Council Meeting of
May 5, 2009

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Adopt RESOLUTION pursuant to a Memorandum of Understanding setting forth the hours, wages and working conditions for Torrance Fire Chief Officers Association (TFCOA)

Expenditure: 2.79% Year 1, 2.71% Year 2, and 3.0% Year 3 of contract; 1.21% education incentive Year 1 and 0.79% health Year 1, for a total net package cost to the General Fund of 10.5% over 33 months.

RECOMMENDATION

Recommendation of the City Manager that City Council adopt a RESOLUTION pursuant to a Memorandum of Understanding setting forth hours, wages and working conditions for employees represented by the Torrance Fire Chief Officers Association (TFCOA) for the period April 26, 2009 to December 31, 2011.

Funding

Funding is available within the wage reserve.

BACKGROUND AND ANALYSIS

The Memorandum of Understanding for the Torrance Fire Chief Officers Association (TFCOA) expired on December 31, 2008. Representatives of Management and the Torrance Fire Chief Officers Association have been meeting and conferring for the past several months in an attempt to reach an agreement for a successor Memorandum of Understanding. The parties have come to an agreement, and members of TFCOA have voted in favor of the new contract.

The main changes to the MOU include increases to pay, health insurance, the education incentive, as well as the implementation of mandatory Wellness Programs, and the addition of the Fire Fighters Bill of Rights. The pay increases are over a 33-month period of time. There are minor changes to language items, which are encompassed in the attached Memorandum of Understanding.

The other major changes to the new MOU include new compensatory time off language, management rights language, and the extension of the probationary period to account for absences during probation.

The new MOU for the Torrance Fire Chief Officers Association (TFCOA) covers the period of April 26, 2009 to December 31, 2011.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By _____
Aram Chaparyan
Assistant to the City Manager

CONCUR:

_____
LeRoy J. Jackson
City Manager

Attachment: TFCOA MOU 2009-2011

MEMORANDUM OF UNDERSTANDING

TORRANCE FIRE CHIEF OFFICERS ASSOCIATION (TFCOA)

2009 – 2011

A MEMORANDUM OF UNDERSTANDING SETTING FORTH THE WAGES, HOURS AND WORKING CONDITIONS FOR EMPLOYEES REPRESENTED BY THE TORRANCE FIRE CHIEF OFFICERS ASSOCIATION (TFCOA)

An Agreement of the undersigned representatives of the Torrance Fire Chief Officers Association (TFCOA) and the representatives of the City of Torrance (City) that:

The attached Resolution is recommended to the City Council for adoption in its entirety. It covers wages, hours and working conditions for the period April 26, 2009 until December 31, 2011, and was reached through agreement of the undersigned parties:

Signed this 30t day of April 2009.

MANAGEMENT	TFCOA
_____	_____
_____	_____
_____	_____

RESOLUTION NO. 2009-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE SETTING FORTH WAGES, HOURS AND WORKING CONDITIONS FOR EMPLOYEES REPRESENTED BY THE TORRANCE FIRE CHIEF OFFICERS ASSOCIATION FOR THE PERIOD FROM APRIL 26, 2009 UNTIL DECEMBER 31, 2011, AND REPEALING RESOLUTION NO. 2005-105.

The City Council of the City of Torrance does hereby resolve as follows:

SECTION I

That Resolution No. 2005-105 is hereby repealed in its entirety.

SECTION II

The following Agreement between representatives of Management and the representatives of the Torrance Fire Chief Officers Association (TFCOA) is hereby approved in its entirety to read as follows:

Article 1 - Introduction
Section 1.1 Introduction

Article 2 - Wage Provisions
Section 2.1 Salary Ranges and Class Titles
Section 2.2 Methods of Compensation

Article 3 - Special Compensation Provisions
Section 3.1 Longevity Pay
Section 3.2 Premium Pay
Section 3.3 Compensation for Supervisors
Section 3.4 Educational Incentive Pay
Section 3.5 California Emergency Medical Services Required Certifications
Section 3.6 Shooting Pay
Section 3.7 Move-Up Assignment
Section 3.8 Seminar Reimbursement

Article 4 - Overtime Provisions
Section 4.1 Constant Staffing and Qualified Relief
Section 4.2 Overtime Compensation
Section 4.3 Holidays

Article 5 - Benefits
Section 5.1 Employee Insurance
Section 5.2 Retirement
Section 5.3 Uniforms
Section 5.4 Deferred Compensation Plans
Section 5.5 Medical Examinations

Article 6 - Benefits Related to Time
Section 6.1 Vacation
Section 6.2 Sick Leave
Section 6.3 Industrial Injury Leave
Section 6.4 Jury Duty
Section 6.5 Leaves of Absence

Article 7 - Working Conditions
Section 7.1 Hours of Work

Article 8 - Conditions of Employment
Section 8.1 Requirements as to Continuity of Service
Section 8.2 Fitness For Duty
Section 8.3 No Smoking Requirement
Section 8.4 Emergency Medical Technician I
Section 8.5 Nondiscrimination, Equal Opportunity, and Sexual Harassment
Section 8.6 Outside Employment
Section 8.7 Layoff Provisions
Section 8.8 Exemption re: Anti-Nepotism Rule
Section 8.9 Probationary Period
Section 8.10 Inactive Status
Section 8.11 Management Rights

Article 9 - Security Provisions
Section 9.1 Security Clause
Section 9.2 Dues Checkoff
Section 9.3 Job Action
Section 9.4 [Intentionally left blank]

Article 10 - Grievances
Section 10.1 Definition of Grievance
Section 10.2 Scope of Grievance Procedure
Section 10.3 The Grievance Procedure
Section 10.4 General Grievance Provisions

Article 11 - Effective Dates
Section 11.1 Provisions Effective

Appendix A – Catastrophic Leave Program

Appendix B – Fire Fighters' Bill of Rights

TORRANCE FIRE CHIEF OFFICERS ASSOCIATION

2009 – 2011

ARTICLE 1 - INTRODUCTION

SECTION 1.1 INTRODUCTION

The following is the Agreement regarding wages, hours and working conditions between representatives of Management and the Torrance Fire Chief Officers Association.

ARTICLE 2 - WAGE PROVISIONS

SECTION 2.1 SALARY RANGES AND CLASS TITLES

The following salary ranges are hereby assigned to the classifications of the following classified service represented by TFCOA:

BASE MONTHLY SALARY

Effective April 26, 2009

56-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	8144.51

Permanently Assigned 40-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	9341.13

Effective January 3, 2010

56-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	8365.23

Permanently Assigned 40-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	9594.27

Effective January 2, 2011

56-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	8616.19

Permanently Assigned 40-Hour Safety Employees:

Class Title	
Fire Chief, Battalion	9882.10

Assistant Chief

- Effective upon signing of this agreement, the Battalion Fire Chief assigned to Fire Prevention or Administration shall be designated the provisional rank of "Assistant Chief." This provisional rank is designated only while performing the 40-hour assigned staff duties of Fire Prevention and Administration.

SECTION 2.2 METHODS OF COMPENSATION

Compensation shall be determined on a monthly basis and paid on a per hour basis, on the basis of the following formula:

Formula "a"

Employees regularly scheduled to work 56 hours per week shall have an hourly rate (HR) computed as follows:

$$HR = \frac{\text{Monthly Salary}}{242.32}$$

Formula "b"

Employees regularly scheduled to work forty (40) hours per week shall have an hourly rate (HR) computed as follows:

$$\text{Straight Time Hourly Rate} = \frac{\text{Monthly Salary}}{173.3}$$

Payments due shall be paid on a biweekly basis unless otherwise specified within this Agreement. By mutual consent of the parties, early payment and other modifications can be made.

ARTICLE 3 - SPECIAL COMPENSATION PROVISIONS

SECTION 3.1 LONGEVITY PAY

A. Employees covered by this agreement shall receive longevity pay in the following manner:

1. Commencing with the first day of the 8th year of service, 5% above base pay.

2. Commencing with the first day of the 9th year of service, a total of 10% above base pay.
3. Commencing with the first day of the 10th year of service, a total of 14% above base pay.
4. Commencing with the first day of the 16th year of service, a total of 24% above base pay.
5. Commencing with the first day of the 25th year of service, a total of 34% above base pay.

B. All longevity pay advancements shall be effective on the anniversary date of the required years of continuous service (unpaid leaves in excess of 10 working shifts, except for extended military leave, shall be deducted in computed total service) as a regular employee of the City of Torrance or total years of service as a full time regular employee with the City of Torrance Fire Dept. whichever provides the longer term of service.

