

**MEMORANDUM OF
UNDERSTANDING**

BETWEEN



**THE CITY OF RIALTO
AND
TEAMSTERS MID-
MANAGEMENT &
CONFIDENTIAL EMPLOYEE
UNION**

July 1, 2023

through

June 30, 2025



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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF RIALTO
AND
TEAMSTERS MID-MANAGEMENT
& CONFIDENTIAL EMPLOYEES UNION**

The following provisions constitute the agreements reached by the City of Rialto (**City**) and the Teamsters Mid-Management & Confidential Employees Union (**Union**) during recent negotiations. The City and Union have agreed to the following modification in wages, hours, and other terms and conditions of employment:

PREAMBLE

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

- A. The Union is the recognized employee organization for all Mid-Management and Confidential personnel employed by the City for the classifications listed in Article 47 (**Unit Definition**).
- B. In the interest of maintaining harmonious relations between the City and its employees, authorized representatives of the City and Union 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 Union have reached an agreement as to certain changes in wages, hours, and other terms and conditions of employment of the affected employees which have been submitted to the City Council of the City and adopted.

Therefore, the City and the Union agree that the wages, hours, and other terms and conditions of employment for the affected employees shall be as follows:

**ARTICLE 1
TERM OF AGREEMENT**

The term of this Agreement shall be from July 1, 2023 to June 30, 2025.

**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 6% effective July 1, 2023, to be implemented by the second 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 City agrees to increase base salaries of classifications covered by this MOU by 5% effective the first pay period including July 1, 2024. Adjustment changes will 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.
- D. Those unit members on City payroll at the time of ratification of this MOU will receive a one-time non-PERSable bonus of \$1,610.00 to be distributed through City payroll.
- E. Moving forward, the unit agrees to utilize the National CPI Index to serve as the foundation for any cost-of-living language changes the unit may request.

ARTICLE 3 BILINGUAL PAY

The City shall pay one hundred dollars (\$100) per pay period for employees whose position has been designated by the department head as bilingual and who passes the City examination for fluency in Spanish. Continuing receipt of said bilingual pay is subject to recertification by the Human Resources/Risk Management Department by January 1 of every year after initial certification.

ARTICLE 4 RETIREMENT

EMPLOYEES IN CALPERS 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. 2.7% @ 55 Retirement Formula (Government Code §21354.5)
2. Single Highest Year Final Compensation (Government Code §20042)
3. Post Retirement Survivor Allowance to Continue After Remarriage (Government Code §21635)
4. 1959 Survivor Benefit Level 4 (Government Code §21574). The City shall contribute \$1.45 towards the employee's monthly cost for this benefit.
5. Pre-Retirement Death Benefits to Continue After Remarriage of Survivor (Government Code §21551)
6. \$500/ \$2000 Retired Death Benefit (Government Code §21620)
7. Additional Service Credit – 2 Years Local Member (Government Code §20903)
8. Improved Non-Industrial Disability Allowance (Government Code §21427)
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. Unused Sick Leave Credit (Government Code §20965)
12. 2% Annual Cost-of-Living Allowance Increase (Government Code §21329)
13. Prior Service Credit (Government Code §20055)
14. Special Compensation shall be reported to CalPERS in accordance with applicable law.
15. Employee agrees to pay 8%-member contribution to CalPERS via payroll deductions on a pre-tax basis.

EMPLOYEES IN CALPERS 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 Retirement Formula (Government Code §7522.20)
2. 3-Year Final Compensation (Government Code §20037)
3. Post Retirement Survivor Allowance (Government Code §21624/ 21626)
4. Post Retirement Survivor Allowance to Continue After Remarriage (Government Code §21635)
5. Pre-Retirement Death Benefits to Continue After Remarriage (Government Code §21551)
6. 1959 Survivor Benefit Level 4 (Government Code §21574). The City shall contribute \$1.45 towards the employee's monthly cost for this benefit.
7. \$500/ \$2000 Retired Death Benefit (Government Code §21620)
8. 2% Annual Cost of Living Allowance Increase (Government Code §21329)
9. Additional Service Credit – 2 Years Local Member (Government Code §20903)
10. Improved Non-Industrial Disability Allowance (Government Code §21427)
11. Military Service Credit as Public Service (Government Code §21024) The employee is responsible for paying this benefit.
12. Prior Service Credit (Government Code §20055)
13. Unused Sick Leave Credit (Government Code §20965)
14. Special Compensation shall be reported to CalPERS in accordance with applicable law.
15. Employee will pay 50% of the expected normal cost rate towards PERS costs.

ARTICLE 5 DEFERRED COMPENSATION

The City shall sponsor a deferred compensation plan which shall be available to employees on a voluntary basis.

All employees will have access to contribute through payroll deduction to the Deferred

Compensation Plan, subject to City Council modification of the plan as authorized by federal and state laws.

Additionally, The City shall contribute four hundred dollars (\$400) per month into each unit employee's deferred compensation plan (401A).

Employees will have access to the 401A, Money Purchase Pension Plan and Trust, subject to City Council modification of the plan as authorized by federal and state laws.

