

**MEMORANDUM  
OF  
UNDERSTANDING  
BETWEEN  
THE CITY OF RIALTO**



**AND**



**FIRE MANAGEMENT**

*July 1, 2025  
through  
June 30, 2027*



THIS PAGE IS INTENTIONALLY LEFT BLANK

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF RIALTO  
AND THE RIALTO FIRE MANAGEMENT ASSOCIATION  
(RFMA)**

**Table of Contents**

PREAMBLE .....	3
ARTICLE 1. TERM OF AGREEMENT .....	3
ARTICLE 2. WAGES.....	4
ARTICLE 4. HEALTH INSURANCE FOR RETIREES .....	6
ARTICLE 5. LIFE INSURANCE.....	6
ARTICLE 6. TIME ACCOUNTING FOR EMPLOYEES .....	6
ARTICLE 7. SICK LEAVE.....	7
ARTICLE 8. PERSONAL LEAVE .....	8
ARTICLE 9. INDUSTRIAL LEAVE OF ABSENCE.....	8
ARTICLE 10. BEREAVEMENT LEAVE .....	9
ARTICLE 11. ADMINISTRATIVE LEAVE.....	9
ARTICLE 12. DEFERRED COMPENSATION .....	9
ARTICLE 13. HOLIDAYS .....	10
ARTICLE 14. UNIFORM ALLOWANCE .....	10
ARTICLE 15. VACATION ACCRUAL .....	11
ARTICLE 16. OPTIONAL VACATION/SICK LEAVE CASH OUT .....	12
ARTICLE 17. PROFESSIONAL DEVELOPMENT .....	13
ARTICLE 18. COURT FINES .....	13
ARTICLE 19. EDUCATION INCENTIVE .....	13
ARTICLE 20. FINANCIAL DISCLOSURE.....	14
ARTICLE 21. PERSONAL PROPERTY — REPLACING & REPAIRING .....	14
ARTICLE 22. POLYGRAPH EXAMINATION.....	14
ARTICLE 23. PHYSICAL EXAMINATION / DOCTOR’S CERTIFICATE .....	14
ARTICLE 24. PROBATIONARY PERIOD .....	15
ARTICLE 25. RE-EMPLOYMENT.....	15
ARTICLE 26. SAFETY EQUIPMENT.....	15
ARTICLE 27. PROMOTIONAL PAY .....	15

ARTICLE 28.	HAZARDOUS MATERIALS PAY AND ANNUAL PHYSICALS .....	15
ARTICLE 29.	BILINGUAL PAY .....	15
ARTICLE 30.	LONGEVITY PAY .....	16
ARTICLE 31.	PARAMEDIC CERTIFICATE PAY .....	16
ARTICLE 32.	FIRE INVESTIGATOR PAY .....	17
ARTICLE 33.	SAVINGS CLAUSE .....	17
ARTICLE 34.	SENIORITY .....	17
ARTICLE 35.	JURY DUTY SERVICE .....	17
ARTICLE 36.	RETIREMENT .....	18
ARTICLE 37.	GRIEVANCE PROCEDURES.....	20
ARTICLE 38.	AGENCY AUTHORITY .....	25
ARTICLE 39.	AGENCY PERSONNEL RULES .....	25
ARTICLE 40.	NON-DISCRIMINATION.....	25
ARTICLE 41.	MAINTENANCE OF EXISTING BENEFITS .....	26
ARTICLE 42.	SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING .....	26
ARTICLE 43.	OVERTIME .....	26
ARTICLE 44.	TRAINING .....	27
ARTICLE 45.	TRADING TIME .....	27
ARTICLE 46.	RIALTO FITNESS CENTER .....	27
ARTICLE 47.	LAYOFFS, POSITION ELIMINATION, & RECLASSES .....	27
ARTICLE 48.	STAFF / TAKE HOME COMMAND VEHICLES .....	28
ARTICLE 49.	WELLNESS PROGRAM .....	28
ARTICLE 50.	FIREFIGHTER BILL OF RIGHTS .....	29
ARTICLE 51.	DISCIPLINARY OVERTIME LIMITATIONS.....	29
ARTICLE 52.	EMPLOYEE-EMPLOYER RELATIONS RESOLUTION .....	29
ARTICLE 53.	ACTING PAY .....	29
ARTICLE 54.	NATIONAL FIRE ACADEMY COMPENSATION.....	30
ARTICLE 55.	OVERPAYMENT OF WAGES .....	30
APPENDIX A	.....	32
APPENDIX B	.....	33
APPENDIX C	.....	34

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF RIALTO  
AND  
THE RIALTO FIRE MANAGEMENT ASSOCIATION  
(RFMA)**

The following provisions constitute the agreements reached by the City of Rialto (City) and the Rialto Fire Management Association (Association) during recent negotiations. The City and Association have agreed to the following terms regarding wages and benefits:

**PREAMBLE**

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

- A. The Association is the recognized employee organization for safety personnel employed by the City in the safety classifications of Fire Division Chief, Administrative Battalion Chief (Admin BC), and Shift Battalion Chief (Shift BC). Additional classification included in this Association, which is non-safety, is the Emergency Medical Services Coordinator (EMSC). Division Chief, Administrative Battalion Chief, and Emergency Medical Services Coordinator are defined as forty (40) hour/week assignments; Shift Battalion Chief is defined as a fifty-six (56) hour/week assignment; and
- B. In the interest of maintaining harmonious relations between the City and its employees, authorized representatives of the City and the Association have met and conferred in good faith, exchanging various proposals concerning wages, hours, and other terms and conditions of employment of affected employees; and
- C. The authorized representatives of the City and the Association have reached an agreement as to certain changes in wages, hours, and other terms and conditions of employment of the affected employees which shall be submitted to the City Council of the City for adoption and implementation of its terms and conditions by appropriate ordinance, resolution, or other lawful action.

**ARTICLE 1. TERM OF AGREEMENT**

The term of this Agreement shall be from July 1, 2025, through June 30, 2027.

## **ARTICLE 2. WAGES**

- A. Classification and Compensation: The City of Rialto Classification and Compensation Plan authorized by the City Council will be the guiding document for citywide budgeted positions and salary ranges.
- B. Cost of Living Adjustment: City agrees to increase base salaries of classifications covered by this MOU by 3% effective July 1, 2025, to be implemented by the first pay period following City Council approval of this MOU, which is to be reflected in the Classification and Compensation Salary Table. Retro increases will be given only to those unit members on City payroll as of the date of City Council ratification of this agreement.
- C. Cost of Living Adjustment: The City agrees to increase base salaries of classifications covered by this MOU in the amount of 3% effective the first pay period on or after July 1, 2027. Adjustment changes will be reflected in the Classification and Compensation Table.

## **ARTICLE 3. CAFETERIA BENEFIT PLAN**

Employees shall be provided with a Cafeteria Plan which will be administered by the City pursuant to Section 125 of the Internal Revenue Code. Increases to Cafeteria Dollars will become effective the month following ratification of the MOU.

### **A. Employees Hired Before November 18, 2018**

- 1. Employees have the choice of applying Cafeteria Plan dollars of \$1,800 to purchase health, vision, and dental benefits provided through City plans for themselves and any dependents. Any amount not used to purchase such benefits shall be taken by the employee in taxable income. The employee may also choose the opt-out provision of the cafeteria plan as outlined in section A (3) below.
- 2. The City will contribute the minimum employer contribution required pursuant to Government Code §22892(b) (“Minimum Contribution”) per month per employee for health insurance. The City shall pay up to a maximum of \$1,800 per month inclusive of the minimum contribution towards the employee’s contribution for medical, vision, and dental insurance premiums. If the premium cost of the health plans (medical, vision, and/or dental) exceeds the City’s contribution of \$1,800, the employee shall pay through payroll deduction the difference between the monthly premium and the amount contributed by the City.
  - Beginning December 1, 2025, the City will contribute an additional \$150/month for the total maximum of \$1,950 per month inclusive of the minimum contribution towards the employee’s contribution for medical, dental, and vision insurance premiums.
  - Beginning December 1, 2026, the City will contribute an additional \$100/month for the total maximum of \$2,050 per month inclusive of the minimum contribution

towards the employee's contribution for medical, dental, and vision insurance premiums.

- Those unit employees who are on a leave of absence without pay other than for workers' compensation, shall have their cafeteria dollars prorated based on hours worked in a pay period.
3. The opt-out provision will allow employees to receive \$1,250 of the City's contribution if they do not utilize the City's medical plans. This amount will be distributed at \$625.00 per pay period on 24 pay period per year basis. An employee can still purchase dental and/or vision and receive the opt-out monies. An employee must provide the City with written notice/waiver of paid group health insurance premiums for which the employee is eligible. Then, the employee shall be provided up to 100% of the City contribution which may be taxable compensation or be placed into a deferred compensation plan. Documentation is required annually to verify that insurance is established.

**B. Employees Hired On or After November 18, 2018**

1. Employees have the choice of applying Cafeteria Plan dollars of \$1,800 to purchase medical, vision, and/or dental benefits provided through City plans for themselves and any dependents. Any amounts not used shall **not** be taken by the employee as taxable income or in deferred compensation. The employee may also choose the opt-out provision of the cafeteria plan as outlined in section B (3) below.
2. The City will contribute the minimum employer contribution required pursuant to Government Code §22892(b) ("Minimum Contribution") per month per employee for health insurance. The City shall pay up to a maximum of \$1,800 per month inclusive of the minimum contribution towards the employee's contribution for medical, vision, and dental insurance premiums. If the premium cost of the health plans (medical, vision, and/or dental) exceeds the City's contribution of \$1,800, the employee shall pay through payroll deduction the difference between the monthly premium and the amount contributed by the City.
  - Beginning December 1, 2025, the City will contribute an additional \$150/month for the total maximum of \$1,950 per month inclusive of the minimum contribution towards the employee's contribution for medical, dental, and vision insurance premiums.
  - Beginning December 1, 2026, the City will contribute an additional \$100/month for the total maximum of \$2,050 per month inclusive of the minimum contribution towards the employee's contribution for medical, dental, and vision insurance premiums. Those unit employees who are on a leave of absence without pay other than for workers' compensation, shall have their cafeteria dollars prorated based on hours worked in a pay period.
3. Those employees that do not utilize the Cafeteria Plan allowance for medical insurance, there shall be no cash back to the employee. Those employees hired after November 18, 2018, who elect to opt out of medical insurance shall receive \$100 per pay period (24 pay periods) opt-out allowance. An employee can still purchase dental and/or vision and receive these opt-out

monies. An employee must provide the City with written notice/waiver of paid group health insurance premiums for which the employee is eligible. Then, the employee shall be provided up to 100% of the City contribution which may be taxable compensation or be placed into a deferred compensation plan. Documentation is required to verify that insurance is established.