SECTION 3.2 PREMIUM PAY

Employees assigned to work requiring specified duties which require skills and abilities not contemplated in the employee's normal assignments in the areas described in this Section shall receive premium pay only while so assigned. Assignments and reassignments shall be made by the department head subject to the approval of the City Manager according to work load and skills required, and subject to any special provisions specified in this Section for any particular assignment.

Removal of employees for disciplinary reasons, or reasons of incompetence, or abolishing positions because of budgetary requirements shall be preceded by notice to employee organization representatives with the intent of precluding unfair actions.

A. Permanently Assigned 40-Hour Staff

A 40-hour grid as shown in Section 2.1 is for safety employees in the following positions who regularly work in 40-hour staff assignments: Fire Marshal, Administrative Chief.

The Administrative Chief and Fire Marshall shall be appointed at the discretion of the Fire Chief.

B. All employees covered by this agreement shall carry Department issued mobile phones at all times (both on and off duty) for purposes of communication and recall in case of emergencies, vacations optional.

C. Temporary Staff Assignments

Safety employees who are temporarily assigned to duties of an administrative and predominantly staff nature requiring them to work a 40-hour work week shall continue to be paid based on the Safety Employee 56-Hour pay grid (Section 2.1). While so assigned safety employees shall receive a premium between 5% and 15% (amount to be subject to the direction of the Fire Chief or designee) above base hourly step pay exclusive of any longevity pay of their appropriate classification. Assignments shall be subjectively based on the decision of the department head. The Fire Chief or designee's decision shall be

final and not grievable. The Fire Chief or designee may at his/her discretion place an employee on the 40-hour pay grid.

D. Hazardous Material – First Responder
Safety employees who have been trained to respond to hazardous material emergencies shall receive a premium of 7% of base pay exclusive of longevity pay.

SECTION 3.3 COMPENSATION FOR SUPERVISORS

All supervisors covered by this Agreement shall be paid at a higher base pay than any of their subordinates. A supervisor's base pay shall be advanced to a step in his/her salary grade which will provide him/her with a rate of one pay step (approximately 5%) higher than any subordinate's base pay (exclusive of special compensation or longevity pay) regardless of the supervisor's length of service. The initial 5% step shall be based above the current top step for 40-hour Captain.

SECTION 3.4 EDUCATIONAL INCENTIVE PAY

A. Upon completion of original probation, safety employees shall receive educational incentive pay for obtaining (while employed or prior to being employed by the City) certain specified course work as follows:
   1. 12 units of Fire Science and 18 units of supplemental, Fire Science, or job related course work at 3% of base pay exclusive of other compensation.
   2. 21 units of Fire Science and 39 units of supplemental, Fire Science, or job related course work at 6% base pay exclusive of any other compensation.
   3. 21 units of Fire Science and 69 units of supplemental, Fire Science, or job related course work at 9% of base pay exclusive of other compensation.
   4. Safety employees who have achieved the 9% education incentive premium will be eligible for the City's tuition reimbursement program towards achieving a BA/BS degree.
   5. 21 units of Fire Science and 99 units of supplemental, Fire Science, or job related course work at 12% of base pay exclusive of other compensation.

B. Upon completion of eight years of service in the Torrance Fire Department, safety employees who possess a BA/BS from an accredited university and who have completed (while employed or prior to being employed by the City) 30 units in fire science shall receive an additional 3% premium.

C. Supplemental course work (as described in subsection A1 – A3 above) shall be limited to General Education and elective units required by an accredited two or four year college to attain an Associate Arts or Bachelor of Science degree.

   1. General Education units must be met before any elective unit can be used. (20 units)
   2. No more than 20 elective units can be used in the Educational Incentive program.

D. Job related courses (as described in subsection A1 – A3 above) shall be in subject areas involving business, public administration, science, supervision or administrative skills, emergency or medical skills, or other job related fields and shall be designated by the department head with the approval of the City Manager.

E. All course units shall be for full semester hours or equivalent and the employee must receive a grade of at least a "C", a 2.0 (a GPA equivalent to a "C") or a pass from an accredited two or four year college. Quarter system units will be converted to semester units by multiplying quarter hours by two-thirds (2/3).

F. General Education units that do not meet the "C" or better requirements will be counted towards reaching the General Education 20 units, but will not count towards the unit requirement of the Educational Incentive program. Elective units with a "C", pass, 2.0 or better may be substituted in their place, in meeting the overall unit requirements of the educational incentive pay program.

G. The educational incentive pay shall commence with the pay period following the submittal of the necessary evidence of educational work.

H. All evidence must be official transcripts or written documentation from the appropriate school. The records will be kept in the Administrative Chief's Office and all units will be verified by the Administrative Chief.

I. Personnel holding a State Fire Officer's Certificate will be eligible for up to 16 units subject to approval by the Fire Chief of "in house" credit toward the Educational Incentive Program. Units granted from a college for "core" classes taken in pursuit of the Fire Officer's Certificate will be deducted from the maximum of 16 equivalent units.

J. Personnel who have attended and completed a state recognized paramedic training program which led to their having obtained a valid paramedic certificate will be eligible to receive up to 27 units subject to approval of the Fire Chief of "in house" credit toward the Educational Incentive Program. Any actual college credits received for paramedic training will be deducted from the maximum of 27 "in house" equivalent units.

SECTION 3.5 CALIFORNIA EMERGENCY MEDICAL SERVICES REQUIRED CERTIFICATIONS

A. California Emergency Medical Technician I

Safety employees who hold a valid State of California Emergency Medical Technician I Certificate shall receive EMT pay (see Item B below).

B. EMT-1 pay shall receive 1.50% indexed to BC's 56-hour, Step 1.

C. American Red Cross Advanced First Aid: BC's who hold Advanced First Aid in lieu of EMT-1 shall receive 1.25% indexed to BC's 56-hour, Step 1.

D. Battalion Chiefs may only receive premium pay for possession of EMT-1 certification or American Red Cross Advanced First Aid certification.

SECTION 3.6 SHOOTING PAY

Safety employees covered by the Agreement who are required by job assignment to carry and be proficient in the use of sidearms shall be paid $16 per month, subject to minimum qualifications. The amount shall be paid on a semi-annual basis during June and December of each year.

A. The Fire Marshal, at the time of assignment, will be provided with the following safety equipment:
   - Standard Police Department-issued service weapon - currently Glock model 21.
   - Standard Police Department issued holster and holster belt or alternate as approved by the police department range master.
   - Handcuffs
   - Two additional magazines (law enforcement style)
   - Ballistic vest as issued by TPD

B. Employees shall be required to turn in the designated safety equipment at the time of termination. Employees who have completed probation may elect to repay the City a prorated amount for said equipment. The employee shall compensate the City at 100% of the original cost during the first year of service in assignment requiring the issue of a sidearm and thereafter as follows:

After	I year	90%	After	6 years	40%
	2 years	80%		7 years	30%
	3 years	70%		8 years	20%
	4 years	60%		9 years and up	10%
	5 years	50%			

SECTION 3.7 MOVE-UP ASSIGNMENT

A. Objective

The objective of the section is to provide an equitable and orderly manner of paying employees for work done and responsibility assumed when that employee is moved up to a higher classification during the temporary absence of another employee.

B. Assignment
   1. When an employee is temporarily absent from the job, another employee may be assigned by the Fire Chief or the designee to do the work of the absent employee.
   2. The Fire Chief may permit the position to remain temporarily vacant if, in his/her opinion, the public health, welfare and safety are not jeopardized, where not in conflict with Section 4.1.
   3. An employee may decline a move-up assignment.

C. Duration of Assignment

Any employee moved up pursuant to this Section shall remain in the higher class until the incumbent returns to duty, subject to the following conditions:
   1. Each such assignment shall not exceed twelve months duration.

2. If the work is not performed in a satisfactory manner, the Fire Chief or designee may at his/her discretion replace the employee who was moved up or leave the position unfilled, where not in conflict with Section 4.1.

D. No Probationary Credit

Time served by an employee assigned to a higher class under the provisions of this Section shall not be credited toward that employee's probationary period in the higher class.

E. First Consideration for Move-Up Assignments

1. First consideration for move-up assignments may be given to employees permanently assigned on the shift where the vacancy occurs who are regularly employed in a lower classification and on the eligible list for the higher class.

2. If the temporary absence of the incumbent continues in excess of thirty consecutive days, and an eligible list exists for the class, the Fire Chief or the designee may, at his/her discretion, assign the move-up position to a person who is among the first three on the eligible list commencing with the thirty-first consecutive day of absence.

