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19 Attorneys for Petitioners and Plaintiffs
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22 SUPERIOR COURT OF THE STATE OF CALIFORNIA
23 FOR THE COUNTY OF RIVERSIDE, CENTRAL DISTRICT

24 WILLIAM R. ("RUSTY") BAILEY, III,
25 MARCIA McQUERN, and THOMAS
26 MULLEN

27 Petitioners and Plaintiffs,

28 v.

29 CITY OF RIVERSIDE,

30 Respondent.

CASE NO. RIC 1804755

Hon. Judge John Vineyard
Department 1
Hon. Judge Randall S. Stamen
Department 7 – L&M purposes only

VERIFIED FIRST AMENDED PETITION
FOR WRIT OF MANDATE OR OTHER
EXTRAORDINARY RELIEF (CODE OF
CIVIL PROCEDURE SECTION 1085, ET
SEQ.) AND COMPLAINT FOR
DECLARATORY RELIEF

TRIAL DATE: None
ACTION FILED: March 9, 2018

Petitioners and Plaintiffs allege:

NATURE OF THE CASE

1. Beginning in the fall of 2017 and continuing to the present, a number of events have

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COUNTY OF RIVERSIDE

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1 occurred that have effectively denied Petitioner William R. ("Rusty") Bailey, III, ("Mayor Bailey")
2 his veto authority under Section 413 of The Charter of the City of Riverside ("the Charter") and
3 other related Charter provisions, and as provided by City Council Resolution No. 23035, Article IV,
4 Section A. As a result, approximately \$1 million have been paid out to or for the benefit of former
5 City Manager, John Russo, under a contract that Petitioners and Plaintiffs assert is *void ab initio*.
6 The contract is *void ab initio* because Mayor Bailey, in accordance with express Charter provisions,
7 properly vetoed the City Council's approval of that contract; and the City Council did not hold a
8 veto override vote. Yet, upon the advice of counsel, the City undertook to perform under the *void*
9 contract, even to pay severance to Mr. Russo pursuant to its provisions upon Mr. Russo's recent
10 termination.

11 2. City Attorney, Gary Geuss reached an opinion on Mayor Bailey's veto authority in or
12 about November or December of 2017 with the assistance of Colantuono, Highsmith, & Whatley,
13 PC, (the attorneys of record for the City herein) when Mayor Bailey indicated he would veto the
14 proposed City Manager's Contract. Since that time, and contrary to the Municipal Code, the
15 contracts of both Mr. Geuss and Mr. Russo as City Manager were presented to the City Council for
16 formal vote without corresponding Resolutions. Then, when Mayor Bailey vetoed Mr. Russo's
17 contract, Mr. Geuss announced his "ruling" that Mayor Bailey had no veto authority because the
18 Mayor's veto authority extends only to Ordinances and Resolutions.

19 3. A true and correct copy of the City Manager's Contract is attached hereto as **Exhibit**
20 **A**. Petitioners and Plaintiffs hereby request that the Court declare the City Manager's Contract *void*
21 *ab initio* and direct the City to recover all monies paid out thereunder. Also, attached hereto as
22 **Exhibits B** and **C**, respectively, are true and correct copies of the Charter and City Council
23 Resolution No. 23035. Petitioners and Plaintiffs have obtained certified copies of the City
24 Manager's Contract (Exhibit A), the Charter (Exhibit B), and City Council Resolution No. 23035
25 (Exhibit C) from the City Clerk and will provide them to this Court upon request. Request is hereby
26 made that this Court take judicial notice of these documents pursuant to Evidence Code section 452
27 subdivision (c). The exhibits may appear out of order. This is because, in order to avoid confusion,
28 the exhibits that appeared in the original petition for writ of mandate bear the same exhibit markings

1 in this pleading.

2 4. Petitioners and Plaintiffs also request that this Court declare that City Attorney, Gary
3 Geuss, has at all relevant times, and still has, a conflict of interest with regard to the matters
4 embraced by this Petition, and that the Court direct the City to disqualify the City Attorney and
5 Colantuono, Highsmith, and Whatley, PC, counsel for the City in this action, based on the conflict as
6 more fully alleged hereinbelow.

7 **BENEFICIAL INTERESTS OF THE PETITIONERS/PLAINTIFFS**

8 5. Petitioner, Mayor Bailey, is the Mayor of the City of Riverside, a California Charter
9 City. The Office of Mayor is an elected position created in the Charter with specifically delineated
10 powers delegated by the Charter, powers which are separate and distinct from the City Council. (See
11 *Dept. of Health Services v. Kennedy* (1984) 163 Cal.App.3d 799, 801-802.) The Mayor is elected
12 from all registered voters within the City of Riverside, in contrast with the City Councilmembers
13 who are each elected from their respective Wards. (Exhibit B, Charter, § 400.) As relevant here, the
14 Mayor's powers delegated by the plain language of the Charter include that, although the Mayor is
15 not a member of the City Council, Mayor Bailey is to be "the presiding officer at all meetings of the
16 City Council and shall have a voice in all its proceedings." (Exhibit B, Charter, § 405.) The Mayor
17 shall also vote to "break a City Council tie-vote." (*Ibid.*) Additionally, and as relevant here, the
18 Charter provides at Section 413:

19 At any time before the adjournment of a meeting, **the Mayor may, by public**
20 **declaration spread upon the minutes of the meeting, veto any formal action**
21 **taken by vote of the City Council** including any ordinance or resolution, except
22 an emergency ordinance, the annual budget or an ordinance proposed by initiative
23 petition. Thereupon, pending the vote to override the veto as herein provided, such
24 ordinance, resolution or action shall be deemed neither approved nor adopted. **The**
25 **Mayor shall, no more than twenty days following the veto, provide to Council**
26 **members, in writing, reasons for the Mayor's veto.** If the Mayor fails to
27 provide a written veto message within the time allotted, the original action of the
28 Council shall stand. At any regular or adjourned meeting held not less than thirty

1 days, nor more than sixty days after veto the City Council shall reconsider such
2 ordinance, resolution or action and vote on the question of overriding the veto.
3 Five affirmative votes shall be required for an override vote. The Mayor shall have
4 no right to veto the veto override of any ordinance, resolution or action.

5 (Exhibit B, Charter, § 413, bold and underling added.)

6 6. As noted in Section 201 of the Charter, "City agencies, boards, commissions,
7 committees, officials, staff and officers, including the Mayor and members of the City Council, exist
8 to conduct the people's business." Petitioners and Plaintiffs Marcia McQuern and Thomas Mullen
9 are, and at all relevant times were, residents, registered voters and taxpayers of the City of Riverside.

10 7. Petitioners and Plaintiffs are persons beneficially interested in, and aggrieved by, the
11 acts, decisions and omissions of Respondent as alleged in this petition. Petitioners and Plaintiffs
12 have fundamental vested rights and interests under the Charter and protected by the Charter which
13 are adversely affected by the acts, decisions, and omissions of Respondent as alleged herein. Mayor
14 Bailey's right arises from the veto power that is being denied him in the Office of the Mayor. The
15 rights of Petitioners and Plaintiffs Marcia McQuern and Thomas Mullen arise from their status as
16 taxpayers, voters, and citizens of the City of Riverside.

17 8. Respondent is the City of Riverside, a California Charter City organized under the
18 laws of the State of California, including Article XI, section 5 of the California Constitution.

19 **STATEMENT OF FACTS**

20 9. The Charter describes two (2) types of City employees: (1) the City Attorney, City
21 Manager and City Clerk who serve at the pleasure of the City Council (Exhibit B, Charter, §§ 600
22 and 700), and (2) city employees who are hired, managed and terminated by the City Manager
23 (Exhibit B, Charter, §407). Specifically, Section 600 of the Charter provides, in pertinent part, that
24 the City Council "shall appoint, by a majority vote" a City Manager who "shall serve at the pleasure
25 of the City Council." (Exhibit B, Charter, §600.) Section 700 of the Charter similarly states: "In
26 addition to the City Manager, there shall be a City Attorney and a City Clerk who shall be appointed
27 by and serve at the pleasure of the City Council." (Exhibit B, Charter, § 700.)