#### **ARTICLE 4. HEALTH INSURANCE FOR RETIREES**

**RETIRED EMPLOYEES** - Retirees are not eligible for the Cafeteria Plan. Retirees, however, shall retain all current PERS health benefits. The City shall provide retiring employees the same PERS health insurance options provided to active employees.

The City shall not reimburse Medicare premiums for employees or retirees. Retirees and dependents must meet the definition of “annuitants” as defined by PERS.

The City shall contribute to the retired employees’ plan according to the following schedule:

EMPLOYEE ONLY	\$279.25/month
EMPLOYEE + 1	\$558.49/month
EMPLOYEE + 2 OR MORE	\$726.04/month

During the term of this MOU, both parties agree to implement a Retiree Health Savings Account that employees will be able to contribute to and continue on-going discussions on OPEB liabilities.

#### **ARTICLE 5. LIFE INSURANCE**

The City shall pay 100% of the premium for life insurance coverage for employee and dependents. The City will pay the cost of employee and dependent life insurance coverage at the following levels:

Employee	\$150,000
Spouse	\$10,000
Children	\$5,000

If the employee desires additional insurance coverage above and beyond the \$150,000 or other life insurance benefit provided by the City, the employee will pay 100% of that additional insurance cost. Note: Any coverage over \$50,000 is taxable to the unit employee.

#### **LONG TERM DISABILITY**

The City shall pay the monthly premium for current employees for Long Term Disability Insurance within this unit.

#### **ARTICLE 6. TIME ACCOUNTING FOR EMPLOYEES**

1. Time accounting for Shift Battalion Chiefs will be a 56-hour work week. A compensation rate for such 56-hour personnel is included in the salary chart. Fringe benefits for sick, vacation and holiday leave will be figured using a conversion factor of 1.400 ( $56/40 = 1.400$ )

2. Time accounting for the Fire Division Chief, Administrative Battalion Chiefs, the Emergency Medical Services Coordinator, and the Fire Marshal will be a 40-hour workweek. A compensation rate for such 40-hour personnel is included in the salary chart. Fringe benefits for sick, vacation and holiday leave will be figured using a conversion factor of 1.00 (40/40 = 1.000).
3. Subject to the pre-approval of the Fire Chief, those unit employees assigned to the 40-hour work schedule may flex work schedules, modifying starting and stopping times based on operational needs and within the same pay period.

## **ARTICLE 7. SICK LEAVE**

- A. SICK LEAVE ACCUMULATION AND USE — Sick leave is accumulated at the rate of ten (10) hours per month for 40-hour per week personnel and fourteen (14) hours per month for 56-hour per week personnel. This amounts to one hundred twenty (120) hours per year for 40-hour per employee and one hundred sixty-eight (168) hours per year for 56-hour per week personnel. Time is charged to the employee on an hour-for-hour basis.

An employee may use accrued and available sick leave for the employee's own or a family member for the diagnosis, care, or treatment of an existing health condition or preventive care or for specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking. "Family member" means (1) a child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. (2) a biological, adoptive, or foster parent, or stepparent. (3) a spouse. (4) a registered domestic partner. (5) a grandparent. (6) a grandchild. (7) a sibling.

Those unit employees who are on a leave of absence without pay other than workers' compensation, shall have their sick accruals prorated to accrue based on hours worked in a pay period.

- B. SICK LEAVE — CASH OUT See Article 16.

- C. SICK LEAVE — UNUSED — At the time of separation from service, the employee shall receive compensation for the number of hours credited to him/her as accrued sick leave on his/her last actual day at the rate described below. Employees terminated for cause shall not be eligible for any benefits under this provision.

1. Upon retirement or separation after five (5) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for fifty percent (50%) of the accrued hours; after ten (10) years of compensated service, he/she shall receive compensation at his/her current rate at separation for sixty-five percent (65%) of the accrued hours; after fifteen (15) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for seventy-five percent (75%) of the accrued hours; after twenty (20) consecutive years of compensated service, the employee shall receive compensation for one hundred percent (100%) of accrued hours.

2. In the event of retirement due to a disability injury sustained while performing compensated

duties, and after five (5) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for fifty percent (50%) of the accrued hours; after ten (10) years of compensated service, he/she shall receive compensation at his/her current rate at separation for sixty-five percent (65%) of the accrued hours; after fifteen (15) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for seventy-five percent (75%) of the accrued hours; after twenty (20) consecutive years of compensated service, the employee shall receive compensation for one hundred percent (100%) of accrued hours.

3. In the event of a service-connected death, after five (5) consecutive years of compensated service, his/her estate shall be paid one hundred percent (100%) of the accrued hours at his/her regular rate at the time of death.
4. In the event of a non-service-connected death, after five (5) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for fifty percent (50%) of the accrued hours; after ten (10) years of compensated service, he/she shall receive compensation at his/her current rate at separation for sixty-five percent (65%) of the accrued hours; after fifteen (15) consecutive years of compensated service, he/she shall receive compensation at his/her current rate at separation for seventy-five percent (75%) of the accrued hours; after twenty (20) consecutive years of compensated service, the employee shall receive compensation for one hundred percent (100%) of accrued hours.

#### **D. SICK LEAVE IN CONJUNCTION WITH IOD**

Government Code §21163 provides in part that the retirement of a PERS member who has been granted or is entitled to leave, shall not become effective until the expiration of such leave with compensation unless the member applies for or consents to their retirement as of an earlier date, or unless with respects to sick leave, the provisions of a local ordinance or resolution or the rules and regulations of the employer provide the contrary.

In any instance where the local safety member has exhausted eligibility for benefits pursuant to Labor Code §4850, or if said employee is eligible for an industrial disability before exhaustion of benefits under Labor Code §4850 and still has sick leave remaining on account, then the retirement shall still become effective, and the safety employee shall be provided a one-time cash distribution equivalent to the cash-out provisions in the Sick Leave Article.

### **ARTICLE 8. PERSONAL LEAVE**

Employees may use accrued and available sick leave entitlement to attend an illness of a child, parent, spouse, or registered domestic partner. In one calendar year, employees may use an amount of sick leave not less than that which normally accrues to them during six months for such purposes.

### **ARTICLE 9. INDUSTRIAL LEAVE OF ABSENCE**

- A. City adheres to State Labor Code law regarding leave for Injuries on Duty.

- B. The alternative dispute program applicable for on-the-job/industrial injuries is attached hereto as Appendix C.
- C. Non-safety employees may use accumulated but unused sick leave while on an absence due to an industrial injury in addition to any worker's compensation payments; the combination of the two shall not exceed 100% of the employee's normal pay.

#### **ARTICLE 10. BEREAVEMENT LEAVE**

Any eligible employee who is absent from work because of a death in the immediate family may be allowed a leave of absence with pay. A maximum of three (3) shifts will be City paid leave for 56-hour per week personnel and a maximum of forty (40) hours will be paid City paid for 40-hour per week personnel for each death. Such leave shall not exceed a total of three (3) cumulative shifts in any fiscal year for 56-hour per week personnel or forty (40) hours in any fiscal year for 40-hour per week personnel. This leave must be requested in writing, with the approval of the Fire Chief and the Human Resources/Risk Management Director, or their designee. (did we discuss that the leave would be per death)

Bereavement leave may be completed within 3 months of the date of death and need not be taken consecutively. Under AB 1949, bereavement leave is a protected leave and the City will not deny the employee the use of such leave. The City may require an employee to provide documentation of the death of a family member within 30 days of such leave. Documentation includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services.

For purposes of this article, "immediate family" is defined as wife, husband, mother, father, grandparents, brother, sister, children or stepchildren, grandchildren, brother-in-law, sister-in-law, son-in-law, daughter-in-law, parents-in-law, or registered domestic partners (so long as required by California law) of the employee.

#### **ARTICLE 11. ADMINISTRATIVE LEAVE**

- A. Each year on July 1, one hundred twenty (120) hours of administrative leave shall be credited to each employee.
- B. Use of administrative leave shall be at the discretion of the employee with prior approval of the Fire Chief.
- C. Administrative leave will be prorated and credited to newly hired employees in the unit.
- D. Administrative leave must be used by June 30 of each fiscal year; hours not used shall be forfeited.

#### **ARTICLE 12. DEFERRED COMPENSATION**

- A. The City shall pay seven hundred and fifty dollars (\$750) monthly towards a 401(a) deferred compensation plan for each unit employee.
- B. Effective July 1, 2025, the City shall pay an additional \$153/ per month towards each unit

employee's 401(a) deferred compensation plan for a total of \$903/month.

### **ARTICLE 13. HOLIDAYS**

A. The following is the schedule of holidays granted to employees:

New Years Day	Labor Day
Martin Luther King Day	Veterans Day
Presidents' Day	Thanksgiving Day
Cesar Chavez Day	Friday after Thanksgiving
Memorial Day	Christmas Eve
Juneteenth	Christmas Day
Independence Day	Two (2) Floating Holidays

B. By December 1 of each calendar year, unit employees shall notify the City in writing of their preference for the next calendar year for holiday pay or leave, or a combination of pay or leave. A maximum of eight (8) holidays may be elected for leave; a minimum of seven (7) holidays shall be paid in cash. Holidays shall be paid and earned as holidays occur. New employees shall accrue the maximum holiday leave until the next option period. Holidays are credited at ten (10) hours per holiday for 40-hour/week personnel, and fourteen (14) hours per holiday for 56-hour/week personnel. Any holiday time accrued and unused shall automatically be cashed out in the first full pay period after December 1 of each year. There is no carryover of holiday time.