F. Determination of Priority

In the event that there are no eligibles within the department on the eligible list for the vacant position, the Fire Chief or designee may assign any employee under his/her supervision whom the department head certifies is capable of performing the work of the absent employee.

G. Absence of Moved Up Employee

If a moved up employee is absent, another employee may be assigned during such absence, subject to all provisions of this Section.

H. Move-Up Pay for Vacant Positions

1. An employee moved up shall be compensated on the salary range in the moved-up classification which provides an increase in compensation of at least 5% of base pay. (Battalion Chief moved up Operations Division shall receive at least 5% above the 40-hour safety Battalion Chief. Battalion Chief moved up to Fire Chief shall receive at least 5% above the current step Operations Division Chief.)

2. For the purpose of this Section, eight consecutive hours or more shall constitute a day or shift and shall qualify for move-up pay.

I. Acting Department Head

1. If a subordinate is required by his/her class specification to take charge of the department in the absence of the department head, he/she shall not be paid additional compensation for such move-up assignment.

2. If a subordinate is not required by his/her class specification to take charge of the department in the absence of the department head, he/she shall be paid during all such move-up assignments approximately five percent over and above the base salary and the longevity pay; provided, however, that if the temporary absence of the

department head continues in excess of thirty consecutive calendar days, he/she shall then be paid at the salary rate of the lowest step for such assigned position which is higher than the current base salary of the employee, to which shall be added earned longevity pay increments.

SECTION 3.8 SEMINAR REIMBURSEMENT

A. Safety employees may be reimbursed up to $500 per employee each fiscal year for registration fees for fire department related seminars attended voluntarily.

B. This benefit shall be limited to available funding from the Fire Department's El Camino Training Fund and shall not exceed $2,500 each fiscal year.

C. Seminars reimbursable through the City's tuition reimbursement program or that earn credit towards educational incentive pay are not eligible for reimbursement.

D. Time spent at such seminars is not considered hours worked since employees are not required to attend them. As such, no compensation will be provided for attendance.

E. Any other registration fee or related cost as approved by the Fire Chief.

ARTICLE 4 - OVERTIME PROVISIONS

SECTION 4.1 CONSTANT STAFFING AND QUALIFIED RELIEF

A. Definition

1. Constant Staffing - A system for maintaining current strength of platoons by utilizing off-duty qualified personnel who are available to fill temporary vacancies within said platoons.

2. Current Strength - Personnel distribution as designated in current City of Torrance budget document.

3. Qualified - As determined by proper job classification or eligibility for promotion to proper classification.

4. Temporary Vacancy - Personnel vacancy that may be created by:
   a. Illness
   b. Injury
   c. Industrial Accident Leave
   d. Vacation
   e. Authorized Personal or Military Leave
   f. Vacancy Due to Retirement
   g. Other Appropriate Vacancies

5. Pay shall be at the rate of time and one-half of Formula (a).

B. Eligibility
Employees in the following classes shall be eligible for constant staffing qualified relief:
- Battalion Chief

C. Priority for constant staffing is as follows:
1. Temporary vacancies defined in section 4.1(A)(4) shall be offered to the eligible Battalion Chief who has the least amount of opportunities to work.
2. Vacation relief opportunities shall be offered to eligible counterparts.

SECTION 4.2 OVERTIME COMPENSATION

A. An employee in the safety classification represented by TFCOA shall be compensated by pay at the rate of one and one-half (1½) times the average hourly rate [Formula (b)] when called to duty in the following emergencies: emergency recall, strike team deployments, off duty meetings and training.

Employees in the safety classification represented by TFCOA qualify for the Section 7(k) partial overtime exemption under the FLSA. The parties use the 24-day FLSA work period for purposes of calculated time worked and overtime.

B. Computation

1. Overtime shall be computed for actual time worked except as specified below.

2. An employee called out other than during regular working hours for emergency work shall be compensated therefore at the regular overtime rate for a minimum of four hours.

3. An employee required to appear in court, or placed on call at the station in the performance of his/her duties shall be compensated at the regular overtime hourly rate for a minimum of three hours or on actual time spent in court inclusive of the court's lunch break if required to report back to court following lunch. If on duty hours are contiguous to the three hour minimum, the employee shall only be compensated for actual hours spent in court under Formula (b).

4. An employee called out other than during regular working hours for non-emergency work shall be compensated at the regular overtime rate for a minimum of 2 hours.

5. An employee placed on call at home for a court appearance shall be compensated at straight time on an hour for hour basis based on Formula (b) (exclusive of one hour scheduled for lunch for full day scheduling).

C. Other Overtime Provisions

- No unscheduled overtime shall be permitted to be worked without approval of the department.
- Overtime generated as the result of a member's normal and expected participation in departmental emergency activity which extends beyond the normal shift relief hour does not need prior approval.

- All Safety Personnel may agree to relieve employees on the previous shift prior to their scheduled starting times. Such practice is not required by the City. The practice of early relief will not work to increase the employees hours worked under the FLSA.

1. Trading Time

   The practice of trading time in accordance with departmental regulations will have no effect on hours of work provided.

   a. The trading of time is done voluntarily by the participating employees, and
   b. The reasons for trading time is due to the employees desire or need to attend to personal matters, and
   c. An electronic record is provided to the City by the employee whose shift is being worked by another employee so that the City may maintain a record of all shift trades, and
   d. The period during which time is traded does not extend beyond the calendar year. Thus, both employees must complete the trade (work for each other) within 6 months of the date of the trade.

2. Compensatory Time

   a. Employees may elect to accrue compensatory time off in-lieu of pay for constant staffing-qualified relief hours and/or overtime up to a maximum of 144 hours, i.e., 96 hours of overtime worked accrued at time and one-half. The 144 hours must be cashed down to 72 hours each year at the first pay period in November.

   b. The taking of compensatory time off by 40 hour safety personnel shall be adjusted using a 1.4 conversion factor.

   c. The Fire Chief has the discretion to grant earned compensatory time in increments of less than 24 hours.

   d. Compensatory time shall not be deemed a benefit, nor shall it be used to extend Industrial Injury Leave or extend time to retirement.

   e. Time will be accrued at a rate of one and one-half hour for each constant staffing-qualified relief hour worked.

   f. Request for Compensatory leave may be entered in Telestaff a minimum of 24 hours and a maximum of 30 days in advance. The request will not be eligible for approval until 18 days before the opening.

   g. Members may request up to unlimited up to 108 consecutive hours of compensatory leave.

   h. Compensatory leave may be taken for full shifts (24 hours) or partial shifts of twelve (12) hours or less.

   i. One safety employee will be permitted use of compensatory time off per shift (24-hour shift) which may result in another member being held over or ordered in.

j. Members must provide a qualified relief with the same specialty for all partial shift Compensatory leave. Replacement must be paid constant staffing and may not convert time worked to compensatory time.

k. Employees may cash out compensatory time anytime on a form provided on Department computers.

l. Suppression personnel may not use compensatory leave time on New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Even, Christmas Day, and New Year's Eve.

SECTION 4.3 HOLIDAYS

A. The following days shall be considered holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Admission Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day and such holidays as may be specifically designated by the City.

B. Battalion Chiefs shall accrue (into a holiday pay bank) eight hours pay [Formula (b) from Section 2.3] for each holiday. Such pay shall be considered earned income for retirement purposes.

C. Holiday pay for employees will automatically be cashed out by the end of each calendar year. An employee may elect to cash out or defer this holiday pay bank quarterly.

For quarterly cash-out, a form is to be submitted to Finance by March 1, June 1, and/or September 1. Mandatory cash-out of accrued balance as of last pay period in November will be paid by December 10, unless an election to defer is received.

D. Observance of Holidays

1. Battalion Chiefs assigned to a platoon schedule will work their normal schedule during holidays.

2. Battalion Chiefs assigned to a 40-hour work schedule will observe the holiday when it falls on a scheduled work day, except July 4th when they shall work their scheduled shift. Battalion Chiefs assigned to a 40-hour work schedule shall not volunteer or be subject to order-in for constant staffing on a holiday that falls on a scheduled work day.

E. Effects of Sick Leave

1. Battalion Chiefs assigned to 24 hour shifts who are sick on their last regularly scheduled work day prior to a holiday or the holiday will not be entitled to holiday pay. Safety members will have 11.2 hours deducted from their holiday hours accrual.

2. Battalion Chiefs assigned to 24 hour shifts that are sick on a holiday for which they are regularly scheduled to work shall have 12.8 hours of their accrued sick leave deducted from their account in addition to the loss of 11.2 hours of holiday pay.

