PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

June 13, 2014

REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS MADE CONCERNING COUNCILMEMBER PAUL DAVIS

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REPORT OF INVESTIGATION

[I] INTRODUCTION

On April 21, 2014, the City of Riverside ("City") hired the law firm of Gumport | Mastan ("G|M") to conduct an independent investigation of allegations made by City Manager Scott Barber (the "City Manager") in memoranda dated April 14 and 15, 2014 (the "Complaints").

The Complaints are Exhibits A and B in the appendix to this report. Exhibit C in the appendix is a memorandum (the "3/25/14 [redacted] Memo") dated March 25, 2014 from [redacted] ("[redacted]").

In the Complaints, the City Manager alleges that Councilmember Paul Davis (the "Councilman") "has been creating a hostile work environment for me, as well as violating Riverside City Charter Section 407 (Interference in Administrative Service) as documented by" the 3/25/14 [redacted] Memo and other attachments to the 4/14/14 Complaint.

Section 407 of the Charter provides in relevant part: "Except for purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately."

G|M submits this report of G|M's investigation of the allegations made in the Complaints. This report consists of G|M's opinions about the Complaints' disputed allegations. This report is not the result of a trial on the merits, and the contents of this report do not bind anyone. G|M reserves the right to amend and supplement this report in light of any additional information that may come to G|M's attention. This report is a confidential and privileged attorney-client communication between G|M and the City.

[II] SUMMARY

[A] The Complaints of the City Manager allege that: (1) the Councilman violated Section 407 of the City Charter by interfering with the City Manager's performance of his duties; and (2) the Councilman created a hostile work environment by violating Section 407 of the Charter and by violating or threatening to violate the privacy, personnel, and reputational rights of the City Manager. The Complaints also allege concerns about retaliation.

[B] The Complaints are based on the City Manager's disputed allegations that the Councilman interfered with the City Manager by: (1) criticizing the job performance of the City Manager to his subordinates and telling them that the Councilman believed the City Manager should be fired; (2) directly dealing with (other than for purposes of inquiry) the City Manager's subordinates instead of going through the City Manager's office; and (3) threatening to publicly discuss private personnel issues relating to the City Manager for the purpose of injuring his reputation and invading his privacy.

[C] On May 29, 2014, during a voluntary interview with G|M, the Councilman gave an account of his conduct that, if believed, would show that key allegations made in the Complaints are inaccurate. Among other things, the Councilman denied telling subordinates of the City Manager that he was doing an inadequate job and should be fired.

[D] Although the Councilman disputes key facts and has firsthand knowledge of them, there is a substantial basis to conclude that the Councilman criticized the City Manager's job performance to his subordinates and stated that the Councilman believed the City Manager should be fired.

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[E] In addition, although the Councilman disputes key facts and has firsthand knowledge of them, there is a substantial basis to conclude that the Councilman dealt directly with (other than for purposes of inquiry) one or more of the City Manager's subordinates to request or direct him ([redacted] to perform a task (relating to the City's acquiring March Joint Powers Authority land) without going through the City Manager.

[F] The substantial basis for the conclusions in paragraphs D-E includes: (1) the transcribed interview [redacted] and the 3/25/14 [redacted] Memo, (2) the transcribed interview [redacted] ("[redacted] (3) the transcribed interview of the City Manager; (4) significant conflicts between the Councilman's version of events and the accounts of others, including without limitation Director [redacted], Superintendent [redacted] and the City Manager. Transcripts of these interviews are contained in the appendix. (All transcripts of all interviews are available through the City Attorney, subject to his review for issues of confidentiality and privilege.)

[G] For the reasons stated in paragraphs D-F, there is a substantial basis to conclude that the Councilman violated Section 407 of the City Charter by interfering with the City Manager's performance of his duties and by dealing directly with [redacted] a subordinate of the City Manager, other than for purposes of inquiry and without going through the City Manager's office.

[H] To create a "hostile work environment" as defined in the City's Harassment Free Workplace policy and Government Code § 12940, the hostile or harassing conduct generally must consist of offensive conduct based on or related to race, color, religion, sex, or other protected classification under applicable law.

[I] The Councilman's interference with the City Manager's performance of his duties does not appear to be based on or related to a protected classification that would give rise to a violation of the City's Harassment Free Workplace policy and Government Code § 12940. Accordingly, it does not appears that the Councilman's conduct violated the City's Harassment Free Workplace policy or Government Code § 12940.

[J] Section II.D(4) of the City's Code of Ethics provides in relevant part: "The elected and appointed officials of the City of Riverside have a responsibility to make extraordinary efforts to treat all persons, including city staff, in a manner which would be considered fair and just. . . ." Unlike a "hostile work environment" claim, Section II.D(4) of the City's Code of Ethics does not require proof of a protected classification.

[K] In view of the standard of conduct imposed by Section II.D(4) of the City's Code of Ethics, the Councilman's conduct in undermining the City Manager, including telling his subordinates that he should be fired, could reasonably be viewed from the City Manager's perspective as harassment, even though such conduct did not involve a protected classification as required by the City's Harassment Free Workplace policy and Government Code § 12940.

[L] There is a substantial basis to conclude that the Complaints were filed in good faith by the City Manager in that: (1) it reasonably appears that the alleged Charter Section 407 violation occurred; and (2) it reasonably appears that the Councilman's conduct towards the City Manager was unfair and unjust within the meaning of Section II.D(4) of the City's Code of Ethics, even though the conduct does not appear to constitute a "hostile work environment" violation under the City's Harassment Free Workplace policy and Government Code § 12940.

[M] The Complaints did not (and do not) allege that the Councilman violated Section II.D(4) of the City's Code of Ethics. Accordingly, this report's discussion of Section II.D(4) is limited to explaining why it appears that the Complaints were filed in good faith, notwithstanding that the "hostile work environment" claim appears to lack merit.

[N] Upon receipt of the Complaints, G|M thoroughly and fairly investigated the allegations made in the Complaints and made this report of its investigation. In making its investigation, G|M received the City's cooperation.

[III] EXHIBITS

GM concurrently submits an appendix of the exhibits cited in this report. Not all materials reviewed by G|M are contained in the appendix. However, all such materials are available, subject to appropriate review for privilege and confidentiality by the City Attorney.

The appendix contains these exhibits:

Exhibit A is the City Manager's Complaint that is dated April 14, 2014.

Exhibit B is the City Manager's Complaint that is dated April 15, 2014.

Exhibit C is the 3/25/14 [redacted] Memo.

Exhibit D is the transcript of G|M's April 30, 2014 interview of the City Manager (i.e., Scott Barber).

Exhibit E is the transcript of G|M's May 29, 2014 interview of the Councilman (i.e., Councilmember Paul Davis).

Exhibit F is the transcript of G|M's April 30, 2014 interview of [redacted].

Exhibit G is the transcript of G|M's April 30, 2014 interview of [redacted].

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Exhibit H is the transcript of G|M's April 29, 2010 interview of Director [redacted]

Exhibit I includes a November 8, 2013 email from the Councilman to the City Manager and others.

Exhibit J includes a February 18, 2014 email from the Councilman to [redacted].

Exhibit K includes a March 20, 2014 email from the Councilman to [redacted] and others.

Exhibit L includes a March 24, 2014 email from the Councilman to the City Manager.

Exhibit M includes a March 24, 2014 email from the City Manager to the Councilman.

Exhibit N includes a March 28, 2014 email from the Councilman to the City Manager and others.

Exhibit O includes an April 22, 2014 email (with enclosed letter and attachments) from Leonard Gumport of G|M (i.e., Gumport | Mastan) to [redacted].

Exhibit P includes an April 25, 2014 email from [redacted] to Leonard Gumport of G|M.

Exhibit Q includes a May 15, 2014 email from Mark Meyerhoff of Liebert Cassidy & Whitmore to Leonard Gumport of G|M and others.

Exhibit R includes a May 15, 2014 email from James Potts (the Councilman's representative) to Leonard Gumport of G|M.

Exhibit S includes Section 407 of the Riverside City Charter.

Exhibit T includes the Riverside City Code of Conduct and Ethics for Elected Officials etc.

Exhibit U includes Sections 2.08.010-2.08.120 from the Riverside Municipal Code.

Exhibit V is an article by Melanie Poturica and David A. Urban entitled "A City Council Member's Role With Respect to Individual City Employees," downloaded from http://www.westerncity.com (last visited 6/11/14).

Exhibit W is a copy of the City's Harassment Free Workplace Policy.

Exhibit X is a copy of a March 22, 2012 letter and October 25, 2013 memo from the Oakland City Attorney providing her interpretation of the non-interference provisions of Oakland City Charter Section 218 (Non-Interference in Administrative Affairs).

Exhibit Y includes a June 2014 email from Lori Stone, the Executive Director of the March Joint Powers Authority.

[IV] METHODOLOGY

On April 15, 2014, the City Manager submitted the Complaints, with the 3/25/14 [redacted] Memo. [Exs. A-C.] On April 21, 2014, the City signed a letter agreement to employ G|M to investigate the allegations made in the 4/14/15 Complaint. [Ex. O.]

On April 15, 2014, before the City hired G|M to investigate the Complaints, G|M was conducting an investigation relating to another Councilmember. As part of that investigation, G|M planned to interview the Councilman (i.e., Councilmember Davis) on April 15, 2014.

On April 15, 2014, the Councilman appeared for his interview in that other investigation and objected to his interview and the investigation. On May 29, 2014, however, the Councilman voluntarily made himself available for an interview.

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Because all interviews were voluntary, and because the Councilman ultimately made himself available for a complete interview, G|M's view is that **no** negative inference should be drawn from the Councilman's understandable hesitancy about providing an interview on April 15, 2014.

On April 17, 2014, G|M requested the City to produce various public records, including emails sent on the City's computer system or servers by the Councilman and his Field Representative on designated subjects during January 15, 2014 through March 15, 2014. [Ex. P.] The requested emails were provided and were reviewed by G|M.

During April-May 2014, G|M interviewed witnesses, including the Councilman. In the interest of transparency, each interview was transcribed by a court reporter. Witnesses were told that they could go off the record at any time but that statements made off the record would not be relied upon by G|M in conducting this investigation.

This report does not rely on statements made by witnesses unless they were willing to make them in writing or to have them recorded or transcribed by a court reporter. Witnesses were not required to be sworn; G|M's view was that insisting on witnesses being sworn would make some witnesses hestitant to provide information. The interviews reflect that the Councilman's version of certain events conflicted with the versions provided by others, including [redacted] and [redacted].

The interviews did strongly tend to confirm that Councilmembers never voted formally or informally to remove the City Manager.

Several of the interviews listed below relate to another investigation that G|M conducted and that is not the subject of this report.

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During April-May 2014, G|M conducted transcribed interviews of: (1) [redacted] (on 4/16/14); (2) City Manager Scott Barber (on 4/15/14 and 4/30/14); (3) [redacted] on 4/16/14); (4) [redacted] (on 4/15/14); (5) Councilmember Paul Davis (on 5/29/14); (6) [redacted] (on 4/16/14); (7) [redacted] (on 4/30/14); (8) [redacted] (on 4/16/14); (9) [redacted] (on 4/15/14); (10) [redacted] (on 4/15/14; (11) [redacted] (on 4/16/14); (12) [redacted] (on 4/15/14); (13) [redacted] on 4/15/14); (14) [redacted] (on 4/30/14); (15) [redacted] (on 4/15/14); and (16) [redacted] (on 4/29/14). In addition, (17) on June 12, 2014, G|M obtained written answers from March JPA Executive Director Lori Stone about a conversation with the Councilman.

G|M interviewed all Councilmembers (including the Councilman) except for [redacted], who was the subject of a separate investigation. On May 14, 2014, [redacted] provided written answers to the questions asked by G|M in connection with that separate investigation. Because that investigation is ongoing, G|M did not seek to interview [redacted] on the subject of the investigation discussed in this report. The written responses provided by [redacted], however, reflect that he is unaware of any vote to terminate the employment of the City Manager.

All interview transcripts are privileged and confidential and are available through the City Attorney. The appendix to this report attaches what G|M regards as the most significant transcripts and exhibits.

[V] FACTS

[A] The Councilman & City Manager

In June 2009, Paul Davis was elected the City Councilmember for Ward 4. He was re-elected and continues to serve as the Councilmember for Ward 4.

In August 2011, Scott Barber was appointed interim City Manager. In December 2011, he was appointed full-time City Manager and continues to serve as City Manager. [Ex. D (4/30/14 City Manager Trans., p. 4:9-16).]

According to the Councilman, at some point he developed dissatisfaction with the City Manager's job performance. One of the issues, according to the Councilman, is a "lack of communication" between the Councilman and the City Manager. [Ex. E (5/29/14 Councilman Trans., p. 29:4-9, p. 44:6-14, and p. p. 48:3-25).]

At his interview, the City Manager gave his opinion of the reason for the Councilman's disapproval of the City Manager. The City Manager said:

> **[Q]** Well, let me rephrase it. Do you have an opinion as to why Councilmember Davis has criticized your job performance?
>
> **[A]** I believe he has criticized my job performance because since my beginning of my time as interim city manager and city manager, I've had to stop him from doing things or have him investigated for doing things that were in violation of the city charter. . . .

[Ex. D (4/30/14 City Manager Trans., p. 29:7-14).]

With these conflicting positions of the Councilman and the City Manager in mind, this report discusses the events that occurred during 2013-2014 and that are the subject of the Complaints.

[B] Oct. 2013: Conversation with Superintendent [redacted] She reports to [redacted] [Ex. G (4/30/14 [redacted] Trans., p. 4:7-22).]

The Community Services Department is under the control and direction of the City Manager under Sections 2.08.010 and 2.08.020 of the Riverside Municipal Code and Section 601 of the City Charter. [*See* Ex. U (Muni. Code excerpts); Ex. S (City Charter excerpts).]

On or about October 24, 2013, [redacted] announced that he would leave the City in the spring after more than nine and a half years as [redacted]. [*See* Ex. G (4/30/14 [redacted] Trans., p. 9:12-15).]

On or about October 30, 2013, at a Halloween event at the Villegas Community Center in the Casa Blanca neighborhood, the Councilman spoke with [redacted]. The Villegas Community Center is in the Councilman's ward and was part of [redacted] supervision area. According to [redacted] the Halloween event was a "loud event with a lot going on inside the multipurpose room." [Ex. G (4/30/14 [redacted] Trans., pp. 7:4-8:19).]

At his interview, the Councilman said:

[Q] Have you ever told [redacted] at any time during 2013 through 2014 that you thought Scott Barber should be terminated as City Manager?

[A] I don't recall that.

///

///

[Q] Have you ever told [redacted] at any time that you were in any way disappointed with Scott Barber's performance as City Manager?

[A] Not that I recall.

[Q] Did you attend a Halloween event at the Villegas –

[A] Villegas.

[Q] --V-i-l-l-e-g-a-s, Community Center on Esperanzo – Esperanza in October 2013?

[A] Yes.

[Q] Did you talk to [redacted] at that event?

[A] I'm sure I did.

[Q] Okay. Did you talk to her about Scott Barber?

[A] I don't recall it.

[Q] Did you talk to her about [redacted]

[A] I don't recall that.

[Ex. E (5/29/14 Councilman Trans., p. 12:17-p. 13:12).]

At the Halloween event, according to [redacted] she was told by the Councilman that: "I'm going to see that he [Scott Barber] loses his job before [redacted] retires." [Ex. G (4/30/14 [redacted] Trans., pp. 8:20-9:21).] According to [redacted] the Councilman also said "[t]hat he was going to make it kind of his priority to make sure that Scott lost his job over [redacted] resignation." [*Id.*, pp. 8:20-9:21).]

[redacted] also said at her interview:

[Q] Tell me what Councilmember Davis said on the subject of Scott Barber's employment at this October 2013 meeting you've described.

> **[A]** He came up to me and just – we kind of approached each other to say hello. And I said how are you, you look kind of sad or upset. And he goes yeah, I'm upset, and I'm angry. I'm sad. I said oh, why? He said because [redacted] retiring. He was referring to the former [redacted] who had recently announced his retirement for March 31st. And I said oh, right. And he says I'm angry and he said something to the [effect] that they had driven him out, the 7th floor had driven him out. And he was very upset with the city manager, Scott Barber. And that they hadn't kind of heard the end of it and that Scott would be lucky to keep his job. And I'm going to see that Scott loses his job before [redacted] retires.

[Ex. G (4/30/14 [redacted] Trans., pp. 8:20-9:10).]

[redacted] also said at her interview:

> **[Q]** Did you think it was appropriate for Councilmember Davis to be saying this to you?
>
> **[A]** I was very uncomfortable. I didn't really say much because I didn't know how to react to any of that because he was speaking both of my director and my city manager.

[Ex. G (4/30/14 [redacted] Trans., p. 9:22-10:1).] From interviews of Councilmembers and others (including the City Manager), it does not appear that the Council previously or later voted to terminate to the City Manager.

At his interview, the Councilman said: [redacted] is a good person. You know, she's a squared away person." The Councilman indicated, but did not state, that [redacted] may be friends with the City Manager and his spouse. [Ex. E (5/29/14 Councilman Trans., p. 39:4-25).]

According to [redacted] "resigned in order to retire" and was not terminated. [Ex. F (4/30/14 [redacted] Trans., pp. 20:22-21:1).] [redacted] also stated at her interview that councilmembers "have not liked some decisions that have been made with regard to personnel and perhaps feel like those decisions should have been made by the city council versus administratively." [*Id.*, p. 20:11-21.]

According to [redacted] about two weeks after the Halloween event, the City Manager came by her office while looking for [redacted] told the City Manager about the Councilman's comments at the Halloween event:

> **[Q]** What was his reaction to what you told him?
>
> **[A]** He was very taken aback and asked me again did he really say that to you, I'm very unhappy about that, that's inappropriate.
>
> **[Q]** And your response to Scott Barber's comment was what?
>
> **[A]** I just said yes, I was very uncomfortable. I didn't know what to say.

[Ex. G (4/30/14 [redacted] Trans., pp. 10:21-11:2).]

[C] **<u>Nov. 2013: Email re Public Evaluation of City Manager</u>**

During October 2013, in an email to the City Manager and Councilmembers, the Councilman requested that certain matters relating to ethics complaints be set for closed session. On November 8, 2013, in an email to the Councilman, the City Manager provided an explanation for why those matters should not scheduled for a closed session discussion. On the same day, in an email to the City Manager and others, the Councilman wrote:

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> Then let's set this as an evaluation for you and [redacted] as I have serious issues with your management and how you and your [redacted] are handling employee matters. If either of the two of you would like to talk about it, they can contact me. Otherwise let's have this discussion in public view.

[Ex. I (11/8/13 Councilman-City Manager email).]

[D] March 2014: Dealings with [redacted], and has held that position for approximately two years. [Ex. H (4/29/14 [redacted] Trans., p. 4:7-12).] According to [redacted] the Community Development Department "oversees all matters related to the regulation of private property and development, and a number of other matters." [*Id.*, p. 9:6-15.]

The Community Development Department is under the control and direction of the City Manager under Sections 2.08.010 and 2.08.020 of the Riverside Municipal Code and Section 601 of the City Charter. [*See* Ex. U (Muni. Code excerpts); Ex. S (City Charter excerpts).]

Several months before March 2014, according to [redacted], "a group of investors who were affiliated with Major League Baseball, and consultants, approached the city with an idea." The idea was to bring to the City a Major League Baseball ("MLB") youth training and practice facility. [Ex. H (4/29/14 [redacted] Trans., pp. 9:24-10:7).] According to the Councilman, "Major League Baseball approached me. I believe – it may be in January, and we had a piece of property they were interested in." [Ex. E (5/29/14 Councilman Trans., p. 15:10-13).]

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The parcel of property that was the focus of the investors' idea was not in the City; instead, the parcel was adjacent to the City, within the jurisdiction of the March Joint Powers Authority (the "March JPA"). [*See* Ex. H (4/29/14 [redacted] Trans., pp. 9:24-10:7).] According to the Councilman, the property is "60 acres which is actually controlled by [the] JPA, and "it's directly behind the Grove Community Church off of Grove Community Drive." The Councilman also said: "Technically it's next to my ward, but in the ward. It's – the way JPA properties work, it's kind of bizarre because we share boundaries and so forth." [Ex. E (5/29/14 Councilman Trans., p. 15:15-25).]

Prior to March 2014, according to [redacted] he and other City staff attended a meeting with the Councilman and the investors in (or consultants to, or members of) an MLB-affiliated development group. The subject of the meeting was the proposed MLB youth facility. At his interview, [redacted] stated: "And Councilman Davis was present at the meeting because these folks apparently reached out to him. And he facilitated a meeting, which is common for city councilmembers to do." [Ex. H (4/29/14 [redacted] Trans., p. 10:8-11 and p. 19:15-20:1).]

At the pre-March 2014 meeting, according to [redacted] "the idea [for an MLB youth facility] was presented. And then the next step was so what do we do to make this happen and/or try to make this happen." [Ex. H (4/29/14 [redacted] Trans., p. 10:8-16).] According to [redacted] "In that meeting, we pointed out that it's in the March JPA property. We should have March JPA as part of this. And I had a subsequent conversation with Councilman Davis a few days later where I go back and said you really need to bring Lori Stone in, this property is in the JPA. Never did he mention annexing it at that point." [Ex. F (4/30/14 [redacted] Trans., p. 13:2-14).]

[redacted] gave this summary of the events that followed the meeting and that preceded the events of March 12, 2014:

> And so like we always do, we go through a period of due diligence. And we figure out what the regulatory requirements are, the entitlement process, et cetera, et cetera. And the big issue in effect was how would the city or how would this Major League Baseball group, how would they go about annexing that 60-acre parcel into the City of Riverside. And so in March of 2014, when Councilman Davis left me a message, it was for an update on the status of that due diligence effort, where are we, what's going on. And it's often – councilmembers often do that. They ask us for status updates on a range of topics.

[Ex. H (4/29/14 [redacted] Trans., pp. 10:17-11:2).]

On February 18, 2014, in an email to Dan Suarez, president of the Home Owners Association of Mission Ranch [*see* Ex. E (5/29/14 Councilman Trans., p. 30:5-25)], the Councilman wrote about the MLB youth facility project:

> 60 Acre sport park by MLB. We are in very preliminary stages, where both sides are doing feasibility studies. Should have something back in a few weeks. If everyone has an understanding to move forward, we will then begin the discussions with JPA to transfer the lands to the City. During that time, we will begin drafting an MOU with MLB. Basically, they will build and maintain the facility and we just lease the land to them. This is part of their Urban Youth Academy. . . .

[Ex. J (2/18/14 Councilman-Suarez Email).

At his interview, the Councilman said:

[Q] Did you ever direct [redacted] to work on or prepare a report concerning that property?

[A] No.

[Ex. E (5/29/14 Councilman Trans., p. 24:5-7).]

According to [redacted] at 1:40 p.m. on March 12, 2014, his cell phone received the following voice message from the Councilman:

> Hey [redacted], this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now **and I want to move this forward if we can or call it quits if we have to.** So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted] I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe.

[Ex. C (3/25/14 [redacted] Memo) (emphasis added).]

According to [redacted] this voicemail message from the Councilman did not come through the City Manager's office. [redacted] stated at his interview:

[Q] The communication described in Exhibit A [the 3/25/14 [redacted] Memo] between you and Councilmember Davis, did those come to you through the city manager?

[A] No.

[Q] And why do you say that? What's the basis of that statement?

///

> **[A]** The voicemail was directly left on my work cell phone. And when I reported to [redacted] of the City Manager's office] that I had had this voicemail and then the subsequent communication, [redacted] in turn indicated to me that she had updated the councilmember a couple [of] times prior, and so she wasn't clear on why he was seeking another update. . . .

[Ex. H (4/29/14 [redacted] Trans., p. 13:15-14:1).]

Shortly after 2:00 p.m. on March 12, 2014, [redacted] called [redacted] to get an up-to-date status report on the MLB Youth Facility. Because she was unavailable, [redacted] spoke with [redacted], who sent an email to [redacted] the email requested that she provide "a quick update" before [redacted] returned the Councilman's call. [Ex. C (3/25/14 [redacted] Memo).]

Later that same day, [redacted] spoke by telephone with [redacted]. According to [redacted] said that she had met with the Councilman twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main March JPA point of contact. At approximately 2:57 p.m. that day, [redacted] left a voicemail message with the Councilman. [Ex. C (3/25/14 [redacted] Memo).]

At approximately 6:06 p.m. on March 12, 2014, [redacted] received a return call from the Councilman. In the 3/25/14 [redacted] Memo, [redacted] described the phone call:

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> Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land in to the City. I committed to look into the annexation question with [redacted] . . .

[Ex. C (3/25/14 [redacted] Memo) (emphasis added).]

At his interview, the Councilman said:

> **[Q]** At any time during 2014, was there some kind of directive by the city council voting as a whole about exploring the annexation of this property?
>
> **[A]** No.

[Ex. E (5/29/14 Councilman Trans., p. 16:23-p. 17:1).]

At his interview, the Councilman also said:

> **[Q]** Did you have any face-to-face or telephone conversation with [redacted] anytime during 2014 where you used profanity in connection with a discussion of Scott Barber
>
> **[A]** No.

[Ex. E (5/29/14 Councilman Trans., p. 17:12-16).]

At his interview, the Councilman also said:

> **[Q]** Have you ever discussed the job performance of Scott Barber with a person name [redacted]
>
> **[A]** No.

[Ex. E (5/29/14 Councilman Trans., p. 14:14-17).]

During this March 12, 2014 telephone call, according to [redacted] the Councilman used "expletives" to describe his "concerns" about the City Manager. In the 3/25/14 [redacted] Memo, [redacted] wrote:

> . . . . During the call, there were two departures from this topic [the MLB youth facility]. **First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager.** Second, as I recall, Councilmember Davis share[d] with me his concern with a statement made by [redacted] related to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. **During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.**

[Ex. C (3/25/14 [redacted] Memo) (emphasis added).]

At his interview, [redacted] described his March 12, 2014 telephone call with the Councilman:

> **[Q]** Okay. Tell me as best you can recall in your own words what was said on the subject of exploring annexing the land in to the city?
>
> **[A]** What I recall is sharing with Councilman Davis what I had learned from [redacted] and also [redacted] via e-mail that [redacted] had briefed Councilman Davis a couple [of] times since that meeting with the Major League Ball interest. And that [redacted] had conveyed previously to Councilman Davis that it's really about working with the March JPA and Lori Stone specifically to figure out how – what the interest of the JPA to allowing that parcel to be annexed into the city and partly how to do that. And then I told Councilman

Davis that I would just continue the exploration of annexation into the parcel, which concluded, I don't know, I want to say about a week ago, maybe two weeks ago, where one of my senior planners, [redacted], who deals with a lot of annexations put together the step by step costs. . . .

But he indicated that there is continued interest of that group in that site and in the youth facility there, and also expressed that if it was to be developed within the confines of March Joint Powers Authority, that it may be difficult for them to get the benefit of the economic development benefits provided by Riverside Public Utilities and their electric and water utilities. And that's a very attractive thing to any company or any developer that wants to come into the City of Riverside. And I think that was the gist of it. And at the conclusion of it, I conveyed to him that I would follow up with – on the annexation thing and get more specific.

[Q] Now your memo mentioned that there were two other subjects that were discussed. Give me your best recollection of what was said on those subjects.

[A] Ever since I wrote this memo, I've been trying to figure out how we got into the – how the conversation led into the tangential [subjects] but I can say that I was uncomfortable and I just stayed quiet during these two tangents. The first somehow got into the realm of the city manager and councilmembers' [sic] dissatisfaction with the city manager's performance. And I recall there being profanity used in the

> comments around his performance. I can't recall specifics but that he was critical of the city manager's performance. And I think because I felt so uncomfortable that, in part, it's why I can't remember the specifics. Just didn't feel good to me to be receiving this kind of input about my ultimate boss from the city councilmember when I am not in a role to be receiving that kind of commentary. And so I just remember it was uncomfortable for me to hear. But there was profanity used a couple of times, as I recall, in those comments.

[Ex. H (4/29/14 [redacted] Trans., pp. 18:23-21:7).]

During his interview, [redacted] also said:

> **[Q]** You've been with the city for approximately 2 years, correct?
>
> **[A]** Yes.
>
> **[Q]** Has a councilmember on any other occasion told you of his or her dissatisfaction with the performance of the city manager other than this one conversation?
>
> **[A]** No, no, no, not at all.

[Ex. H (4/29/14 [redacted] Trans., p. 22:5-15).]

At his interview, the Councilman said: "I think [redacted] great. I think he is one of the extraordinary hires that the city manager has made." [Ex. E (5/29/14 Councilman Trans., p. 40:7-12).]

Sometime prior to March 25, 2014, the City Manager told [redacted] that the Councilman wanted to terminate the employment of the City Manager by Memorial Day of 2014. [Ex. H (4/29/14 [redacted] Trans., pp. 24:21-25:9).]

Sometime after the March 12, 2014 telephone call, [redacted] reported to [redacted] the March 12, 2014 telephone call between the Councilman and [redacted] In response, the City Manager requested [redacted] to prepare a memo communicating what was said on March 12th; the City Manager repeated that the Councilman wanted to terminate the employment of the City Manager. On or about March 25, [redacted] prepared the 3/25/14 [redacted] Memo. According to him, that memo is accurate. [Ex. H (4/29/14 [redacted] Trans., p. 8:24-25 and p. 24:21-25:20).]

[redacted] stated at her interview that she recalled [redacted] reporting to her about telephone call with the Councilman. According to [redacted] "When I first heard about this phone conversation and [redacted] had shared the way it was delivered, I went and let Scott know that Councilman Davis had provided some direction to [redacted] that made [redacted] very uncomfortable and that profanity was involved." [Ex. F (4/30/14 [redacted] Trans., pp. 16:22-17:3).]

During his interview, [redacted] stated that the Councilman did not give any orders to [redacted] But [redacted] also stated that he treats requests from councilmembers as the equivalent of orders. [redacted] explained: "The splitting of hairs however is those requests we take extremely seriously because they are elected leaders of the city so in effect they're orders." [Ex. H (4/29/14 [redacted] Trans., pp. 14:16-16:4).]

[redacted] also stated at his interview:

> **[Q]** . . . At any time from the meeting with the investors that you have referred to through the time that you wrote the memo that is Exhibit A, did you have a feeling that you had been directed to do anything by Councilmember Davis?

> **[A]** No. I mean, no, not that I recall. And it's a very difficult question in that all councilmembers call me. I won't speak for my colleagues. But they will call me and say I have an issue with a constituent, can you look into this or what is the status update of X,Y,Z job. So if that is directing me, I could probably say generally there were probably some of those inquiries or those communications, but nothing out of the norm of what any councilmember does.

[Ex. H (4/29/14 [redacted] Trans., pp. 14:16-15:4).]

In April 2014, according to [redacted] gave the following account of directions he had received from the Councilman:

> **[Q]** Did [redacted] tell you what kind of direction, if any, he had received from Councilmember Davis concerning this?
>
> **[A]** Yes. Although when I initially heard about it, it wasn't [redacted] and I was speaking directly to [redacted] is the one that had the conversation with [redacted]; and then I spoke with [redacted] and [redacted] spoke with [redacted] So it was like a three-way conversation. But through that conversation and the subsequent conversation directly with [redacted] that I was told that Councilman Davis came across as demanding that [redacted] annex the property and that some profanity was used in the way those demands were expressed in the phone conversation between [redacted] and Councilman Davis, and it made [redacted] very uncomfortable with the direction he was receiving and the manner in which it was delivered.
>
> **[Q]** And did [redacted] tell you that or is this coming from [redacted]

[A] [redacted] told me that he felt it was inappropriate, the language that was used and the direction that he was getting from Councilman Davis. [redacted] was more of oh, [redacted] got this question, he wants to know how to respond. But I didn't hear about the details of it except through [redacted]

[Ex. F (4/30/14 [redacted] Trans., p. 9:4-24 and p. 10:14-17).]

At her interview, [redacted] also stated:

[Q] As best you can recall, what words did [redacted] use of the direction, if any, that he had received about annexing the March JPA property?

[A] Well, he had received a phone call from Councilman Davis. He said that he did not like the tone of the phone call or the specific words that were used. He referenced profanity. He did not tell me what words were used. But he basically portrayed it as he was very uncomfortable getting that phone call and the way that the message was delivered.

[Q] And was the message that [redacted] was to do something specifically?

[A] Right. My recollection is that Councilman Davis was mad at [redacted] for not having already done something and said I want it done now. And I think in that conversation [redacted] said that he also referred to Scott Barber as – and Scott Barber's not going to stop me from getting what I want or something along those lines.

[Ex. F (4/30/13 Trans., pp. 10:22-11:13).]

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[E] March 2014: Communications with Lori Stone

Lori Stone ("Director Stone") is the Executive Director of the March JPA. She works with City Manager, but she is not a subordinate or a part of the administrative service under the oversight of the City Manager.

At his interview, the Councilman said:

> **[Q]** Have you ever talked about your view of Scott Barber's job performance with a person named Lori, L-O-R-I, Stone?
>
> **[A]** Not that I recall.
>
> **[Q]** Okay. Have you ever expressed a lack of confidence in Scott Barber's performance to Lori Stone?
>
> **[A]** Not that I recall.

[Ex. E (5/29/14 Councilman Trans., p. 24:8-15).]

Director Stone responded via email to questions asked by G|M about her communications with the Councilman about the City Manager. On or about March 21 or 22, 2014, according to Director Stone, she had discussions with the Councilman about the job status of the City Manager. In a June 2014 email to G|M, Director Stone wrote:

> [Councilman] Davis essentially said that Scott Barber wasn't doing a good job and [redacted] was running the city. He also said that several of the directors (or department heads) were leaving because of Scott.

[Ex. Z (6/12/14 Director Stone-Gumport Email).]

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[F] March-April 2014: Communications with [redacted]

[redacted] The Human Resources Department is under the control and direction of the City Manager under Sections 2.08.010 and 2.08.020 of the Riverside Municipal Code and Section 601 of the City Charter. [*See* Ex. U (Muni. Code excerpts); Ex. S (City Charter excerpts).]

On March 18, 2014, in an email to [redacted], the Councilman wrote: "Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, [and] to include their position and date?" It does not appear that the Councilman sent a copy of this inquiry to the City Manager. [Ex. K (3/20/14 Councilman-[redacted] Email).] On March 20, in an email to the Councilman, [redacted] wrote: "I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report." [*Id.*] On the same day, in an email to [redacted] and copied to the City Manager, the Councilman wrote:

> Thanks [redacted] for the effort. To restate my request to comply with employee privacy issue[:] Can I get a list of positions by department and title, without name or specific date, of those who have left the [City's] employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?

[Ex. K (3/20/14 Councilman-[redacted] Email).]

On March 28, 2014, in an email to the City Manager and others, the Councilman wrote further about his "Request for Employee Stats." The Councilman wrote:

> . . . . This is public information and **needs to be provided ASAP**. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

[Ex. N (3/28/14 Councilman-City Manager Email).]

At his interview, the Councilman stated that he sought information about employee departures because "they're dropping like flies," and "I cannot direct them, but I can certainly inquire, how many employees have we lost . . . ." [Ex. E (5/29/14 Councilman Trans., pp. 41:23-42:11).]

The City Manager stated at his interview: "[T]he councilmember[] should not have been contacting a director of any department and asking for a document to be created." The City Manager also stated that, after discussing the Councilman's request with the Mayor, "there was an agreement that we weren't going to create a special document for Councilmember Davis. And that really what he was talking about was a closed session matter." [Ex. D (4/30/14 City Manager Trans., p. 16:11-25).]

[G] <u>The Complaints</u>

On April 14 and 15, 2014, the City Manager prepared the Complaints. On April 15, 2014, the City Manager delivered both Complaints [redacted] and to [redacted].

[Ex. D (4/30/14 City Manager Trans., p. 6:9-18).]

[VI] DISCUSSION

[A] The City Charter

[1] Role of City Manager as Chief Administrative Officer

The City is a charter city. "The charter is the supreme law of a charter city, subject only to conflicting provisions in the federal and state constitutions and to conflicting provisions of preemptive state law." *Dailey v. City of San Diego*, 223 Cal.App.4th 237, 254 (2013); *see also Domar Electric, Inc. v. City of Los Angeles*, 9 Cal.4th 161, 170 (1994).

Section 300 of the Charter provides: "The municipal government established by this Charter shall be known as the 'Council-manager' form of government."

Section 406 of the Charter provides: "All powers of the City shall be vested in the City Council except as otherwise provided in this Charter."

Section 600 of the Charter provides in relevant part: "There shall be a City Manager who shall be the chief administrative officer the City."

Section 601 provides in relevant part:

> The City Manager shall be the head of the administrative branch of the City government. The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. [¶] All department heads and officers of the City, except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the City Council, shall serve at the pleasure of the City Manager . . . .

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Sections 2.08.010 and 2.08.020 of the Riverside Municipal Code: (a) establish various departments, including the Community Development Department; and (b) provide that the Community Development Department and the Human Resources Department are part of the "administrative organizational structure of the City, and shall be under the control and direction of the City Manager, in accordance with the provisions of the City Charter." [Ex. U.]

[2] Section 407 of City Charter

Section 407 of the Charter provides:

> Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for the purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service of the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

The quoted language of Section 407 contains several prohibitions:

First: Section 407 provides that the Mayor, the City Council, and Councilmembers shall not "interfere" with the execution by the City Manager of his/her powers and duties. According to the City Manager, "To me, what it's referring to in the charter is that the mayor and city council will not impede my ability to administer the affairs of the city as I'm allowed to under the city charter." [Ex. D (4/30/14 City Manager Trans., p. 7:19-8:1).]

Second: Section 407 provides that, except for the purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service of the City Manager solely through the City Manager.

When asked about the meaning of the term "inquiry," the City Manager stated that "inquiry" includes asking questions but did not include a request that City staff prepare a written report. The City Manager stated: "I believe that the preparation of the document is more than an inquiry." [Ex. D (4/30/14 City Manager Trans., p. 8:10-p. 9:5).]

During his interview, [redacted] was asked about the effect of Councilmembers' communicating directly with staff. He said:

> **[Q]** Is it your experience that the lines of communication between members of the council and yourself don't typically go through the city manager?
>
> **[A]** In my experience that is yes, the answer to that is yes. I have a short history in local government. It's a total of 6 years. Most of my career has been in the private sector. In my previous job, which is with the City of Fullerton, it's the only other city I've worked for in my mature professional life, everything went through the city manager. Here it's inconsistent.
>
> **[Q]** Do you have an opinion as to whether it would be better, to use a vague term, if everything went through the city manager rather than councilmembers directly contacting you?
>
> **[A]** I believe, yes, to the degree that work flow – because everything is – everything generates work. And the degree to which work flow can be concentrated through the city manager's office so that alignment occurs between the politics and the administration, yes.

> That would be ideal. . . . But in an ideal world, and without knowing – without knowing [how an] organization this big . . . would functionally and pragmatically work, I think the ideal is that everything should go through the city manager's office because otherwise, there's too many people telling too many staff to do too many things. And there isn't – there is an absence of alignment with the policy set by the council and adopted resolutions and ordinances. [Ex. H (4/29/14 [redacted] Trans., pp. 12:7-13:10).]

Third: Section 407 provides that neither the Mayor nor the City Council nor any member thereof shall give "orders" to any subordinate of the City Manager, either publicly or privately. *See Levy v. City of Santa Monica*, 114 Cal.App.4th 1252, 1262 (2004) (discussing analogous provision of Section 6.10 of Santa Monica City charter, Court of Appeal stated: "Interpreting this section to prohibit 'orders' to City staff is a bright line consistent with the purpose of Section 6.10 and the First Amendment."); *see also Garcetti v. Ceballos*, 547 U.S. 410, 422 (2006) (Public "employees retain the prospect of constitutional protection for their contributions to civic discourse. This prospect of protection, however, does not invest them with a right to perform their jobs however they see fit.").

It may be argued that a "request" by a Councilmember to City staff is clearly not an "order" within the meaning of Section 407. This is self-evident except when the Councilmember and City staff both understand that a "request" to City staff is synonymous with an "order." At his interview, [redacted] stated: "The splitting of hairs however is those requests we take extremely seriously because they are elected leaders of the city so in effect they're orders." [Ex. H (4/29/14 [redacted] Trans., pp. 14:16-16:4).]

[B] Apparent Violations of Charter Section 407

[1] Comments about City Manager

Section 407 of the City Charter prohibits Councilmembers from interfering with the City Manager's performance of his duties. Section 407 also prohibits Councilmembers from communicating (except for purpose of inquiry) with City staff without going through the City Manager's office.

At his interview by G|M, the Councilman described the circumstances in which he properly could (and could not) criticize the City Manager to City staff:

> **[Q]** Is it interfering improperly in some way, shape, or form in your mind with Scott Barber's ability to function as the City Manager for you to tell members of the public, not including –
>
> **[A]** Sure.
>
> **[Q]** -- City employees, I just don't have confidence in the City Manager?
>
> **[A]** No. I have the ability as the elected member to say that; however, it has to be crafted very carefully not to violate his – his rights under the Labor Code, and, therefore, the statement that I made is the statement – not only was it in the newspaper, I have the authority to make – anybody can make that statement.
>
> If he feels that it interferes, well unfortunately that's the way it works. You've got to get a little thicker skin because that's how it works.
>
> **[Q]** So let me explore this with you a little bit.
>
> **[A]** Uh-huh.

///

> **[Q]** In your mind is it appropriate to go to subordinates – I'm not saying you did, but is it appropriate to go to subordinates of Scott Barber and tell them, I don't have confidence in the City Manager?
>
> **[A]** I don't think it would be appropriate. It also depends on the context of the conversation. If they are attending a meeting and they happen to overhear even a conversation that they weren't a part of and hear that, that really is kind of unfortunate that they're eavesdropping. Could that have happened? It's possible. I don't know if it has happened or not.
>
> But at no time if I had gone to you – I mean, Mr. Gumport, if you were a City employee and say, I just don't like your boss. I think he needs to go. That has never happened.

[Ex. E (5/29/14 Councilman Trans., p. 22:16-p. 23:25).]

As quoted above, the Councilman denied telling City staff that the Councilman disapproved of the job performance of the City Manager. The Councilman also denied (or stated that he did not recall) making disparaging remarks about the City Manager to [redacted] and March JPA Executive Director Stone.

Each of these witnesses, however, stated to G|M that the Councilman did, in fact, say that the City Manager should be fired or was doing an inadequate job. [redacted] recalled that the Councilman's comments about the City Manager included profanity. The conclusion that the Councilman likely made the remarks about the City Manager is supported by this multiplicity of witnesses and is reinforced by the fact that the Councilman admittedly disapproves of the job performance of the City Manager.

That the Councilman's negative remarks about the City Manager would tend to interfere with his ability to do his job is evident from: (1) the discomfort experienced by [redacted] on hearing the Councilman's remarks and (2) the predictable effect that such remarks would have on the City Manager's ability to command the loyalty of his subordinates [redacted] commented that requests made by Councilmembers are treated as orders; in such circumstances, the Councilman's comments that the City Manager should be fired or was doing an inadequate job would tend to disrupt staff's ability to fulfill the requests of the Councilman while also following the directives of the City Manager.

G|M does not rule out the unlikely possibility that [redacted] and March JPA Director Stone have inaccurate recollections of what they were told by the Councilman. The Councilman has firsthand knowledge of what he said and did, and he says that he either did not make the remarks attributed to him or does not recall having made them.

Given the recollections of the [redacted] and March PA Stone, it nevertheless appears that there is a substantial basis to conclude that the Councilman did make the remarks attributed to him about the City Manager; that those remarks interfered with the City Manager's ability to do his job; and that those remarks therefore violated the non-interference provisions of Section 47 of the Charter of the City of Riverside.

[2] Dealings with [redacted]

Section 407 of the Charter prohibits a Councilmember from dealing with City staff, except for purpose of inquiry, unless the Councilmember goes through the City Manager's office. Section 407 also prohibits Councilmembers from directly or indirectly giving orders to City staff.

It is a close call (and debatable) whether the dealings between the Councilman and [redacted] the MLB youth facility involved the Councilman's giving "orders" to [redacted] On the one hand, [redacted] denies that he was ordered to do anything by the Councilman; on the other hand, [redacted] says that he treats a Councilmember's request as though it is an order. Further, [redacted] recalls that [redacted] said that he had received direction from the Councilman. [redacted] does recall that the Councilman told him, in connection with the MLB project, that "I want to move this forward if we can or call it quits if we have to." [Ex. C (3/25/14 [redacted] Memo).]

Regardless of whether the Councilman gave an order to (or merely made a "request" of) [redacted] there is a substantial basis to conclude that the Councilman's direct communications with [redacted] were not merely for the purpose of inquiry, but were, at a minimum, requests that [redacted] take action "to move this forward if we can" and were made without going through the City Manager's office.

[redacted] notes that the Councilman left this quoted message directly on [redacted] voicemail on March 12, 2014, and did not convey that message through the City Manager's office. [redacted] interview also makes clear that requests made to City staff by Councilmembers place demands on staff's time.

Accordingly, there is a substantial basis to conclude that the Councilman's dealings with [redacted] violated Section 407 of the Charter because those dealings did not go through the City Manager; did not consist solely of inquiries; were not made merely for the purpose of inquiry; and were instead made for the purpose of moving forward the MLB project.

[C] Alleged Hostile Work Environment

In the Complaints, the City Manager alleges that the Councilman's conduct created a hostile work environment. This allegedly hostile work environment arose from the Councilman's alleged (and apparent) violations of Section 407 of the City Charter and alleged threats to violate the City Manager's privacy, personnel, and reputational rights.

For the reasons discussed above, there is a substantial basis to conclude that the Councilman interfered with the City Manager in violation of Section 407 of the City Charter. There is also a substantial basis to conclude that the Councilman's interference with the City Manager included making disparaging remarks about him and/or expressing the view that he would be fired in the near future, even though the Council had never voted to take such action.

To create a "hostile work environment," however, as defined in the City's Harassment Free Workplace policy and Government Code § 12940, the hostile or harassing conduct generally must consist of offensive conduct based on or related to race, color, religion, sex, or other protected classification under applicable law.

The Councilman's interference with the City Manager's performance of his duties does not appear to be based on or related to a protected classification that would give rise to a violation of the City's Harassment Free Workplace policy and Government Code § 12940. Accordingly, it does not appears that the Councilman's conduct violated the City's Harassment Free Workplace policy or Government Code § 12940.

That the hostile work environment claim appears to lack merit does not signify that the claim was unreasonable or made in bad faith.

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First, it appears that the Councilman's negative comments about the City Manager were "hostile" as a layperson would understand that term.

Second, the City Manager does have a right to be treated fairly and justly by the Councilmmembers, regardless of whether the City Manager is a member of a protected group. Section II.D(4) of the City's Code of Ethics provides in relevant part: "The elected and appointed officials of the City of Riverside have a responsibility to make extraordinary efforts to treat all persons, including city staff, in a manner which would be considered fair and just. . . ." Unlike a "hostile work environment" claim, Section II.D(4) of the City's Code of Ethics does not require proof of a protected classification.

In view of the standard of conduct imposed by Section II.D(4) of the City's Code of Ethics, the Councilman's conduct in undermining the City Manager, including telling his subordinates that he should be fired, could reasonably be viewed from the City Manager's perspective as harassment, even though such conduct did not involve a protected classification as required by the City's Harassment Free Workplace policy and Government Code § 12940.

Because the Complaint did not allege violations of the City's Code of Ethics, this report does not address whether the Councilman's conduct in fact violated the Code of Ethics. Instead, this report only refers to the Code of Ethics to explain why there is a substantial basis to conclude that the hostile work environment claim was filed in good faith in that the claim applied an erroneous legal theory to complain of apparently inappropriate conduct.

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[VII] CONCLUSION

G|M reserves the right to amend and supplement this report in light of any additional information that may come to G|M's attention.

DATED: June 13, 2014

Respectfully submitted,
GUMPORT | MASTAN

By: _____
Leonard L. Gumport
Independent Counsel to the City of Riverside

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

June 13, 2014

APPENDIX OF EXHIBITS TO REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS MADE CONCERNING COUNCILMEMBER PAUL DAVIS

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Independent Counsel for City of Riverside

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

TABLE OF EXHIBITS

Exhibit

Complaint submitted on April 14, 2014 ..... A

Complaint submitted on April 15, 2014 ..... B

3/25/14 [redacted] Memo C

Transcript of April 30, 2014 interview of City Manager Scott Barber (the "City Manager") ..... D

Transcript of May 29, 2014 interview of Councilmember Paul Davis (the "Councilman") ..... E

Transcript of April 30, 2014 interview of [redacted] ..... F

Transcript of April 30, 2014 interview of [redacted] ..... G

Transcript of April 29, 2010 interview of [redacted] ..... H

Email from the Councilman to the City Manager et al., dated November 8, 2013 I

Email from the Councilman to [redacted] dated Feb. 18, 2014 ..... J

Email from the Councilman to [redacted] et al., dated March 20, 2014 ..... K

Email from the Councilman to the City Manager, dated March 24, 2014 L

Email from the City Manager to the Councilman, dated March 24, 2014 ..... M

Email from the Councilman to the City Manager and others, dated March 28, 2014 ..... N

Email (with enclosed letter and attachments) from Leonard Gumport of G|M to the [redacted], dated April 22, 2014 ..... O

Email from [redacted] Leonard Gumport of G|M, dated April 25, 2014 ..... P

Email from Mark Meyerhoff of Liebert Cassidy & Whitmore to Leonard Gumport of Gumport | Mastan ("G|M") and others, dated May 15, 2014 ..... Q

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

TABLE OF EXHIBITS (cont'd.)

	Exhibit
Email from James Potts (the Councilman's representative) to Leonard Gumport of G|M, dated May 15, 2014	R
Section 407 of the Riverside City Charter	S
Riverside City Code of Conduct and Ethics for Elected Officials etc.	T
Sections 2.08.010-2.08.120 from the Riverside Municipal Code	U
Article by Melanie Poturica and David A. Urban entitled "A City Council Member's Role With Respect to Individual City Employees," downloaded from http://www.westerncity.com (last visited 6/11/14)	V
City's Harassment Free Workplace Policy	W
March 22, 2012 letter and October 25, 2013 memo from Oakland City Attorney Barbara Parker	X
Email from Lori Stone of March JPA to Leonard Gumport of G|M, dated June 12, 2014	Y

EXHIBIT A

CITY OF RIVERSIDE
MEMORANDUM

TO: [redacted]

FROM: Scott C. Barber, City Manager

Cc: [redacted]

RE: Hostile Work Environment, Violations of the City Charter

[redacted]

For the past several months, Councilmember Paul Davis (here after referred to as Paul) has been creating a hostile work environment for me, as well as violating Riverside City Charter Section 407 (Interference in Administrative Service), as documented by the following:

10/22/13: During my annual performance evaluation in closed session, Councilmember Paul Davis stated that [redacted] A public discussion of my performance as City Manager violates my privacy rights as your employee, and creates an environment wherein I feel like my reputation and livelihood are threatened by Paul.

11/07/13 and 10/08/13 (see attached emails): After having the Jason Hunter Code of Ethics matter explained as to why Paul's request for a closed session discussion of Hunter's appeal was inappropriate, Councilmember Davis states that an evaluation of my performance is warranted, and if that does not occur, then a public conversation in public view will take place. A public discussion of my performance violates my rights as your employee- my performance is reviewed by the Council as a whole, and only in closed session, and by demanding my performance review, creates an environment wherein I feel my job is threatened, along with my reputation and livelihood.

11/19/13: I stopped by Parks Recreation and Community Services headquarters and spoke with [redacted], who told me that on 10/30/13 at Villegas Park Co[redacted]ember Paul Davis [redacted]er that he would have me fired as City Manager by the end of May, before [redacted] left as [redacted]. Discussion with my staff that Paul intends to fire me as City Manager violates my rights as an employee of the City Council and makes my job as City Manager extremely difficult, because it creates fear and confusion for me and my subordinate staff.

03/18/14 through 03/28/14 (see attached emails): Paul sends an email to [redacted] requesting a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date. After discussing the request with [redacted] and

EXHIBIT A

both of you, I directed her to write back to the Councilmember and let him know that his request was been referred to my office, since his request would require the creation of a special report. Paul then revises his request to me, requesting a list of positions by department and title, without name or specific date, which have left within 180 days of March 1, 2014 and those that will leave by the end of the year. I advised Paul that I had reviewed this matter with [redacted] and that this request would be discussed in closed session. On March 28, 2014, Paul writes to me with a cc to both of you, requesting what he believes is public information regarding former employees, that he needs this information to evaluate my performance, and he is very concerned over "this continual action you take when I ask for important evaluation materials." He goes on to state "Your lack of communication with me on this issue also bothers me and send the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing." Paul's comments to me are intended to intimidate me into complying with his request, which create a hostile work environment for me. Paul also fails to realize that he does not independently evaluate my performance as an individual member of the council, but that rather the Council as a whole evaluate me. Also, disclosure of this specially created document which is currently exempt from the Public Records Act (since there is not an existing report) would allow Paul to share this document with the public as a part of his pubic evaluation of me as the City Manager. This continued effort to evaluate my performance in public violates my privacy rights as your employee, and creates a hostile work environment for me, because I feel like I am frequently on the defensive with Paul's requests (he states that my lack of communication bothers him) and that my livelihood is at risk if I do not comply with his inappropriate requests.

