

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF RIALTO  
AND  
THE KIWANIS CLUB OF EAST RIALTO**

**1. Facility Usage:**

The City of Rialto (City) will allow the Kiwanis Club of East Rialto use of the Berglund room (Premises) to conduct their Bingo Fundraising on Fridays at specified times during normal business hours of the Grace Vargas Senior Center, located at 1411 S. Riverside Ave., Rialto, CA 92376.

**2. Term: Termination:**

2.1 Term. The term of the Memorandum of Understanding (MOU) shall commence on May 5, 2017 and end on May 31, 2020, unless terminated earlier pursuant to the terms of this MOU.

2.2 Specified Bingo usage times of the Premises:

- 12:00pm – Set up (Lobby)
- 1:00pm – Berglund room available following the nutrition program
- 3:30pm – Bingo ends/Clean up the Berglund room

2.3 Termination.

(a) Should City determine, in its sole discretion, that use of Premises by Kiwanis Club of East Rialto is out of the scope of services outlined by this MOU or is otherwise inconsistent with the City's needs for the use of the Premises, then City may terminate this MOU upon thirty (30) days' written notice.

(b) If either party determines, in its sole discretion, that it is unable or unwilling to continue this MOU under the terms hereof, each party reserves the right to terminate the MOU without future obligation upon providing thirty (30) days written notice to the other party.

2.4 Surrender of Premises:

(a) On the termination date or the end of any extension or renewal of this MOU, Kiwanis Club of East Rialto shall promptly surrender and deliver the Berglund room to City in as good condition as they are as of the date of first occupancy under this MOU; reasonable wear and tear excepted.

### **3. Facility Usage Rules and Regulations:**

- 3.1 Hosting Bingo Fundraising will only be permissible provided all City ordinances and permit processes are met.
- 3.2 The City has priority over the facility usage and reserves the right to cancel any reservation including Bingo for the following reasons: City of Rialto (City Services/Usage), Senior Center Programming/Senior Special Event Activities, Paid Facility Rentals, City Wide Special Events, Thanksgiving and Christmas Holiday closures.
- 3.3 The specified Bingo usage times MUST be adhered to.
- 3.4 The maximum number of participants allowed in the Berglund room must be strictly adhered to.
- 3.5 The Kiwanis Club Members/Volunteers will be responsible for operating the Bingo machines and the TV's.
- 3.6 The Kiwanis Club Members/Volunteers will be responsible for cleaning up the Berglund room following Bingo. The Berglund room must be completely clear of all materials and trash.
- 3.7 All Bingo participants must vacate the Berglund room immediately following the end of Bingo. Clean up of Berglund room, no later than 3:45pm.
- 3.8 Kiwanis Club Members/Volunteers and Bingo participants must follow the Code of Conduct.
- 3.9 Grace Vargas Senior Center is a smoke free facility (NO smoking is allowed on the premises).
- 3.10 In event of a fire drill, power outage or an emergency evacuation ALL Kiwanis Club Members/Volunteers and Bingo participants MUST vacate the facility until the Fire Department or City Staff deems it safe to re-enter the facility.
- 3.11 Failure to follow the Facility Usage and Regulations: (3 strikes rule)
  - 1. Written Letter
  - 2. Written Letter and meeting with City Staff
  - 3. Cancellation of Activity

#### **4. Obligations of the Senior Center Staff:**

- 4.1 Staff will set up a table with chairs in the lobby prior to specified time.
- 4.2 Staff will set up additional tables and chairs in the Berglund room following the nutrition program at specified time.
- 4.2 Staff will put the Bingo machines (board/console) in the Berglund room following the nutrition program at specified time.
- 4.2 Staff will remove and put away the Bingo machines (board/console) in the Berglund room following Bingo at 3:30pm.

#### **5. Obligations of Kiwanis Club of East Rialto:**

Kiwanis Club of East Rialto agrees to pay a yearly Facility Reservation Fee of \$500 Payable to the City of Rialto. This cost represents a fraction of the cost of the actual Facility Reservation Fees.

#### **7. Non-Discrimination; Non-Violation.**

During the performance of this MOU, Kiwanis Club of East Rialto, in carrying out its responsibilities, shall not discriminate against any person(s), member(s), participant(s), student(s) or any person affiliated with Kiwanis Club of East Rialto on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, reprisal or retaliation for prior civil rights activity.