28 10. City Council Resolution No. 23035 ("Resolution 23035") is entitled "RESOLUTION

1 OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ESTABLISHING
2 RULES OF PROCEDURE AND ORDER OF BUSINESS FOR THE CITY COUNCIL OF THE
3 CITY OF RIVERSIDE AND RELATED FUNCTIONS AND ACTIVITIES AND RESCINDING
4 ALL PRIOR ACTIONS TAKEN THERETO, AND REPEALING RESOLUTION NO. 22980." It
5 was prepared by the office of the City Attorney, passed by a unanimous formal vote of the City
6 Council on July 26, 2016, and signed by Mayor Bailey. City Council Resolution No. 23035 states in
7 pertinent part at Article IV, section A:

8 A. DUTIES OF MAYOR; MAYOR PRO TEMPORE

9 The Mayor shall be the presiding officer at all meetings of the City Council and shall
10 have a voice in all its proceedings but shall not vote except for appointments to City
11 Boards & Commissions or to break a City Council tie vote which exists for any cause.
12 The Mayor shall be the official head of the City for all ceremonial purposes. The
13 Mayor shall have the primary but not exclusive responsibility for interpreting the
14 policies, programs and needs of the city government to the people, and of informing
15 the people of any major change in policy or program. The Mayor shall advise the
16 City Council on all matters of policy and public relations and perform such other
17 duties as may be prescribed by the City Charter. At any time before the adjournment
18 of a meeting, the Mayor may, by public declaration spread upon the minutes of the
19 meeting, veto any formal action taken by vote of the City Council including any
20 ordinance or resolution, except an emergency ordinance, the annual budget or an
21 ordinance proposed by initiative petition. Thereupon, pending the vote to override
22 the veto as herein provided, such ordinance, resolution or action shall be deemed
23 neither approved nor adopted. The Mayor shall, no more than twenty days
24 following the veto, provide to Council members, in writing, reasons for the Mayor's
25 veto. If the Mayor fails to provide a written veto message within the time allotted, the
26 original action of the City Council shall stand. At any regular or adjourned meeting
27 held not less than thirty days, nor more than sixty days after the veto the City Council
28 shall reconsider such ordinance, resolution or action and vote on the question of

1 overriding the veto. Five affirmative votes shall be required for its adoption or
2 approval. The Mayor shall have no right to veto the veto override of any ordinance,
3 resolution or action.

4 In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties
5 of the Mayor. . . (Underline and bold added.)
6 (Exhibit C, Resolution No. 23035, Art. IV, § A.)

7 11. In the fall of 2017, Mayor Bailey became aware that the City Attorney, Gary Geuss,
8 and the City Manager, John Russo, were drafting their own employment contracts with the City,
9 which contracts were slated to be voted on in or about December of 2017. The City Attorney's
10 Contract was scheduled to expire on April 12, 2018. However, the City Manager's Contract still had
11 more than two (2) years before it would expire.

12 12. At that same time, Mayor Bailey received information concerning the content of the
13 proposed City Manager's Contract which included, but was not limited to, an increase in salary, the
14 ability to cash out a substantial amount of vacation/administrative leave in 2018 at the increased
15 salary rate, a mortgage in the amount of \$675,000 with an interest rate substantially below the
16 market rate, and a \$700,000 life insurance policy for which the City would be responsible through
17 2024. It also extended the City Manager's employment seven (7) years.

18 13. Mayor Bailey informed the City Attorney, Gary Geuss, that the proposed additional
19 compensation/benefits in the City Manager Contract were irresponsible and unacceptable given that
20 City Departments and Agencies were being asked to cut their budgets due to a decrease in available
21 funds. Mayor Bailey informed the City Attorney that he would veto the proposed City Manager's
22 Contract.

23 14. In response to Mayor Bailey's objections, the City Attorney informed Mayor Bailey
24 that he did not have authority to veto the City Manager's Contract because the Charter provides that
25 the City Manager serves at the pleasure of the City Council, and Mayor can only veto Ordinances
26 and Resolutions. Mayor Bailey asked the City Attorney to obtain an outside opinion on this issue.
27 However, he specifically asked the City Attorney not to seek the outside opinion from Colantuono,
28 Highsmith & Whatley, PC, because Mayor Bailey believed there was a prior relationship between

1 that firm and the City Manager, John Russo.

2 15. Thereafter, on or about December 5, 2017, then Mayor Pro Tempore Jim Perry,
3 through a City Council Memorandum, recommended that the City Council approve an attached
4 contract for the City Attorney, Gary Geuss. On that same date, the City Council unanimously
5 approved the new contract for the City Attorney ("the City Attorney's Contract). Attached here to
6 as **Exhibit G** are true copies of the Memorandum with its attachment and the Minutes of December
7 5, 2017. Request is hereby made that this Court take judicial notice of these documents pursuant to
8 Evidence Code section 452 subdivision (c).

9 16. Although prior contracts for the City Attorney and the City Manager had been
10 accompanied by a Resolution in accordance with Riverside Municipal Code Section 2.32.10, et seq.,
11 the City Attorney's Contract was not accompanied by a Resolution. Mayor Bailey did not notice the
12 absence of a Resolution at that time. However, he did not then object to the approval of the City
13 Attorney's Contract by way of a veto. The Riverside Municipal Code provides at Sections 2.32.10,
14 et seq. that all changes in compensation and benefits, even as to City Officers such as the City
15 Manager and the City Attorney, require a Resolution. Attached hereto as **Exhibit H** is a true and
16 correct copy of the cited Municipal Code Provisions.

17 17. Then, on or about December 12, 2017, the City Attorney forwarded an email and
18 attachment from Colantuono, Highsmith & Whatley, PC. The attached Memorandum dated
19 December 11, 2017 opined that Mayor Bailey does not have veto authority with regard to the City
20 Manager's contract because the City Manager serves at the pleasure of the City Council and because
21 the Charter provides that he can veto only Ordinances and Resolutions. Mayor Bailey was
22 discouraged at receiving the outside opinion from the firm he asked the City Attorney not to use.
23 Also, and although the Charter specifically charges the City Attorney with the duty to advise the
24 Mayor on his legal duties, the City Attorney did not tell him that he could not share the opinion with
25 others or that he could not seek another opinion from another firm.

26 18. Mayor Bailey, believing the City Attorney had deliberately disregarded his request
27 and sought to undermine the veto authority of the Office of the Mayor sought an outside opinion
28 from another law firm, Rutan & Tucker, LLP, a firm that was on the approved list of attorneys to

1 work for the City. Attached hereto as **Exhibit F** is a true and correct copy of that February 5, 2018
2 legal opinion that examines the legislative history of the Charter and opines that the Office of the
3 Mayor does, in fact, have veto authority over City Council approval of contracts of employees such
4 as the City Manager, the City Attorney and City Clerk who “serve at the pleasure of the City
5 Council.”

6 19. Mayor Bailey presented the opinion of Rutan & Tucker, LLP, to the City Attorney.
7 Rutan and Tucker, LLP, was thereafter criticized by the City for providing the contrary opinion
8 requested by Mayor Bailey, and that firm has since been removed from representing the City in one
9 or more cases.

10 20. On February 6, 2018, the City Manager’s Contract came before the City Council for a
11 vote. It too was not accompanied by a Resolution, although a Resolution accompanied the City
12 Manager’s initial contract when it was approved by City Council, and although the City Manager’s
13 Contract that is the subject of the this action was accompanied by a Resolution when it was approved
14 by the Mayor Pro Tempore prior to the City Council Vote on February 6th.

15 21. On February 6, 2018, the Council approved the City Manager’s Contract by a vote of
16 5 to 2 without a formal Resolution. Then, and pursuant to Section 413, paragraph 4 of the City
17 Charter and Article IV, Section A of Resolution 23035, Mayor Bailey “ spread upon the minutes of
18 the meeting” his veto of the City Council’s formal action taken to approve the Contract. Attached
19 hereto as **Exhibit D** is a true and correct copy of the minutes of the February 6, 2018 meeting
20 evidencing Petitioner’s veto at the end of the meeting. Petitioners and Plaintiffs have obtained a
21 certified copy of Exhibit D and will provide it to this Court upon request. Request is hereby made
22 that this Court take judicial notice of Exhibit D pursuant to Evidence Code section 452 subdivisions
23 (c) and (d).