C. For purposes of establishing when Holidays are observed, those employees in the classifications of Fire Division Chief, Administrative Battalion Chiefs, and the Emergency Medical Services Coordinator, holidays which fall on a Friday or Saturday shall be observed the previous Thursday. Holidays that fall on a Sunday shall be observed the following Monday.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation, as defined under Section 571 of the California Code of Regulations, for eligible classic CalPERS members only.

### **ARTICLE 14. UNIFORM ALLOWANCE**

A uniform allowance of one thousand six hundred dollars (\$1,600) per year shall be paid semi-annually in arrears (half (\$800) the first pay period in January and half (\$800) the first pay period in July) with no receipts.

Those employees promoted or hired into this unit shall receive the uniforms as outlined below.

For purposes of this article, the uniforms shall be 2 pairs of Class B black Workrite (fire-resistant) pants and 2 pairs of Class B long-sleeve shirts (fire-resistant). At the beginning of each Fiscal Year, employees shall receive the following Class B Black Uniforms (Nomex/Fire Resistant):

- 2 pairs of pants
- 2 Class B shirts
- 1 pair of boots

New employees hired on or after July 1, 2015, shall be paid one-half of the uniform allowance (\$800) at the first paycheck after the hire date, and then semi-annually thereafter, as provided in this article. To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation, as defined under Section 571 of the California Code of Regulations, for eligible classic CalPERS members only.

## **ARTICLE 15. VACATION ACCRUAL**

- A. No employee shall be granted vacation time he/she has not earned.
- B. Employees in the classification of Fire Division Chief, Administrative Battalion Chief, and the Emergency Medical Services Coordinator, may accrue a maximum of six hundred (600) hours as of December 31 of any calendar year. No hours in excess of 600 will be accrued or paid to the employee.
- C. Employees in the classification of Shift Battalion Chief may accrue a maximum of eight hundred forty (840) hours, or thirty-five (35) shifts of vacation leave as of December 31 of any calendar year. No hours in excess of 840 will be accrued or paid to the employee.
- D. When an employee moves from the classification of Shift Battalion Chief to a 40-hour classification, the employee shall have the choice to cash out, place into deferred compensation, or place into a Retiree Health Savings Plan (once established), any hours in excess of the 600 hours. This cash-out is separate and apart from the optional vacation cash-out as written in Article 16.
- E. Vacation leave will be earned at the following rates:

Effective upon City Council approval, all current members within the Rialto Fire Management Association as of June 24, 2020, will accrue at the rate of 10.50 hours per pay period (14.70 for shift employees) - based upon an effective date of July 1, 2019. New members to the group, after June 24, 2020, shall accrue vacation time based on the following schedule:

<b>Years of Consecutive City Service</b>	<b>Hours Per Pay period Earned on Anniversary</b>
Tier 1: 0 - 1 years	80 hours maximum per year upon completion of 365 Days / 2080 Hours
Tier 2: 1 - 4 years	6.00 Hours / pay period for 40-hour per week employees and 8.40 for shift employees

Tier 3: 5 - 10 years	7.50 Hours / pay period for 40-hour per week employees and 10.50 for shift employees
Tier 4: 11 - 16 years	9.50 Hours / pay period for 40-hour per week employees and 13.30 for shift employees
Tier 5: 17+ years	10.50 Hours / pay period for 40-hour per week employees and 14.70 for shift employees

Those unit employees who are on a leave of absence without pay other than workers' compensation, shall have their vacation leave accruals prorated to accrue based on hours worked in a pay period.

## **ARTICLE 16. OPTIONAL VACATION/SICK LEAVE CASH OUT**

Effective December 1, 2024, for the calendar year 2025 (1/1/2025) and every year thereafter: In December of each year, employees may irrevocably elect to cash-out vacation and/or sick leave hours accrued in the following calendar year that are both accrued and unused at the time of cash out.

### Use of Vacation and/or Sick Cash-Out

- A. 40-hour/week employees shall be eligible to cash out or deposit into the City's Deferred Compensation Program Account up to 300 vacation leave time per year at the employee's current salary rate, (unit employee base salary rate includes salary, special compensation, but excludes overtime and cafeteria payments). The employee may opt to cash out as long as such cash out shall not deplete the employee's accrued vacation leave below eighty (80) hours.
- B. Employees in the classification of Shift Battalion Chief may cash out or deposit into the City's Deferred Compensation Program, at the employee's current salary rate, (unit employee base salary rate includes salary, special compensation, but excludes overtime and cafeteria payments) up to 400 hours of vacation leave if a minimal balance of one hundred twelve (112) hours accrued vacation is maintained after the cash out.
- C. Employees with ten (10) consecutive years of service and with a minimum of three hundred fifty (350) hours for accumulated unused sick leave on the books, shall be eligible to cash out up to one hundred twenty-seven (127) hours per year. The employee may opt to take any increments of sick leave time as long as such cash out shall not deplete the employee's accrued sick leave below three hundred and fifty (350) hours. No more than one-hundred twenty-seven (127) hours may be cashed out in each fiscal year. The cash out of sick leave time will be at the employee's current base salary rate meaning the payment shall include salary and special compensation but exclude overtime and cafeteria payments.
- D. In order to cash-out, the employee must submit an irrevocable election form, no later than December 1 of the preceding calendar year specifying the amount of hours of each kind of leave requested to cash out and specifying how much shall occur in each of the 2 annual distributions. The cash-out is only for hours to be accrued in the calendar year following submission of the

irrevocable election form. Regardless of the number of leave hours elected, only those hours that were accrued in the calendar year after the irrevocable election that remain unused at the time of the distribution shall be cashed out.

- E. The 2 annual distributions shall be June 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year.
- F. Employees who do not submit an irrevocable election form by December 1 of each year will be deemed as foregoing participation in the optional annual leave cash-out program for the following calendar year.
- G. This section does not preclude an employee from the ability to deposit unused hours into their 457(b) deferred compensation account or their RHSA (once established) throughout the year, up to the statutory limits.

#### **ARTICLE 17. PROFESSIONAL DEVELOPMENT**

The City agrees to reimburse employees up to one thousand six hundred dollars (\$1,600) per fiscal year cash-out for employee training and development.

This benefit shall not be applied to coursework, classes, workshops, or seminars that are part of the cash-out employee's effort to earn credits toward the educational incentive plan provided for in Article 21. The course must be job-related and be taken for reimbursement with prior written approval of the Fire Chief or designee.

#### **ARTICLE 18. COURT FINES**

The City shall pay the court fines imposed upon any employee, when such fine is the result of a faulty City vehicle or City vehicular equipment and provided that such fine did not result from improper or negligent operation of the vehicle or equipment on the part of the employee.

#### **ARTICLE 19. EDUCATION INCENTIVE**

- A. The following educational incentives are also applicable for RFMA employees:
  - 1. Strike Team Leader. Any employee certified by the County of San Bernardino as a Strike Team Leader shall be compensated 3.5 percent of the employee's base salary monthly. EMS equivalent to Strike Team Leader See Appendix "A" – Step One shall be compensated 3.5% of the employee's base salary monthly.
  - 2. Chief Officer Certification. Any employee certified as a Chief Officer by the California State Fire Marshall shall be compensated 6.0% of the employee's base salary monthly. EMS equivalent to Chief Officer Certification See Appendix "A" – Step Two shall be compensated 6.0% of the employee's base salary monthly. This reporting to CalPERS began as of September 15, 2019.
  - 3. Executive Fire Officer. An employee obtaining California Executive Fire Officer courses 4A-4E and ICS 400 shall be compensated 8.5% of the employee's base salary

monthly except those serving as an EMS Coordinator – effective June 26, 2020.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation, as defined under Section 571 of the California Code of Regulations, for classic CalPERS members only.

B. Educational Incentive benefit, is based on the following criteria:

- Employees with a bachelor's degree shall be compensated 5% of the employee's base salary monthly. The Division Chief position is not eligible for this incentive pay.
- Employees with a master's degree shall be compensated 7.5% of the employee's base salary monthly.

The above increases are not cumulative.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

## **ARTICLE 20. FINANCIAL DISCLOSURE**

The City shall only require financial disclosure by an employee as provided in the City's Conflict of Interest Code, which conforms with the State Government Code.

## **ARTICLE 21. PERSONAL PROPERTY — REPLACING & REPAIRING**

The City shall continue to provide for the cost of replacing or repairing the personal property of an employee that is lost, damaged, or stolen in the performance of duty. Personal items essential to job performance shall be replaced. After review, the reimbursement amount, if any, shall be determined by the Fire Chief, without appeal.

## **ARTICLE 22. POLYGRAPH EXAMINATION**

No employee shall be compelled to submit to a polygraph examination against his/her will. No disciplinary action or other recrimination shall be taken against an employee for refusing to submit to a polygraph examination. Testimony regarding whether an employee refused to submit to a polygraph examination shall be confined to the fact that "The City of Rialto does not compel fire safety personnel to submit to polygraph examinations."

## **ARTICLE 23. PHYSICAL EXAMINATION / DOCTOR'S CERTIFICATE**

As provided by State law and City personnel rules (Rule VII, Section 2 (d) and Rule XII, Section 2), the City shall bear the cost of any medical examination or physician's certificate when such examination or certificate is required and directed by the City.

If an employee has been off duty due to an extended illness or injury (extended means eleven [11]

working days or more for forty [40] hours per week personnel or seven [7] or more shifts for fifty- six [56] hours per week personnel), he/she will be required to submit a return to work authorization from his/her physician.

The City will bear that portion of the examination cost that the employee's insurance does not pay.

#### **ARTICLE 24. PROBATIONARY PERIOD**

Both Rialto Municipal Code Section 2.50.100 and Personnel Rule X, Section 1, line 26, establish the probationary period for fire safety personnel as one year from the date of appointment (in-service date) or promotion.

#### **ARTICLE 25. RE-EMPLOYMENT**

Personnel Rule XIV, Section 5, provides for reinstatement within one year: "With the approval of the appointing power and the Personnel Officer, an employee who has resigned with a good record may be reinstated within one year to his former position, if vacant, or to a vacant position in the same or comparable class." The salary range and steps (with general increases, if any) are reinstated to the employee. Seniority and accrued benefits are lost.

#### **ARTICLE 26. SAFETY EQUIPMENT**

The City will continue to furnish the required safety equipment to all employees who are required by State law to have safety equipment. Employees shall be entitled to have the same safety gear rights as available to IAFF Local 3688 in their MOU Article 212 and the associated Personal Protective Equipment Appendix B.