03/21/14: I spoke [redacted] regarding a request from Councilmember Davis to annex March Joint Powers land for a baseball field. [redacted] stated that has been told by Councilmember Davis that he intends to fire me by May of this year. I asked [redacted] document his conversation with Councilmember Davis (see attached memo). Although [redacted]'s memo does not state the termination comment, it does state that Paul told [redacted] that he has concerns with my performance. Discussing my job performance with my subordinate staff members presents several difficulties for me as the City Manager, violates my rights of privacy as your employee, and creates a hostile work environment for me and my subordinate staff. Also, directing my subordinate staff to begin annexation proceedings without a Council policy discussion and my subsequent direction to my staff is a violation of Section 407 of the City Charter.

04/01/14: I received a copy (see attached) of May Lynn Davis' Facebook (May is Paul's wife) dated from 03/28 to 03/31, raising the same issues that Paul has raised regarding turnover rates of employees and stating "So Mr. City Manager, where does that leave us?" I feel that because Mrs. Davis' Facebook page contains a picture of her and Paul, and because the issues raised by Mrs. Davis are the same as those raised by Paul, the Davis' are using Mrs. Davis' Facebook page to publicly humiliate me and force me to comply with Paul's inappropriate document requests. This is clearly intimidation through a third party, aimed at creating a hostile work environment for me within the entire City of Riverside, and threatening my livelihood and reputation.

EXHIBIT A

04/10/14 (see attached): I receive a letter from [redacted] containing a statement from [redacted] documenting the Community Action Group meeting from the previous evening. During this meeting, Councilmember asked that City staff be excused from the meeting. Since these staff members all work for the City Manager, I feel that this requested removal from a public meeting in a public place is potentially a violation of Chapter 407 of the City Charter. After the meeting [redacted] speaks with [redacted] who is a City employee who was not asked to leave the meeting [redacted] tells [redacted] that Paul criticized me for not realizing the document that he had requested, thereby limiting his effectiveness as a Councilmember. This public discussion of my performance as the City Manager violates my privacy rights as an employee, and creates a hostile work environment for me.

This ongoing practice of attacking me, threatening to call my performance evaluation, discussing my performance with the public, publically humiliating me, and seeking through intimidation to make me perform my job contrary to our City Charter has created a very hostile work environment for me. I am experiencing the physical effects of this stress, as well as the emotional toll it is taking on me. I am asking for this behavior to cease immediately, so that I can focus on the very difficult job of Riverside City Manager.

My thanks to both of you for your willingness to investigate this matter that is creating an unacceptable work environment for me and my subordinate employees.

Scott C Barber 4/14/14

Scott C. Barber
City Manager
City of Riverside

EXHIBIT A

Barber, Scott

From:	Davis, Paul
Sent:	Friday, November 08, 2013 9:15 AM
To:	Barber, Scott; Gardner, Mike; Bailey, Rusty
Subject:	RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Than let's set this as an evaluation for you and the CA, as I have serious issues with your management and how you and your ACM's are handling employee matters. If either of the other two would like to talk about it, they can contact me. Otherwise let's have this conversation in public view.

Paul Davis
Council Member - Ward 4
City of Riverside

-------- Original message --------
From: "Barber, Scott"
Date: 11/08/2013 9:04 AM (GMT-08:00)
To: "Davis, Paul"
Cc: "[redacted]"
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Councilmember:
I attempted to call you last night in this regard, however we never had a chance to speak. I did review your request to set this for closed session with the Mayor and the Mayor Pro Tem; both of them agreed to schedule an update on the litigation between Jason Hunter and the City, however they did not intend to review the Code of Ethics questions raised by Mr. Hunter as those will most likely be coming to the Council on appeal at some point, and since they are not a part of the litigation, they don't constitute a subject that we can really discuss in closed session (similar to the Aquino matter). I have spoken with the City Attorney, who is including a litigation update on the closed session agenda for 11/19/13.

Please let me know if you have any questions in this regard.
Scott

-----Original Message-----
From: Davis, Paul
Sent: Thursday, November 07, 2013 7:43 AM
To: Barber, Scott
Cc: [redacted]
Subject: Re: October 22, 2013 City Council Meeting - response to City Attorney comments

Please set this for a close session discussion at our next meeting. I have issues with how this has been handled and based on the information provided and my own legal council advice, the complainant appears to have good standing. I believe that an outside independent investigated may be warranted in this matter.

Paul Davis
Council Member - Ward 4
City of Riverside

> On Nov 6, 2013, at 10:57 PM, "J Hunter" <jehunter51@msn.com> wrote:
>
> Gentlemen,

>
> At the City Council meeting of October 22, 2013, during the public comment period I spoke towards the recommendation by Mayor Bailey (agenda item 36, passed on the consent calendar) to consolidate the Code of Ethics and Conduct complaints I filed with the City Clerk on September 9, 2013. I took two exceptions to his Memorandum that accompanied Resolution No 22590.
>
> The following sentence I found extremely worrisome. "Pursuant to the
> Employer-Employee Relations Resolution, the Human Resources Board acted on the grievance and submitted findings and conclusions together with its recommendations to the City Manager."
>
> I commented that the Employer-Employee Relation Resolution referred to, known perhaps as Resolution No. 15079 of 1983, clearly did not cover Managerial employees, who do not participate in Recognized Employee Organizations. I made it known that the City did not have a Council-approved policy for handling these grievances. I also commented that the City Charter, per Section 807, unequivocally states that the Human Resources Board acts in an advisory capacity to the City Council on matters concerning personnel administration.
>
> Councilman Melendrez asked City Attorney Priamos to address my concerns. Mr. Priamos contested both issues. I attach both Resolution No, 15079 and City Charter Section 807 for your perusal. I have also included a pdf version of the City's website listing all Recognized Employee Organizations, such as the SEIU, RPOA, et al.
>
> Please refer to Article I, Section 2, of Resolution No. 15079, entitled, "Statement of Purpose":
> "This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (section 3500 et. seq.) captioned 'Local Public Employee Organizations,' by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations."
>
> If there is any doubt to the subject dealt with within Resolution No, 15079, Section 2 elaborates:
> "It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations..."
>
> Section 807 of the Riverside City Charter states:
> "There shall be a Human Resources Board, which shall have the power and duty to:
> (b) Act in an advisory capacity to the City Council on matters concerning personnel administration."
>
> That our City Attorney would make such misleading statements to the Council on the record during a public hearing is quite disheartening, and certainly makes one question his understanding our our local rules, which I hope you find (similar to me) are quite simply, indisputable. I also remind the Council at this time, that as part of my Writ of Mandamus filed with the Riverside Superior Court on August 21, 2013, which has previously been provided to you, I contend that Mr. Priamos also made materially misleading statements regarding our local rules to the Human Resources Board (a hearing that was also videotaped) at my grievance hearing on May 13, 2013. Coming full circle, those misleading statements would guide the Board towards violating my rights under classified service...setting in motion both the Writ against the City and the Ethics Complaint against the individual Board members.
>
> That I was dragged through an illegitimate, illegal, kangaroo-court process pre-destined to demote and terminate me from my employment with the City of Riverside because of personal vendettas and whistleblower complaints is offensive, and your silence on my missives to date speak volumes towards your complicity in the matters at hand. It also makes me wonder how many previous employees have been subjected to similar retaliation and harassment, and whether a class action suit might not be your preferred alternative towards settling our differences - which I might suggest, again, could be more efficiently solved by opening the lines of communication.
>
> I remain hopeful the Council will recognize the needless waste of taxpayer dollars defending decisions and a process that are simply indefensible, and do the right thing. I call for an immediate independent investigation into the handling of my illegal demotion and termination by executives within the City Attorneys Office, the Human Resources Department, the City Manager's Office, the Riverside Fire Department (namely, Chief Steve Earley), and Riverside Public Utilities.
>
> Sincerely,
> Jason Hunter
> <Resolution-15079.pdf>
> <COR Rec Emp Orgs.pdf>
> <COR Charter Article VIII.pdf>

EXHIBIT A

CONFIDENTIAL MEMORANDUM

TO: Scott Barber, City of Riverside City Manager

FROM: [redacted]

DATE: March 25, 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work cell phone [redacted] received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> "Hey [redacted] this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted]5. I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to [redacted] regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Youth Facility. As I recall, [redacted] was not present and, as I recall, [redacted] transferred me to [redacted] I shared with [redacted] the nature of Councilmember Davis' inquiry. In response, at 2:10PM, [redacted] was gracious enough to send an email to [redacted] and CCd me explaining my conversation with him.

> [redacted] received a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you provide [redacted] quick update before [redacted] returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response to [redacted] email to [redacted], I received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:06PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question wit[redacted] During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted] related to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

EXHIBIT A

00007

On Mar 20, 2014, at 5:38 PM, [redacted] > wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]

This email message, including any attachments, is intended for the sole viewing and use of the individual or entity to which it is addressed, and may contain confidential and privileged information, which is prohibited from disclosure. Any unauthorized review, use, disclosure, distribution, or the taking of any action in reliance on the information contained in this email, including attachments, is prohibited. If you are not the intended recipient, you are hereby notified that any dissemination or copy of this message, or any attachment, is strictly prohibited. If you have received a copy of this email in error, please notify the sender by reply email immediately, and remove all copies of the original message, including attachments, from your computer.

From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT A

Barber, Scott

From: Barber, Scott
Sent: Monday, March 24, 2014 9:02 AM
To: Davis, Paul
Subject: RE: Employee Info

Thank you, Sir- hope all is well in China!

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this [redacted] while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:33 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with the [redacted] who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or on April 8th. If you have any questions in this regard, I would ask you to direct them to either [redacted].
> Thank you,
> Scott
>
> **From:** Davis, Paul
> **Sent:** Thursday, March 20, 2014 6:19 PM
> **To:** [redacted]
> **Subject:** Re: Employee Info
>
> Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?
>
> Thank you all in advance for your anticipated cooperation.
>
> Paul Davis
> Council Member - Ward 4
> City of Riverside

EXHIBIT A

Barber, Scott

From: Davis, Paul
Sent: Friday, March 28, 2014 4:24 PM
To: Barber, Scott
Cc: [redacted]
Subject: Request for Employee Stats

Follow Up Flag: Flag for follow up
Flag Status: Completed

Scott,

I will not be present for the April 1 meeting, and want to be present for the discussion of my request. [redacted] is aware, but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT A

Barber, Scott

May Lynn Davis
March 29

Just an observation,...Another valuable and dedicated Associate of the City of Riverside is gone (the community is very sad to see Ralph leave). Seems to be trending that we have lost quite a few in recent years for greener pastures or forcibly forced out due to conflicts.... who else is going and how many more are we going to lose? This will end up leaving our city in a state of all new and inexperienced people relaced in those slots... Looks to me that an efficient leader would not have such a high turn over, and that they take care of their good employees and weed out the ones that are useless, not the other way around.

· Like · [Comment] · Share

- Marisa Yeager, Steve Livings, Grace Kainin and 9 others like this.
- [redacted]

  Steve Livings Pushing out the seasoned employees for newer less experienced employees?

  March 29 at 6:21pm · Like · 1
- [redacted]

  James Dudley Things like this make you wonder why. Nice observation post.
  March 29 at 6:49pm · Like · 2
- [redacted]

  Dairren Thompson Weak, low - confidence people in the position of leadership, oftentimes will get rid of or will try to get rid of those loyal to previous leader. By doing this, the new leader can begin to build a coalition more favorable to his/her agenda/self. Stalin was famous for this.
  March 29 at 10:42pm · Like · 3
- [redacted]

  Mary Lynn Davis Apparently there are quite a few more on the way out... So Mr. City Manager, where does that leave us? We really could use more intelligent associates seasoned in their field of work. not a bunch of bobble heads. Sorry no offence to the newbies... But just sayin.
  March 31 at 12:55pm · Like · 2

EXHIBIT A

April 10, 2014

[redacted]

I attended the CAG meeting last night at Villegas Park that convened at 1900 hours. Consistent with the monthly agenda, Councilman Davis was given the opportunity to address the group and provide a Ward 4 update.

After his brief report, Councilman Davis asked that any and all City staff please be excused from the meeting. Davis explained that he was going to share some recent developments with his constituents and that it would be best if he excused City staff. As I was getting up and walking out, I heard Davis tell the crowd that we (City employees) all had bosses, it would only be right if [redacted] as about to share came fro[redacted] superiors and not directly from him. At that, myself, [redacted] and S[redacted] all stepped outside.

Obviously curious, the four of us stood outside and conversed. We did so for at least 20 minutes before [redacted] and [redacted] finally said they were going to leave. [redacted] and I continued to talk and at about the 25 minute mark, we were allowed to come back inside and join the meeting. Nothing was mentioned of the Councilman's conversation with the group after we returned.

Following the meeting, I had the opportunity to talk to [redacted] outside in the parking lot. I asked what was going on and she stated that Councilman Davis told the attendees that he was going to file some kind of suit or action against [redacted] When asked why, [redacted] stated the following rational before we were interrupted by someone else walking up to us:

- That Paul has been hindered from doing his job. There have been numerous employees that have left their positions at the City. Paul has asked for a report that would contain the list of employees and why they were separated (fired, resigned, retired etc.). Paul went through the City Manager for the request. The request was denied pe[redacted] This was just one example of [redacted] and City Manager not following the City Charter reference structure[redacted]s limiting/blocking the functionality of Paul and his position as a councilman. [redacted] is also performing other tasks and signing other documents that he does not have the authority to do.
- [redacted] has yelled/demeaned Paul and his fellow peers in public and in front of others on different occasions. The conversations usually have to do with power/authority. Who is in charge of running things, etc. The most recent was while [redacted] and Paul were in China. As mentioned, other Councilmembers have experienced the same independently with [redacted]
- [redacted] recently hired a psychologist to meet with each Councilmember. The rational was to evaluate each member to see what the breakdown is and why everyone cannot get along. Paul's belief is that [redacted] does not have the authority to do so and he took great offense to [redacted] actions in this matter.

EXHIBIT A

- Also mentioned was [redacted] told the City Manager to investigate [redacted] for administrative interference. In response, there is an opinion that [redacted] and possible [redacted] may join in some sort of claim against the Mayor.

The aforementioned points were further confirmed later in the evening by the CAG Chair, Bob Garcia. Bob called me on my way home and recapped a few points of Councilman Davis' message to the meeting attendees. Bob's recap was very disjointed, but he independently brought up the first three points, as being covered by Davis. The last point was not. The basic message that Bob conveyed was Councilman Davis explained to the group that he is being hindered from doing his job by [redacted] and that there was more than likely going to be some repercussions. Davis wanted to tell his constituents in person and before they heard it somewhere else.

Please let me know if you have any questions or if you need any clarification on any of the details provided.

[redacted]

EXHIBIT A

EXHIBIT B

CITY OF RIVERSIDE

MEMORANDUM

To: [redacted]

[redacted]

Cc: [redacted]

Re: Update: hostile work environment complaint

As an update to my memorandum of 04/14/14, I have the following information:

04/14/14 (see attached email): [redacted] emailed me with his concerns regarding statements made during Councilmember Davis' CAG meeting of 04/09/14; during this meeting Councilmember Davis referenced the investigation of [redacted] pointed out that any retaliation planned by Councilmember Davis as a result of the previous whistleblower complaint would constitute "illegal retaliation".

04/15/14: Councilmember Davis asked to see me when I finished a meeting with my staff. I went to his office at approximately 2:44 pm, and when I walked in I observed that his face was red and he appeared angry. I said "You wanted to see me?" to which Councilmember Davis replied "I am angry. I was just pigeonholed into a meeting with some investigator when I thought that it was going to be an industrial psychologist. This is going to end, Scott. You should have told me what this meeting was about and it time for a change; it is time for you to go. I know what I can say publically and I'm going to say it." I said to Councilmember Davis "You are correct, your behavior towards me is going to change" and I left Councilmember Davis' office.

This continuing practice of threatening to fire me, criticizing me for actions that I had no part in (I did not schedule the meeting with the investigator- it was scheduled by the Mayor's Office), and becoming angry and raising his voice to me is a perpetuation of Councilmember Davis creating an unacceptable, hostile work environment.

Scott C. 04/15/14

Scott C. Barber, Riverside City Manager

EXHIBIT B

Barber, Scott

From: [redacted]
Sent: Monday, April 14, 2014 5:38 PM
To: Barber, Scott
Cc: [redacted]
Subject: CASABLANCA ACTION GROUP MEETING

[redacted] Barber

I have already shared with you information received from [redacted] regarding some comments made by Councilmember Paul Davis during the Casablanca Action Group on April 9, 2014. One of the comments attributed to the councilmember particularly troubled me. That remark had to do with some action that Councilmembers Davis and [redacted] are contemplating against the mayor as a result of a complaint made against [redacted] for administrative interference in the running of City operations. I have previously brought to your attention that I believe [redacted] has acted inappropriately in undermining the authority of the chief of police by telling a key member of the staff of the RPD (a [redacted], that he [redacted] had the votes to get rid of the city manager and [redacted]. If, in fact, Councilmember Davis is now contemplating some action against any city employee (including [redacted] city manager and the [redacted]), based on my reporting of misconduct about [redacted] I believe that qualifies as illegal retaliation. Based on my training and experience retaliation occurs when any adverse personnel action is taken by an employee for exercising a right or engaging in protected activity. My complaint against the councilman of violating the City Charter is a protected activity as I understand that term to be defined.

[redacted]

EXHIBIT 8

EXHIBIT C

CONFIDENTIAL MEMORANDUM

TO: Scott Barber, City of Riverside City Manager

FROM: [redacted]

DATE: March 25, 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work cell phone [redacted] received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> [redacted], this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted], I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to [redacted] regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Youth Facility. As I recall, [redacted] was not present and, as I recall, [redacted] transferred me to [redacted]. I shared with Larry the nature of Councilmember Davis' inquiry. In response, at 2:10PM, [redacted] was gracious enough to send an email to [redacted] and CCd me explaining my conversation with him.

> [redacted] received a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you provide [redacted] a quick update before [redacted] returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response to [redacted]'s email to [redacted], I received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:06PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question with [redacted]. During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted] related to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

EXHIBIT C

EXHIBIT D

HUTCHINGS Litigation SERVICES

ORIGINAL

CITY OF RIVERSIDE

INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW

OF

SCOTT BARBER

CONFIDENTIAL INTERVIEW OF SCOTT BARBER, a witness herein, noticed by Gumport Mastan, taken at 3901 Orange Street, Riverside, California at 3:03 p.m., Wednesday, April 30, 2014, before Deborah Troiano, CSR 7990, RPR, RMR.

Hutchings Number 505284

APPEARANCES OF COUNSEL:

GUMPORT MASTAN
BY LEONARD L. GUMPORT
550 South Hope Street, Suite 825
Los Angeles, California 90071-2627

I N D E X

WITNESS: SCOTT BARBER

EXAMINATION BY:	PAGE
MR. GUMPORT	4

E X H I B I T S

Exhibit identification within the transcript is flagged with "[EXH]" as an identifier.

EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
A	Complaint with attachments [EXH-A]	6	40
B	City Charter [EXH-B]	7	40
C	April 15th document	39	40

SCOTT BARBER,

a witness herein, testifies as follows:

-EXAMINATION-

BY MR. GUMPORT:

Q. Please state your name.

A. Scott Charles Barber.

Q. Please state your position with the City of Riverside.

A. I'm the City Manager of the City of Riverside.

Q. And how long have you had that position?

A. I was appointed interim city manager in August of 2011. I was appointed as the full-time city manager in December 2011. So this August it will be three years since I have -- I became interim.

15:04

Q. Mr. Barber, I'm Leonard Gumport. We've met before because I did an interview of you with respect to a separate matter a week ago. And so I am going to just briefly repeat the various things I said before, partly for the record, even though you've heard them. First, thank you for coming to this interview. Secondly, thank you for permitting it to be transcribed by the court reporter who is here. Third, any time you want to go off the record, just indicate with a hand gesture. I'm instructing the court reporter the

15:04 transcript isn't to reflect that. And my rule is if something is said off the record or it's not said on the record, I am not going to rely on it. So the reason for the transcript is so that my client, which is the city, knows what it is that I relied on that people told me on the record. Because I am not going to rely on what people tell me off the record. Understood?

A. That is understood. Thank you.

Q. You're not under oath. But what you say on the record is being transcribed. So it's important to be accurate and to listen to my questions and ask me to clarify if you don't understand the question; understood?

A. Understood.

Q. My client is the city. You're not my client. I

15:05 can't give you legal advice at any time. If you have a legal question, that would be a ground rule for saying I want to stop this interview and consult with a lawyer because I am not your lawyer. Do you understand that?

A. I understand that.

Q. I can't give you assurance of confidentiality. I will treat the transcript as confidential and privileged, but ultimately, it's my client, the City of Riverside, that decides whether or not the transcript of this interview remains confidential. Therefore, it's possible, and you should assume that the transcript may ultimately be disclosed

15:06 **to the public. Do you understand that?**

A. I understand that.

Q. Is it all right with you if I have marked as an exhibit to the transcript of this interview what I understand is a complaint and some attachments that you submitted to the city in connection with what I will describe as the Councilman Paul Davis matter?

A. Yes.

Q. Okay. Let's have this document marked as Exhibit A to this transcript. And I have a copy for you, Mr. Barber. Is Exhibit A a copy of a complaint that you submitted to [redacted] about a week ago? [EXH-A]

A. I'm just looking through it right now. This looks
15:07 like a photocopy of the complaint that I gave to [redacted] and [redacted] on approximately -- I signed the document on 4/14, and I delivered it to them on 4/15, both of 2014.

Q. Before becoming the interim city manager and the city manager of the City of Riverside, had you been a city manager anyplace else?

A. I had not.

Q. Let's have marked as Exhibit B to this transcript what is a downloaded copy of the Charter of the City of Riverside. And I'm going to have some questions for you about

15:08 one particular provision of the charter. And I will represent to you that, Mr. Barber, this is a copy of the charter of the City of Riverside. If you would turn to Section 407 of the charter. [EXH-B]

A. All right. I'm there.

Q. I have some questions about your understanding. I understand you're not a lawyer, are you?

A. I am not.

Q. So I am not asking you for legal opinions. I'm just asking you for your understanding as the city manager of various of the terms used here. And Section 407 states in part, quote, neither the mayor nor the city council nor any of its members shall interfere with the execution by the city manager of his slash her powers and duties, et cetera. Let's

15:09 stop there. Do you have an understanding of the term interfere as it's used in Section 407?

A. I have my own interpretation of what interfere means.

Q. What is your own interpretation of it? And again, I am not asking for your legal opinion. It means what it means. But I'm interested in what your understanding of what it means.

A. To me, what it's referring to in the charter is that the mayor and city council will not impede my ability to administer the affairs of the city as I'm allowed to under the

15:10 city charter. Impede, interfere, interrupt. Trying to think of another way of looking at it. I suppose that make it difficult, do things that make it difficult for me to perform the duties of city manager.

Q. Now, let's go to the second portion of Section 407 which begins with the word except, the portion I'm going to read which is on the -- it begins on the fourth line of Section 407.

A. I'm there with you.

Q. Quote, except for purpose of inquiry, the mayor, the city council and its members shall deal with the administrative service under the city manager solely through the city manager and neither the mayor nor the city council nor any member thereof shall give orders to any subordinates

15:11 **of the city manager either publicly or privately, period, end quote. Let's go back to the word, quote, inquiry, end quote that appears in the sentence I just read. What's your understanding of the word inquiry as it is used in Section 407 of the charter of the City of Riverside?**

A. Ask questions.

Q. What about prepare reports, can a -- is it your understanding that a city councilmember could say could I please have a memo about the status of X, Y, Z of one of you or your subordinates? Is that within the definition of inquiry as you understand it?

15:12 A. I don't believe so. I don't believe that's correct under the city charter. I believe that the preparation of the document is more than an inquiry. It's the creation of a public record which is not -- does not fit in my definition or my understanding of inquiry.

Q. So for example, if a councilmember said give me a written report on the status of X and said that to one of your staff members or subordinates, that, to you, would not be an inquiry, a permissible inquiry, within Section 407 of the city charter; is that right?

A. That's right.

Q. All right. Now, let's go to Exhibit A, which is the complaint relating to the Councilmember Davis matter. First, are the facts set forth on the first three pages, to

15:13 the best of your knowledge, accurate? Is there anything that should be corrected or supplemented?

A. No.

Q. I have a question about what seems to me may be an incomplete sentence. If you would go to the third page of Exhibit A, and you go about five lines down, there is a sentence that begins with the word, After the meeting, [redacted] speaks with [redacted] and if you would just read to the end of that paragraph, and tell me whether there is a word missing someplace in there.

A. Oh, yes. There is a misspelling. It's actually

15:15 not a misspelled word. It's just the incorrect word.

Q. Okay. Where does it appear? Because I will tell you there is a sentence here --

A. Seventh line.

Q. Okay. That is the line that puzzled me.

A. [redacted] tells [redacted] that Paul criticized me for not realizing the document that he had requested.

Q. And how should it be phrased?

A. Can I consult just a moment the comment from [redacted]

Q. Sure. Take your time.

A. Well, it should be -- and I really don't understand why I wrote realizing but it could either be the word creating or it could be providing him, either of those would be

15:16 correct. My intent was the conversation between [redacted] and [redacted] conveyed to [redacted] that Paul Davis criticized me for not providing him with this document that he had requested.

Q. And that was a document that was not provided because it did not exist; is that right?

A. That document did not exist. Would have to be specially created. And one specially created then would become a public record. And under the charter, I work for the council as a whole. So individual councilmembers who create -- asking for documents to independently review my work

15:17 outside of the whole is not allowed.

Q. That clarifies. That answers my question.

A. That was my error. There may be a few others.

Q. Well, that's the one that confused me.

A. All right.

Q. Let's return to the first page of Exhibit A. The first page of Exhibit A has the date October 22, 2013, and there is a discussion of annual performance evaluation, correct?

A. That's correct.

Q. And that evaluation took place on October 22, 2013, correct?

A. That's correct.

Q. Who else was present during that evaluation?

15:18 A. That evaluation took place in closed session, which is in council chambers, the back chambers, which are not the public chambers but the private chambers. And the mayor and all of the seated councilmembers at the time were present. So that council was Mike Gardener, Andy Melendrez, Ken Gutierrez, Paul Davis, Chris MacArthur, Jim Perry, Steve Adams, and Mayor [redacted] Bailey.

Q. Apart from the criticism that Councilmember Davis made of your assistant city managers and yourself as described in Exhibit A, did any other councilmembers criticize your performance?

15:19 A. [redacted]

[redacted] And I believe I mentioned to him that [redacted] That was the only negative information that I received during my performance evaluation.

Q. Was there any vote to terminate your employment at that meeting?

A. [redacted]

Q. And to your knowledge, there hasn't been a vote with regard to your employment status since then, correct?

A. To the best of my knowledge, [redacted]

Q. Did Councilmember Davis at this closed session say

15:20 **that he wanted to terminate your employment?**

A. [redacted]

Q. Were any of your subordinates present at this performance evaluation?

A. No.

Q. So would it be fair to say Councilmember Davis' criticism of your office at this performance evaluation wouldn't, in your mind, constitute interference with your doing your work since it was just between you and the councilmembers where he expressed those opinions?

A. I would agree. That does not constitute

15:21 interference.

Q. Have there been times since that meeting where, to your knowledge, he has criticized your performance to your subordinates?

A. Yes.

Q. When?

A. So November 19th, 2013, I stopped by Parks, Recreation, Community Service headquarters and spoke with [redacted] And in the course of our conversation, she mentioned to me that during an event at Villegas Park on October 30th, 2013, Paul Davis told her that he was going to have me fired as the city manager by the end of May before the former [redacted] left the city employment.

15:22 **Q. Did that information come as a surprise to you?**

A. I had through the grapevine heard that he was making some comments about me, which is why I went and spoke with [redacted] because I had heard -- again, I don't remember the sources. But I had heard that Councilmember Davis is starting to say some things to your staff.

Q. Did you regard what [redacted] described to you on November 19th, 2013 as interference?

A. Yes.

Q. And why would you regard that as interference?

A. I would regard it as interference because [redacted]

15:23 [redacted] is a part of my staff, part of administrative service of the city manager. And for a councilmember, any councilmember, to tell her that I was going to be replaced then places in question to her who she takes direction from. Does she take direction from me? Does she take direction from the parks director? Does she take direction from the councilmembers directly? That kind of confusion about the administrative service of the city is why Chapter 407 of the city charter exists.

Q. After [redacted] told you what Councilmember Davis had said to her, did you have a discussion about that subsequent matter with Councilmember Davis?

A. No.

Q. Is there a reason why you didn't?

15:24 A. At that point, I was just trying to gather information about what the councilmember was doing. In particular, based upon the comments he made in my performance evaluation, I was concerned that he was following through on his threat that he was going to have a public discussion of my performance as the city manager.

Q. From time to time in the memo or complaint that is Exhibit A, you talk about your privacy rights as an employee of the City of Riverside, correct?

A. That's correct.

Q. Is there a document that sets forth your privacy

15:24 **rights or is your concept of your privacy rights something that is based on your understanding of how the city works?**

A. It's based on my understanding and my years of experience as a public employee, having worked on numerous public employee issues both as a staff member and in management. It's my experience that all public employees have an expectation of privacy with regards to their employment actions, employment status, including performance evaluations, corrective measures, whatever, all of that is confidential information.

Q. What about if a citizen comes to a city council meeting and says, you know, I asked for the city manager to have the trees in my neighborhood pruned or something like that, and I just think that the city manager's office was

15:25 **nonresponsive. In that situation, would you expect that your privacy rights dictate that the councilmembers not comment on your performance as opposed to just address the situation concerning the pruning of the trees?**

A. Yes.

Q. Has that by in large been the practice of the city council while you've been city manager, that is, people are -- councilmembers are not making disparaging remarks about your performance during the public meetings?

A. I started with the City of Riverside in August 2005. I have attended the majority of council meetings as

15:26 either the community development director or the interim or city manager. And in my experience of that entire time, there has not been a public discussion of the city manager's performance or disparaging comments about the city manager's performance that occurs from the dias.

Q. Now, in your complaint, let's return to Exhibit A. In the last paragraph of the first page of Exhibit A, there is a reference to Councilmember Davis sending an e-mail to [redacted] Do you see that?

A. I do.

Q. And is the substance of what you're saying here that Councilmember Davis asked for a document that didn't exist, and in your view, for that reason, staff shouldn't have been asked to prepare a document for him?

15:27 A. First of all, the councilmembers should not have been contacting a director of any department and asking for a document to be created. The councilmember should have been contacting me and asking me for this document to be created. And I directed [redacted] to advise Councilmember Davis that the matter had been referred to the city manager's office. And so he restated his request to me. And I discussed that request with [redacted]. And there was an agreement that we weren't going to create a special document for Councilmember Davis. And that really what he was talking about was a closed session matter. If

15:28 he's going to look at documents to evaluate my performance, that needs to be asked for by the majority, not by an individual, and not outside of closed session.

Q. At some point was Councilmember Davis told that he wasn't going to get requested information because what he was asking for was the preparation of a document that did not exist?

A. I believe so. And I would like to look back on the e-mails so that I got the timing correct in my mind on that. So I wrote back to Councilmember Davis. He wrote on March 20th to [redacted] cc to myself [redacted] and [redacted] stating, Let me restate my request to comply with employee privacy issues. Can I get a list of positions by department and title without name and specific date of those who have
15:29 left the city's employ for a period of 180 days from March 1st, 2014, and those who will be departing by year's end.

And I wrote back and said I reviewed your request with [redacted] who have directed me to discuss this request with the entire council with -- under labor on April 1st or April 8th. If you have any questions to this regard, I would ask you to direct them to [redacted]. Thank you, Scott. He said thank you for your response, Scott. This was on March 24th. And will discuss with [redacted] while I'm here. At that time, Councilmember Davis and [redacted] were in China on a sister

15:30 cities trip. I wrote back, said thank you, sir. Hope all is well in China. And then on the 28th of March, I will not be present for the April 1 meeting and want to be present for the discussion of the request.

[redacted] is here but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the return rate of staff, and certainly exit interviews of those
15:31 departing. Thank you for your anticipated cooperation on this and other issues. So I don't know that I ever directly said to him you can't have that under the charter. What I did was direct him back to [redacted] for a discussion of his request.

Q. Is there someplace in here where that reflects whether Councilmember Davis was told that the document that he was requesting -- well, let me rephrase the question. Is there someplace in the e-mails in here that reflect that Councilmember Davis was told that the information he was requesting wasn't in documented form and what he was doing was

15:32 **asking for a document to be prepared?**

A. It was not discussed in that way. That was discussed in closed session.

Q. At which closed session?

A. There was a closed session on April 1st [redacted] And at that time there was a discussion with regards to [redacted]

Q. And after that meeting, did Councilmember Davis renew his request for the information?

A. He did not renew his request for information. My recollection is that on the subsequent council meeting which would have been April 8th, the mayor and the full council had

15:33 a discussion with Councilmember Davis in closed session without staff. And I believe that this was one of the topics.

Q. Has Councilmember Davis ever said to you that he would discuss his view of your job performance at a public session?

A. Yes.

Q. When did he do that?

A. He started that October 22nd of 2013 where he said that he was going to go public with his displeasure with my performance and the performance of my assistant city managers. He did it again in e-mail form. There is a string of e-mails

15:33 with regard to a former employee named [redacted] If you look to the e-mail dated October 22nd, 2013, where he's talking about calling for my performance evaluation, he states on the last sentence, otherwise, let's have this conversation in public view. Those are the two times that come to mind right now.

Q. In that particular e-mail that you referenced which is dated Friday, November 8, 2013, there is a reference to the quote CA, end quote. Who is the quote CA?

A. I believe the reference as the CA is the city attorney. And that e-mail date on that is October 22nd.

Q. Well, I'm going --

A. You're right. Excuse me. That's November, the subject is the October 22nd e-mail. Thank you.

15:35 **Q. Thank you. Apart from the occasion we've discussed during this interview, have there been any other occasion where Councilmember Davis said that he would discuss your job performance at a public session?**

A. I can't recall any right now. I do know that he has discussed my performance with people outside of the closed session.

Q. Apart from what we've discussed during this interview?

A. Apart from what we've discussed during this interview.

EXHIBIT D

15:35 **Q. Who else has he discussed your job performance with outside of closed council sessions?**

A. He's discussed my performance outside of closed council session with [redacted] after the LEAC dinner, (SIC). And I don't recall the date of that. But I have had [redacted] document that. He discussed my performance while he was in China with Lori Stone and Daniel Wheeler, both from the March Joint Powers Authority. Lori's a colleague of mine and someone who I've known for a number of years, and that sort of discussion is very damaging to my reputation. I have worked in government for almost 28 years. Part of my ability to do my job and to be successful is my reputation. And destroying or damaging my reputation with my colleagues outside of the city is not good for me. It's not good for the

15:36 city. And it's very damaging to me.

Q. Does Lori Stone report to the city manager's office?

A. Lori Stone is the executive director of the March Joint Powers Authority. She reports to the March Joint Powers Authority Board. There are two city councilmembers from Riverside on the board. There are two city councilmembers from Perris on the board. There are two city councilmembers from Moreno Valley on the board. And there are two county supervisors on the board.

Q. When did Lori Stone report to you that

15:37 **Councilmember Davis had criticized your performance?**

A. I don't recall the exact dates but I can tell you the first time she mentioned it was after a delegation of us had toured the Fresh & Easy Plant. And it was a Friday. It was Good Friday so that would have been April 13th, I believe.

Q. Of this year?

A. Of this year.

Q. 2014.

A. After the tour, we were talking in the parking lot. I asked her how China went and she shared with me that Councilmember Davis had just shared with her on the bus that I was doing a terrible job as the city manager, that [redacted] was running the city, and something to the effect that it was time to make a change.

15:38 She mentioned it again to me because I sought her out after -- I'm on the technical advisory committee, which is the city managers group for the March Joint Powers Authority. After that I asked if I could speak to her for a moment. And I asked her if she would be willing to go on the record with what she had heard. And she said of course. And she again mentioned that he had said that I was doing a terrible job, mismanaging the city, and that it was time to make a change or -- that's my recollection.

Q. To whom else has Councilmember Davis, to your knowledge, criticized your job performance?

15:39 A. He criticized my job performance as to [redacted] had a discussion with him with regards to a project that the councilmember would like to see happen. And I can't even say it's a project in his ward because it's not in his ward. It's on March Joint Powers Authority land. It's an area that's in the sphere of influence for Riverside but it's not -- it's not city property. And it's a concept about a baseball stadium out near the Grove Community Church by Barton Road. It's on Joint Powers Authority land, which would require annexation and would really need the concurrence of the Joint Powers Authority Board along with the city council. None of which -- no discussion has happened at either of those with regards to this. I spoke with [redacted] He shared with me that Councilmember
15:40 Davis had used a lot of profanity in speaking with him, and that expressed a lot of displeasure with the way I was doing my job, mismanaging the city.

Q. When did [redacted] tell you that?

A. I'm going to look. I know I provided a copy of his e-mail so [redacted] it's in the document [redacted] wrote to me on March 25th. My recollection was that it was a day or two before this that [redacted] and I spoke. And I asked him to put it in writing what had happened.

Q. And is [redacted] memo to you which is dated March 25, 2014 and is included in Exhibit A, is that accurate

15:40 **so far as you know?**

A. I believe it's accurate. My recollection of our conversation was a little more. There was -- this is sort of general about his displeasure with me. My recollection from my discussion with [redacted] was that Paul Davis told him he was going to fire me.

Q. Do you recall anything else that [redacted] told you that's not mentioned in this memo concerning what Councilmember Davis told him?

A. My recollection was that Councilmember Davis had -- and let me step back just a minute. [redacted] directly reports to [redacted] initially brought this to my attention that [redacted] had been treated pretty poorly by

15:42 Councilmember Davis. And there had been things that were said that shouldn't have been said. And that Councilmember Davis was directing him to get to work on the annexation of this property. Could you restate your question? I'm sorry.

Q. Is there anything else that you can recall [redacted] telling you that's not reflected in his memo?

A. Well, yes. The point I was trying to make was that that was communicated to me through [redacted] and then also through [redacted] was he was directing staff to go to work on the annexation of the Joint Powers Authority property. That is a decision that needs to be made by the full council,

15:42 whether or not we are going to do that, that needs to be made in consultation with the Joint Powers Authority because we are a member agency of the Joint Powers Authority. That's a pretty important discussion to have, and really a policy discussion for the council, and at least consultation with the Joint Powers Authority because taking land from the JPA is probably not in the best interest of the JPA at this time. What's in the best interest of the JPA is to let it complete its mission of finishing the reuse of the area that was the base for -- to create jobs and economic prosperity. That's what they're doing. It's a -- Joint Powers Authority has the input and discussion of all of the members. One of the members attack or trying to take a piece of the JPA's land away from them, that is a huge policy discussion issue, not
15:43 one councilmember gets to make that decision and provide that direction.

Q. How much land was involved in this possible annexation?

A. I couldn't guess.

Q. When you received the information from [redacted] concerning [redacted] had been tasked with doing, did you have a discussion with Councilmember Davis about what you had learned?

A. I did not.

Q. Is there a reason why you didn't?

15:44 A. Yes.

Q. What was the reason?

A. Honestly, was afraid for my job. I was afraid that he would do something else to try to fire me or to undermine my authority.

Q. So how did you deal with this situation where [redacted] had been tasked with doing something that you thought was really a March JPA and city council issue? What did you do to deal with the situation?

A. Well, fortunately, in subsequent conversations between Paul Davis and [redacted], [redacted] communicated that Paul realized that the whole issue was in the JPA's hands so he was going to try to work with the JPA on the issue. So we didn't have to confront that issue head on specifically. My

15:45 direction to [redacted] though has always been you need to send these requests through me, through my office, because that's my responsibility as a charter officer to direct the administrative service of the city. And that this is far beyond what any department head should have to discuss with him by an individual councilmember.

Q. Would Ward 3 have gotten the use of the baseball stadium if the land had been annexed?

A. Councilmember Davis is Ward 4.

Q. Would Ward 4 have gotten the use of the baseball stadium in some way, shape or form if the land had been

15:46 **annexed?**

A. Yes. And the whole city of Riverside, all of our citizens would have had an opportunity to utilize that land.

Q. What is the status of that possible baseball stadium at this point?

A. My understanding of the matter planned for the reuse of the Joint Powers Authority land includes an area where the Councilmember Davis was looking at for a park for the City of Riverside. There is no money set aside for the park. There is no master plan of the park. It's just identified as future park use, City of Riverside. So down the road potentially there could be a park there. But there are many, many development challenges with that. There is no road that goes through. There is a future road that could go
15:47 through but there is a great deal of road construction that would take place.

There's no utilities to this area. There are -- it's very likely that any sort of stadium of the size that Major League Baseball teams, Triple A teams or so would want to have is probably going to need an environment impact report because of the potential impacts from -- through noise, traffic, air pollution on the neighborhoods in that area, on the city as a whole. There's huge development challenges ahead of the stadium for Triple A or below Major League Baseball team. There is a lot of work that would have to be

15:48 done on that. And I don't know. I have never met the people who are talking about or have spoken with Councilmember Davis about bringing this proposal forward. So I don't know anything about their pro formas for financial performance, whether they're looking for contributions from public agencies, anything like that or who they are.

Are they affiliated with Major League Baseball? Are they affiliated with a Major League Baseball team? I don't know any of that. So there's -- I mean if a baseball stadium serving Major League Baseball and maybe some of Riverside is a completely grown tree, I would say we are - looking at the seeds right now.

Q. Has Councilmember Davis criticized your performance as city manager to anybody else besides those we have already

15:49 **discussed?**

A. I can't think of any others at this time.

Q. If you would go to the second page of your complaint next to the date March 21, 2014, I guess we have already covered that so -- correct?

A. I believe so.

Q. Okay.

A. I don't think I -- I didn't mention in here, I do think that when I was speaking with [redacted], he mentioned that [redacted], who is a [redacted] had heard some comments from Councilmember Davis about my

15:50 performance as well. I neglected to put that in this statement. And I've never confirmed that with [redacted]

Q. Do you have a belief that Councilmember Davis has some reason apart from his perception of your job performance and for criticizing your job performance?

A. Could you state that again?

Q. Well, let me rephrase it. Do you have an opinion as to why Councilmember Davis has criticized your job performance?

A. I believe he has criticized my job performance because since my beginning of my time as interim city manager and city manager, I've had to stop him from doing things or have him investigated for doing things that were in violation of the city charter. My first day in the office as interim
15:51 city manager there was a check waiting to be mailed, my recollection is to the IRC, the International Relations Committee as a reimbursement for something related to -- it was either the Lunar Fest or the Food Truck Festival. And the mail-to address was Councilmember Davis' home. I discussed that check with the city attorney and we both agreed that there was potentially some problems with it.

One, the money was coming from what had been allotted as a legislative field rep salary, and Councilmember Davis had chosen not to hire a legislative field rep. And instead was asking the city manager to draw money against that

15:52 account to pay for events and sponsorships at his request. My biggest concern about this one was that both the Food Truck Festival and the Lunar Fest were coordinated by Councilmember Davis' wife. And my concern was that potentially this could be a conflict of interest, perhaps a Government Code 1090 violation where public funds were being paid to a councilmember or his spouse to reimburse them for expenses related to an event. And I am not an expert on that. However, that seems inappropriate to me. That's why I spoke with the city attorney. That's why we stopped that practice at that time. It goes on from there but do you want to talk about that one specifically to start with?

Q. Well, let's pause there for a second. How did you learn of the check?

15:53 A. It was sitting on my desk waiting for it to be mailed out from the city manager's office.

Q. Did you have to sign the check or just have to mail it?

A. I just had to see that it was mailed.

Q. So who had signed the check or was it --

A. I don't know.

Q. Or was it a computer signature?

A. I believe it was a computer-generated signature. That's my recollection. It was a warrant issued by the city. I believe those were all electronically done.

15:53 **Q. So the check's sitting on your desk and it's to the IRC. And what is the IRC?**

A. International Relations Committee.

Q. And what kind of legal entity is that? I mean I know its name has committee in it. But is it an actually formed legally recognized entity?

A. I don't know for a fact what it is. I believe it to be a non-profit that works on behalf of the city to promote international relations with our sister cities. But I can't swear to you that that's what it is.

Q. When you say it's a non-profit, is it a non-profit that's owned by the city?

A. No. It's a stand-alone non-profit that functions on behalf of the city. But it is not owned by the city.

15:54 **Q. Who, to your knowledge, owns or controls this committee?**

A. I don't know.

Q. But the check was being sent to the committee care of Councilmember Davis' home, correct?

A. The check was addressed -- was made out to IRC and the address was Councilmember Davis' home.

Q. After you went to the city attorney concerning this check, was there any communication that you're aware of about the check between you or anyone else with the city and Councilmember Davis?

15:55 A. Yes.

Q. Tell me what the communication was. Well, first, tell me, were you present when the communication was made?

A. I was present during part of the communication. The other part of the communication was with Councilmember Davis and the city attorney. And I couldn't discuss that because I wasn't present.

Q. Did you get any subsequent comments from Councilmember Davis about your having reported this IRC check matter?

A. My recollection is that he was initially -- I wouldn't say angry but he was unhappy with my decision to discuss it with the city attorney. He was unhappy that we -- that I hadn't processed the check and sent it to him. When I
15:56 explained to him the potential problem from just a budget standpoint, that money that was budgeted for one purpose was being used for another, and that requires -- that sort of change really requires council approval. When you take from one budget item and move it to a different purpose, that requires council approval. I think he was surprised by that and he was surprised that the former city manager allowed him to do that if it wasn't appropriate.

Q. What's the next thing that happened?

A. The next thing that happened -- I might have the timing of these two, I may have them off, one or the other.

15:56 But my recollection is the next thing that happened was we had a council meeting and a discussion about red light cameras. And Councilmember Davis is opposed to red light cameras and wants to see them removed from the city. And there was a long debate about that. And at the end of the debate, the council approved continuing the red light camera program, renewing the contract with the provider. I walked out after the council meeting in the evening. Councilmember Davis stopped me and said I want you to remove the red light cameras from my ward. And I said councilmember, the time for that request and that policy discussion occurred in the council chambers. At this point, it's gone from policy discussion to operations. Operations are my responsibility. And I will not be removing red light cameras from your ward. And he said then you and I
15:57 are going to have a big problem and he walked away.

Q. About when did this happen?

A. I want to say it was September or October of 2011 while I was still interim city manager.

Q. And there will be a set of minutes and agenda that reflects the discussion of the red light issue, correct?

A. There certainly would be. The city clerk's office could provide you with that.

Q. And --

A. And again, this is from my recollection. I might be off on the dates. That's my recollection.

15:58 **Q. But it's your recollection that the city council voted to keep the red lights?**

A. Correct.

Q. And then after the meeting following that vote, you got an order to have them removed from Ward 4?

A. By Councilmember Paul Davis, that's correct. That's administrative interference. That's a Charter 407 violation as far as I'm concerned.

Q. Because he was in your view trying to overrule an action taken by the city council?

A. That's correct.

Q. What's the next thing that happened?

A. The next thing that happened was there was the first Food Truck Festival that occurred in Downtown Riverside

15:59 that -- the Lunar Festival group, Councilmember Davis' wife and he and the people who formed that committee sponsored this Food Truck Festival, happened on the parking lot next to the convention center. There were multiple food trucks there. I don't recall the exact number but I want to say it was 12 to 15 food trucks. I was contacted by then [redacted] who shared with me that there had been a problem during the inspection process with Councilmember Davis and the fire inspector.

Two of the food trucks which had frying apparatuses in them didn't have the proper fire extinguishers. And that

15:59 Councilmember Davis had verbally abused [redacted], and that he had called and left a voicemail message on [redacted] cell phone telling him that he was in charge and he was going to let those trucks open on his authority. That was investigated by the city. The city hired a private investigator through the city attorney's office to conduct an investigation. The outcome of which was it was confirmed that Councilmember Davis had, in fact, given direction to staff and assumed authority that he did not have. And he publicly apologized during a council meeting in that regard.

And my recollection on that was it was -- seems to me the food truck, it was very hot, so I want to say it was September or October of 2011 when the whole thing was done. I don't recall the exact date, but it took some time to

16:01 investigate and took some time for the council to discuss the matter with Councilmember Davis in closed session. And then there was a public comment by him apologizing to the inspector.

Q. What's the next thing that happened?

A. Give me just one moment if I could.

MR. GUMPORT: Let's take a short recess off the record.

(A brief recess was taken.)

16:05 BY MR. GUMPORT:

Q. All right. On the record. What's the next thing that happened?

A. Really the last thing that at least right now that comes to mind was Councilmember Davis, and this would have been in May of 2013, requesting documentation regarding the city agreement with American Medical Response for ambulance -- non-emergency ambulance service. Councilmember Davis requested complete general ledger information regarding what he described as the buy-up found from AMR ALS agreement. I had taken his request and sent his request to the city attorney's office. Our ordinance with regards to the non 911 response, which is inter-facility transfer and non-emergency transport of people within the City of Riverside was under
16:06 review by -- at the request of the city council by the city attorney and my office and the fire department.

Councilmember Davis had expressed at some point, and I don't recall publicly when it was, his displeasure with the way the ordinance was being interpreted by the fire department. Because applicants for additional non 911 franchises were being denied, and the reason for the denial was that the existing applicant was in compliance with the performance measures of the contract. And he believed that there should be other ways of evaluating public convenience and necessity, which is finding has to be made for granting

16:07 additional franchisees.

So all of this review was going on. He requested a document showing these funds which the city attorney's office and my office prepared because this is an item that was potentially -- we faced being litigated on the issue by other applicants for franchises and documentation has to be, you know, in the interest of the city. We want to make sure the right information went out, and that it was fully vetted by the city attorney's office because of the potential for litigation. So I told Councilmember Davis that I sent his request to the city attorney's office, and I was working with him on that. And he was unhappy about that. He didn't understand why the city attorney's office would be involved, and that this was a city manager matter, not a city attorney
16:08 matter, and that he was going to ask his colleagues for a full audit of the funds from an outside independent source. If I wanted to talk about this anymore, he would be at city hall.

I will tell you there was no outside audit. There was no discussion of these funds other than once it was all put together, we provided to the full mayor and council, no other action was taken place on that. The ordinance was eventually amended and we have applicants now coming in under that, a new ordinance for potential franchisees.

Q. This covers the questions I have about your interactions with Councilmember Davis. I previously

16:09 **interviewed you concerning a separate matter relating to [redacted] And I have one follow-up question, which is whether there have been any developments since that last interview that relate to the [redacted] matter?**

A. Well, there's been a newspaper article regarding the [redacted] matter in which he has, without knowing any information with regards to the investigation, stated that he has never violated Charter Section 407. You conducted an interview, I believe, on April 15th with Councilmember Davis. And I don't know how that interview went or the contents of that interview. But after that interview, a very angry Paul Davis came looking for me, summoned me to his office, and with his face red and voice raised, said I am

16:10 angry, I was just pigeonholed into a meeting with some investigator when I thought I was going to be -- when I thought I was going to an industrial psychologist. This is going to end, Scott. You should have told me what this meeting was about. And it is time for change. It is time for you to go. I know what I can say publicly. And I am going to say it. And to which I replied in a very calm, considerate manner, you're correct, your behavior towards me is going to change. And I turned around and left Councilmember Davis' office. And I documented that conversation in a document to [redacted] on April 15th.

16:11 Q. Why don't we have that one marked as Exhibit C?

A. Do you have a copy of this?

Q. I have a copy. But since you're referring to it, let's just have it marked as Exhibit C to this interview.

[EXH-C]

(A brief recess was taken.)

BY MR. GUMPORT:

Q. Back on the record. We have marked the original of this memo as Exhibit C to this transcript. And I have undertaken to get to City Manager Barber a copy of Exhibit C so he has it for his files. That concludes this interview. It's possible that there will be a follow-up, I don't know. But before we go off the record, let me say that while I've covered the questions I have for you, I try to make it a

16:12 practice to say to each witness if there is something additional you would like to put on the record, I invite you to do that now

A. Not at this time.

MR. GUMPORT: Thank you very much. Off the record.

(A brief discussion was held off the record.)

MR. GUMPORT: Back on the record. Let me also convey my thanks to the city for making various records and interviewees available to me. I want to make it clear on the record that the court reporter understands that she is to keep all materials that she's heard or recorded confidential. You

16:12 understand that the reason she's here is because I am not a certified court reporter and she is, and that's essential to getting an accurate, verbatim transcript. Do you understand that, Miss Reporter?

THE REPORTER: Yes.

MR. GUMPORT: Thank you. Off the record.

(Whereupon the documents referred to are marked by the reporter as Exhibits A through C for identification.)

(Proceeding concluded at 4:12 p.m.)

***

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at RIVERSIDE, California on May 19, 2014.

SCOTT BARBER

STATE OF CALIFORNIA) ss

I, Deborah Ann Troiano, CSR 7990, RPR, RMR, do hereby declare:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 2093(b) and 2094 of the Code of Civil Procedure;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand this 8th day of May, 2014.

Deborah Ann Troiano, CSR 7990, RPR, RMR

EXHIBIT D

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing _____ pages of my testimony, taken on _____ (date) at _____ (city), _____ (state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

Page	Line	Should read:	Reason for Change:** (See below before completion)
18	14	Churn rate of staff...	
28	24	[redacted]	

Date: 5/19/14

Signature of Witness

SCOTT BARBER

Name Typed or Printed

** THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDERAL DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLUMN SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.

EXHIBIT D

Barber, Scott

In Re: Riverside Investigation



Litigation
SERVICES

Job: 505284

Exhibit: 0000A

EXHIBIT D

00062

CITY OF RIVERSIDE
MEMORANDUM

TO: [redacted]

FROM: Scott C. Barber, City Manager

Cc: [redacted]

RE: Hostile Work Environment, Violations of the City Charter

[redacted]

For the past several months, Councilmember Paul Davis (here after referred to as Paul) has been creating a hostile work environment for me, as well as violating Riverside City Charter Section 407 (Interference in Administrative Service), as documented by the following:

10/22/13: During my annual performance evaluation in closed session, Councilmember Paul Davis stated that my [redacted] City Managers and I were doing a horrible job of managing personnel issues in the city and that he was going public with that information. A public discussion of my performance as City Manager violates my privacy rights as your employee, and creates an environment wherein I feel like my reputation and livelihood are threatened by Paul.