3. Employees as stated in subsection (E-1) may become eligible for holiday pay provided that they notify the department no later than 45 minutes prior to the start of the shift or the holiday that they are available to work.

4. Employees who call in sick on a holiday will not be allowed to notify the department later in the day that they are able to work in order to regain eligibility for holiday pay.

ARTICLE 5 - BENEFITS

SECTION 5.1 EMPLOYEE INSURANCE

A. Health Insurance

1. Effective January 1, 2009, the City shall pay $101.00 per month per employee toward medical insurance. The $101.00 employer contribution will apply only toward the health insurance premium of one of the authorized PERS health insurance plans. If the employee does not participate in the PERS insurance plans, the $101.00 cannot be used for any other purpose. Effective 1-1-2010 the amount shall increase to the PERS Mandated Amount, if above $101.

2. The City shall continue payment as provided in Section 5.1.A and B while on an authorized medical leave of absence for a period not to exceed twelve months for any employee covered by this agreement.

B. Active Employees:

In addition to the PERS Mandated Amount (addressed in the matrix below) Active Employees shall be provided with an amount, which may be used by the employee to pay for approved health insurance plan premiums, dental, or vision insurance.

Health Insurance effective May 22, 2009

	1 Party	2 Party	3 Party
PERS Mandated Amount	$101.00	$101.00	$101.00
City Cafeteria Contribution	$383.00	$805.00	$1050.00
Totals	$484.00	$906.00	$1,151.00
Any amount remaining may be used to offset family dental or towards two-party or family vision.			

Health Insurance effective January 1, 2010

	1 Party	2 Party	3 Party
PERS Mandated Amount	By Statute or minimum of $101.00, whichever	By Statute or minimum of $101.00, whichever is greater	By Statute or minimum of $101.00, whichever is greater

	is greater		
City Cafeteria Contribution	Total- PERS Mandated Amount	Total- PERS Mandated Amount	Total- PERS Mandated Amount
Totals	$522.72	$978.48	$1243.08
Any amount remaining may be used to offset family dental or towards two-party or family vision			

Health Insurance effective January 1, 2011

	1 Party	2 Party	3 Party
PERS Mandated Amount	By Statute or minimum of $101.00, whichever is greater	By Statute or minimum of $101.00, whichever is greater	By Statute or minimum of $101.00, whichever is greater
City Cafeteria Contribution	Total- PERS Mandated Amount	Total- PERS Mandated Amount	Total- PERS Mandated Amount
Totals	$564.54	$1,056.76	$1,342.53
Any amount remaining may be used to offset family dental or towards two-party or family vision			

Any amount remaining may be used to offset family dental or towards two-party or family vision. Given the increases to the health insurance premiums provided for by this Agreement, it is the intent of the parties to eliminate the previously provided cash contribution (i.e., city cafeteria contribution) to those employees who do not take health insurance from the City. However, given that existing employees have not taken City-paid health insurance have been provided a cash amount as part of their compensation, it is the intent of the parties to "grandfather" existing employees as of the date of approval of this agreement by the City Council with their current cafeteria cash amount of $227.50. Accordingly, employees hired before January 1st, 2010 shall receive cash back for any amount up to $227.50 not used for medical, vision or dental insurance. Employees hired after January 1st, 2010 will only have the option of single, two-party, and family health insurance coverage. An employee will receive $101 per month cash back if he or she shows proof of medical coverage from an outside source and does not utilize City provided health insurance.

C. The City shall continue payment as provided for in subsections A) and/or B) during an authorized medical leave of absence for a period not to exceed twelve months for any employee covered by this Agreement.

D. If an employee receives cash in-lieu of selecting a health insurance plan, such amount shall be reported as earned income for tax purposes but shall not be deemed earned income for retirement purposes as delineated in a letter from the U.S. Internal Revenue Service dated June 16, 1982. It is the understanding of the parties that dollars distributed to the employee as cash in this manner shall not be construed as earned income for PERS purposes.

   Any change in this assumption shall require a payment by the using employee of both the employee's and the employer's share of any such liability from the inception of this program.

E. Annuitant/Retiree Health:

Effective January 1, 2009, for the purposes of this section, annuitant/retiree shall be defined as a TFCOA member (and/or their spouse) who has retired from the City of Torrance through a service, industrial, or non-industrial disability retirement and who starts collecting his/her pension within 120 days of separating from the City of Torrance.

1. Annuitant:

   The City shall allocate $130.50 per month above the PERS minimum employer contribution per annuitant who participates in PERS health insurance.

2. Retiree Health for Retirees Not in PERS Medical Allowance:

   Retirees or surviving spouses who do not participate in the PERS insurance plan will receive $146.50 per month toward the health insurance premium. This amount is subject to the method of payment and the method and degree of any audits required by the City.

F. The City will provide a $50,000 life insurance policy for each employee covered under this agreement.

G. Employees covered by this agreement shall be covered by the City's STD/LTD plan.

H. All employees covered by this agreement will receive two-party dental insurance. This benefit has no cash value if not used. If employees want to cover additional family members not covered, additional insurance may be purchased and paid for by the employee.

I. All employees covered under this agreement will receive, at no cost to TFCOA or members, one-party vision insurance. This benefit has no cash value if not used. If employees want to cover additional family members, additional insurance may be purchased and paid for by the employee.

J. The parties agree to establish a mandatory wellness program during the life of TFCOA's contract. A committee will be formed to study and develop the program. The Committee will consist of two TFFA members, two Administrative Staff, and the Administrative Battalion Chief. Members will be selected by the Administrative Battalion Chief.

K. Management and TFCOA will continue to discuss the following:
   - Retiree health savings plan (RHSP)

SECTION 5.2 RETIREMENT

A. The City is in PERS and contracts with PERS to provide the 3% @ 50 retirement formula set forth at Government Code section 21632.2.

B. The City shall pay the employee's 9% contribution to PERS for safety employees of Torrance Fire Chief Officers Association pursuant to Section 20691 of the California Government Code.

C. The nine percent (9%) paid by the City shall be considered as employer-paid member contributions (EPMC) in accordance with Government Code Section 20-023 20636 (c)(4).

D. City's contract with PERS includes the increase in Non-Industrial Disability Retirement Allowance in accordance with Government Code 21427.

E. The City is under contract with PERS to provide level 4 coverage under the 1959 Survivor's Benefit for local fire members pursuant to Government Code section 21574.

SECTION 5.3 UNIFORMS

A. Uniform Allowance

The City shall pay a uniform allowance of $150 per year for all Battalion Chiefs.

Such pay shall be considered earned income for retirement purposes.

This uniform allowance shall be paid on a semi-annual basis, during June and December of each year.

B. A safety employee who fails to comply with established departmental uniform requirements shall be subject to disciplinary action.

C. The City will supply all safety equipment as required by OSHA. This includes Workrite pants and shirts for safety employees. The City will continue to exchange worn and tattered Nomex Workrite shirt and pants so that work uniforms are serviceable at all times.

D. All safety employees shall be required to purchase and maintain a dress uniform as outlined in accordance with the Department's Standard Operating Guide – Uniform Policy.

SECTION 5.4 DEFERRED COMPENSATION PLANS

A. Deferred Compensation Program: Employees covered under this MOU will be eligible to participate in a 457 Plan and a 401a Plan. Rules of these plans are contained in applicable Law as well as the City's Plan documents on file with the City Treasurer.

1. Retiring or separating employees:
   a. Retiring or separating employees may elect to defer sick leave, comp time, and/or vacation into the plan in increments of 10% up to 100% of either or all of the totals of accrued sick leave, comp time, and/or vacation.
   b. Any excess sick, vacation or severance pay (above maximum accrual, which is permitted to be converted) may be deferred into the 457 plan up to the limits allowed by law.

2. Active employees:
   a. Active employees may, effective October 15 each year, irrevocably defer sick leave hours above 800 hours, and vacation hours over 880 hours in the following calendar year into the plan up to the maximums permitted by law in each plan. Designated contribution of each type of leave may be initiated independently.

Once a contribution percentage is declared it shall be irrevocable. The amount to be deferred will be the hours over 800 and 880 respectively in the employee's accrual balances as of October 15. The deferral will be made the first pay period in November.

B. Safety employees who have completed 11 years of service shall receive a City contribution of $63.23 per pay period into a 401a Plan. However, if the employee irrevocably elects not to participate in the 401a Plan at the onset of the plan, the $63.23 will go into the 457 Plan. All new safety employees who were hired after June 30, 2001 are participants in the 401a Plan, and may not opt out of the plan.