**ARTICLE 6
CAFETERIA BENEFIT PLAN**

- A. Employees in the Bargaining Unit shall be provided with a Cafeteria Plan which will be administered by the City pursuant to Section 125 of the Internal Revenue Code.
- B. Employees have the choice of applying Cafeteria Plan dollars to purchase medical, vision, and dental insurance (collectively "health insurance") provided through City plans. The amount each employee receives will vary depending on the coverage for which the employee qualifies, and the number of dependents covered. The employee may also choose to opt out of the Cafeteria Plan as outlined in Section D. The City will contribute the minimum contribution required pursuant to Government Code §22892(b) ("minimum contribution") per month per employee for health insurance. Increases to cafeteria dollars will become effective the month following the ratification of the MOU.
- C. The City's contribution to the Cafeteria Plan for each employee of the Bargaining Unit will be one thousand eight hundred dollars (\$1,800) per month to go towards the employee's contributions for Medical, Vision, and Dental insurance premiums.
- D. Those employees hired before July 1, 2018, may opt to receive up to one hundred percent (100%) of the City's contribution which is not utilized to purchase any of the benefits through the City. An employee must provide the City with written notice/waiver of paid health insurance payments for which the employee is eligible. Then the employee shall receive any unused amount of the City's contribution to the Cafeteria Plan as taxable cash or have said amount placed into a deferred compensation plan. For those employees hired on or after July 1, 2018, who do not utilize the Cafeteria allowance for medical insurance, there shall be no cash back to the employee. These employees shall be limited to a \$100 twice a month (24 times per year) opt-out allowance for not using the City medical insurance. Employees not exhausting the allowance for medical insurance premiums will not receive a cashback difference.

**ARTICLE 7
RETIREE HEALTH
INSURANCE**

Retirees are not eligible for the Cafeteria Plan. Retirees, however, shall retain all current PERS health benefits.

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

Retiree Only	\$279.25/month
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Retiree + 1	\$558.49/month
Retiree +2 or more	\$726.04/month

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

**ARTICLE 8
FOR FUTURE USE**

**ARTICLE 9
INCOME PROTECTION
INSURANCE**

The City shall contribute one hundred percent (100%) of the premium annually for income protection insurance for active employees.

**ARTICLE 10
LIFE INSURANCE**

The City will pay the cost of employee and dependent life insurance coverage at the following base levels:

Employee	\$150,000
Spouse	\$10,000
Registered Domestic Partner (so long as required by California law)	\$10,000
Children	\$5,000

**ARTICLE 11
FOR FUTURE USE**

**ARTICLE 12
SOCIAL SECURITY**

In the event that the City and its employees are required to participate in the Federal Social Security Program, then the parties agree to immediately open the meet and confer process as to any and all matters within the scope of representation. The contribution designated by law to be the responsibility of the employee shall be paid in full by the employee, and the City shall not be obligated to pay or “pick up” any portion thereof unless otherwise mutually agreed to by the parties.

**ARTICLE 13
MEDICARE**

In the event that the City and all employees are required to participate in the Federal Medicare Program, then the parties agree to immediately open the meet and confer process as to any and all matters within the scope of representation. The contribution designated by law to be the responsibility of the employee shall be paid in full by the employee, and the City shall not be obligated to pay or “pick up” any portion thereof unless otherwise mutually agreed to by the parties.

Notwithstanding, employees hired by the City on or after April 1, 1986, shall be required to pay the designated employee contribution to participate in the Medicare Program.

**ARTICLE 14
STATE DISABILITY
INSURANCE**

- A. Employees shall pay one hundred percent (100%) of the cost of State Disability Insurance (SDI).
- B. The City shall establish a payroll deduction protocol.
- C. The City shall not be liable to the Union, employees, or any other persons by reason of the requirements of this Article for the remittance of any sum other than that constituting actual deductions made from employee wages earned. The Union shall hold the City harmless for any and all claims, demands, suits, orders, judgments or other forms of liability that may arise out of or by reason or action taken or not taken by the City under this Article.

**ARTICLE 15
SICK LEAVE**

- A. **Sick Leave Accumulation and Use** –Sick leave is accumulated at the rate of 4.615 hours per pay period, for a total of one hundred twenty (120) hours per fiscal year.

In cases of serious illness in the immediate family, an employee can take paid leave for 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, or a child to whom the employee stands in loco parentis. (2) a biological, adoptive, or foster parent, stepparent. (3) a spouse. (4) a registered domestic partner. (5) a grandparent. (6) a grandchild. (7) a sibling. Such sick leave usage shall not exceed a total of six (6) cumulative working days (60) hours in any fiscal year. This usage shall be called personal leave.

Sick Leave Cash Out - See Article 17(D), “Optional Vacation and Sick Leave Cash Out”

- B. **Pay On Termination** - Employees who terminate shall be paid at their current hourly rate for their accumulated and unused sick leave as follows:

<u>Years of City Service</u>	<u>Percentage to Be Paid</u>
5 years through 9 years	50%
10 years through 14 years	65%
15 years through 19 years	75%
20 years or more	100%

Employees who are terminated for cause shall not be eligible for any benefits under this provision.

- C. **Worker’s Compensation Insurance and Sick Leave** - Employees may use accumulated but unused sick leave while on an absence due to an industrial injury in addition to any workers’ compensation payment; the combination of the two shall not exceed one hundred

percent (100%) of the employee’s normal pay.

- D. **Sick Leave Conversion** – Employees may convert up to forty (40) hours of accrued sick leave per fiscal year to floating holiday time. Upon conversion, employees must follow the same approval process for the time off as is applicable to floating holidays.

**ARTICLE 16
BEREAVEMENT LEAVE**

Under AB 1949, an eligible employee is entitled to take up to 5 days of bereavement leave upon the death of a covered family member. The City will provide paid leave for up to 40 hours; the remaining hours of leave can be taken with the use of an employee’s leave bank or on an unpaid leave. Employees are eligible for bereavement leave if they have been employed with the City for at least 30 days before the leave commences. Bereavement leave may be completed within 3 months of the date of death, and it need not be taken consecutively. 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. Such leave shall not be deducted from the employee’s sick leave.