11/07/13 and 10/08/13 (see attached emails): After having [redacted] Code of Ethics matter explained as to why Paul's request for a closed session discussion of [redacted] appeal was inappropriate, Councilmember Davis states that an evaluation of my performance is warranted, and if that does not occur, then a public conversation in public view will take place. A public discussion of my performance violates my rights as your employee- my performance is reviewed by the Council as a whole, and only in closed session, and by demanding my performance review, creates an environment wherein I feel my job is threatened, along with my reputation and livelihood.

11/19/13: I stopped by Parks Recreation and Community Services headquarters and spoke with [redacted] who told me that on 10/30/13 at Villegas Park Councilmember Paul Davis told her that he would have me fired as City Manager by the end of May, before [redacted] left as [redacted] Discussion with my staff that Paul intends to fire me as City Manager violates my rights as an employee of the City Council and makes my job as City Manager extremely difficult, because it creates fear and confusion for me and my subordinate staff.

03/18/14 through 03/28/14 (see attached emails): Paul sends an email to [redacted] requesting a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date. After discussing the request with [redacted], and

EXHIBIT A
REPORTER Troiano
DEPONENT Barber
DATE 4/30/14

EXHIBIT D

both of you, I directed her to write back to the Councilmember and let him know that his request was been referred to my office, since his request would require the creation of a special report. Paul then revises his request to me, requesting a list of positions by department and title, without name or specific date, which have left within 180 days of March 1, 2014 and those that will leave by the end of the year. I advised Paul that I had reviewed this matter with [redacted] and that this request would be discussed in closed session. On March 28, 2014, Paul writes to me with a cc to both of you, requesting what he believes is public information regarding former employees, that he needs this information to evaluate my performance, and he is very concerned over "this continual action you take when I ask for important evaluation materials." He goes on to state "Your lack of communication with me on this issue also bothers me and send the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing." Paul's comments to me are intended to intimidate me into complying with his request, which create a hostile work environment for me. Paul also fails to realize that he does not independently evaluate my performance as an individual member of the council, but that rather the Council as a whole evaluate me. Also, disclosure of this specially created document which is currently exempt from the Public Records Act (since there is not an existing report) would allow Paul to share this document with the public as a part of his public evaluation of me as the City Manager. This continued effort to evaluate my performance in public violates my privacy rights as your employee, and creates a hostile work environment for me, because I feel like I am frequently on the defensive with Paul's requests (he states that my lack of communication bothers him) and that my livelihood is at risk if I do not comply with his inappropriate requests.

03/21/14: I spoke with [redacted] regarding a request from Councilmember Davis to annex March Joint Powers land for a baseball field [redacted] stated that has been told by Councilmember Davis that he intends to fire me by May of this year. I asked [redacted] document his conversation with Councilmember Davis (see attached memo). Although [redacted] memo does not state the termination comment, it does state that Paul told [redacted] that he has concerns with my performance. Discussing my job performance with my subordinate staff members presents several difficulties for me as the City Manager, violates my rights of privacy as your employee, and creates a hostile work environment for me and my subordinate staff. Also, directing my subordinate staff to begin annexation proceedings without a Council policy discussion and my subsequent direction to my staff is a violation of Section 407 of the City Charter.

04/01/14: I received a copy (see attached) of May Lynn Davis' Facebook (May is Paul's wife) dated from 03/28 to 03/31, raising the same issues that Paul has raised regarding turnover rates of employees and stating "So Mr. City Manager, where does that leave us?" I feel that because Mrs. Davis' Facebook page contains a picture of her and Paul, and because the issues raised by Mrs. Davis are the same as those raised by Paul, the Davis' are using Mrs. Davis' Facebook page to publicly humiliate me and force me to comply with Paul's inappropriate document requests. This is clearly intimidation through a third party, aimed at creating a hostile work environment for me within the entire City of Riverside, and threatening my livelihood and reputation.

04/10/14 [see attached]: I receive a letter from [redacted] containing a statement from [redacted] documenting the Community Action Group meeting from the previous evening. During this meeting, Councilmember asked that City staff be excused from the meeting. Since these staff members all work for the City Manager, I feel that this requested removal from a public meeting in a public place is potentially a violation of Chapter 407 of the City Charter. After the meeting [redacted] speaks with [redacted] who is a City employee who was not asked to leave the meeting. [redacted] works as [redacted], and [redacted] tells [redacted] that Paul criticized me for not realizing the document that he had requested, thereby limiting his effectiveness as a Councilmember. This public discussion of my performance as the City Manager violates my privacy rights as an employee, and creates a hostile work environment for me.

This ongoing practice of attacking me, threatening to call my performance evaluation, discussing my performance with the public, publically humiliating me, and seeking through intimidation to make me perform my job contrary to our City Charter has created a very hostile work environment for me. I am experiencing the physical effects of this stress, as well as the emotional toll it is taking on me. I am asking for this behavior to cease immediately, so that I can focus on the very difficult job of Riverside City Manager.

My thanks to both of you for your willingness to investigate this matter that is creating an unacceptable work environment for me and my subordinate employees.

Scott C. Barber 4/14/14

Scott C. Barber
City Manager
City of Riverside

EXHIBIT D

Barber, Scott

From: Davis, Paul
Sent: Friday, Nover[redacted]2013 9:15 AM
To: Barber, Scott; [redacted]
Subject: RE: October 2[redacted] City Council Meeting - response to City Attorney comments

Than let's set this as an evaluation for you and the CA, as I have serious issues with your management and how you and your ACM's are handling employee matters. If either of the other two would like to talk about it, they can contact me. Otherwise let's have this conversation in public view.

Paul Davis
Council Member - Ward 4
City of Riverside

-------- Original message --------
From: "Barber, Scott"
Date:11/08/2013 9:04 AM (GMT-08:00)[redacted]
To: "Davis, Paul"
Cc: [redacted]
Subject: RE: October 22, 2013 City C[redacted]ng - response to City Attorney comments

Councilmember:
I attempted to call you last night in this regard, however we never had a chance to speak. I did review your request to set thi[redacted] closed session with [redacted]; both of them agreed to schedule an update on the litigation between [redacted] and the City, however they did not intend to review the Code of Ethics questions raised by [redacted] as those will most likely be coming to the Council on appeal at some point, and since they are not a part of the litigation, they don't constitute a subject that we can really discuss in closed session (similar to the Aquino matter). I have spoken with the City Attorney, who is including a litigation update on the closed session agenda for 11/19/13.

Please let me know if you have any questions in this regard.
Scott

-----Original Message-----
From: Davis, Paul
Sent: Thursday, November 07, 2013 7:43 AM
To: [redacted]
Cc: [redacted]
Subject: Re: October 22, 2013 City Council Meeting - response to City Attorney comments

Please set this for a close session discussion at our next meeting. I have issues with how this has been handled and based on the information provided and my own legal council advice, the complainant appears to have good standing. I believe that an outside independent investigated may be warranted in this matter.

Paul Davis
Council Member - Ward 4
City of Riverside

> On Nov 6, 2013, at 10:57 PM, "J Hunter" <jchunter51@msn.com> wrote:
>
> Gentlemen,

EXHIBIT D

did not have a Council-approved policy for handling these grievances. I also commented that the City Charter, per Section 807, unequivocally states that the Human Resources Board acts in an advisory capacity to the City Council on matters concerning personnel administration.
>
> Councilman Melendrez asked City Attorney Priamos to address my concerns. Mr. Priamos contested both issues, I attach both Resolution No. 15079 and City Charter Section 807 for your perusal. I have also included a pdf version of the City's website listing all Recognized Employee Organizations, such as the SEIU, RPOA, et al.
>
> Please refer to Article I, Section 2, of Resolution No. 15079, entitled, "Statement of Purpose":
> "This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (section 3500 et. seq.) captioned 'Local Public Employee Organizations,' by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations."
>
> If there is any doubt to the subject dealt with within Resolution No. 15079, Section 2 elaborates:
> "It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations..."
>
> Section 807 of the Riverside City Charter states:
> "There shall be a Human Resources Board, which shall have the power and duty to:
> (b) Act in an advisory capacity to the City Council on matters concerning personnel administration."
>
> That our City Attorney would make such misleading statements to the Council on the record during a public hearing is quite disheartening, and certainly makes one question his understanding our our local rules, which I hope you find (similar to me) are quite simply, indisputable. I also remind the Council at this time, that as part of my Writ of Mandamus filed with the Riverside Superior Court on August 21, 2013, which has previously been provided to you, I contend that Mr. Priamos also made materially misleading statements regarding our local rules to the Human Resources Board (a hearing that was also videotaped) at my grievance hearing on May 13, 2013. Coming full circle, those misleading statements would guide the Board towards violating my rights under classified service...setting in motion both the Writ against the City and the Ethics Complaint against the individual Board members.
>
> That I was dragged through an illegitimate, illegal, kangaroo-court process pre-destined to demote and terminate me from my employment with the City of Riverside because of personal vendettas and whistleblower complaints is offensive, and your silence on my missives to date speak volumes towards your complicity in the matters at hand. It also makes me wonder how many previous employees have been subjected to similar retaliation and harassment, and whether a class action suit might not be your preferred alternative towards settling our differences - which I might suggest, again, could be more efficiently solved by opening the lines of communication.
>
> I remain hopeful the Council will recognize the needless waste of taxpayer dollars defending decisions and a process that are simply indefensible, and do the right thing. I call for an immediate independent investigation into the handling of my illegal demotion and termination by executives within the City Attorneys Office, the Human Resources Department, the City Manager's Office, the Riverside Fire Department (namely, Chief Steve Earley), and Riverside Public Utilities.
>
> Sincerely,
> Jason Hunter
> <Resolution-15079.pdf>
> <COR Rec Emp Orgs.pdf>
> <COR Charter Article VIII.pdf>

EXHIBIT D

CONFIDENTIAL MEMORANDUM

TO: Scott Barber, City of Riverside City Manager

FROM: [redacted]

DATE: March 25, 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work [redacted] I received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> "Hey [redacted] this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted]. I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to [redacted] regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Youth Facility. As I recall, [redacted] was not present and, as I recall, Sarah transferred me to [redacted]. I shared with [redacted] the nature of Councilmember Davis' inquiry. In response, at 2:10PM, [redacted] was gracious enough to send an email to [redacted] and CCd me explaining my conversation with him.

> "[redacted], [redacted] a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you provide [redacted] quick update before [redacted] returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response to [redacted] email to [redacted], I received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:06PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question with [redacted]. During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted] related to Visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

On Mar 20, 2014, at 5:38 PM, "[redacted]" wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]



This email message, including any attachments, is intended for the sole viewing and use of the individual or entity to which it is addressed, and may contain confidential and privileged information, which is prohibited from disclosure. Any unauthorized review, use, disclosure, distribution, or the taking of any action in reliance on the information contained in this email, including attachments, is prohibited. If you are not the intended recipient, you are hereby notified that any dissemination or copy of this message, or any attachment, is strictly prohibited. If you have received a copy of this email in error, please notify the sender by reply email immediately, and remove all copies of the original message, including attachments, from your computer.

From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT D

Barber, Scott

From: Barber, Scott
Sent: Monday, March 24, 2014 9:02 AM
To: Davis, Paul
Subject: RE: Employee Info

Thank you, Sir- hope all is well in China!

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this with Rusty, while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:33 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with [redacted], who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or [redacted] you have any questions in this regard, I would ask you to direct them to either [redacted] or [redacted].
> Thank you,
> Scott
>
> **From:** Davis, Paul
> **Sent:** Thursday, March 20, 2014 6:19 PM
> **To:** [redacted]
> **Cc:** [redacted]
> **Subject:** Re: Employee Info
>
> Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?
>
> Thank you all in advance for your anticipated cooperation.
>
> Paul Davis
> Council Member - Ward 4
> City of Riverside

EXHIBIT D

Barber, Scott

From: Davis, Paul
Sent: Friday, March 28, 2014 4:24 PM
To: Barber, Scott
Cc: [redacted]
Subject: Request for Employee Stats

Follow Up Flag: Flag for follow up
Flag Status: Completed

Scott,

I will not be present for the April 1 meeting, and want to be present for the discussion of my request. [redacted] is aware, but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

Paul Davis
Council Member - Ward 4
City of Riverside

Barber, Scott

May Lynn Davis
March 29

Just an observation....Another valuable and dedicated Associate of the City of Riverside is gone (the community is very sad to see Ralph leave). Seems to be trending that we have lost quite a few in recent years for greener pastures or forcibly forced out due to conflicts.... who else is going and how many more are we going to lose? This will end up leaving our city in a state of all new and inexperienced people relaced in those slots... Looks to me that an efficiant leader would not have such a high turn over, and that they take care of their good employees and weed out the ones that are useless, not the other way around.

Like · [Comment] · Share

- Marisa Yeager, Steve Livings, Grace Kahin and 9 others like this.
- [redacted]

  Steve Livings Pushing out the seasoned employees for newer less experienced employees?

  March 29 at 6:21pm · Like · 1
- [redacted]

  James Dudley Things like this make you wonder why. Nice observation post.
  March 29 at 6:49pm · Like · 2
- [redacted]

  Damion Thompson Weak, low - confidence people in the position of leadership, oftentimes will get rid of or will try to get rid of those loyal to previous leader. By doing this, the new leader can begin to build a coalition more favorable to his/her agenda/self. Stalin was famous for this.
  March 29 at 10:42pm · Like · 3
- [redacted]

  Mary Lynn Davis Apparently there are quite a few more on the way out.... So Mr. City Manager, where does that leave us? We really could use more intelligent associates seasoned in their field of work. not a bunch of bobble heads. Sorry no offence to the newbies... But just sayin.
  March 31 at 12:55pm · Like · 2

EXHIBIT D

April 10, 2014

[redacted]

I attended the CAG meeting last night at Villegas Park that convened at 1900 hours. Consistent with the monthly agenda, Councilman Davis was given the opportunity to address the group and provide a Ward 4 update.

After his brief report, Councilman Davis asked that any and all City staff please be excused from the meeting. Davis explained that he was going to share some recent developments with his constituents and that it would be best if he excused City staff. As I was getting up and walking out, I heard Davis tell the crowd that we (City employees) all had bosses. It would only be right if what he was about to share came from our superiors and not directly from him. At that, myself, [redacted] and [redacted] all stepped outside.

Obviously curious, the four of us stood outside and conversed. We did so for at least 20 minutes before [redacted] and [redacted] finally said they were going to leave [redacted] and I continued to talk and at about the 25 minute mark, we were allowed to come back inside and join the meeting. Nothing was mentioned of the Councilman's conversation with the group after we returned.

Following the meeting, I had the opportunity to talk to [redacted] outside in the parking lot. I asked what was going on and she stated that Councilman Davis told the attendees that he was going to file some kind of suit or action against [redacted] When asked why, [redacted] stated the following rational before we were interrupted by someone else walking up to us:

- That Paul has been hindered from doing his job. There have been numerous employees that have left their positions at the City. Paul has asked for a report that would contain the list of employees and why they were separated (fired, resigned, retired etc.) [redacted] went through the City Manager for the request. The request was denied per [redacted]. This was just one example of [redacted] and City Manager not following the City Charter reference structure, thus limiting/blocking the functionality of Paul and his position as a councilman. [redacted] is also performing other tasks and signing other documents that he does not have the authority to do.

- [redacted] has yelled/demeaned Paul and his fellow peers in public and in front of others on different occasions. The conversations usually have to do with power/authority. Who is in charge of running things, etc. The most recent was while the [redacted] and Paul were in China. As mentioned, other Councilmembers have experienced the same independently with [redacted]

- [redacted] recently hired a psychologist to meet with each Councilmember. The rational was to evaluate each member to see what the breakdown is and why everyone cannot get along. Paul's belief is [redacted] does not have the authority to do so and he took great offense to [redacted] actions in this matter.

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- Also mentioned was that the Mayor told the City Manager to investigate [redacted] for administrative interference. In response, there is an opinion that [redacted] and possible [redacted] may join in some sort of claim against the Mayor.

The aforementioned points were further confirmed later in the evening by the CAG Chair, Bob Garcia. Bob called me on my way home and recapped a few points of Councilman Davis' message to the meeting attendees. Bob's recap was very disjointed, but he independently brought up the first three points, all being covered by Davis. The last point was not. The basic message that Bob conveyed was [redacted]ilman Davis explained to the group that he is being hindered from doing his job by [redacted] and that there was more than likely going to be some repercussions. Davis wanted to [redacted] his constituents in person and before they heard it somewhere else.

Please let me know if you have any questions or if you need any clarification on any of the details provided.

[redacted]

EXHIBIT D

CITY OF RIVERSIDE

MEMORANDUM

To: [redacted]

Cc: [redacted]

Re: Update: hostile work environment complaint

As an update to my memorandum of 04/14/14, I have the following information:

04/14/14 (see attached email): [redacted] emailed me with his concerns regarding statements made during Councilmember Davis' CAG meeting of 04/09/14; during this meeting Councilmember Davis referenced the investigation of [redacted] and [redacted] pointed out that any retaliation planned by Councilmember Davis as a result of the previous whistleblower complaint would constitute "illegal retaliation".

04/15/14: Councilmember Davis asked to see me when I finished a meeting with my staff. I went to his office at approximately 2:44 pm, and when I walked in I observed that his face was red and he appeared angry. I said "You wanted to see me?" to which Councilmember Davis replied "I am angry. I was just pigeonholed into a meeting with some investigator when I thought that it was going to be an industrial psychologist. This is going to end, Scott. You should have told me what this meeting was about and it time for a change; it is time for you to go. I know what I can say publically and I'm going to say it." I said to Councilmember Davis "You are correct, your behavior towards me is going to change" and I left Councilmember Davis' office.

This continuing practice of threatening to fire me, criticizing me for actions that I had no part in (I did not schedule the meeting with the investigator- it was scheduled by the Mayor's Office), and becoming angry and raising his voice to me is a perpetuation of Councilmember Davis creating an unacceptable, hostile work environment.

Scott C. Barber 04/15/14

Scott C. Barber, Riverside City Manager

EXHIBIT D

Barber, Scott

From: [redacted]
Sent: Monday, April 14, 2014 5:38 PM
To: Barber, Scott
Cc: [redacted]
Subject: CASABLANCA ACTION GROUP MEETING

Mr. Barber

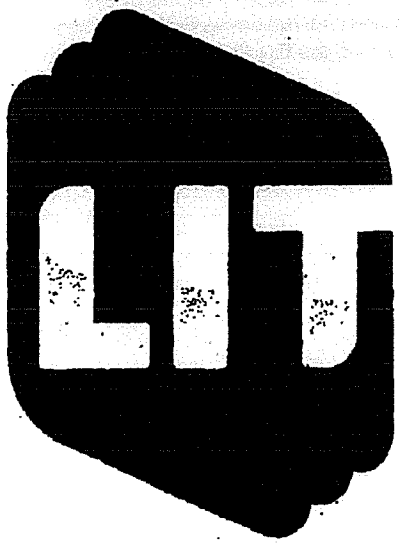
I have already shared with you information received from [redacted] regarding some comments made by Councilmember Paul Davis during the Casablanca Action Group on April 9, 2014. One of the comments attributed to the councilmember particularly troubled me. That remark had to do with some action that Councilmembers Davis and [redacted] are contemplating [redacted] as a result of a complaint made against [redacted] for administrative interference in the running of City operations. I have previously brought to your attention that I believe [redacted] has acted inappropriately in undermining the authority [redacted] by telling a key member of the staff of the RPD [redacted] that he [redacted] had the votes to get rid of the city manager a[redacted]. If, in fact, Councilmember Davis is now contemplating some action against any city employee (including the city manager and [redacted]), based on my reporting of misconduct about [redacted] I believe that qualifies as illegal retaliation. Based on my training and experience retaliation occurs when any adverse personnel action is taken by an employee for exercising a right or engaging in protected activity. My complaint against the councilman of violating the City Charter is a protected activity as I understand that term to be defined.

[redacted]

EXHIBIT D

Barber, Scott

In Re: Riverside Investigation



Litigation
SERVICES

Job: 505284

Exhibit: 0000B

EXHIBIT D

THE CHARTER
of the
CITY OF RIVERSIDE

PREAMBLE

We, the people of the City of Riverside believe in promoting an inclusive community with shared economic, environmental and cultural prosperity, equal civil and political rights, social harmony and cohesion, and opportunities for all governed by responsible and responsive public officials who promote citizen participation, as well as just and equitable tax and financial policies; and these beliefs are rooted in our desire to enhance the uniqueness of the City of Riverside.

We, the people of the City of Riverside, to obtain and retain for ourselves the benefits of local government, do hereby exercise the express right granted by the Constitution and the statutes of the State of California and enact this Charter for the City of Riverside. (Effective 10/23/2012)

ARTICLE I. INCORPORATION AND SUCCESSION.

§100. Name and boundaries.
§101. Succession to rights and liabilities.
§102. Continuance of ordinances, rules and regulations.
§103. Continuance of present officers and employees.
§104. Effective date of Charter.

ARTICLE II. GENERAL POWERS OF CITY.

§200. Generally.
§201. Access to public meetings and public records.
§202. Adoption of ethics code.

ARTICLE III. FORM OF GOVERNMENT.

§300. Designated.

ARTICLE IV. CITY COUNCIL AND MAYOR.

§400. Enumerated; number, term and manner of election; wards.
§401. Eligibility to hold the office; member of the City Council; Mayor.
§402. Wards established.
§403. Compensation.
§404. Vacancies.
§405. Duties of Mayor; Mayor Pro Tempore; Council tie--Mayor's vote.
§406. City powers vested in Council; exceptions.
§407. Interference in administrative service.
§408. Meetings.
§409. Same--Location.
§410. Same--Quorum; proceedings.
§411. Same--Citizen participation.
§412. Powers of Council and Mayor; additional.
§413. Adoption of ordinances and resolutions.
§414. Publication of ordinances.
§415. Codification of ordinances; adoption by reference.
§416. Effective date of ordinances.

EXHIBIT B
REPORTER Tajiona
DEPONENT Burbank
DATE 4/30/14

EXHIBIT D

Moore

§417. Violation of ordinances and penalty therefor.
§418. Contracts--Restriction on duration.
§419. Same--Execution.

ARTICLE V. ELECTIONS.
§500. General municipal elections.
§501. Special municipal elections.
§502. Compliance with State law.
§503. Initiative, referendum and recall.

ARTICLE VI. CITY MANAGER.
§600. Creation of office; appointment; tenure; eligibility of elective officers.
§601. Powers and duties.
§602. Participation in meetings of Council, boards and commissions.
§603. Manager pro tempore.

ARTICLE VII. OFFICERS AND EMPLOYEES GENERALLY.
§700. Appointment of City Attorney and City Clerk by Council; tenure.
§701. Organization of City operations and activities.
§702. Eligibility, powers and duties of City Attorney.
§703. Powers and duties of City Clerk.
§704. Controller.
§706. Administering oaths.
§707. Appointive powers of department heads.
§708. Acceptance of another office by elective officer.
§709. Nepotism.

ARTICLE VIII. APPOINTIVE BOARDS AND COMMISSIONS.
§800. In general.
§801. Appropriations.
§802. Appointments; terms.
§803. Terms of members of existing enumerated boards and commissions.
§804. Organization; meetings; subpoena power.
§805. Compensation; vacancies.
§806. Planning Commission.
§807. Human Resources Board--Composition.
§808. Board of Library Trustees.
§809. Park and Recreation Commission.
§810. Community Police Review Commission.

ARTICLE IX. PERSONNEL MERIT SYSTEM.
§900. Generally.

ARTICLE X. RETIREMENT.
§1000. Authority to continue under State system.

ARTICLE XI. FISCAL ADMINISTRATION.
§1100. Fiscal year.
§1101. Budget--Submission to Council; notice of public hearing.
§1102. Same--Public hearing.
§1103. Same--Further consideration, revision and adoption; availability to departments, etc.
§1104. Same--Appropriations; transfer of funds.

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§1105. Centralized purchasing.
§1106. Tax limits; special levy for library purposes.
§1107. Procedure for assessment, levy and collection of taxes.
§1108. General obligation bonded debt limit; vote required for issuing general obligation bonds; issuance of revenue bonds, notes and other evidence of indebtedness.
§1109. Public works contracts.
§1110. Cash management.
§1111. Capital projects funds.
§1112. Registering warrants.
§1113. Independent audit.
§1114. Use of design-build procurement for public works projects.

ARTICLE XII. DEPARTMENT OF PUBLIC UTILITIES.
§1200. Created; management and control.
§1201. Board of Public Utilities--Composition; applicability of Article VIII of Charter.
§1202. Same--Powers and duties.
§1203. Purchases and expenditures generally; exemption from centralized purchasing system.
§1204. Use of revenue.
§1205. Sale of public utility.

ARTICLE XIII. FRANCHISES.
§1300. Requiring; granting generally; applicability to City-owned utility.
§1301. Resolution of intention to grant; notice and public hearing.
§1302. Term of franchise.
§1303. Eminent domain.

ARTICLE XIV. MISCELLANEOUS.
§1400. Definitions.
§1401. Violations and penalty.
§1402. Severability.
§1403. Charter Review Committee.
§1404. Charter, amending.
§1405. Pending actions.

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ARTICLE I. INCORPORATION AND SUCCESSION.

Sec. 100. Name and boundaries.

The City of Riverside, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of Riverside." The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

Sec. 101. Succession to rights and liabilities.

The City of Riverside shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

Sec. 102. Continuance of ordinances, rules and regulations.

All lawful comprehensive codes, ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Sec. 103. Continuance of present officers and employees.

The occupants of offices provided for in this Charter and employees, at the time this Charter takes effect, shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment or election, and qualification, of their successors, but subject to the provisions of this Charter.

Sec. 104. Effective date of Charter.

This Charter shall take effect upon its acceptance and filing by the Secretary of State.

Editor's Note: The Charter was filed with the Secretary of State on August 7, 2013. Under present law, August 7, 2013, is therefore the effective date.

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ARTICLE II. GENERAL POWERS OF CITY.

Sec. 200. Generally.

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

Sec. 201. Access to public meetings and public records.

City agencies, boards, commissions, committees, officials, staff and officers, including the Mayor and members of the City Council, exist to conduct the people's business. It is fundamental that the people have full access to information, not to just what decisions have been made in their name but how those decisions were reached and how they were deliberated. The people insist on remaining informed so that they may retain control over the instruments they have created. The people do not give their agencies or public servants the right to decide what is good for the people to know and what is not good for them to know.

Our values lie in a government that helps its citizens in a timely way to obtain information. Our values lie in a broadening base of public participation, involvement and interest, providing new ideas and energy.

Our values lie not in hiding embarrassment and unpleasant occurrences. Our values lie not in preventing dissent.

To carry out the purposes set forth in this section, the provisions of the [redacted] M. Brown Act (California Government Code Section 54950 et seq.) and the Public Records Act (California Government Code Section 6250 et seq.) shall apply to the City Council, and any commission, committee, board or other body created by Charter, ordinance, resolution or formal action of the City Council, or the Mayor.

Special circumstances dictate that there must be exceptions to access. But those exceptions should be narrowly drawn and narrowly exercised. Public employees must be protected from unwarranted invasions of privacy while the public's right to fundamental information must be protected. Citizen right to privacy must be protected with the knowledge that involvement in government matters necessarily reduces an expectation of privacy.

In general, the value of access should be given a strong presumption of public benefit. (Effective 1/18/2005)

Sec. 202. Adoption of ethics code.

The City of Riverside shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operation. The City Council shall adopt the Code of Ethics and Conduct by ordinance or resolution within six months of the effective date of this Charter section. (Effective 1/18/2005)

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ARTICLE III. FORM OF GOVERNMENT.

Sec. 300. Designated.

The municipal government established by this Charter shall be known as the "Council-manager" form of government.

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ARTICLE IV. CITY COUNCIL AND MAYOR.

Sec. 400. Enumerated; number, term and manner of election; wards.

(a) The elective officers of the City shall consist of a City Council of seven members, elected from wards, and a Mayor elected from the City at large, at the times and in the manner provided in this Charter, who shall serve for a term of four years and until their respective successors qualify. The terms of all officials, so elected, shall be deemed to have commenced on the fifth Tuesday following the general municipal election.

(b) The members of the City Council shall be elected by wards by the registered voters of the respective wards only. One member of the City Council shall be elected by each ward, and only the registered voters of each ward shall vote for the member of the City Council to be elected by that ward. In those wards where there are more than two candidates, only a candidate receiving a majority of the total votes cast for the office shall be declared elected.

(c) If in an election for a member of the City Council for any ward, or for the office of Mayor, no candidate receives a majority of the total votes cast for the office, the City Council shall immediately upon the determination of that fact, call a special election to be held on the first Tuesday following the first Monday of November of that same year. The two candidates receiving the highest number of votes for the office in the general municipal election shall be declared the candidates for the special election. (Effective 1/5/2007)

(d) Officials elected at the general municipal election shall take office on the second Tuesday following completion of the canvass, but in no event later than the fifth Tuesday following the general municipal election. Officials elected at any other election shall take office on the second Tuesday following completion of the canvass, but in no event later than the fifth Tuesday following the election.

(e) The qualifications of candidates and electors and the procedure governing general municipal elections shall apply to any special election called pursuant to this section and the notice of election shall be published at least thirty days prior to the date of such special election. (Effective 1/6/2003)

(f) Notwithstanding the above, an election shall be held on June 5, 2007, for the purpose of electing members of the City Council from Wards 1, 3, 5, and 7 for terms expiring in June 2011, or until their successors are elected and seated. (Effective 1/5/2007)

(g) Notwithstanding the above, an election shall be held on June 2, 2009, for the purpose of electing members of the City Council from Wards 2, 4, and 6 for terms expiring June 2013, or until their successors are elected and seated. (Effective 1/5/2007)

(h) Notwithstanding the above, an election shall be held on November 3, 2009, for the purpose of electing the Mayor for a term expiring June 2012 or until their successor is elected and seated. (Effective 1/5/2007)

Sec. 401. Eligibility to hold the office; member of the City Council; Mayor.

(a) A person is not eligible to hold the office of a member of the City Council of the City of Riverside unless such person is a qualified elector within the territory comprising the ward by which such person is elected or for which such person is appointed at the time of such election or appointment and continues to be a qualified elector of said ward.

If the residence of any member of the City Council is changed to a place outside the boundaries of the ward from which such member was elected or for which such member was appointed, the office of such member shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.

(b) A person is not eligible to hold the office of Mayor unless such person is a qualified elector of the City at the time of such election or appointment and continues to be a qualified elector of the City.

If the residence of the Mayor changes to a place outside the boundaries of the City, the

EXHIBIT D

office of the Mayor shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.

Sec. 402. Wards established.

The City of Riverside is hereby and by ordinance shall be divided into seven wards, designated as first ward, second ward, third ward, fourth ward, fifth ward, sixth ward, and seventh ward.

The boundaries of wards shall be reviewed at least every ten years upon the completion of the federal decennial census or more frequently as may be determined necessary upon receipt of official census data; and the boundaries of such wards shall be adjusted by the City Council as necessary to provide for substantially equal numbers of residents in each ward. Such boundary adjustment during a Councilmember's term shall not result in disqualification for membership on the Council during such term.

Sec. 403. Compensation.

The Mayor and members of the City Council shall receive compensation for their services as such, and in addition, when on official duty, shall receive reimbursement for their necessary expenses on order of the City Council. In January of every odd-numbered year, the City Council shall review the compensation including salary and benefits, of the Mayor and members of the City Council, and shall establish any increase in compensation of the Mayor and/or the members of the City Council. No increase in salary shall exceed 5 percent of their then-existing salary. Compensation shall be fixed by ordinance, adopted by not fewer than five affirmative votes of the City Council, after a noticed, public hearing, notice of which has been given by publication at least fourteen days prior to such hearing.

Once a level of compensation for City Council members and the Mayor is established, such level will not be permitted to change automatically by linking such compensation to internal or external factors. (Effective 1/18/2005)

Sec. 404. Vacancies.

A vacancy in an elective office, from whatever cause arising, except in the event of a successful recall, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term.

If a member of the City Council or the Mayor is absent from three consecutive regular meetings of the City Council, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, the office of such person shall become vacant.

The City Council shall declare the existence of any vacancy. In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held forthwith to fill such vacancy.

Sec. 405. Duties of Mayor; Mayor Pro Tempore; Council tie--Mayor's vote.

The Mayor shall be the presiding officer at all meetings of the City Council and shall have a voice in all its proceedings but shall not vote except to break a City Council tie-vote which exists for any cause. The Mayor shall be the official head of the City for all ceremonial purposes. The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and of informing the people of any major change in policy or program. The Mayor shall advise the City Council on all matters of policy and public relations and perform such other duties as may be prescribed by this Charter. During the months of January or February, the Mayor shall deliver a State of the

City message at any location within the City that the Mayor deems appropriate at which the Mayor will present the Mayor's programs, objectives and priorities.

The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties of the Mayor. The Mayor Pro Tempore shall conduct the Council meetings and shall vote only as a member of the Council, not as Mayor Pro Tempore. In the event of a tie vote, the Mayor Pro Tempore shall not have a tie-breaking vote and Council vote shall be recorded as a negative or "nay" vote. With regards to the veto power, the Mayor Pro Tempore shall not have the power to veto acts of the City Council.

Notwithstanding any other provisions of this Charter, when a tie-vote exists for any cause, in order to break that tie, the Mayor shall have the same voting right as a member of the City Council for or against the item before the City Council. The Mayor's vote shall be deemed a City Council member's vote for all purposes, including the introduction or adoption of both ordinances and resolutions. (Effective 12/27/1995 and 12/11/1986)

Sec. 406. City powers vested in Council; exceptions.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Sec. 407. Interference in administrative service.

Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. (Effective 12/27/1995)

Sec. 408. Meetings.

The City Council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

Special meetings may be called in accordance with State law.

Meetings of City Council-appointed and Mayoral-appointed standing and ad hoc Council committees, regardless of the number of City Council members who might be on such committees, shall be open to the public and the time and place of such meetings shall be publicly announced at the City Council meetings prior to such committee meetings.

All meetings of the City Council conducted in closed session under the Ralph M. Brown Act (California Government Code Sections 54950 et. seq.) shall be audio recorded. The recording shall be confidential and shall be available for inspection only as permitted by state law. The recording shall be retained for a period of at least two years. (Effective 1/18/2005)

Sec. 409. Same--Location.

All meetings shall be held in the Council chambers in City Hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be

held for the duration of the emergency at such place as is designated by the Mayor, or, if the Mayor should fail to act, by four members of the City Council. (Effective 12/27/1995)

Sec. 410. Same--Quorum; proceedings.

A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the clerk shall be given in the manner provided by State law.

Sec. 411. Same--Citizen participation.

Each citizen shall have the right, personally or through counsel, to present comments at any regular meeting of the Council, or a Council standing or ad hoc committee, or offer suggestions with respect to municipal affairs. (Effective 1/18/2005)

Sec. 412. Powers of Council and Mayor; additional.

The City Council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish, and uniformly apply rules for the conduct of its proceedings and evict any member or other person for disorderly conduct at any of its meetings.

The Mayor and each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

All votes of the City Council shall be by recorded call vote and entered in the minutes of the meeting.

Sec. 413. Adoption of ordinances and resolutions.

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Council members present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the adoption of any ordinance or resolution.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

At any time before the adjournment of a meeting, the Mayor may, by public declaration

spread upon the minutes of the meeting, veto any formal action taken by vote of the City Council including any ordinance or resolution, except an emergency ordinance, the annual budget or an ordinance proposed by initiative petition. Thereupon, pending the vote to override the veto as herein provided, such ordinance, resolution or action shall be deemed neither approved nor adopted. The Mayor shall, no more than twenty days following the veto, provide to Council members, in writing, reasons for the Mayor's veto. If the Mayor fails to provide a written veto message within the time allotted, the original action of the Council shall stand. At any regular or adjourned meeting held not less than thirty days, nor more than sixty days after veto the City Council shall reconsider such ordinance, resolution or action and vote on the question of overriding the veto. Five affirmative votes shall be required for its adoption or approval. The Mayor shall have no right to veto the veto override of any ordinance, resolution or action.

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk. (Effective 12/27/1995)

Sec. 414. Publication of ordinances.

The City Clerk shall cause to be published at least once in a newspaper of general circulation within fifteen days after its adoption the number, a title, a brief synopsis of the content of each ordinance and the Statement that a full copy of the ordinance is available in the office of the City Clerk.

Sec. 415. Codification of ordinances; adoption by reference.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged in a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified in a separate action from their adoption shall be repealed as of the effective date of their inclusion in the code. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section. Maps, charts and diagrams also may be adopted by reference in the same manner.

Sec. 416. Effective date of ordinances.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

(a) An ordinance calling or otherwise relating to an election.

(b) An ordinance adopted under some law or procedural ordinance providing for a different effective date.

(c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.

(d) An emergency ordinance adopted in the manner provided for in this Article.

Sec. 417. Violation of ordinances and penalty therefor.

A violation of any City ordinance shall constitute a misdemeanor unless by ordinance it is made an infraction, and may be prosecuted in the name of the People of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance shall be the sum of one thousand dollars, or a term of imprisonment for a

period not exceeding six months, or both such fine and imprisonment.

Sec. 418. Contracts--Restriction on duration.

The City Council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than shall be provided by the laws of the State of California with respect to general law cities unless said contract, lease or extension be approved by a majority of the qualified electors of the City voting on such question at any election. A contract, lease or extension for a longer period shall be valid without such approval if it provides for the right of acquisition by the City at the end of such period of the real or personal property leased or contracted for. This section shall not apply to airports or to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.

Sec. 419. Same--Execution.

The City shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager to bind the City, with or without written contract, for the acquisition of equipment, materials, supplies, labor, services, or other items, if included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the Department of Public Utilities upon forms approved by the City Manager and at rates fixed as in this Charter provided.

The provisions of this section shall not apply to services rendered by any person in the employ of the City at a regular salary.

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ARTICLE V. ELECTIONS.

Sec. 500. General municipal elections.

General municipal elections for the election of members of the City Council and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday following the first Monday in June of each odd-numbered year.

Beginning in June of 2012, general municipal elections for the election of Mayor shall be held on the first Tuesday following the first Monday in June of United States Presidential election years. (Effective 1/5/2007)

Sec. 501. Special municipal elections.

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections. (Effective 12/27/1995)

Sec. 502. Compliance with State law.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of elections in cities so far as the same are not in conflict with the Charter. (Effective 12/27/1995)

Sec. 503. Initiative, referendum and recall.

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter. (Effective 12/27/1995)

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ARTICLE VI. CITY MANAGER

Sec. 600. Creation of office; appointment; tenure; eligibility of elective officers.

There shall be a City Manager who shall be the chief administrative officer of the City. The process for the selection of a City Manager shall be determined by the City Council. It shall appoint, by a majority vote, the available person that it believes to be best qualified on the basis of executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the offices as set forth in this Charter. The City Manager shall serve at the pleasure of the City Council.

No person shall be eligible to receive appointment as City Manager while serving as Mayor or as a member of the City Council nor within one year after ceasing to hold such office. (Effective 12/27/1995)

Sec. 601. Powers and duties.

The City Manager shall be the head of the administrative branch of the City government. The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City.

All department heads and officers of the City, except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the City Council, shall serve at the pleasure of the City Manager who may appoint, suspend or remove such department heads and officers subject to the personnel merit system provisions of this Charter. However, the appointment, removal and suspension of the Library Director shall be subject to the approval of the Board of Library Trustees, the appointment (but not the suspension or removal) of the Chief Financial Officer/Treasurer shall be subject to the approval of the City Council, and the appointment (but not the suspension or removal) of the Public Utilities Director shall be subject to the approval of the Board of Public Utilities. The City Manager may approve or disapprove all proposed appointments and removals of subordinate employees by department heads or officers, except by the City Attorney and City Clerk, and such appointments and removals by department heads or officers, except by the City Attorney and City Clerk, shall be subject to the approval of the City Manager.

Notwithstanding the foregoing or any other provision of this Charter except Section 407, the City Council may adopt by ordinance, an employee appeal process which could affirm, overrule or modify a final administrative decision concerning an employee grievance and could provide that such action shall be final. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have the power and be required to:

(a) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.

(b) Prepare and submit to the City Council annually a capital improvement plan.

(c) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable to the City Manager.

(d) Prepare rules and regulations governing the contracting for, procuring, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by it.

(e) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.

(f) Perform such other duties consistent with this Charter as may be required of the City Manager by the City Council. (Effective 10/23/2012 and 12/27/1995)

Sec. 602. Participation in meetings of Council, boards and commissions.

The City Manager shall be accorded a seat at the City Council table and at all meetings

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of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. (Effective 12/27/1995)

Sec. 603. Manager pro tempore.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as manager pro tempore during any temporary absence or disability of the City Manager. (Effective 12/27/1995)

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ARTICLE VII. OFFICERS AND EMPLOYEES GENERALLY

Sec. 700. Appointment of City Attorney and City Clerk by Council; tenure.

In addition to the City Manager, there shall be a City Attorney and a City Clerk who shall be appointed by and serve at the pleasure of the City Council. (Effective 12/27/1995)

Sec. 701. Organization of City operations and activities.

The City Council shall, by ordinance, provide for the organization of all City operations and activities into functional units and may modify and change the organization from time to time. This organization shall be accomplished through the creation and establishment, by ordinance, of City departments, offices and agencies, boards, commissions and committees. In establishing departments, offices, agencies, boards, commissions and committees, the Council shall provide the functions, powers and duties of each such department, office, agency, board, commission or committee created.

The Council may, by ordinance, abolish, consolidate, modify or separate any department, office, agency, board, commission or committee, and may assign, reassign, or modify any functions, powers, or duties.

No office provided in this Charter to be filled by appointment by the City Manager may be consolidated with an office to be filled by appointment by the City Council. The City Council, subject to the provisions of this Charter, shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees. (Effective 12/27/1995)

Sec. 702. Eligibility, powers and duties of City Attorney.

To become eligible for City Attorney, the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five years prior to appointment.

The City Attorney shall have power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of such officer's or employee's employment or by reason of such officer's or employee's official capacity.

(c) Attend all regular meetings of the City Council and give advice or opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(d) Approve the form of all contracts made by and all bonds given to the City, endorsing the City Attorney's approval thereon in writing.

(e) Prepare any and all proposed ordinances or resolutions for the City and amendments thereto.

(f) Surrender to the City Attorney's successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein. (Effective 12/27/1995 and 12/11/1986)

Sec. 703. Powers and duties of City Clerk.

The City Clerk shall have power and be required to:

(a) Be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose and attend all meetings of the City Council either in person or by deputy.

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(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published in accordance with this Charter; keep all books properly indexed and open to public inspection when not in actual use.

(c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.

(d) Be the custodian of the seal of the City.

(e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(f) Have charge of all City elections.

(g) Facilitate and help members of the public examine and copy all appropriate public records, in accordance with the Government Code of the State of California. (Effective 1/18/2005)

Sec. 704. Chief Financial Officer/Treasurer.

There shall be a Chief Financial Officer/Treasurer appointed by the City Manager with the approval of the City Council who shall have power and shall be required to:

(a) Maintain a general accounting system for the City government and each of its offices, departments and agencies.

(b) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve, before payment, all bills, invoices, payrolls, demands or charges against the City government and, with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.

(c) Submit to the City Council a monthly summary report of financial activity in sufficient detail to show the exact financial condition of the City's major funds; and, as of the end of each fiscal year, submit a complete, audited Comprehensive Annual Financial Report.

(d) Maintain the records of current inventories of all property of the City by all City departments, offices and agencies.

(e) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the County, State or federal government, or from any court, or from any office, department or agency of the City.

(f) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit all funds received in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(g) Disburse moneys on demands audited in the manner provided for in this Charter.

(h) Submit to the City Council a monthly report on the cash and investments held by the City and all of its departments, offices and agencies. (Effective 10/23/2012; 12/27/1995; 12/11/1986)

Sec. 706. Administering oaths.

Each department head and the deputies thereof shall have the power to administer oaths and affirmations in connection with any official business pertaining to such department.

Sec. 707. Appointive powers of department heads.

Each department head and appointive officer shall have the power to appoint, suspend

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or remove such deputies, assistants, subordinates and employees as are provided for by the City Council for such department or office, subject to the provisions of this Charter and of any personnel merit system adopted hereunder. (Effective 12/27/1995)

Sec. 708. Acceptance of another office by elective officer.

Any elective officer of the City who shall accept or retain any other elective public office shall be deemed to have vacated his/her office under City government. (Effective 12/27/1995)

Sec. 709. Nepotism.

Neither the Mayor nor City Council shall appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of the Mayor or any one or more of the members of the City Council; nor shall any department head or other officer having appointive power appoint to a salaried position under City government any person who is his/her relative by blood or marriage within the third degree.

A relative within the third degree is defined as a spouse, son, daughter, mother, father, brother, sister, grandchild, grandparent, aunt, uncle, niece, nephew, great-grandchild, or great-grandparent. Half-relatives, step-relatives and in-laws are included as relatives. (Effective 12/27/1995)

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ARTICLE VIII. APPOINTIVE BOARDS AND COMMISSIONS

Sec. 800. In general.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated, and such additional powers and duties, consistent with the provisions of this Charter, as may be granted to them by ordinance of the City Council.

In addition, the City Council may create by ordinance such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

The City Council shall establish by ordinance, the number of members, not less than seven, for each board or commission. (Effective 12/27/1995)

Sec. 801. Appropriations.

The City Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions. (Effective 12/27/1995)

Sec. 802. Appointments; terms.

The members of each such board or commission shall serve at the pleasure of the Mayor and City Council and shall be nominated and appointed by the Mayor and City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. Each such board or commission shall have at least one member from each Council ward. They shall be subject to removal by the Mayor and City Council by a motion adopted by five affirmative votes with the Mayor entitled to vote. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified, and may serve for not more than two consecutive full terms. (Effective 1/18/2005)

Sec. 803. Terms of members of existing enumerated boards and commissions.

Upon the effective date of this Charter, incumbent members of boards and commissions shall be deemed reappointed and shall maintain the same terms of appointment held under the previous Charter, and all existing boards and commissions shall remain in existence until further action by the City Council consistent with this Article.

All vacancies shall be filled as described in this Article except that when a position on a board or commission has remained vacant for sixty days the Mayor shall appoint a person to fill the vacancy.

The City Council shall provide by ordinance, as provided by Section 800, to establish the number of members of a board or commission as soon as practicable following the effective date of this Charter. If the number of members is reduced by such ordinance, the persons whose seats are to be eliminated shall be determined by the board or commission by lot. If the number of members is increased, the ordinance may provide for initial terms for new members of less than four years so that as near as possible an equal number of terms will expire each year. (Effective 12/27/1995)

Sec. 804. Organization; meetings; subpoena power.

At the first meeting of each board or commission after the last day in February of each year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at least once each month and such special meetings as such board or commission may require. All proceedings shall be open to the public, except as provided by State law.

Except as may be otherwise provided in this Charter, the City Manager shall designate a

secretary for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with the Charter and copies of which shall be kept on file in the Office of the City Clerk where they shall be available for public inspection. Each board or commission may request from the City Council the power to compel the attendance of witnesses, to compel the production of evidence before it and to administer oaths and affirmations. The City Council, by resolution, shall have sole power to provide such power to boards and commissions. (Effective 12/27/1995)

Sec. 805. Compensation; vacancies.

The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by the Mayor and City Council with the Mayor entitled to vote on any such appointment. Upon vacancy occurring leaving an unexpired portion of a term, any appointment to fill such a vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself/herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime of moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the City Council. If a position on an enumerated board or commission has remained vacant for sixty days, the Mayor shall appoint a person to fill the vacancy in accordance with Section 803. (Effective 12/27/1995)

Sec. 806. Planning Commission.

There shall be a Planning Commission which shall have the power and duty to:

(a) After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of the General Plan, or any part thereof, for the physical development of the City.

(b) Exercise such control over land subdivisions as is granted to it by the City Council.

(c) Make recommendations concerning proposed infrastructure improvements and redevelopment activities in support of planned land uses.

(d) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance, not inconsistent with the provisions of this Charter.

(e) Review all other land use issues as may be prescribed by ordinance, not inconsistent with the provisions of this Charter.

The City Engineer, City Attorney, and Community Development Director or their assistants, may meet with and participate in the discussions of the Planning Commission but shall not have a vote. (Effective 10/23/2012 and 12/27/1995)

Sec. 807. Human Resources Board--Composition.

There shall be a Human Resources Board, which shall have the power and duty to:

(a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations.

(b) Act in an advisory capacity to the City Council on matters concerning personnel administration. (Effective 12/27/1995)

Sec. 808. Board of Library Trustees.

There shall be a Board of Library Trustees, which shall have the power and duty to:

(a) Have charge of the administration of City libraries and make and enforce such

bylaws, rules and regulations as may be necessary therefor.

(b) Designate its own secretary.

(c) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.

(d) Purchase and acquire books, journals, maps, publications and other supplies peculiar to the needs of the library, subject, however, to the limitations of the budget for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this Charter provided.

(e) Approve or disapprove the appointment, suspension or removal of the Library Director, who shall be the department head.

(f) Accept money, personal property or real estate donated to the City for library purposes, subject to the approval of the City Council.

(g) Contract with schools, County or other governmental agencies to render or receive library services or facilities, subject to the approval of the City Council. (Effective 10/23/2012 and 12/27/1995)

Sec. 809. Park and Recreation Commission.

There shall be a Park and Recreation Commission which shall have the power and duty to:

(a) Act in an advisory capacity to the City Council in all matters pertaining to parks, recreation, parkways and street trees.

(b) Consider the annual budget for parks, recreation, parkways and street tree purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.

(c) Assist in the planning of parks and recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(d) Establish policies for the acquisition, development and improvement of parks and playgrounds and for the planting, care and removal of trees and shrubs in all parks, playgrounds and streets, subject to the rights and powers of the City Council. (Effective 12/27/1995)

Sec. 810. Community Police Review Commission.

There shall be a Community Police Review Commission which shall have the power and duty to:

(a) Advise the Mayor and City Council on all police/community relations issues.

(b) Conduct public outreach to educate the community on the purpose of the commission.

(c) Receive, and in its discretion, review and investigate citizen complaints against officers of the Riverside Police Department filed within six months of the date of the alleged misconduct in writing with the commission or any other City office as established by ordinance of the City Council.

(d) Review and investigate the death of any individual arising out of or in connection with actions of a police officer, regardless of whether a complaint regarding such death has been filed.

(e) Conduct a hearing on filed complaints or commission-initiated investigations when such hearing, in the discretion of the commission, will facilitate the fact finding process.

(f) Exercise the power of subpoena to require the attendance of witnesses, including persons employed by the City of Riverside, and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses and to take testimony to the extent permissible by law. Subpoenas shall only be issued by the commission upon the affirmative vote of six commission members.

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(g) Make findings concerning allegations contained in the filed complaint to the City Manager and Police Chief.

(h) Review and advise the Riverside Police Department in matters pertaining to police policies and practices.

(i) Prepare and submit an annual report to the Mayor and City Council on commission activities. (Effective 1/18/2005)

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ARTICLE IX. PERSONNEL MERIT SYSTEM.

Sec. 900. Generally.

The City Council shall by ordinance establish a personnel merit system for the selection, employment, compensation/classification, promotion, discipline and separation of those appointive officers and employees who shall be included in the system. (Effective 12/27/1995)

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ARTICLE X. RETIREMENT.

Sec. 1000. Authority to continue under State system.

Plenary authority and power are hereby vested in the City, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees' Retirement System, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the Public Employees' Retirement System. The City Council may terminate any contract with the Board of Administration of the Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City, voting on such proposition at an election at which such proposal is presented.

ARTICLE XI. FISCAL ADMINISTRATION.

Sec. 1100. Fiscal year.

The fiscal year of the City government shall be established by ordinance.

Sec. 1101. Budget--Submission to Council; notice of public hearing.

At least thirty-five calendar days prior to the beginning of each fiscal year, the City Manager shall provide to the City Council in writing a proposed budget containing estimates of revenues and expenditures for each City department, office, agency, or fund, as appropriate. After reviewing the same, or at an earlier time if so desired, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than twenty days prior to said hearing, by at least one insertion in a newspaper of general circulation within the City.

Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk and on the City's accessible website at least twenty days prior to said hearing. (Effective 10/23/2012)

Sec. 1102. Same--Public hearing.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Sec. 1103. Same--Further consideration, revision and adoption; availability to departments, etc.

After the conclusion of the public hearing, the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the day preceding the start of the fiscal year, it shall adopt the budget.

A copy of the adopted budget shall be placed, and shall remain on file, in the office of the City Clerk and copies shall be placed in all the public libraries in the City where they shall be available for public inspection, and a copy shall be placed on the City's accessible website. The budget shall be reproduced and copies made available for the use of departments, offices and agencies of the City. (Effective 10/23/2012 and 12/27/1995)

Sec. 1104. Same--Appropriations; transfer of funds.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices, agencies, and funds for the respective objects and purposes therein named. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered, except for appropriations for capital projects which shall continue to the completion of the capital projects unless a different rule has been established by action of the City Council.

At any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least five members so as to authorize the transfer of unused balances appropriated to one department or fund to another department or fund, or to appropriate available funds not yet included in the budget. (Effective 10/23/2012 and 12/27/1995)

Sec. 1105. Centralized purchasing.