24 22. Thereafter, and within 20 days as required by Section 413 of the Charter and Article
25 IV, section A of Resolution No. 23035, Mayor Bailey submitted his written bases for the veto to the
26 City Council. Attached hereto as **Exhibit E** is a true and correct copy of that writing. Request is
27 hereby made that this Court take judicial notice of Exhibit E pursuant to Evidence Code section 452
28 subdivisions (c) and (d).

1 23. Notwithstanding Petitioner's veto in compliance with the Charter and Resolution No.
2 23035, the City Council, based on a purported "ruling" by the City Attorney, has taken the position
3 that Mayor Bailey has no veto authority over City Council's approval of the City Manager's
4 Contract. The City Attorney informed Mayor Bailey that the Charter allows him to veto only
5 Ordinances and Resolutions, and that the City Manager's Contract was not a Resolution.

6 24. This opinion by the City Attorney assisted by Colantuono, Highsmith, and Whatley,
7 PC is beneficial to the City Attorney because the Charter provides that the City Attorney and City
8 Clerk, as well as the City Manager, "serve at the pleasure of the City Council." (See Exhibit B, §§
9 600 and 700.) Therefore, the issues raised in the within dispute as to the City Manager's Contract
10 render the City Attorney's employment subject to the same Charter provisions as the Contract for the
11 City Manager. This creates a conflict of interest in the City Attorney because the resolution of this
12 dispute over the veto of the City Manager's Contract has the potential of insulating the City Attorney
13 from scrutiny by the Office of the Mayor in the future when it comes to his own employment
14 contract.

15 25. The Minutes of the City Council meeting on February 6, 2018 (Exhibit D) indicate
16 that the City Council approved and authorized the Mayor and the Mayor Pro Tempore to sign the
17 City Manager's Contract. Additionally, the purportedly approved contract that accompanied the
18 minutes had signature lines for both the Mayor and the Mayor Pro Tempore. This is consistent with
19 Section 419 of the Charter which provides that the City will not be bound by a contract unless it is
20 signed by the Mayor and the City Clerk "or by such other officer or officers as shall be designated
21 by the City Council." Section 405 of the Charter provides that "[i]n the absence of the Mayor, the
22 Mayor Pro Tempore shall assume the duties of the Mayor." Although Mayor Bailey was not absent,
23 on or about February 8, 2018, the Mayor Pro Tempore immediately signed a version of the
24 purportedly approved City Manager's Contract that had no signature line for the Mayor. (See
25 Exhibit A.) The City immediately thereafter began to perform under that contract expending
26 thousands of taxpayer dollars. No doubt, the City Council, advised by the City Attorney, designated
27 the Mayor Pro Tempore to sign the City Manager's Contract because they knew, based on Mayor
28 Bailey's veto two days earlier, he would not sign the City Manager's Contract. However, Mayor

1 Bailey was not "absent."

2 26. Mayor Bailey attempted to preserve the veto power of his office by urging
3 councilmembers to schedule an override vote, noting that the same vote of 5 to 2 would override his
4 veto and preserve the veto power of the Mayor's office. Thereafter, the City Council voted on
5 February 20, 2018, based on the City Attorney's recommendation and a presentation in closed
6 session by Colantuono, Highsmith & Whatley, PC, not to honor Petitioner's veto. As a result, no
7 veto override vote was ever taken.

8 27. As noted *supra*, Section 413 of the Charter and Article IV, section A. of Resolution
9 23035 provide that "[a]t any regular or adjourned meeting held not less than thirty days, nor more
10 than sixty days after the veto the City Council shall reconsider such ordinance, resolution or action
11 and vote on the question of overriding the veto. Five affirmative votes shall be required for its
12 adoption or approval. The Mayor shall have no right to veto the veto override of any ordinance,
13 resolution or action." (Underline added.) Therefore, if the February 6, 2018 City Council meeting
14 whereupon Mayor Bailey verbally vetoed the approval of the Contract commenced the time for an
15 override vote, that time period expired on Saturday, April 7, 2018.

16 28. In the meantime, Respondent immediately undertook to perform under the *void* City
17 Manager's Contract by expending thousands of dollars of taxpayer funds for the City Manager's
18 mortgage as provided by the City Manager's Contract and by allowing the City Manager to cash out
19 tens of thousands of dollars of his "bonus" vacation and/or administrative leave¹ before the end of
20 2018 under his new salary rate (the contract limits his ability to do so beginning in 2019). All of this
21 occurred at the expense of and the detriment to the taxpayers of the City of Riverside.

22 29. Moreover, the City Manager and City Attorney undertook to act, consistent with a
23 subsequent written opinion by Colantuono, Highsmith, and Whatley, PC, that the City of Riverside's
24 Charter provides for a "weak Mayor and a strong City Manager reporting to a strong City Council."
25

26 ¹ It appears that the City Policy only allows cashing out of accumulated vacation benefits
27 once the accumulation reaches 400 hours and then only at the beginning of the next calendar
28 year or at termination. Under either option it appears the "bonus" vacation was illegally
paid. This issue is not moot because of the subsequent termination. If the contract
providing the "bonus" was never valid the "bonus" would not be either.

1 [Interestingly, that phrase, that characterization, does not appear anywhere in the express language of
2 the Charter.] To that end, the City Manager and the City Attorney excluded the Office of the Mayor
3 from multiple City matters with conduct which included, but is not limited to, declining to
4 participate in the traditional Monday morning meetings with the Mayor (a practice that began with
5 the prior Mayor and has continued until now during Mayor Bailey's term of office). They issued
6 press releases on behalf of the City, although all press releases traditionally have been circulated
7 through the Mayor's office, whose responsibility it is under the Charter to communicate with the
8 citizens of Riverside. Also, some City personnel were instructed by the City Manager and/or the
9 City Attorney that they may not meet with him.

10 30. The City's position is that, because the City Manager serves "at the pleasure of the
11 City Council" pursuant to Section 600 of the Charter, Mayor Bailey has no veto authority over the
12 approval of the City Manager's contract. However, such a position ignores and wrongfully attempts
13 to render nugatory section 413 of the Charter and Article IV, section A, of Resolution 23035 that
14 state any City Council action taken by a formal vote can be vetoed by the Mayor, except with regard
15 to specifically delineated exclusions in the Charter that are not present here. (See *San Francisco*
16 *International Yachting Center Development Group v. City and County of San Francisco* (1992) 9
17 Cal.App.4th 672, 682 ["The fundamental rules of statutory construction apply equally to the
18 interpretation of city charter provisions."]; see also *J.M. v. Huntington Beach Union High School*
19 *District* (2017) 2 Cal.5th 648, 655 ["An interpretation that renders related provisions nugatory must
20 be avoided...."].)

21 31. As if all of this was not enough, on April 17, 2018, after this action was commenced,
22 after this court declined to stay performance under the City Manager's Contract and declined to
23 decide this action ex parte, the City Attorney allowed the City Council to terminate the City
24 Manager, John Russo, without cause. The City Attorney also allowed the City to pay Mr. Russo's
25 severance at the higher rate in the *void* contract knowing this litigation was pending – yet another
26 boon to the City Attorney's position as an employee who also "serves at the pleasure of the City
27 Council." All of this occurred while Mayor Bailey was in South Korea visiting a Sister City. As a
28 result, since February 6, 2018, more than \$1 million has been paid from City coffers to, or for the

benefit of, former City Manager, John Russo, who is no longer employed by the City of Riverside. Because these monies were paid under a contract that was *void ab initio*, any monies that are over and above what Mr. Russo would have received under the former contract that was not to expire for two years, constitute an unlawful gift of public funds. (See Cal. Const., art. VI, § 16.)