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

**ARTICLE 17
VACATION ACCRUAL
ACCOUNTING**

- A. No employee shall be granted vacation time that he/she has not earned.
- B. No hours in excess of six hundred (600) will be accrued or paid to the employee.
- C. Vacation leave will be earned at the following rate for all hours actually worked, for City-declared holidays as specified in Article 19, vacation, CTO, administrative leave, paid military leave, paid jury duty, sick leave (except as noted below) and bereavement leave. Employees shall cease to accrue additional vacation leave for sick leave hours utilized after the first four (4) consecutive workdays out due to a non-industrial injury.

Vacation leave will be earned at the following rate:

<u>Years of City Service</u>	<u>Hours Earned on Anniversary</u>
Tier 1: 0 - 1 year	Prorated accrual – 80 hours awarded upon completion of 365 days (2080 hours).
Tier 2: 1 -4 Years	6.00 Hours / pay period
Tier 3: 5 -10 Years	7.50 Hours / pay period
Tier 4: 11 – 16 Years	9.50 Hours / pay period
Tier 5: 17+ Years	10.5 Hours / pay period

D. Optional Annual Vacation/Sick Leave Cash Out

In December of each year, employees may irrevocably elect to cash-out up to combined total of 210 hours of vacation and/or sick time to be accrued in the following calendar year that are both accrued and unused at the time of the cash out.

The payments are made via payroll upon receipt and processing of the request.

In order to cash out, the employee must submit an irrevocable election form, no later than December 15 of the preceding calendar year specifying the amount of hour 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.

The two annual distributions shall be June 1st and December 1st of each calendar year.

Employees who do not submit an irrevocable election form by December 15 will be deemed as foregoing participation in the optional annual leave cash-out program for that following calendar year.

The cash-out shall be at the employee's current base salary rate, not the FLSA regular rate of pay, but shall include salary and special compensation, yet, exclude overtime and cafeteria payments, at the time of cash-out.

**ARTICLE 18
HOLIDAYS**

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

New Year's Day	Veterans Day
Martin Luther King Day	Thanksgiving Day
Presidents' Day	Friday after Thanksgiving
Cesar Chavez Day	Christmas Eve
Memorial Day	Christmas Day
Independence Day	Three (3) Floating Holidays
Labor Day	Juneteenth

A. The floating holidays, at ten hours each, will accrue on January 1 of each year. If an employee has not completed six months of employment on January 1, the floating holiday hours will be credited following completion of six months of employment. Floating holiday hours may be used in fifteen (15) minute increments.

B. Holidays that fall on a Friday or Saturday will be observed on the proceeding Thursday; holidays that fall on a Sunday will be observed the following Monday.

- C. Holiday Closure – During the week of Christmas Eve through New Year’s Day, the City offices will be closed. Employees may utilize accrued administrative leave, vacation, compensatory time, or floating holidays, in addition to the holidays, in order to receive full pay for the week.

**ARTICLE 19
ADMINISTRATIVE LEAVE**

Employees will be credited with administrative leave as follows:

- A. One hundred twenty (120) hours administrative leave.
- B. Administrative leave hours will be credited on July 1; hours must be used by June 30 of the following year.
- C. Administrative leave hours do not accumulate; hours not used by June 30 of each year are forfeited.
- D. Administrative leave hours will be prorated only when employees enter the unit.
- E. For the basis of recording usage of administrative leave, mid-management employees are considered being on a forty (40) hour work week.

**ARTICLE 20
OVERTIME COMPENSATION**

- A. Employees shall not be eligible for overtime or compensatory time. However, any employee in the unit who is called back to work after the normal duty hours on an emergency basis will receive compensatory time at straight time for actual hours worked with a two-hour minimum.

**ARTICLE 21
ACTING PAY**

- A. The acting pay rule shall apply only to vacant, higher budgeted positions, after eighty (80) continuous working hours as determined by the City Manager or designee. After an employee works in a higher position for eighty (80) consecutive hours, he/she will be compensated at the current range of the acting classification. Such increase must be at least five percent (5%) above their current pay.
- B. Employees must be qualified to meet the minimum requirements and to perform those duties normally performed by the incumbent of the higher position.
- C. A vacant position is defined as any position which is vacant due to termination, dismissal, incumbent on sick leave or vacation beyond eighty (80) consecutive working hours, or a newly created position which is not filled.

**ARTICLE 22
PROMOTIONAL PAY**

Upon promotion, Mid-Management employees will receive a minimum increase of five (5%) percent in base salary; however, the increase shall not exceed the final step designated in the Wage and Salary Plan for the classification. The end of probation shall establish the employee's new anniversary date. There shall be no merit increase for six months which is the completion of probation following the promotion. Employees promoting from RCEA to TMMU will also have a 6 month probationary period.

**ARTICLE 23
EDUCATIONAL
REIMBURSEMENT**

The City agrees to reimburse employees for educational expenses as follows:

- A. One hundred percent (100%) of classes to maintain State required certification if classes attended after normal work hours.
- B. The City agrees to reimburse employees up to two thousand five hundred dollars (\$2,500) per fiscal year for expenses for tuition and books, provided that the employee achieves a passing grade in the course.
- C. Courses must be taken at an accredited college or university after normal work hours and must be job related, with prior written approval of the department head.
- D. Reimbursement shall be payable only after successful completion of course(s) and upon submittal of a written request for reimbursement being forwarded to the Human Resources/Risk Management Director, or designee, within ninety (90) days of completion of course requirements.
- E. Employees who receive reimbursement pursuant to this Article will be required to remain in employment with the City for three (3) years following the first pay period in which they receive the educational incentive for a Master's Degree referenced in Article 24. If an employee fails to remain in the City's employment for such three (3) years, he or she shall be required to pay back one hundred percent (100%) of the reimbursement received under this article for any courses related to obtaining the Master's Degree.