Under the control and direction of the City Manager there shall be established a centralized purchasing system for all City departments and agencies, which system shall be consistent with all other provisions of this Charter.

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Sec. 1106. Tax limits.

The City Council shall not levy a property tax, for municipal purposes, in excess of one dollar annually on each one hundred dollars of the assessed value of taxable property in the City, except as otherwise provided in this section, unless authorized by the affirmative votes of two-thirds of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition. (Effective 10/23/2012)

Sec. 1107. Procedure for assessment, levy and collection of taxes.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the City Council.

Sec. 1108. General obligation bonded debt limit; vote required for issuing general obligation bonds; issuance of revenue bonds, notes and other evidence of indebtedness.

(a) The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

(b) No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

(c) The City Council by procedural ordinance or pursuant to State law, after a public hearing, notice of which has been given by publication at least fifteen days prior to such hearing, may issue revenue bonds, notes or other evidences of indebtedness without an election for any City purpose or purposes, and, any other provisions of this Charter notwithstanding, may make such covenants and exercise such powers as are deemed necessary in connection with the issuance and sale of such revenue bonds, notes or other evidences of indebtedness.

Sec. 1109. Public works contracts.

Every project for the construction and/or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds, and every purchase of supplies or materials for any such project, when the total expenditures required for the same exceed $50,000 shall be let by the City Council or by the Board of Public Utilities pursuant to Section 1202(b), by contract to the lowest responsible bidder after notice by publication in a newspaper of general circulation within the City by one or more insertions, the first of which shall be at least ten days before the time for opening bids. Projects for the maintenance or repair of streets, drains or sewers are excepted from the requirements of this section if the City Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City, or such other form of bidder's security as the City Council establishes by ordinance. Such security shall be in an amount not less than that specified in the notice inviting bids or in an amount not less than ten percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council or Board of Public Utilities pursuant to Section 1202(b) may reject any

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and all bids presented and may readvertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a resolution to that effect by at least five affirmative votes of the City Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids if such work or supplies or materials shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least five affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.

Projects for the construction and/or improvement of any public utility operated by the City or for the purchase of supplies or equipment for any such utility may be excepted from the requirements of this section, provided the City Council so determines by at least five affirmative votes. (Effective 1/18/2005 and 1/6/2003)

Sec. 1110. Cash management.

Adequate cash shall be maintained to meet lawful demands of the City. Transfers and loans may be made by the City Council from one fund to another as may be required. (Effective 1/18/2005 and 12/27/1995)

Sec. 1111. Capital projects funds.

(a) Funds for capital projects are hereby created. Capital projects initiated by the City Council which only require approval by the City Council are provided for in subsection (b). Capital projects initiated by the City Council which also require approval by the voters are provided for in subsection (c).

(b) A City Council approved capital project fund shall remain for the established purpose and the appropriations therein shall carry over to the completion of each project, as set forth in Section 1104. When a capital project has been completed, the City Council may transfer any unexpended or unencumbered budget to any account similarly restricted.

To the extent permitted by law, the City Council may levy and collect taxes for capital projects and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any such account or accounts the moneys derived from such levy. It may not, in making such levy, exceed the maximum tax rate provided for in this Charter, unless authorized by the affirmative votes of two-thirds of the electors voting on the proposition at any election at which such question is submitted.

(c) An account for a voter approved capital project shall remain inviolate for the purpose for which it was created unless the use of such funds for other capital project purposes was authorized by the electors voting on such proposition at the general or special election at which such proposition was submitted. The majority or super-majority for passage of a voter approved capital project will depend on the enabling legislation under which it is proposed. Notwithstanding the above, the proposition approving a capital project may be amended as provided in the proposition or the enabling legislation. (Effective 10/23/2012; 1/18/2005; 12/27/1995)

Sec. 1112. Registering warrants.

Warrants on the City Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution. (Effective 12/27/1995)

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Sec. 1113. Independent audit.

The City Council shall employ, at the beginning of each fiscal year, a qualified public accountant who shall, at such time or times as may be specified by the City Council, and at such times as such accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of such other officers, employees or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, with copies to be placed on file in the Office of the City Clerk and on the City's accessible website where they shall be available for inspection by the general public. At least every five years, the City Council shall employ a qualified public accountant different from the qualified public accountant who submitted the immediately preceding year's audit report. (Effective 10/23/2012 and 1/18/2005)

Sec. 1114. Use of design-build procurement for public works projects.

Notwithstanding any provision to the contrary in the California Public Contracts Code, in Charter Section 1109, or any other law or regulation of the City of Riverside, the use of design-build procurement by competitive negotiation is authorized. The City Council shall establish by ordinance regulations for the award, use and evaluation of such design-build contracts, in which the design and construction of public works project are procured from a single entity. (Effective 1/18/2005)

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ARTICLE XII. DEPARTMENT OF PUBLIC UTILITIES.

Sec. 1200. Created; management and control.

There shall be a Department of Public Utilities, which shall be under the management and control of the City Manager subject, however, to the powers and duties of the Board of Public Utilities as hereafter set forth in this Article. Said department shall be responsible for electric and water supplies, services and conservation and any other utility as determined by ordinance of the City Council, and shall include all works owned, controlled, operated, leased or contracted for by the City for supplying the City and its inhabitants with such utilities. (Effective 12/27/1995)

Sec. 1201. Board of Public Utilities--Composition; applicability of Article VIII of Charter.

There shall be a Board of Public Utilities. All of the provisions of Article VIII of this Charter relating to boards and commissions generally, to the organization, meetings, conduct of proceedings, and expenses thereof, and to the appointment, qualifications, term of office, removal, compensation and powers of members thereof, where not inconsistent with the provisions of this Article, shall apply to the Board of Public Utilities. (Effective 12/27/1995)

Sec. 1202. Same--Powers and duties.

The Board of Public Utilities shall have the power and duty to:

(a) Consider the annual budget for the Department of Public Utilities during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.

(b) Authorize, and let public works contracts in compliance with Section 1109, within the limits of the budget of the Department of Public Utilities, any purchase of equipment, materials, supplies, goods or services, or any acquisition, construction, improvement, extension, enlargement, diminution, or curtailment of all or any part of any public utility system when the amount exceeds $50,000, and authorize the City Manager, or his designee, to execute contracts or issue purchase orders for the same. This amount may be increased in $1,000 increments by ordinance to account for inflation whenever the cumulative increase in the consumer price index exceeds $2,000 from the last increase. No such purchase, or acquisition, construction, improvement, extension, enlargement, diminution or curtailment shall be made without such prior authorization.

Notwithstanding the above, such a purchase, or acquisition, construction, extension, enlargement, diminution or curtailment may be made without prior approval (1) for work done at the request of and at the expense of a customer, pursuant to rules established by the Board of Public Utilities and approved by the City Council, or (2) if there is an urgent necessity to preserve life, health or property (i) as determined by the Director of Public Utilities or, (ii) if the amount exceeds $100,000 by the Director of Public Utilities and the City Manager. As soon as practicable thereafter, the Director of Public Utilities shall take the matter under Section 1202(b)(2) to the Board of Public Utilities for ratification.

(c) Within the limits of the budget of the Department of Public Utilities, make appropriations from the contingency reserve fund for capital expenditures directly related to the appropriate utility function.

(d) Require of the City Manager monthly reports of receipts and expenditures of the Department of Public Utilities, segregated as to each separate utility, and monthly statements of the general condition of the department and its [redacted]

(e) Establish rates for all utility operations as provided under Section 1200 including but not limited to water and electrical revenue producing utilities owned, controlled or operated by the City, but subject to the approval of the City Council.

(f) Authorize the Director of Public Utilities to negotiate and execute contracts with

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individual retail customers for water, electric and any other utility service as provided under Section 1200, consistent with rates for such individualized service established pursuant to Section 1202(e).

(g) Approve or disapprove the appointment of the Director of Public Utilities, who shall be the department head.

(h) Designate its own secretary.

(i) Make such reports and recommendations in writing to the City Council regarding the Department of Public Utilities as the City Council shall deem advisable.

(j) Exercise such other powers and perform such other duties as may be prescribed by ordinance not inconsistent with any of the provisions of this Charter. (Effective 1/18/2005 and 1/6/2003)

Sec. 1203. Purchases and expenditures generally; exemption from centralized purchasing system.

The purchase of equipment, materials and supplies peculiar to the needs of the Department of Public Utilities need not be made through the centralized purchasing system. The expenditure and disbursement of funds of the Department of Public Utilities shall be made and approved as elsewhere in this Charter provided.

Sec. 1204. Use of revenue.

The revenue of each public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order as follows:

(a) For the payment of the operating and maintenance expenses of such utility, including any necessary contribution to retirement of its employees.

(b) For the payment of interest on the revenue bonded debt of such utility. As used in this section "revenue bonded debt of such utility" means the debt evidenced by revenue bonds, revenue notes or other evidences of indebtedness payable only out of the revenues pertaining to the utility involved, whether the same are issued under the provisions of this Charter or under the provisions of any general law of the State of California.

(c) For the payment, or provision for the payment of the principal of said debt as it may become due, and of premiums, if any, due upon the redemption of any thereof prior to maturity.

(d) For the establishment and maintenance of any reserves for B and C above.

(e) For capital expenditures of such utility.

(f) For the annual payment by each utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed 11.5 percent of the gross operating revenues, exclusive of surcharges, of each specific utility for the last fiscal year ended and reported upon by independent public auditors.

Sec. 1204.1 Water utility revenue.

The revenue of the water public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order set forth in Section 1204 and for the annual payment by the water utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed 11.5 percent of the gross operating revenues, exclusive of surcharges, of the water utility for the last fiscal year ended and reported upon by independent public auditors. The proceeds shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct such as 9-1-1 response, police patrols/fire protection, children's after-school and senior/disabled services, and protect supplies of clean drinking water from contamination. (Effective 8/7/2013)

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Sec. 1205. Sale of public utility.

No public utility now or hereafter owned or controlled by the City shall be sold, leased or otherwise transferred unless authorized by the affirmative votes of at least two-thirds of the voters on such proposition at a general or special municipal election at which such proposition is submitted.

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ARTICLE XIII. FRANCHISES.

Sec. 1300. Requiring; granting generally; applicability to City-owned utility.

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City Council is empowered to grant such franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of practice and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this section, or elsewhere in this Article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

Sec. 1301. Resolution of intention to grant; notice and public hearing.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation within the City. Said resolution shall be published at least ten days prior to the date of hearing.

At the time set for the hearing, or at any adjournment thereof, the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that any substantive change should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

Sec. 1302. Term of franchise.

Every franchise shall state the term for which it is granted, which shall not exceed thirty-five years.

Sec. 1303. Eminent domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

EXHIBIT D

ARTICLE XIV. MISCELLANEOUS

Sec. 1400. Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

(a) "Shall" is mandatory, and "may" is permissive.

(b) "City" is the City of Riverside, and "department," "board," "commission," "agency," "officer," or "employee," is a department, board, commission, agency, officer or employee, as the case may be, of the City of Riverside.

(c) "County" is the County of Riverside.

(d) "State" is the State of California.

(e) "Newspaper of general circulation within the City" is as defined by State law.

Sec. 1401. Violations and penalty.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding one thousand dollars or by imprisonment for a period not exceeding six months or by both such fine and imprisonment.

Sec. 1402. Severability.

If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 1403. Charter Review Committee.

In February 2019, and in February every eight years thereafter, the City Council shall appoint and appropriate adequate funds for a Charter Review Committee. The Charter Review Committee shall have the power and duty to:

(a) Recommend to the City Council which, if any, Charter amendments should be placed on the ballot at the next regular municipal election for Mayor.

(b) Hold public meetings to receive input on proposed Charter amendments.

(c) Present a final report with its recommendations to the City Council by the last Tuesday in May preceding the next regular municipal election for Mayor. It may, in its discretion, make interim reports to the City Council.

The City Council shall act upon the recommendations of the Charter Review Committee prior to the last day to place measures on the ballot for the next regular municipal election for Mayor.

The City Council may appoint Charter Review Committees more often if it desires. (Effective 10/23/2012 and 12/27/1995)

Sec. 1404. Charter, amending.

This Charter, and any of its provisions, may be amended in accordance with the Constitution and laws of the State of California. (Effective 12/27/1995)

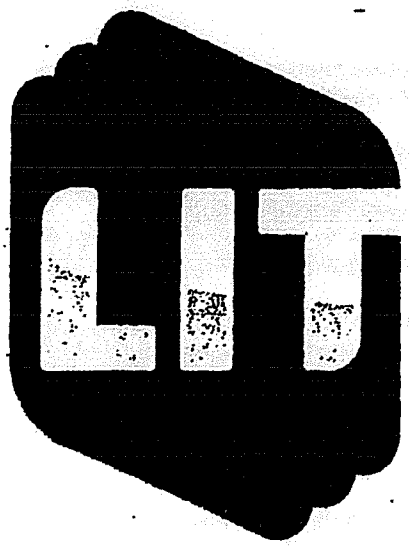
Sec. 1405. Pending actions.

No action or proceeding before any board or commission of the City, whether specifically enumerated in this Charter or not, which was commenced before the effective date of this Charter, and no right accrued in any such proceeding, is affected by the provisions of this Charter, but all proceedings taken thereafter shall conform to the provisions of this Charter.

EXHIBIT D

Barber, Scott

In Re: Riverside Investigation



Litigation
SERVICES

Job: 505284

Exhibit: 0000C

EXHIBIT D

CITY OF RIVERSIDE

MEMORANDUM

To: [redacted]

[redacted]

Cc: [redacted]

Re: Update: hostile work environment complaint

As an update to my memorandum of 04/14/14, I have the following information:

04/14/14 (see attached email): [redacted] emailed me with his concerns regarding statements made during Councilmember Davis' CAG meeting of 04/09/14; during this meeting Councilmember Davis referenced the investigation of [redacted], and [redacted] pointed out that any retaliation planned by Councilmember Davis as a result of the previous whistleblower complaint would constitute "illegal retaliation".

04/15/14: Councilmember Davis asked to see me when I finished a meeting with my staff. I went to his office at approximately 2:44 pm, and when I walked in I observed that his face was red and he appeared angry. I said "You wanted to see me?" to which Councilmember Davis replied "I am angry. I was just pigeonholed into a meeting with some investigator when I thought that it was going to be an industrial psychologist. This is going to end, Scott. You should have told me what this meeting was about and it time for a change; it is time for you to go. I know what I can say publically and I'm going to say it." I said to Councilmember Davis "You are correct, your behavior towards me is going to change" and I left Councilmember Davis' office.

This continuing practice of threatening to fire me, criticizing me for actions that I had no part in (I did not schedule the meeting with the investigator- it was scheduled by the Mayor's Office), and becoming angry and raising his voice to me is a perpetuation of Councilmember Davis creating an unacceptable, hostile work environment.

Scott C. 4/15/14

Scott C. Barber, Riverside City Manager

EXHIBIT C
REPORTER Tsaigne
DEPONENT Barber
DATE 4/30/14

EXHIBIT D

Barber, Scott

From: [redacted]
Sent: Monday, April 14, 2014 5:38 PM
To: Barber, Scott
Cc: [redacted]
Subject: CASABLANCA ACTION GROUP MEETING

Mr. Barber

I have already shared with you information received from [redacted] regarding some comments made by Councilmember Paul Davis during the Casablanca Action Group on April 9, 2014. One of the comments attributed to the councilmember particularly troubled me. That remark had to do with some action that Councilmembers Davis and [redacted] are contemplating against [redacted] as a result of a complaint made against [redacted] for administrative interference in the running of City operations. I have previously brought to your attention that I believe [redacted] has acted inappropriately in undermining the authority of [redacted] by telling a key member of the staff of the RPD (a [redacted]), that he ([redacted]) had the votes to get rid of the city manager and [redacted]. If, in fact, Councilmember Davis is now contemplating some action against any city employee (including the city manager and [redacted], based on my reporting of misconduct about [redacted], I believe that qualifies as illegal retaliation. Based on my training and experience retaliation occurs when any adverse personnel action is taken by an employee for exercising a right or engaging in protected activity. My complaint against the councilman of violating the City Charter is a protected activity as I understand that term to be defined.

[redacted]

EXHIBIT D

EXHIBIT E

CONFIDENTIAL AND PRIVILEGED

CITY OF RIVERSIDE

INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW OF PAUL DAVIS

CONFIDENTIAL AND PRIVILEGED EXAMINATION OF COUNCILMEMBER PAUL DAVIS, a witness herein, noticed by Gumport Mastan, taken at 225 South Lake, Suite 300, Pasadena, California at 10:37 a.m., Thursday, May 29, 2014, before Kathrynne Campos-Gil, CSR 7779.

Hutchings Number 510606

EXHIBIT E

APPEARANCES OF COUNSEL:

FOR THE CITY OF RIVERSIDE:
GUMPORT MASTAN
BY: LEONARD L. GUMPORT
550 South Hope Street, Suite 825
Los Angeles, California 90071
(213) 452-4900

FOR COUNCILMEMBER PAUL DAVIS:
POTTS & ASSOCIATES
BY: JAMES W. POTTS
3500 East Colorado Boulevard, Suite 107
Pasadena, California 91107
(626) 396-1070

Also present: Zaylore Stout, Esq.
Potts & Associates

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WITNESS: COUNCILMEMBER PAUL DAVIS

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E X H I B I T S

Exhibit identification within the transcript is flagged with "[EXH]" as an identifier.

EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
A	Email chain [EXH-A]	30	30
B	Email chain [EXH-B]	35	35
C	Email chain [EXH-C]	45	45
D	Email chain [EXH-D]	46	46
E	3/28/14 Email [EXH-E]	47	47

COUNCILMEMBER PAUL DAVIS,

a witness herein, testifies as follows:

-EXAMINATION-

BY MR. GUMPORT:

Q. Please state your name, sir.

A. Paul Davis.

10:37 **Q. And you're accompanied by certain people. Why don't they identify themselves on the record.**

MR. POTTS: My name is James W. Potts. I'm the authorized representative on behalf of Mr. Davis.

MR. STOUT: Zaylore Stout. I'm with the office of 10:37 James W. Potts, LLC, and I will just be observing today.

MR. GUMPORT: My name is Leonard Gumport of Gumport Mastan. I'm an attorney for the City of Riverside in connection with an investigation that I'm 10:37 doing.

Councilmember Davis, I'd like to describe some procedures I propose to follow in this interview. If you and your advisor would let me know whether those procedures are acceptable, then we'll proceed further 10:37 with the interview.

10:38 And I'd ask the reporter to listen very carefully to these procedures because they apply to the court reporter as well.

First, this is not a deposition. The 10:38 testimony is not sworn. It's an interview that is being transcribed by the court reporter. The cover page is to be labeled "Confidential Interview of City of Riverside Councilmember Paul Davis, Confidential and Privileged."

10:38 Next, although this is a confidential and privileged interview, my client is the City of Riverside, and it decides whether the transcript of this interview stays confidential and privileged; so the city council could decide that the transcript will 10:38 be made public.

This is a voluntary interview, and for that reason, anytime, Councilmember Davis, that you or your counsel want to go off the record, just raise your hand. The court reporter is not to indicate that a 10:39 hand has been raised.

I'm not here to make a record that someone decided that they didn't want to have a specific question answered or that they wanted it clarified or something like that. I'm here only to get what someone 10:39 is truly willing to put on the record and have

10:39 transcribed by the court reporter so that I can use it in my investigation.

Is all of that acceptable so far?

A. Yes.

10:39 MR. POTTS: Yes, it is.

BY MR. GUMPORT:

Q. Okay.

Because my client is the City of Riverside, you have to keep in mind I'm not your lawyer; so if for 10:40 any reason, Councilmember Davis, you think, gee, I need to have a discussion with my lawyer about something, I think -- you are absolutely free to stop the interview or pause the interview. And at a minimum what you should do or what your counsel should do is 10:40 raise their hand. No record will be made of that, and we will suspend, pause or terminate the interview.

Do you understand that?

A. Yes.

Q. I have asked for only one hour of your time, 10:40 and I'm going to hold myself to that limit. If I go over that limit, I apologize in advance and will appreciate your cooperation in that regard.

Is there any reason why we can't get into the substance of the interview at this point?

10:40 A. No.

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10:40 Q. Good.

Councilmember Davis, some of the questions I am going to ask you have obvious answers, and because I am only going to rely on what witnesses tell me on the
10:41 record transcribed by a court reporter, I'm going to ask you some of those matters so that we do have a transcript of it.

Would you please state your current position with the City of Riverside?

10:41 A. I'm the elected official representing Council Ward 4.

Q. When were you last elected?

A. June of 2013.

Q. When did you first meet Scott Barber?

10:41 A. I don't know the exact date. Prior to him becoming the City Manager, he was -- I can't remember what he did other than code enforcement, and I would say maybe about a year or two after I was elected in 2009.

10:41 Q. In June of 2013, when you were elected, which ward were you elected the councilmember for?

A. 4.

Q. In June of 2013, was Scott Barber the City Manager of the City of Riverside?

10:42 A. Yes.

10:42 Q. At some point did you form an opinion as to whether Scott Barber was adequately doing his job?

A. Yes.

Q. Okay.

10:42 About when was that?

A. Probably a year, year and a half into his actual appointment.

Q. What date would that be approximately?

A. I don't recall.

10:42 Q. Would it be in 2013?

A. Yes, probably.

Q. Okay.

Would it be in late 2013? By that, I mean after June 2013.

10:42 A. Well, I imagine if the opinion was formed in 2013, it would have carried forth throughout the entire year.

Q. Was there some point where you formed the opinion that Scott Barber was not performing his

10:43 functions as City Manager adequately?

A. Restate the question.

Q. At some point did you form the opinion that Scott Barber wasn't doing an adequate job as City Manager?

10:43 A. Yes.

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10:43 **Q. Was there something in particular that led you to form that opinion?**

A. There was one -- not one individual "things." There's multiple.

10:43 **Q. At some point in 2013, did you participate in an annual review of Scott Barber's performance?**

A. Yes. On probably more than one occasion.

Q. Can you pinpoint with any kind of certainty when those annual reviews in 2013 were?

10:43 **A.** I cannot. They -- the mayor pro tem is directed by the majority of the council schedule. They can happen this month and again next month and then not in for three months. It varies.

Q. Okay. Let me try to focus on the period, the 10:44 last quarter of 2013, say, October through December 2013.

Had you expressed to Scott Barber deficiencies you thought he had in the way he was doing his job?

A. I am sure that I had.

10:44 **Q.** Okay.

A. We will have conversations from time to time.

Q. Okay.

And in that time period, had you decided that it would be best to have Scott Barber replaced as City 10:44 Manager?

10:44 A. No.

Q. When did you, if ever, first arrive at that conclusion?

A. Probably, I would say, about February, March
10:44 of this year --

Q. Okay. Two thousand --

A. 2014.

Q. So prior to 2014, you had not formed a conclusion that Scott Barber should be replaced as City
10:45 **Manager?**

A. Not a definitive conclusion.

Q. What about a tentative conclusion in 2013? Did you have a tentative conclusion that he should be replaced?

10:45 A. I wouldn't say replaced. There were significant issues which "was" addressed by all the members of the "councils," and we had given him an opportunity to make those deficiencies better. And at that point in time, you have opinions, but you also
10:45 have opportunities to fix those issues, and then you move forward.

Q. Do you know whether there was any kind of annual review of Scott Barber in 2013 where in substance he was told something like, "you have these
10:45 **deficiencies. If you don't fix them, it may be the end**

EXHIBIT E

10:45 of your job?

A. Those conversations would be covered under the Closed Session Act, and I cannot discuss those.

Q. All right.

10:46 During 2013 -- and I'm focused now on the last quarter of 2013, October through December 2013, did you talk to any City employees -- and I'm excluding your field representative, and I'm excluding Scott Barber from this question -- did you talk to any City

10:46 employees during that time where you expressed criticism of Scott Barber's performance as City Manager?

A. Not that I recall.

Q. Okay.

10:46 Now, I'm going to focus on a couple of specific communications where you may or may not have had them. So the reader of this transcript shouldn't infer from any question that I ask that, in fact, something happened. I'm asking the question in order

10:46 to get information; so nobody reading this transcript should infer from any question I ask that, in fact, what I ask about occurred or didn't occur or that something wrong happened.

So now I'm going to get into some specifics.

10:47 Do you know who [redacted] is? [redacted]

10:47 A. Yes.

Q. Who is she?

A. She's a [redacted]. I think that's her title. I'm not sure her total title.

10:47 Q. Is she an employee of the City of Riverside?

A. Yes.

Q. Do you know what her official title --

A. I don't --

Q. -- was? The official title.

10:47 A. I think it's [redacted]

Q. During the last quarter of 2013, did you have any discussions with [redacted] about the job performance of Scott Barber as City Manager?

A. Not that I recall.

10:47 Q. Okay.

A. Rarely do I ever even see her.

Q. Have you ever told [redacted] at any time during 2013 through 2014 that you thought Scott Barber should be terminated as City Manager?

10:48 A. I don't recall that.

Q. Have you ever told [redacted] at any time that you were in any way disappointed with Scott Barber's performance as City Manager?

A. Not that I recall.

10:48 Q. Did you attend a Halloween event at the

10:48 Villegas --

A. Villegas.

Q. -- V-i-l-l-e-g-a-s, Community Center on Esperanzo -- Esperanza in October 2013?

10:48 A. Yes.

Q. Did you talk to [redacted] at that event?

A. I'm sure I did.

Q. Okay.

Did you talk to her about Scott Barber?

10:48 A. I don't recall it.

Q. Did you talk to her about [redacted]?

A. I don't recall that.

Q. Was -- let me rephrase the question.

In October 2013, what was [redacted]

10:49 position with the City of Riverside?

A. [redacted].

Q. And was he retiring at that time?

A. I believe he put in for it. I don't know the exact date that he left. I think it wasn't until a few

10:49 months ago he left.

Q. Okay.

Did -- let me rephrase the question. Who succeeded [redacted]?

A. There isn't a successor yet.

10:49 Q. So there's a vacancy?

10:49 A. As far as I know, yes.

Q. When did he retire?

A. I think he was not due to retire until June, but he took off in February, March and used some comp
10:49 time or something of that nature was explained to us. I don't know the exact date but in 2014, early part.

Q. Did you ever tell [redacted] that you thought that Scott Barber should be terminated by the time [redacted] retired?

10:50 A. No.

Q. Now, I'm going to shift to a second set of communications?

A. Okay.

Q. Have you ever discussed the job performance of
10:50 Scott Barber with a person [redacted],
[redacted]

A. No.

Q. Do you know who [redacted] is?

A. Yes.

10:50 Q. Who is he?

A. He's in [redacted]. I think he's
[redacted]

Q. Is the name of the city entity that he works for the [redacted]?

10:51 A. I'm sure that encompasses under his control.

10:51 **Q. Okay.**

During 2014, did you have any communications [redacted]?

A. Yes.

10:51 **Q. Did you have any communications with [redacted] in 2014 about a major league baseball youth facility?**

A. Yes.

Q. About when did those communications occur?

10:51 A. I don't recall the exact month. But Major League Baseball approached me. I believe -- it may be in January, and we had a piece of property they were interested in.

Q. Where was that piece of property?

10:51 A. That's directly in my district. It's 60 acres which actually is controlled by JPA, but the community of Orangecrest wanted a lawsuit over the DHL, and it's directly behind the Grove Community Church off of Grove Community Drive.

10:51 **Q. So is the property in your ward or next to your ward?**

A. Technically it's next to my ward, but in the ward. It's -- the way the JPA properties work, it's kind of bizarre because we share boundaries and so

10:52 forth.

10:52 **Q. Were your discussions with Mr. [redacted] about this property on the subject of annexing it?**

A. I believe that we talked about possibilities. The question was to not only "her," but to Scott Barber 10:52 **as well as to the entire Economic Development Department is: How can this happen? What are the rules surrounding the annexation, or is it better for JPA to do the project, and other avenues became apparent to us and more questions were asked.**

10:52 **Q. During what period of time in 2014, did the discussions with Scott -- excuse me, did the discussions [redacted] on the subject of this property occur?**

A. I don't know the exact dates, but the initial 10:53 **discussions were with the City Manager and with the chamber of commerce, and at that point in time, they were probably referred to [redacted] decision because they handle economic development.**

Q. [redacted] being [redacted] --

10:53 **A. [redacted] --**

Q. [redacted]

A. Yes.

Q. At any time during 2014, was there some kind of directive by the city council voting as a whole 10:53 **about exploring the annexation of this property?**

10:53 A. No.

Q. At any time during 2014, did you have a telephone conversation with [redacted] about this property?

10:53 A. I don't recall a specific conversation. That could have possibly happened.

Q. Did you have any telephone or face to face conversation with [redacted] in 2014 where you expressed the view that you were dissatisfied with

10:54 Scott Barber's performance as City Manager?

A. No.

Q. Did you have any face-to-face or telephone conversation with [redacted] anytime during 2014 where you used profanity in connection with a discussion of

10:54 Scott Barber?

A. No.

Q. Did you give -- and let me take a step back.

Have you told anyone at any time during 2013 through 2014, excluding your council or your field rep

10:54 or Mr. Barber himself, that you thought Scott Barber should be terminated?

A. Yes.

Q. Okay.

A. But not in those words. The Labor Code says I

10:55 can only state that I do not have confidence in his

10:55 continuing to be the City Manager with the City of Riverside, and that's all I've ever stated.

Q. Okay.

Who have you said that to? And excluding the
10:55 **people that I've excluded.**

A. Oh, I don't know. At least four community meetings, when asked and also was stated and then at least two, maybe three invited meetings of various groups, like the group The Latino Network, and they
10:55 invite you to speak and speak on specific subjects.

Q. And tell me if this is an accurate statement: In connection with all of those meetings, at the beginning of the meeting or at some point in the meeting, you asked for City staff to be excused before
10:56 **you expressed those views?**

A. No. Only on one occasion was City staff excused, but we did not discuss Scott Barber.

Q. Let's talk about the meetings where City staff was not asked to be excused?

10:56 A. City staff was not present at all, except for on one occasion, and really technically she wasn't City staff.

Q. Let's talk about that, the first occasion that you can recall where you expressed at a meeting that
10:56 **Scott Barber should be -- that you did not have**

10:56 **confidence in Scott Barber. I think that's the substance of what you said. What's the first such meeting?**

A. I can't recall the exact meeting. I attend 30 10:57 **meetings a month. I don't know the answer to that question.**

Q. Can you pinpoint the year?

A. It would be 2014.

Q. So 2014, what's the earliest of the meetings 10:57 **that you referred to that you expressed a view that you did not have confidence in Scott Barber's performance?**

A. Probably late March, April. Maybe later.

Q. Okay.

What's the -- what was the group you were 10:57 **meeting with?**

A. It could have been the Latino Network, the group. That's the actual name. The Villegas Park Advisory, it could have been them. I don't recall if we did or did not discuss that. The Casa Blanca 10:57 **Community Action Group.**

Q. And are you confident there were no City employees at these meetings?

A. In the -- yes.

Q. Why are you confident of that?

10:58 **A. Well, because I know the City employees. As**

10:58 far as, you know, if one of them was there and they walked in, you know, then they may have heard that, you know. There -- this is a public, you know, meeting. If they walk in, that's their position.

10:58 If I see an employee and we're going to discuss something that may be objectionable to them because they work for this person, I will warn them first, say, hey, you know, I have been asked to discuss this with this particular group, and, you know, I'm 10:58 giving you a heads-up. If you feel uncomfortable, you may not want to stick around. It's your choice. It's out of courtesy and professionalism.

Q. So here's something I would like to try to pinpoint if I can.

10:58 A. Uh-huh.

Q. I'm trying to find out whether there's a meeting you went to where there would be a City employee, not including Scott Barber or people in the City Manager's office present where you're saying, I 10:59 don't have confidence in Scott Barber as a City Manager.

And I'm wondering if you can tell me with a degree of confidence whether at any of them, roughly seven meetings you referred to having, whether you have 10:59 any confidence or degree of confidence that there was

EXHIBIT E

10:59 **no such City employee present when you said, I don't have confidence in Scott Barber's performance?**

A. On one occasion [redacted] was present. She was warned prior to the meeting that this is what I 10:59 have been asked to discuss. I'm on the calendar to do so with the group and that this is the gist of the discussion. And in that discussion, I cannot recall specifically -- well, I told her, you may not feel comfortable, because she was there by herself. But 10:59 she's also a [redacted]; so -- for [redacted]. So I don't know if she qualifies under that particular aspect. So -- but out of courtesy, because she's a really great person, that I warned her, prior to going in, that this is what I have been asked to 11:00 speak on.

I cannot recall specifically stating in that meeting, because it was actually over this specific investigation as well as the [redacted] investigation, you are aware of, as well as this 11:00 so-called second investigation that apparently a subject no longer of, and that's what they had asked me to discuss because, even though it may be a larger city, if you will, it's a small city. People hear things, and even staff from the highest level has the 11:00 loosest lips, and things get out, and they want to

11:00 know, and the public has a right to know.

And so out of professional courtesy, if I see that there is staff, I will warn them that this is the conversation details or elements and that they may or
11:00 may not feel comfortable.

If I'm going to specifically speak on a subject that I think that staff -- City staff, whether it would be about Scott Barber or the mayor or another member of the council, I would ask staff to leave, and
11:01 I did do that on one occasion.

Q. Is your view that it's not in some way interfering with the city manger's ability to do his job for you to tell members of the public your candid view that you don't have confidence in him?

11:01 A. Right. Is it -- say that again.

Q. Is it interfering improperly in some way, shape, or form in your mind with Scott Barber's ability to function as the City Manager for you to tell members of the public, not including --

11:01 A. Sure.

Q. -- City employees, I just don't have confidence in the City Manager?

A. No. I have the ability as the elected member to say that; however, it has to be crafted very
11:02 carefully not to violate his -- his rights under the

11:02 Labor Code, and, therefore, the statement that I make is the statement -- not only was it in the newspaper, I have the authority to make -- anybody can make that statement.

11:02 If he feels that it interferes, well unfortunately that's the way it works. You've got to get a little thicker skin because that's how it works.

Q. So let me just explore this with you a little bit.

11:02 A. Uh-huh.

Q. In your mind is it appropriate to go to subordinates -- I'm not saying that you did, but is it appropriate to go to subordinates of Scott Barber and tell them, I don't have confidence in the City Manager?

11:02 A. I don't think it would be appropriate. It also depends on the context of any conversation. If they are attending a meeting and they happen to overhear even a conversation that they weren't a part of and hear that, that really is kind of unfortunate

11:03 that they're eavesdropping. Could that have happened? It's possible. I don't know if it has happened or not.

But at no time if I had gone to you -- I mean, Mr. Gumport, if you were a City employee and say, I just don't like your boss. I think he needs to go.

11:03 That has never happened.

11:03 Q. Have you given any orders [redacted] concerning the annexing of the March JPA property for a youth facility?

A. No.

11:03 Q. Did you ever direct [redacted] to work on or prepare a report concerning that property?

A. No.

Q. Have you ever talked about your view of Scott Barber's job performance with a person named ~~Lori~~ Lorrie, L-O-R-I, Stone?

11:03

A. Not that I recall.

Q. Okay.

Have you ever expressed a lack of confidence in Scott Barber's performance to Lori Stone?

11:04 A. Not that I recall.

Q. Okay.

A. I rarely ever talk to her.

Q. Who is Daryl Lee [phonetic]?

A. Daryl Lee is a city constituent of mine. He lives around the corner from me.

11:04

Q. Okay.

Who are the people who were involved in the property in the JPA region that was next to your ward that was the subject of a major league baseball youth facility?

11:04

EXHIBIT E

11:04 A. It would have been -- the consultants are Ruben Ayala, Derrel Thomas from the Dodgers, and Garfun. I don't know how to say his name. We call him Gar. Yeah, that's it.

11:05 **Q. Is his name something like Garfunkel?**

A. Something like that, yeah.

Q. And what was the basic, vague outline of the project that was under consideration?

A. Well, it really wasn't even under

11:05 consideration. It was more inquiry. Major League Baseball came to us and identified us and San Bernardino as two primary locations. Actually they were looking at another piece of property, but the property was not rail accessible for the Metrolink. It

11:05 was not easily -- you could not get to it easy, and also the property was being considered for a soccer complex, and they brought this to me just out of the blue. Derrel Thomas lives in my district, and they know I'm a major league base -- major baseball fan and

11:06 so forth like that; so they wanted to discuss it.

There in the initial discussion, which happened over at the Yard House -- I can't recall the month, but I believe it may have been in January, maybe February -- that -- that's what they thought, but they

11:06 were having concerns, but the property manager for

11:06 major league baseball for the youth baseball facilities -- I believe there's one in Compton -- is from Riverside and wanted to have one in Riverside, not San Bernardino.

11:06 But San Bernardino, of course, they are very aggressive, and so I had suggested the 60 acres of property which we had, which was supposed to be developed into, like, a regional sports complex between us and the County, that they might want to look at this. And then on my iPad, I brought up the aerials from Google Maps. They liked it at that point in time. They wanted to get some more information on it. They were going to take this back to Major League Baseball, that division and have a chat to see if they had an interest. And that's how it all began.

11:07 It then mushroomed from there. They asked for a meeting with the City so I can really turn it over to the City.

[redacted] asked members of the city council -- or not city council but the City staff, would they attend this meeting to kind of discuss what the possibilities are and how it all works.

Prior to that, there was a meeting or discussion that I had with the City Manager as well as the Chamber of Commerce because this is a really big

11:07 event if we can pull it off.

Then this newspaper got wind. You know, we talked about this, and they wanted to know about it, and, you know, I let them know that this is all
11:07 preliminary, we are just kind of exploring possibilities of how this would work and the cost. And I made it very clear whenever I met with them -- certainly when the City staff met with them as well -- we have no money, and Major League Baseball doesn't
11:08 want any money. They are going to fund 100 percent of everything. They just need the dirt, and that's what they are looking for.

And, of course, this site was identified as the No. 1 site because of now Metrolink rail being
11:08 built for us right up the street. Alessandro was widened. It's in a perfect location. Some issues probably with some noise with some residents behind them. But they did the plot plan and everything else -- that they had put together quickly and showed
11:08 everyone else was quite intriguing. So -- and that's where it left. And it was in the hands really of City staff at that point in time because that's what they do. And we just, as far as myself [redacted] primarily through [redacted] we'll just monitor, Hey, what's going on?
11:08 And that's it.

11:08 **Q. [redacted] is [redacted]**

A. Yes.

Q. And her full name is?

A. [redacted].

11:08 **Q. Did you have any discussion with anyone about the preparation of an MOU for this project?**

A. No. What happened was is San Bernardino got wind, because the newspaper article, that we had a more superior site. And this is what was told me to me by 11:09 the consultants, and, of course, they started -- they threw out a bid before it was even asked for. And then, I guess, a few weeks later -- they didn't have a response -- they threw out a better bid than the first bid. So they started bidding against themselves to 11:09 really attract, you know, away from the No. 1 site, which at that point in time was the Orangecrest site.

But there was some discussion. When it was shared with me, I shared it with Scott, what happened on this whole business, and I can't recall if [redacted] 11:09 [redacted] was in the meeting or there was another meeting. But it was kind of laughable that they would bid against themselves because they wanted it that badly 'cause they knew the -- the money at steak here, the economic development money, was significant.

11:09 **Q. So did San Bernardino's interest in this -- in**

11:10 a competing project essentially kill this project?

A. No.

Q. So what's the status of the project now?

A. I have no idea. It's -- the issue is lack of
11:10 communication, and it's always been and always will be.

Q. And when you say "lack of communication," with whom, about what?

A. Scott Barber will not "communicate me" with -- on any subject ever since he's been here.

11:10 Q. Okay.

And is that one of the reasons you have a lack of confidence in his job performance?

A. That is one of them.

Q. Okay.

11:10 And let's just go into that now. Why do you have a -- why do you have a lack of confidence in Scott Barber's job performance as City Manager?

A. Well --

Q. All right. Let's go off the record.

11:10 (Pause.)

MR. GUMPORT: Back on the record.

Q. I am going to withdraw the question I asked because it does involve a personnel issue. Is that all right with you?

11:11 A. Yes, sir.

11:11 Q. Let's have this document, which consists of two pages and has a date February 18, 2014, on it marked as Exhibit A to this unsworn interview.

[EXH-A]

14:36 (Whereupon the document referred to is marked as Exhibit A for identification.)

BY MR. GUMPORT:

Q. And take your time. This is not a speed reading contest. My questions are going to be about

11:12 the paragraph on the first page of this document that begins with the words "60-acre sport park by MLB." But you're entitled to read the entire document and take your time on it. This is not a speed reading contest.

A. Okay.

11:13 Q. Have you seen this document, Exhibit A, before today?

A. I wrote it.

Q. And did you write it on or about February 18, 2014?

11:13 A. If that's the correct date on there, yes.

Q. And who is Dan Suarez?

A. He is the president of the HOA of Mission Grove -- or Mission Ranch.

Q. What is the HOA?

11:13 A. Homeowners association.

11:13 **Q. And is this paragraph that begins with the words "60-acre sport park by MLB," is that about the Major League Baseball project we have been --**

A. Yes.

11:13 **Q. -- discussing in this interview?**

Was a feasibility study being done in February 2014 about that facility?

A. I know the Major League Baseball was doing one.

11:13 **Q. Okay.**

Was anyone at the City doing such a study?

A. Not that I'm aware that they were completely doing when they were looking at...

In the meeting, they discussed the Major

11:14 League Baseball park -- with Major League Baseball, there's several staff members there, that they agreed to both look at the possibilities and see if it's feasible, and if it is feasible as far as how we would work -- the question really was: JPA owned the land.

11:14 Is it better for JPA to do the project if it's chosen, and would the JPA board members -- would they be interested in it at that point in time?

After that, I did discuss it with several of them. They were very interested. Then also with --

11:14 they wanted to see about the utilities because that's

11:14 the big issue. If you go with JPA, JPA only has Edison because that's serviced by Edison. Edison would not and will not relinquish any power poles to anybody. We've been there, done that. There just -- the greed
11:14 is pretty significant, and they're much more expensive than City of Riverside.

One of the things expressed to us at Major League Baseball, the consultants conveyed to us, is that this would be one of their first green facilities,
11:15 meaning use of solar; LED lighting; the fake grass, if you will; purple pipe from Western Municipal Water. And so we had -- in that meeting was discussed on all these issues as to, you know, even though Major League Baseball is providing all the infrastructure -- the
11:15 cost, money 100 percent -- they -- they made it very clear, all we are interested in is the dirt, because of the location of it was central to their mission, which was to serve the youth of all walks of life and income and to teach not only the youth but also softball, for
11:15 girls softball. And it draws from all of the Inland region all the way out to Palm Springs, maybe in as far as Blythe, out past Pomona, Covina and so forth, as opposed to now all of them have to go down to East Los Angeles.

11:16 So that's why the site, when they did their --

11:16 the geography on it, it was the ideal site on this second meeting; so they wanted to do a feasibility to see if they can get the folks who make the decision maker -- I can't recall his name -- but he is from
11:16 Riverside, as a matter of fact from my district and who wanted it in Riverside, and that was his ultimate goal -- to get his boots on the dirt -- on the ground to take a walk-through rather than just looking at pictures and so forth.

11:16 And as a result of that, that's what they were talking about as far as is it feasible? Can this happen? If it can happen, then how would it happen? What are the rules of engagement, if you will?

If JPA would have an interest and it was
11:16 discussed with Lori and how that would work. At that point in time -- there are a couple of emails; you probably found them -- we are asking, what's going on? We don't know. Because why? We step back, and my job is to do the introduction, economic development -- is
11:16 do the introduction. Let's see what happens now and make sure that the dialogue continues and so forth so that we don't have San Bernardino issue a third or fourth unbelievable bid to where they'll bend over backwards and importing anything they have to do to
11:17 make the project happen. You've really got to be

11:17 conscious of those things.

Q. Did Scott Barber ever get an order from you that he said he would not comply with?

A. In reference to the sports park?

11:17 **Q. First in reference to the sports park?**

A. No. I think in the sports park he was -- he made it very clear he's on board, and let's see what we can do and see if we can make this happen because it -- again Major League Baseball, my understanding, is a

11:17 $50 million investment for them. City of Riverside, zero. We get all the economic benefit with no outlay. You can't get a better investment than that. And we all understood, even the chamber understood that; so we were willing to take a listen to anything that anyone

11:18 had to provide to us and then also work within those scopes of how we can make this happen.

When it was discussed with Supervisor Kevin Jeffries, that was his thing. Well, is it better for us as JPA? Because he was in JPA and still is on JPA

11:18 and I'm only an alternate member -- and to work with the County as well because the County is involved with this -- to say, how we can get this in the City of Riverside, County of Riverside? Is it better with JPA, or is it better with the City of Riverside? And

11:18 because it comes down to the cost of the utilities.

11:18 Our utilities "is" so much less than Edison. And of course, we have better rebates on the solar they wanted as well as LED lighting placement and various other things.

11:18 Q. Let's have the following document marked as Exhibit B for identification. It has the date November 8, 2013, on the first page, and it consists of two pages. [EXH-B]

(Whereupon the document referred to is marked as 14:36 Exhibit B for identification.)

BY MR. GUMPORT:

Q. Councilmember Davis, again, this is not a speed reading contest; so tell me when you have had a chance to look at it. My question is going to be about 11:19 the very first paragraph at the top of the first page, but take your time and look at the entire document.

A. Okay.

Q. Is this a copy of an email that you sent on or about November 8, 2013?

11:19 A. I would have sent this email because you printed it out. Scott Barber, it looks like he printed it out.

Q. Do you see that the first sentence of the first email on this document refers to "I have serious 11:20 issues with your management," et cetera, et cetera?

11:20 A. Okay.

Q. Do you recall writing this email?

A. Yes.

Q. By this time, would it be accurate to state
11:20 that you had doubts about Scott Barber's job performance?

A. Yes.

Q. Okay.

And what had led you to have those doubts as
11:20 of November 8, 2013?

A. Well, I don't remember the exact conversation. It looks like parts of this email are missing. Well, this is in reference to [redacted] And it is a continuum, ongoing issue with the City of Riverside.

11:21 Q. Do you recall what those issues were?

A. Oh, it's pretty elongated.

Q. Was there something about the way Scott Barber and his assistant city mangers were handling employee matters that was causing you to have doubts about how
11:21 they were doing their job?

A. Well, yes. It's stated, "This is an evaluation" -- let's see here. It goes from bottom up. That's right. I forgot. They reverse this.

Let's see here. On November the 7th,
11:22 7:43 a.m., I sent a message out asking that the matter

11:22 of the [redacted] because there was a lot of code of ethics issues that were -- he's alleging and so forth, and then -- this issue is still ongoing. And it does -- it does include the City Attorney, and it's still ongoing right now. So I don't know how to answer your question because -- yeah. This is going to be a big issue for the City, and I really don't want to talk about that because of the fact that it is closed session issues and will be closed session issues; so I've got to make sure I'm real careful in what I say and how I respond to your question.

Q. Okay. Fair enough.

Let me ask you a slightly different question. There's a comment in the email at the top of the first page about "Otherwise, let's have this conversation in public view."

A. Yes.

Q. What were you intending to say by that statement?

A. It's really directed more toward [redacted]. They have a tendency to want to not air their dirty laundry as been quoted by at least one of them named on here.

Well, I disagree with you. Matters of public need to be carried out in public, and that is a matter

11:23 of fact. That's what we are hired to do, not to hold things in secret because we have a little dirty laundry that the public should not know. The public needs to know what their elected officials have been doing and 11:23 how they have been doing it.

To say we don't want to air our dirty laundry is not appropriate, and that's an issue. If they are saying that, gee, you can't have a discussion about the City Manager outside of an evaluation for the City 11:24 Manager, that's absurd. I can have any discussion I want with the City Manager in private and so forth and ask questions.

So the question was: In the matters in which this -- [redacted] has alleged between 11:24 the assistant manager, the City Manager and the City Attorney in the complaints that we just recently received, yeah, that needs to be discussed because it puts significant potential liability against the City and, of course, the citizens' fund, which we are sworn 11:24 to protect the citizens' funds.

Q. Sometimes what happens in an investigation is different people give different accounts of various events that have happened?

A. right.

11:24 **Q. And sometimes what I have to do is sort**

11:24 through the different accounts and figure out, well, is someone remembering something differently? Does somebody have an agenda or ax to grind or whatever?

I've asked you about discussions you had with [redacted]. And let's assume hypothetically that [redacted] has a different recollection of communications she had with you, and I'm not saying she did or she can't, but would she have any possible motivation that you can think of or reason for misperceiving or giving me a different account from you?

A. I don't know the answer to that question, and as far as I am concerned, [redacted] is a good person. You know, she's a squared away person. The people of Casa Blanca like her, and that's who I work for and so forth.

I don't know the answer to that question. I mean her -- we can talk about personal relationships, you know, but I don't know if that really plays into this particular discussion, and I don't know that we should even go into her personal relationship, not only with the City Manager but with the city manger's wife.

So having said that, why she is brought into this, I don't know at all because it's -- it's rather odd.

11:26 Q. Let me ask you the same question about [redacted] [redacted] Assume hypothetically he has a different recollection or has given me a different description --

A. Sure.

11:26 Q. -- of communications with you than you have given me.

Is there -- can you give me a possible reason as to why that may have occurred or would the answer basically be the same?

11:26 A. It would be the same. I have no idea. I think [redacted]s great. I think he is one of the extraordinary hires that the city manger has made.

Q. Let's go off the record for a second.

(Pause.)

11:27 MR. GUMPORT: Back on the record.

Q. Councilmember Davis, we are almost done with this interview.

I didn't give you a heads-up that I would ask you the next couple of questions, but I would

11:27 appreciate it if it's okay with you, if you can answer these questions, because they relate to the [redacted] matter that I am also handling. So let's see whether you are comfortable answering --

A. Sure.

11:28 Q. -- questions.

11:28 Has there ever been a vote, secret or public, to terminate the employment of Scott Barber?

A. No.

Q. Has there --

11:28 A. Not that I'm aware of.

Q. Okay.

Has there ever been a vote by the city council, public or private, recorded or unrecorded, to terminate the employment of [redacted]?

11:28 A. No. We would not have that ability anyway. Only the City Manager has that ability.

Q. Okay.

Shifting back to the last few questions I have --

11:28 A. Okay.

Q. -- with respect to this other investigation I'm handling. Did Scott Barber ever tell you that he would not perform a request that you had made to generate a report concerning the status of City

11:29 employees?

A. Did he not tell me directly?

Q. Directly.

A. This is in reference to a request that I made in the beginning for three-and-a-half years from our

11:29 human resources. I wanted to know, in preparation for

EXHIBIT E

11:29 my knowledge, because many people have asked, including the unions, what's going on with personnel because they're dropping like flies? And that was one of the statements used by one of the presidents of the unions.

11:29 And as I listened to employees -- I cannot direct them, but I can certainly inquire, how many employees have we lost or "is" no longer with us from 180 days -- I believe it was March -- to the end of the fis- -- the December 31 year, including those that we

11:29 know are going to be leaving for retirement or whatever?

And he took charge of that, and he -- I don't think he directly said in there -- I have to look at the actual email -- that he referred this to [redacted]

11:30 [redacted].

What [redacted] would have -- any reason why they would be involved, I still don't know. Under the Labor Code under the state of California, that is public information, and a public

11:30 records request has been requested, and it has been denied.

As a matter of fact, we are going to have a conversation -- we were going to have a conversation last week, but some other things happened.

11:30 It was related to me, first of all, that [redacted]

11:30 [redacted] himself directed Scott Barber not to provide that, which is in violation of the charter. He has no authority under any circumstances to direct an employee to do anything. He is a -- employee of the city
11:30 council, the seven of us; so even [redacted] cannot prohibit, in which he has attempted to do, for that information. Why? It was directly stated to me, "because you are going to use it against Scott Barber.

Well, as one of the seven, you know, if that
11:31 information is significant, we will discuss it in closed session because it would be -- the natural questions would be why are we having a 52 percent turnover in human resources? Why are we having a 39 percent churn rate for senior management or any
11:31 manager?

You probably manage in your firm. You want to know, well, why are we losing these employees?

As been reported to me different stories from actual heads of the unions. Well, I don't know any of
11:31 this business. Okay. I am going to inquire, okay. How many have we lost? And they denied that information, and the mayor specifically spoke those words, which now places him as a subject of one of these investigations.

11:31 So having said that -- yes, that that

EXHIBIT E

11:31 happened -- I can't recall the email -- you might even have the email, and I thought we might talk about this today -- that where it specifically said that, I referred this to [redacted] or
11:31 something of that message.

My response to him is: Why are you continuously -- and it's in there, and it goes to show the point that this is not something that's just all of a sudden. He will not communicate with me. If he has
11:32 a problem with me, you pick up the phone and you call me and you say, hey, what are you looking for? What's going on? And I would have told him; yet he will not do it and has not been doing it the entire time he has been here.

11:32 There was a major incident that just occurred with park lands. He has been negotiating in my district with another member of the council for months I had no idea. It's in my district. That is absolutely against the normal protocols within a
11:32 council district-type of environment. You don't come to my district and say, I'm going to give my parklands away, and you are not even going to know.

You know, don't you think that the 50,000 residents that I represent are going to have a cow?
11:32 You better believe it, and they are now learning about

11:32 this, and they are none happy. This is the type of lack of communication that I have been experiencing since the entire time he has been here. I have multiple example after example after example. And I
11:33 have asked him, why don't you communicate with me? And he doesn't.

Q. Has he given you an explanation?

A. No. He just chooses not to.

Q. Just for the record, I am going to ask you
11:33 whether some of the documents I have here are the emails --

A. Sure.

Q. -- that --

A. Right.

11:33 Q. -- you've referenced.