C. If State, Federal, or PERS guidelines are changed regarding the employer's contribution to the deferred compensation program, the $63.23 per pay period shall revert to additional health money or a mutually acceptable benefit.

SECTION 5.5 MEDICAL EXAMINATIONS

City-administered medical examinations will be made available every two years for safety employees over 40 years of age, and every four years for safety employees who are under 40 years of age.

In addition, the following medical tests shall be added to this section:

- PSA blood test for employees over 40 (male)
- Mammograms for employees over 40 (female)
- Deductible/co-pay up to $250 for colonoscopy exam for employees over 40
- Hemoglobin A1C test for employees over 30 with strong family history of diabetes.
- OSHA required exams. California Code Regulations, Title 8 CCR §5144(e) Respiratory Protection

The timing for these exams is based on the recommendations of the City doctor or one's personal doctor and the frequency usually increases after 50 years of age. The City does not receive any results of these medical examinations.

ARTICLE 6 - BENEFITS RELATED TO TIME

SECTION 6.1 VACATION

A. Safety employees shall earn vacation as follows:
   1. Commencing with employment at the rate of 10 hours for each month of service.
   2. Commencing with the first day of the fourth year of total service, at the rate of 12 hours per month of service.
   3. Commencing with the first day of the sixth year of total service, at the rate of 14 hours per month of service.
   4. Commencing with the first day of the eighth year of total service, at the rate of 16 hours per month of service.
   5. Commencing with the first day of the ninth year of total service, at the rate of 18 hours per month of service.

6. Commencing with the first day of the eleventh year of total service, at the rate of 24 hours per month of service.

B. Employee Usage of Vacation

No vacation shall be taken until completion of first year of service without the approval of the Fire Chief or designee.

C. An employee may cash out as much vacation as employee is eligible to accrue that specific year at 100% by giving the City 28 days prior notice on forms provided on the Department computers. Employees so desiring may elect to defer into the 457 plan all or part of the amount of vacation which has been accrued (subject to the maximum deferral permitted by law).

D. Vacation Eligibility

Vacation shall be earned only while an employee is receiving compensation from or through the City and shall be prorated if an employee is on an unpaid leave of absence. Vacation shall be used on a time for time basis, for leave with pay for regularly scheduled work hours regardless of compensation rate.

E. If, on November 1 of any year, an employee's vacation accrual is above 880 hours, the employee shall be cashed down to 836 hours at the straight time rate. This will be done during the first pay period of November each year.

F. Effect of Separation
Upon retirement, employees so desiring may elect to defer all or part of the amount of vacation which has been accrued into the 457 plan or will receive the cash value of their accrued vacation.

1. Vacation Taken: Any borrowed vacation (assuming the employee has a negative balance) used by a terminating employee shall be deducted from an employee's final pay.
2. Unused Vacation: Such vacation shall be valued pursuant to Formula (a) from Section 2.3 at 100% of value for sworn safety personnel and pursuant to Formula (b). (Earned vacation inclusive of time which would have been earned if used.)

G. An employee who does not have any accrued vacation may borrow up to 120 hours of unearned vacation subject to the approval of the Fire Chief or designee. Once an employee starts to earn vacation, it will be credited against the amount borrowed. Thus, an employee with a balance of borrowed vacation will not be able to accrue vacation.

H. Effect of Holidays

When authorized holidays occur during a vacation period, employees covered by this Agreement shall be compensated, therefore, at the regular holiday rate.

SECTION 6.2 SICK LEAVE

A. Accrual of Sick Leave

1. 9 hours for each calendar month of service for employees in the classification of Battalion Chief.
   a. New employees shall be eligible to borrow up to 72 hours of sick leave during the first year of service. This loan shall be repaid as the employee earns sick leave and shall accrue after repayment of sick leave to a maximum of 800 hours total accrued sick leave.

   b. For employees in the 401a plan: Any hours of sick leave which would have been granted but unused over 800 hours shall automatically be converted into the 401a Plan as adopted by the City Council in the plan document entitled "Defined 401a Contribution Plan." Thereafter, the mandatory cash down will occur on the first pay period of December each year. Cash down shall be at 100%.

      Employees may only defer into the 401a Plan those amounts up to the maximum permitted by law.

      For those employees who do not to participate in the 401a Plan any cash down can go into a 457 Plan or to cash.

B. Use of Sick Leave

Sick leave shall be used only in case of sickness or disability of the employee or for family sick leave. Sick leave shall be used for all regularly scheduled work on a time-for-time basis regardless of compensation rate. Misuse of sick leave shall be grounds for disciplinary action.

C. Use of Personal Leave

Safety employees may use up to one 24-hour shift of sick leave as personal leave per calendar year.

Safety employees may not use personal leave on New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve.

D. Notification of Sick and Personal Leave

1. To receive compensation while absent on sick or personal leave, the employee shall notify his or her platoon commander in the manner provided in department rules and regulations.
2. When absence is for more than three consecutive working days or two 24 hour shifts, the employee shall furnish any proof of sickness reasonably required by the City Manager or department head.

E. Overtime Rate After Sick Leave

1. Said provisions shall not apply where an employee is called out for emergency work after hours and the overtime rate shall apply regardless of sick leave taken during the week.

F. Family Sick Leave and Bereavement Leave

1. In the case of serious illness or death of a member of the immediate family, the employee, upon proper notice, may take up to three consecutive work days of sick leave.
2. If a death in the immediate family occurs out of state, the employee upon proper notice, may take up to five consecutive working days for 40 hour personnel, and three 24 hour shifts for suppression personnel of sick leave.
3. Immediate family for the purpose of this Section shall be defined as: spouse, mother, mother-in-law, father, father-in-law, sister, brother, child or guardian, stepfather, stepmother, stepchildren, grandparents or grandchildren.
4. Such time shall be deducted from the existing sick leave of the employee.

G. Return from Sick Leave

Upon return from sick leave, an employee may be required by the department to report for examination by the City medical examiner to determine fitness for duty.

H. Conversion of Sick Leave

1. Employees may elect to convert any sick leave hours exceeding 440 hours into cash or deferred compensation by cashing or deferring those hours. The request must be submitted on a "Request for Conversion" form. Payment will then be made no later than twenty-one (21) calendar days from the date of receipt in the Finance Department as follows:

   Sworn Safety Employee. . . . .100% x hourly rate

   An employee may choose to take sick leave in pay for each hour of sick leave in excess of 440 hours, in days equal to vacation days taken.

   Deferral of Accrued Sick Leave:
   Upon accrual of 440 hours, employees so desiring may defer all or part of the amount of accumulated sick leave to which they are entitled into the employee's deferred compensation plan (subject to Federal regulations).

2. At time of termination, an employee covered by this Agreement shall have his/her accumulated sick leave converted into cash, as follows:

   a. After 1 year of service, each hour of sick leave shall equal:
      Sworn Safety Personnel . . . 32% x hourly rate

   b. After 10 years of service, each hour of accumulated sick leave shall equal:
      Sworn Safety Personnel . . . 57% x hourly rate

c. At retirement after 10 years of service, each hour of accumulated sick leave shall equal:

Sworn Safety Personnel . . . 100% x hourly rate

Note: Hourly Rate as computed (Section 2.2 A) inclusive of earned sick leave as if used.

$$\frac{\text{Balance on Books}}{(1 - \text{biweekly accrual})} = \text{formula for vacation and sick leave cashouts}$$
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3. Upon the death of an employee covered by this Agreement, regardless of years of service, accumulated sick leave shall be converted to cash and shall be paid to the employee's beneficiary at 100% of each employee's then current hourly rate:

(Earned sick leave inclusive of time which would have been earned if used.)

$$\frac{\text{Balance on Books}}{(1 - \text{biweekly accrual})} = \text{formula for vacation and sick leave cash outs}$$
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4. Such conversion shall be based on Formula (a) of Section 2.3 for all employees.

5. Employees covered by this agreement may participate in a catastrophic leave program as described in Appendix A.

SECTION 6.3 INDUSTRIAL INJURY LEAVE

A. In the event that an employee sustains an injury or illness out of and occurring in the course of the employment with the City, the employee shall be entitled to those compensations prescribed by State law and all items of compensation specified in this Agreement.

B. Employees on industrial accident leave shall remain under the direction of the City while recuperating from an industrial illness or injury and shall demonstrate concern and cooperation in facilitating a timely recovery.