**ARTICLE 24
EDUCATIONAL INCENTIVE**

Employees with Masters' degrees will receive a seven and one-half percent (7.5%) pay increase. The increase in pay only applies if the employee has a degree higher than required for the position.

**ARTICLE 25
LONGEVITY PAY**

Employees with five (5) to nine (9) years of cumulative service credit under PERS will receive longevity pay equal to three percent (3%) of his or her base salary. Employees with ten or more years of cumulative service credit under PERS will receive longevity pay equal to six percent (6%) of his or her base salary.

It is the responsibility of the employee to provide a current PERS statement to the Human

Resources/Risk Management Department in order to receive longevity based on the credit under PERS. Employees are responsible for notifying the City of all CalPERS and/or SBCERA service time. Notifications of all CalPERS and/or SBCERA service shall be submitted to the Human Resources/Risk Management Department 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 submittal of proof to the Human Resources/Risk Management Department.

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.

A separate “public service experience” longevity pay shall also apply to members who were hired prior to June 30, 2018 and have cumulative CalPERS “public service experience” or service under the San Bernardino City Employee’s Retirement Association (SBCERA). However, such public service experience shall not be subject to pensionable compensation pursuant to Title 2, Section 571 of the California Code of Regulations.

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 26 CERTIFICATION PAY

Employees who have completed the coursework and attained any certification listed in Appendix A shall be eligible for certification pay equal to seven percent (7%) of his or her base salary. The salary increase shall become effective on the date of the awarding of the certification or the effective date of this Agreement, whichever is later. This may cause retroactive payment. Certification pay shall be available on a one-time, (one certificate) basis only, regardless of how many certificates an employee attains. This provision is not applicable to any certification an employee is already required to attain as part of his or her position.

Certificates must materially enhance the eligible employee’s ability to perform their existing job duties.

ARTICLE 27 UNIFORMS AND PERSONAL SAFETY EQUIPMENT

- A. For all positions which are required to wear uniforms as determined by department head, the City shall provide the uniform and shall continue the existing practices with respect to the cleaning of such uniforms.
- B. For employees required to wear uniforms, the City shall continue to provide five (5) shirts and three (3) pairs of pants.
- C. The City shall pay for the tempering of prescription corrective lenses.
- D. For employees in Public Works who are required to wear safety boots, the City shall provide a pair of safety boots when the employee first joins the department. Thereafter,

safety boots will be replaced on an as-needed basis as determined by the department head. Employees will be fitted on their own time.

**ARTICLE 28
MILEAGE
REIMBURSEMENT**

The City agrees, in accordance with all applicable rules and regulations, to reimburse employees for authorized use of personal automobiles on City business at the current applicable standard mileage reimbursement rate, per Internal Revenue Code.

**ARTICLE 29
CHILD CARE**

The City shall provide a ten percent (10%) subsidy to those employees utilizing its childcare facilities. The City reserves the sole and exclusive right to assign a location at any of its childcare facilities. Such decision shall be final and binding.

**ARTICLE 30
PAY PERIOD**

A two-week period constitutes the City's pay period. The pay period begins at 12:01 a.m. on a Sunday, and ends at midnight on the second Saturday thereafter, as currently in effect.

**ARTICLE 31
SALARY RATES AND
STEP ADVANCEMENT**

- A. Employees shall be paid in accordance with the Wage and Salary Plan.
- B. Each employee shall be assigned to an appropriate classification and salary step in the Wage and Salary Plan. Thereafter, advancement in said Plan shall be governed by the terms and provisions of this Agreement and applicable City resolutions.

The advancement through the salary steps is discretionary based upon satisfactory performance and continuous service in the same classification. The salary step advancement at 6 months will be determined upon satisfactory performance evaluation during this test period and shall not imply automatic passing of probation at the end of the 12-month probationary period. Any step advancement may be withheld or delayed by the appointing authority if an employee's performance does not merit such advancement. A typical advancement through the salary plan can be as follows:

Step 1: shall be for a period of six (6) months of continuous service within the step. At the completion of six (6) months within Step 1, an employee shall progress to Step 2, as provided in this Article.

Step 2: shall be for a period of six (6) months of continuous service within the step. At the completion of six (6) months within Step 2, an employee shall progress to Step 3, as provided in this Article.

Step 3: shall be for a period of twelve (12) months of continuous service within the step. At the completion of twelve (12) months within Step 3, an employee shall progress to Step 4, as provided in this Article.

Step 4: shall be for a period of twelve (12) months of continuous service within the step. At the completion of twelve (12) months within Step 4, an employee shall progress to Step 5, as provided in this Article.

Step 5: shall be for a period of twelve (12) months of continuous service within the step. At the completion of twelve (12) months within Step 5, an employee shall progress to Step 6, as provided in this Article.

Step 6: shall be for a period of twelve (12) months of continuous service within the step. At the completion of twelve (12) months within Step 6, an employee shall progress to Step 7, as provided in this Article.

Step 7: is the top (final) step in the Wage and Salary Plan.

- C. All advancement in the classification plan to a next higher step upon completion of the minimum length of service required for advancement shall be on a step basis. However, the City reserves the right to extend the time an employee must remain within a step due to unsatisfactory performance, or due to extended or substantial periods of absence from service by the employee. Such advancement shall be granted for continuous and satisfactory service by the employee in the performance of duties, as set forth in the employee's class, based upon the employee's entire performance. The City shall attempt to inform the employee prior to the evaluation, if the employee's work is unsatisfactory, and the employee is in danger of not receiving an increase, based upon the evaluation.
- D. For newly hired employees, the City reserves the right to determine at what step such newly hired employees shall be placed.