#### **ARTICLE 27. PROMOTIONAL PAY**

Employees promoted to a higher classification shall be placed into the new pay range at step 6 or at a step no less than 5% increase above their current salary, whichever is greater.

The City shall continue the above practice for promotional salary increases.

#### **ARTICLE 28. HAZARDOUS MATERIALS PAY AND ANNUAL PHYSICALS**

Any employee certified by the state as a Hazardous Materials Specialist or Technician, or a Hazardous Materials Incident Commander and subject to serve as an Incident Commander at Hazardous Materials Incidents shall be compensated 4.5% of the employee's base salary monthly (Hazard Premium). Hazardous Materials Specialists shall continue to receive annual medical surveillance physicals. To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

#### **ARTICLE 29. BILINGUAL PAY**

Employees certified by the City as bilingual or a sign linguist and required to utilize their abilities as

part of their regular duties shall be compensated at the rate of fifty dollars (\$50.00) per pay period.

Employees shall be eligible to test for bilingual pay only upon determination by the Department Head that there is an operational need for the employee's classification to perform bilingual duties. The Fire Chief in conjunction with the Director of Human Resources/Risk Manager will assess the need for bilingual capabilities annually to determine if the position still requires the need for bilingual capabilities.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

### **ARTICLE 30. LONGEVITY PAY**

- A. Employees with five (5) to nine (9) years of public fire service and/or consecutive City service will receive longevity pay equal to three percent (3%) of their base salary. Employees with ten (10) or more years of public fire service and/or consecutive City service will receive longevity pay equal to six (6%) of their base salary.
- B. Effective upon City Council approval of Tentative Agreement, clarify that Longevity Pay for "City Service" is subject to actual City service after a minimum of five years of working with the City. "City Service" Longevity Pay shall be reported as pensionable compensation.
- C. For those employees hired on or before June 30, 2018, and have cumulative CalPERS "public fire experience" shall continue to receive longevity pay as stated in section A. of this Article. However, such fire service experience pay shall not be subject to pensionable compensation pursuant to Title 2, Section 571 of the California Code of Regulations. Employees are responsible for notifying the City of all CalPERS fire service time. Notification of all CalPERS services shall be submitted to the Human Resources/Risk Management Department or the Fire Chief within 90 days of being hired and within 90 days of meeting the longevity requirements. The effective date of payment shall be the first full pay period following the submittal of proof of the Human Resources Department or Fire Chief.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

### **ARTICLE 31. PARAMEDIC CERTIFICATE PAY**

- A. Paramedic. Any employee, who has a current paramedic license shall be compensated an additional five percent 5% of the employee's base monthly salary. In situations where a regular firefighter/paramedic is not available, any employee receiving paramedic pay may be required to perform paramedic functions until a full-time firefighter/paramedic replacement can be arranged. This incentive requires employees to have paramedic accreditation in the ICEMA region.
- B. Paramedic Pediatric Trainer. The Emergency Medical Services Coordinator, who has a current

paramedic pediatric trainer certification shall be compensated four and one-half percent (4.5%) of the employee's base monthly salary.

To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

### **ARTICLE 32. FIRE INVESTIGATOR PAY**

Fire Investigator. Any employee holding the position of Battalion Chief or Division Chief who is certified as a Fire Investigator shall be compensated an additional two and one-half percent (2.5%) of the employee's base monthly salary (Fire Investigator Premium). The criteria to be certified as a Fire Investigator included obtaining the following certifications: California State Fire Marshal Investigation 1A and 1B; and PC 832 Arrest, Search, and Seizure. To the extent applicable and permitted by law, this pay shall be reportable to CalPERS as special compensation or pensionable compensation pursuant to Title 2, Sections 571 and 571.1 of the California Code of Regulations.

### **ARTICLE 33.SAVINGS CLAUSE**

If any of the provisions contained in this Memorandum of Understanding are determined to be unlawful, then only such provisions(s) shall be deleted from this MOU with the remainder of the MOU remaining in full force and effect. Upon the issuance of a decision declaring any section of the MOU to be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer immediately concerning only those sections.

### **ARTICLE 34. SENIORITY**

Seniority is herein defined to be an employee's length of service, with no break in service, within the Fire Department and/or classification in which the employee is presently assigned. The Department may consider seniority in vacation scheduling, shift assignments, and transfers within classifications.

### **ARTICLE 35. JURY DUTY SERVICE**

Upon the receipt of a jury duty service notice, the employee shall immediately notify his/her supervisor and provide a copy of the notice to the supervisor. Fire shift personnel who are required to report for jury duty may be absent with pay for up to eight hours per day plus travel time. If the employee is scheduled to report to jury duty two hours or more after the start of work, the employee must report to work before jury duty unless due to location circumstances, does not need to report if approved by a chief officer.

If the employee is selected to serve on a jury and they are sequestered for the night, the employee shall be paid for the entire shift. If the employee is released from jury duty one hour or more before the end of the shift, the employee must return to work.

Employees receiving a notice for "Telephone Standby" for jury duty shall report to work. Employees

will call the jury commissioner's office from work to find out if they are required to report for jury duty.

## **ARTICLE 36. RETIREMENT**

### **A. SAFETY EMPLOYEES HIRED BEFORE JANUARY 1, 2013**

The City contracts with the State of California Public Employees' Retirement System (CalPERS) for the classifications contained in this agreement. The plan shall include the following options:

1. 3% @ 50 Retirement Formula (Government Code §21362.2)
2. Unused Sick Leave Credit (Government Code §20965)
3. 4% Annual Cost of Living Allowance Increase (Government Code §21335)
4. Post Retirement Survivor Allowance (Government Code §21635)
5. Pre-Retirement Death Benefits to Continue After Remarriage of Survivor (Government Code §21551)
6. 1959 Survivor Benefit Level 4 (Government Code §21574). The employee is responsible for paying their share of this benefit.
7. Additional Service Credit 2 Years (Government Code §20903)
8. Final Compensation 1 Year (Government Code §20042)
9. Military Service Credit as Public Service (Government Code §21024). The employee is responsible for paying this benefit.
10. Post-Retirement Survivor Allowance (Government Code §21624/ 21626)
11. \$500/ \$2000 Retired Death Benefit (Government Code §21620)
12. Prior Service (Government Code §20055)
13. Employees agree to pay 12% of PERSable compensation towards the City's Employer Contribution. City agrees to pay EPMC which is currently 9% pursuant to Government Code §20691.

All contributions made by employees described in the previous section above shall be in accordance with IRS Code Section 414(h)(2) (or any subsequent amendments to said IRS code section), whereby employee contributions described above shall be tax deferred (not subject to taxation until time of constructive receipt).

### **B. SAFETY EMPLOYEES HIRED ON OR AFTER JANUARY 1, 2013**

The City contracts with the State of California Public Employees' Retirement System (CalPERS) for the classifications contained in this agreement. The plan shall include the following options:

1. 2.7% @ 57 Formula for Safety (Government Code §7522.25(d))
2. 4% Cost-Of-Living Allowance Increase (Government Code §21335)
3. Unused Sick Leave Credit (Government Code §20965)
4. \$500/ \$2000 Retired Death Benefits (Government Code §21620)  
1959 Survivor Benefit Level 4 (Government Code §21574). Employees agree to pay their share of this benefit.
5. Additional Service Credit 2 Years (Government Code §20903)
6. Final Compensation 3 Years (Government Code §20037)
7. Military Service Credit as Public Service (Government Code §21024)
8. Post Retirement Survivor Allowance (Government Code §21624/21626)
9. Post Retirement Survivor Allowance to Continue After Remarriage of Survivor (Government Code §21551)
10. Pre-retirement death benefits to Continue After Remarriage of Survivor
11. Employees agree to pay 50% of the normal cost of their benefits.

All contributions made by employees described in the previous section above shall be in accordance with IRS Code Section 414(h)(2) (or any subsequent amendments to said IRS code section), whereby employee contributions described above shall be tax deferred (not subject to taxation until time of constructive receipt).

**C. MISCELLANEOUS EMPLOYEES HIRED ON OR AFTER JANUARY 1, 2013**

The City contracts with the State of California Public Employees' Retirement System (CalPERS for the classifications contained in this agreement. The plan shall include the following options:

1. 2% @ 62 Formula for Miscellaneous Members (Government Code §7522.20)
2. Final Compensation 3 Years (Government Code §20037)
3. Unused Sick Leave Credit – Local Member (Government Code §20965)
4. Prior Service (Government Code §20055)
5. \$500/ \$2000 Retired Death Benefit (Government Code §21620)
6. 1959 Survivor Benefit Level 4 (Government Code §21574). The employee is responsible for paying their share of this benefit.
7. 2% Annual Cost-of-Living Allowance Increase (Government Code §21329)
8. Additional Service Credit 2 Years for Local Member (Government Code §20903)
9. Improved Nonindustrial Disability Allowance (Government Code §21427)

10. Military Service Credit as Public Service (Government Code §21024). The employee is responsible for paying this benefit.
11. Post-Retirement Survivor Allowance (Government Code §21624/ 21626)
12. Post-Retirement Survivor Allowance to Continue After Remarriage (Government Code §21635)
13. Pre-Retirement Death Benefits to Continue After Remarriage of Survivor (Government Code §21551)

## **ARTICLE 37. GRIEVANCE PROCEDURES**

### **A. DEFINITIONS**

1. Grievance — A “grievance” is a written allegation by an employee within the bargaining unit alleging that the employee has been adversely affected by a violation of specific written provisions of this MOU or of written rules, regulations, or procedures affecting terms and conditions of employment. Grievances shall not be utilized to challenge the agency’s exercise of its authorities outlined in Article 39 AGENCY AUTHORITY of this MOU. Additionally, by entering into this MOU, the parties agree that no matters, whether labeled as grievances, “complaints,” or otherwise, may be appealed to any administrative entity or body except as described herein. Further, the grievance procedure shall not be utilized to challenge or change the policies of the City whether they are written or otherwise. Additionally, performance evaluation reports and reprimands, whether written or verbal, are not subject to the grievance procedure (except where found to be a “punitive action”, as defined by the Firefighters Procedural Bill of Rights, against non-probationary firefighters.)
2. Day — Unless otherwise stated, a “day” is a day in which the City Hall is open for business.
3. Representative(s) — A representative is a member of the unit, association representative(s), or legal counsel who shall represent any party in interest at his/her election.
4. Grievant — Any unit member.