FIRST CAUSE OF ACTION

(Mandamus)

32. Petitioners and Plaintiffs re-allege each and every allegation contained in paragraphs 1 through 31 and by this reference incorporate said paragraphs as though fully set forth herein.

33. The City exceeded its authority under the Charter, and under City Council Resolution No. 23035 and Riverside Municipal Code section 2.32.10, et seq. by refusing to honor Mayor Bailey's veto of the City Manager's Contract and by continuing to do so.

34. The City further exceeded its authority in executing the City Manager's Contract and immediately commencing performance.

35. Where the officials of a public entity exceed their power in negotiating and performing contracts on behalf of a public entity, the contracts are *void*, and a right of action exists in the public entity to recover money paid under the contract. (See *People v. inf. Webb v. California Fish Co.* (1913) 166 Cal. 576, 611-612; see also *Stevens v. Geduldig* (1986) 42 Cal.3d 24, 35.) The City must be enjoined from any further performance under the City Manager's Contract, and directed to take action to recover all monies paid thereunder; otherwise the payments to Mr. Russo amount to an unlawful gift of public funds. (See Cal. Const., art. 16, § 6.) This would include, but may not be limited to directing the City to perform an accounting of all monies paid to former City Manager, John Russo, under the *void* City Manager's Contract, to calculate the monies John Russo would have instead been entitled to in 2018 under his former contract up to and including the date of his termination (including severance), to apply those sums as an offset to recoverable monies under the *void* City Manager's Contract, and to proceed to recover the difference.

36. Additionally, as to the position of conflict that the City Attorney, Gary Geuss, holds with regard to these issues, the California Supreme Court explained in *Galbraith v. State Bar of California* (1933) 218 Cal. 329, 332-333, "[t]he subsequent representation of [a client] against a

1 former client is forbidden not merely when the attorney will be called upon to use confidential
2 information obtained in the course of the former employment, but in every case when, by reason of
3 such subsequent employment, he may be called upon to use such confidential information.” (*Ibid.*)
4 The Court also found in *Hawkins v. State Bar* (1979) 23 Cal.3d 622, 629, when conflicting attorney-
5 client relationships “arise contemporaneously,” such as here, a duty of disclosure arises. The present
6 Rule 3.310 of the Rules of Professional Conduct requires not only disclosure, but informed written
7 consent by both parties in order to continue to represent and advise one or the other. Moreover, even
8 the Attorney General of the State of California was disqualified under similar facts in *People ex rel.*
9 *Deukmejian v. Brown* (1981) 29 Cal.3d 150. There the Supreme Court, in granting the Governor’s
10 motion to disqualify the Attorney General instructed that the Attorney General may not represent
11 various departments in the state “one day, give them legal advice with regard to pending litigation,
12 withdraw, and then [represent the opposing parties in the litigation the next day] “on a purported
13 cause of action arising out of the identical controversy.” (See *People ex rel. Deukmejian v. Brown*,
14 *supra*, 29 Cal.3d at p. 155.) The high Court confessed “[w]e can find no constitutional, statutory, or
15 ethical authority for such conduct by the Attorney General.”

16 37. Here, the City Attorney’s conflicts arose early, even as far back as the fall of 2017
17 when Mayor Bailey informed him that the Mayor would veto the proposed contract of the City
18 Manager, an individual who, like the City Attorney, “serves at the pleasure of the City Council.”
19 (See Exhibit B, Charter, §§ 600 and 700.) The benefit that a limit on the Mayor’s veto power would
20 have on Council approval of the City Manager’s Contract would extend most certainly to the City
21 Attorney’s Contract as well.

22 38. Moreover, similar to the duties of the Attorney General of the State of California in
23 *People ex rel. Deukmejian v. Brown, supra*, the Charter requires at Section 702(a) that the City
24 Manager serves the “the City Council and all City officers [which at Section 405 of the Charter
25 includes the Office of the Mayor] in all matters of law pertaining to their offices.” (Exhibit B,
26 Charter, § 702(a); see also *People ex rel. Deukmejian v. Brown, supra*, 29 Cal.3d at p. 155.)

27 39. Both the City Manager and the firm of Colantuono, Highsmith & Whatley, PC
28 undertook to render legal opinions for the City and the Mayor in 2017 on whether the Mayor can

1 veto City Council approval of the proposed City Manager Contract. Upon opining that the veto
2 authority did not exist, both undertook to choose to serve the interests of the City Council and
3 arbitrarily abandon the Office of the Mayor. Based on *People ex rel. Deukmejian v. Brown, supra*,
4 there is "no constitutional, statutory, or ethical authority for such conduct." (*People ex rel.*
5 *Deukmejian v. Brown, supra*, 29 Cal.3d at p. 155.) This court should direct the City to disqualify
6 Mr. Geuss and the firm of Colantuono, Highsmith & Whatley, PC and direct the City Council to hire
7 new counsel to represent the City. (See Exhibit B, § 702 [The City Council shall have control of all
8 legal business and proceedings and may employ other attorneys to take charge of any litigation or
9 matter. . ."].)

10 40. The within petition for an extraordinary writ under Code of Civil Procedure section
11 1085, et seq. is necessary because Petitioners and Plaintiffs have no plain, speedy, or adequate
12 remedy at law in that, if the veto authority of the Office of Mayor and the profound conflict of
13 interest of the City Attorney and Colantuono, Highsmith, & Whatley, PC are not addressed as
14 requested herein, the same issues likely are to recur under the existing Charter, Resolution No.
15 23035, and the Municipal Code. Petitioners and Plaintiffs, including on behalf of the taxpayers, will
16 be irreparably harmed, for which harm money and other legal remedies cannot adequately
17 compensate Petitioners and Plaintiffs.

18 SECOND CAUSE OF ACTION

19 (Declaratory Relief)

20 41. Petitioners and Plaintiffs re-allege each and every allegation contained in paragraphs
21 1 through 40 and by this reference incorporate said paragraphs as though fully set forth herein.

22 42. An actual controversy has arisen and now exists between Petitioners and Plaintiffs on
23 the one hand and Respondent on the other hand in that Petitioners and Plaintiffs contend and
24 Respondent denies that the City Manager's Contract referenced herein is *void ab initio* and that
25 Respondent improperly paid out approximately \$1 million to or for the benefit of former City
26 Manager, John Russo, thereunder. While Mr. Russo's former contract had a severance provision, he
27 would have received less severance money under the former contract. Also, the former contract did
28 not provide for the mortgage, the cash-out of vacation and administrative leave and other additional

1 items that were paid to him as a result of the *void* City Manager's Contract.

2 43. Petitioners and Plaintiffs desire a judicial determination of the respective rights and
3 duties of Mayor Bailey and Respondents under the Charter, City Council Resolution 23035 and
4 Riverside Municipal Code Sections 2.32.10, et seq. as to (1) the Mayor's Veto Authority with regard
5 to Contracts of the City Manager, City Attorney and City Clerk (since such contracts are not
6 expressly listed in Section 413 of the Charter as exceptions to his veto authority), (2) the
7 involvement/conflict of interest of the City Attorney in employment matters for employees who,
8 according to the Charter, serve at the pleasure of the City Council, (3) whether a Resolution must be
9 included when the contracts of the City Manager, the City Attorney and the City Clerk are brought
10 before the City Council for approval, (4) whether the City Manager Contract of John Russo is *void*
11 *ab initio*, (5) whether the City must recover monies paid to John Russo under the ' termination (e.g.,
12 whether monies paid to him under the *void* City Manager's Contract were unlawful gifts of public
13 funds), and (6) Petitioners/Plaintiffs' reimbursement for their attorneys' fees in bringing this action.

14 44. These determinations are necessary and appropriate in order to avoid multiplicity of
15 actions, needless waste of time and public expenditures on the part of the litigants, and to comply
16 with long term principles of judicial economy. Moreover, the applicable provisions of the Charter,
17 City Council Resolution No. 23035 and the Riverside Municipal Code continue to remain in effect
18 as the City conducts "the peoples' business." Therefore, the same controversy between the parties
19 over the Mayor's veto authority is of public interest and is likely to recur.