ARTICLE 32 PERFORMANCE EVALUATION

- A. **Standards of Performance** - Performance evaluation standards shall be based upon the quantity and quality of work which the average person thoroughly trained and industriously engaged can turn out in a day and shall be in accordance with other existing standards.
- B. **Employee Evaluation Reports** - The system of employee evaluation reports shall permit as accurately and fairly as is reasonably possible the evaluation by his/her supervisor and department head of each employee's performance. Ratings shall be set forth in an employee evaluation report, on a form which shall be provided by the Human Resources/Risk Management Director, or designee. The Human Resources/Risk Management Director, or designee, shall administer the evaluation system, may investigate all employee evaluation reports, and may require reporting officials to justify their reports and make his/her own reports. Upon completion of an evaluation report, the responsible department head shall discuss such report with that employee, shall counsel the employee regarding apparent weaknesses or deficiencies or regarding recommended action to improve the employee's performance in his/her current job assignment or potential promotability and shall record

the employee's reaction and comments. The department head shall require the employee's acknowledging signature and shall provide the employee a copy of the report. It is understood that the employee's signature does not necessarily indicate agreement with the evaluation report content or ratings.

- C. **Time of Filing Evaluation Reports** - Annually, on the employee's anniversary date of employment or promotion, supervisors and department heads will complete the report of performance on each employee under their supervision.

This form shall be provided by the Human Resources/Risk Management Director, or designee. Reports will be made in triplicate; one copy is for the department head, the original will be filed in the employee's personnel file in the Human Resources Department, and the triplicate given to the employee. Reports will not be filed for temporary employees.

- D. **Purpose** - Employee evaluation reports shall be considered in determining salary increases and decreases, the advisability of transfer, demotions, dismissals, and in promotional examinations.
- E. **Unsatisfactory Service** - Records of unsatisfactory service may lead to reduction in class and compensation, and persons falling below the standards of efficiency may be removed from their positions substantially as in the case of removals for cause. Unsatisfactory service records shall be reported to the Human Resources/Risk Management Director, or designee and the department head.
- F. **Employee Review** - An employee shall have the right to review his/her personnel file upon reasonable prior notice by the employee to the Human Resources Department. If a grievance has been filed on behalf of an employee or employees, an Union representative may review such employee's personnel file provided the employee has given the Human Resources/Risk Management Director, or designee prior written approval for such Union representative to do so.

ARTICLE 33 GRIEVANCE PROCEDURE

- A. **Definitions**

- 1. 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 set forth in Article 36 AGENCY AUTHORITY of this MOU. Additionally, by virtue of entering into this MOU, the parties agree that no matters, whether labeled as grievances, "complaints," or otherwise, may be appealed to the Personnel Advisory Board or to any other 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 be written or otherwise. Additionally, performance evaluation reports and reprimands, whether written or verbal, are not subject to the grievance procedure.

2. Unless otherwise stated, a “**day**” is a day in which the City Hall is open for business.
3. A “**representative**” is a member of the unit, Business Agent(s), or legal counsel who shall represent any party in interest at his/her election.
4. A “**grievant**” is 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 his/her designee. If the grievant has not submitted a written grievance within this time period, the grievance will be deemed to have been resolved.
2. Within ten (10) days after receipt of a written grievance by the department head, a personal conference with the other party shall take place at the request of either the grievant or the department head. Within fifteen (15) days after the 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 Union.
3. In those cases where a “grievance” regards a disciplinary proceeding which is both subject to the grievance procedure and which constitutes a proposed deprivation of property giving rise to a pre-disciplinary proceeding in accord 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: 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 time 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 to the department head or designee, 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 II 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 Union.

3. Copies of the City Manager's decision shall be filed in the employee's personnel file, unless the matter involved discipline and the discipline was not upheld by the City Manager.
4. For all non-disciplinary procedures and grievances, the decision of the City Manager shall be final and binding.

E. Formal Level III: Binding Arbitration

Binding Arbitration shall be available for disciplinary actions only, but not including verbal or written reprimands.

1. If the grievant is not satisfied with the disposition of the grievance at Level II, or if no decision is rendered within the designated time period, a grievant may forward a written grievance to the Human Resources/Risk Management Director, or designee, proposing that binding arbitration be undertaken.
2. Said written grievance request for convening of binding 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 II decision or twenty (20) days after the grievance was presented to the department head or designee, whichever is later. Said request for arbitration shall set forth a detailed statement by the grievant containing all facts then known to the grievant which support his/her claim for an appeal. A general or specific denial of wrongdoing or claim of misconduct shall not be sufficient. The arbitration proposal shall be signed by the grievant. Signature by a representative shall be insufficient.
3. Within ten (10) calendar 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 regarding the selection of a mutually agreeable arbitrator. If said meeting either does not occur or if said meeting does not result in the selection of an arbitrator, then within fifteen (15) calendar days of receipt by the Human Resources/Risk Management Director, or designee of the timely grievance, the Director shall mail to the State Mediation and Conciliation Service, a request that a list of seven (7) qualified potential arbitrators be sent jointly to the grievant and to the City.
4. Within ten (10) calendar 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 arbitrator by means of alternate striking of names until one name remains. Said individual shall be the arbitrator. Determination of which party shall make the initial strike shall be by lot.
5. Within five (5) calendar days of said selection process being completed, the

Director 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 one hundred twenty (120) calendar days after selection of the arbitrator, unless otherwise mutually agreed to by the parties.
7. In those arbitration proceedings which 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.
 - a. All 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.
 - b. 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.
 - c. 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.