- B. INFORMAL MEETING — Any unit member(s) alleging a grievance shall meet with his/her immediate supervisor with the objective of resolving the matter informally. The unit member(s) may have a representative present with him/her at this informal meeting. Request for such meeting shall occur within ten (10) days after the occurrence of the act or omission giving rise to the grievance or ten (10) days after the grievant knew or reasonably should have known about the act or omission, whichever is later.

### **C. FORMAL LEVEL I: DEPARTMENT HEAD OR DESIGNEE**

1. In the event the grievance is not resolved at the informal meeting, within ten (10) days of the informal meeting the grievant may submit the grievance as a formal written grievance to the department head or designee. If the grievant has not submitted a written grievance within this period, the grievance will be deemed to have been resolved.

2. Within ten (10) days after receipt of the written grievance by the department head, a personal conference with the other party shall take place upon the request of either the grievant or the department head or designee. Within fifteen (15) days after receipt of the grievance or ten (10) days after the date of the Level I meeting, whichever is later, the department head or his/her designee shall render a written decision to the grievant and shall transmit a copy to the Association.
3. In those cases where a “grievance” regards a disciplinary proceeding that is both subject to the grievance procedure and which constitutes a proposed deprivation of property giving rise to a pre-disciplinary proceeding in accordance with *Skelly vs. State Personnel Board*, the subject employee shall commence his/her grievance at this Level I. The proceeding before the department head or designee shall constitute both an exhaustion of the Level I grievance and provision of any due process-mandated pre-deprivation proceeding.

D. FORMAL LEVEL II: ADVISORY ARBITRATION. If the grievant is not satisfied with the disposition of the grievance at Level I, or if no decision is rendered within the designated period, a grievant may forward a written grievance to the Human Resources/Risk Management Director, or designee, proposing that advisory arbitration be undertaken. In the alternative, the grievant may elect to proceed to Formal Level III and submit the dispute to the City Manager or designee for final determination.

1. In this case, Formal Level II provides for advisory arbitration and does not render a binding opinion. In the alternative, the grievant may elect to proceed to Formal Level III and submit the dispute to the City Manager or designee for final determination.
2. Said written grievance request for convening of advisory arbitration shall be considered timely only if received by the Human Resources/Risk Management Director, or designee no later than ten (10) days after service by the department head/designee of the Level I decision or twenty (20) days after the grievance was presented, whichever is later. Said request for arbitration shall clearly state the provisions of the MOU and/or written rules, regulations, or procedures affecting terms and conditions of employment, which have been allegedly violated. The arbitration proposal shall also set forth a detailed statement by the grievant containing all facts then known to the grievant that support his/her claim of an MOU/rule or regulation violation. A general or specific denial of wrongdoing or claim of misconduct shall not be sufficient. The arbitration proposal shall be signed by the grievant. A signature by a representative shall be insufficient.
3. Within ten (10) days of receipt by the Human Resources/Risk Management Director, or designee of a timely grievance, the parties shall confer by writing, telephone, or in person, as regards the selection of a mutually agreeable advisory arbitrator. If said meeting either does not occur or if said meeting does not result in the selection of an advisory arbitrator, then within fifteen (15) days of receipt by the Human Resources/Risk Management Director, or designee of the timely grievance, the Director, or designee shall mail to the State Mediation and Conciliation Service, a request that a list of seven (7) qualified potential advisory arbitrators be sent jointly to the grievant and the City.
4. Within ten (10) days of mailing by the State Mediation and Conciliation Service of such list,

the parties shall by telephone or other mutually acceptable means, select an advisory arbitrator by means of alternate striking of names until one name remains. Said individual shall be the advisory arbitrator. Determination of which party shall make the initial strike shall be by lot.

5. Within five (5) days of said selection process being completed, the Director, or designee shall mail written notice to the State Mediation and Conciliation Service of the identity of the individual mutually selected to hear the grievance matter.
6. The hearing shall commence on a date mutually agreeable to the parties and to the arbitrator, but in no case greater than 120 calendar days after the selection of the arbitrator unless otherwise mutually agreed to by the parties.
7. In those arbitration proceedings, that are non-disciplinary, the burdens of proof and production of evidence shall be upon the grievant. The ultimate issues in such cases shall be whether or not proof by a preponderance of the evidence supports a finding that a specific written section of the MOU and/or rules and regulations affecting terms and conditions of employment, has been violated, and if so, the nature of the appropriate remedy.
8. In those cases, regarding disciplinary matters involving the deprivation of property, the burdens of proof and production of evidence shall be upon the department and shall be by a preponderance of the evidence. In such cases, the ultimate issues shall be as follows:
  - a. Does a preponderance of the evidence support a finding that misconduct did occur?
  - b. If so, was the disciplinary decision a reasonable exercise of the discretion vested in the appointing authority?
    - (i) If yes, the discipline shall be sustained.
    - (ii) If no, the discipline shall be subject to modification.
9. All advisory arbitration hearings shall be closed to the public unless the employee requests, in writing, no later than five (5) calendar days before the hearing, that the hearing be open.
  - a. Subpoenas (no subpoenas duces tecum) shall be issued by the arbitrator at the request of either party. State civil rules governing the issuance and validity of subpoenas shall also govern the issuance and validity of subpoenas issued herein.
  - b. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding

unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil and criminal actions. Irrelevant and unduly repetitious evidence shall be excluded.

- c. The hearing shall proceed in the following order:
  - (i) The party imposing discipline shall be permitted to make an opening statement.
  - (ii) The appealing party shall then be permitted to make an opening statement.
  - (iii) The department imposing disciplinary action shall produce the evidence on its behalf.
  - (iv) The party appealing such disciplinary action may then offer his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted.
  - (v) The parties may then, in the above order, respectively offer rebutting evidence, unless the arbitrator for good cause, permits them to reopen and offer evidence in their case in chief.
  - (vi) Oral closing arguments shall be permitted. Written briefs may be permitted at the discretion of the arbitrator. The department shall have the right to open the oral closing arguments followed by the appealing party. The department shall then have the right to reply.
  - (vii) The orders of presentation and burdens of proof shall be reversed in those cases where non-disciplinary grievances are heard.
- 10. The arbitrator shall determine the relevancy, weight, and credibility of testimony and evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the arbitrator, for good cause, otherwise directs. However, both parties shall be permitted to designate an investigator or assistant to be present at the hearing, even if such person is or may be a witness. The arbitrator shall render judgment as soon after the conclusion of the hearing as possible but in no event later than thirty (30) calendar days after submission of closing arguments. The decision shall set forth which charges, if any, are sustained and the reasons, therefore. The decision shall set forth findings of fact and conclusions of law. The arbitrator's decision shall be advisory only with the City Manager retaining jurisdiction to make a final determination as set forth below.
- 11. Within thirty (30) calendar days of the receipt of the arbitrator's findings and recommendations, the City Manager shall adopt, amend, modify or reject, in whole or part, the arbitrator's findings and/or conclusions. Before making a decision that rejects or modifies in whole or part, the findings and/or recommendations of the arbitrator, the City Manager

shall review the transcripts of the arbitration hearing. The City Manager shall not conduct a de novo hearing. The decision of the City Manager shall be administratively final and conclusive and is subject to the provisions of Code of Civil Procedure Section 1094.6. Copies of the City Manager's decision shall be served on the grievant and the department and shall be filed, along with the arbitrator's recommendations and finding, in the employee's personnel file, unless the matter involved discipline and the discipline was not upheld by the City Manager.

12. The City shall bear the cost of a mandatory court reporter. The City shall bear the cost of transcripts that are required by the City Manager or the arbitrator. Each party shall bear its costs where the ordering of transcripts is a voluntary act. Each party shall bear its own witness and attorney fees. Additionally, each party shall equally share all fees and costs billed by the arbitrator.
13. It is specifically agreed and acknowledged by the parties that failure by the grievant to strictly comply with the time limitations for taking action in connection with the review of a grievance, shall be considered a jurisdictional defect and shall result in a waiver by the grievant of any appeal rights, regardless of how brief or minimal is the failure to comply with the time limitations. The department shall not be required to show or prove the suffering of any prejudice as a condition precedent to strictly enforcing the time limitations described herein. In any case where the department or city does not strictly comply with the time limitations described herein, then the grievant's remedy shall be the movement of the grievance process to the next higher level. In no case shall failure by the department/city to comply with the time limitations described herein, result, in and of itself, in a finding adverse to the department/city.
14. In any case where a party or potential party disputes the arbitrability/jurisdiction of a grievance, said dispute shall not be resolved by the arbitrator, but shall be first resolved through civil proceedings.

#### E. FORMAL LEVEL III: CITY MANAGER OR DESIGNEE

1. If the grievant is not satisfied with the disposition of the grievance at Level I, or if no decision is rendered within the designated period in Level I, the grievant may forward the written grievance to the City Manager or his/her designee within ten (10) days after the decision at Level I or twenty (20) days after the grievance was presented, whichever is later.
2. Within ten (10) days after receipt of the written grievance by the City Manager, a personal conference with the grievant shall take place upon the request of the grievant or the City Manager. Within fifteen (15) days after receipt of the grievance or ten (10) days after the date of the Level I meeting, whichever is later, the City Manager or his/her designee shall render a written decision to the grievant and shall transmit a copy to the Association.

#### F. GENERAL PROVISIONS

1. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level shall be considered as a maximum, and every effort should be made to expedite the process.

2. Failure by the grievant to meet any of the specified timelines shall constitute a withdrawal of the grievance. Failure by the City to meet any of the specified timelines shall entitle the grievant to appeal to the next level of review.
3. The time specified, however, may be extended by mutual consent.
4. The grievant is entitled to representation of his/her choice at any point in the grievance procedure.
5. Any member of the unit may at any time present grievances to the employer and have such grievances adjusted without the intervention of the exclusive representative as long as the adjustment is not inconsistent with the terms of this contract; provided that the City shall not agree to a final resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.
6. Neither party shall take reprisals against any member of the Association, Association representative, management person, or any other participant in the grievance procedure by reason of such participation.