Please mark the following document as Exhibit C for identification. It's got the date March 24, 2014, on it. [EXH-C]

(Whereupon the document referred to is marked as
14:36 Exhibit C for identification.)

BY MR. GUMPORT:

Q. Is Exhibit C an email that you sent on or about March 24, 2014?

A. Yes, it is.

11:33 Q. Okay.

EXHIBIT E

11:33 And is this one of the emails that you were referring to concerning having difficulty getting information from the City Manager?

A. Yes. And it is incomplete.

11:34 Q. Okay.

And please mark the following document as Exhibit D for identification. It's got the date March 20th, 2014, on the first page and consists of two pages. [EXH-D]

14:36 (Whereupon the document referred to is marked as Exhibit D for identification.)

BY MR. GUMPORT:

Q. Is Exhibit D an email you sent on March 20th, 2014?

11:34 A. Yes.

Q. And is this another email relating to the difficulty of getting information from Scott Barber?

A. Yes.

Q. Is this one incomplete?

11:34 A. Yes, it is.

Q. And --

A. It's not the entire stream.

Q. Okay.

And please mark the following document Exhibit

11:34 E for identification. It's got the date of March 28,

11:34 2014, and it consists of one page. [EXH-E]

(Whereupon the document referred to is marked as Exhibit E for identification.)

THE WITNESS: And this one I also sent. And I

11:35 will read it for the record.

(As read:) I will not be present for the April 1st meeting and want to be present for the discussion of my request. [redacted] is aware but doesn't have any involvement. Not sure why you would have a discussion

11:35 with either he or she -- or any other members on my simple request is really not up for debate. This is a -- this is public information and needs to be provided as soon as possible. Very concerned over this continual action you take when I ask for important

11:35 evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews

11:35 of those departing. Thank you for your anticipated cooperation on this and other issues.

Q. And that's Exhibit E:correct?

A. I believe that's what you called it.

Q. Yeah. Let's go off the record for a second.

11:36 MR. GUMPORT: Off the record.

EXHIBIT E

11:36 (Pause.)

MR. GUMPORT: Back on the record.

Q. Councilmember Davis, one of my jobs as the investigator is to understand the various perspectives
11:42 of the people that I interview.

Obviously, you are the subject of this investigation that I'm conducting. I'd like to ask you kind of an open-ended question which is: Is there some perspective that you are willing to share with me on
11:42 the record as to how I should regard how this came -- how this investigation came about?

A. Well, I can tell you -- and this is my personal and professional opinion -- it's completely retaliation for not only my activities prior to
11:43 becoming a member of the council and as a member of the council. It's been going on for five years and not only has it been going on for five years, it was subject to a ridiculous investigation back in December of -- or correction 2012 over a fire extinguisher. And
11:43 so they wanted to -- and driven by [redacted] and also [redacted] -- and where this is coming from now.

Scott Barber does not like to be held accountable. He does not like to be criticized. He can never and has never been able to handle it, and,
11:43 therefore, it's a top-down situation.

11:43 You had mentioned a complete statement against [redacted] from [redacted] and another member of his department for being criticized in public. Really? This is what this is all about.

11:44 Unfortunately, our city has gone down the wrong path. It has been driven certainly by two electeds and two appointeds.

Until the City changes and is willing to accept the change, it's going to continue to go down

11:44 that hard and long path, and it's going to destroy the City beyond what they have already done.

The public is not accepting this well at all, and they didn't accept -- the first one didn't work out very well for them either; so they think that this

11:44 third one -- or the second one against me -- in this alleged third one, which apparently has gone away -- they are just going to make up whatever they can. They change the rules in the middle of the game to be able to address what they want to happen.

11:44 And I'm an elected official. I absolutely agree anything I say and do is a matter of public record, and I will hold up to it. If I make a mistake, I'll own it and have done it before on the dais. I made a mistake. I should not have said or backed this

11:45 or done that. I didn't have enough information. And

11:45 I'm the one who is going to own it.

Do you see other members of the council in my five years do it? Never. It's not once happened. Do we make mistakes? You better believe we do. We are 11:45 not perfect. Absolutely. But it's about accountability. You have to be held accountable. And this is what this is all about is do not hold me accountable, certainly not publicly. Because why? Because it makes the City look bad.

11:45 Well, we are here to get the job done on behalf of the people. Sometimes you are going to have a little problem with that. We talk about innovation. Innovation, there's going to come errors. You just own the errors and learn from them and move on. To go 11:45 through this is not good.

Q. Did Scott Barber ever -- let me go off the record for a second because I have a question.

(Pause.)

MR. GUMPORT: Back on the record.

11:46 **Q. Councilmember Davis, did you ever have a disagreement with Scott Barber concerning the removal of red light cameras from traffic lights in your ward?**

A. Yes. It's actually not so much as a disagreement. It was a discussion. The discussion was 11:47 whether or not the accuracy of the lights being present

EXHIBIT E

11:47 actually changed behaviors, and there was one at Wood and Van Buren that they wanted to maintain; however, the number of accidents have actually increased, and the number of issues have actually increased since it's been installed.

My request of him -- and I asked him, why don't we remove this camera and do a two-year study -- it was two years; this is a couple of years ago -- a two-year study and see if it really does change behavior and have issues?

His response to me was, I'm not going to let you push me around like Frank Schiavone did, and I'm not going to tolerate it; so I'm not going to do anything you ask me to do.

And this is after the meeting. If that isn't insubordination, I don't know what it is. First of all, to compare me to my predecessor, because I don't know what Frank did with him -- I have no idea -- that is just unbelievable that he would make that statement, and that's the type of things he's been doing since he has been the City Manager, at least to me. I can't speak to the others. And then we can go on with additional examples.

For example, let me tell you about this: On May 15th, when this investigation actually was started,

11:48 I pulled in my office -- you and I had a conversation, which I have no idea what I was there for.

Do you remember that conversation?

Q. I remember that conversation.

11:48 A. Right. Out of no disrespect for you, I was upset because I do not like to be blindsighted, and we have warned him against this -- not to do that -- because he has done this many, many times, at least to me, and I know he has done it to other members of the

11:48 council.

In four months exactly, they hired -- [redacted] went out and hired on their own a consultant company to do a strategic plan of why we are not getting along, the members of the council.

11:48 I can tell you why we aren't getting along, but that's a different story, but, you know -- and so they authorized $16,500, and [redacted] signed the contract without the council's knowledge and approval. They have no authority to direct the City Manager to do

11:49 such a thing with -- outside of the appropriations of the full city council to do so. They made that very clear when I was using my funds, when I chose not to have staff, to, you know, support the nonprofit organizations that were defunded because they were

11:49 budget issues. We are not allowing you to do that. We

11:49 don't want this to happen. You cannot do it; yet they went ahead and did it and appropriated monies without the authority to do so.

When I came back after years, I asked Scott to
11:49 come into my office. I said, hey, look, Scott, I do not like to be pigeonholed. I've warned you in the past. Don't do this stuff. Inform us. What's going on?

I thought I was meeting with those folks that
11:49 had the talk about the kumbaya strategic plan, as I call it. I didn't know anything -- I know out of closed session [redacted] told me [redacted], which they were not permitted to do, but irregardless of that, and
11:50 on my calendar, it only said "consultant."

All right. So I thought, you know, you were set up. That's why I asked you, do I sit next to you? I thought you were the psychologist.

Q. You thought I was somebody else?

11:50 **A. Yes.**

And then when you had informed me, it upset me again, you know, that I was uninformed, that I had no idea. I was really -- kind of odd that [redacted], was leading me into
11:50 this room. Why she's involved in this or even he is

11:50 involved in this, I have no idea. He does not understand what his role as the mayor is, and he violates that quite often.

However, having said that, I pulled Scott in the office, and I told him, I do not like to be pigeonholed. At that point in time, I told him -- that's the definitive time. Now I know the definitive time. I've never really, you know, sat down and said, you know, Scott, it's time for you to go. I've had enough.

His response to me was -- and I quote -- "I don't like your behavior, and I'm not going to let you get away from this" and stormed out of my office.

Within days, we have this allegation. Within days, we have the second allegation of me listening to a tape. It was the most ridiculous thing in the world, creating significant liability for the City because, as I said in the paper, "I will not turn the cheek a second time." So will it end here? No, it will not.

Q. Was there ever any check payable to an organization called IRC, or International Relations Committee, where Scott Barber caused the City to stop payment on it?

A. I don't have any idea. I know that there was an issue when Scott -- this was one of his first acts

11:51 to -- lack of communication that came up that said that because I was giving away funds -- my wife is the president of the International -- or Asian Pacific Culture Association. She is the president of that
11:52 nonprofit. And I gave her, through the city manger's authority, some money out of my staff funds because I chose not to take staff and to help with the police organizations and various other youth organizations that were defunded, and of course, it was struggling
11:52 back in 2010. It was really bad, and the economy wasn't good, and it was one of the first things he did to come on board as the official City Manager, not as the interim that he was, was to bring this to the City Manager or to [redacted] at the time -- it
11:52 was -- I don't know who it was, but [redacted] ended up getting involved, and then [redacted] and, of course, [redacted] and they wanted to charge me with 1090 or some code or Government Code. I had no idea what it was. I do now. Well, you cannot give public
11:52 funds to a spouse. Well, she was with the International Relations Council. And as that, she was directed by them to go out and expend funds, and then they got reimbursed, but because they got this money, you know, they are saying she was not allowed to get
11:53 reimbursed for her funds, but it didn't turn out that

11:53 way for them.

You know, I got the Attorney General involved and the District Attorney involved. I went to them. I said, hey, look, I don't know what this is. Here's
11:53 what they got. What do you think? That all went away, that charge. I don't know what happened. It just kind of faded out and was done with.

Then, you know, rather than Scott coming to me and saying, I'm not sure what's going on with you here
11:53 and the former City Manager with the funds for your staff and how it was being used. He just went off the deep end, and hey, he's doing something illegal. And again, back to communication. It would have been explained, as I explained not only to my colleagues.
11:54 Well, they didn't like it, and they made it very clear coming back to the hearing of the strategic plan person, that we do not do that under the city manger's authority anymore. And we put it to rest. We took a vote publicly put it to rest. It was done.
11:54 Made it very clear nobody can do that.

Yet now [redacted] and now [redacted] and [redacted] actually did it without the city council's knowledge and approval. They said they sent an email -- I never got it -- and
11:54 so forth. But then to send an email is not giving you

EXHIBIT E

11:54 authority to appropriate funds; so it comes back to that accountability, and it comes down to communication.

Certain people seem to have more ability to do
11:54 things than others. As the manager, as well as [redacted], has clearly said, we work for majority of the city council. We don't work for you because I'm not the majority.

And, therefore, in my professional opinion,
11:54 they actually work against the minority. I have no relationship with [redacted] at all. And he makes sure that that's the case and so forth.

And why? Because of my testimony against him as well as the former City Manager in a federal case
11:55 with Rochelle Sterling.

This has a lot to do with the retaliation because I spoke exactly -- what was going to happen right after I got off that stand? I'd talk about the City, being the council and those two individuals,
11:55 retaliating not only against employees but anyone that they can if you don't do or say what they want you to do or say.

Q. When you say "two individuals," who --

A. The City Manager and [redacted]

11:55 Q. Councilmember Davis, I don't have any further

EXHIBIT E

11:55 questions for you. And but I always like to end -- I would like --let me rephrase this.

I would like to end the interview by saying, is there something else that I haven't asked you about

11:55 that you would like to say to me on the record?

A. I'll probably think of something after I leave, but that's kind of too late; so I think we are good. Thank you.

MR. GUMPORT: Okay. Thank you very much for your

11:56 time.

The way the transcript will be handled is the following:

The transcript will be sent to Councilmember Davis or to Mr. Pots? Which do you prefer?

11:56 THE WITNESS: both.

MR. GUMPORT: The original.

MR. POTTS: Send the original to me.

MR. GUMPORT: Right.

And I will get a certified copy. And it will

11:56 bear the markings of confidentiality and privilege that we discussed at the beginning.

You have no obligation to sign, review or correct the transcript, but if you choose to do so, if you would promptly notify me --

11:56 THE WITNESS: Very well.

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11:56 MR. GUMPORT: -- of any changes and make them however, you deem appropriate.

I'm going to ask for the transcript to be expedited so I get it within a week.

11:56 And if there's something that you decide should also be told to me, you can have it transmitted in writing via Mr. Potts or whatever.

That concludes this voluntary interview. I appreciate very much your taking the time to give me

11:57 this interview.

THE WITNESS: Thank you.

(The proceedings concluded at 11:57 p.m.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____,

California, on _____.

_____

PAUL DAVIS

STATE OF CALIFORNIA) ss

I, Kathrynne Campos-Gil, do hereby declare:

That the above foregoing _____
( ) pages contain a full, true and correct transcription of the proceedings.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand this Day day of Month , Year .

_____
Kathrynne J. Campos-Gil, CSR #7779,
CERTIFIED SHORTHAND REPORTER

Unknown

EXHIBIT A
REPORTER K. GI
DEPONENT P. Davis
DATE 5/29/14

From: Davis, Paul
Sent: Tuesday, February 18, 2014 3:05 PM
To: Dan Suarez; Council Member Paul Davis
Cc: [redacted]
Subject: RE: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Dan,

Would be a great thing to get John's Agent out, he has been a bit resistant since his and my last conversation. Target pulled out of the deal and now they want to introduce WalMart in to that location. I told him no way and Jay Harvey and I had a tough conversation. Still working on this. May need the community to come out in numbers and vocally disapprove of such a move.

Mission Ranch Park - Purchased the land about 1.3 years ago on Lurin and Dauchy. However, we do not have the money to build it. Proposed new housing is starting to work its way through the Planning part, and am in the hopes that the park fees collected, can help out with building it.

Lyon Homes is one of the housing developments proposed, yet we are still waiting for many portions of the plans to come back in for review. I am really concerned with the lot sizes they propose and of course, traffic.

60 Acre sport park by MLB. We are in the very preliminary stages, where both sides are doing feasibility studies. Should have something back in a few weeks. If everyone has an understanding to move forward, we will then begin the discussions with JPA to transfer the lands to the City. During that time, we will begin drafting an MOU with MLB. Basically, they will build and maintain the facility and we just lease the land to them. This is part of their Urban Youth Academy. Here is a link to learn more about it: http://mlb.mlb.com/community/uya.jsp

Hope this helps

Paul Davis
Council Member - Ward 4
City of Riverside

From: Dan Suarez [dansuarez951@yahoo.com]
Sent: Monday, February 17, 2014 6:24 PM
To: Council Member Paul Davis
Cc: Davis, Paul
Subject: Re: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Hello Paul,

I was unable to attend your meeting the other day. I was hoping you could update me on the latest on the following:

Glass Ranch Marketplace- the last we spoke you were going to ask the Glass Ranch rep his schedule so we can set up a Special meeting so they can update us on the latest of the development. what is the latest you've heard?

60 Acre Sports Park at Grove - what is the status on this? Is this part of the park plan that came with the settlement with the Meridian Business Park years ago?

Mission Ranch Park - last I heard the land was purchased but no funds to build. Is this still the case?

William Lyon Homes in Mission Ranch - can you provide me any news on this?

Thanks for your time,

Dan

Sent from Yahoo! Mail for Windows 8

From: Council Member Paul Davis<pauldavisward4@aol.com>
Sent: Tue, Feb 11, 2014 at 7:01 PM
To: Dan Suarez <dansuarez951@yahoo.com>
Subject: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Hi Dan
Just a reminder that we will be having our February 2014 Ward 4 Community Meeting on Thursday, February, 13, 2014. Held at the Orange Terrace Community Center starting at 6:30pm. This meeting we will be discussing the following:
Open Community Concerns and Discussion
Ward 4 Business Development and CommunityUpdate
Water Issues - Drought Concerns - What does it mean to you and our Water Bills with Western Municipal
Proposed Sister City Relationship with Can Tho, Vietnam
Recent Gless Ranch Development and Concerns - Things You need to know
Upcoming Road Resurfacing Projects
Private Security at our Parks? - Thoughts and Opinions / Council Action
Update on Street Sweeping Parking Enforcement Program - What Does this Mean
Potential 60 AcreSports Complex and A-AAA Minor League Stadium Behind Grove
Upcoming Council Policy Issues - Your opinions and comments
Orange Terrace Park Advisory Committee Formation
Selection of a New Parks & Recreation Director

Thanks in advance for your attendance and participation, your voice on all matters is very important to me. As always, if you or your neighbors need to contact me, I can be reached at [redacted] or [redacted] at Office: [redacted] Cell: [redacted]
My emails are: pauldavisward4@aol.com or pdavis@riversideca.gov
Nota's email is [redacted]@riversideca.gov. We are here to serve you in any way we can.
Thank you for the opportunity to be your Council Representative.
Paul Davis
Council Member - Ward 4
City of Riverside

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No virus found in this message.
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EXHIBIT B
REPORTER R. Gil
DEPONENT P. Davis
DATE 5/25/14

Barber, Scott

From: Davis, Paul
Sent: Friday, November 08, 2013 9:15 AM
To: Barber, Scott; [redacted]
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Than let's set this as an evaluation for you and the CA, as I have serious issues with your management and how you and your [redacted] are handling employee matters. If either of the other two would like to talk about it, they can contact me. Otherwise let's have this conversation in public view.

Paul Davis
Council Member - Ward 4
City of Riverside

-------- Original message --------
From: "Barber, Scott"
Date: 11/08/2013 9:04 AM (GMT-08:00)
To: "Davis, Paul"
Cc: [redacted]
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Councilmember:
I attempted to call you last night in this [redacted] however we never had a chance to speak. I did review your request to set this for closed session [redacted] both of them agreed to schedule an update on the litigation between [redacted] and the City, however they [redacted] review the Code of Ethics questions raised by [redacted] as those will most likely be coming to the Council on appeal at some point, and since they are not a part of the litigation, they don't constitute a subject that we can really discuss in closed session (similar to the Aquino matter). I have spoken with the [redacted] who is including a litigation update on the closed session agenda for 11/19/13.

Please let me know if you have any questions in this regard.
Scott

-----Original Message-----
From: Davis, Paul
Sent: Thursday, November 07, 2013 7:43 AM
To: Barber, Scott
[redacted]
Subject: Re: October 22, 2013 City Council Meeting - response to City Attorney comments

Please set this for a close session discussion at our next meeting. I have issues with how this has been handled and based on the information provided and my own legal council advice, the complainant appears to have good standing. I believe that an outside independent investigator may be warranted in this matter.

Paul Davis
Council Member - Ward 4
City of Riverside

> On Nov 6, 2013, at 10:57 PM, "J Hunter" <jchunter51@msn.com> wrote:
>
> Gentlemen,

1

EXHIBIT E

>
> At the City Council meeting of October 22, 2013, during the public comment period I spoke towards the recommendation by Mayor Bailey (agenda item 36, posted on the consent calendar) to consolidate the Code of Ethics and Conduct complaints I filed with the City Clerk on September 9, 2013. I took two exceptions to his Memorandum that accompanied Resolution No 22590.
>
> The following sentence I found extremely worrisome, "Pursuant to the
> Employer-Employee Relations Resolution, the Human Resources Board acted on the grievance and submitted findings and conclusions together with its recommendations to the City Manager."
>
> I commented that the Employer-Employee Relation Resolution referred to, known perhaps as Resolution No. 15079 of 1983, clearly did not cover Managerial employees, who do not participate in Recognized Employee Organizations. I made it known that the City did not have a Council-approved policy for handling these grievances. I also commented that the City Charter, per Section 807, unequivocally states that the Human Resources Board acts in an advisory capacity to the City Council on matters concerning personnel administration.
>
> Councilman Melendrez asked City Attorney Priamos to address my concerns. Mr. Priamos contested both issues. I attach both Resolution No, 15079 and City Charter Section 807 for your perusal. I have also included a pdf version of the City's website listing all Recognized Employee Organizations, such as the SEIU, RPOA, et al.
>
> Please refer to Article I, Section 2, of Resolution No. 15079, entitled, "Statement of Purpose":
> "This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (section 3500 et. seq.) captioned 'Local Public Employee Organizations' by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations."
>
> If there is any doubt to the subject dealt with within Resolution No, 15079, Section 2 elaborates:
> "It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations..."
>
> Section 807 of the Riverside City Charter states:
> "There shall be a Human Resources Board, which shall have the power and duty to:
> (b) Act in an advisory capacity to the City Council on matters concerning personnel administration."
>
> That our City Attorney would make such misleading statements to the Council on the record during a public hearing is quite disheartening, and certainly raises one question his understanding our our local rules, which I hope you find (similar to me) are quite simply, indisputable. I also remind the Council at this time, that subject of my Writ of Mandamus filed with the Riverside Superior Court on August 21, 2013, which has previously been provided to you, I contend that Mr. Priamos also made materially misleading statements regarding our local rules to the Human Resources Board (a hearing that was also videotaped) at my grievance hearing on May 13, 2013. Coming full circle, those misleading statements would guide the Board towards violating my rights under classified service...setting in motion both the Writ against the City and the Ethics Complaint against the individual Board members.
>
> That I was dragged through an illegitimate, illegal, kangaroo court process pre-destined to demote and terminate me from my employment with the City of Riverside because of personal vendettas and whistleblower complaints is offensive, and your silence on my missives to date speak volumes towards your complicity in the matters at hand. It also makes me wonder how many previous employees have been subjected to similar retaliation and harassment, and whether a class action suit might not be your preferred alternative towards settling our differences - which I might suggest, again, could be more efficiently solved by opening the lines of communication.
>
> I remain hopeful the Council will recognize the needless waste of taxpayer dollars defending decisions and a process that are simply indefensible, and do the right thing. I call for an immediate independent investigation into the handling of my illegal demotion and termination by executives within the City Attorney's Office, the Human Resources Department, the City Manager's Office, the Riverside Fire Department (namely, Chief Steve Ebner), and Riverside Public Utilities.
>
> Sincerely,
> Jason Hunter
> <Resolution-15079.pdf>
> <COR Rec Emp Orgs.pdf>
> <COR Charter Article VIII.pdf>

EXHIBIT E

EXHIBIT C
REPORTER K. Gil
DEPONENT P. Davis
DATE 5/29/14

Unknown

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this with ~~Rusty~~, while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:33 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with [redacted] who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or on April 8th. If you have any questions in this regard, I would ask you to direct them to either [redacted].
> Thank you,
> Scott

From: Davis, Paul
Sent: Thursday, March 20, 2014 6:19 PM
To: [redacted]
Cc: Barber, Scott; [redacted]
Subject: Re: Employee Info

Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?

Thank you all in advance for your anticipated cooperation.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 20, 2014, at 5:38 PM, "[redacted]" [redacted]@riversideca.gov> wrote:

> Hi Paul,

EXHIBIT E

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,



[redacted]@riversideca.gov

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From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

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EXHIBIT D
REPORTER K.G.I
DEPONENT P. Davis
DATE 5/29/14

Unknown

From: Davis, Paul
Sent: Thursday, March 20, 2014 6:19 PM
To: [redacted]
Cc: Barber, Scott; [redacted]
Subject: Re: Employee Info

Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?

Thank you all in advance for your anticipated cooperation.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 20, 2014, at 5:38 PM, [redacted]@riversideca.gov> wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

[redacted]

~~Rhonda~~

[redacted]@riversideca.gov

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From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

EXHIBIT E

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

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EXHIBIT E
REPORTER K.G.T
DEPONENT P. Davis
DATE 5/29/14

Barber, Scott

From: Davis, Paul
Sent: Friday, March 28, 2014 4:24 PM
To: [redacted]
Cc: [redacted]
Subject: Request for Employee Stats

Follow Up Flag: Flag for follow up
Flag Status: Completed

Scott,

I will not be present for the April 1 meeting, and want to be present for the discussion of my request. [redacted] is aware, but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT F

HUTCHINGS Litigation SERVICES

ORIGINAL

CITY OF RIVERSIDE

INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW

OF

[redacted]

CONFIDENTIAL INTERVIEW OF [redacted], a witness herein, noticed by Gumport Mastan, taken at 3901 Orange Street, Riverside, California at 10:10 a.m., Wednesday, April 30, 2014, before Deborah Troiano, CSR 7990, RPR, RMR.

Hutchings Number 505284

APPEARANCES OF COUNSEL:

GUMPORT MASTAN
BY LEONARD L. GUMPORT
550 South Hope Street, Suite 825
Los Angeles, California 90071-2627

I N D E X

WITNESS: [redacted]

EXAMINATION BY:	PAGE
MR. GUMPORT	4

[redacted],

a witness herein, testifies as follows:

-EXAMINATION-

BY MR. GUMPORT:

Q. **Please state your name.**

A. [redacted].

Q. **Please spell that.**

A. Okay. [redacted], last name [redacted]

Q. **What is your position with the City of Riverside?**

A. I'm [redacted]

Q. **And how long have you held that position?**

A. About three years.

10:11 Q. [redacted] **I'm Leonard Gumport. I'm with the Law Firm of Gumport Mastan. I've been hired by the City of Riverside to do an internal investigation. First, I want to thank you for coming here voluntarily to give an interview. Second, I want to thank you for permitting the interview to be transcribed. And I want to state the ground rules that I propose to apply in conducting this interview. First, we are only going to stay on the record for so long as you're willing to remain on the record. At any time you can indicate to me that you want to go off the record by a hand gesture or whatever, and I'm directing the court reporter that the**

10:12 transcript is not to reflect that you made some kind of signal that you want to go off the record. So even the fact that you wanted to go off the record and thereby went off the record isn't going to be reflected in the transcript. Do you understand that?

A. Yes, I do.

Q. My only client is the City of Riverside. I am not your lawyer. So there might at some point be a time in the interview where you think to yourself, say, hey, this guy, Mr. Gumport is not my lawyer. I'm a little uncomfortable. I want to seek legal advice. That would be a reason not only to go off the record but just to stop the interview. And you're free to stop the interview or go off the record at any time. Do you understand that?

10:13 A. Yes, I do.

Q. Because the City of Riverside is my only client in this matter, they control whether or not the transcript of your interview is going to remain confidential. I will treat the transcript as confidential and privileged, but ultimately, it's my client, the city, who determines whether or not to waive any attorney/client privilege or confidentiality that may attach to that transcript. So I can't promise you, I cannot promise you that the transcript will remain confidential and privileged. Do you understand that?

A. Yes, I do.

10:13 Q. You will get a copy of the transcript and you will be free to make any changes, edits or corrections. And if you make changes, edits or corrections and send them to me, I will make sure that the transcript I provide to the city reflects those corrections and changes. Do you understand that?

A. Yes, I do.

Q. You're not under oath. But one of the reasons for having the court reporter here is so that what you say is accurately transcribed. The other reason for having a court reporter here is it allows me to filter out things that people tell me from things they're willing to tell me on the record with the court reporter here and things that they're not willing to tell me with or without a court reporter here. If people are not willing to say things on the record, my

10:14 method in this investigation will be not to rely on things that people are not willing to have transcribed. That allows the city to see what I relied on and in the person's own words. And it also allows me to say to people who may want to suggest that I look at rumors and innuendo and thirdhand things that they're not willing to have transcribed to say I'm just not going to rely on that, it's not reliable enough. Do you understand all of that?

A. Yes.

Q. Okay. Now, let's get into the substance of the interview. Have you had any discussions with someone named ~~Al~~

10:15 [redacted] about the status of annexing land from the March JPA?

A. Yes, I have.

Q. How many discussions have you had?

A. Two to three perhaps.

Q. And before I get into the subject matter of that discussion, one other caution I want to give you is that when I ask you questions about someone, that doesn't mean they did anything bad. So when names come up in this interview, please don't draw inference, oh, that person must have done something bad, otherwise, Mr. Gumport wouldn't have been asking about him or her. That's not the case; understood?

A. Yes.

Q. Okay. When did these discussions with [redacted] take place?

10:16 A. I would say two to four weeks ago.

Q. And were these face-to-face discussions or telephone discussions?

A. Face-to-face, some e-mail exchanges. And I am not sure if we spoke on the phone or not.

Q. How many face-to-face discussions were there with him?

A. Two perhaps.

Q. And in about what month did those discussions take place?

A. I think in April.

10:17 **Q. Of 2014?**

A. Yes.

Q. Was anyone else present in those face-to-face discussions?

A. I don't think so.

Q. Where did those discussions take place?

A. I think they happened in my office, although we may have spoken about it when we were at Leadership Riverside, which is at the Fresh & Easy campus on East Ridge.

Q. Was that in a different time period?

A. No. -Most of them in the last month.

Q. Tell me what was discussed between you and [redacted] at these face-to-face meetings that happened in or about April 2014 on the subject of annexing property from the

10:18 **March JPA?**

A. [redacted] relayed that Councilmember Davis had asked him a question about annexing and why we should annex and [redacted] was asking me for direction on composing his response to Councilman Davis. And so I asked [redacted] to detail what the annexation procedure was. And then I know there was some e-mail exchange back and forth as he provided it and I had some questions, he added some additional detail, and then we had -- I think that's the conversation that happened at Leadership Riverside, a conversation about okay, is it ready to go, but then he was going to be out of the office. So I

10:18 told him well, let me just run it by Scott and I will let you know who will respond. And then ultimately I did send the e-mail to Councilman Davis outlining what the procedure was.

Q. Did [redacted] tell you what kind of direction, if any, he had received from Councilmember Davis concerning this?

A. Yes. Although when I initially heard about it, it wasn't [redacted] and I speaking directly to [redacted] is the one that had the conversation with [redacted], and then I spoke with [redacted] and [redacted] spoke with [redacted]. So it was like a three-way conversation. But through that conversation and the subsequent conversations directly with [redacted] that I was told that Councilman Davis came across as demanding that [redacted] annex the property and that some profanity was used in the way those demands were expressed in the phone conversation between [redacted]

10:19 and Councilman Davis, and it made [redacted] very uncomfortable with the direction he was receiving and the manner in which it was delivered.

Q. And did [redacted] tell you that or is this coming from [redacted]

A. [redacted] told me that he felt it was inappropriate, the language that was used and the direction that he was getting from Councilman Davis. [redacted] was more of oh, [redacted] got this question, he wants to know how to respond. But I didn't hear about the details of it except through [redacted]

Q. And when you got the details from [redacted] was

10:20 [redacted] correct?

A. Uh-huh.

Q. That's a yes?

A. Yes.

Q. Was [redacted] present?

A. No. I don't think so.

Q. Did [redacted] give you this information about the direction he received in both face-to-face meetings he had with you or just one of them?

A. I don't recall. I don't recall if it came up in both. Definitely the first one. I don't know if the second one was more talking about the response, and if he referred back to the way the request was delivered.

Q. So let's go to the first face-to-face meeting.

10:21 **It's between you and [redacted]. My understanding is your recollection is that happened in April 2014, correct?**

A. Yes.

Q. And where do you think that meeting happened?

A. In my office.

Q. And no one was present except you [redacted]

A. As far as I recall.

Q. And as best you can recall, what words did [redacted] use of the direction, if any, that he had received about annexing the March JPA property?

A. Well, he had received a phone call from Councilman

10:21 Davis. He said he did not like the tone of the phone call or the specific words that were used. He referenced profanity. He did not tell me what words were used. But he basically portrayed it as he was very uncomfortable getting that phone call and the way that the message was delivered.

Q. And was the message that [redacted] was to do something specifically; is that right?

A. Right. My recollection is that Councilman Davis was mad at [redacted] for not having already done something and said I want it done now. And I think in that conversation [redacted] said that he also referred to Scott Barber as -- and Scott Barber's not going to stop me from getting what I want or something along those lines.

Q. On the subject of Scott Barber, [redacted], in

10:22 **this first meeting, say anything else about what Councilmember Davis had said about Scott Barber?**

A. I don't recall other than it was clear that Councilman Davis had said negative things about Scott's involvement in the matter. But I don't really recall if it was more so than Scott is not going to stop me, Scott is not going to get involved, something along those lines.

Q. Are you aware of any other situation that you've been involved in where a councilmember has given a direction to someone under the city manager to do something and said allegedly the city manager isn't going to stop me from getting

10:23 **what I want?**

A. No. I've had instances where councilmembers will ask staff to do something, but never in a manner of don't involve the city manager or it doesn't matter what the city manager, they've always been very deferential with regard to the city manager because it's been our practice that if department heads or staff get direction directly from the councilmember, that they're to respond let me check with the city manager, and not necessarily take that direction. And that's been our policy. And I've never heard of a councilmember responding with oh, no, I am not going to listen to the city manager in this. They're always very deferential and oh, of course, talk to the city manager or I will go talk to the city manager.

10:24 **Q. Did you [redacted] in this first meeting, have any discussion about why Councilman Davis was taking this approach?**

A. I don't recall. This incident came up as part of a series of discussions starting with a meeting that was held probably two, two and a half months ago about a project. And I know that I referred to [redacted], told [redacted], well, I've had a couple conversations or meetings with Councilman Davis about this project and he never mentioned to me, annexing to me, in those meetings, that I was surprised that he would be suddenly calling [redacted] about the annexation when it hadn't come up

10:25 previously.

Q. So let me be sure I'm understanding this. In February and March 2014, you had meetings with Councilman Davis on the subject of annexing property from March JPA; is that right?

A. Councilman Davis organized a meeting with a number of city staff and an outside group that was interested in doing a project within the March JPA which would be a baseball field project. In that meeting, we pointed out that it's in the March JPA property. We should have March JPA as part of this. And I had a subsequent conversation with Councilman Davis ~~within~~ later a few days where I go back and said you really need to bring Lori Stone in, this property is in the JPA. Never did he mention annexing it at that point.

10:26 And then I was in a meeting with him, a scheduled meeting. I could probably look it up on the calendar as to the exact date, where the purpose of the meeting was to actually talk about a different project. But Councilman Davis spent a lot of the time talking about the proponents of this particular project and what he thought they were trying to get. And they were going to be in for a surprise. And I re-echoed to him in that conversation, well, it's in the March JPA. We really need to involve Lori Stone in our discussion. And at that point he further didn't say anything about annexing. It wasn't until he called [redacted] and wanted to know why

10:26 we aren't proceeding with annexing that I recall the word annexing first coming up.

Q. And these earlier meetings with Councilmember Davis where the March JPA property was discussed, those happened in February or March 2014?

A. I believe so.

Q. You mentioned that Councilmember Davis talked about a surprise. Do you have a recollection as to what that surprise was? You said the people who wanted the property were going to be surprised or something like that.

A. Oh, he felt like the proponents were angling to get a big consulting contract from the City of Riverside, and that they were going to be surprised when the city didn't enter into a consulting contract with them to make this project

10:27 happen.

Q. Did he say who the lead proponents of the outside group were?

A. They had been in the meeting we had and I am not recalling the gentleman's name. But he definitely mentioned the primary person's name. But I can't recall what that was at the moment.

Q. Was he connected with Major League Baseball?

A. Yes. He had a consulting firm with a connection with Major League Baseball.

Q. When in April 2014 [redacted] discusses with you

10:28 **in a face-to-face meeting that he had received direction concerning annexing the March JPA property, what did you do next?**

A. I asked [redacted] to put together the process and expenses associated with annexing so we can provide that information to Councilman Davis so he could understand that it wasn't staff taking direction from one councilmember, and it would be done the next month, that it was a lengthy process that required multiple actions by the city council and the local agency formation commission and that it wasn't as simple as Councilman Davis thought it would be.

Q. Was there a response from Councilman Davis to this information that was put together, I take it, in memo form?

A. Right. It was an e-mail that I sent to him about

10:29 two weeks ago. And he replied and said something to the effect of thanks, I will look this over and let you know if I have any questions.

Q. Did you hear anything subsequently from him?

A. I have not.

Q. Do you know whether [redacted] has heard anything subsequent to that?

A. I don't think so. [redacted] was on vacation. He's not told me that he's had any response.

Q. Was it your understanding that [redacted] had said to you in the April 2014 first meeting that he had been

10:29 **directed to prepare a memo to annex the March Joint Powers Authority property for a baseball field?**

A. No.

Q. And he had just been asked to prepare a memo describing the procedures or something else?

A. Well, if you're referring to the direction he received from Councilman Davis?

Q. Yes, I am.

A. My understanding was Councilman Davis said I want to get it done, get it done. I don't recall any discussion as to what form that might take.

Q. And that information you just described to me had come to you from a face-to-face meeting with [redacted] correct?

10:30 A. Right.

Q. And then the memo that you participated in preparing to be sent to Councilmember Davis doesn't say we are going to get this done, correct?

A. No. It outlines the process with what one of the first steps would be getting concurrence from the city council to proceed and then filing application, et cetera.

Q. Did you report to anyone, including Scott Barber, about the direction that [redacted] had received?

A. Yes, I did. When I first heard about this phone conversation and [redacted] had shared the way it was delivered, I

10:31 went and let Scott know that Councilman Davis had provided some direction to [redacted] that made [redacted] very uncomfortable and that profanity was involved.

Q. Did you tell Mr. Barber anything about what [redacted] had said that Councilmember Davis had said about Mr. Barber?

A. I don't think so. When I shared with Scott that [redacted] had this conversation, Scott had asked that [redacted] document what had happened. And so I provided that direction back to [redacted] to document.

Q. And so as far as you know, he did that?

A. As far as I know.

Q. Did you see the document he prepared?

A. No, I did not.

10:31 **Q. Have there been other instances in the past six months where Councilmember Davis gave direction to subordinates of the city manager that you know of, not situations where you just have second or thirdhand information?**

A. Right. None others come to mind at the moment.

Q. Was there a performance review of the assistant city managers sometime last year?

A. Of the assistant?

Q. Yes.

A. A written performance evaluation? I've not had one

EXHIBIT F

10:32 since I've been here.

Q. Has anyone told you that any member of the council has stated whether in a council meeting or outside a council meeting that Scott Barber may be terminated from his employment?

A. I've heard that several councilmembers, Councilman Davis being one of them, are unhappy with Scott. And I've heard that Councilman Davis specifically has said that things along the lines, well, Scott will be gone by May.

Q. When did you hear about that latter statement that Scott will be gone by May?

A. Probably within the last two months.

Q. How did you hear that?

A. In a conversation with Scott.

10:33 **Q. What did he tell you?**

A. That he had heard that had been expressed to him more than once that I'm going to have you gone by -- I think there was a specific date but it was in May.

Q. Are you aware of any vote, public or private, that's been taken by members of the city council to terminate the employment of the Scott Barber?

A. No, I am not. I know that they've held closed session performance evaluations of him, but I am not aware of any vote as an outcome of that.

Q. Are you aware of any vote taken, publicly or

EXHIBIT F

00202

10:34 **privately, by members of the city council to terminate the employment of Sergio Diaz as the chief of police?**

A. No, I have not.

Q. Have you had any communications with [redacted] He's a [redacted] and the [redacted]

A. Not that I can recall.

Q. Have you had discussions with Lori Stone about annexing property of the March JPA for use as a baseball field?

A. I have spoken with Lori about the baseball field project. I know that I told her that I asked the Councilman Davis to include her in discussions about the project. I think annexing may have been referred to but I am not

10:35 positive.

Q. What is Ms. Stone's position with the March JPA?

A. She's the executive director.

Q. Has Ms. Stone described to you any of her conversations with Councilmember Davis about annexing that property?

A. She did. She did have a conversation with him right after the first meeting that we had about the project. And she told me that -- and I know that she and he traveled to China together. I don't know specifically with regard to annexation versus just the overall project. I know that she's

10:36 had discussions. I just don't know whether it was annexing versus just the proposed project.

Q. Okay. Have you ever heard that members of the city council have expressed the view any time during the past six months that the assistant city managers are doing a horrible job?

A. I've heard very indirectly concerns along those lines but nothing specific.

Q. Do you think that's correct?

A. No, I do not.

Q. Do you have any knowledge as to why any members of the city council would -- and I am not saying they have, but may have expressed that view?

A. I think based on what I've observed, that they have

10:37 not liked some decisions that have been made with regard to personnel and perhaps feel like those decisions should have been made by the city council versus administratively. But it is under Scott Barber's tenure. And I think in that course, [redacted] the other [redacted], has gotten some of the credit or blame for actions relative to the former [redacted] and the [redacted]

Q. Who was the former [redacted]

A. [redacted]

Q. And was he let go?

A. No. He resigned. He retired. He resigned in

10:38 order to retire.

Q. And so why would there be any flack concerning [redacted] decision to retire?

A. I've heard people say that [redacted] retired because he didn't like working with [redacted] I don't have any idea whether that's true, if he ever said that, but I've heard that expressed.

Q. So that might be a reason why [redacted] got some blame for that retirement, correct?

A. Correct.

Q. And who is the current [redacted]

A. [redacted] is serving as interim while we are recruiting for [redacted]

Q. Who was the other person that left that you were
10:38 **referring to?**

A. The [redacted]

Q. And [redacted] was his name?

A. Yes.

Q. And why did he retire?

A. He retired because he had been here 32 years or something and decided that this was when he was going to retire.

Q. It had nothing do with any of the councilmembers?

A. Not to my knowledge.

Q. And do you have an understanding as to why any

10:39 **blame would be directed towards the city manager's office concerning the retirement of that [redacted]**

A. Actually not so much with the retirement. But initially there was a plan that he was going to come back on a part-time basis to help us while we recruited a new [redacted], and that whole process was announced. There was a public outcry. And then he decided he was not going to do it so he never came back again. But that decision to bring him back on a part-time interim basis is what I believe that councilmembers had concerns with.

Q. Was there any communication -- well, let me rephrase the question. Have you had any direct communications with [redacted] about security and livability issues

10:40 **relating to the city parks any time during the past six months?**

A. I don't know whether specific to the parks. But in a more general sense, I have.

Q. And would you describe what those -- the nature of those discussions?

A. Well, you know, just from the dias from the time he was elected, he expressed concerns about panhandling and livability issues in the city. And then I was in a meeting with [redacted] and [redacted] and a member of the public, Harry ~~Garuni~~ Kurani. Harry was expressing some concerns

10:41 about loitering and such near his property, which is Magnolia Pool Supply on Magnolia and Arlington Village. And [redacted] said well, our new councilmember has some great ideas about what we can do there. We really should talk to him. And then in the course of the meeting, [redacted] walked by. [redacted] invited him into the meeting, and in that five minutes or whatever, [redacted] said things along well, our police department can do a lot more than they have been. I think we can do like they're doing in Moreno Valley. And he mentioned the CHP as well. So he provided some ideas in that context of what he thought our police department could be doing that they weren't currently doing. And then he left the meeting. And then we finished what our meeting was about and left. And then I went
10:41 and told Scott what conversation had occurred.

Q. And that meeting was a city council meeting?

A. No. It was with the councilmember in his office, in [redacted] office.

Q. And who else was present besides yourself?

A. [redacted] Harry ~~Caruni~~ Kurahi, [redacted] may have been in the meeting.

Q. Who are each of these people? I know that [redacted] but I am not sure of the other --

A. [redacted] is the [redacted] Harry ~~Caruni~~ Kurahi is a private citizen, who is the owner of

10:42 Magnolia Pool Supply, and [redacted] is his [redacted]

Q. Did [redacted], through this meeting, issue anything that you would characterize as an order or a directive?

A. No. He basically stated he thought that we could be doing things differently than we were, and that he was going to work to make that happen. But he didn't give any direction to us.

Q. At any time during the past six months, have you heard [redacted] say that Scott Barber's employment was going to be terminated?

A. No, I have not.

Q. At any time during the past six months, have you

10:43 **heard [redacted] say that [redacted] was going to be terminated?**

A. No, I have not.

Q. Are you aware of any votes taken by councilmembers on the subject of terminating either Scott Barber or [redacted]?

A. No, I have not.

Q. Have you worked for other municipal entities?

A. Yes, I have.

Q. And were any of them charter cities?

A. No.

10:43 **Q. I don't have any further questions for you. But because this is a transcript that is going to my client, the city, I invite you, if there is anything I haven't asked you about or something you would like to say on the record, to put that on the record.**

A. You'd asked about [redacted] and livability issues. And he and I had a conversation. It was at the Nordstrom Rack Grand Opening in early April about the item that had been considered by the city council a night or two prior, that was a livability plan. And he had basically said that it was a great plan, great job. I'm the one who had presented the plan. So we did have that kind of a conversation about it. But that's the only other time I remember having that direct kind of conversation with him
10:44 about it.

Q. Well, let's just identify the time and place. Was there a city council meeting where one of the subjects was panhandling in the parks and perhaps also providing private armed guards in dealing with that problem?

A. Yes. That had been earlier in the last January, early February time frame, that had been a topic of discussion at a city council meeting.

Q. Was any vote taken at that meeting on that subject that you recall?

A. I recall that it was being presented as an advisory

10:45 matter and staff, Scott Barber, [redacted] and park staff were requesting direction from the city council as they considered the issue, RFP, and how park security would be handled. And specifically whether or not security guards would be armed or not. And so I recall that a sense of the discussion being that they would not be armed, and that Scott said, you know, I expect the dollar amount to be within my authority, therefore, this is not an item that would return to city council, that he wanted the direction about whether security guards should be armed or not.

Q. And did the council give direction?

A. Yes.

Q. And what was the direction?

A. I think the direction was we need security but not
10:46 armed security. There was some discussion about whether that should be by the police department or by a private security.

Q. And did the direction take the form of a vote or just a general comment or something like that?

A. General comments for certain. I don't recall what the final vote was.

Q. Sometime after that meeting, was there a city council meeting where additional pay was authorized to be made to Riverside Police Force members in order to provide additional security at the parks?

A. That was part of the overall neighborhood

10:47 livability plan that we presented. And that included funding for Riverside Police Department to form an overtime unit of police officers to focus specifically on livability issues on all public properties, parks as well as public streets.

Q. Did the council vote on that?

A. Yes, they did.

Q. And they approved it?

A. Yes. They did.

Q. Did that happen in about April 2014?

A. I think it was April 1st actually.

Q. Going back to the February city council meeting, had the request for guidance made by the city manager's office to the city council included any kind of recommendation that armed guards be put in city parks?

10:47 A. I don't think so. I think the report talked about the issue and requested direction from the city council.

Q. Okay. I don't have any further questions. Do you have any further statements? Your last statement was helpful.

A. I can't think of anything else.

MR. GUMPORT: Thank you very much. This concludes the interview. Off the record.

(Proceeding concluded at 10:48 a.m.)

***

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Riverside, California on May 13, 2014.

[redacted]

STATE OF CALIFORNIA) ss

I, Deborah Ann Troiano, CSR 7990, RPR, RMR, do hereby declare:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 2093(b) and 2094 of the Code of Civil Procedure;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand this 8th day of May, 2014.

Deborah Ann Troiano, CSR 7990, RPR, RMR

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing 28 pages of my testimony, taken on April 30, 2014 (date) at Riverside (city), California (state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

Page	Line	Should read:	Reason for Change:** (See below before completion)
13	12	Davis a few days later where...	
22	25	public, Harry Kvrani.....	
23	20	[redacted], Harry Kvrani.....	
23	25	Harry Kvrani.....	

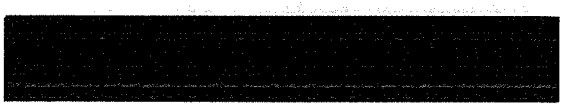
Date: 5/13/14

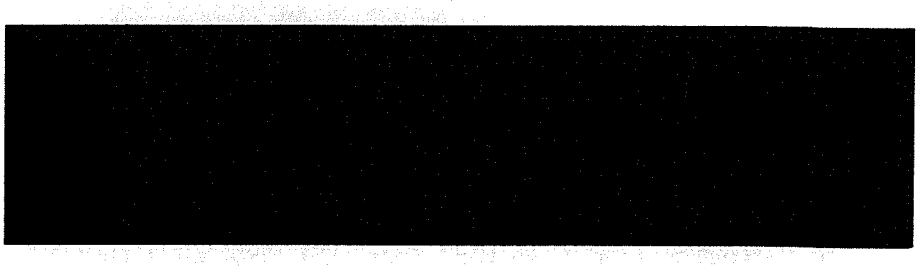
[redacted]
Witness

[redacted]
Name Typed or Printed

** THE "REASON FOR CHANGE" COLUMN SHOULD ONLY BE COMPLETED FOR FEDERAL DISTRICT OR BANKRUPTCY COURT MATTERS (FRCP RULE 30(e)). THIS COLUMN SHOULD NOT BE COMPLETED FOR STATE COURT ACTIONS.

EXHIBIT F





[redacted]

EXHIBIT G

HUTCHINGS Litigation SERVICES

ORIGINAL

CITY OF RIVERSIDE

INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW

OF

[redacted]

CONFIDENTIAL INTERVIEW OF [redacted] a witness herein, noticed by Gumport Mastan, taken at 3901 Orange Street, Riverside, California at 11:13 a.m., Wednesday, April 30, 2014, before Deborah Troiano, CSR 7990, RPR, RMR.

Hutchings Number 505284

t 800.697.3210 www.hutchings.com 400 N Tustin Ave., Ste 3(Santa Ana, CA 927(

APPEARANCES OF COUNSEL:

GUMPORT MASTAN
BY LEONARD L. GUMPORT
550 South Hope Street, Suite 825
Los Angeles, California 90071-2627

I N D E X

WITNESS: [redacted]

EXAMINATION BY: PAGE

MR. GUMPORT 4

[redacted]

a witness herein, testifies as follows:

-EXAMINATION-

BY MR. GUMPORT:

Q. Please state your name.

A. [redacted]

Q. Please spell your last name.

A. [redacted]

Q. What is your position with the City of Riverside?

A. I'm the [redacted]

Q. And who do you report to?

A. [redacted] the [redacted]

11:14 [redacted]

Q. And who does he report to?

A. Currently he reports to our [redacted], who is [redacted], who is also the [redacted]

Q. And who does the [redacted] report to?

A. I believe it's [redacted]

Q. In the city managers's office?

A. Yes. The [redacted]

Q. My name is Leonard Gumport. I'm a lawyer at a firm called Gumport Mastan. I've been hired by the City of Riverside to investigate certain matters. First, I want to

11:14 thank you for coming here to give a voluntary interview. Second, I want to thank you for permitting a court reporter to be present here during the interview. I am going to describe for you some ground rules that I propose to apply during this interview.

First of all, the court reporter is only going to take down what is said when we are on the record. We are currently on the record. At any time for any reason you can give me a signal, which I'm directing the court reporter not to reflect in the transcript. It can be a signal like raising your hand to reflect that you want to go off the record. I will then say we are going off the record. And we will go off the record. And when we are off the record, nothing that you say is being transcribed. Stuff that you tell me off the
11:15 record I am not going to use in my report. Because my view is anything that people tell me off the record isn't reliable enough for me to be using in my investigation. So do you understand all of that?

A. Yes.

Q. Now, my client is the City of Riverside. It is not the city manager or any member of the council nor are you my client. So if for any reason I ask you a question where you think gee, I really need to talk to a lawyer about that, that would be a reason for you to just give me a signal that you want to go off the record and that you don't feel like

11:16 answering questions on the record. All right? Do you understand that?

A. Yes.

Q. You're not under oath. This isn't sworn testimony. But I think the fact that the testimony is being transcribed by a court reporter will make a pretty accurate record of what it is I say to you and what it is you say to me. And ultimately that transcript will be given by me to the city, meaning the city council. And they will get to see what you said on the record. Because the city holds the attorney/client privilege, and will possess the transcript, I can't guarantee that what you say here today will remain confidential because ultimately, that's the city's call, not mine and not yours. So for any reason I ask you about

11:17 something where you think gee, I am not sure I want to talk about this on the record, just raise your hand. We will go off the record. Do you understand that?

A. Yes.

Q. I am going to ask you some questions involving certain people working for the city, either elected officials or employees of the city. I've been hired to do an investigation. The fact that I ask a question about someone doesn't mean they did something wrong. And you shouldn't draw an inference that because I ask about someone or something that means something bad happened. And it would be disruptive

11:18 **to the investigation for you to draw that kind of inference. Do you understand that?**

A. Yes.

Q. Has any member of the council of the City of Riverside told you at any time during the past six months that Scott Barber, the city manager, was going to be fired?

A. Yes.

Q. And that answers my question. Only -- don't try to guess where I'm going. Just answer the questions I ask you. Did this happen on more than one occasion or just one occasion?

A. I believe just one occasion.

Q. When was that occasion?

A. I want to say it was on Halloween or maybe October

11:19 30th.

Q. So sometime in October 2013 is when this communication happened, correct?

A. Yes.

Q. Who was present during this communication?

A. It was just myself and Councilman Davis.

Q. Paul Davis?

A. Yes.

Q. And where did the communication take place?

A. At Villegas Community Center.

Q. Where is that in the city of Riverside?

11:19 A. It's in the Casa Blanca neighborhood on Esperanza Street.

Q. Why were you both there?

A. At the time that was part of my [redacted] And the Villegas Park Advisory was having a Halloween event that night. And typically we go to support the events. And that was in Mr. Davis' ward and he's a big supporter of their events. And he was there as well.

Q. Did you have the same job title in October 2013 that you do now?

A. I did.

Q. Did anyone other than Councilmember Davis and yourself participate in this discussion that you're about to describe to me?

11:20 A. No.

Q. Was there anyone else near enough to hear what you were saying?

A. Probably not because it was a loud event with a lot going on inside the multipurpose room.

Q. Tell me what Councilmember Davis said on the subject of Scott Barber's employment at this October 2013 meeting you've described.

A. He came up to me and just -- we kind of approached each other to say hello. And I said how are you, you look kind of sad or upset. And he goes yeah, I'm upset, and I'm

11:21 angry. I'm sad. I said oh, why? He said because [redacted] retiring. He was referring to the former [redacted] who had recently announced his retirement for March 31st. And I said oh, right. And he says I'm angry and he said something to the fact that they had driven him out, the 7th floor had driven him out. And he was very upset with the city manager, Scott Barber. And that they hadn't kind of heard the end of it and that Scott would be lucky to keep his job. And I'm going to see that he loses his job before [redacted] retires.