#### **8. Damage to or Destruction of Premises.**

If any portion of premises, fixtures, equipment or facilities are damaged or destroyed by Kiwanis Club of East Rialto due in part or whole to the negligence of Kiwanis Club of East Rialto, or if such damage is incurred during Kiwanis Club's use of Grace Vargas Senior Center due in part or whole to the negligence of Kiwanis Club, the damage shall be repaired, replaced or restored at City's discretion, and Kiwanis Club of East Rialto shall be responsible for its proportionate share of the full cost and expenses of repairs, replacement or restoration based on its comparative fault, including but not limited to cost of any janitorial, cleaning or other services.

## **9. Exemption from Liability.**

Kiwanis Club of East Rialto agrees to indemnify, defend, and hold harmless City, its officers, agents, and employees from and against any and all claims, costs, suits, liability, and damages, including attorneys' fees, arising out of or in any way related to Kiwanis Club of East Rialto provision of services pursuant to this MOU.

## **10. Insurance.**

- 10.1 Definition. For purposes of this Paragraph, the following definition applies: City of Rialto includes the duly elected or appointed officers, agents, employees and volunteers of the City of Rialto, individually or collectively.
- 10.2 Comprehensive General Liability. In furtherance of its obligations pursuant to this Agreement, Kiwanis Club of East Rialto agrees to obtain and maintain during the term of this Agreement comprehensive general liability protecting Kiwanis Club of East Rialto in an amount of not less than One Million Dollars (\$1,000,000) per occurrence, including bodily injury and property damage, as a combined single limit or equivalent. Such insurance shall name the City of Rialto, as defined above, as an additional insured by endorsement to the insurance policy. Coverage shall be in accordance with the limits specified above and the provisions indicated herein. Claims-made policies are not acceptable. When an umbrella or excess coverage is in effect, it must follow the form of the underlying coverage. Such insurance policy or policies shall be stated to be primary and noncontributing with any insurance that may be carried by CITY and shall state that the insurer waives the right of subrogation against CITY and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers. Such insurance shall not be canceled or materially altered to reduce coverage without giving CITY at least thirty (30) days advance written notice of such cancellation or change, and it shall be the responsibility of Kiwanis Club of East Rialto and Kiwanis Club of East Rialto insurer to notify CITY of such change or cancellation.
- 10.3 Workers Compensation Insurance. If and to the extent Kiwanis Club of East Rialto has individuals which may be subject to workers' compensation law, it agrees to obtain and maintain Statutory Workers Compensation and employer's liability in an amount not less than One Million Dollars (\$1,000,000) and furnish City with a certificate showing proof of such coverage.

10.4 Certificates of Insurance with Endorsements. Kiwanis Club of East Rialto shall file the required original Certificate of Insurance with endorsements with the City Attorney of the City of Rialto prior to any use of Grace Vargas Senior Center. The Certificates shall be subject to City's approval and shall clearly state:

- (a) Policy number; name of insurance company; name, address and telephone number of the agent or authorized representative; name, address and telephone number of insured; show title and producer; policy expiration date; and specific coverage amounts; and
- (b) That thirty (30) days' cancellation notice is required, unqualified as to the acceptance of liability for failure to notify City.

**11. Breach.**

If Kiwanis Club of East Rialto breaches the terms of this MOU, City shall have right to immediately terminate this MOU.

**12. Notices.**

All notices shall be in writing, personally delivered or mailed via first class mail to the below listed mailing address. These addresses also shall be used for delivery of service of process:

Kiwanis Club of East Rialto  
P.O. Box 926  
Rialto, CA 92377

**13. Entire Agreement.**

This MOU represents the entire and integrate MOU between City and Kiwanis Club of East Rialto and supersedes any prior negotiations, representations, or MOUs, either written or oral.

**14. Governing Law.**

This MOU shall be governed by and construed in accordance with the laws of the State of California. In the event it becomes necessary for either party to resort to the court system to enforce any of the obligations pursuant to this MOU, the parties hereto agree that the proper venue for all court proceedings shall be San Bernardino Superior Court.

**15. Severability.**

Should any provision of this MOU be found invalid or unenforceable, the decision shall affect only the provision so interpreted, and all remaining provisions shall remain enforceable.

**16. No Third Party Beneficiaries.**

This MOU is for the benefit of CITY and Kiwanis Club of East Rialto and is not intended to, and does not, create any rights, responsibilities or obligations on behalf of third parties.

**17. Authority to Execute.**

Each person signing this MOU on behalf of the indicated party declares that he/she has the authority to bind that party.

CITY OF RIALTO

\_\_\_\_\_  
Mike Story  
City Administrator

ATTEST

\_\_\_\_\_

\_\_\_\_\_  
Kiwanis Club of East Rialto

APPROVED AS FORM

Date: \_\_\_\_\_

By: \_\_\_\_\_  
City Attorney