C. Employees shall follow medical direction and advice rendered and shall remain readily available for further direction and/or consultation regarding their treatment and industrial accident claims. Lengthy absences from home for other than prescribed treatment must be previously authorized by the Fire Chief or designee. Such absences shall be granted only when the Fire Chief or designee believes that the activity will not perceivably deter recovery or otherwise aggravate the injury or illness under treatment.

D. A failure to adhere to the rules governing industrial accident leaves may result in disciplinary action against the employee.

E. The City and TFCOA jointly indicate their concern for the proper use of industrial accident leave. Management has the responsibility to seek lateral transfer of an injured employee where appropriate and to process involuntary disability retirement where necessary.

F. No Federal or State taxes shall be deducted from Safety employees' pay checks when an employee is on industrial accident leave (this shall be subject to modification if required by future IRS rulings).

SECTION 6.4 JURY DUTY

Any employee covered by this Agreement who is duly summoned to attend any court, during the time regularly required for the office or employment, for the purpose of jury service, shall be entitled, while so engaged and actually serving, to the regular compensation, provided that employee deposits the jury service fees other than for mileage reimbursement pursuant to the provisions of Administrative Rules, provided, however, that such shall be allowed to an employee only for the minimum time required by law. The employee shall be credited for the regular work schedule.

SECTION 6.5 LEAVES OF ABSENCE

A. Request:

An employee may file a request for leave upon a form supplied by the City. Such a request must be filed before the beginning of the requested leave. Such leave may be for medical, military or personal reasons.

B. Authorization:

1. The Fire Chief or designee may authorize such a request for up to 5 working days.
2. A request for more than 5 working days (9/80 schedule) or 2 shifts (48/96 schedule) for suppression personnel shall be subject to the recommendation of the Fire Chief or designee and the approval of the City Manager.
3. No leave or combination of leaves, paid or unpaid, related to a single injury or illness shall be granted for more than a total of 12 months.
4. An employee must have completed six months of permanent employment before being eligible for consideration of a medical leave of absence of more than 30 days.

C. Refusal of Leave

The department head or the City Manager may refuse leave of absence request if such a leave is contrary to the good of the City. A leave of absence for medical evidence shall not be unreasonably denied except where there is no probability of return to work by the employee; or where the employee has exhausted the maximum leave of absence. Where the leave is refused, the employee must return to work or be terminated. The burden of medical evidence shall be upon the employee.

D. Medical Examination at Termination of Leave:

Prior to the expiration of any leave of absence, the City Manager may determine, by evidence of medical examination or other reasonable evidence, if the employee is mentally and physically able to perform the duties of the position from which the leave was granted. If the City Manager has determined that the employee is unable to return to work, the employee will not be returned to work but shall have the right to submit the

matter through the Civil Service Commission to review the reasonableness of such findings.

E. Holding Position Open:

Upon expiration date of a leave of absence duly granted in accordance with the provisions of this Section, an employee shall be returned to the same position or class of position as occupied when the leave of absence was granted.

F. Military Leave:

A leave of absence for military employment shall be granted to any employee as required by the laws of the United States or the State of California. An employee covered by this Agreement who leaves or has left the City services to enter the active service of the Armed Forces of the United States, and who subsequently is reinstated to a position previously held by him, shall be entitled upon completion of the following conditions to receive the rate of compensation at the step, including longevity, to which employee would have been entitled had the service with the City not been interrupted by such Federal Service.

1. Employee makes a written application to the City as provided by Federal law following release from active military employment;
2. Employee furnishes the City for its inspection, a certificate of honorable or general discharge with the Armed Forces; and
3. Employee establishes to the reasonable satisfaction of the City that the employee is qualified to perform the duties of such position.

G. "50% Medical Leave"

A full time employee on medical leave may request the use of 50% medical leave. During 50% medical leave, an employee will use his/her sick leave and/or vacation at one-half of the normal rate.

During this period of time, health insurance will continue only if the City was paying for the benefit prior to the "50% Medical leave" request. In addition, the City will pay the employers contribution to PERS based on 50% of the salary rate. Finally, the employee will continue to accrue department seniority while on this program.

ARTICLE 7 - WORKING CONDITIONS

SECTION 7.1 HOURS OF WORK

A. Battalion Chiefs assigned by the department head as Platoon Commander shall normally work a 56-hour work week on a schedule convenient to the Fire Department and approved by the Fire Chief.

B. Employees assigned by the department head to the Administrative Chief or Fire Marshall shall work an average of 40 hours per week on a schedule convenient to the Fire Department and approved by the Fire Chief.

C. Even though the Battalion Chiefs are exempted from FLSA, the classification will receive the same FLSA overtime compensation formula as utilized by TFFA employees.

ARTICLE 8 - CONDITIONS OF EMPLOYMENT

SECTION 8.1 REQUIREMENTS AS TO CONTINUITY OF SERVICE

"Service requirements for advancement within salary ranges for vacation, longevity pay and deferred compensation shall be based on the anniversary date of the required years of continuous service as a regular employee of the City of Torrance or total service as a regular employee with the Torrance Fire Department, whichever provides the longer term of service."

A. Authorized leaves of absence without pay of less than 15 calendar days and leaves with pay shall not interrupt continuous service nor be deducted from total service.

B. Authorized leaves of absence without pay in excess of 14 calendar days, except for extended military leave, shall be deducted in computing total service but shall not serve to interrupt continuous service.

C. Any unauthorized leave in excess of three working days or shifts in any calendar month shall be deducted from total service and may, at the discretion of the City Manager, interrupt continuity of service and may be grounds for disciplinary action. (Any time not worked during such unauthorized leave shall automatically be docked and not paid.)

SECTION 8.2 FITNESS FOR DUTY

Management reserves the right to send employees for a fitness for duty evaluation. Where the City's doctor finds an employee unfit to perform his or her regular duties, management shall explore available options, including but not limited to, rehabilitation, reassignment and/or retirement.

SECTION 8.3 NO SMOKING REQUIREMENT

Safety employees hired after July 2, 1989, shall be restricted from smoking both on duty and off duty. This restriction shall be maintained throughout the employee's tenure with the Torrance Fire Department as condition of employment.

SECTION 8.4 EMERGENCY MEDICAL TECHNICIAN I

All Battalion Chiefs shall obtain and maintain a State of California EMT-1 certificate, prior to completion of their probationary year. If the EMT-1 certification is lost, within six months of loss, the employee will have to become recertified. The City will provide appropriate in-house training and will continue an on-going in-house training program for re-certification of EMT-1.

A Battalion Chief who does not certify as an EMT-1 may chose to complete the American Red Cross Advanced First Aid training class. This shall be done within six months of decertifying as

an EMT-1. Completion of the American Red Cross Advanced First Aid training class shall not be considered compensable work time, and all expenses associated with completion of the class shall be borne by the employee.

SECTION 8.5 NONDISCRIMINATION, EQUAL OPPORTUNITY, AND SEXUAL HARASSMENT

A. The City and the Torrance Fire Chief Officers Association support the concept of equal employment opportunity.

B. Neither the City nor Torrance Fire Chief Officers Association shall discriminate on the basis of age, sex, gender, marital status, disability, medical condition, race, color, national origin, religion, sexual orientation, union affiliation, or political affiliation, and any other protected classification subsequently recognized by the law.

C. The City and Torrance Fire Chief Officers Association agree that they will work to ensure a working environment free of discriminatory harassment.

D. This section is expressly non-grievable. Any violation will be redressed through the City Non-Discrimination Policy.

SECTION 8.6 OUTSIDE EMPLOYMENT

Employees with an industrial injury shall report outside employment to the Risk Management Division of the Human Resources Department, as required by law.

SECTION 8.7 LAYOFF PROVISIONS

A. Prerequisite for layoff: When, as a result of a cutback in personnel, it becomes necessary to initiate a layoff of employees in any representation unit covered by this Agreement, the following shall be the prerequisite to such a layoff:

1. All temporary, seasonal and/or recurrent and probationary employees have been released from the class.
2. Employees in the class have been given an opportunity to seek lateral transfer to existing vacant positions.
3. Management will meet and consult with the representatives of TFCOA over alternative courses of action to avoid such layoff.
4. Notice of actual layoff shall be given no less than 14 days, if possible, but at least 72 hours before the date of implementation. Such shall include:

    a. Classification where layoff is to occur;
    b. Seniority list by total class seniority of employees in the effected class;
    c. List of current permanent vacancies in all classes represented by TFCOA;
    d. Separate notice to any employee in the class who has two or more below standard ratings within the preceding three years.