- d. The hearing shall proceed in the following order:
 - i. The department 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 from 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 employee. The department shall then have the right to reply.
 - vii. The order of presentation and burdens of proof shall be reversed in those cases where non-disciplinary grievances are heard.
10. The arbitrator shall determine 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 binding. The provisions of Section 1094.6 of the Code of Civil Procedure (writ proceedings) are not applicable to disciplinary actions following binding arbitration.
11. The City shall bear the cost of a mandatory court reporter. The City shall bear the cost of transcripts that are required by the arbitrator. Each party shall bear its own 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.
12. 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

review of a grievance, shall be considered a jurisdictional defect and shall result in a waiver by the grievant of any and all 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 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.

13. 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.

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 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 Business Agent, management person, or any other participant in the grievance procedure by reason of such participation.

**ARTICLE 34
LAYOFF PROCEDURE**

The City shall maintain its current policy with respect to layoffs, as contained in Layoff Resolution 2495.

Definition of Layoff - Layoff is the involuntary separation or reduction of a regular employee to a position in a lower classification without fault of the employee.

A. Cause of Layoff

1. A function is to be discontinued, curtailed or mechanized.
2. Reorganization.
3. Budget reductions.
4. Termination or decrease in funds and/or materials for projects or programs.
5. The mandatory reinstatement of an employee.

B. Layoff Policy

1. Whenever possible, loss of employment for regular City employees shall be avoided by demotion, temporary work assignments or offer of employment in other departments pursuant to Paragraph "F" of this Article.
2. Reduced work week may be utilized as a cost saving measure only under the following conditions:
 - a. Reduced work week will only be implemented where such implementation will negate the need for layoffs.
 - b. Reduced work week shall not exceed one day per pay period up to a maximum of thirteen (13) days per fiscal year.
 - c. That affected employees shall be eligible for work sharing Unemployment Insurance Benefits, pursuant to the provisions of Senate Bill 1471 (1978), through the State Employment Development Department.
 - d. Notification of implementation of reduced work week shall comply with Paragraph "D" of this Article.
3. Laid off employees shall be placed on a one-year reinstatement list by order of seniority and shall have the right to reinstatement for any vacancies in the classification held at time of layoff. This list may be extended upon approval of the City Manager.
4. Established eligibility lists for classifications affected by the Layoff procedure may be extended at the discretion of the City Manager by the length of time during which the reinstatement list is in effect.

Notification - Whenever a reduction of employees in regular positions is projected, the City Manager shall, within five (5) workdays of the date a layoff plan is finalized by the City Manager, notify the Union. The notification shall include the anticipated number, positions and classifications of employees to be laid off. Employees to be laid off shall be entitled to fifteen (15) calendar days notification prior to layoff. The fifteen (15) calendar day notice to employees may run concurrently with the five (5) workday notice to the Union.

C. Order of Layoff

Layoffs among regular employees shall be made on the basis of seniority as established by the Layoff Procedure. The number of positions maintained in each classification is determined by the City. Extra-help employees performing services similar to classifications affected by layoff shall be terminated before any reduction in the regular work force. Likewise, JTPA or other temporary, grant-funded employees shall be terminated, in affected classifications, in accordance with Federal or State Rules or guidelines governing such funding programs.

Employees holding regular positions, but in probationary status, shall revert to the most recent classification in the City in which they held permanent regular status to determine layoff rights.

Employees holding “acting positions,” (functioning by assignment in a higher-level classification than that which they hold permanent status) shall revert to their regular classification in the City to determine layoff rights.

1. Exceptions to the order of layoff may be granted based on the following criteria:
 - a. The employee possesses special qualifications, skills or abilities which no other employees in the same classification possess. Special qualifications, skills or abilities must have been identified as a condition of employment on the job announcement at the time the employee was appointed to the position.
 - b. Requests for exception to the order of layoff must be submitted to the City Manager and Union in writing. Requests must include the basis, justification and supporting documentation for an exception to the order of layoff.

D. Layoff Procedure

The procedure for layoff, once the number of positions to remain by classification has been determined, shall be as follows:

1. Priority lists shall be established for retained positions in each classification. The lists shall include the names of those employees who, based on their seniority within the classification, qualify to fill the retained positions. Where two or more employees have the same seniority within a classification, seniority between those employees shall be determined by time in City service in any classification.

Employees within a classification, who are not qualified by seniority to be on the priority list for the classification, shall be eligible to compete, by seniority, for the next lower classification priority list. If the employees are unsuccessful in qualifying for this lower priority list, they shall be laid off and placed on a reinstatement list.

2. Once priority lists have been established for each classification, the bumping and layoff process would then take place. Employees are authorized to bump to a previously held classification if they meet the following criteria:

- a. Their classification has been deleted by the City.
- b. They hold a position on the priority list for their classification but are displaced (bumped) by an employee from a higher classification.
- c. Once an employee has “bumped” to a previously held lower level position, they shall not be affected further by the current round of layoffs.

If an employee is authorized to bump by meeting the above criteria, he/she will occupy the position held by the least senior employee on the priority list for that classification, who shall be displaced and authorized to bump downward. A regular employee who is bumped or accepts demotion in accordance with this procedure in lieu of layoff retains reinstatement right to his/her former classification.

If an employee is not authorized to bump down, due to failure to meet the above criteria, he/she will be laid off and placed on the reinstatement list.

3. For purposes of this Article, employees promoted out of this unit of representation shall, upon completion of the probationary period in their new position, lose all seniority and bumping rights to their former position.

E. Reinstatement Procedure

The policy and procedure for reinstatement of employees, once a layoff has occurred, shall be as follows:

1. Employees who are demoted or who are laid off pursuant to this layoff procedure shall have their names placed on the City reinstatement list in accordance with the following criteria:
 - a. Work Performance - The employee’s last annual work performance evaluation given not less than ninety (90) days prior to date of receipt of notification of layoff shall be reviewed.
 - b. If the rating is “meets job standards,” the employee shall be placed on the reinstatement list in order of seniority as defined in Paragraph F above.
 - c. Employees rated “needs improvement” shall be placed on the reinstatement list after those in Paragraph G.1.b, in order of seniority as defined in Paragraph F.1 above.