20 WHEREFORE, Petitioners and Plaintiffs request judgment against Respondent as follows:

21 1. For a judicial declaration and determination that the Office of the Mayor of the City
22 of Riverside has veto authority over "any formal action taken by vote of the City Council. . . , except
23 an emergency ordinance, the annual budget or an ordinance proposed by initiative petition," and that
24 that express language in the Charter allows the Office of the Mayor to veto City Council approval of
25 contracts, including contracts of City employees who serve at the pleasure of the City Council.

26 2. For a judicial declaration that the City Attorney for the City of Riverside who, under
27 the express terms of the Charter serves at the pleasure of the City Council, has a conflict of interest
28 when it comes to the Mayor's veto authority over contracts of City employees who serve at the

1 pleasure of the City Council.

2 3. For a peremptory writ of mandate or other extraordinary relief directing the City to
3 acknowledge and honor Mayor Bailey's veto of February 6, 2018 with regard to the City Council's
4 approval of the City Manager's Contract and declaring the City Manager's Contract *void ab initio*
5 such that all monies paid there under must be recovered by the City.

6 4. For a peremptory writ of mandate or other extraordinary relief directing Respondent
7 to disqualify the City Attorney, his staff, and any outside counsel he retains (including Colantuono,
8 Highsmith, and Whatley, PC) from providing legal advice or services to the City with regard to the
9 issues raised in the within action.

10 5. For a peremptory writ of mandate or other extraordinary relief directing the City to
11 perform an accounting of all monies paid to former City Manager, John Russo, under the *void* City
12 Manager's Contract, to calculate the monies John Russo would have instead been entitled to in 2018
13 under his former contract up to and including the date of his termination (including severance), to
14 apply those sums as an offset to recoverable monies under the *void* City Manager's Contract, and to
15 proceed to take action to recover the difference from Mr. Russo.

16 6. For an award of Petitioner's attorneys' fees and costs in bringing this petition
17 pursuant to Code of Civil Procedure section 1021.5.

18 7. For such other relief that this Court deems proper.

19 DATE: May 24, 2018

THOMPSON & COLEGATE LLP

By: 

JOHN A. BOYD

MICHAEL J. MARLATT

DIANE MAR WIESMANN

GARY T. MONTGOMERY

CRAIG M. MARSHALL

SUSAN KNOCK BECK

Attorneys for Petitioners and Plaintiffs,
William R. ("Rusty") Bailey III, Marcia
McQuern and Thomas Mullen

VERIFICATIONS

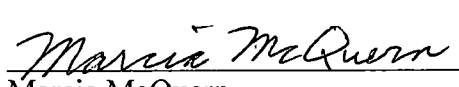
I, William R. ("Rusty") Bailey III, declare as follows:

I am a Petitioner/Plaintiff herein. I have read the foregoing petition for writ of mandate or other extraordinary relief and know its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true. As to those facts alleged based on information and belief, I believe those facts to be true. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this verification is executed on 5/24, 2018.


William R. ("Rusty") Bailey III

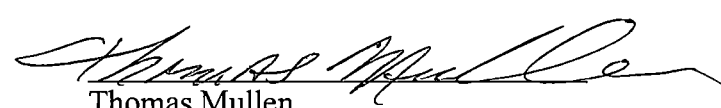
I, Marcia McQuern, declare as follows:

I am a Petitioner/Plaintiff herein. I have read the foregoing petition for writ of mandate or other extraordinary relief and know its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true. As to those facts alleged based on information and belief, I believe those facts to be true. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this verification is executed on 5-24-18, 2018.


Marcia McQuern

I, Thomas Mullen, declare as follows:

I am a Petitioner/Plaintiff herein. I have read the foregoing petition for writ of mandate or other extraordinary relief and know its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true. As to those facts alleged based on information and belief, I believe those facts to be true. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this verification is executed on 5/24/, 2018.


Thomas Mullen

EMPLOYMENT AGREEMENT

(CITY MANAGER)

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this 6th day of February, 2018, by and between the City of Riverside a California charter city and municipal corporation ("Employer") and John Russo ("Employee"), collectively party or parties, both of whom understand and agree to the following:

RECITALS

WHEREAS, the City Council of the City of Riverside ("City Council"), the governing body of the Employer, desires to retain the services of the Employee as the City Manager, as that office has been created in Article VI, Section 600 of the City of Riverside City Charter ("Charter"); and

WHEREAS, it is the desire of the City Council to provide benefits and establish certain terms and conditions of employment as set forth herein.

TERMS

NOW, THEREFORE, in consideration of mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

The City Council hereby agrees to employ the Employee as City Manager of the City of Riverside to perform the functions and duties of the City Manager as specified in the Charter and to perform other legally permissible and proper duties and functions consistent with the office of the City Manager, as the City Council shall from time to time assign. Employee shall also serve as Executive Director of the City's various Authorities currently in existence, as has been

Exhibit A

previously determined by the respective agencies, and any authorities subsequently created by the City Council.

Section 2. Term

The term of this Agreement shall become effective on January, 1, 2018, and shall remain in effect for a period of seven (7) years, unless otherwise terminated pursuant to the provisions stated herein. At the end of the initial term, this Agreement may be extended upon mutual agreement of the parties. During the term of this Agreement, the Employee shall be a full-time City Manager.

Employee shall not engage in any conduct which constitutes a criminal act involving moral turpitude, fraud, malfeasance or act of misfeasance. In the event that Employee is charged with any such conduct, Employee may be subject to discipline up to and including being placed on administrative leave. In the event that Employee is convicted of any such conduct, Employee may be subject to discipline up to and including termination of employment and termination of this Agreement.

Section 3. Salary

The Employer agrees to pay the Employee for services rendered, as provided herein, Three Hundred Twenty Three Thousand, Nine Hundred Fifty-Six Dollars (\$323,956) per year, payable in installments at the same time and in the same manner as other employees of the Employer are paid. Employee's annual salary will be increased by three percent (3%) on January 1, 2019 and by an additional three percent (3%) on January 1, 2020 and each subsequent anniversary date of Employee's employment with Employer, unless four (4) councilmembers vote that Employee's performance of his job duties is "unsatisfactory" pursuant to the Annual Performance Review described in Section 12 below. Characterization of Employee's performance will result from a

mandatory Annual Performance Review which is held no later than November of each year as set forth in Section 12 of this Agreement. Should Employer fail to timely organize or otherwise hold the Annual Performance Review, for any reason or for no reason at all, Employee's salary increase will nevertheless become effective on the anniversary of the effective date of this agreement.

Section 4. Deferred Compensation

In addition to the sums otherwise payable to Employee hereunder, the Employer agrees to contribute matching funds to a deferred compensation account in the amount set forth in the Employer's Fringe Benefit and Salary Plan ("FBSP").

Section 5. Pension

The Employer agrees to enroll and continue the Employee as a member of the Public Employee Retirement System. Employee shall pay the required employee contribution.

Section 6. Benefits

The Employer agrees to provide Employee with the same benefits as are provided to the Executive Group of the Employer per the FBSP, including but not limited to accrual of sick leave, medical, dental and optical coverages, and holiday schedule. Employee may purchase disability insurance as set forth in Section 19-1 of the FBSP. Employer agrees to provide the Employee and Employee's family with health, dental and optical insurance coverage, the same offered to the Employer's Executive Group of the FBSP, at no cost to Employee. Employer shall pay for Employee's State of California Annual Bar dues and membership in the International City/County Management Association.

Section 7. Life Insurance

The Employer agrees to procure for Employee, at Employer's expense, a fifteen year term life insurance policy on the life of Employee in the amount of Seven Hundred Thousand Dollars (\$700,000).

- a. Policy is to remain in effect at Employer's expense until December 31, 2024 and thereafter paid by Employee.
- b. If Employee voluntarily leaves employment with Employer before the end of the contract, or if Employee is terminated for any reason as defined in Section 11, Employer will be relieved of any obligation to maintain in force this insurance policy. Employee shall then have the right to maintain this insurance policy at his own expense.