#### **ARTICLE 38. AGENCY AUTHORITY**

The authority of the City includes, but is not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; exercise complete control and discretion over its organization and the technology of performing its work, provided, however, that the exercise and retention of such rights does not preclude employees or other representatives from consulting or raising grievances over the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment. (Ord. 657, 55, 1973; Rialto Municipal Code 2.51.050).

#### **ARTICLE 39. AGENCY PERSONNEL RULES**

It is understood and agreed that there exists within the City in written or unwritten form, certain personnel rules, policies, practices, and benefits that establish uniform and orderly methods of communications between the City and its employees for the purpose of promoting employer-employee relations, which will continue in effect, except for those provisions modified by the City Council in accordance with State laws, orders, regulations, official instructions or policies. Rialto Municipal Code Chapter 2.51.080 provides for advance notice of proposed changes. Provision is also made for emergency cases.

#### **ARTICLE 40. NON-DISCRIMINATION**

The parties agree that there shall be no discrimination in employment as follows:

No person in the competitive service or seeking admission thereto shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, national origin, color, sex, age, disability, religious belief, political opinions, or affiliations.

An Equal Opportunity Program is in effect in the City of Rialto, and it is the policy of the City of Rialto that only qualified persons available are selected for position assignments without prejudice or discrimination by reason of race, color, sex, age, religious belief, political affiliation, national origin or disability.

It is agreed that the above language also protects employees involved in Association activities.

#### **ARTICLE 41. MAINTENANCE OF EXISTING BENEFITS**

Except as herein provided, all wages, hours, working conditions, benefits, privileges, and other terms and conditions of employment enjoyed by affected employees prior to the effective date hereof shall remain in full force and effect during the entire term of this MOU unless mutually agreed to the contrary by both parties.

#### **ARTICLE 42. SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING**

It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall, except as herein provided, supersede all prior agreements and memoranda of agreement, or memoranda of understanding, or contrary salary and/or personnel resolutions, oral or written, expressed or implied, between the parties, and shall govern the entire relationship and shall be the sole source of any and all rights which may be asserted hereunder except as provided otherwise herein. This Memorandum of Understanding is not intended to conflict with Federal or State law.

#### **ARTICLE 43.OVERTIME**

##### **A. REGULAR OVERTIME**

For any work performed in addition to regular work hours, including shift coverage overtime for regular duty, the employee is entitled to overtime pay at time and one-half and may choose either time and one-half compensation (cash) or time and one-half compensatory time (comp time).

Command staff members may choose to be compensated in time and one-half compensation (cash or comp time) for additional staff/office work performed outside of their normal work schedules (not to include staff and officers' meetings). All such work is subject to prior approval by the Fire Chief. Unit members will be given the right of first refusal for any shift filled in the Shift Battalion Chief Position. In addition to regular work hours, Fire Division Chief and Administrative Battalion Chiefs may work operational overtime shifts for Shift Battalion Chiefs for time and one-half compensation or time and one-half compensatory time (comp time).

##### **B. OVERHEAD ASSIGNMENTS**

Overtime shall be compensated at time and one-half for all operational time worked by Fire

Division Chief, Shift Battalion Chiefs, and/or Administrative Battalion Chiefs on strike team assignments and 100% cost recoverable of wages for incidents where a public agency has financial responsibility for mutual aid and has agreed to reimburse such positions at an overtime rate. Overtime shall be payable to the employee on his/her next regularly scheduled pay period. Back-fill shifts for personnel filling in for staff assigned to a Strike Team will also be paid overtime compensated at time and one-half.

#### **C. CALL BACK**

Employees shall receive a minimum of three (3) hours of overtime (the employee may choose either straight-time compensation or straight-time compensatory time) any time they are called back to duty to fulfill an operational role. Call-back time is calculated from the time the call is received by the employee to respond.

#### **D. CONTRACTED ASSIGNMENTS**

Overtime shall be compensated at time and one-half for all operational time worked by employees on contract assignments reimbursed at time and one-half. Overtime shall be payable to the employee on his/her next regularly scheduled pay period. Back-fill shifts for personnel filling in for staff assigned to a Contract Assignment will also be paid overtime compensated at time and one-half rate provided that the Contract allows for back-fill overtime to be paid at time and one-half rate.

### **ARTICLE 44. TRAINING**

If attendance at classroom training sessions and other meetings (as determined by the Fire Chief and/or designee) on off-duty time is voluntary, overtime for employees is not recognized. If attendance is mandatory for employees, time shall be compensated at a straight time.

### **ARTICLE 45. TRADING TIME**

Subject to authorization of the Fire Chief, Fire Battalion Chiefs may trade time with other employees of equal positions. Trading time shall be agreeable with both parties. Supervisors establish the employees' schedules to meet the needs of the Department and therefore shift trading is exclusively for the employees' convenience. Both employees who shift trade will be paid their regular wages for the workweek in which the shift trade occurred. The employee working the extra shift will receive no overtime compensation for doing so and the employee whose shift worked by another employee will not forfeit any compensation as a result of the trade.

### **ARTICLE 46. RIALTO FITNESS CENTER**

Employees, employees' spouses, retirees, and retirees' spouses shall be allowed free use of the Rialto Fitness Center during normal operating hours as long as the City has managerial control of the facility. Employees, employees' spouses, retirees, and retirees' spouses shall adhere to the same regulations regarding reservations and the use and care of the facilities as the general public.

### **ARTICLE 47. LAYOFFS, POSITION ELIMINATION, & RECLASSES**

Layoffs. There will be no layoffs, position eliminations, reclassifications, or other attempts to eliminate personnel, within this bargaining unit, for the term of this MOU. The City and RFMA agree to meet and confer regarding any reassignment of a Fire Division Chief or a 56-hour per week shift Battalion Chief to a 40-hour per week Administrative Battalion Chief, or vice-versa.

#### **ARTICLE 48. STAFF / TAKE HOME COMMAND VEHICLES**

A. Staff/Take Home Command Vehicles.

B. The following positions shall be required to take home a response-ready command staff vehicle:

- a. Fire Division Chief
- b. Shift Battalion Chief
- c. Administrative Battalion Chief
- d. Emergency Medical Services Coordinator
- e. Fire Marshal

C. Employees shall not be permitted to take home command vehicles if they live greater than 55 air miles from the city limits of Rialto.

D. Employees assigned to take home vehicles shall be allowed de minimis personal use of such vehicles because of being subject to callback status.

#### **ARTICLE 49. WELLNESS PROGRAM**

On-Duty Workout Parameters:

Medical /Physical Assessments: The City will provide a City-prescribed fitness assessment administered by the Department for all employees once per year. All employees are required to participate in the assessment. In the event that an employee is deemed unfit for duty, the City will provide modified duty until such time that the employee is deemed fit for duty or 6 months, whichever is less.

In addition to the fitness assessment, the city will pay for each employee to receive a Prostate Specific Antigen (PSA) mammography, stool sample evaluation, and multi-cancer early detection blood draw test that meets/has the same requirements as the Galleri, Cancer Screening test or equivalent, and an ultrasound test from the company the City contracts with each year.

A. On-duty Workout Parameters

1. Workouts will be mandatory for all employees.
2. Employees will be given 1 hour per shift to complete their workout.

B. Employees on the administrative schedule (40-hour week) may participate in a physical fitness/wellness program.

## **ARTICLE 50. FIREFIGHTER BILL OF RIGHTS**

The City recognizes that all the rights afforded to Firefighters under Assembly Bill #220 (Bass, Firefighters, Chapter 591), commonly known as the Firefighter’s Bill of Rights, shall apply to all employees.

## **ARTICLE 51. DISCIPLINARY OVERTIME LIMITATIONS**

Disciplinary actions for all employees restricting overtime shall not exceed one (1) pay period per each three (3) shifts of suspension without pay and shall not exceed two (2) pay periods in any consecutive twelve (12) month period.

## **ARTICLE 52. EMPLOYEE-EMPLOYER RELATIONS RESOLUTION**

The Association recognizes the Employer-Employee Relations Resolution No. 1506.

- A. Sections 26 and 28 shall not apply to this Bargaining Unit.
- B. MOU provisions which conflict with this Resolution take precedence over the Resolution.
- C. The Negotiating Team for the Association Bargaining Unit shall consist of no more than four (4) active employees.
- D. City shall allow a reasonable number of Association representatives reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the public agency on matters within the scope of representation or to address grievances and/or disciplinary matters, if on duty. In the City Manager’s or Fire Chief’s sole discretion, they may grant paid time off for Negotiating Team and/or Executive Board members, for said members to utilize to handle Association business and training as staffing allows.

## **ARTICLE 53. ACTING PAY**

- A. After eighty (80) consecutive working hours in a higher classification, an affected employee shall be compensated for working in the acting classification at a rate that is the lowest step of the higher classification that pays more than the employee currently receives in the lower classification. Such increase must be at least five percent (5%) above the employee’s current base salary, retroactive to the first date of the acting status. At such time the employee no longer works in the acting assignment, he or she shall be compensated at his or her regular rate of pay for his or her pertinent classification.
- B. Acting pay shall not be available to an employee working less than 80 consecutive working hours in a higher classification.
- C. When an employee is assigned to “acting Fire Division Chief” or “acting Fire Chief”, he/she will be deemed exempt from receiving any overtime compensation while working in the capacity

of “acting Fire Division Chief” or “acting Fire Chief”, unless the “acting Fire Division Chief” is covering for the Shift Battalion Chief (per Article 44). The employee, however, shall remain part of the bargaining unit and shall receive all benefits as proscribed in this MOU.

#### **ARTICLE 54. NATIONAL FIRE ACADEMY COMPENSATION**

Any employee who first obtains approval from the Fire Chief and attends the National Fire Academy shall be provided with per diem for meals, shift coverage, and time with pay.

#### **ARTICLE 55. OVERPAYMENT OF WAGES**

Employees in this bargaining unit acknowledge that in the event of an overpayment of wages or other compensation made by the City due to clerical, administrative, or system errors, the City retains the right to recover the overpaid amounts up to a 3-year look back period.