Subsequently, when a regular position in the City becomes permanently vacated or is added, all employees on the City reinstatement list who have held a position in the available classification or held a position in a higher classification with the City shall be offered the position, based on their placement on the reinstatement list.

2. Laid off or demoted employees who are reinstated to their same position in the City in accordance with this policy shall receive restoration of salary step and available attendant benefits, vacation accrual rate, sick leave (unless the employee has

received payment for unused sick leave in accordance with the City's sick leave policy) and the retirement plan contribution rate, provided the employee complies with the PERS Board's procedure for redeposit of funds.

Laid off employees who are offered reinstatement with the City in a classification lower than that which they previously held shall receive a salary step at least equivalent to the salary step which was held by the employee prior to layoff along with available attendant benefits. Employees who decline assignment to a lower classification shall not forfeit their right to remain on the reinstatement list. Employees involuntarily demoted or bumped down as a result of the Layoff Procedure shall receive salary and available attendant benefits in accordance with the provisions of this section. Such demoted employees may be placed on a "Y rate" in salary as approved by the City Manager to maintain salary equity within the system and/or to prevent undue hardship or unfairness due to the application of this policy. If an employee is placed on a "Y rate," he/she shall receive no future salary increase until the salary range of the position held exceeds the "Y rate."

3. If an employee is notified to return to work and such employee fails to notify the City of their acceptance of re-employment within ten (10) work days from the date of notification by the City and fails to report to work within fifteen (15) work days from the date of notification by the City, such employee shall lose all seniority rights and the City will be relieved of any obligation to re-employ such employee.

F. Established Qualifications Requirement

Employees who are demoted to an available position not previously held with the City as a result of the layoff process shall be required to meet the established qualifications of that class. In the event that the employee does not meet these qualifications, he/she shall be entitled to a probationary period of up to ninety (90) calendar days, as determined by the City Manager, during which he/she must qualify. Employees failing to meet qualification after such probationary period may be subject to layoff.

G. Order of Layoff

Example #1 - An employee has been in the classification affected by layoff for two (2) years. Another employee has been in the affected classification for one (1) year. The employee with the one (1) year shall be laid off first.

Example #2 - The laid off employee in Example #1 previously held a lower level classification. That employee may bump the least senior employee in the lower level classification.

H. Reinstatement

Example #1 - Two employees in the same classification are laid off. One employee has two (2) years seniority and his last annual work performance was "needs improvement." The other employee has one (1) year seniority and his last annual work performance evaluation was "meets job standards." The employee who was rated "meets job standards" shall be placed first on the reinstatement list.

Example #2 - The same two employees as in Example #1 were both rated "meets job standards."

They would then be placed on the reinstatement list in order of seniority with the two (2) year employee being first.

ARTICLE 35 PAYROLL DEDUCTION

It is agreed that membership dues, insurance, premiums for plans sponsored by the Union, and State Disability Insurance premiums, if any, shall be deducted by the City from the pay warrant of each employee covered hereby who files with the City a written authorization requesting that such deduction be made. Remittance of the aggregate amount of all membership dues and insurance premiums deducted from the pay warrants of employees covered hereby shall be made to the Union, or in the case of State Disability Insurance to the State of California, within thirty (30) days after the conclusion of the month in which said membership dues and insurance premiums were deducted.

The City shall not be liable to the Union, employees, or any other persons by reason of the requirements of this Article for the remittance of any sum other than that constituting actual deductions made from employee wages earned. The Union shall hold the City harmless for any and all claims, demands, suits, orders, judgments or other forms of liability that may arise out of or by reason of action taken by the City under this Article.

ARTICLE 36 BUSINESS AGENT

When requested by a member of the unit, a Business Agent may investigate any alleged grievance and assist in its presentation. The Union shall notify the City of the names of each Business Agent. The Business Agent shall notify the Human Resources/Risk Management Director, or designee, when he or she will be entering City facilities to process or investigate grievances. The parties hereto recognize that they shall continue the past practice with respect to Business Agent's right to process grievances.

ARTICLE 37 D.R.I.V.E

The City agrees to deduct from the paycheck of those unit employees wishing to contribute to D.R.I.V.E (Democrat Republican Independent Voter Education). Twice per year, in March and October, D.R.I.V.E. shall notify the City of the amounts designated by each contributing employee that are to be deducted from their paycheck for all weeks worked. The phrase "weeks worked" excludes any week where an employee is in unpaid status. The City shall transmit to D.R.I.V.E. National Headquarters on a monthly basis, in one (1) check, the total amount deducted along with the name of each employee on whose behalf a deduction is made and the amount deducted from that employee's paycheck. The International Brotherhood of Teamsters shall reimburse the City annually for the City's actual cost for the expense incurred in administering the payroll deduction plan.

ARTICLE 38 WORK DISRUPTION

The parties agree that no work disruption shall be caused or sanctioned by the Union during the term of this Agreement. Work disruptions include but are not limited to a strike, sit-down, stay- in, speed-up, or slowdown in any operation of the City, or any curtailment of work, disruption, or interference with the operations of the City. The parties shall endeavor to discourage any such

work disruptions and make positive efforts to return employees to their jobs. The parties acknowledge that participation of any employee in a concerted work action against the City, during the term of this Agreement, is grounds for disciplinary action, including termination. The parties agree that no lockout of employees shall be instituted by the City during the term of this Agreement, unless such work disruptions occur. The term lockout is hereby defined so not as to include the discharge, suspension, termination, layoff, failure to recall, or failure to return to work of employees of the City in the exercise of its rights as set forth in any provisions of the Agreement or applicable ordinance or law.