Q. And he refers to Scott Barber?

A. Yes.

Q. And the scheduled retirement of [redacted] was May --

11:22 A. March 31st, 2014.

Q. Did he say -- well, let me rephrase the question. What did you understand Councilmember Davis to be saying to you about how long Scott Barber would remain as city manager of Riverside in this discussion?

A. That he was going to make it kind of his priority to make sure Scott lost his job over [redacted] resignation.

Q. Did you think it was appropriate for Councilmember Davis to be saying this to you?

A. I was very uncomfortable. I didn't really say much because I didn't know how to react to any of that because he

11:22 was speaking both of my director and my city manager.

Q. And when you say director?

A. [redacted]

Q. And did you have any reason to believe [redacted] had been driven out by the 7th floor?

A. Only that that's -- [redacted] alluded to that on a couple occasions since he put in his notice. And so there was different stories that he had alluded to some things and -- but other than that, it was just from his perspective.

Q. Did Councilmember Davis, in this conversation, say how Scott Barber would be terminated?

A. No, no.

Q. Did you do anything with the information that you received from Councilmember Davis?

11:23 A. I am not sure if I mentioned it to my immediate supervisor. I did mention it to Scott Barber who came by the office. I don't know how -- when he came by, whether it was a week or two, looking for [redacted] one morning. And he stopped by to say hello. And we were talking about various things and I did mention it to Mr. Barber.

Q. What was his reaction to what you told him?

A. He was very taken aback and asked me again did he really say that to you, I'm very unhappy about that, that's inappropriate.

Q. And your response to Scott Barber's comment was

11:24 **what?**

A. I just said yes, I was very uncomfortable. I didn't know what to say.

Q. Was anything else said in this discussion between you and Scott Barber?

A. We just discussed that he was looking for [redacted] to talk about some budget issues. And I said okay, he's not going to be here at 7:30. He's usually out at our parks driving around and such. And we were talking about just regular things and asked him how his wife was and things like that. I am not sure how that conversation came up. But I felt that I would share that.

Q. Have you had any subsequent discussions with Councilmember Davis since the late October 2013 discussion

11:25 **that you referred to?**

A. No. At the end of -- starting in December, we did a reorganization, a realignment in our department, so anything in his ward is not really under my provision anymore.

Q. Have you subsequently heard in any context -- let me rephrase the question. Did you subsequently, after October 2013, hear Councilmember Davis say that Scott Barber will be terminated?

A. No.

Q. Have you heard Councilmember Davis ever say that [redacted], the [redacted], would be terminated?

11:26 A. No.

Q. Have you ever heard [redacted] say that Scott Barber would be terminated?

A. No.

Q. Have you ever heard [redacted] say that [redacted], the [redacted], would be terminated?

A. No.

Q. Are -- let me rephrase the question. I've asked you the questions basically that I came here to ask you. Are there any statements or information you want to put on the record concerning any matter that I haven't asked you or my questions didn't give you the opportunity to say something that you wanted to say?

A. Not that I can think of.

11:27 Q. Okay. Then what we are going to do is we are going to go off the record. You're going to get a copy of the transcript. It will be sent to you at an address that you give the court reporter. And if you see anything that's inaccurate in the transcript or that you wish to change or correct, just let me know and I will be sure to incorporate that into the transcript I have. Thank you again for attending this interview. And that concludes this interview.

A. You're welcome.

MR. GUMPORT: Off the record.

(Proceeding concluded at 11:27 a.m.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Menifee, California on May 13, 2014.

[redacted]

STATE OF CALIFORNIA) ss

I, Deborah Ann Troiano, CSR 7990, RPR, RMR, do hereby declare:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 2093(b) and 2094 of the Code of Civil Procedure;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand this 8th day of May, 2014.

Deborah Ann Troiano, CSR 7990, RPR, RMR

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EXHIBIT H

NO ORIGINAL

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HUTCHINGS Litigation SERVICES

CITY OF RIVERSIDE

INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW

OF

[redacted]

CONFIDENTIAL INTERVIEW OF [redacted]
a witness herein, noticed by Gumport Mastan, taken at 3901 Orange Street, Riverside, California at 10:10 a.m., Tuesday, April 29, 2014, before Deborah Troiano, CSR 7990, RPR, RMR.

Hutchings Number 505283

00235

EXHIBIT H

APPEARANCES OF COUNSEL:

GUMPORT MASTAN
BY LEONARD L. GUMPORT
550 South Hope Street, Suite 825
Los Angeles, California 90071-2627

I N D E X

WITNESS: [redacted]

EXAMINATION BY:	PAGE
MR. GUMPORT	4

E X H I B I T S

Exhibit identification within the transcript is flagged with "[EXH]" as an identifier.

EXHIBIT	DESCRIPTION	IDENTIFIED	MARKED
A	Confidential Memorandum [EXH-A]	7	27

[redacted] witness herein, testifies as follows:

-EXAMINATION-

BY MR. GUMPORT:

Q. Okay. Please state your name.

A. [redacted].

Q. And please state your position with the city.

A. [redacted]

Q. How long have you held that position?

A. Slightly under 2 years.

Q. [redacted], my name is Leonard Gumport. I'm with the law firm known as Gumport Mastan. My firm has been hired by the City of Riverside to conduct an independent investigation of certain matters. I'm going to be asking you some questions concerning communications you may have had with Councilmember Paul Davis. You should not infer or conclude from my questions that he or anybody else did anything wrong. My job is to conduct an investigation and figure out what happened. There may be that nothing happened. Do you understand that?

A. Yes, I do.

Q. Secondly, my client is the city. You're not my client. You work for the city but you're not my client. And

at this interview, you're going to be answering certain questions. Ultimately, the city decides whether or not the transcript of what you told me stays confidential and is kept privileged or not. I can't commit to you that the transcript will stay confidential. The city decides that. Do you understand that?

A. Yes. I do.

Q. This is a voluntary interview. By that, I mean you don't have to answer any question I ask you. In addition, you don't have to stay on the record. In addition, you don't have to make a record of indicating to me that you don't want me to go into an area of inquiry. Just raise your hand or something else. I'm telling the court reporter not to mark down any such gesture. My goal is to get only what you're willing to tell me on a voluntary basis. And if for any reason you're uncomfortable for any reason about saying something on the record, just so indicate and a record won't be made of what you tell me. Understood?

A. Yes.

Q. The reason there is a court reporter here is to make clear that when you do answer a question on the record, that there is a clear record of what you did say in response to what question I asked you. So that when I give my report to the city, the stuff that you did say on the record reflects your own words in response to the words that I used to ask you

questions, and so that there is no confusion in that regard. Understood?

A. Yes.

Q. And if for any reason we go off the record and you tell me something off the record, I will tell you what use I make of what you tell me off the record, which is none. I'm just not putting any weight on rumors, innuendo or off-the-record comments that people make to me in this investigation. It's one of my filters for filtering stuff out that I regard as potentially too unreliable to be included in the report. Do you understand that?

A. Yes.

Q. At the conclusion of this interview, you're going to get a copy of -- or the original of the transcript of what you said on the record. And you will be free to make any corrections if you want to. But you won't be under any obligation to do so. I will get another original or certified copy of the transcript. And again, that will go to my client, the city, and they will decide what they're going to do with it and whether or not they are going to keep it confidential. You will have the right to notify me if you choose to do so of any changes or corrections you want to make to the transcript. Understood?

A. Yes.

Q. Is there any reason why we shouldn't proceed with

the interview right now?

A. No.

Q. Good. I am going to hand you a one-page memo but first I'm going to have the court reporter mark it as Exhibit A. It has the date March 25, 2014 on it. And it purports to be a memo from you to Scott Barber. And [redacted], this is not a speed reading contest, and in addition this whole interview is not a quiz. The only thing I want from you is the truth. The only answer that gets an F grade is a knowingly untrue answer. [EXH-A]

A. Sure. Sure.

Q. So tell me when you've had the time to look over Exhibit A, this March 25, 2014 memo.

A. Besides when I wrote it on March 25th, today, the 29th of April, when I first came into this room, and when Exhibit A was handed to me.

Q. Okay. Did you prepare the original of Exhibit A?

A. Yes, I did.

Q. And did you prepare it on or about March 25, 2014?

A. Yes, I did.

Q. Why did you prepare it?

A. Around the time of when Councilman Davis left me the voicemail on March the 12th, and then I had subsequent conversations with him, I reported to [redacted], my supervisor, that I spoke with Councilman Davis, as I do when I

talk with councilmembers, whoever they are. And I shared with [redacted] the general content of the conversation, the focus being on the Major League Baseball youth facility that was being proposed at March Air Force Base. But I also shared with her the two departures of that focus, one which was just a side comment of disappointment in a decision or comment that [redacted] may have made at previous city council meetings at which I was not in attendance, and then secondly, a remark about -- or remarks about the performance of the city manager. And I can't remember the specifics. But it entailed use of profanity.

And so at that point -- so when I shared all of that with ~~Deanna~~, at some point thereafter she shared it with the city manager as she -- the line of communication is supposed to work. And probably somewhere within a week, maybe few days before the 25th of March, the city manager stopped in my office and asked me to prepare a memo. I also believe a few days prior to that, [redacted] mentioned to me that the city manager may be asking me to prepare a memo or somehow communicate to him what occurred in both the voicemail and the direct communication. So as my supervisors, I felt responsible to provide the information that they asked of me.

Q. **Is Exhibit A accurate?**

A. Exhibit A is accurate. Yes.

Q. Can you give me a little background about this series of events that you've described to me? What is the responsibility of the City of Riverside [redacted]?

A. [redacted]

Q. Yes.

A. So the [redacted] and the [redacted] oversees all matters related to the regulation of private property and development, and a number of other matters. It includes planning and zoning, building, code enforcement, housing, homeless services, real property services, the successor agency, which was redevelopment, and historic preservation and neighborhoods. And that's the broad scope of what we do in [redacted] and what I'm responsible for. And so does that answer your question?

Q. Yes. In March 2014, what was the [redacted]; is that the correct term?

A. [redacted]

Q. What was the -- let me rephrase the question then. In March 2014, what was the [redacted] doing in connection with a Major League Baseball field?

A. Youth facility.

Q. Youth facility.

A. So I can't remember exact dates, but several months before March, it could have been at the end of 2013, a group

of investors who were affiliated with Major League Baseball, and consultants, approached the city with an idea. And the idea was to bring to Riverside, which is actually a parcel adjacent to the City of Riverside but in the March Joint Powers Authority's jurisdiction, March Air Base, Air Reserve Base. Joint Powers Authority brought forward an idea to Major League Baseball youth training and practice facility.

And the Councilman Davis was present at the meeting because these folks apparently reached out to him. And he facilitated a meeting, which is common for city councilmembers to do. And so there was a -- I can't remember a staff, I would have to look back in my Outlook notes, but there was a number of staff present. I believe [redacted] was present [redacted] was present in that meeting. And the idea was presented. And then the next step was so what do we do to make this happen and/or help try to make this happen.

And so like we always do, we go through period of due diligence. And we figure out what the regulatory requirements are, the entitlement process, et cetera, et cetera. And the big issue in effect was how would the city or how would this Major League Baseball group, how would they go about annexing that 60-acre parcel into the City of Riverside. And so in March of 2014, when Councilman Davis left me a message, it was for an update on the status of that due diligence effort, where are we, what's going on. And it's

often -- councilmembers often do that. They ask us for status updates on a range of topics.

Q. Do you have an understanding as to how requests by councilmembers for status updates are typically handled? And the point of this question is does staff then undertake to prepare some kind of memo or booklet or something like that or is it usually something where it's followed up by a phone call or e-mail that just says well, here is where we are?

A. On a monthly basis my deputy director [redacted] provides an update to every councilmember of all the goings-on in our department, except for code enforcement and building activities. And he typically brings the managers of all those different groups in the meeting. And has a very thick document that is a line by line, project by project update so that every councilmember is kept abreast of the activity in their ward. That's one way.

When it comes to specific projects, oftentimes the councilmembers will talk directly with the department head, sometimes a division manager, sometimes deputy director of a department or sometimes the city manager, assistant city managers to get updates on projects. Most of the time it's done verbally. Sometimes it's done through e-mails. Councilmember will send an e-mail saying what's the latest with X, Y, Z, and we will respond and say the latest is A, B, C on the project. It varies how it occurs.

What I understand generally is that the line of communication between the council and departments should go through the city manager's office. In practice, it doesn't happen that way consistently. That's what I understand and what I've been told. So that's generally what I know to the answer of your question.

Q. Is it your experience that the lines of communication between members of the council and yourself don't typically go through the city manager?

A. In my experience that is yes, the answer to that is yes. I have a short history in local government. It's a total of 6 years. Most of my career has been in the private sector. In my previous job, which is with the City of Fullerton, it's the only other city I've worked for in my mature professional life, everything went through the city manager. Here it's inconsistent.

Q. Do you have an opinion as to whether it would be better, to use a vague term, if everything went through the city manager rather than councilmembers directly contacting you?

A. I believe, yes, to the degree that work flow -- because everything is -- everything generates work. And the degree to which work flow can be concentrated through the city manager's office so that alignment occurs between the politics and the administration, yes. That would be ideal. Or at a

maximum or at a worst case scenario, it was absolutely retained at the department head level and the city manager's office. But in an ideal world, and without knowing -- without knowing organization this big how it would functionally and pragmatically work, I think the ideal is that everything should go through the city manager's office because otherwise, there's too many people telling too many staff to do too many things. And there isn't -- there is an absence of alignment with the policy set by the council and adopted resolutions and ordinances.

Q. The communications between yourself and Councilmember Davis that are referred to in Exhibit A, did those come to you through the city manager?

A. Can you repeat that? I'm sorry?

Q. The communication described in Exhibit A between you and Councilmember Davis, did those come to you through the city manager?

A. No.

Q. And why do you say that? What's the basis of that statement?

A. The voicemail was directly left on my work cell phone. And when I reported to [redacted] that I had had this voicemail and then the subsequent communication, [redacted], in turn, indicated to me that she had updated the councilmember a couple times prior, and so she wasn't clear on why he was

seeking another update. So I can speculate that based on [redacted] comments, I didn't ask her specifically if his communications were the result of touching base with the city manager's office. But I can speculate based on [redacted] comments that the councilmember communicated directly with me about this and not through the city manager's office.

Q. How did the meeting that happened between investors and staff of the Riverside Community Development Department get arranged? Was that a -- let me rephrase the question. Was it arranged through the city manager's office?

A. I don't know. I don't know.

Q. Let me stop you there for a second. When you don't know, so as long as that's truthful, that's the correct answer.

A. I would have to look on my Outlook. I don't know.

Q. Okay. I'm sorry. At any time from the meeting with the investors that you have referred to through the time that you wrote the memo that is Exhibit A, did you have a feeling that you had been directed to do anything by Councilmember Davis?

A. No. I mean, no, not that I can recall. And it's a very -- it's a difficult question in that all councilmembers call me. I won't speak for my colleagues. But they will call me and say I have an issue with a constituent, can you look into this or what is the status update of X, Y, Z job. So if

that is directing me, I could probably say generally there were probably some of those inquiries or those communications, but nothing out of the norm of what any other councilmember does.

Q. So would it be accurate to state that from your experience, the communications that you've had with councilmembers directly are communications where what is sought is information as opposed to communications where they're telling you I want you to handle this project, I want you to take care of X?

A. I don't believe that's correct.

Q. How is it incorrect?

A. A lot of it is information. But there's also things like there's somebody trying, you know, there's somebody that's caught up in the entitlement process or his plans are stuck in building, can you see if there is a legitimate reason why, and can you try to help get it unstuck. So that's more than just information. That's fixing a problem. That's getting something done. That's causing my staff to do work and causing, which we are happy being public servants in getting work done, but it's more than information.

Q. So would it be accurate to state that you would not characterize those communications as orders? You would characterize those communications as requests that result in you or your staff doing work?

A. Correct. Correct. I would see them more as requests. The splitting of hairs however is those requests we take extremely seriously because they are elected leaders of the city so in effect they're orders.

Q. Is it your feeling that it would be better if the requests were all routed through the city manager?

A. I believe, yes. I'm torn here. I believe yes. But what I fear is then we'd become this huge bureaucratic machine of inefficiency. And there is a fine line there between the alignment that we seek and the economic development goals and the quality of life goals that the city manager and the city council esspouse. As long as it doesn't create log jams to getting problems solved, then I would support it going completely through the city manager's office. But many of us are in this business because we want to help improve the community, not being part of a large bureacracy. And so it's yes, I would support it all going through the city manager's office as long as it doesn't become this bottleneck to solving real people's problems.

Q. Is there a way to accommodate both these goals in your view, that is, to route things through the city manager's office so that staff aren't taken away from something that may be more important that they should be working on, and at the same time not turning the city manager's office into a bottleneck?

A. I haven't given -- I've given some thought. I shouldn't say I haven't given much thought. I think the city manager's office needs to probably be expanded so that there are additional city managers to carry the incredible responsibility of -- what did I say, additional city managers? I meant assistant city managers, additional assistant city managers, to do -- to oversee fewer departments and carry more of the direct requests more efficiently downward than there currently are for a city this size. I don't believe to achieve the alignment we seek and not sacrifice quality of life and kind of economic development and problem-solving, there needs to be more -- I don't know, maybe it's one more, maybe it's two more assistant city managers so that they could be point people to help process, direct and hold accountable that feedback loop of problem-solving that the councilmembers currently seek and obtain directly through the directors of the development department.

Q. How many assistant city managers are there currently?

A. Two.

Q. What are their names?

A. [redacted] and [redacted]

Q. And you're suggesting perhaps there should be one or two more?

A. I believe so.

Q. Is there a particular assistant city manager that you report to?

A. [redacted].

Q. Now we are returning to the memo. In the next to last paragraph of the memo there is a description of a conversation that you had with Councilmember Davis that was focused on the Major League Baseball youth facility. Do you see that?

A. Yes.

Q. And that conversation happened on what date, to the best of your recollection?

A. On the 12th of March, later in the day if I remember correctly.

Q. Did he call you or did you call him?

A. Let me think. Okay. So I originally in response to Councilman Davis' voicemail on the 12th of March at 1:40 p.m., I left a message back to him around 2:57 p.m. And then at around 6:06 p.m. Councilman Davis returned my call and we talked for about 14 minutes. And I know these specific times because it was on my work cell phone in the log. So when we actually talk person to person, the call was made from Councilman Davis to me.

Q. Okay. Tell me as best you can recall in your own words what was said on the subject of exploring annexing the land in to the city?

A. What I recall is sharing with Councilman Davis what I had learned from [redacted] and also [redacted] via e-mail that [redacted] had briefed Councilman Davis a couple times since that meeting with the Major League Baseball interest. And that [redacted] had conveyed previously to Councilman Davis that it's really about working with the March JPA and Lori Stone specifically to figure out how -- what the interest of the JPA to allowing that parcel to be annexed into the city and partly how to do that. And then I told Councilman Davis that I would just still continue the exploration of annexation into the that parcel, which concluded, I don't know, I want to say about a week ago, maybe two weeks ago, where one of my senior planners, [redacted] who deals with a lot of annexations put together the step by step and costs.

And I forwarded that to [redacted] and she shared that with Councilman Davis. But that was the gist of it because I know Councilman Davis, I believe, I shouldn't say I believe, that he expressed that the -- I don't know truthfully, Leonard, if they were investors so much as they were kind of interested, they had Major League Baseball affiliations, these individuals, couple of them were consultants. I don't know if they were the equity behind it. But they were the front end of Major League Baseball's efforts to develop these youth facilities. So I don't know, maybe investors was the wrong term to use. But they were part of the development team, if

you will.

But he indicated that there is continued interest of that group in that site and in the youth facility there, and also expressed that if it was to be developed within the confines of March Joint Powers Authority, that it may be difficult for them to get the benefit of the economic development benefits provided by Riverside Public Utilities and their electric and water utilities. And that's a very attractive thing to any company or any developer that wants to come into the City of Riverside. And I think that was the gist of it. And at the conclusion of it, I believe I conveyed to him that I would follow up with -- on the annexation thing and get more specific.

Q. Now your memo mentioned that there were two other subjects that were discussed. Give me your best recollection of what was said on those two other subjects.

A. Ever since I even wrote this memo, I've been trying to figure out how we got into the -- how the conversation led into the tangential but I can say that I was uncomfortable and I just stayed quiet during these two tangents. The first somehow got into the realm of the city manager and the councilmembers' dissatisfaction with the city manager's performance. And I recall there being profanity used in the comments around his performance. I can't recall specifics but that he was critical of the city manager's performance. And I

think because I felt so uncomfortable that, in part, it's why I can't remember the specifics. Just didn't feel good to me to be receiving this kind of input about my ultimate boss from the city councilmember when I am not in a role to be receiving that kind of commentary. And so I just remember it was uncomfortable for me to hear. But there was profanity used a couple of times, as I recall, in those comments.

Q. Was the profanity used to characterize the city manager's performance?

A. Yes. I think, yes. I mean it was tied to it, yes. I can't remember specifics. I think it was, you know, I can't -- it was used as adjectives in describing performance.

Q. Was it used with -- let me rephrase the question. Was the performance in any way connected with the youth facility?

A. No.

Q. Was it connected with some issue in city management?

A. I want to say that as I'm reflecting, I want to say that as a result of the conversation about the Major League Baseball youth facility and my commitment to follow up, I want to say that the conversation kind of went along the lines of you know, [redacted] you're doing a really good job, keep up the good work. We like you around here, blah-blah-blah. And then that segued into comments on the -- this can't be verbatim but it

was in that, then that segued on the other hand, about the city manager. And it was kind of one of those that kind of transitioned into commentary about the city manager, not so much about a specific project or effort.

Q. You've been with the city for approximately 2 years, correct?

A. Yes.

Q. Has a councilmember on any other occasion told you of his or her dissatisfaction with the performance of the city manager other than in this one conversation?

A. No, no, no, not at all.

Q. The other topic mentioned in this last paragraph has to do with sister cities. Tell me as best you can recall what was said on that subject in the conversation between you and Councilmember Davis.

A. What I recall is the context of it was a previous city council meeting in which the topic of paying for or providing a budget to councilmembers for visiting sister cities was discussed or started to be discussed. And I believe I may have been at the council meeting for the front end of that, and then which followed, and if I recall correctly, it followed an item that I was responsible for. And typically once we do our item, we go home. And I think I stuck around for a few minutes. I was talking to somebody beside me and it came up, that issue came up. But I left

before it was fully discussed.

But apparently what the council -- I believe what the councilmember was conveying to me was because the councilmember was planning to go to -- here is where I'm gray, I don't know if this discussion about budget was for a trip that the councilmember and [redacted] recently went on to China, or if it was related to an upcoming future trip to another sister city. So I'm gray on that. But I believe it was about China.

Q. Excuse me one second. The word you're using is gray, correct?

A. Unclear.

Q. Yes. Okay.

A. I'm unclear on -- thank you for asking for clarification. I believe it was about the trip to China that recently occurred. But what Councilman Davis conveyed to me was apparently during the deliberations amongst the council during the meeting, he kind of expressed a -- I don't know, a concern with [redacted] statement about -- and I could have in my memory -- oh, I wrote Canada but he conveyed, you know, I think what he said was that [redacted] conveyed in the open dialogue deliberations that, you know, if it was -- if you were asking for budget for a councilmember to go to Canada or something, then that's one thing. But to go all the way to China, that's

another thing.

And Councilmember Davis was just disappointed in that and concerned about that sentiment given that we are members of a sister city organization throughout, with countries throughout the world, and that was the nature of that comment as I recall. It was just a concern about [redacted] statement. And that -- I should say and that was related too because I believe at the time -- I believe at the time there was -- I think the segue between the comments about the city manager and [redacted] -- I think that transition occurred because one or two things. One either because Councilman Davis may have felt or may have conveyed either lack of support for that.

I know what it was. So because of the budget situation that we are in, the city manager made a smart decision to not send city staff on a trip. Limited resources, don't send staff. And I think that was the segue in the performance of the city manager then. That was the segue into the China conversation and [redacted] comments.

Q. Have you had any conversations with the city manager about the source of any tension between him and Councilmember Davis?

A. Yes.

Q. Okay. And without going into -- without separating

out those conversations, could you just kind of summarize what has been said by the city manager on that subject?

A. The city manager has shared with me that Councilmember Davis has vocalized to him a stated goal of Councilmember Davis to have the city manager no longer be employed by the city by I think the stated date was Memorial Day of 2014.

Q. And when did the city manager tell you that?

A. Several months ago.

Q. Were you the only people present during that discussion?

A. Let me back up. So he said -- I believe he said it to me a few months ago, and then when he requested this memo, I believe he also stated that. Now, back to your question, if we were the only ones present during the memo request when he asked me for the memo, yes, it was in my office. A few months ago, I believe, and I can't be a hundred percent certain, but I believe I was in a meeting with the city manager and [redacted] Lorson, some other subject, and at the end of that, he shared that, I believe.

Q. Did the city manager tell you why he had that perception?

A. He indicated that at some public venue, Councilmember Davis stated it. And I believe either a member of city staff who was also a member who also is a resident of

the city or someone was there who I believe is staff of the city, and also lives in the city, was present at this meeting and heard Councilmember Davis convey that. And that person, as I understand it, as I can recollect, that person may have shared that with the city manager.

Q. Do you recall the name of that person?

A. No. No. But I do believe -- I do believe -- I could be wrong, but I believe what's sticking in my head was that it was one of the -- I believe someone -- I believe either the city manager said that it was a legislative field rep or that one of the councilmember's field representatives who also lives in the city that was present in the meeting who conveyed it. I could be wrong but I believe that was what -- that was the source.

Q. [redacted], you've answered the questions that I came here to ask you.

A. Okay.

Q. And as I've described to you, the transcript of what you have told me is going to go to the city. And I'm just wondering if there is anything I haven't asked you or there is something that you want to say connected with what we've been discussing this morning that you would like to put on the record?

A. I would -- I mean the only thing I would like to say is that overall, with all the councilmembers, Councilman

Davis included, I've enjoyed a very positive working relationship. And so I don't -- that's probably all that I would have to say. Same with the city manager and the assistant city managers, have had a very positive working relationship. It's just as you started out, I want to be truthful and just share what I recall and remember happening.

Q. **Thank you very much.**

A. Yes.

MR. GUMPORT: That concludes this interview. Off the record.

(Whereupon the documents referred to are marked by the reporter as Exhibit A for identification.)

(Proceeding concluded at 10:58 a.m.)

***

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____, California on _____.

_____

[redacted]

STATE OF CALIFORNIA) ss

I, Deborah Ann Troiano, CSR 7990, RPR, RMR, do hereby declare:

That the above foregoing twenty seven (27) pages contain a full, true and correct transcription of the proceedings.

I further declare that I have no interest in the event of the action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

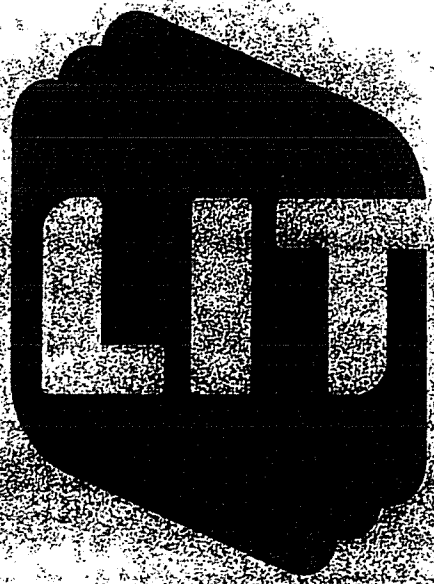
WITNESS my hand this 6th day of May, 2014.

Deborah Ann Troiano, CSR 7990, RPR, RMR

EXHIBIT H

[redacted]

In Re: Riverside Investigation



Litigation
SERVICES

Job: 505283

Exhibit 0000A
00263

EXHIBIT H

CONFIDENTIAL MEMORANDUM

TO: Scott Barber, City of Riverside City Manager

FROM: [redacted]

DATE: March 25, 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work cell phone [redacted] I received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> "Hey [redacted] this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted] will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to [redacted] regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Youth Facility. As I recall, [redacted] was not present and, as I recall, [redacted] transferred my [redacted] shared with [redacted] the nature of Councilmember Davis' inquiry. In response, at 2:10PM [redacted] was gracious enough to send an email to [redacted] and CCd me explaining my conversation with him:

> [redacted] received a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you [redacted] quick update before [redacted] returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response [redacted] email to [redacted] I received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:06PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question with [redacted]. During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted] related to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

EXHIBIT H

EXHIBIT 4
REPORTER [redacted]
DEPONENT
DATE 4/2

00264

CONFIDENTIAL MEMORANDUM

TO: Scott Barber, City of Riverside City Manager

FROM: [redacted]

DATE: March 25, 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work cell phone [redacted], I received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> "Hey [redacted] this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up, [redacted]. I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to Deanne Loreon regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Youth Facility. As I recall, [redacted] was not present and, as I [redacted] transferred me to [redacted] shared with [redacted] the nature of Councilmember Davis' inquiry. In response, at 2:10PM, [redacted] was gracious enough to send an email to [redacted] and CCd me explaining my conversation with him.

> "[redacted] received a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you provide [redacted] a quick update before [redacted] returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response [redacted] email to [redacted] received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:06PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question with [redacted] During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted] related to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

EXHIBIT H

EXHIBIT I

EXHIBIT I

EXHIBIT B
REPORTER K. Gil
DEPONENT P. Davis
DATE 5/29/14

Barber, Scott

From: Davis, Paul
Sent: Friday, November 08, 2013 9:15 AM
To: Barber, [redacted]
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Then let's set this as an evaluation for you and the CA, as I have serious issues with your management and how you and your ACM's are handling employee matters. If either of the other two would like to talk about it, they can contact me. Otherwise let's have this conversation in public view.

Paul Davis
Council Member - Ward 4
City of Riverside

-------- Original message --------
From: "Barber, Scott"
Date: 11/08/2013 9:04 AM (GMT-08:00)
To: "Davis, Paul"
Cc: "~~Bailey, Rusty~~" ,"~~Gardner, Mike~~" ,"~~Priamos, Greg~~"
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Councilmember:
I attempted to call you last night in this regard, however we never had a chance to speak. I did review your request to set this for closed session with the Mayor and the Mayor Pro Tem; both of them agreed to schedule an update on the litigation between Jason Hunter and the City, however they did not intend to review the Code of Ethics questions raised by [redacted] as those will most likely be coming to the Council on appeal at some point, and since they are not a part of the litigation, they don't constitute a subject that we can really discuss in closed session (similar to the Aquino matter). I have spoken with the City Attorney, who is including a litigation update on the closed session agenda for 11/19/13.

Please let me know if you have any questions in this regard.
Scott

-----Original Message-----
From: Davis, Paul
Sent: Thursday, November 07, 2013 7:43 AM
To: [redacted]
Cc: [redacted]
Subject: Re: October 22, 2013 City Council Meeting - response to City Attorney comments

Please set this for a close session discussion at our next meeting. I have issues with how this has been handled and based on the information provided and my own legal council advice, the complainant appears to have good standing. I believe that an outside independent investigated may be warranted in this matter.

Paul Davis
Council Member - Ward 4
City of Riverside

> On Nov 6, 2013, at 10:57 PM, "J Hunter" <jchunter51@msn.com> wrote:
>
> Gentlemen,

EXHIBIT 1

>
> At the City Council meeting of October 22, 2013, during the public comment period I spoke towards the recommendation by Mayor Bailey (agenda item 36, placed on the consent calendar) to consolidate the Code of Ethics and Conduct complaints I filed with the City Clerk on September 9, 2013. I took two exceptions to his Memorandum that accompanied Resolution No 22590.
>
> The following sentence I found extremely worrisome: "Pursuant to the
> Employer-Employee Relations Resolution, the Human Resources Board acted on the grievance and submitted findings and conclusions together with its recommendations to the City Manager."
>
> I commented that the Employer-Employee Relation Resolution referred to, known perhaps as Resolution No. 15079 of 1983, clearly did not cover Managerial employees, who do not participate in Recognized Employee Organizations. I made it known that the City did not have a Council-approved policy for handling these grievances. I also commented that the City Charter, per Section 807, unequivocally states that the Human Resources Board acts in an advisory capacity to the City Council on matters concerning personnel administration.
>
> Councilman Melendrez asked City Attorney Priamos to address my concerns. Mr. Priamos contested both issues. I attach both Resolution No. 15079 and City Charter Section 807 for your perusal. I have also included a pdf version of the City's website listing all Recognized Employee Organizations, such as the SEIU, RPOA, et al.
>
> Please refer to Article I, Section 2, of Resolution No. 15079, entitled, "Statement of Purpose":
> "This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (section 3500 et. seq.) captioned 'Local Public Employee Organizations,' by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations."
>
> If there is any doubt to the subject dealt with within Resolution No. 15079, Section 2 elaborates:
> "It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations..."
>
> Section 807 of the Riverside City Charter states:
> "There shall be a Human Resources Board, which shall have the power and duty to:
> (b) Act in an advisory capacity to the City Council on matters concerning personnel administration."
>
> That our City Attorney would make such misleading statements to the Council on the record during a public hearing is quite disheartening, and certainly makes one question his understanding our our local rules, which I hope you find (similar to me) are quite simply, indisputable. I also remind the Council at this time, that is part of my Writ of Mandamus filed with the Riverside Superior Court on August 21, 2013, which has previously been provided to you, I contend that Mr. Priamos also made materially misleading statements regarding our local rules to the Human Resources Board (a hearing that was also videotaped) at my grievance hearing on May 13, 2013. Coming full circle, those misleading statements would guide the Board towards violating my rights under classified service...setting in motion both the Writ against the City and the Ethics Complaint against the individual Board members.
>
> That I was dragged through an illegitimate, illegal, kangaroo-court process designed to delude and terminate me from my employment with the City of Riverside because of personal vendettas and whistleblower complaints is offensive, and your silence on my missives to date speak volumes towards your complicity in the matters at hand. It also makes me wonder how many previous employees have been subjected to similar retaliation and harassment, and whether a class action suit might not be your preferred alternative towards settling our differences – which I might suggest, again, could be more efficiently solved by opening the lines of communication.
>
> I remain hopeful the Council will recognize the needless waste of taxpayer dollars defending decisions and a process that are simply indefensible, and do the right thing. I call for an immediate independent investigation into the handling of my illegal demotion and termination by executives within the City Attorney's Office, the Human Resources Department, the City Manager's Office, the Riverside Fire Department (namely, Chief Steve Earley), and Riverside Public Utilities.
>
> Sincerely,
> Jason Hunter
> <Resolution-15079.pdf>
> <COR Rec Emp Orgs.pdf>
> <COR Charter Article VIII.pdf>

EXHIBIT 1

[redacted]

EXHIBIT J

Unknown

EXHIBIT A
REPORTER K. Gal
DEPONENT P. Davis
DATE 5/29/14

From: Davis, Paul
Sent: Tuesday, February 18, 2014 3:05 PM
To: Dan Suarez; Council Member Paul Davis
Cc: [redacted]
Subject: RE: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Dan,

Would be a great thing to get John's Agent out, he has been a bit resistant since his and my last conversation. Target pulled out of the deal and now they want to introduce WalMart in to that location. I told him no way and Jay Harvey and I had a tough conversation. Still working on this. May need the community to come out in numbers and vocally disapprove of such a move.

Mission Ranch Park - Purchased the land about 1.3 years ago on Lurin and Dauchy. However, we do not have the money to build it. Proposed new housing is starting to work its way through the Planning part, and am in the hopes that the park fees collected, can help out with building it.

Lyon Homes is one of the housing developments proposed, yet we are still waiting for many portions of the plans to come back in for review. I am really concerned with the lot sizes they propose and of course, traffic.

60 Acre sport park by MLB. We are in the very preliminary stages, where both sides are doing feasibility studies. Should have something back in a few weeks. If everyone has an understanding to move forward, we will then begin the discussions with JPA to transfer the lands to the City. During that time, we will begin drafting an MOU with MLB. Basically, they will build and maintain the facility and we just lease the land to them. This is part of their Urban Youth Academy. Here is a link to learn more about it: http://mlb.mlb.com/community/uya.jsp

Hope this helps

Paul Davis
Council Member - Ward 4
City of Riverside

From: Dan Suarez [dansuarez951@yahoo.com]
Sent: Monday, February 17, 2014 6:24 PM
To: Council Member Paul Davis
Cc: Davis, Paul
Subject: Re: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Hello Paul,

I was unable to attend your meeting the other day. I was hoping you could update me on the latest on the following:

Glass Ranch Marketplace- the last we spoke you were going to ask the Glass Ranch rep his schedule so we can set up a Special meeting so they can update us on the latest of the development. what is the latest you've heard?

60 Acre Sports Park at Grove - what is the status on this? Is this part of the park plan that came with the settlement with the Meridian Business Park years ago?

Mission Ranch Park - last I heard the land was purchased but no funds to build. Is this still the case?

William Lyon Homes in Mission Ranch - can you provide me any news on this?

Thanks for your time,

Dan

Sent from Yahoo! Mail for Windows 8

From: Council Member Paul Davis<pauldavisward4@aol.com>
Sent: Tue, Feb 11, 2014 at 7:01 PM
To: Dan Suarez <dansuarez951@yahoo.com>
Subject: Reminder of Ward 4 Community Meeting - Thursday, Feb. 13, 2014 Orange Terrace Community Center

Hi Dan
Just a reminder that we will be having our February 2014 Ward 4 Community Meeting on **Thursday, February, 13, 2014.** Held at the **Orange Terrace Community Center starting at 6:30pm**. This meeting we will be discussing the following:
Open Community Concerns and Discussion
Ward 4 Business Development and CommunityUpdate
Water Issues - Drought Concerns - What does it mean to you and our Water Bills with Western Municipal
Proposed Sister City Relationship with Can Tho, Vietnam
Recent Gless Ranch Development and Concerns - Things You need to know
Upcoming Road Resurfacing Projects
Private Security at our Parks? - Thoughts and Opinions / Council Action
Update on Street Sweeping Parking Enforcement Program - What Does this Mean
Potential 60 AcreSports Complex and A-AAA Minor League Stadium Behind Grove
Upcoming Council Policy Issues - Your opinions and comments
Orange Terrace Park Advisory Committee Formation
Selection of a New Parks & Recreation Director

Thanks in advance for your attendance and participation, your voice on all matters is very important to me. As always, if you or your neighbors need to contact me, **I can be reached at [redacted] o[redacted]a at Office: [redacted] or Cell: [redacted]**

My emails are: **pauldavisward4@aol.com or pdavis@riversideca.gov**
[redacted]s email is [redacted]@riversideca.gov. We are here to serve you in any way we can.
Thank you for the opportunity to be your Council Representative.
Paul Davis
Council Member - Ward 4
City of Riverside

1091 Crestbrook Drive, Riverside, CA 92506, USA

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EXHIBIT K

EXHIBIT D
REPORTER R.G.I
DEPONENT P. Davis
DATE 5/29/14

Unknown

From: Davis, Paul
Sent: Thursday, March 20, 2014 6:19 PM
To: [redacted]
Cc: Barber, Scott; Graham, Belinda; Priamos, Greg
Subject: Re: Employee Info

Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?

Thank you all in advance for your anticipated cooperation.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 20, 2014, at 5:38 PM, [redacted] "[redacted]@riversideca.gov> wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]

[redacted]

This email message, including any attachments, is intended for the sole viewing and use of the individual or entity to which it is addressed, and may contain confidential and privileged information, which is prohibited from disclosure. Any unauthorized review, use, disclosure, distribution, or the taking of any action in reliance on the information contained in this email, including attachments, is prohibited. If you are not the intended recipient, you are hereby notified that any dissemination or copy of this message, or any attachment, is strictly prohibited. If you have received a copy of this email in error, please notify the sender by reply email immediately, and remove all copies of the original message, including attachments, from your computer.

From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2014.0.4592 / Virus Database: 3950/7577 - Release Date: 05/28/14

EXHIBIT K

EXHIBIT L

[redacted]

[redacted]

EXHIBIT C
REPORTER K. Gil
DEPONENT P. Davis
DATE 5/29/14

Unknown

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this with Rusty, while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:33 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with the Mayor and Mayor Pro-Tem, who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or on April 8th. If you have any questions in this regard, I would ask you to direct them to either the Mayor or the Mayor Pro-Tem.
> Thank you,
> Scott

From: Davis, Paul
Sent: Thursday, March 20, 2014 6:19 PM
To: [redacted]
Cc: Barber, Scott; Graham, Belinda; Priamos, Greg
Subject: Re: Employee Info

[redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?

Thank you all in advance for your anticipated cooperation.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 20, 2014, at 5:38 PM, "[redacted]@riversideca.gov> wrote:

> Hi Paul,

EXHIBIT L

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]

[redacted]

[redacted] email message, including any attachments, is intended for the sole viewing and use of the individual or entity to which it is addressed, and may contain confidential and privileged information, which is prohibited from disclosure. Any unauthorized review, use, disclosure, distribution, or the taking of any action in reliance on the information contained in this email, including attachments, is prohibited. If you are not the intended recipient, you are hereby notified that any dissemination or copy of this message, or any attachment, is strictly prohibited. If you have received a copy of this email in error, please notify the sender by reply email immediately, and remove all copies of the original message, including attachments, from your computer.

From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

No virus found in this message.
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EXHIBIT L

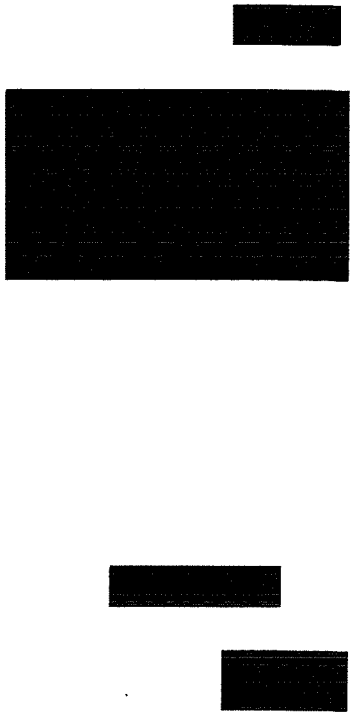


EXHIBIT M

Barber, Scott

From: Barber, Scott
Sent: Monday, March 24, 2014 9:02 AM
To: Davis, Paul
Subject: RE: Employee Info

Thank you, Sir- hope all is well in China!

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this with Rusty, while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:55 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with the [redacted], who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or on April 8th. If you have any questions in this regard, I would ask you to direct them to either the [redacted] or the [redacted]
> Thank you,
> Scott
>
> **From:** Davis, Paul
> **Sent:** Thursday, March 20, 2014 6:19 PM
> **To:** [redacted]
> **Cc:** Barber, Scott; [redacted]
> **Subject:** Re: Employee Info
>
> Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?
>
> Thank you all in advance for your enticipated cooperation.
>
> Paul Davis
> Council Member - Ward 4
> City of Riverside

EXHIBIT M

On Mar 20, 2014, at 5:38 PM, [redacted]@riversideca.gov> wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]

[redacted]

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From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: Employee Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT M

[redacted]

EXHIBIT N

EXHIBIT N

EXHIBIT E
REPORTER K.G.T
DEPONENT P. Davis
DATE 5/29/14

Barber, Scott

From: Davis, Paul
Sent: Friday, March 28, 2014 4:24 PM
To: Barber, Scott
Cc: [redacted]
Subject: Request for Employee Stats

Follow Up Flag: Flag for follow up
Flag Status: Completed

Scott,

I will not be present for the April 1 meeting, and want to be present for the discussion of my request. [redacted] is aware, but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT N

EXHIBIT O

Date: Tue, 22 Apr 2014 13:38:14 -0700
From: LENNY (Leonard Gumport)
To: [redacted]**@riversideca.gov**
cc: [redacted]**@riversideca.gov**
Subject: bcc: CONFIDENTIAL - Riverside-Gumport Mastan Agreement #2

CONFIDENTIAL AND PRIVILEGED

Dear [redacted]:

I enclosed the fully-signed Agreement No. 2.

A copy of Agreement No. 2 is enclosed, with attachments. The attachments provided by the City are confidential and should be treated as such.

Sincerely,

Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

[redacted]

Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

[redacted]

[redacted]

[redacted]

[redacted]

EXHIBIT O

GUMPORT | MASTAN

A Law Partnership

550 South Hope Street
Suite 1765
Los Angeles, CA 90071-2627
Telephone: (213) 452-4900

Leonard L. Gumport
Peter J. Mastan

April 21, 2014

PRIVILEGED AND CONFIDENTIAL

[redacted]

City of Riverside
3900 Main Street
Riverside, CA 92522

Re: Agreement No. 2 for Legal Services

Dear [redacted]:

The law firm of Gumport | Mastan ("G|M") submits this proposed agreement ("Agreement") for the employment of G|M to provide legal services to the City of Riverside (the "City" or "You"). In return for G|M's commitment to provide services to the City in accordance with this Agreement, the City will be required to pay for G|M's services as specified in this Agreement and to reasonably cooperate in providing information to G|M, so that it can properly advise the City.

This Agreement is separate from the agreement that the City approved earlier this month and that relates to disputed allegations concerning [redacted]. This means that the budget included in this Agreement is in addition to, and separate from, the budget in the agreement concerning [redacted].

Prior to submitting this proposed Agreement, I gave you the names of other firms that the City might consider hiring to conduct the investigation. Please be advised that you should not hire my firm in connection with this new matter, relating to Councilman Davis, if the City is aware of any facts that might lead the City to conclude that there is any conflict in my conducting investigations of related disputed allegations made against [redacted] and Davis.

EXHIBIT O

G|M will provide an independent investigation and report to the City concerning disputed allegations made in the attached written materials that the City provided to G|M on Monday, April 21, 2014. In particular, the scope of G|M's investigation will be to investigate and report on the disputed allegations that Councilman Davis allegedly violated Section 407 of the City Charter as set forth in the attached materials. (Please note that similar disputed allegations have been made concerning [redacted], and G|M is currently investigating those disputed allegations.) **The materials attached to this Agreement should be treated as confidential.**

I will be the attorney at G|M with primary responsibility for conducting the investigation and preparing the report. (Enclosed is a copy of my resume.) G|M is not engaged in this Agreement to provide any representation to the City in any litigation. G|M will charge for its services at the hourly rates specified in this Agreement, and will charge for its out-of-pocket expenses. G|M will provide its services subject to a cap of $49,000 for its fees and costs, and this cap only applies to the investigation and report described in preceding sentences of this paragraph concerning Councilman Davis.

This Agreement and the scope of this engagement of G|M may only be changed by a written agreement signed by the City and G|M.

In return for G|M's commitment to provide services in accordance with this Agreement, the City agrees to pay for G|M's services, and to reimburse G|M's costs, as specified in this Agreement (including the cap of $49,000 described in this Agreement for services within the scope of this Agreement). In addition, the City shall reasonably cooperate in providing information to G|M so that G|M can properly and efficiently render the services provided in this Agreement. **The $49,000 cap is predicated on G|M's receiving such reasonable cooperation from the City.**

Where G|M renders services under this Agreement (or the prior agreement) that overlap between the two investigations, G|M will reasonably allocate those services and costs between the two matters, and will not charge twice for the same service or cost. Where services or costs are difficult to allocate, G|M will generally allocate them 50-50 between the two investigations. 100% of the services and costs incurred by G|M through Friday of last week will be allocated to the [redacted] matter.

The investigation and report to be conducted by G|M will be independent, and G|M makes no representation about the outcome of any such investigation. Further, G|M's compensation and reimbursement (subject to the cap described in this Agreement) are not and shall not be contingent on the outcome, conclusions, or opinions expressed by G|M in conducting its investigation and in its report of its investigation.

The City agrees that nothing in this Agreement or in any comments or statements G|M may make to City constitute a promise or guarantee about the outcome of any matter in which G|M will provide services; any such comments or statements are expressions of opinion only. The City also hereby acknowledges that G|M has made no promises or guarantees about the outcome of any matter in which G|M will represent the City.

G|M determines its fees for services rendered on an hourly basis. Subject to the cap described in this Agreement, the City will be required to pay G|M at its hourly rates for all time that G|M reasonably spends in rendering services on the City's behalf. Currently G|M's hourly rates are as follows:

Partners:	$425 to $550 per hour
Associates:	$260 to $330 per hour
Para-professionals and Document Clerks:	$50 to $150 per hour

My hourly rate for this matter will be $550. Attached is a copy of my resume.

G|M currently does not employ any associates. However, in the event that G|M does employ one or more associates, the associates' hourly rates will be between $200-375 per hour depending upon experience.

Subject to the cap described in this Agreement, the City will be required to pay G|M at its customary hourly rates for all time that G|M reasonably spends on this matter.

Hourly rates are subject to adjustment from time to time without notice, provided the adjustments are made in the ordinary course of G|M's business and G|M will advise the City in advance of any changes that are applicable solely to the City or that are not made in the ordinary course of its business.

By reason of the limited scope of the engagement, I do not expect that there will be any change in my hourly rate during the investigation and the preparation of the report.

Subject to the cap described in this Agreement, the City will be required to reimburse G|M for all reasonable out-of-pocket expenses, including, without limitation, photocopying, scanning, telephone toll and long-distance, secretarial overtime, messenger, parking, and travel. G|M will charge to the City as costs the same amount that G|M is charged for those costs, and will not mark up those costs in order to make a profit on those costs, except that (a) G|M charges $.15 per page for in-house copies and/or scans, and (b) G|M charges for mileage at the Privately

Owned Vehicle Mileage Reimbursement Rate established by the U.S. General Services Administration (which rate is currently .565 cents per mile).

G|M will charge the City for secretarial overtime only when the urgency of its matters require G|M to have a secretary work overtime on such matters, or when its matters require G|M to use outside secretarial or word processing services.

Domestic air travel will be charged at coach rates, unless G|M is given such short notice of the need for such travel that it is impractical to obtain tickets at those rates. International air travel will be charged at business class rates.

G|M does not have space to store large volumes of client files, and G|M is not in the document storage business. G|M will charge for off-site storage costs if the volume of documents on the City's matters requires it to use an off-site storage facility.

At the conclusion of G|M's representation of the City, the City must make arrangements to take possession of its files from G|M, including any files that G|M has stored at an off-site storage facility. If the City fails to do so within 60 days, G|M shall have no responsibility whatsoever arising out of the storage of the City's files or to pay any charges for the storage of its files, and the City shall continue to be obligated to pay any charges applicable to their continued storage. If the City fails to timely retrieve its files after the conclusion of G|M's representation of the City, then the City agrees that G|M may, in its discretion, either destroy or abandon the files or ship them to the City at the City's expense.

G|M may withdraw from its representation of the City in accordance with the applicable California State Bar Rules of Professional Conduct. Grounds for withdrawal include, but are not limited to, a client's breach of its agreement to pay legal fees and expenses and a client's rendering it unreasonably difficult for the attorney to represent the client effectively.

A statement itemizing services rendered will be submitted to the City monthly. Payment for professional services and expenses are due within 45 days. If the City wishes a statement other than in the ordinary course of G|M's business, one will be provided within 10 days after the City requests it in writing.

Please review all G|M's billing statements promptly and carefully. Questions or problems concerning any statement should be discussed with Leonard Gumport or Peter Mastan of G|M within 30 days after the statement date. There will be no charge for discussing the statement within the initial 30 day-period. Thereafter, the City will be charged for such discussions at G|M's standard hourly rates. In addition to any other grounds permitted by law, if any statement is not paid within 45 days after receipt, G|M may, on seven days' notice,

confirmed in writing, seek to terminate its engagement and to withdraw from representing the City in accordance with the applicable rules of professional conduct.

G|M has conducted a conflicts check including all parties that are known to G|M to be involved in this matter. G|M does not believe that it has any conflicts of interest.

G|M's only client in connection with this Agreement shall be the City. Whenever an independent investigation is conducted, there may well be disputes or disagreements between or among the City and its officials, staff, and employees. Under no circumstances should City officials, staff, or employees form the mistaken impression that G|M is counsel for any person or entity other than the City.

In other words, G|M will be representing the City's interests only, not the personal interests of its officials, staff, and employees. Whenever the City requests any of its officials or staff or employees to provide information to G|M, the City shall inform such person or entity that G|M represents only the City's interests. This will also confirm that G|M may so inform and advise such person or entity.

In the event that G|M discovers any conflict of interest, G|M will so notify the City. G|M reserves the right to withdraw from the representation in the event of any actual or potential conflict of interest.

If any dispute arises out of this agreement or any act or omission of G|M or any of its members in connection with G|M's representation of the City, neither G|M, nor any of its members, nor the City shall be entitled to recover the attorneys' or professionals' fees or costs incurred in connection with any legal proceeding to pursue or defend that dispute, whether or not those attorneys' or professionals' fees or costs are incurred in connection with a judicial proceeding, an arbitration, or any other proceeding.

IN ADDITION, IN ANY SUCH DISPUTE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THERE SHALL BE NO RIGHT TO JURY TRIAL, AND G|M AND THE CITY AGREE THAT THE DISPUTE SHALL BE DECIDED WITHOUT A JURY.

If a dispute arises over the fees for services or costs charged to the City, then, at the City's option, the dispute shall be submitted to arbitration in accordance with the applicable rules of the California State Bar Fee Arbitration Program, as set forth in California Business and Professions Code §§ 6200 through 6206. Each side shall bear its own attorneys' and professionals' fees and costs incurred in connection with any such proceeding.

EXHIBIT O

This will confirm that G|M will represent the City's interests only with respect to specific agreed upon matters. The City agrees that such representation is not intended to preclude and shall not preclude G|M from representing any other persons and entities in unrelated matters.

