the current amounts by fifty dollars ($50).

4. Uniform Allowance – There shall be no uniform allowance payment to unit employees.

5. Vacation Buy-Back – Employees shall not be permitted to sell back accrued, unused vacation leave.
6. Shooting Incentive Pay – Employees shall accrue time off in lieu of pay.

7. Court On-Call Pay – Employees shall accrue time off in lieu of pay.

8. Sick Leave Overaccrual Pay – Employees entitled to receive this pay shall instead accrue time off.

9. Work Schedule – The Association will work with Management to structure a hybrid 3/12.5-4/10 work schedule for employees assigned to Patrol.

10. Retirement Formula - As soon as practicable, the City shall amend its contract with PERS to establish a two-tier retirement formula of 3%/55 for new hires.

11. Limited Layoff language guaranteeing no layoffs will occur unless general fund core gross revenues for any six month period fall seven and one-half percent (7.5%).

12. Cost of Living Adjustment (COLA) Language – Employees entitled to a Cost of Living Increase if general fund core gross revenues increase by $1.5 million during designated time periods. COLA to be determined by CPI-U for the Los Angeles-Riverside-Orange County region for the agreed-upon time period.

13. Clean-up language includes the following:
   a. Catastrophic Leave Program information updated to be consistent with City’s Policy.
   b. Disability Retirement Appeals Procedures Policy – effective date updated.
   c. Drug-Free Workplace Policy – effective date updated.
RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING
AND MEMORANDUM OF UNDERSTANDING TO BE DELIVERED UNDER
SEPARATE COVER