B. Order of Layoff

1. Employees who have two or more below standard ratings within the preceding three years shall be laid off first;
2. Next layoff shall occur on the basis of class seniority, the least senior employee, based on total continuous employment in the class, shall be laid off first, and any subsequent layoff shall proceed to the next least senior employee;

C. Voluntary Reduction of Class: An employee so laid off may choose voluntary reduction of class so as to avoid layoff.

1. Such voluntary reduction shall be to a class of previous standing;
2. If the voluntary reduction causes a layoff in the lower class such layoff shall follow the provisions of this Section.

D. Recall: Employees who are laid off pursuant to the provisions of this Section shall have their names entered onto a recall list for the classification of original standing.

1. Such list shall be in inverse order of layoff, lateral transfer or reduction.
2. A recall list shall be kept by the Civil Service Commission and shall be used when any vacancy for that class is to be filled.
3. The list shall be maintained until all names have been offered an opportunity for recall or at the end of two years, whichever occurs first.
4. The appointing authority shall offer appointment to the first name on the list, if the individual accepts, he or she shall be appointed (after 60 days from the date of layoff the employee may be required to take a medical examination so as to insure the employee is medically and mentally capable of performing the duties of the class). The individual shall still be required to meet the minimum standards for the class.

E. Layoff From Other Representation Units: In the case of a layoff in a classification not covered by this Agreement, an employee who had previous employment in a classification covered by this Agreement shall have the same rights as listed in subsection c), provided, however, that such an employee's seniority shall be based solely upon total employment in classifications covered by this Agreement.

SECTION 8.8 EXEMPTION RE: ANTI-NEPOTISM RULE

Pursuant to Section 14.1.40 of the Torrance Municipal Code, appointments to classified positions in the Fire Department are excluded from operation of the anti-nepotism ordinance.

SECTION 8.9 PROBATIONARY PERIOD

For all classifications covered by this Agreement, there shall be a one year probationary period for original and promotional appointments. An employee who is rejected from probation after being promoted is entitled to his/her previous position. An employee's probationary period shall be extended if the employee is absent from the performance of his/her normally assigned duties in excess of ten (10) cumulative working days during his/her probationary period for any leave of absence (except approved vacation), including, but not limited to, industrial injury, extended illness/injury, or light duty. The probationary period will be extended by the amount of time equal to the time absent.

SECTION 8.10 INACTIVE STATUS

Subject to the approval of the employee's department head, the City Manager and the Civil Service Commission, an employee may request inactive status.

A. Such a request must be made before the termination of an employee or within 30 days of such termination.
B. Inactive status shall continue for no more than one year.
C. Inactive status shall qualify a past employee to be certified as a name in addition to the three open eligibles for a vacant position in the classification from which employee was terminated.
D. No employee benefits shall accrue during such inactive status and the employee shall have a break in continuous employment.

SECTION 8.11 MANAGEMENT RIGHTS

The City shall have the exclusive right to determine the mission of each of its departments, commissions, boards and agencies, set levels of services to be performed, direct its employees, exercise control and discretion over its organization and operations and determine the methods, means and personnel by which the City's operations are to be conducted, and the levels of services met, and carry out its mission in emergencies, provided, however, that the exercise of these rights does not preclude employees and their representatives from consulting or raising grievances about the practical consequences that decisions on these matters may have on wages, hours and other terms and conditions of employment.

ARTICLE 9 - SECURITY PROVISIONS

SECTION 9.1 SECURITY CLAUSE

An employee within the Fire Safety Representation Unit for which Torrance Fire Chief Officers Association has been certified as a recognized employee organization shall not later than six months from the beginning date of employment with the City:

A. Become member in good standing and pay full union dues of the Torrance Fire Chief Officers and remain such during the effective life of this Agreement, or

B. Commence payment to said recognized employee organization a monthly service fee equal to ¾ of the monthly dues of said employee organization to reimburse said organization for the costs incident to its representation of the specified units.

C. Any new employee who has initially agreed to pay a service fee instead of becoming a member of the Fire Chief Officers Association and subsequently desires to become a member in good standing, of said organization, and duly elected in by such organization, may without penalty commence payment of full union dues beginning with the next payroll period.

D. The Torrance Fire Chief Officers Association hereby agrees to defend the City and bear all legal costs arising out of any actions relating to the security provisions of this Agreement.

SECTION 9.2 DUES CHECKOFF

TFCOA is authorized to use payroll deductions for collecting employee organization dues pursuant to appropriate Finance Department procedures.

SECTION 9.3 JOB ACTION

A. The Torrance Fire Chief Officers Association and its members agree that during the term of this Agreement there shall be no strike, slowdown, blue flu or other concerted job action.

B. In the event of an unauthorized job action, the City agrees that there will be no liability on the part of the Torrance Fire Chief Officers Association provided the employee organization promptly and publicly disavows such unauthorized action; orders the employees to return to work and attempts to bring about a prompt resumption of normal operations; and provided further that the employee organization notifies the City in writing within 48 hours after the commencement of such job action, what measures it has taken to comply with the provisions of this section.

C. In the event such actions by the employee organization have not affected resumption of normal work practices, the City shall have the right to take appropriate disciplinary action.

SECTION 9.4 [INTENTIONALLY LEFT BLANK]

ARTICLE 10 - GRIEVANCES

SECTION 10.1 DEFINITION OF GRIEVANCE

A grievance is a complaint by one or more employees concerning the application or interpretation of ordinances, rules, policies, practices or procedures affecting the employee's wages, hours and working conditions.

SECTION 10.2 SCOPE OF GRIEVANCE PROCEDURE

This procedure shall be used to resolve every grievance for which no other methods of solution are provided by law; provided, however, that it shall not include a complaint arising from disciplinary action.

SECTION 10.3 THE GRIEVANCE PROCEDURE

A. First Step: Management Level

1. The aggrieved employee(s) shall meet with the Fire Division Chief stating that he/she has a grievance.

2. The grievance shall be presented in writing on forms provided by the City. The first section of the form must be completed fully by the employee or representative. If the grievant fails to set forth with specificity the rule, policy, practice or procedure violation, the facts which support the alleged violation, the time the alleged violation occurred and the remedy sought, the grievance will be rejected and cannot be processed further.

3. If a grievance is not resolved by the end of the fifth full working day after being received by the Fire Division Chief, the employee may within 15 working days appeal in writing to the department head on a form provided by the City.

4. If a grievance is against a department head, the employee shall appeal to the City Manager.

B. Second Step: Department Head Level

1. The aggrieved employee(s) and/or his/her representative(s) shall meet and consult with the employee's department head, or the City Manager if grievance is against department head.

2. The department head may require the employee's superiors to be present at such conference.

3. If the grievance is not resolved by the end of the third full working day after being received by the department head, the employee may within 15 working days appeal in writing to the City Manager to Arbitration.

C Third Step: City Manager Level

1. The aggrieved employee(s) and/or a representative(s) shall meet and consult with the City Manager or a designee.

2. The City Manager may require the department head to be present at such conference.

3. If grievance is not satisfactorily resolved by the end of the fifth full working day after being received by the City Manager, the employee may appeal in writing within 10 working days to the City Manager for binding arbitration. If the employee fails to appeal, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.

D. Fourth Step: Arbitration

1. As soon as it is possible, and in no case later than 10 business days after receipt of an appeal, the City Manager or the City Manager's designee shall request a list of seven names from the American Arbitration Association (AAA).

2. Representatives of Management and the grievant will select a arbitrator within three working days from receipt of the list. If agreement cannot be reached from among these names, each of the parties shall strike names from the list in rotation until only one name remains. Priority in striking shall be decided by the flip of a coin.

3. The decision of the Arbitrator shall be final. Such decision shall not add to or otherwise modify the language of this agreement.

SECTION 10.4 GENERAL GRIEVANCE PROVISIONS

A. All time periods specified in this Section may be extended by mutual consent of the aggrieved employee(s) or the representative(s) and the Management representative involved. All extensions must be done in writing.

B. The aggrieved employee(s) and representative(s) shall be allowed reasonable time off to participate in the grievance proceedings without loss of pay for the time so spent. (For the purpose of Workers' Compensation and retirement, any City employee involved shall be considered on duty during any grievance procedure.)

C. Cost of the arbitrator shall be equally shared by the City and the grieving party.

D. A grievance shall be considered untimely if not presented by the employee within 30 calendar days of the alleged grievance or within 30 days of its effect upon the employee in those instances where it is shown that the employee could not reasonably have known of the grievable action.