Section 8. Vacation and Administrative Leave

Employee shall receive a one-time allocation of two hundred eighty (280) hours of vacation time effective January 1, 2018. Employee will continue to accrue vacation at a rate of two hundred (200) hours during the calendar year 2018, accruable in the manner provided for the Executive Group (Section 6 and Table 4 of the FBSP), in calendar year 2018. (A summary of the FBSP is attached hereto).

Employee will accrue vacation at the rate of two hundred (240) hours per year beginning January 1, 2019 and will only be entitled to cash out a maximum of one hundred twenty (120) hours accrued in the previous calendar year beginning on January 1, 2019.

Employee will receive eighty (80) hours of administrative leave on July 1, 2018, and one hundred twenty (120) hours per year thereafter. Employee may cash out only a maximum of forty (40) hours of Administrative leave beginning on January 1, 2020. Administrative leave must be

used or cashed out by June 30th of each year, which is the end of each fiscal year. There shall be no carryover of any administrative leave.

Section 9. Automobile Allowance

Employee shall receive an automobile allowance of Five Hundred Dollars (\$500) per month or as may be modified in the future.

Section 10. City Provided Mortgage

Employer shall provide to Employee a 15 year loan, secured by a Deed of Trust in the first position on Employee's family residence in Riverside, in the amount of Six Hundred Seventy Five Thousand Dollars (\$675,000) no later than March 1, 2018.

Employee will repay one-fifteenth (1/15) of the principal amount annually in equal monthly payments due on the first of each month. Each monthly principal payment equals Three Thousand Seven Hundred and Fifty Dollars (\$3,750).

Interest on the unpaid loan principal will be variable and is to be recalculated in January of each year using a rolling average of the Local Agency Investment Fund (LAIF) rate of return for the prior five (5) calendar years. Once calculated, interest will be paid in twelve (12) equal monthly payments due on the first of each month beginning on March 1, 2018 and each calendar year thereafter.

If Employee voluntarily leaves employment with Employer or is terminated for cause as defined in Section 11 of the Agreement, prior to January 1, 2025, the City may declare the mortgage fully due and payable in one hundred eighty (180) days.

If Employee ceases to reside in his current family residence in Riverside, Employer may declare the mortgage fully due and payable in one hundred eighty (180) days. This paragraph shall

not apply in the case of Employee's death as long as Employee's spouse continues to reside in the subject family residence.

Section 11. Termination and Severance Pay

In the event Employee is terminated prior to the expiration of this Agreement, and Employee is willing and able to perform duties under this Agreement, the Employee shall be entitled to a cash payment of compensation equal to one year's annual salary ("Severance Pay"). Notwithstanding the above, in the event Employee is terminated for cause, which is herein defined as any criminal act involving moral turpitude, fraud, malfeasance, or act of misfeasance, then, in that event, Employer shall have no obligation to continue the employment of Employee and shall have no obligation to make the Severance Pay stated above, or continue in force the life insurance policy described in Section 7 above.

Section 12. Performance Evaluation

The City Council shall review and evaluate the performance of the Employee at least once annually and no later than November of each year. The Annual Performance Review shall be in accordance with specific criteria developed jointly by the City Council and the Employee. Such criteria may be added to or deleted as the City Council may from time to time determine in consultation with the Employee, provided, however, that such criteria shall be established within the limits of the resources made available to Employee for accomplishment of the identified goals and objectives. At such Annual Performance Review, the City Council and the Employee shall define such goals and performance objectives which they determine necessarily for the attainment of the City Council's policy objectives and the City Council and the Employee shall further establish a relative priority among those various goals and objectives to be reduced to writing. Employer agrees that it will act in good faith to assure that Employee has available those resources

reasonably necessary to achieve compliance of identified goals and objectives within the anticipated time frames. In giving effect to the provisions of this section, the City Council and the Employee mutually agree to act in good faith and abide by all provisions of applicable law.

Section 13. Outside Teaching Authorization

Employee is authorized to teach one class per semester at a local (Southern California) higher education institution of his choice. Must not be during normal working hours or on City Council nights.

Section 14. Other Terms and Conditions of Employments

The City Council, in consultation with the Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the provisions of this Agreement, the Charter, any ordinance or resolution of Employer, or any other applicable law.

Section 15. Nondiscrimination

Employee agrees that in the performance of Employee's functions and duties, he shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression or sexual orientation.

Section 16. General Provisions

This shall constitute the entire agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous oral and written understandings or agreements of the parties. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party thereto. If any provision or any portion hereof is held

unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion hereof shall be deemed severable, shall not be affected, and shall remain in full force and effect. This Agreement may only be amended in writing and duly execute by both parties.

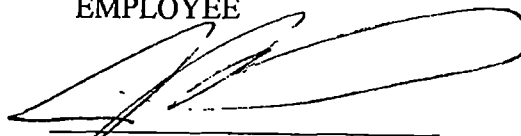
Section 17. Notices

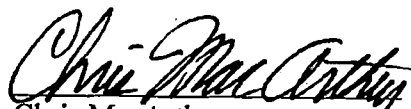
Notices pursuant to this Agreement shall be in writing and shall be personally served, given by mail or by overnight delivery. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the respective parties at 3900 Main Street, Riverside, California, 92522, or such other address as may be given, in writing, to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.


EMPLOYER

EMPLOYEE

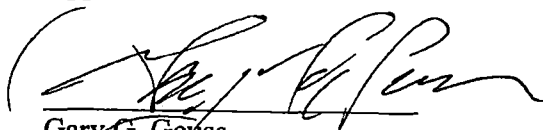

John Russo


Chris MacArthur
Mayor Pro Tem

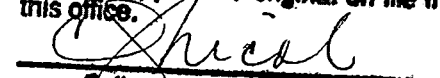
Attested to by:

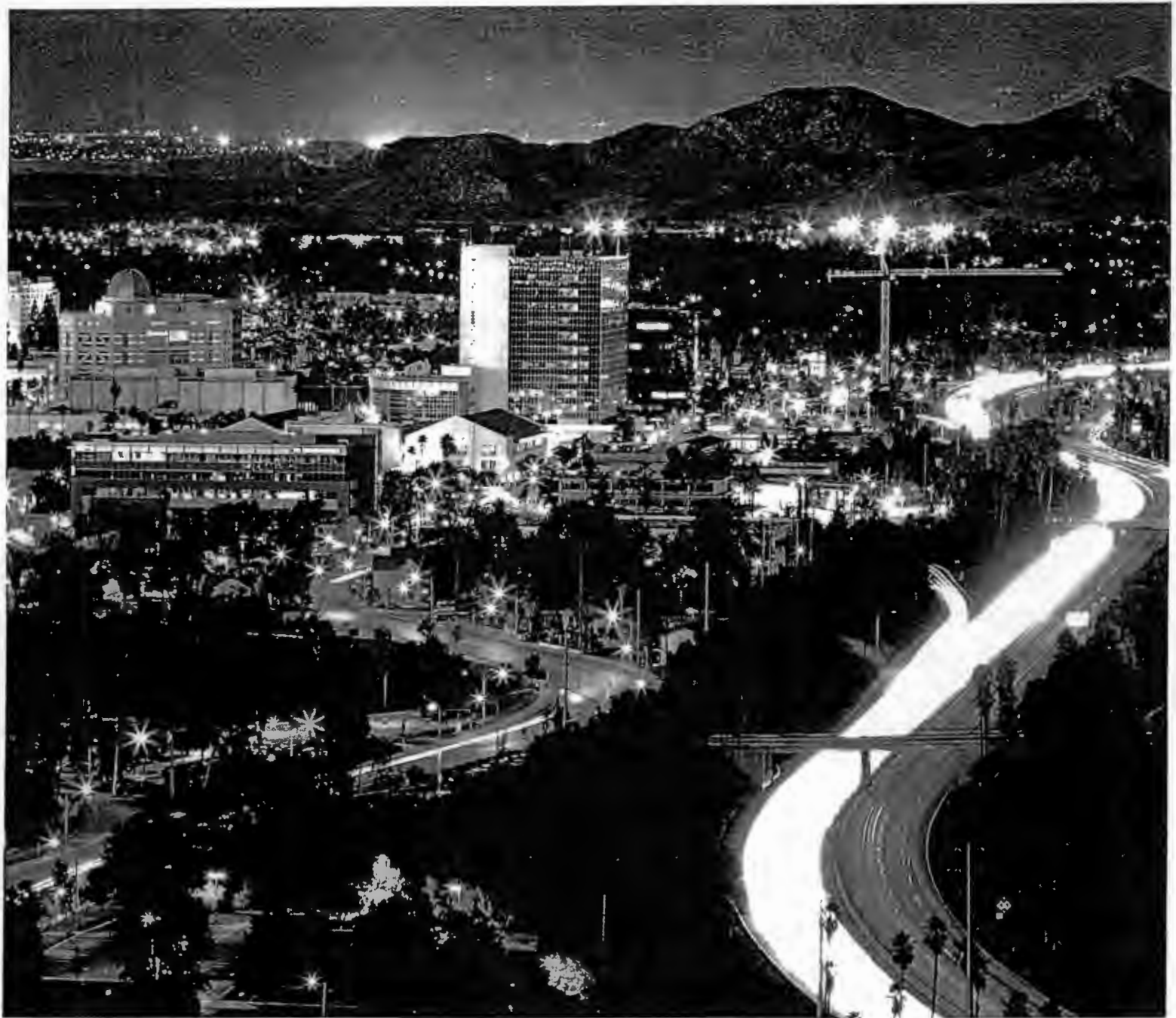

Colleen J. Nicol
City Clerk

Approved as to form:

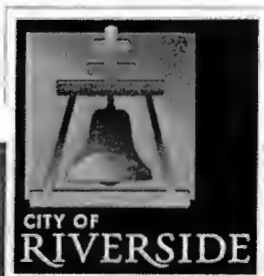

Gary G. Geuss
City Attorney

The foregoing instrument is certified,
under penalty of perjury, to be a
correct copy of the original on file in
this office.


Colleen J. Nicol, City Clerk
City of Riverside, California
Executed on March 5, 2018, at
Riverside, California



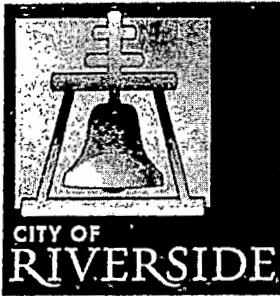
CITY CHARTER



City of Arts & Innovation

Effective August 7, 2013
Reprinted April 16, 2014

Exhibit B



City of Arts & Innovation

THE CHARTER of the CITY OF RIVERSIDE

The City Charter was (1) created in 1907; (2) amended in 1929, 1934, and 1949; (3) republished in its entirety in 1953; (4) amended in 1955, 1956, 1962, 1963, 1964, 1966, 1967, 1968, 1969, 1973, 1974, 1976, and 1977; and (5) again republished in its entirety in 1981. The legislative history included in this Charter reflects amendments pertaining to appropriate sections since 1981.

The Charter was most recently ratified by the qualified electors of the City at an election held on June 4, 2013, and filed in the Office of the Secretary of State on August 7, 2013. Under present state law, August 7, 2013, is therefore the effective date of the Charter.

Office of the City Clerk

Colleen J. Nicol, MMC
3900 Main Street
Riverside, California 92522
(951) 826-5557

**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.

- §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.

- §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.
- §1204.1. Water utility 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.

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.

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 Ralph 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)

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.

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 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.

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)

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)

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.

(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 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)

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.

(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)

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)

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.

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 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)

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)

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 facilities.

(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 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)

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.

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.

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.

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Registering §1112

The foregoing instrument is certified,
under penalty of perjury, to be a
correct copy of the original on file in
this office.



Colleen J. Nicol, City Clerk
City of Riverside, California

Executed on March 5, 2018, at
Riverside, California

City Clerk's Office - City Hall
3900 Main Street, 7th floor
Riverside, CA 92522
RiversideCa.gov/city_clerk

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RESOLUTION NO. 23035

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ESTABLISHING RULES OF PROCEDURE AND ORDER OF BUSINESS FOR THE CITY COUNCIL OF THE CITY OF RIVERSIDE AND RELATED FUNCTIONS AND ACTIVITIES AND RESCINDING ALL PRIOR ACTIONS TAKEN THERETO, AND REPEALING RESOLUTION NO. 22980

WHEREAS, it is the intent and desire of the City Council to conduct its business in an orderly and fair manner; and

WHEREAS, there are certain basic rights of due process and opportunity to address issues with equity, fairness, and equal protection of the law; and

WHEREAS, certain parliamentary procedures have been found to be useful in order to assure that the communication and process of government are fair, reasonable, and just; and

WHEREAS, the City has a duty to proceed with the business of government in an efficient and orderly fashion; and

WHEREAS, the City Council desires to establish uniform norms and procedures in order to accomplish these goals.

BE IT RESOLVED by the City Council of the City of Riverside as follows:

That the following shall be the Rules of Procedure and Order of Business of the City Council, and shall govern all proceedings of the City Council therein described, subject to the exceptions and deviations provided for in such rules.

Violation of these rules shall not be construed as a penal offense, excepting that breach of the peace or willful failure to comply with the lawful orders of the City Council or its presiding officer shall be punishable as misdemeanors under applicable law.

I

AUTHORITY

The Charter of the City of Riverside provides that the City Council shall determine its own rules and order of business. By virtue thereof, and when not in conflict with the Charter of the City of Riverside and the Constitution and laws of the State of California, the following set of rules shall be in effect upon adoption by the City Council and until such time as they are amended

1 or new rules adopted in the manner hereinafter provided and shall prevail to govern the order of
2 business of the City Council of the City of Riverside.

3 **II**

4 **ACT IN THE PUBLIC INTEREST**

5 A. City Council and staff shall recognize that stewardship of the public interest must be the
6 primary concern.

7 B. City Council will work for the common good of the people of Riverside.

8 C. City Council will assure fair and equal treatment of all persons, claims and transactions
9 coming before the City Council and Boards and Commissions.

10 **III**

11 **ADVOCACY**

12 A. City Council shall represent the official policies or positions of the City Council when
13 designated as delegates for this purpose.

14 B. When representing their individual opinions and positions, City Council shall explicitly
15 state they do not represent the City Council of the City, nor will they allow the inference that they
16 do.

17 **IV**

18 **DUTIES**

19 A. **DUTIES OF MAYOR; MAYOR PRO TEMPORE**

20 The Mayor shall be the presiding officer at all meetings of the City Council and shall have
21 a voice in all its proceedings but shall not vote except for appointments to City Boards &
22 Commissions or to break a City Council tie-vote which exists for any cause. The Mayor shall be
23 the official head of the City for all ceremonial purposes. The Mayor shall have the primary but
24 not exclusive responsibility for interpreting the policies, programs and needs of the city
25 government to the people, and of informing the people of any major change in policy or program.
26 The Mayor shall advise the City Council on all matters of policy and public relations and perform
27 such other duties as may be prescribed by the City Charter. At any time before the adjournment
28 of a meeting, the Mayor may, by public declaration spread upon the minutes of the meeting, veto

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

12 In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties of the
13 Mayor. The Mayor Pro Tempore shall be appointed from members of the City Council on the
14 following ward rotational basis with each member serving for a term of six months: Ward 7,
15 Ward 6, Ward 5, Ward 4, Ward 3, Ward 2, and Ward 1 or as otherwise determined by the City
16 Council. In the event the Mayor and Mayor Pro Tempore are absent, the Councilmember last
17 serving as Mayor Pro Tempore shall be assigned said role. The Mayor Pro Tempore shall
18 conduct the City Council meetings and shall vote only as a member of the City Council, not as
19 Mayor Pro Tempore. In the event of a tie-vote, the Mayor Pro Tempore shall not have a tie-
20 breaking vote and City Council vote shall be recorded as a negative or "nay" vote. The Mayor
21 Pro Tempore shall not have the power to veto acts of the City Council.