Upon discovery of the overpayment, the City shall notify the affected employee in writing specifying the amount and nature of the overpayment. When an employee notices an error/discrepancy in their paycheck, they shall immediately notify Human Resources and Risk Management and Payroll/Finance. The employee agrees to cooperate with the City in establishing a reasonable repayment plan and understands that failure to reasonably pay back any such overpayment will result in the City collecting the overpayment immediately.

This Memorandum of Understanding shall become effective upon approval by the City Council and the Rialto Fire Management Association.

**FOR THE CITY:**

**FOR THE ASSOCIATION:**

---

**City Manager** **Date**

---

**Ryan Cathay** **Date**

## **APPENDIX A**

### **Training Certifications, CSFM, NFA to EMS Equivalencies**

#### **Step One**

Strike Team Leader

California Fire Chiefs EMS Leadership Academy

- EMS System Overview
- Fire Service EMS Responsibilities
- Interest Based Negotiations
- Essentials of Leadership
- History and Mandates
- Labor Relations
- Ethics and EMS
- EMS Management fundamentals

CSFM-Safety Officer All Risk- S404

CSFM Firefighter 2

#### **Step Two**

CSFM Chief Officer

CSFM Fire Instructor 1A and 1B

NFA R0150 Management of Emergency Medical Systems NFA

R0147 Emergency Medical Services Incident Operations

## **APPENDIX B**

### **PERSONAL PROTECTIVE EQUIPMENT**

The City of Rialto shall provide safety employees of the Union with Personal Protective Equipment (“PPE”), including, but not limited to, the following:

All PPE must meet the NFPA requirement specific to each item.

#### **Structural Firefighting Gear:**

- (2) Coats
- (2) Pants
- (2) Pairs of Gloves
- (2) Gore Particular Hood
- (1) Pair of Boots (Pro Warrington 5006 or equivalent)
- (1) Helmet with Eye Protection and ID Shield
- (1) SCBA Mask
- (1) Flashlight (Streamlight Polytac 90 or equivalent)

#### **Wildland Firefighting Gear:**

- (1) Coat
- (2) Pant (Crewboss BDU Nomex IIIA Pants) or equivalent
- (2) Shirt (Crewboss Nomex IIIA Brush Shirt) or equivalent
- (1) Pant (BDU Workrite pants Black or equivalent)
- (1) Helmet with Eye Protection
- (1) Pair of Gloves
- (1) Face/Respiratory Protection
- (1) Pair of Boots (White’s Boots Original Smoke Jumpers or equivalent)
- (1) Mystery Ranch Shift Plus 900 Wildland Pack or equivalent
- (1) Fire Shelter

#### **Miscellaneous Gear:**

- (2) EMS Pants (TECGEN Level 1 Rescue Pants) or equivalent
- (1) 511 First Responder Jacket or equivalent

The City of Rialto shall provide non-safety employees of the Union with Personal Protective Equipment (“PPE”), including, but not limited to, the following:

- (1) Portwest Hi-Vis Traffic Jacket or equivalent
- (1) EMS pants (TECGEN Level 1 Rescue Pants) or equivalent

“Equivalent”- If the stated Personal Protective Equipment (PPE) is discontinued then the City will provide an equivalent PPE based on the discontinued equipment’s dollar amount.

## **APPENDIX C**

### **WORKERS' COMPENSATION-RELATED ALTERNATIVE DISPUTE RESOLUTION AGREEMENT**

THIS LABOR MANAGEMENT WORKERS' COMPENSATION ALTERNATIVE DISPUTE RESOLUTION AGREEMENT ("Agreement") by and between the Rialto Fire Management Association ("RFMA") and the City of Rialto ("City") is pursuant to California Labor Code §3201.7(a)(3).

#### **Article I: Purpose**

The purposes of this Agreement are:

1. To provide active employees claiming compensable injuries under Division 4 of the California Labor Code ("Workers' Compensation Law") with an expedited procedure to resolve disputes in accordance with the provision of the Agreement and to facilitate those employees' prompt recovery and return to work;
2. To reduce the number and severity of disputes between RFMA, City and covered employee, when those disputes relate to workers' compensation;
3. To provide workers' compensation coverage in a way that improves labor management relations, improves organizational effectiveness, and reduces costs for RFMA and City;
4. To provide RFMA and covered employees with access to mediators so that legal disputes can be resolved informally and more expeditiously.

These purposes will be achieved by:

- a. Utilizing an exclusive list of medical providers to be the sole and exclusive source of medical-legal evaluations for disputed issues surrounding covered employees in accordance with Labor Code §3201.7(c).

Now, therefore, in consideration of the mutual terms, covenants and conditions herein, the parties agree as follows:

#### **Article II: Term of Agreement**

The City and RFMA enter into this Agreement with the understanding that the law authorizing this Agreement is new and evolving. The parties further understand that this Agreement governs a pilot program and that it shall become effective after it is executed by the parties, submitted to the Administrative Director of the State of California, Department of Industrial Relations, Division of Workers' Compensation in accordance with Title 8, California Code of Regulations

§10202(d), and accepted by the Administrative Director as evidenced by the Director's letter to the parties indicating approval of the Agreement. This Agreement shall be in effect for one year from the date of the Administrative Director's letter of acceptance to the parties. Thereafter, it shall continue and remain in force from year to year unless terminated by either party as provided for below. Any claim arising from an industrial injury sustained before the termination of this Agreement shall continue to be covered by the terms of this Agreement, until all medical issues related to the pending claim are resolved.

The parties reserve the right to terminate this Agreement at any time for good cause, by mutual agreement or by act of the Legislature. The terminating party must give thirty (30) calendar days written notice to the other party of the intent to terminate. Upon termination of this Agreement, the parties shall become fully subject to the provisions of the applicable Labor Code provisions to the same extent as they were prior to the implementation of this Agreement, except as otherwise specified herein.

### **Article III: Scope of Agreement**

1. This Agreement applies only to injuries, as defined by Workers' Compensation Law, claimed by the following referred to herein as "Covered Individuals" (a) active employees (b) retirees and (c) active employees and retirees where a petition to reopen a pre-existing claim to seek new and further disability or to reduce a prior award is filed after the effective date of this agreement. Existing medical treatment disputes prior to the date of this Agreement, may be included within the Program on a case-by-case basis, determined by the JLM. The scope of this Agreement does not apply to retirees that have a future medical dispute that is outside the five-year statute of limitations or Labor Code §5804.
2. Injuries occurring and claims filed after termination of this Agreement are not covered by this Agreement.
3. This Agreement is restricted to (a) establishing an exclusive list of medical providers to be used for medical and medical-legal dispute resolution of Covered Individuals, (b) establishing an exclusive list of mediators to be used for legal dispute resolution of Covered Individuals, (c) establishing a process for informal legal discovery in accordance with Article VII, in accordance with Labor Code §3207.1(c).
4. For purposes of this Agreement a "claimed injury" is one for which either (a) DWC-1 workers' compensation claim form has been filed with the City and Third Party Administrator ("TPA") or (b) an Application for Adjudication of Claim has been filed with the Workers' Compensation Appeals Board ("WCAB").

#### **Article IV: Expedited Medical-Legal Process**

1. Physicians who serve in the capacity as Independent Medical Examiners ("IME") pursuant to this Agreement will receive enhanced compensation for services performed as outlined in the physician contract in exchange for expedited examinations and report preparation.
2. This Agreement does not constitute a Medical Provider Network ("MPN"). However, all employees must utilize the City's current MPN for treatment purposes during the time the City maintains and utilizes the MPN. The MPN is governed by Labor Code §4616 et seq. Physicians who act as a Covered Individual's treating physician or have provided treatment to the Covered Individual shall not act as the Independent Medical Examiner (IME) in the Covered Individual's claim. Pre-designation of a physician must comply with the requirements set forth in Labor Code §4600(d)(1).
3. All employees with a disputed medical issue as described in Article IV Paragraph 5 must be evaluated by an approved physician from the exclusive list of IME's. Should the employee claim injuries requiring more than one medical specialist, the employee shall be provided an IME appointment in each area of specialty. If the IME requires the opinion of an additional sub-specialist, the IME shall refer the employee to a physician of the IME's choice, who need not be on the IME list or in the MPN. The consulting specialist charges are subject to the Official Medical Fees Schedule (OMFS). When using the services of an additional sub-specialist the agreed-upon thirty (30) day for appointments and thirty (30) day for reporting timeframes do not exist. The parties will make an effort to expedite the examination dates for the sub-specialist. The IME may not refer the employee to his treating physician for this purpose.
4. The exclusive list of IME's shall include the specialties as agreed upon by the parties.
5. An IME shall be used for all medical disputes that arise in connection with a workers' compensation claim including but not limited to determination of causation, the nature and extent of an injury, the nature and extent of permanent disability and apportionment, work restrictions, ability to return to work (including transitional duty), current and future medical care, and resolution of all disputes arising from utilization review, pursuant to Labor Code 4062(b). The parties agree that the Covered Individual shall use the originally chosen IME for all subsequent disputes and injuries claimed arising under this Agreement. In the event that said IME is no longer available, the parties shall utilize the next specialist on the list pursuant to Article IV, Paragraph (10)(e), as set forth herein. The parties agree that if the covered member has different

claimed parts of body, the appropriate IME in specialty will be utilized to address the different parts of body.

6. The IME process described above will be triggered when either party provides the other written notice of an objection in connection with any issues set forth in Article IV Paragraph 5 above. Objections from the City shall be sent to the employee with a copy to the employee's legal representative if represented. Objections from the employee or employee's legal representative shall be sent to the employee's assigned claims examiner with a copy to the City and City's legal representative, if applicable.
7. Objections shall be sent within thirty (30) calendar days of receipt of a medical report or a utilization review decision addressing any of the issues set forth above. A letter delaying acceptance of the claim automatically creates a dispute. Further, all denials and/or delays of benefits including decisions from Utilization Review modifying or denying medical treatment automatically creates a dispute. Delayed decisions based on legal issues shall not trigger the IME process. A subsequent acceptance of the claim and/or resolution of the disputed issue may eliminate the need for completion of the dispute resolution process set forth in this Agreement.
8. The exclusive list of IME's shall serve as the exclusive source of medical-legal evaluations for all disputed medical issues arising from a claimed injury, unless otherwise agreed to by the parties in writing.
9. The parties hereby agree that during the quarterly committee review meetings, the exclusive list of IME's may be amended. For either party to propose adding an IME to the exclusive list of medical providers, the party must provide notice, in writing, to the other party of its request to add a physician to the list. The parties must mutually agree in writing to the addition of physicians to the IME list. A physician may only be deleted from the exclusive list of medical providers if s/he breaches the terms and conditions of the contract with the City or by written mutual agreement of the parties. The list shall be reviewed quarterly by the JLM from the execution date of the Agreement for additions and deletions of newly selected or deleted IME's. Any IME proposed for consideration of addition or deletion after the review period will be reviewed at the next internal review period of the JLM unless there is a breach of terms and conditions of the Agreement or by mutual written agreement of the parties.
10. Appointments:
  - a. City Risk Management/TPA shall schedule appointment(s) with the IME and provide notice of the appointment within ten (10) calendar days of the

date of receipt of the objection issued by any party subject to the terms and provisions of this Agreement. The notice of the appointment location, date and time shall be sent to the employee and to his legal representative, if applicable.