E. Written grievances shall be on a form provided by the City.

F. Employees are assured freedom from reprisal for using this grievance procedure.

G. An employee who has initiated a grievance, or assisted another employee in initiating and/or processing a grievance shall not in any way be coerced, intimidated or discriminated against.

H. All parties participating in the grievance process shall be required to produce truthful information.

I. Failure on the part of the grievant or his/her representative to participate in good faith at any point during the grievance process shall render the grievance abandoned.

J. If the City fails to respond within the time lines as set forth above, or in good faith the grievant may proceed automatically to the next step.

ARTICLE 11 - EFFECTIVE DATES

SECTION 11.1 PROVISIONS EFFECTIVE

This Agreement shall be effective from the date of its approval by the City Council and until superseded by a subsequent Agreement.

This MOU shall be reopened for further meeting and conferring and may be continued or modified by the consent of both parties.

SECTION III SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Resolution. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Introduced, approved and adopted this _____ day of _____.

_____
Mayor of the City of Torrance

APPROVED AS TO FORM:
JOHN L. FELLOWS III, City Attorney

by _____
Ronald T. Pohl, Assistant City Attorney

ATTEST:

_____
Sue Herbers, CMC
City Clerk

APPENDIX A
CATASTROPHIC LEAVE PROGRAM
(REVISED)

Purpose

The purpose of this Catastrophic Leave Program is to allow employees to assist another employee during times of personal crisis when serious illness or injury has incapacitated him/her or a family member and the employee is therefore unable to work. It can also be used for employees who suffer catastrophic illness or injury who must undergo intermittent medical treatment such as chemotherapy. This program is solely for employees whose accrued leave balances have been exhausted.

Policy

The Catastrophic Leave Program allows an employee to transfer eligible leave hours (vacation, sick leave, compensatory time and/or administrative leave) to another employee when a catastrophic illness or injury occurs. A catastrophic illness or injury is defined as a serious health condition which substantially incapacitates an employee or qualifying family member, or which forces the employee or family member to undergo ongoing or lengthy substantial medical treatment. The illness or injury further creates a financial hardship because the employee has or will exhaust all leave time. For the purpose of the Catastrophic Leave Program, qualifying family member shall mean an employee's parents, step parents, spouse, children, step children, and registered domestic partner.

An employee will not be eligible for catastrophic leave until he/she has exhausted all leave time, including sick leave, vacation, compensatory time and administrative leave.

Donated hours may be used under the following situations:

- To cover the elimination period before short-term and/or long-term disability benefits begin
- To supplement short-term and/or long-term disability benefits
- To cover the time used on unpaid Family Leave

Procedures / Guidelines for Using Catastrophic Leave

1. Leave of Absence paperwork[1] must be submitted to the Human Resources Department. It should include the nature of the illness and the dates the employee expects to be absent. The leave must be approved by the Department Head and the Human Resources Director.

2. Verification of illness or injury of the employee or qualifying family member must be provided in writing by the treating physician on the City provided forms.

3. The employee or representative makes a request for catastrophic leave donations to the employee's department. The City Manager's Office is then notified and advertises the donation request via e-mail.

4. The period of absence will be determined by the written verification of the employee's or family member's physician and will not be based on the number of hours donated.

5. Employees who are approved for the Catastrophic Leave Program due to a qualifying family member's catastrophic illness/injury may use donated time for a maximum of 12 weeks during a rolling one year period, as is allowed by the Family and Medical Leave Act.

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[1] Leave of Absence Paperwork consists of: "Request for Leave of Absence" form and either a "UNUM" form (for personal illness) or a "Family Medical Certification" form (for family illness).

6. Employees must exhaust all accrued leave hours (vacation, sick leave, etc.) prior to using any donated hours.

7. Employees will not accrue vacation, sick leave, or service time while using donated hours.

8. Donated hours may not be converted to cash ("cashed down").

9. The catastrophic leave bank will be closed and no further donations will be accepted under the following conditions:
   - The ill/injured employee returns to work full time, or
   - The 12 weeks of Family Leave have been exhausted, or
   - The ongoing, intermittent treatment program has been completed.

   In these cases, any unused donated balances will be returned to the respective donating employees.

10. Any subsequent illness after the close of the bank will require a new request and approval.

Procedures / Guidelines for Donating Hours

1. Employees who wish to donate eligible leave hours must complete a Catastrophic Leave Bank Transfer Authorization form.

2. Donation of Catastrophic Leave hours are made on a voluntary basis.

3. All donated time must be in increments of one hour or more.

4. Donation of leave hours, once used, are irrevocable and become part of the receiving employee's leave bank.

5. Employees with less than 40 hours of sick leave may not donate sick leave hours. This provision may be waived by the City Manager if a donating employee has given notice of terminating employment with the City and there is a current qualified Catastrophic Leave Bank recipient.

Confidentiality

To protect the confidentiality of the program, the names of individuals who donate will not be released. The exact amount of hours donated will be provided to the receiving employee upon request for the purpose of computing the length of time to be covered by the catastrophic leave bank.

APPENDIX B
FIRE FIGHTERS' BILL OF RIGHTS

The City agrees to apply government code section 3253 (excluding Section 3253 (e)(1)) during events not involving the performance of his or her official duties except that the sanctions for violations imposed by government code section 3260 shall not apply.

Nothing in this agreement is intended to limit and/or reduce those rights afforded by the Firefighters' Bill of Rights. This agreement is intended to establish rights which at a minimum comply with the Act or provide rights in addition to the Act. Rights provided by that Act shall take precedence in the event that anything in this agreement provides lesser protection than the rights guaranteed by the Act.

The following appeals procedures are adopted by the parties pursuant to Government Code § 3254.5 of the Firefighters Procedural Bill of Rights Act and are intended to supplement the Policy of the Civil Service Commission Procedural Rules for Disciplinary Hearings.

1. Definitions

   a. The term "firefighter" means an employee who is considered a firefighter under Government Code § 3251(a) as well as any firefighter who is a peace officer pursuant to Penal Code § 830.37.

      The classifications of employees in this unit who are firefighters are as follows: firefighter, fire engineer, senior fire inspector, and fire captain,

   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. Appeals Procedures – A firefighter who is subjected to punitive action (other than a written reprimand) shall be entitled to an appeal hearing before the Civil Service Commission which 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 section 3254, subsection (f), the discipline 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. 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 concurrently with the notice of discipline.

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

   c. Time and Place of Hearing- Pursuant to Government Code § 11508, unless otherwise decided by the Civil Service Commission, a hearing shall be conducted at City Hall at a time to be determined by the Civil Service Commission.

d. Notice of the Hearing- Notice of the hearing shall be provided to the parties pursuant to Government Code § 11509.

e. 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.

f. The Civil Service Commission shall issue its decision pursuant to Torrance Municipal Code Section 14.47.12. The decision of the Civil Service Commission shall be in writing. Copies of the decision shall be delivered to the parties personally or sent to them by first class mail and accompanied by a proof of service.

g. Unless the decision of the Civil Service Commission is timely appealed to the City Council pursuant to Torrance Municipal Code section 14.47.14, the decision of the Civil Service Commission shall be final.

3. Appeals Procedures – For Written Reprimands

This procedure shall apply only to written reprimands for which firefighters do not receive an appeal hearing pursuant to subdivision 2 of this procedure above. The Civil Service Commission has no jurisdiction over an appeal pursuant to this section. Nothing herein shall be interpreted to establish a property interest in any assignment.

a. Appeal to the Fire Chief or His/Her Designee

i. A firefighter who receives a written reprimand shall be entitled to appeal the action to the Fire Chief prior to the effective date of the written reprimand. 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.

ii. Notice of Appeal: Within seven (7) calendar days of receipt by a firefighter of notification of a written reprimand, the firefighter shall notify the Fire Chief in writing that he/she intends to appeal the written reprimand. The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.

iii. The Fire Chief or his/her designee shall act as Reviewer of the appeal. If the Fire Chief or designee cannot act as the Reviewer because of actual bias, prejudice or interest as defined by Government Code §11425.40, then the City Manager or his/her designee shall act as the Reviewer of the appeal. The Reviewer shall have five (5) calendar days from receipt of the request to schedule the review of appeal. The review shall take place within thirty (30) calendar days of the date the firefighter was notified about the written reprimand.

iv. During the review of the appeal the parties may present written materials and oral statements but are not entitled to confront and cross examine witnesses. The Reviewer shall make a determination based on the reasonableness of the reprimand under the totality of the circumstances.

v. Representation: The firefighter may be represented by the representative of his or her choice.