ARTICLE 39 AGENCY PERSONNEL RULES

- A. It is understood and agreed that there exists within the City in written or unwritten form, certain personnel rules, policies, and practices which establish uniform and orderly methods of communications between the city and its employees for the purpose of promoting improved employer-employee relations, which will continue in effect, except for those provisions which may be modified by the City Council or Personnel Advisory Board during the term of this Agreement in accordance with 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. See Rialto Municipal Code 2.51.080.
- B. **Revision of Personnel Rules & Regulations** - It is understood that all proposed changes and/or modification to personnel rules or other rules and regulations that impact on wages, hours or other terms and conditions of employment are subject to meet and confer pursuant to Government Code 3500 et. seq. prior to implementation.

ARTICLE 40 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 their 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, § 5, 1973; Rialto Municipal Code 2.51.050.)

ARTICLE 41 NON- DISCRIMINATION

- A. The parties mutually agree to protect the rights of all employees covered by this Agreement to join and/or participate in, protected Union activities or to refrain from joining or

participating in protected activities in accordance with Government Code Sections 3500, et. seq., and this MOU. The parties agree that no employee shall be subject to harassment or retaliation for pursuit of such rights.

- B. The City and Union agree that they shall not discriminate against any employee because of race, color, sex, age, national origin, political or religious opinions or affiliations or upon any other basis provided in State or Federal law which is applicable to the City.
- C. Whenever the masculine gender is used in this MOU, it shall be understood to include the feminine gender.

**ARTICLE 42
FULL UNDERSTANDING,
MODIFICATION AND WAIVER**

The parties acknowledge that during the negotiations which resulted in this MOU each had the opportunity to make demands and proposals with respect to any subject or matter within the scope of representation. The understandings arrived at after the exercise of that right are set forth in this MOU and constitutes the complete and total contract between the City and Union with respect to wages, hours, and other terms and conditions of employment; provided, however, that all practices enjoyed by the employees at the present time, which are not included in, or specifically changed by this MOU, shall remain in full force and effect, unless modified by mutual agreement of both parties. In cases of proposed changes, the Union shall be given reasonable advance notice and the opportunity to meet and confer on said changes prior to implementation. Any prior or existing memoranda of understanding between the parties regarding any matter within the scope of representation are hereby superseded and terminated in their entirety.

Therefore, the City and Union for the life of this MOU, each voluntarily waives the right to meet and confer with respect to any subject or matter referred to or covered in this MOU unless otherwise mutually agreed to.

**ARTICLE 43
EMERGENCY
WAIVER PROVISION**

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, provisions of this MOU or the Personnel Rules or Regulations of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is over, the Union shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the MOU and any Personnel rules and policies.

**ARTICLE 44
SAVINGS CLAUSE**

If any of the provisions contained in this Agreement cannot, as a result of changes in State or Federal Law, be implemented the parties shall immediately meet and confer on those provisions to recover any concessions made by either party.

If any of the provisions contained in this Agreement are determined to be unlawful, then only such provisions shall be deleted from this Agreement with the remainder of the Agreement remaining in full force and effect.

**ARTICLE 45
MAINTENANCE OF EXISTING BENEFITS**

All wages and benefits as provided in this Agreement shall remain in full force and effect during the entire term of this Agreement unless agreed to the contrary by both parties.

**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
REOPENERS**

During the term of this MOU, the parties agree to continue to discuss classification and compensation of the unit.

Parties agree to discuss, and address language associated with legal obligations associated with AB 119 and SB 866.

**ARTICLE 48
UNIT DEFINITION**

The following classifications comprise the Mid-Management/Confidential Unit:

Accountant
Accounting Supervisor
Administrative Analyst
Assistant Fire Marshal
Assistant Treasurer/Investment Officer
Associate Civil Engineer
Associate Planner
Building & Safety Manger
Chief Building Official
Civil Engineer
Code Enforcement Supervisor
Community Compliance Manager
Deputy City Clerk
Environmental Compliance Coordinator
Executive Assistant
Finance Manager
Grants Coordinator
Human Resources/Risk Management Analyst

Information Technology Business Systems Analyst
Information Technology Network Administrator
Information Technology Network Engineer
Information Analyst
Information Technology Manager
Principal Civil Engineer
Project Manager
Public Works Program Coordinator
Public Works Superintendent
Public Works Supervisor
Purchasing Manager
Recreation & Community Services Manager
Recreation & Community Services Supervisor
Senior Accountant
Senior Administrative Analyst
Senior Civil Engineer
Senior Human Resources Analyst
Senior Planner
Telecommunications Supervisor

Classifications within the bargaining unit may be changed, added or deleted based upon mutual agreement by the parties or action by the City Council.

**ARTICLE 49
MAINTENANCE OF
MEMBERSHIP**

Subject to applicable law, all regular, full-time unit employees who, on the effective date of this Agreement are members of the Union in good standing, and all employees who thereafter become members, shall maintain their membership with the Union in good standing during the term of this Agreement. However, employees shall have the right to resign their membership during the sixty (60) day period prior to the expiration of this MOU. Unit employees may exercise their rights to resign by notice in writing to the Union and to the City prior to or during this period.

This Agreement shall become effective upon ratification by the City Council and the Association:

FOR THE CITY:

Mike Milhiser, Interim City Manager

Dated: _____

Eric Vail, City Attorney

Dated: _____

Barbara McGee, City Clerk

Dated: _____

FOR THE UNION:

Dated: _____