This agreement, when approved by the City, constitutes a formal written contract between the City and G|M. By signing this letter, the signatory represents that he or she is authorized to do so for the benefit of the City and that the City shall be bound by all the terms of this agreement. Accordingly, please carefully review this agreement before it is signed and returned by the City. Signatures may be exchanged via email.

Sincerely,
GUMPORT | MASTAN

By _____
LEONARD L. GUMPORT, Partner

4/22/14

ACCEPTED AND APPROVED:
CITY OF RIVERSIDE

By _____

Print name: STEVE ADAMS

Title: Mayor Pro Tem / Councilmember

APPROVED AS TO FORM

_____ 4/21/14
City Attorney

EXHIBIT O

CITY OF RIVERSIDE
MEMORANDUM

TO: [redacted]

FROM: Scott C. Barber, City Manager

Cc: [redacted]

RE: Hostile Work Environment, Violations of the City Charter

[redacted]:

For the past several months, Councilmember Paul Davis (here after referred to as Paul) has been creating a hostile work environment for me, as well as violating Riverside City Charter Section 407 (Interference in Administrative Service), as documented by the following:

10/22/13: During my annual performance evaluation in closed session, Councilmember Paul Davis stated that my Assistant City Managers and I were doing a horrible job of managing personnel issues in the city and that he was going public with that information. A public discussion of my performance as City Manager violates my privacy rights as your employee, and creates an environment wherein I feel like my reputation and livelihood are threatened by Paul.

11/07/13 and 10/08/13 (see attached emails): After having the Jason Hunter Code of Ethics matter explained as to why Paul's request for a closed session discussion of Hunter's appeal was inappropriate, Councilmember Davis states that an evaluation of my performance is warranted, and if that does not occur, then a public conversation in public view will take place. A public discussion of my performance violates my rights as your employee- my performance is reviewed by the Council as a whole, and only in closed session, and by demanding my performance review, creates an environment wherein I feel my job is threatened, along with my reputation and livelihood.

11/19/13: I stopped by Parks Recreation and Community Services headquarters and spoke with [redacted] who told me that on 10/30/13 at Villegas Park Councilmember Paul Davis told her that he would have me fired as City Manager by the end of May, before [redacted] left as [redacted]. Discussion with my staff that Paul intends to fire me as City Manager violates my rights as an employee of the City Council and makes my job as City Manager extremely difficult, because it creates fear and confusion for me and my subordinate staff.

03/18/14 through 03/28/14 (see attached emails): Paul sends an email to [redacted] requesting a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date. After discussing the request wi[redacted], and

EXHIBIT O

both of you, I directed her to write back to the Councilmember and let him know that his request was been referred to my office, since his request would require the creation of a special report. Paul then revises his request to me, requesting a list of positions by department and title, without name or specific date, which have left within 180 days of March 1, 2014 and those that will leave by the end of the year. I advised Paul that I had reviewed this matter with the [redacted] and that this request would be discussed in closed session. On March 28, 2014, Paul writes to me with a cc to both of you, requesting what he believes is public information regarding former employees, that he needs this information to evaluate my performance, and he is very concerned over "this continual action you take when I ask for important evaluation materials." He goes on to state "Your lack of communication with me on this issue also bothers me and send the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing." Paul's comments to me are intended to intimidate me into complying with his request, which create a hostile work environment for me. Paul also fails to realize that he does not independently evaluate my performance as an individual member of the council, but that rather the Council as a whole evaluate me. Also, disclosure of this specially created document which is currently exempt from the Public Records Act (since there is not an existing report) would allow Paul to share this document with the public as a part of his public evaluation of me as the City Manager. This continued effort to evaluate my performance in public violates my privacy rights as your employee, and creates a hostile work environment for me, because I feel like I am frequently on the defensive with Paul's requests (he states that my lack of communication bothers him) and that my livelihood is at risk if I do not comply with his inappropriate requests.

03/21/14: I spoke with [redacted] and [redacted] regarding a request from Councilmember Davis to annex March Joint Powers land for a baseball field. [redacted] stated that has been told by Councilmember Davis that he intends to fire me by May of this year. I asked Al document his conversation with Councilmember Davis (see attached memo). Although [redacted]'s memo does not state the termination comment, it does state that Paul told [redacted] that he has concerns with my performance. Discussing my job performance with my subordinate staff members presents several difficulties for me as the City Manager, violates my rights of privacy as your employee, and creates a hostile work environment for me and my subordinate staff. Also, directing my subordinate staff to begin annexation proceedings without a Council policy discussion and my subsequent direction to my staff is a violation of Section 407 of the City Charter.

04/01/14: I received a copy (see attached) of May Lynn Davis' Facebook (May is Paul's wife) dated from 03/28 to 03/31, raising the same issues that Paul has raised regarding turnover rates of employees and stating "So Mr. City Manager, where does that leave us?" I feel that because Mrs. Davis' Facebook page contains a picture of her and Paul, and because the issues raised by Mrs. Davis are the same as those raised by Paul, the Davis' are using Mrs. Davis' Facebook page to publicly humiliate me and force me to comply with Paul's inappropriate document requests. This is clearly intimidation through a third party, aimed at creating a hostile work environment for me within the entire City of Riverside, and threatening my livelihood and reputation.

EXHIBIT O

04/10/14 (see attached): I receive a letter from [redacted] containing a statement from [redacted], documenting the Community Action Group meeting from the previous evening. During this meeting, Councilmember [redacted] asked that City staff be excused from the meeting. Since these staff members all work for the City Manager, I feel that this requested removal from a public meeting in a public place is potentially a violation of Chapter 407 of the City Charter. After the meeting, [redacted] speaks with [redacted] who is a City employee who was not asked to leave the meeting [redacted] and [redacted] tells [redacted] that Paul criticized me for not realizing the document that he had requested, thereby limiting his effectiveness as a Councilmember. This public discussion of my performance as the City Manager violates my privacy rights as an employee, and creates a hostile work environment for me.

This ongoing practice of attacking me, threatening to call my performance evaluation, discussing my performance with the public, publically humiliating me, and seeking through intimidation to make me perform my job contrary to our City Charter has created a very hostile work environment for me. I am experiencing the physical effects of this stress, as well as the emotional toll it is taking on me. I am asking for this behavior to cease immediately, so that I can focus on the very difficult job of Riverside City Manager.

My thanks to both of you for your willingness to investigate this matter that is creating an unacceptable work environment for me and my subordinate employees.

Scott C. Barber 4/14/14

Scott C. Barber
City Manager
City of Riverside

EXHIBIT O

Barber, Scott

From: Davis, Paul
Sent: Friday, November 08, 2013 9:15 AM
To: Barber, Scott; [redacted]
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Than let's set this as an evaluation for you and the CA, as I have serious issues with your management and how you and your ACM's are handling employee matters. If either of the other two would like to talk about it, they can contact me. Otherwise let's have this conversation in public view.

Paul Davis
Council Member - Ward 4
City of Riverside

-------- Original message --------
From: "Barber, Scott"
Date:11/08/2013 9:04 AM (GMT-08:00)
To: "Davis, Paul"
Cc: [redacted]
Subject: RE: October 22, 2013 City Council Meeting - response to City Attorney comments

Councilmember:
I attempted to call you last night in this regard, however we never had a chance to speak. I did review your request to set this for closed session with the [redacted]; both of them agreed to schedule an update on the litigation between Jason Hunter and the City, however they did not intend to review the Code of Ethics questions raised by Mr. Hunter as those will most likely be coming to the Council on appeal at some point, and since they are not a part of the litigation, they don't constitute a subject that we can really discuss in closed session (similar to the Aquino matter). I have spoken with the City Attorney, who is including a litigation update on the closed session agenda for 11/19/13.

Please let me know if you have any questions in this regard.
Scott

-----Original Message-----
From: Davis, Paul
Sent: Thursday, November 07, 2013 7:43 AM
To: Barber, Scott
Cc: [redacted]
Subject: Re: October 22, 2013 City Council Meeting - response to City Attorney comments

Please set this for a close session discussion at our next meeting. I have issues with how this has been handled and based on the information provided and my own legal council advice, the complainant appears to have good standing. I believe that an outside independent investigated may be warranted in this matter.

Paul Davis
Council Member - Ward 4
City of Riverside

> On Nov 6, 2013, at 10:57 PM, "J Hunter" <jehunter53@msn.com> wrote:
>
> Gentlemen,

EXHIBIT O

>
> At the City Council meeting of October 22, 2013, during the public comment period I spoke towards the recommendation by Mayor Bailey (agenda item 36, passed on the consent calendar) to consolidate the Code of Ethics and Conduct complaints I filed with the City Clerk on September 9, 2013. I took two exceptions to his Memorandum that accompanied Resolution No 22590.
>
> The following sentence I found extremely worrisome, "Pursuant to the
> Employer-Employee Relations Resolution, the Human Resources Board acted on the grievance and submitted findings and conclusions together with its recommendations to the City Manager."
>
> I commented that the Employer-Employee Relation Resolution referred to, known perhaps as Resolution No. 15079 of 1983, clearly did not cover Managerial employees, who do not participate in Recognized Employee Organizations. I made it known that the City did not have a Council-approved policy for handling these grievances. I also commented that the City Charter, per Section 807, unequivocally states that the Human Resources Board acts in an advisory capacity to the City Council on matters concerning personnel administration.
>
> Councilman Melendrez asked City Attorney Priamos to address my concerns. Mr. Priamos contested both issues. I attach both Resolution No, 15079 and City Charter Section 807 for your perusal. I have also included a pdf version of the City's website listing all Recognized Employee Organizations, such as the SEIU, RPOA, et al.
>
> Please refer to Article I, Section 2, of Resolution No. 15079, entitled, "Statement of Purpose":
> "This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (section 3500 et. seq.) captioned 'Local Public Employee Organizations,' by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations."
>
> If there is any doubt to the subject dealt with within Resolution No, 15079, Section 2 elaborates:
> "It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations..."
>
> Section 807 of the Riverside City Charter states:
> "There shall be a Human Resources Board, which shall have the power and duty to:
> (b) Act in an advisory capacity to the City Council on matters concerning personnel administration."
>
> That our City Attorney would make such misleading statements to the Council on the record during a public hearing is quite disheartening, and certainly makes one question his understanding our our local rules, which I hope you find (similar to me) are quite simply, indisputable. I also remind the Council at this time, that as part of my Writ of Mandamus filed with the Riverside Superior Court on August 21, 2013, which has previously been provided to you, I contend that Mr. Priamos also made materially misleading statements regarding our local rules to the Human Resources Board (a hearing that was also videotaped) at my grievance hearing on May 13, 2013. Coming full circle, those misleading statements would guide the Board towards violating my rights under classified service...setting in motion both the Writ against the City and the Ethics Complaint against the individual Board members.
>
> That I was dragged through an illegitimate, illegal, kangaroo-court process pre-destined to demote and terminate me from my employment with the City of Riverside because of personal vendettas and whistleblower complaints is offensive, and your silence on my missives to date speak volumes towards your complicity in the matters at hand. It also makes me wonder how many previous employees have been subjected to similar retaliation and harassment, and whether a class action suit might not be your preferred alternative towards settling our differences - which I might suggest, again, could be more efficiently solved by opening the lines of communication.
>
> I remain hopeful the Council will recognize the needless waste of taxpayer dollars defending decisions and a process that are simply indefensible, and do the right thing. I call for an immediate independent investigation into the handling of my illegal demotion and termination by executives within the City Attorneys Office, the Human Resources Department, the City Manager's Office, the Riverside Fire Department (namely, Chief Steve Earley), and Riverside Public Utilities.
>
> Sincerely,
> Jason Hunter
> <Resolution-15079.pdf>
> <COR Rec Emp Orgs.pdf>
> <COR Charter Article VIII.pdf>

EXHIBIT O

CONFIDENTIAL MEMORANDUM

TO: Scott Barbee, City of Riverside City Manager

FROM: [redacted]

DATE: [redacted] 2014

RE: Recollection of Communications with Councilmember Davis

At your request, I provide in confidence the following recollection of communications with Councilmember Paul Davis on March 12, 2014, as well as ancillary conversations with others.

On March 12, 2014, at 1:40PM, on my work cell [redacted], I received a missed call and voice message from Councilmember Paul Davis. Following is the verbatim transcription:

> "Hey [redacted] this is Paul Davis. Just following up with you to see what's going on with this baseball thing. I haven't heard anything from anyone for a number of weeks now and I want to move this forward if we can or call it quits if we have to. So give me a call, or an email, or a text, whichever. Let me know what's up. [redacted]. I will be at City Hall at 3 o'clock for the Finance Committee meeting. If you have a few minutes afterwards, we can get together and chat, maybe."

At 2:04PM, I subsequently made a call to [redacted] regarding the inquiry from Councilmember Davis. My purpose in the call was to obtain an up-to-date status report on the MLB Yo[redacted]acility. As I recall, [redacted] was not present and, as I recall, Sarah transferred me [redacted]. I shared with [redacted] the nature of Councilmember Davis' inquiry. In response, at 2:[redacted]ious enough to send an email to [redacted] and CCd me explaining my conversation with him.

> [redacted] received a phone call from Councilman Davis where he stated he had not heard anything relative to the baseball facility that we met to discuss about 30 days ago. Can you provide [redacted] quick update before Al returns the call? Is this now in the hands of the JPA – Lori Stone?"

As I recall, in response to [redacted] email to [redacted], I received via phone call from her with an update indicating that she had met with Councilmember Davis twice and discussed the site's location within March JPA jurisdiction, with Lori Stone being the main JPA point of contact. I left a message with Councilmember Davis at 2:57PM replying to his earlier call. At 6:05PM, I received a return call from Councilmember Davis that lasted 14 minutes.

Much of the conversation between Councilmember Davis and me was focused on the MLB Youth Facility. The main conclusion of the conversation was Councilmember Davis' desire to explore annexing the land into the City; I committed to look into the annexation question with [redacted]. During the call, there were two departures from this topic. First, as I recall, Councilmember Davis shared with me his concerns with the performance of the City Manager. Second, as I recall, Councilmember Davis share with me his concern with a statement made by [redacted]ed to visiting Sister Cities; I believe, Councilmember Davis expressed concern that [redacted] expressed a willingness to travel to Canada over China. During this conversation and, in particular during the two ancillary topics of the phone call, Councilmember Davis used a number of expletives.

Please contact me for additional information or questions.

EXHIBIT O

On Mar 20, 2014, at 5:38 PM, "[redacted]" <[redacted]@riversideca.gov> wrote:

Hi Paul,

I've been asked by the City Manager's office to refer this matter back to them, as your request would require the creation of a special report.

Best regards,

[redacted]



This email message, including any attachments, is intended for the sole viewing and use of the individual or entity to which it is addressed, and may contain confidential and privileged information, which is prohibited from disclosure. Any unauthorized review, use, disclosure, distribution, or the taking of any action in reliance on the information contained in this email, including attachments, is prohibited. If you are not the intended recipient, you are hereby notified that any dissemination or copy of this message, or any attachment, is strictly prohibited. If you have received a copy of this email in error, please notify the sender by reply email immediately, and remove all copies of the original message, including attachments, from your computer.

From: Davis, Paul
Sent: Tuesday, March 18, 2014 6:07 PM
To: [redacted]
Subject: [redacted] Info

[redacted]

Can you provide me a list of all employees who have left the city in the last 180 days or who will be leaving in that time period, to include their position and date?

Thanks

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT O

Barber, Scott

From: Barber, Scott
Sent: Monday, March 24, 2014 9:02 AM
To: Davis, Paul
Subject: RE: Employee Info

Thank you, Sir- hope all is well in China!

From: Davis, Paul
Sent: Monday, March 24, 2014 8:42 AM
To: Barber, Scott
Subject: Re: Employee Info

Thank you for the response Scott and will discuss this with [redacted] while I am here.

Paul Davis
Council Member - Ward 4
City of Riverside

On Mar 24, 2014, at 10:33 PM, "Barber, Scott" <SBarber@riversideca.gov> wrote:

> Councilmember:
> I have reviewed your request with the [redacted] and [redacted], who have directed me to discuss this request with the entire Council during Closed Session (under Labor) on April 1st (if you have returned) or on April 8th. If you have any questions in this regard, I would ask you to direct them to either the [redacted]
> Thank you,
> Scott
>
> **From:** Davis, Paul
> **Sent:** Thursday, March 20, 2014 6:19 PM
> **To:** [redacted]
> **Cc:** Barber, Scott; [redacted]
> **Subject:** Re: Employee Info
>
> Thanks [redacted] for the effort. To restate my request to comply with employee privacy issues. Can I get a list of positions by department and title, without name or specific date, of those who have left the cities employ for a period of 180 days from March 1, 2014, and those who will be departing by years end?
>
> Thank you all in advance for your anticipated cooperation.
>
> Paul Davis
> Council Member - Ward 4
> City of Riverside

EXHIBIT O

Barber, Scott

From:	Davis, Paul
Sent:	Friday, March 28, 2014 4:24 PM
To:	Barber, Scott
Cc:	[redacted]
Subject:	Request for Employee Stats
Follow Up Flag:	Flag for follow up
Flag Status:	Completed

Scott,

I will not be present for the April 1 meeting, and want to be present for the discussion of my request. [redacted] is aware, but doesn't have any involvement. Not sure why you would have a discussion with either he or any other member on my simple request and is really not up for debate. This is public information and needs to be provided ASAP. Very concerned over this continual action you take when I ask for important evaluation materials. Your lack of communication with me on this issue also bothers me and sends the wrong message. One of the key parts of evaluating any management employee's effectiveness and leadership is the churn rate of staff and certainly exit interviews of those departing. Thank you for your anticipated cooperation on this and other issues.

Paul Davis
Council Member - Ward 4
City of Riverside

EXHIBIT O

Barber, Scott

May Lynn Davis
March 29

Just an observation...Another valuable and dedicated Associate of the City of Riverside is gone (the community is very sad to see Ralph leave). Seems to be trending that we have lost quite a few in recent years for greener pastures or forcibly forced out due to conflicts.... who else is going and how many more are we going to lose? This will end up leaving our city in a state of all new and inexperienced people relaced in those slots... Looks to me that an efficient leader would not have such a high turn over, and that they take care of their good employees and weed out the ones that are useless, not the other way around.

Like · [Comment] · Share

- Marisa Yeager, Steve Livings, Grace Kainin and 9 others like this.
- [redacted]

  Steve Livings Pushing out the seasoned employees for newer less experienced employees?

  March 29 at 6:21pm · Like · 1
- [redacted]

  James Dudley Things like this make you wonder why. Nice observation post.
  March 29 at 6:49pm · Like · 2
- [redacted]

  Darren Thompson Weak, low - confidence people in the position of leadership, oftentimes will get rid of or will try to get rid of those loyal to previous leader. By doing this, the new leader can begin to build a coalition more favorable to his/her agenda/self. Stalin was famous for this.
  March 29 at 10:42pm · Like · 3
- [redacted]

  May Lynn Davis Apparently there are quite a few more on the way out... So Mr. City Manager, where does that leave us? We really could use more intelligent associates seasoned in their field of work, not a bunch of bobble heads. Sorry no offence to the newbies... But just sayin.
  March 31 at 12:55pm · Like · 2

EXHIBIT O

April 10, 2014

[redacted],

I attended the CAG meeting last night at Villegas Park that convened at 1900 hours. Consistent with the monthly agenda, Councilman Davis was given the opportunity to address the group and provide a Ward 4 update.

After his brief report, Councilman Davis asked that any and all City staff please be excused from the meeting. Davis explained that he was going to share some recent developments with his constituents and that it would be best if he excused City staff. As I was getting up and walking out, I heard Davis tell the crowd that we (City employees) all had bosses. It would only be right if what he was about to share came from our superiors and not directly from him. At that, myself, [redacted] all stepped outside.

Obviously curious, the four of us stood outside and conversed. We did so for at least 20 minutes before [redacted] and [redacted] finally said they were going to leave. [redacted] and I continued to talk and at about the 25 minute mark, we were allowed to come back inside and join the meeting. Nothing was mentioned of the Councilman's conversation with the group after we returned.

Following the meeting, I had the opportunity to talk to [redacted] outside in the parking lot. I asked what was going on and she stated that Councilman Davis told the attendees that he was going to file some kind of suit or action against [redacted]. When asked why, [redacted] stated the following rational before we were interrupted by someone else walking up to us:

- That Paul has been hindered from doing his job. There have been numerous employees that have left their positions at the City. Paul has asked for a report that would contain the list of employees and why they were separated (fired, resigned, retired, etc.). Paul went through the City Manager for the request. The request was denied per [redacted]. This was just one example of [redacted] and City Manager not following the City Charter reference structure, thus limiting/blocking the functionality of Paul and his position as a councilman. The [redacted] is also performing other tasks and signing other documents that he does not have the authority to do.

- [redacted] has yelled/demeaned Paul and his fellow peers in public and in front of others on different occasions. The conversations usually have to do with power/authority. Who is in charge of running things, etc. The most recent was while [redacted] and Paul were in China. As mentioned, other Councilmembers have experienced the same independently with [redacted].

- The [redacted] recently hired a psychologist to meet with each Councilmember. The rational was to evaluate each member to see what the breakdown is and why everyone cannot get along. Paul's belief is that [redacted] does not have the authority to do so and he took great offense to [redacted] actions in this matter.

EXHIBIT O

- Also mentioned was that [redacted] told the City Manager to investigate [redacted] for administrative interference. In response, there is an opinion that [redacted] and possible [redacted] may join in some sort of claim against [redacted]

The aforementioned points were further confirmed later in the evening by the CAG Chair, Bob Garcia. Bob called me on my way home and recapped a few points of Councilman Davis' message to the meeting attendees. Bob's recap was very disjointed, but he independently brought up the first three points, as being covered by Davis. The last point was not. The basic message that Bob conveyed was Councilman Davis explained to the group that he is being hindered from doing his job by [redacted] and that there was more than likely going to be some repercussions. Davis wanted to tell his constituents in person and before they heard it somewhere else.

Please let me know if you have any questions or if you need any clarification on any of the details provided.

[redacted]

EXHIBIT O

CITY OF RIVERSIDE

MEMORANDUM

To: [redacted]

Cc: [redacted]

Re: Update: hostile work environment complaint

As an update to my memorandum of 04/14/14, I have the following information:

04/14/14 (see attached email): [redacted] emailed me with his concerns regarding statements made during Councilmember Davis' CAG meeting of 04/09/14; during this meeting Councilmember Davis referenced the investigation of [redacted], and [redacted] pointed out that any retaliation planned by Councilmember Davis as a result of the previous whistleblower complaint would constitute "illegal retaliation".

04/15/14: Councilmember Davis asked to see me when I finished a meeting with my staff. I went to his office at approximately 2:44 pm, and when I walked in I observed that his face was red and he appeared angry. I said "You wanted to see me?" to which Councilmember Davis replied "I am angry. I was just pigeonholed into a meeting with some investigator when I thought that it was going to be an industrial psychologist. This is going to end, Scott. You should have told me what this meeting was about and it time for a change; it is time for you to go. I know what I can say publically and I'm going to say it." I said to Councilmember Davis "You are correct, your behavior towards me is going to change" and I left Councilmember Davis' office.

This continuing practice of threatening to fire me, criticizing me for actions that I had no part in (I did not schedule the meeting with the investigator- it was scheduled by the Mayor's Office), and becoming angry and raising his voice to me is a perpetuation of Councilmember Davis creating an unacceptable, hostile work environment.

Scott C. Barber 04/15/14

Scott C. Barber, Riverside City Manager

EXHIBIT O

Barber, Scott

From: [redacted]
Sent: Monday, April 14, 2014 5:38 PM
To: Barber, Scott
Cc: [redacted]
Subject: CASABLANCA ACTION GROUP MEETING

Mr. Barber

I have already shared with you information received from [redacted] regarding some comments made by Councilmember Paul Davis during the Casablanca Action Group on April 9, 2014. One of the comments attributed to the councilmember particularly troubled me. That remark had to do with some action that Councilmembers Davis and [redacted] are contemplating against [redacted] as a result of a complaint made against [redacted] for administrative interference in the running of City operations. I have previously brought to your attention that I believe [redacted] has acted inappropriately in undermining the authority of [redacted] by telling a key member of the staff of the RPD [redacted], that he [redacted] had the votes to get rid of the city manager and [redacted]. If, in fact, Councilmember Davis is now contemplating some action against any city employee (including the city manager and [redacted]), based on my reporting of misconduct about [redacted], I believe that qualifies as illegal retaliation. Based on my training and experience retaliation occurs when any adverse personnel action is taken by an employee for exercising a right or engaging in protected activity. My complaint against the councilman of violating the City Charter is a protected activity as I understand that term to be defined.

[redacted]

EXHIBIT O

LEONARD L. GUMPORT
GUMPORT | MASTAN
550 South Hope Street, Suite 1765
Los Angeles, CA 90071-2627
Telephone: (213) 452-4901
Email: lgumport@gumportlaw.com

EDUCATION

COLUMBIA LAW SCHOOL, New York, New York
J.D., 1977
Harlan Stone Scholar (2nd and 3rd years)

YALE UNIVERSITY, New Haven, Connecticut
B.A., 1972
Summa Cum Laude
Phi Beta Kappa

EMPLOYMENT

03/15/95-present GUMPORT | MASTAN
Los Angeles, California
(initially known as Gumport, Reitman & Montgomery)

1979-1995 HUFSTEDLER & KAUS
Los Angeles, California
(initially known as Beardsley, Hufstedler & Kemble)
Partner, 1983 – 1995

1977 - 1979 U.S. DISTRICT JUDGE GUS J. SOLOMON,
Portland, Oregon
Law Clerk

PUBLICATIONS

Gumport, "The Bankruptcy Examiner," 20 *California Bankruptcy Journal* 71 (1992) (reprinted in 13th Annual Bankruptcy Litigation Institute (Prentice Hall Law & Business 1993))

Gumport, "Banking on Compliance," Los Angeles Daily Journal (Friday, April 10, 2009) (re Ponzi schemes, Bank Secrecy Act, and Financial Crimes Enforcement Network)

ADDITIONAL INFORMATION

1. Member of Bars of California (1979-present (Bar No. 86935), New York (1978-present), District of Columbia (1980-present), and Alaska (2008-present)

EXHIBIT O

2. "Southern California Superlawyer," Los Angeles Magazine 2007, 2008, 2009, 2010, 2011, 2012, 2013 & 2014 in Bankruptcy & Creditor/Debtor Rights

3. Member, Panel of Mediators, U.S. District Court for Central District of California (2009-present)

4. Member, Panel of Mediators of U.S. Bankruptcy Court for Central District of California (1998-present)

5. Member, Panel of Mediators, Los Angeles, Superior Court VSC Program (2009-2012)

6 Lawyer representative to the Ninth Circuit Judicial Conference (1998-2000)

7. Chair, Federal Courts Committee of L.A. County Bar Association (1995-1997)

8. Member, Pro Bono Bankruptcy Program of Los Angeles County Bar Association (2000-2008)

9. Member of Board of Directors of Los Angeles Bankruptcy Forum (1992-1996 and 2010-present)

10. Member of Board of Editors of California Bankruptcy Journal (1993-1997).

SELECTED MATTERS

1. *County of San Bernardino v. James J. Hlawek et al.*: conducted internal investigation for San Bernardino County and served as special counsel to San Bernardino in litigation filed by County against contractors (including waste disposal company, municipal bond underwriter, and bond counsel) and former public officials in political corruption case. Subject of investigation and litigation included bribes paid to County official to influence more than $100 million waste disposal contract.

2. *March Air Force Base*: served as special counsel to conduct internal investigation for March Joint Powers Authority concerning development of flight path for DHL aircraft at March Air Force Base in Riverside County, California.

3. *In re Fremont General Corp.*: served as bankruptcy examiner of holding company of major subprime lender's holding company in chapter 11 reorganization. Subject of investigation was allegations of

EXHIBIT O

misconduct in connection with $175 million in claims filed against the bankruptcy estate.

4. *Alaskan Native Corporation*: served as special counsel to conduct internal investigation for an Alaskan Native Corporation concerning conduct of prior management.

5. *In re First Securities Group of California, Inc.*: served as SIPC-appointed trustee of an SEC-registered broker-dealer that was involved in Ponzi scheme that included the sale of fictitious securities to public investors.

6. *In re Newedge*: served as the bankruptcy examiner of one of the bankrupt U.S. companies controlled by arms dealer Adnan Khashoggi; investigated and prepared report on the withdrawal of $89 million from bankrupt company.

7. *In re H. Frank Dominguez*: served as bankruptcy examiner to conduct investigation and prepare report on financial affairs of H. Frank Dominguez, principal of the Vanir Group of Companies, Inc.

8. *In re Carter Hawley Hale Stores, Inc.*: served as special counsel to special committee of the board of directors of CHH to conduct investigation and advise committee on claims arising from pre-bankruptcy restructuring of CHH.

SEMINAR PANELIST

1. Panelist in seminar for California Bankruptcy Forum on "Mediation is Some Kind of Wonderful" for Young Insolvency Professionals, 25th Annual Insolvency Conference (May 2013 San Diego meeting).

2. Panelist in seminar for California Bankruptcy Forum on "In re Fremont General, a Case Study" 23rd Annual Insolvency Conference (May 2011 Squaw Valley meeting).

3. Panelist in seminar by CalCPA Litigation Section on "Parallel Proceedings: The Intersection of Civil and Criminal Cases) (June 2010 Los Angeles meeting)

4. Panelist in seminar by California Bankruptcy Forum on "Ethics of Dissolving a Law Firm" (May 2010 Monterey meeting)

5. Panelist in seminar by County Counsels' Association of California on "Public Corruption: Maximizing Remedies" (2005 Los Gatos Annual Meeting).

6. Panelist in seminar by Greater Inland Empire Municipal Law Association on "Public Corruption: Maximizing the Recovery of Damages" (2005 Inland Empire meeting).

7. Panelist in seminar by ABA Criminal Justice, White Collar Crime Committee (West Coast Region) on "Freezing or Preventing the Freezing of Assets in a Civil and Criminal Fraud Case" (2001 Los Angeles Meeting).

8. Panelist in seminar by Los Angeles Bankruptcy Forum on "Tools for Attacking Offshore Asset Protection Trusts" (2000 Los Angeles meeting).

9. Panelist in seminar by Central District of California Bankruptcy Trustees on "Litigation Management Tips for Bankruptcy Trustees" (1997 Palm Springs annual meeting).

10. Panelist in seminar by the American Association of Insolvency Accountants on "Sports Bankruptcies" (1996 Phoenix annual meeting).

11. Panelist in seminar by Los Angeles Bankruptcy Forum on "Misinformation and Missing Assets" (1994 Los Angeles).

12. Panelist in seminar by Business Law Section, State Bar of California, on "Potential Liability of Directors, Officers and Professionals as a Company Approaches Insolvency" (1994 San Francisco and Los Angeles).

13. Panelist in seminar by Financial Lawyers Conference of Los Angeles on "Examiners, Trustees, State Court Receivers and Chapter 11: Who, When and Why?" (1994 Los Angeles).

14. Panelist in seminars by the Commercial Law and Bankruptcy Section of the Los Angeles County Bar Association on "Bankruptcy Crimes and Related Issues" (1991) and "Recovering Fraudulently Transferred Assets" (1992).

15. Panelist in seminar by Price Waterhouse & Co. at its Insolvency Institute on "Why Trustees and Examiners Fail" (1992 Vail annual meeting).

16. Panelist in seminar by the Federal Bar Association on "The Bankruptcy Examiner" (1993 New Orleans annual meeting).

17. Panelist in seminar by the Transportation Lawyers Association on "Freight Undercharge Litigation" (1993 Santa Fe annual meeting).

EXHIBIT O

18. Panelist in seminar by the American Association of Insolvency Accountants on "Liabilities, Immunities and Privileges of Trustees and Examiners" (1992 Chicago annual meeting).

19. Panelist in seminars by the Los Angeles Bankruptcy Forum on "The Bankruptcy Examiner" (1988) and "Environmental Problems in Bankruptcy" (1992).

20. Panelist in seminar by the California Continuing Education of the Bar on "Introduction to Bankruptcy Practice" (1991 Los Angeles).

* * * *

EXHIBIT O

EXHIBIT P

EXHIBIT P

From: [redacted]@riversideca.gov>
To: Leonard Gumport <lgumport@gumportlaw.com>
CC: '[redacted]@riversideca.gov>
Subject: Re: CONFIDENTIAL - Riverside - Records Request
Date: Fri, 25 Apr 2014 00:31:08 +0000

I will handle it ASAP. Thank you.

[redacted]

On Apr 24, 2014, at 5:11 PM, "Leonard Gumport" <lgumport@gumportlaw.com> wrote:

Dear [redacted]:

In connection with two independent investigations that I am conducting on behalf of the City of Riverside, please provide copies of the following documents, **provided that** they are public records that the City has the lawful right to produce to me:

Any emails that were sent on the City's computer system and/or servers and that were from Councilmember Paul Davis (or his Field Representative) anytime during January 25, 2014 through March 25, 2014 on any of the following two subjects:

a) annexing or using March Joint Powers land for a baseball field or youth facility;

b) employment status or job performance of Scott Barber;

Only emails by Councilmember Davis (or his Field Representative) to the following recipients are requested:

-(i) othe Councilmembers (and their Field Representatives);

-(ii) City Manager Scott Barber;

-(iii) [redacted] and

-(iv) [redacted]

-(v) [redacted]);

Please note that this request is limited to a 60-day time period.

Please do not infer from this email that the requested documents reflect any misconduct by anyone. The reason for my request is to facilitate my doing a thorough job in conducting two independent investigations.

Before taking any action on this request, even though this request only seeks records that the City has the right to produce to me, please bring this request

to the attention of Councilmember Davis (and his counsel) before taking any action.

If you have any questions, please call.

Thanks.

Sincerely,

Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

EXHIBIT P

00312

EXHIBIT Q

From: "Mark H. Meyerhoff" <mmeyerhoff@lcwlegal.com>
To: "lgumport@gumportlaw.com" <lgumport@gumportlaw.com>,
"'blaylock.assoc@cox.net'" <blaylock.assoc@cox.net>
CC: [redacted]S@riversideca.gov)" <[redacted]S@riversideca.gov>
Subject: Paul Davis Investigations -- City of Riverside -- RI085/057
Date: Thu, 15 May 2014 21:47:04 +0000

Gentlemen:

I have been contacted by Mr. James Potts who is representing Paul Davis with regards to the respective investigations you are both conducting for the City of Riverside. Mr. Potts asked that you both contact him to schedule an interview with Mr. Davis. Mr. Potts's information is as follows:

James W. Potts
Potts & Associates
3500 E. Colorado Blvd
Suite 107
Pasadena, CA 91107
626-396-1070
paaerrep@aol.com

Please let me know if you have any questions.

This email message has been delivered safely and archived online by Mimecast.

EXHIBIT Q

00314

6/9/2014

EXHIBIT R

From: PAAERREP@aol.com
Date: Thu, 15 May 2014 19:53:05 -0400 (EDT)
Subject: Re: CONFIDENTIAL - City of Riverside - Interview Request
To: lgumport@gumportlaw.com

Mr. Gumport

Thank you for your request. Mr. Davis is available (do to his schedule and mine) on May 29, 2014. Where and at what time would the interview take place?

Jim

In a message dated 5/15/2014 4:44:56 P.M. Pacific Daylight Time, lgumport@gumportlaw.com writes:

> CONFIDENTIAL
>
> Dear Mr. Potts,
>
> I understand that you are counsel for Councilmember Paul Davis.
>
> On behalf of the City of Riverside, I would like to interview Councilmember Davis for one hour.
>
> The interview would be transcribed, but at any time you or your client could insist that the interview stop or go off the record. In conducting my investigation on behalf of the City of Riverside, I will only rely on what I am told on the record during the interview.
>
> I would like to conduct the interview at you and your client's earliest convenience (except that I am not available tomorrow).
>
> The general subject matter of the interview is whether **or not** Councilmember Davis had communications with subordinates of the City Manager that are inconsistent with Section 407 of the Riverside City Charter. I stress the "or not."
>
> The particular focus will be on communications by Councilmember Davis with any City employee or official during January 2014-April 2014 about (a) the City's annexing (or otherwise acquiring) property from the March JPA or (b) the employment status or job performance of the Riverside City Manager.
>
> Nobody reading this email should infer from it that Councilmember Davis did anything inappropriate.
>
> I am copying the City Attorney and other counsel for the City on this email.
>
> Hope to hear from you soon.
>
> Thanks.
>
> Sincerely,
>
> Leonard L. Gumport
> Gumport | Mastan
> 550 S. Hope St., Ste. 1765
> Los Angeles, CA 90071-2627
> (213) 452-4901

00316

EXHIBIT R

EXHIBIT S

City message at any location within the City that the Mayor deems appropriate at which the Mayor will present the Mayor's programs, objectives and priorities.

The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties of the Mayor. The Mayor Pro Tempore shall conduct the Council meetings and shall vote only as a member of the Council, not as Mayor Pro Tempore. In the event of a tie vote, the Mayor Pro Tempore shall not have a tie-breaking vote and Council vote shall be recorded as a negative or "nay" vote. With regards to the veto power, the Mayor Pro Tempore shall not have the power to veto acts of the City Council.

Notwithstanding any other provisions of this Charter, when a tie-vote exists for any cause, in order to break that tie, the Mayor shall have the same voting right as a member of the City Council for or against the item before the City Council. The Mayor's vote shall be deemed a City Council member's vote for all purposes, including the introduction or adoption of both ordinances and resolutions. (Effective 12/27/1995 and 12/11/1986)

Sec. 406. City powers vested in Council; exceptions.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Sec. 407. Interference in administrative service.

Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. (Effective 12/27/1995)

Sec. 408. Meetings.

The City Council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

Special meetings may be called in accordance with State law.

Meetings of City Council-appointed and Mayoral-appointed standing and ad hoc Council committees, regardless of the number of City Council members who might be on such committees, shall be open to the public and the time and place of such meetings shall be publicly announced at the City Council meetings prior to such committee meetings.

All meetings of the City Council conducted in closed session under the Ralph M. Brown Act (California Government Code Sections 54950 et. seq.) shall be audio recorded. The recording shall be confidential and shall be available for inspection only as permitted by state law. The recording shall be retained for a period of at least two years. (Effective 1/18/2005)

Sec. 409. Same--Location.

All meetings shall be held in the Council chambers in City Hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be

ARTICLE VI. CITY MANAGER

Sec. 600. Creation of office; appointment; tenure; eligibility of elective officers.

There shall be a City Manager who shall be the chief administrative officer of the City. The process for the selection of a City Manager shall be determined by the City Council. It shall appoint, by a majority vote, the available person that it believes to be best qualified on the basis of executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the offices as set forth in this Charter. The City Manager shall serve at the pleasure of the City Council.

No person shall be eligible to receive appointment as City Manager while serving as Mayor or as a member of the City Council nor within one year after ceasing to hold such office. (Effective 12/27/1995)

Sec. 601. Powers and duties.

The City Manager shall be the head of the administrative branch of the City government. The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City.

All department heads and officers of the City, except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the City Council, shall serve at the pleasure of the City Manager who may appoint, suspend or remove such department heads and officers subject to the personnel merit system provisions of this Charter. However, the appointment, removal and suspension of the Library Director shall be subject to the approval of the Board of Library Trustees, the appointment (but not the suspension or removal) of the Chief Financial Officer/Treasurer shall be subject to the approval of the City Council, and the appointment (but not the suspension or removal) of the Public Utilities Director shall be subject to the approval of the Board of Public Utilities. The City Manager may approve or disapprove all proposed appointments and removals of subordinate employees by department heads or officers, except by the City Attorney and City Clerk, and such appointments and removals by department heads or officers, except by the City Attorney and City Clerk, shall be subject to the approval of the City Manager.

Notwithstanding the foregoing or any other provision of this Charter except Section 407, the City Council may adopt by ordinance, an employee appeal process which could affirm, overrule or modify a final administrative decision concerning an employee grievance and could provide that such action shall be final. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have the power and be required to:

(a) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.

(b) Prepare and submit to the City Council annually a capital improvement plan.

(c) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable to the City Manager.

(d) Prepare rules and regulations governing the contracting for, procuring, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by it.

(e) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.

(f) Perform such other duties consistent with this Charter as may be required of the City Manager by the City Council. (Effective 10/23/2012 and 12/27/1995)

Sec. 602. Participation in meetings of Council, boards and commissions.

The City Manager shall be accorded a seat at the City Council table and at all meetings

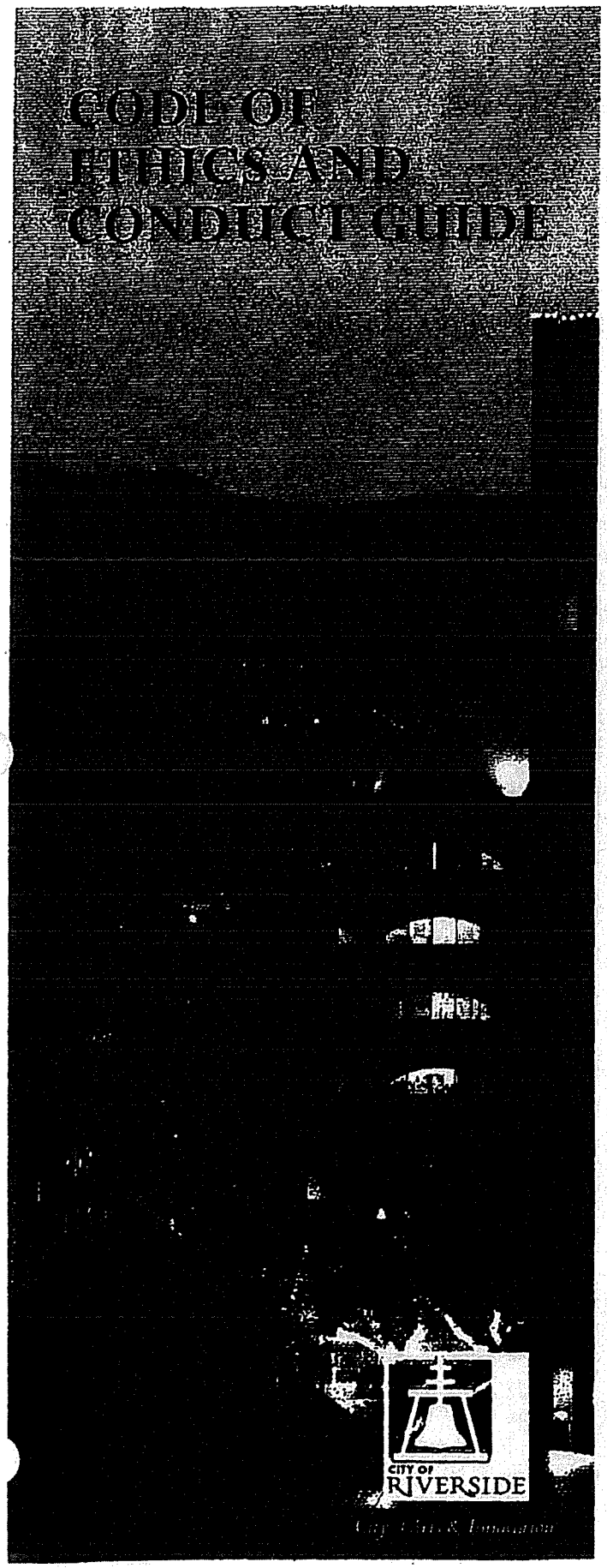
of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. (Effective 12/27/1995)

Sec. 603. Manager pro tempore.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as manager pro tempore during any temporary absence or disability of the City Manager. (Effective 12/27/1995)

EXHIBIT 5

EXHIBIT T



What is the purpose of the Code?

The intent of the Code of Ethics and Conduct is to achieve fair, ethical and accountable local government for the City of Riverside.

What is contained in the Code?

A Preamble is followed by the specific Code provisions which include discussion of the purpose, scope, core values, implementation, monitoring, oversight, enforcement and sanctions.

What are the core values contained in the Code?

The Code contains eight aspirations of the citizens of Riverside.

1. To create a government that is trusted by everyone
2. To make decisions that are unbiased, fair and honest
3. To use public office for service to the public good and not for personal or private gain
4. To ensure that everyone is treated with respect and in a just and fair manner
5. To create a community that affirms the value of diversity
6. To ensure that all public decisions are well informed, independent and in the best interests of the City of Riverside
7. To maintain a nonpartisan and civic-minded local government
8. To ensure that all officials are adequately prepared for the duties of their office
9. To make a diligent effort to attend all regular meetings

How did the Code come about?

In 2004, a City Council-appointed Charter Review Committee recommended 12 charter amendments be presented to the qualified electors of Riverside. The City Council concurred and placed all measures on the ballot.

On November 2, 2004, Measure DD was approved by the voters of the City of Riverside adding Section 202 to the Riverside City Charter. Section 202 requires adoption of a Code of Ethics and Conduct for elected officials and members of appointed boards and commissions.

EXHIBIT T

00322

Who is covered by the Code?

When does the Code apply?

How do I file a complaint?

When will the complaint be heard?

If I file a complaint, how will I know the outcome?

How do I obtain information on prior complaints and resolutions?

Where do I find a copy of the Code?

What role does the public play in implementation of the Code?

Where can I get further information?



RESOLUTION NO. 22461

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ESTABLISHING A CODE OF ETHICS AND CONDUCT FOR ELECTED OFFICIALS AND MEMBERS OF APPOINTED BOARDS, COMMISSIONS AND COMMITTEES, AND REPEALING RESOLUTION NO. 22318.

WHEREAS, on November 2, 2004, Measure DD was approved by the voters of the City of Riverside, thereby adding Section 202 to the Riverside City Charter; and

WHEREAS, the City Council desires to further amend the Code of Ethics and Conduct.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside that the following shall be the Code of Ethics and Conduct for all elected officials and members of appointed boards, commissions, and committees for the City of Riverside.

I

PREAMBLE

The people of the City of Riverside, at an election held on November 2, 2004, approved an amendment to the City Charter of the City of Riverside which states: "The City of Riverside shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees which shall assure public confidence in the integrity of local government and its effective and fair operation." To assure public confidence in and ensure effective and fair operation of the local government of the City of Riverside the following Code of Ethics and Conduct is hereby adopted by the City of Riverside.

II

CODE PROVISIONS

A. Purpose

The purpose of this code is to achieve fair, ethical, and accountable local government for the City of Riverside. The people of Riverside expect public officials, both elected and appointed, to comply with both the letter and the spirit of the laws of the State of California, the United States of America and the Charter, Municipal Code, and established policies of the City of Riverside affecting the operations of local government. In addition, public officials are

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EXHIBIT T

expected to comply with the provisions of this Code of Ethics and Conduct established pursuant to the expressed will of the people. All persons covered by this code will aspire to meet the highest ethical standards in the conduct of their responsibility as an elected or appointed official of the City of Riverside.

B. Scope

The provisions of this Code of Ethics and Conduct shall apply to the Mayor and members of the City Council, and to all members of the boards, commissions, and committees appointed by the City Council or the Mayor or the Mayor and City Council, including any *ad hoc* committees. The provisions of this code shall also apply to all members of committees appointed by individual members of the City Council or by Department Heads.

Further, the provisions of this code shall apply to the Mayor and Members of the City Council at all times during their term of office as elected officials of the City of Riverside. However, the provisions of this code shall apply to the appointed officials only while they are acting in their official capacities and in the discharge of their duties.

C. Core Values

The people of the City of Riverside share a set of core values that constitute the guiding principles for the establishment of this code. These core values are expressed in the following aspirations:

(1) To create a government that is trusted by everyone.

(2) To make decisions that are unbiased, fair, and honest.

(3) To use public office for service to the public good and not for personal or private gain.

(4) To ensure that everyone is treated with respect and in a just and fair manner.

(5) To create a community that affirms the value of diversity.

(6) To ensure that all public decisions are well informed, independent, and in the best interests of the City of Riverside.

(7) To maintain a nonpartisan and civic minded local government.

(8) To ensure that all officials are adequately prepared for the duties of their office.

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EXHIBIT T

(9) To ensure that members of appointed boards, commissions, and committees make a diligent effort to attend all regularly scheduled meetings of their board, commission, or committee.

(10) To ensure that neither the Mayor nor any member of the City Council unduly influence members of appointed boards, commissions and committees.

Based upon these core values, it is the City of Riverside's intent to establish through this Code of Ethics and Conduct, a level of reasonable expectations of behavior for elected and appointed public officials.

D. Core Values Defined

(1) Creating Trust of Local Government.

The elected and appointed officials of the City of Riverside shall aspire to operate the City government and exercise their responsibilities in a manner which creates a trust in their decisions and the manner of delivery of programs through the local government. The officials shall aspire to create a transparent decision making process by providing easy access to all public information about actual or potential conflicts between their private interests and their public responsibilities. The officials shall aspire to make themselves available to the people of the city to hear and understand their concerns. They shall aspire to make every effort to ensure that they have accurate information to guide their decisions and to share all public information with the community to ensure the community's understanding of the basis of the officials' decisions.

(2) Making Unbiased, Fair, and Honest Decisions.

The elected and appointed officials of the City of Riverside shall aspire to ensure that their decisions are viewed as unbiased, fair, and honest. They shall strive to avoid participation in all decisions which create a real or perceived conflict of interest and to disclose any personal interest that would be perceived to be in conflict with the fair and impartial exercise of their responsibilities. They will not accept gifts or favors which might compromise the independence of their judgments or actions or give the appearance of being compromised.

(3) Use of Office for Service to the Public Good and Not for Personal or Private Gain.

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RIVERSIDE, CA 92522
(951) 826-5567

EXHIBIT T

The elected and appointed officials of the City of Riverside have a responsibility to use the benefits of public office exclusively for the public purpose for which it was created. Elected and appointed officials shall not use the Office for personal or private gain except for as allowed by statute. Therefore, acceptances of gifts shall otherwise be consistent with the requirements and limitations allowable by state law. Elected and appointment officials shall refrain from the following: (1) accepting gifts or favors that may compromise independent judgment or give the appearance of compromised judgment; (2) using official title for matters other than the official conduct of the office; and (3) engaging in decisions which would affect the level of compensation received for service except as otherwise required or allowable by law.

(4) Treating Everyone with Respect and in a Just and Fair Manner.

The elected and appointed officials of the City of Riverside have a responsibility to make extraordinary attempts to treat all people, including city staff, in a manner which would be considered just and fair. They shall strive to value and encourage input from members of the community and encourage open and free discussion of public issues. They shall strive to have all persons treated with respect as they come before the body on which they serve. They shall aspire to create an atmosphere of genuine interest in the point of view expressed by members of the community even if it differs from their own.

(5) Creating a Community that Affirms the Value of Diversity.

The elected and appointed officials of the City of Riverside shall aspire to recognize and affirm the value of all persons, families, and communities within the City of Riverside. They will encourage full participation of all persons and groups, be aware and observe important celebrations and events which reflect the values of our diverse population, and provide assistance for those who find it difficult to participate due to language barriers or disabilities.

(6) Ensuring that all Public Decisions are Well Informed, Independent, and in the Best Interests of the City of Riverside.

The elected and appointed officials of the City of Riverside will encourage and support research and information gathering from verifiable sources. They will seek to ensure that information provided by the City Government to the public is accurate and clear. They will

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ensure that all information utilized in the decision making process, except that which by law is confidential, will be shared with the public.

(7) Maintaining a Nonpartisan and Civic Minded Local Government.

The elected and appointed officials of the City of Riverside shall affirm the value of a nonpartisan council-manager form of government.

(8) Ensuring that All Officials are Prepared for the Exercise of their Duties.

The elected and appointed officials shall commit to participation in all orientation and training sessions which are presented to ensure our full preparation for the exercise of their public duties.

(9) Ensuring Impartiality When Acting in a Quasi-Judicial Capacity.

Whenever the members of a board, commission or committee participate in a matter, the subject of which will be subsequently heard by the City Council, the members shall not contact the Mayor and/or any members of the City Council for the purpose of influencing the City Council's decision.

(10) Ensuring Against Undue Influence.

Neither the Mayor nor any member of the City Council shall contact a board, commission or committee member at any time for the purpose of influencing that member with respect to the discharge of his/her official duties.

III

IMPLEMENTATION OF THE CODE

A. Implementation, Monitoring and Oversight

Monitoring and oversight are essential to ensure this Code of Ethics and Conduct is effectively implemented. The objectives of this implementation effort shall include:

All persons covered by this code must be aware of its provisions.

All persons covered by this code shall have resources available to clarify expectations in situations where they feel a potential area of noncompliance may exist.

All bodies covered by the code shall adopt rules of procedure which include the provisions of this code.

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Annual review shall be conducted to ensure the code is being applied in a fair and effective manner.

Annual review shall be conducted by the City Council at a regular meeting.

To achieve these objectives the following mechanisms should be utilized.

1. All new members of the City Council, upon election or reelection, and members of boards, commissions, and committees appointed by the Mayor, City Council, Mayor and City Council, individual members of the City Council, or Department Head, upon appointment or reappointment, shall be given a copy of the code and required to affirm in writing they have received the code and understand its provisions. (See Attachment A).

2. All new members of the City Council and boards, commissions, and committees shall be provided a training session which shall clarify the provisions and application of the code. These sessions shall be coordinated by the City Manager, City Attorney and City Clerk through the Mayor's Office.

3. The City Attorney, or his or her designee, shall serve as a resource person to those persons covered by the code to assist them in determination of appropriate actions consistent with the code.

4. Complaints from members of the public regarding elected or appointed officials shall be submitted on the complaint form available from the City Clerk. Complaints concerning Section II, D(4), herein, shall be presented by the person who claims to be treated in a manner inconsistent with that Section. Complaints shall be filed with the City Clerk within 180 days of discovery of an alleged violation of the Code of Ethics and Conduct. "Discovery" is defined as when the complainant knew or reasonably should have known or discovered evidence of the alleged violation through the exercise of reasonable diligence.