- b. The employee shall be responsible for providing City Risk Management/TPA with his/her work schedule prior to an appointment being made.
  - c. Compensation for attending medical appointments under this Agreement shall be consistent with existing City MOU and policy and practice.
  - d. Mileage reimbursement to covered employees shall be in accordance with Labor Code §4600(e) (2), unless City provides transportation.
  - e. For purposes of appointments, City Risk Management/TPA shall select the IME(s) by starting with the first name from the exclusive list of approved medical providers within the pertinent specialty, and continuing down the list, in order, until the list is exhausted, at which time City Risk Management/TPA will resume using the first name on the list.
  - f. The IME shall submit the medical reports thirty (30) days following examination of the employee, pursuant to the contract terms, unless the parties agree to a longer period of time.
11. The City is not liable for the cost of any medical examination used to resolve the parties' disputes governed by this Agreement where said examination is furnished by a medical provider that is not authorized by this Agreement. Medical evaluations shall not be obtained outside of this Agreement for disputes covered by this Agreement, notwithstanding Labor Code §4605.
12. Both parties shall be bound by the opinions and recommendations of the IME selected in accordance with the terms of this Agreement, subject to legal challenges brought by the parties.
13. Either party who receives records prepared or maintained by the treating physician(s) or records, either medical or non-medical, that are relevant to the determination of the medical issue shall serve those records on the other party immediately upon receipt. If one party objects to the provision of any non-medical records to the IME, the party shall object within twenty (20) calendar days of the service of the records. Objection to the provision of non-medical records may result in the denial of the claim on the basis that the IME did not have complete and accurate information. There shall be no objection to the

provision of medical records to the IME, subject to the provision of the Labor Code.

14. The City's TPA shall provide to the IME records prepared or maintained by the employee's treating physician(s) and medical and nonmedical records relevant to the determination of the medical issues(s). The City's TPA shall prepare a list of all documents provided to the IME and shall serve a copy of the list on the employee and/or on his/her representative.
15. All communications with the IME shall be in writing and shall be served on the opposing party. This provision does not apply to oral or written communications by the employee or, if the employee is deceased, the employee's dependent, in the course of the examination or at the request of the evaluator in connection with the examination, or to administrative communications with the IME's staff.
16. Ex parte communication with the IME is prohibited. If a party communicates with the IME in violation of Paragraph 15 and 16 of Article IV, the aggrieved party may elect to terminate the medical evaluation and seek a new evaluation from the next IME chosen from the list pursuant to Paragraph 10(e). If a new examination is required, the party making the communication prohibited herein may be liable for the cost, pursuant to Labor Code §5811, or as ordered by the WCAB.
17. If either party disputes a medical or medical-legal finding of the IME, they shall notify the other party of this dispute by way of written objection within thirty (30) calendar days of actual receipt of the IME's report. All disputes of this nature shall be resolved either by way of supplemental interrogatory and report or by way of deposition.

## **Article V: Mediation**

1. Any party subject to the provisions of this Agreement may request mediation in accordance with the provisions set forth herein. Mediation is an informal, confidential process in which a neutral party assists the other parties in understanding their own interests, the interests of the other party, and the practical and legal realities each party faces. The mediator helps the parties explore options and arrive at a mutually acceptable resolution of the dispute. The parties agree that WCAB retains jurisdiction to approve all settlements, awards, and orders achieved through mediation.
2. Mediation is voluntary and both parties must agree to mediate a particular issue or matter in order for mediation to proceed.
3. The mediation process shall only be triggered when both parties are represented; the mediation process shall be triggered when one party gives the other written notice of

their desire to engage in mediation in connection with any issue including, but not limited to, any purely factual or legal defense involving a determination of causation, applicability of a presumption, whether a medical report constitutes substantial evidence, disputes involving average weekly wage or the rate of pay for Labor Code §4850 benefits, temporary disability benefits, whether an apportionment is valid, disputes over a permanent disability rating, disputes over occupational group numbers, credits for claimed overpayment of benefits, determination of dependency status in death claims, penalties, issues involving alleged serious and willful misconduct, issues involving potential violations of Labor Code §132(a), discovery disputes, and questions involving jurisdiction.

4. It is the specific intent and desire of the parties that the mediation process set forth herein be flexible and is designed as a means to resolve factual and/or legal disputes that are not amenable to resolution through the expedited medical-legal process. The potential issues listed in Paragraph 3 of Article V is not meant to be all inclusive but is merely a listing of issues likely to be the most common particularly suited for mediation. Upon mutual agreement of the parties, any issue typically encountered in the California workers' compensation system can be deemed appropriate for mediation in accordance with the provisions of the Agreement.
5. Upon receipt of an official request to mediate, the non-requesting party shall have a period not to exceed fifteen (15) calendar days within which to either accept or reject the request to mediate. If no response is provided within the fifteen (15) calendar day period, the request shall be deemed to have been rejected. Any response to a request to mediate from the City shall be sent to the employee with a copy to the employee's legal representative. Any response to a request to mediate from the employee or employee's legal representative shall be sent to the employee's assigned claims examiner with a copy to the City and City legal representative.
6. If both parties agree to mediate an issue or issues, within fifteen (15) calendar days of such agreement being reached, mediation of said issues will be assigned to a mediator from the approved Mediator Panel.
7. Mediator selection is completed by starting with the first name from the Mediator Panel and continuing down the list, in order, until the list is exhausted, at which time City Risk Management/TPA shall resume using the first name on the list. City Risk Management/TPA shall notify all parties of the selection and assignment of a mediator within ten (10) calendar days of such assignment having been made.
8. Mediators will be paid at a rate of \$300.00 per hour. All costs associated with the mediation shall be paid by the City.
9. Within five (5) calendar days of the selection of a mediator, the selected mediator shall be notified by the City Risk Management/TPA of his/her selection. The selected

mediator shall then schedule the date, time, and location of the mediation with the parties.

10. The mediation must take place within forty-five (45) calendar days of notification having been sent to the mediator of his/her selection, unless this time limit is waived by both parties. If the selected mediator is either unable or unwilling to schedule mediation within this forty-five (45) calendar day period, a new mediator shall be selected from the Mediator Panel from the next mediator available on the list, pursuant to the provisions of Paragraph 7.
11. The procedure, process, format, general nature of the mediation, the issues to be mediated, and the manner in which the mediation shall be conducted will be within the sole discretion of the mediator.
12. Mediation briefs shall not be mandatory but are strongly recommended and shall be a useful tool to assure that the mediator fully understands the issues involved and each party's respective positions in regards to each issue. Mediation briefs should be submitted to the mediator no later than ten (10) calendar days prior to the mediation. No specific format for a mediation brief is required. Mediations briefs may be formatted and submitted as either a formal pleading or in an informal letter brief format.
13. If the mediation is successful at resolving the dispute, a summary of the mediation shall be prepared by the Mediator, setting forth the specific issues presented for the mediation, a general description of how the mediation was conducted, length of time of the mediation, and the resolution or settlement reached. A copy of this Mediation Summary shall be served upon the employee, the employee's legal representative, to the employee's assigned examiner, and to City Risk Management and the City's legal representative.
14. If the mediation is unsuccessful at resolving the dispute, either party may seek to have the issue or issues adjudicated by the WCAB by filing a Declaration of Readiness to Proceed, in accordance with the Rules and Regulations governing WCAB hearings, as set forth in the Labor Code and the California Code of Regulations.
15. Although the mediation process is completely voluntary, it is expected that if the parties mutually agree to mediate an issue or issues, both parties shall abstain from filing a Declaration of Readiness to Proceed, with respect to said issue or issues, with the WCAB until completion of the mediation process, as set forth above.

#### **Article VI: Discovery**

1. Covered individual shall provide City Risk Management/TPA with fully executed medical, employment and concurrent employment releases, disclosure statement and any other documents and information reasonably necessary for the City to resolve the

employee's claim, when requested. If the employee fails to return the release and it is determined that the medical information is not sufficient for the IME to provide a comprehensive evaluation, the parties shall meet to resolve the issue(s) prior to setting an evaluation. This Article does not supplant or diminish the parties' right to pursue or contest discovery issues pursuant to the remedies provided in the Labor Code, through mediation or the WCAB.

2. This Agreement does not preclude a formal deposition of a covered employee or an IME when necessary. Attorney's fees for depositions of covered employees shall be paid at the rate of \$325 per hour, consistent with Labor Code §5710. This rate of reimbursement for attorney's fees for depositions of covered employees is subject to an annual review to determine if adjustments to said rate of reimbursement should be made. There shall be no attorney's fees for depositions of physicians or IME's.

#### **Article VII: General Provisions**

1. This Agreement constitutes the entire understanding of the parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement.
2. This Agreement shall be governed and construed pursuant to the laws of the State of California.
3. This Agreement, including all attachments and exhibits, shall not be amended, nor any provisions waived, except in writing signed by the parties which expressly refers to this Agreement.
4. If any portion of this Agreement is found to be unenforceable or illegal the remaining portions shall remain in full force and effect.
5. [RESERVED]

Notice required under this Agreement shall be provided to the parties as follows:

City: City Administrator (or designee)  
150 S. Palm Ave.  
Rialto, CA 92376

RFMA: Union President (or designee)  
Rialto Fire Management RFMA  
150 S. Palm Ave.  
Rialto, CA 92376