Upon receipt of the complaint form, the City Clerk and City Attorney will review the submittal for completeness only. Any issue of timeliness will be resolved by the adjudicating body, and, if there is an appeal, by the City Council. Once the filing is deemed complete, the City Clerk will schedule the complaint concerning the elected official for a hearing before the adjudicating body as soon as practicable and notify both parties. For complaints against

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members of boards, commissions and committees, the City Clerk will forward the matter to the appropriate board, commission or committee chair for informal resolution if so requested by the complainant. If the matter is not resolved, or if the complainant did not request to seek an informal resolution, the City Clerk will schedule the complaint for a hearing before the adjudicating body as soon as practicable and notify both parties.

The adjudicating body shall consist of five members and one alternate chosen from the chairpersons of the City's boards and commissions selected by lot by the City Clerk. No chairperson shall serve who is from the same ward as the elected official to which the complaint concerns. The City Clerk will notify both parties of the hearing date, place and time at least fourteen (14) days in advance of the hearing. The adjudicating body shall hear all timely filed complaints and attempt to resolve each complaint on its merits.

Following the hearing, the City Clerk will notify both parties, in writing, of the adjudicating body's decision and the appeal process. The decision of the adjudicating body may be appealed by either party by submitting such appeal in writing to the City Clerk within seven (7) days of the adjudicating body's decision. If no appeal is received within seven (7) days, the matter is concluded. If appealed within seven (7) days, the City Clerk will schedule the appeal before the City Council and notify both parties at least fourteen (14) days in advance of the hearing.

The record on appeal will consist of a transcript of the hearing before the adjudicating body as well as all documentary evidence submitted at the hearing. No new evidence will be considered. The City Council will review the record and will disturb the adjudicating body's decision only upon a showing of clear error or abuse of discretion.

The City Clerk will notify both parties in writing of the City Council's findings and determination. The determination of the City Council is final and there is no further right to appeal. The hearing and appeal process shall be concluded if at all possible, within ninety (90) days of the complaint being determined to be complete. Complaints and any supporting documentation shall be retained for a period of at least two (2) years.

5. The chair of each body covered by this code is responsible to intervene and provide

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appropriate guidance to members and, if need be, communicate concerns to the City Council.

6. In September of each year, the Mayor, the City Manager, the City Attorney and the chairs of all Boards and Commissions shall meet with the Governmental Affairs Committee of the City Council to assess the effectiveness of this code and its application. They shall present a report to the City Council which may include recommendations for the inclusion of new values or procedures. Prior to the annual Governmental Affairs Committee meeting, every Board and Commission is encouraged to agendize and discuss the Code and submit any recommendations for the Committee's consideration.

7. In September of each year, the City Council shall hold a public hearing on its evening agenda at a regularly scheduled meeting, and shall review the report and make an independent evaluation of the effectiveness of the Code of Ethics and Conduct.

B. Enforcement and Sanctions

It is the intention that this code be self enforcing. However, it is recognized that there may be instances where even after receiving guidance and counsel, a person may continue to violate the Code's provisions. In those cases sanctions would apply and would occur in a public meeting.

(1) Mayor - City Council

The sanctions that would apply by action of the City Council would be:

(a) Public censure of a member.

The ultimate sanction of removal from office would lie in the hands of the electorate.

(2) Boards and Commissions

(a) Public censure by the Board or Commission.

(b) Public censure by the Mayor and City Council.

(c) Removal from office by the Mayor and City Council.

Ultimately, the responsibility for the enforcement of this Code of Ethics and Conduct lies with the Mayor and City Council as they represent the will of the people of the City of Riverside.

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BE IT FURTHER RESOLVED that Resolution No. 22318 is hereby repealed.

ADOPTED by the City Council this 9th day of October, 2012.

WILLIAM R. BAILEY, III
Mayor Pro Tem of the City of Riverside

Attest:

COLLEEN J. NICOL
City Clerk of the City of Riverside

I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City at its meeting held on the 9th day of October, 2012 by the following vote, to wit:

Ayes: Councilmembers Gardner, Melendrez, Bailey, Mac Arthur, Hart, and and Adams

Noes: Councilmember Davis

Absent: None

Disqualified: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this 11th day of October, 2012.

COLLEEN J. NICOL
City Clerk of the City of Riverside

[12-1697]
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ATTACHMENT A

City of Riverside
Code of Ethics and Conduct
Officials' Certification

As a newly elected, appointed, or reappointed official of the City of Riverside, California, I herein certify that I have received a copy of the Code of Ethics and Conduct of the City of Riverside, have been offered training and assistance in understanding this Code, and am aware of the provisions of the Code and its application to my responsibilities. Consistent with the Code, I pledge the following in the conduct of my duties.

As an elected/appointed official, I will aspire:

1. To create a government that is trusted by everyone.
2. To make decisions that are unbiased, fair, and honest.
3. To use my public office for service to the public good and not for personal or private gain.
4. To ensure that I treat everyone with respect and in a just and fair manner.
5. To create a community that affirms the value of diversity.
6. To ensure that all public decisions I make are well informed, independent, and in the best interests of the City of Riverside.
7. To maintain a nonpartisan and civic minded local government.
8. To be adequately prepared for the duties of my office.
9. To make a diligent effort to attend all regularly scheduled meetings of the board, commission, or committee.

Signed this _____ day of _____, _____.

_____
Name

_____
Signature

_____
Office

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EXHIBIT U

EXHIBIT U

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Chapter 2.08

ADMINISTRATIVE OFFICES AND DEPARTMENTS

Sections:

2.08.010 Title - Authority of City Manager.
2.08.020 Offices, Departments, divisions of departments, and office/department heads established.
2.08.030 City Manager Pro Tempore.

Section 2.08.010 Title--Authority of City Manager.

This chapter shall be known as the administrative regulations of the City and may be referred to as such. The departments, divisions of departments, and department heads, excepting the City Attorney, City Clerk and their respective offices, set out in the chapter shall constitute the administrative organizational structure of the City, and shall be under the control and direction of the City Manager, in accordance with the provisions of the City Charter. (Ord. 7182 § 5, 2012; Prior code § 2.18)

Section 2.08.020 Offices, Departments, divisions of departments, and office/department heads established.

The following offices, departments, and department heads are established:

A. The City Manager's Office, the head of which shall be the City Manager;

B. The City Clerk's Office, the head of which shall be the City Clerk;

C. The City Attorney's Office, the head of which shall be the City Attorney;

D. The Community Development Department, the head of which shall be the Community Development Director;

E. The Finance Department, the head of which shall be the Finance Director;

F. The Police Department, the head of which shall be the Chief of Police;

G. The Fire Department, the head of which shall be the Fire Chief;

H. The Public Works Department, the head of which shall be the Public Works Director;

I. The Public Utilities Department, the head of which shall be the Public Utilities General Manager;

J. The Parks, Recreation and Community Services Department, the head of which shall be the Parks, Recreation and Community Services Director;

K. The Library Department, the head of which shall be the Library Director;

L. The Museum Department, the head of which shall be the Museum Director;

M. The Airport Department, the head of which shall be the Airport Director;

N. The General Services Department, the head of which shall be the General Services Director;

O. The Human Resources Department, the head of which shall be the Human Resources Director;

P. The Innovation and Technology Department, the head of which shall be the Chief Innovation Officer. (Ord. 7196 § 1, 2013; Ord. 7182 § 5, 2012; Ord. 6832 § 1, 2005; Ord. 6806 § 3, 2005; Ord. 6683 § 1, 2003; 6140 § 1, 1994; Ord. 6064 § 1, 1993; Ord. 5596 § 1, 1987; Ord. 5591 § 1, 1987; Ord. 5530 § 1, 1987; Ord. 5119 § 1, 1983; Ord. 4931 § 1, 1981; Ord. 4164 § 1, 1974; Ord. 3815 § 1, 1971; prior code § 2.19)

EXHIBIT U

Section 2.08.030 City Manager Pro Tempore.

In accordance with Section 603 of the City Charter, the City Manager shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as City Manager Pro Tempore.

The position and class title of Assistant City Manager is created hereby. The Manager Pro Tempore shall hold the position and bear the class title of Assistant City Manager. The Assistant City Manager shall perform such duties as may be assigned by the City Manager. He shall act as Manager Pro Tempore during any temporary absence or disability of the City Manager.

The position and class title of Assistant City Manager shall be included in the salary resolution and provision shall be made for the payment of such salary as may be designated by the salary resolution. Such salary shall be in addition to the regular monthly compensation of the officer or department head who is also Assistant City Manager and Manager Pro Tempore. (Ord. 6393 § 2, 1997; prior code § 2.20)

EXHIBIT U

Chapter 2.36

PERSONNEL SYSTEM

Sections:

2.36.010 Purpose of chapter.
2.36.020 Human Resources Director.
2.36.030 Human Resources Board.
2.36.035 Criminal conduct--Ineligibility for employment.
2.36.040 Classified service.
2.36.050 Appointments and promotions.
2.36.060 Probationary periods.
2.36.070 Tenure--Employees service rating system--Outside employment or business activity.
2.36.080 Suspension, demotion and dismissal.
2.36.090 Appeals and hearings.
2.36.100 Political activities.
2.36.110 Discrimination.
2.36.120 Cooperation.
2.36.130 Appropriation of funds--Contracts for special services.

Section 2.36.010 Purpose of chapter.

This chapter is enacted pursuant to Article IX of the City Charter to create a personnel merit system, to establish a fair and equitable basis for the selection, appointment, advancement and separation of employees, to recognize efficient service, and to provide a reasonable degree of security for qualified employees.

This chapter shall constitute the personnel rules and regulations of this City. (Prior code § 2.35)

Section 2.36.020 Human Resources Director.

There is created the position of Human Resources Director, who shall be appointed by and be directly responsible to the City Manager. The Human Resources Director shall:

A. Administer all provisions of the personnel merit system not specifically reserved to the City Council, Human Resources Board, City Manager or department heads;

B. Prepare and recommend to the City Manager revisions and amendments to this chapter and the salary plan;

C. Prepare and recommend to the City Manager a position classification plan and a salary plan and maintain the plans after adoption by the City Council;

D. Conduct examinations for employment and promotion in the classified service;

E. Develop and maintain an effective system of employee service rating to determine efficient job performance;

F. Establish and maintain a system of employee service records;

G. Serve in an advisory capacity to the City Manager, department heads and the Human Resources Board in matters relating to personnel administration;

H. Perform such other duties as may be necessary or appropriate for effective personnel administration consistent with the provisions of this chapter and the City Charter. (Ord. 7229 § 5, 2013; Ord. 6064 § 2, 1993; Ord. 4185 § 1, 1975; prior code § 2.36)

EXHIBIT U

Section 2.36.030 Human Resources Board.

There is created a Human Resources Board, which shall consist of nine members appointed by the Council pursuant to Article VII of the City Charter.

The Board shall hold regular meetings once each month and such other special meetings as may be required. The Human Resources Board shall:

A. Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations;

B. Act in an advisory capacity to the City Council on matters concerning personnel administration;

C. Hear grievances and appeals submitted by any person in the classified service and make findings and recommendations which shall be advisory only;

D. Make any recommendations to the City Manager which it may consider desirable concerning conditions of employment and the administration of personnel in the City service;

E. Recommend to the City Council the amendment or repeal of the provisions of Sections 2.32.010 through 2.32.160;

F. Perform such other duties as may be necessary or appropriate for effective personnel administration consistent with the provisions of this Chapter and the City Charter. (Ord. 6847 § 2, 2006; Ord. 6801 § 2, 2005; Ord. 6800 § 1, 2005; Ord. 6750 § 2, 2004; Ord. 6667 § 1, 2003; Ord. 5635 § 6, 1988; Prior code § 2.37)

Section 2.36.035 Criminal conduct--Ineligibility for employment.

No person convicted (including pleas of guilty and nolo contendere) of a felony or a misdemeanor involving moral turpitude shall be eligible for employment by any department of the City; provided, however, that the appointing authority may disregard such conviction if it is found and determined by such appointing authority that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

The City Manager, Assistant City Manager, Human Resources Director, Chief of Police, City Attorney, and each appointing authority of the City, and the designees of the aforementioned persons are authorized to have access to the "State Summary Criminal History Information" as provided for in Section 11105 of the Penal Code of the State when it is required to assist such individual to fulfill employment responsibilities set forth in this section. (Ord. 7182 § 6, 2012; Ord. 6064 § 3, 1993; Ord. 4350 § 1, 1976)

Section 2.36.040 Classified service.

Section 2.36.040

Classified service. The classified service of the City shall include all regular full-time and regular part-time officers and employees, except the following:

A. Elective officers;

B. Persons appointed by the City Council, including City Manager, City Clerk and City Attorney;

C. Persons appointed by the City Manager, including department heads;

D. Persons appointed by the Mayor;

E. Persons appointed by the Chief of Police to position of Assistant Chief of Police and Deputy Chief of Police;

F. Persons appointed by the City Attorney and by the City Clerk.

G. Persons appointed by the Fire Chief to the position of Deputy Fire Chief. (Ord. 7229 5, 2013; Ord. 7140 § 1, 2011; Ord. 6560 § 1, 2001; Ord. 6141 § 1, 1994; Ord. 4065 § 1, 1973; Ord. 3477 § 1, 1967; prior code § 2.38)

EXHIBIT U

Section 2.36.050 Appointments and promotions.

All appointments and promotions in the classified service shall be based on merit except those necessary to place City employees who are scheduled for layoff or who are scheduled for placement into another classification as a result of physical inability to perform the employee's current job as a result of industrial injury. Insofar as practical, eligibility for employment and advancement shall be determined by competitive examination. Appointments and promotions shall be made by the department head with the approval of the City Manager. All persons appointed to employment with the City shall be citizens of the United States or, except for public safety members, shall have obtained a permanent visa, and shall be of good character and qualified to perform the duties of the positions to which they are appointed. The Human Resources Director shall conduct such examinations and investigations as may be necessary to carry out the provisions of this section. (Ord. 6064 § 4, 1993; Ord. 4695 § 1, 1979; prior code § 2.39)

Section 2.36.060 Probationary periods.

All original and promotional appointments to the classified service shall be subject to a probationary period of six full calendar months except as follows: Original and promotional appointments to the classification of firefighter and police cadet shall be subject to a probationary period of twelve full calendar months; original and promotional appointments in the general unit, management unit and refuse unit made on or after September 20, 1979, shall be subject to a probationary period of twelve full calendar months; and original and promotional appointments to the classification of police officer shall be subject to a probationary period of eighteen full calendar months. An employee's probationary period may be extended or reinstated, if necessary, not to exceed six months.

The original and promotional probationary periods shall be regarded as part of the selection procedure and shall be utilized for the purpose of determining the person's performance and fitness for employment in the classified service. The reinstated probationary period shall be regarded as a notification period of substandard performance, but shall not deprive the employee of the rights and benefits of the classified service. (Ord. 4694 § 1, 1979; Ord. 4576 § 1, 1978; prior code § 2.40)

Section 2.36.070 Tenure--Employees service rating system--Outside employment or business activity.

The tenure of every person in the classified service shall be subject to satisfactory performance. An employee service rating system shall be established to carry out the provisions of this section. Any employee who engages in outside employment or business activity shall secure the approval of such employee's department head and the City Manager. No employee shall engage in such activity which adversely affects or reflects upon said employee's employment with the City. (Ord. 7229 § 5, 2013; Ord. 5358 § 1, 1985; Ord. 4622 § 1, 1978; prior code § 2.41)

Section 2.36.080 Suspension, demotion and dismissal.

Any employee may be suspended, demoted or dismissed for cause by his department head with the approval of the City Manager. Any person in the classified service who is so affected shall be entitled to written notice of such action and the reason therefor. (Prior code § 2.42)

Section 2.36.090 Appeals and hearings.

Any person in the classified service who deems himself aggrieved by any act or

omission by his department head may request a hearing before the Human Resources Board. After such hearing and investigation as it may deem necessary, the Human Resources Board shall make its findings and recommendations to the City Manager. The action of the City Manager on the recommendation of the Human Resources Board shall be final and conclusive. (Ord. 7229 § 5, 2013; Prior code § 2.43)

Section 2.36.100 Political activities.

A. No officer or employee of the City shall engage in political activity during working hours.

B. No person shall conduct political activities on the premises of the City. (Ord. 6393 § 8, 1997; Prior code § 2.44)

Section 2.36.110 Discrimination.

No person in City employment or seeking admission thereto shall be favored or discriminated against because of political opinion or affiliation or because of race or religious belief. (Ord. 7229 § 5, 2013; Prior code § 2.45)

Section 2.36.120 Cooperation.

All officers and employees of the City shall maintain high standards of cooperation and efficiency in such manner as to fulfill the objectives and purposes of the personnel merit system. (Prior code § 2.46)

Section 2.36.130 Appropriation of funds--Contracts for special services.

The City Council shall appropriate such funds as may be necessary to carry out the provisions of this chapter. The City Council, upon the recommendation of the City Manager, may contract with any responsible firm or individual for the performance of technical personnel services to carry out the provisions of this chapter. (Prior code § 2.47)

EXHIBIT U

Municipal Code

Municipal Code Home

00. City Charter

01. General Provisions

02. Administration & Personnel

03. Revenue & Finance

04. (Reserved)

05. Business Taxes, Licenses & Regulations

06. Health & Sanitation

07. Noise Control

08. Animals

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09. Peace, Safety & Morals

10. Vehicles & Traffic

11. (Reserved)

12. Airport & Aircraft

13. Streets & Sidewalks

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15. Trees & Vegetation

16. Buildings & Construction

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Chapter 2.08 - Administrative Offices and Departments
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Chapter 2.50 - Industrial Development Authority
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Title 2 - Administration and Personnel (All Chapters)



Seizing Our Destiny

General Information

Address:
3900 Main St.
Riverside, CA 92522

Phone: (951) 826-5557

Mission Statement

To provide Municipal Election services, maintain the official records of all City Council proceedings, and perform other State and Municipal statutory duties for elected officials, voters, City departments, and the public, in order that they may be guaranteed fair and impartial elections and open access to information and the legislative process.

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EXHIBIT U

Public Utilities

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EXHIBIT J

Chapter 2.04

CITY COUNCIL

Section:

2.04.010 Time of regular meetings.

Section 2.04.010 Time of regular meetings.

Except for the months of July, August, and September, the regular meetings of the Mayor and City Council shall be held on the first, second, third and fourth Tuesdays of each month at the approximate hour of 2:00 p.m. During the months of July, August and September, the regular meetings shall be held on the second and fourth Tuesdays of said months at the approximate hour of 2:00 p.m., and said Mayor and City Council shall not have regular meetings on the first and third Tuesdays of said months. No meeting shall be held if the meeting date follows a City holiday on the immediately preceding Monday. (Ord. 7215 § 1, 2013; Ord. 6578 § 1, 2001; Ord.6549 § 1, 2000; Ord. 6257 § 1, 1995: Ord. 6215 § 1, 1995: Ord. 6137 § 1, 1994; Ord. 5971 § 1, 1991; Ord. 5825 § 1, 1990; Ord. 5012 § 1, 1982; Ord. 4819 § 1, 1980; Ord. 4766 § 1, 1980; Ord. 4602 § 1, 1978; Ord. 4430 § 1, 1977; Ord. 4407 § 2, 1977; Ord. 4245 § 1, 1975; Ord. 3587 § 1, 1969; Ord. 3491 § 1, 1968; prior code § 2.13)

EXHIBIT U

EXHIBIT V

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A City Council Member's Role With Respect to Individual City Employees

BY MELANIE M. POTURICA AND DAVID A. URBAN

Melanie M. Poturica is managing partner at the law firm of Liebert Cassidy Whitmore in Los Angeles, and can be reached at mpoturica@lcwlegal.com. David A. Urban is an attorney with the firm, and can be reached at durban@lcwlegal.com.

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

In the public eye, city council members are at the top of the city's government structure, presiding over large and small bureaucracies that may include police officers, firefighters and many other types of employees charged with serving the public interest. Accordingly, when residents are aggrieved by or interested in the conduct of a particular employee, they may view their council member as that employee's ultimate "boss" or de facto CEO of the city, who can cause the employee to be disciplined or even terminated, and who could certainly take such lesser actions as communicating with the employee's direct supervisor or reviewing the employee's personnel file for information relevant to the issue.

City councils often have appointing authority over the city's highest officials, such as the city manager and city attorney. But otherwise, individual council members and the council as a body have virtually no role with regard to individual city employees. In fact, a council member's role with respect to such employees probably has more in common with that of a city resident (who is an interested "outsider" looking at the city employment structure) than with that of a private company's CEO.

This article describes several legal reasons why city council members' roles with regard to individual employees have such substantial limitations and includes some practical approaches for dealing with individual employees.

Why a City Council Member's Role Is So Limited

City council members are meant to act as part of the council, not individually. A primary reason why council members have virtually no role with regard to individual city employees is that applicable law provides that council members will act as a body, not as individuals. Indeed, the law requires that, with limited exceptions, the council conduct city business only through duly convened meetings "in full view of the public."[1] Thus, when an individual city council member takes unilateral action, his or her conduct may well lose the sanction of the law. The council member may then lose certain protections and immunities from liability, and his or her actions may more easily be rescinded or disputed.[2]

Legislative immunity is limited. Second, city council members may well *not* have legislative immunity with regard to actions toward individual employees. This is particularly true if the council member acts unilaterally. Typically, when a city council member acts as a legislator, he or she has absolute immunity. But that immunity can be lost when the legislator takes actions outside the "sphere of legitimate legislative activity."[3] Accordingly, if a council member takes any

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unilateral actions concerning an individual employee, he or she could risk loss of legislative immunity. Even actions taken collectively with the full council might conceivably lack immunity if they relate to specific individuals instead of furthering general city policy.

Under California law, city council members can be liable for invasion of privacy, among other things. Third, the threat of liability presents another factor that limits council member roles toward individual employees. One potential type of liability is for invasion of privacy. In one case, *Braun v. City of Taft,* a city council member was subject to censure by the council for removing documents from a city employee's personnel file and revealing them to the press. Although the court ultimately determined that the particular documents were public records that could legally be disclosed, the court remanded the case to the council to allow it to decide whether the member should suffer censure for other reasons. These possible reasons included his "unilateral decision regarding [the documents'] suitability for disclosure."[4] Other courts have articulated that public employees can have limited privacy rights in their personnel files.[5] Employees can thus argue that improper review and/or disclosure should result in personal liability for invasion of privacy.[6]

Other officials, such as city managers, are charged with overseeing city employees. Fourth, council member actions with regard to individual employees may be considered suspect because other high level city officials are officially charged with supervising and/or overseeing individual employees. Most cities appoint city managers to provide overall supervision to a city's human resources function. Because a designated official already has this responsibility, there should be little need for city council members to become involved with individual employees.[7]

Practical Advice for Dealing With Individual Employees

Refrain from doing so, unless it is a part of one's obligations to the city. The most prudent course for a city council member is to refrain from taking action or otherwise becoming involved in any supervisory role, with respect to individual city employees.

Proceed as part of properly convened city council meetings and not individually. If a council member must become involved in decisions with respect to an individual employee, the member should not act unilaterally but should instead act as part of the council. The member should also act pursuant to the requisite formalities that will ensure legislative immunity applies.

The city manager or other appropriate city employee should interface with employees. Tasks such as reviewing employee personnel files, gathering information from supervisors and providing instruction as to particular employees should be done by the city manager or other official charged with overseeing the city's employment structure. This is true even for matters of public interest. If city residents object to the conduct of particular employees, the council can respond by asking the city manager to investigate and take appropriate action regarding the objections. For example, in a small city experiencing resident complaints about rude police officers, the council should itself refrain from taking direct action as to those officers. Instead, it can ask the city manager to investigate and respond to the issue globally. The city manager can then, as part of his or her comprehensive response, take appropriate employment action as to the officers in question.

Comply with the Brown Act. The Ralph M. Brown Act provides that certain official bodies, including city councils, may only act through duly called and regularly held meetings that are open to the public. A city council can conduct closed meetings to discuss certain personnel matters. These include meetings in which the council discusses the "appointment, employment, evaluation of performance, discipline, or dismissal of a public employee ..."[8] This closed meeting exception, however, may apply only to the council's consideration of employees over whom the council has appointing authority (for example, city managers, city attorneys and others). A California attorney general opinion describes that the closed meeting exception does *not* apply to a body's consideration of an employee over whom it does not have appointing authority.[9] Lack of compliance with the Brown Act may lead to adverse legal consequences, which include voiding the actions that the council takes.

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Consult with legal counsel. These issues can be complex. Also, situations where council members must take a role with regard to city employees will be rare. Council members should obtain legal advice when such circumstances arise to ensure they undertake their role appropriately.

Footnotes:

1 *Wolfe v. City of Fremont*, 144 Cal. App. 4th 533, 541, 543 (2006); *see also Moreno v. King*, 127 Cal. App. 4th 17, 20 (2005) (city council's termination of finance director was ineffective because of failure strictly to comply with notice provisions of Brown Act).

2 *See Braun v. City of Taft*, 154 Cal. App. 3d 332, 338-40, 347-48 (1984) (considering council member's censure for unilaterally disclosing personnel records to the public).

3 *Bogan v. Scott-Harris*, 523 U.S. 44, 54, 118 S. Ct. 966, 140 L.Ed.2d 79 (1998) (council members have immunity from civil rights liability for all actions taken "in the sphere of legitimate legislative activity"). For legislative immunity under federal law, courts apply a four-part test: "(1) whether the act involves *ad hoc*decision-making, or the formulation of policy; (2) whether the act applies to a few individuals, or to the public at large; (3) whether the act is formally legislative in character; and (4) whether it bears all the hallmarks of traditional legislation." *Kaahumanu v. County of Maui*, 315 F.3d 1215, 1220 (9th Cir. 2003). "Whether an act is legislative turns on the nature of the act, rather than on the motive or intent of the official performing it."*Bogan*, 523 U.S. at 54.

4 *Braun*, 154 Cal. App. 3d at 338-40, 347-48.

5 *Id.* at 346-48.

6 *See Hill v. National Collegiate Athletic Assn.*, 7 Cal. 4th 1, 35-38 (1994).

7 Indeed, at least one Attorney General Opinion describes that the Brown Act closed meeting exception does not apply to a body's discussion of employees over whom the body does not have appointing authority.*See* 85 Ops. Cal. Atty. Gen. 77 (2002). This supports the position that a council should delegate decision-making over such employees, since it would otherwise have to consider their performance in open session.

8 Cal. Gov. Code § 54957(b)(1).

9 85 Ops. Cal. Atty. Gen. 77 (2002).

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EXHIBIT W

Approved:

City of Riverside, California
Human Resources Policy and Procedure Manual

Human Resources Director

City Manager

Number: III-6 Effective Date: 06/13

SUBJECT: **HARASSMENT FREE WORKPLACE**

PURPOSE:

To establish a policy regarding discriminatory and/or sexual harassment in City employment, and to set forth procedural guidelines for resolution of complaints of harassment.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits and selection for training.

This policy applies to all officers and employees of the City, including, but not limited to, full-time and part-time employees, per diem employees, temporary employees and persons working under contract for the City.

DEFINITIONS:

Harassment - May consist of offensive verbal, physical or visual conduct when such conduct is based on or related to an individual on the basis of race, color, ancestry, religious creed, disability, medical condition, age (over 40), marital status, sexual orientation or any other protected classification under applicable law and:

a. Submission to the offensive conduct is an explicit or implicit term or condition of employment;

b. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or

c. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

Examples - Examples of what may constitute prohibited harassment include, but are not limited to, the following:

a. Kidding or joking about sex or membership in one of the protected classifications;

b. Hugs, pats and similar physical contact;

c. Assault, impeding or blocking movement, or any physical interference with

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normal work or movement;

d. Cartoons, posters and other materials that are derogatory, offensive, inappropriate and refer to sex or membership in one of the protected classifications;

e. Threat intended to induce sexual favors;

f. Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;

g. Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications; and/or

h. Prolonged staring or leering at a person.

POLICY:

1. Procedure

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others should immediately notify his or her supervisor, or, in the alternative, the Human Resources Department, depending on which individual the employee feels most comfortable in contacting.

Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH") or the Equal Employment Opportunity Commission ("EEOC"). The phone numbers for these agencies are located in the phone book under government agencies.

2. Investigation

Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy and a complaint form. The Human Resources Department is the department designated by the City to investigate complaints of harassment. The Human Resources Director may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the Human Resources Director, an investigator shall be appointed by the City Manager.

Charges filed with either the California Department of Fair Employment and Housing or the Equal Employment Opportunity Commission are investigated by that agency; however, the Human Resources Department may also conduct a separate investigation.

EXHIBIT W

3. Internal Documentation Procedure

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the the Human Resources Director. A copy of the completed investigation will be given to the City Attorney. The complainant will be provided written notification that an investigation has been conducted, and, if necessary, appropriate action will be taken to remedy the situation.

Based on the report and any other relevant information, the investigator from Human Resources shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the investigator shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the investigator.

4. Confidentiality

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extend disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

5. Remedies

If the Human Resources Department has determined that the complaint of harassment is founded, the Human Resources Director shall take immediate and appropriate disciplinary action consistent with the requirements of law any personnel rules and regulations pertaining to employee discipline. Other steps may be taken reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.

Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harassing party, and any other factors relating to the fair and efficient administration of the City's operations.

In the event a complaint is filed with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission, and they find that the complaint has merit, either the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission will attempt to negotiate a settlement between the parties. If not settled, the Department of Fair Employment and Housing may issue a determination on the merits of the case.

Where a case is not settled and the Department of Fair Employment and Housing finds a violation to exist, they may prosecute the charging party's case before the Fair Employment and Housing Commission. Legal remedies available through this Commission for a successful claim by an applicant, employee or former employee

include possible reinstatement to a former job; award of a job applied for, back pay; front pay; attorney's fees; and appropriate circumstances, actual damages and/or administrative fines.

In the alternative, the Commission may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

6. Retaliation

Retaliation against anyone for opposing conduct prohibited by this policy of for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission is strictly prohibited by the City and state regulations. It may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

7. Employee Obligation

Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment.

Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:

a. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and

b. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.

Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.

PROCEDURE:

Responsibility	Action
Employee	1. Notifies supervisor and/or Human Resources Department of complaint.
Supervisor	2. Notifies Human Resources Department of complaint.
Human Resources Staff	3. Obtains factual written statement of the complaint and presents it to the Human Resources Director.
Human Resources Director	4. Assigns Human Resources staff to conduct investigation of complaint, or approves an investigation.

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Human Resources Staff/Investigator	5. Conducts investigation by interviewing complainant, accused, witnesses and supervisor as appropriate.
Human Resources Staff	6. Makes recommendations to Human Resources Director as to disposition of complaint.
Human Resources Director	7. Reviews factual information collected and recommendations made.
	8. Takes and/or authorizes appropriate and timely action.

EXHIBIT W

EXHIBIT X

CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

March 22, 2012

TO: All City staff, City Councilmembers, Mayor Quan, City Administrator Santana and City Auditor Ruby
FROM: City Attorney Barbara Parker

Re: City Council Non-Interference in Administrative Affairs

City of Oakland staff and City Councilmembers should be aware of the following prohibitions of the City Charter Section 218 (Non-Interference in Administrative Affairs). *Violation of these provisions of this section by a member of the Council is a criminal misdemeanor. A conviction would trigger immediate forfeiture of office.*

- A City Councilmember may only contact City administrative staff only to make inquiries. All other communications about the administration of the City must only be through the City Administrator or Mayor.

- A City Councilmember shall not give orders to any administrative employee, either publicly or privately. A City administrative staff person shall not carry out the orders of a City Councilmember. Instead, the staff person should consult and follow the direction of the City Administrator or department head.

- A City Councilmember shall not attempt to coerce or influence the City Administrator or any administrative employee in respect to any contract, purchase of supplies or any other administrative action. A City staff person should not be influenced in respect to any contract, purchase of supplies or any other administrative action by a Councilmember.

- A City Councilmember may not in any manner direct or request the appointment to or removal from office of any person by the City Administrator, City Administrator subordinates or any other such officers.

- A City Councilmember may not in any manner take part in the appointment or removal of any administrative employee.

If you have any questions about the above or believe a violation has occurred you should contact the City Administrator's Office. Until the position of the Executive Director to the Public

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Ethics Commission is filled, please contact Deputy City Administrator Arturo Sanchez at 238-7542 or at asanchez@oaklandnet.com.

Or, you can anonymously call the City Auditor's Fraud, Waste, and Abuse Hotline: (888) 329-6390.

For more information about the charter power of City Councilmembers re: contracting, use of public funds and other issues, please see the series of legal opinions issued to the City Council in 2006 and posted on the City Attorney's Web site since that time at: http://www.oaklandcityattorney.org/Ops-Reps/Opinions.html

Thank you for your attention to this matter.

Very truly yours,

Barbara Parker
Oakland City Attorney

By:
Mark T. Morodomi
Supervising Deputy City Attorney

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EXHIBIT X

CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

LEGAL OPINION

TO: **CHAIRPERSON SCHAAF AND MEMBERS OF THE FINANCE AND MANAGEMENT COMMITTEE**

FROM: **BARBARA J. PARKER**
CITY ATTORNEY

DATE: **OCTOBER 25, 2013**

RE: **Whether the Council has the Power to Direct Staff under the City Administrator's Jurisdiction to Address Agenda Items and Answer Questions at City Council and Committee Meetings**

I. INTRODUCTION

At the September 24th Finance and Management Committee, a Councilmember requested that a particular employee under the City Administrator's jurisdiction answer questions regarding an agenda report. The Committee chair and the Assistant City Administrator assigned to the Committee objected to the request, stating that the City Administrator had designated a different employee to present the report and address questions regarding the item. The Councilmember who made the request stated that she had the right to make the inquiry and receive a response from the employee.

The Deputy City Attorney assigned to the Committee provided an oral preliminary opinion that the City Council and its members do not have authority to direct staff under the City Administrator's jurisdiction to answer questions and advised that our Office would provide a written legal opinion.

II. QUESTION

Does a Councilmember or the Council have the power to determine/direct which City employee under the City Administrator's jurisdiction addresses agenda items and responds to Councilmembers' questions/inquiries at City Council and Council Committee meetings?

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III. SUMMARY CONCLUSION

No. The Council and its members may make an inquiry to employees under the City Administrator's jurisdiction or the jurisdiction of the Mayor or other appointed or elected officers who are responsible for the administrative service. However, neither the Council nor any Council member has authority to determine/direct which City employee under the City Administrator's jurisdiction or such other officers responds to such inquiries.

The City Charter grants the City Administrator and other appointed or elected officers who are responsible for the administrative service the sole discretion to direct and determine which employee addresses agenda items and answers Councilmembers' questions. Therefore, any direction by the Council or a Councilmember to an employee under the City Administrator's jurisdiction would violate the separation of powers the City Charter establishes between the legislative and administrative functions.

The City Council has no administrative powers and the City Charter expressly prohibits the Council and its members from giving orders/direction to employees under the jurisdiction of the City Administrator and other officers who are responsible for the administrative service. (City Charter sections 207 and 218.) The preparation and presentation of agenda reports and responding to Council's and Councilmembers' questions/inquiries about agenda reports are administrative functions. The City Charter explicitly grants the City Administrator the power and makes it his/her responsibility to perform the administrative function of preparing and presenting agenda reports and responding to Council's or Councilmembers' questions/inquiries about reports. (City Charter section 504.) This power encompasses the discretion to decide to whom the City Administrator will delegate her responsibility of preparing reports and responding to Councilmembers' questions/inquiries.[1]

V. BACKGROUND

For a number of years, Councilmembers have asked that particular employees under the City Administrator's jurisdiction come to the podium and address agenda items or answer questions at Council and Council Committee meetings. Rarely have objections been raised to this practice although on occasion the City Administrator or his/her designee has advised Council that "X" is the most knowledgeable employee and that he/she will respond. Often the Councilmembers have accepted the City Administration's decision; however, the practice of calling particular employees to the

[1] All employees under the City Administrator's jurisdiction are hired, fired, disciplined by and take direction from the City Administrator or employees to whom s/he has delegated his/her authority. (City Charter section 503.)

podium to provide information/insight has been so common that the Council may believe that it has the power to direct that a specific employee address its questions.

VI. ANALYSIS

A. The City Council has no Administrative Powers and the Charter Prohibits Council Interference in the City's Administrative Affairs

The Oakland City Charter ("City Charter") is the supreme law of the City of Oakland ("City"). It grants the City the power to make and enforce all laws and regulations with respect to *municipal affairs*, subject only to the restrictions and limitations provided in the Charter. The Charter authorizes the City to exercise Home Rule powers as to municipal affairs that the California Constitution grants to charter cities. (Section 6 of Article XI of the Constitution of the State of California; City Charter § 106.)

As the City Attorney opined in the February 6, 2003 public legal opinion regarding City Manager's powers[2], municipal corporations, such as the City of Oakland, are not bound by the separation of powers principles in the federal or state constitution. *McQuillinMun.Corp* § 10.06, p. 313 *(3rd Edition)*. Strict separation of powers is not constitutionally required for local governments. 13 Cal Jur 3d (Rev) Part §101, p. 224. Therefore, the City Charter determines the roles of the City Council, Mayor and City Manager.

Oakland's City Charter clearly separates the legislative (Council) and administrative (City Administrator and other officers) powers. Among other things, City Charter section 207 provides that the Council has no administrative powers.[3] City Charter section 218 further prohibits the Council and its members from interfering with the administrative affairs/service of the City for which the City Administrator, Mayor, and other appointed or elected officers are responsible.[4]

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[2] This opinion is available on the City Attorney's website under the opinion archive list for 2003.

[3] **Section 207.Powers of the Council.** The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers. The Council shall fix the compensation of all City employees, officers and officials except as otherwise provided by this Charter.

[4] **Section 218.Non-Interference in Administrative Affairs.** Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City Administrator, Mayor and other appointed or elected officers are responsible, solely through the City Administrator, Mayor or such other officers. Neither the Council nor any Council member shall give orders to any subordinate of the

B. The City Administrator has Sole Discretion to Designate Which Staff Member Provides Reports and Responds To Councilmembers' Questions at City Council and Committee Meetings

The City Administrator is the chief administrative officer of the City of Oakland. City Charter section 503 grants the City Administrator the power and provides that it is his/her duty to be responsible "for the proper and efficient administration of all affairs of the City under his jurisdiction", and empowers him/her to "appoint, assign, reassign, discipline and remove all directors or heads of departments and all employees under [his/her] jurisdiction."[5] City Charter section 504 empowers the City Administrator to "administer the affairs of the City," and requires that the City Administrator "attend all meetings of the Council and its committees [unless excused] . . . and participate in discussions at such meetings." In addition, the City Administrator has the duty to "investigate affairs of the City under his [or her] supervision," "prepare and submit to the Council such reports as it may require" and "keep the Council at all times fully advised as to the financial condition and needs of the City."[6]

City under the jurisdiction of the City Administrator or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the City Administrator or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or his removal from office by the City Administrator or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member. (Emphasis added.)

[5]**Section 503.Powers of Appointment and Removal.** The City Administrator shall be responsible to the Council for the proper and efficient administration of all affairs of the City under his jurisdiction, and shall, subject to the provisions of Article IX of this Charter and except as otherwise provided in this Charter, have the power to appoint, assign, reassign, discipline and remove all directors or heads of departments and all employees under his jurisdiction. He may delegate to directors or other department heads responsible to him/her the authority to appoint, discipline and remove subordinate employees, subject to the provisions of Article IX of this Charter

[6]**Section 504.Duties.** The City Administrator shall have the power and it shall be his duty: (a) To execute and enforce all laws and ordinances and policies of the Council and to administer the affairs of the City. (b) To attend all meetings of the Council, and its committees, unless excused, and such meetings of boards and commissions as he chooses or which he is directed to attend by the Council, and to participate in discussions at such meetings. (c) To recommend to the Council such measures and ordinances as he may deem necessary or expedient and to make such other recommendations to the Council concerning the affairs of the City as he finds desirable. (d) To investigate affairs of the City under his supervision, or any franchise or contract for the proper performance of any obligation running to the City within his jurisdiction. (e) To control and administer the financial affairs of the City. He may appoint a Director of Finance to act under his direction. (f) To prepare an annual budget under the direction of the Mayor and Council for the Mayor's submission to the Council. (g) To prepare or cause to be prepared the plans, specifications, and contracts for work which the Council may order. (h) To supervise the

The City Charter enumerates the City Administrator's administrative powers and duties which enable him/her to enforce, implement and administer the Council's policies, laws and ordinances. However, the Council cannot give the City Administrator direction regarding how s/he performs these administrative duties. The City Charter explicitly states that the Council "shall have no administrative powers."[7] The City Administrator has sole discretion and control over the manner and methods to perform the administrative functions under the City Administrator's jurisdiction.

Thus, the City Administrator has the duty to prepare agenda reports, participate in discussions at Council and Committee meetings and keep the Council fully advised, and has sole authority to designate the City staff under his/her jurisdiction to address items and answer Councilmembers' questions at City Council and Council Committee meetings.

C. The Oakland City Council and Its Councilmembers Have No Authority to Direct City Staff to Speak and Answer Questions at Committee and Council Meetings

City Charter section 218 mandates that the Council and its members shall deal with the administrative service through the City Administrator, Mayor or other appointed or elected officers "[except] for the purpose of inquiry. . .",and further prohibits the Council and Council members from "giv[ing] orders to any subordinate of the City under the jurisdiction of the City Administrator. . . , either publicly or privately", or "[attempting] to coerce or influence the City Administrator or such other officers, in respect to any contract, purchase of any supplies or any other administrative action."

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purchasing of materials and supplies and to make recommendations to the Council in connection with the awarding of public contracts and to see that all City contracts under his direction or that of the Council are faithfully performed. (i) To prepare and submit to the Council such reports as it may require. (j) To keep the Council at all times fully advised as to the financial condition and needs of the City. (k) To prescribe such general rules and regulations as he may deem necessary or expedient to the general conduct of the administrative departments under his jurisdiction. (l) When directed by the Council, to represent the City in its intergovernmental relations and to negotiate contracts for joint governmental actions, subject to Council approval. (m) To devote his entire time to the duties and interest of the City. (n) To perform such other duties as may be prescribed by this Charter or by ordinance or resolution.

[7]**Section 207. Powers of the Council.** The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers. The Council shall fix the compensation of all City employees, officers and officials except as otherwise provided by this Charter.

Directing a City staff member under the City Administrator's jurisdiction to appear before the Council or a Council Committee and answer questions violates City Charter section 218 and goes beyond making an inquiry of a subordinate of the City Administrator, which is permissible under that section. The City Attorney outlined the definition of "inquiry" for purposes of Section 218 in the February 6, 2003 public legal opinion regarding the division between the Council and City Manager's powers. The City Attorney cited Webster's Dictionary in defining "inquiry" as "examination into facts or principles: research." The opinion further stated that "inquiry" also can mean "a request for information" or "systematic investigation."

When a Councilmember makes an inquiry, the City Administrator has discretion to decide who will respond to the inquiry. A Councilmember's insistence that a particular staff member respond to questions/inquiries constitutes direction or an order that contravenes City Charter section 218 and the City Administrator's authority to direct staff under City Charter Article V. To be clear, the Council may make inquiries of City staff under the jurisdiction of the City Administrator or other appointed or elected officers who are responsible for the administrative service. But the City Administrator (and other such officers) determines who will respond to such inquiries/questions. If Councilmembers are not satisfied with the responses to their questions they may direct follow up questions to the City Administrator or the employee(s) the City Administrator designates to handle the matter or request that the City Administrator provide additional written responses or reports.

The practice of directing particular City staff to speak at Council and Committee meetings may appear to be harmless or inconsequential. But compliance with the Charter's non-interference clause is not optional; the voters in enacting the Charter mandated the separation of powers of the Council (legislative branch) and the City Administration. This separation of powers is underscored by section 207 of the City Charter which provides that the Council "shall have no administrative powers". And this separation of powers is fundamental to maintain city staffers' ability to provide their independent professional analysis/judgment and their responsibility to take direction from the City Administration as opposed to a particular Councilmember or the Council.

As we have explained giving direction to employees under the City Administrator's jurisdiction or employees under the jurisdiction of the other elected or appointed officers who are responsible for the administrative service violates the non-interference clause of the City Charter and arrogates to the Council administrative powers which are the province of the City's administrative service. Such direction usurps the City Administrator's authority to carry out administrative functions under City Charter sections 503 and 504 and her power to hire, direct, discipline employees under her jurisdiction. Violation of the separation of powers also could undermine the City Administrator's ability to uphold his/her duties and could have a potentially coercive effect on members of City staff who are directed to speak without authorization or

instruction on matters of City business. This is of particular note given City staff's expressed concern over the years that Councilmembers have the power to hire or fire them and giving direction to employees exacerbates the perception that employees report to Councilmembers and perform work for them.

VII. CONCLUSION

The City Administrator has sole power and discretion to determine/direct the City staff persons under his/her jurisdiction who will address items at Council and Committee meetings and answer questions. The City Charter prohibits Councilmembers from giving direction to City staff under the City Administrator's jurisdiction either publicly or privately. Council may request information/make an inquiry, and a Councilmember may ask the City Administrator if s/he will direct a particular staff member to respond to a question or inquiry. But the decision regarding which employee(s) will be designated to speak is within the City Administrator's sole discretion.

This opinion also applies to Councilmembers' private inquiries (i.e., outside of public meetings) to City employees under the jurisdiction of the City Administrator and other appointed or elected officers who are responsible for the administrative service.

Very truly yours,

BARBARA J. PARKER
City Attorney

Attorneys Assigned:
Doryanna Moreno
Lindsay D'Andrea, Volunteer Attorney

cc: City Council
Mayor Jean Quan
Deanna Santana, City Administrator

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EXHIBIT Y

EXHIBIT Y

00366

From: Lori Stone <stone@marchjpa.com>
To: Leonard Gumport <lgumport@gumportlaw.com>
CC: "john.brown@bbklaw.com" <john.brown@bbklaw.com>
Subject: RE: City of Riverside
Date: Fri, 13 Jun 2014 21:09:19 +0000

Lenny,

I hope this helps. Sorry it took so long, I've been in meetings all day.

Lori

From: Leonard Gumport [mailto:lgumport@gumportlaw.com]
Sent: Thursday, June 12, 2014 5:20 PM
To: Lori Stone
Cc: gpriamos@riversideca.gov; john.brown@bbklaw.com
Subject: City of Riverside

John & Lori:

Below are the responses I received from Lori Stone to Question Nos. 1-5 & she correctly pointed out that No. 6 was a duplicate of Question No. 3. I've corrected Question No. 6 & bolded its text. If you would please answer Question No. 6 I would be grateful. (Plus, if you see anything in your prior answers that you want to edit, please feel free to do so. Thanks. - Leonard Gumport

[1] During 2014, did Ms. Stone have any discussions with Councilman Paul Davis about the job performance or job status of City Manager. – Yes

[2] If the answer to No. 1 is "Yes," when & where did the discussion occur? - Either LAX (3/21/14) or during our layover at the airport in Seoul Korea (3/22/14) on our way to China.

[3] If the answer to No. 1 is "Yes," what did Councilman Davis say about the job performance or job status of the City Manager?

– CM Davis essentially indicated that Scott Barber wasn't doing a good job and [redacted] was running the city. He also said that several of the directors (or department heads) were leaving because of Scott. I told him I heard [redacted]) was retiring. CM Davis indicated that [redacted] is "retiring" but isn't really retiring implying it was because of Scott.

[4] During 2014, did Ms. Stone have any discussions with Councilman Paul Davis about the City of Riverside's acquiring March JPA property to develop a Major League Baseball youth facility?
- Not acquiring just that he had a group interested in developing the property.

[5] If the answer to No. 4 is "Yes," when & where did the discussion occur?

I'm not sure of the date but it was a telephone conversation. CM Davis called me to tell me he had interest from a group to develop a facility and he was interested in developing it on the

JPA's 60-acre park designated property.

[6] If the answer to No. 4 is "Yes," what did Councilman Davis say about the City of Riverside's acquiring March JPA property to develop a Major League Baseball facility? CM Davis did not talk about acquiring JPA property. He said he had a group interested in it and the Riverside utility rates would be important to them. I told CM Davis that Riverside couldn't serve the utility outside their jurisdiction and CM Davis questioned whether that was accurate and was going to contact the Director of Riverside utilities to verify. That was the last I heard about it from CM Davis until after Scott Barber asked me if I told CM Davis that Riverside should annex property. I then told Scott about the telephone conversation with CM Davis to allay any concerns Scott had. I should note Scott's main concern was what message it would send if Riverside tried to annex land at this point with the problem's the JPA was having with Moreno Valley. I wholeheartedly agreed with Scott on this issue. Within days after my conversation with Scott CM Davis called me but I believe it was for a different matter. During that conversation I mentioned to him that I did not encourage Riverside to annex the park land and he replied with "I know."

By reason of the timeframe of my investigation, I hope that Ms. Stone can quickly respond to these questions.
Please call if you have any questions.
Thanks.
Sincerely,
Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

----Original Message----
Date: Thu, 12 Jun 2014 22:57:29 +0000
From: Lori Stone <stone@marchjpa.com>
To: John Brown <John.Brown@bbklaw.com>, Leonard Gumport<lgumport@gumportlaw.com>
Subject: RE: City of Riverside

Lenny,
Please see my answers below. My answers are not verbatim but get to the crux of the conversations. Also, questions number 3 & 6 are duplicates, was that intentional? I was not left an opening to discuss everything you and I spoke about earlier.
Thanks,
Lori

From: John Brown [mailto:John.Brown@bbklaw.com]
Sent: Thursday, June 12, 2014 2:59 PM
To: Leonard Gumport
Cc: Lori Stone
Subject: Re: City of Riverside
Lenny nice to hear from you as always. Lori and I spoke about this earlier today. I will forward your inquiries on to our Executive Director. Let me know how we might assist you further. Please leave me out of your report as I have already been there and done that as you well know. Just kidding!

Sent from my iPhone

EXHIBIT Y

On Jun 12, 2014, at 2:38 PM, "Leonard Gumport" <lgumport@gumportlaw.com> wrote:

Hi John.
As special counsel for the City of Riverside, I am conducting an internal investigation. The investigation does not involve any allegations of wrongdoing by the March JPA or Lori Stone.
You can confirm my relationship with the City by contacting [redacted]. I am copying him on this email.
I spoke briefly with Ms. Stone about an hour ago, and she asked that I forward my questions to you for her attention.
Here are my questions to Ms. Stone:
[1] During 2014, did Ms. Stone have any discussions with Councilman Paul Davis about the job performance or job status of City Manager. – Yes
[2] If the answer to No. 1 is "Yes," when & where did the discussion occur? - Either LAX (3/21/14) or the airport in Seoul Korea (3/22/14)
[3] If the answer to No. 1 is "Yes," what did Councilman Davis say about the job performance or job status of the City Manager? – CM Davis essentially said that Scott Barber wasn't doing a good job and [redacted] was running the city. He also said that several of the directors (or department heads) were leaving because of Scott. I told him I heard [redacted]) was retiring. CM Davis indicated that [redacted] is "retiring" but isn't really retiring implying it was because of Scott.
[4] During 2014, did Ms. Stone have any discussions with Councilman Paul Davis about the City of Riverside's acquiring March JPA property to develop a Major League Baseball youth facility? - Yes
[5] If the answer to No. 4 is "Yes," when & where did the discussion occur? I'm not sure of the date but it was a telephone conversation. CM Davis called me to tell me he had interest from a group to develop a facility and he was interested in developing it on the JPA's 60-acre park designated property.
[6] If the answer to No. 4 is "Yes," what did Councilman Davis say about the job performance or job status of the City Manager?
By reason of the timeframe of my investigation, I hope that Ms. Stone can quickly respond to these questions.
Please call if you have any questions.
Thanks.
Sincerely,
Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

> On Thursday, June 12, 2014 2:12 PM, Lori Stone wrote:
>
> Hi Lenny,
> Good speaking to you today. I am happy to answer your questions. Please provide them via email and I will get back to you as soon as I can. Per our conversation please work through the JPA legal counsel, John Brown, to maintain confidentiality. I have copied him on this email.
> Thank you,
> Lori

EXHIBIT Y

From: Leonard Gumport [mailto:lgumport@gumportlaw.com]
Sent: Thursday, June 12, 2014 9:46 AM
To: Lori Stone
Cc: [redacted]
Subject: City of Riverside

Great. Thanks!

On Thursday, June 12, 2014 9:40 AM, Lori Stone wrote:

I'm at a conference this morning. I will call you this afternoon when I'm back in the office.

Sent from my iPhone

On Jun 12, 2014, at 9:39 AM, "Leonard Gumport" <lgumport@gumportlaw.com> wrote:

Dear Ms. Stone,
Hope to hear from you.
Thanks.
Sincerely,
Leonard L. Gumport
Gumport | Mastan
(213) 452-4901
----Original Message----
Date: Wed, 11 Jun 2014 17:02:06 -0700
From: LENNY (Leonard Gumport)
To: stone@marchjpa.com
cc: [redacted]@riversideca.gov
Subject: City of Riverside
Dear Ms. Stone:
I would like to interview you for less than an hour at your earliest convenience.
I am doing an internal investigation for the City of Riverside.
The investigation has nothing to do with any wrongdoing by March JPA (or yourself). The questions I would ask concern only these two matters: (a) certain discussions in 2014 about a Major League Baseball youth facility on a parcel of March JPA land; and (b) certain discussions in 2014 about City Manager Scott Barber.
You can confirm my relationship with the City by contacting [redacted] whom I am copying on this email.
Hope to hear from you.
Thanks.
Sincerely,
Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

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EXHIBIT Y

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

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EXHIBIT Y