22 In addition to the duties enumerated above, the Mayor Pro Tempore shall be responsible
23 for the coordination of any special or annual evaluation of the City Manager, City Attorney or the
24 City Clerk. Said responsibility may include but not be limited to the distribution, collection and
25 tabulation of any written evaluations; and the calendaring of any closed session during which time
26 the evaluations shall be conducted.

27 The Mayor Pro Tempore shall also use their best efforts to participate in the agenda-
28 setting meeting, as set forth in Article IX(D) below, preceding each City Council meeting.

1 B. DUTIES OF MAYOR AND COUNCIL MEMBERS

2 Promptly at the hour set by law on the date of each regular meeting, the Mayor and
3 Councilmembers shall take their regular stations in the Art Pick Council Chamber and the
4 business of the City Council shall be taken up for consideration and disposition.

5 C. MOTIONS TO BE STATED BY PRESIDING OFFICER

6 When a motion is made, it shall be stated by the presiding officer or the City Clerk before
7 debate.

8 D. DECORUM

9 While the City Council is in session, the members must preserve order and decorum, and a
10 member shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of
11 the City Council nor disturb any member while speaking, nor refuse to obey the orders of the City
12 Council, or the presiding officer, except as otherwise herein provided.

13 E. VOTES REQUIRED TO TAKE ACTION

14 Unless a higher vote is required by provisions of the City Charter, the affirmative votes of
15 at least four members of the City Council shall be required in order for the City Council to take
16 action on an item of business or the adoption of any ordinance or resolution, or for the making or
17 approving of any order for the payment of money.

18 Any ordinance declared by the City Council to be necessary as an emergency measure as
19 hereinafter defined may be introduced and adopted at one and the same meeting if passed by at
20 least five affirmative votes.

21 At any meeting after the adoption of the City's budget, the City Council may amend or
22 supplement the budget by motion adopted by the affirmative votes of at least five members so as
23 to authorize the transfer of unused balances appropriated for one purpose to another purpose or to
24 appropriate available funds not included in the budget.

25 F. VOTING DISQUALIFICATION

26 Neither the Mayor nor any Council member who is disqualified shall vote upon the matter
27 on which the member is disqualified. Any member shall openly state that they are abstaining
28 because of a disqualifying financial or other conflict of interest. The Mayor or any

1 councilmember who is disqualified due to a financial interest shall publicly identify the financial
2 interest in detail sufficient to be understood by the public except that disclosure of the exact street
3 address of a residence is not required. As to any other conflict of interest, the member's
4 determination may be accompanied by an oral or written disclosure of such conflict of interest. A
5 member who is disqualified by a conflict of interest in any matter shall not remain in the
6 member's chair during the discussion and vote on such matter unless the matter has been placed
7 on the consent agenda.

8 **G. PARTICIPATION ON NON-PROFIT BOARDS OF DIRECTORS AND CONFLICTS**
9 **OF INTEREST.**

10 It shall be the policy of this Council that the Mayor and members of the City Council
11 should not serve as members of the board of directors of a non-profit corporation which is
12 receiving or will be reasonably likely in the future to seek and/or receive funding from the City of
13 Riverside so as to avoid any appearance of a conflict of interest.

14 In the event that the Mayor and/or a member of the City Council serves as a non-
15 compensated member of the board of directors of a non-profit corporation, then a contract may be
16 made between the City of Riverside and the non-profit corporation provided that:

17 • The public official discloses his/her participation on the non-profit corporation's
18 board of directors to the City Council at the time the City Council is considering the contract with
19 the non-profit corporation;

20 • The public official's interest as a member of the non-profit corporation's board of
21 directors is noted in the official minutes of the City Council meeting; and

22 • The public official disqualifies themselves from any vote, deliberation or influence
23 on the matter before the City Council.

24 Furthermore, if it is determined based upon a factual analysis that the Mayor or a City
25 Council member serves as a non-compensated member of the board of director of a non-profit
26 corporation, and that the non-profit supports functions of the City as one of its primary purposes,
27 then the public official is determined to have a "non-interest" and may therefore participate in the
28 deliberation and vote on the matter before it. However, the public official's interest as a member

1 of the non-profit corporation's board of directors must be noted in the official minutes of the City
2 Council meeting.

3 Further, the City Manager, City Attorney and City Clerk shall not serve as a member of
4 the board of directors of a non-profit corporation which is receiving or will be reasonably likely in
5 the future to seek and/or receive funding from the City of Riverside so as to avoid any appearance
6 of a conflict of interest.

7 H. MAYOR AND COUNCIL MEMBERS TO AVOID IMPROPER CONSIDERATION OF
8 PENDING OR CONTEMPLATED MATTERS

9 Open Mind. The Mayor and Councilmembers will make every effort not to pledge or
10 promise to vote in any particular manner on any matter pending before it.

11 V

12 ROLE OF THE MAYOR AND CITY COUNCIL

13 A. MAYOR AND CITY COUNCIL CONDUCT IN GENERAL

- 14 1. Mayor and Councilmembers shall treat everyone with courtesy.
- 15 2. Inappropriate behavior is derogatory and damages the perception of the City.
- 16 3. While the City Council is in session the Mayor, Councilmembers and City staff
17 shall preserve strict order and decorum. Neither the Mayor nor any Councilmember shall delay or
18 interrupt the proceedings of the City Council or interrupt any member while speaking.
- 19 4. Councilmembers should use the speaker sequencing system to indicate to the
20 presiding officer that they want to speak. The presiding officer will acknowledge them before
21 they begin speaking.
- 22 5. Any Councilmember shall have the right to express dissent from, or protest to, or
23 comment upon, any action of the City Council.
- 24 6. Once a vote is taken on an issue, Councilmembers will support the law made by
25 the City Council. If a Councilmember wants an issue to be reconsidered, he/she will make a
26 motion to reconsider as provided for in Section XII of these Rules of Procedure. When possible,
27 the City Council should attempt to reach consensus on an issue. When this is not possible, the
28 majority vote shall prevail. However, the City Council shall respect the opinion of the minority.

1 7. The Mayor and City Council shall publicly share substantive information, which
2 they may have received from sources outside the public decision-making process that is relevant
3 to a matter under consideration by the City Council.

4 8. Allow for everyone's opinion to be heard and respected, even if they do not win
5 the vote or prevail on the issue. Strive for a win-win situation by respecting diverse opinions.

6 9. Councilmembers will allow room for dialogue. When discussing an agenda item,
7 the City Council will allow the opportunity to dialogue with each other to build consensus on an
8 item.

9 10. Any member of the City Council may move to require the presiding officer to
10 enforce the rules and an affirmative vote of a majority of Council members present shall be
11 required to do so.

12 **B. MAYOR AND CITY COUNCIL CONDUCT WITH ONE ANOTHER**

13 1. The Mayor and City Council will value each other's time.

14 2. All Councilmembers have the opportunity to speak and agree to disagree.

15 3. The City Council will avoid negative comments that could offend other
16 Councilmembers during public meetings, in the press, or any other time.

17 4. The City Council will practice civility and decorum in discussions and debate.

18 5. The presiding officer has an affirmative duty to maintain order. The City Council
19 will honor the role of the presiding officer in maintaining order.

20 **C. MAYOR, CITY COUNCIL AND CITY MANAGER CONDUCT WITH STAFF**

21 1. Mayor and Councilmembers should always feel free to speak directly with the City
22 Manager on matters of interest or concern to them.

23 2. The Mayor, City Council, City Manager and City Staff shall respect and adhere to
24 the City's form of government, which is a Charter City operating under a Council-Manager form
25 of government, with the City Council acting as the legislative body of the City. The City Council
26 is the visionary policy maker and staff is responsible for implementation of City Council policies.

27 3. The City Council directs the City Manager to implement City Council policy
28 decisions through the administrative functions of the City.

1 4. The Mayor and City Council shall treat staff professionally.

2 5. When possible, the Mayor and City Council should attempt to seek answers to
3 questions on an item on the agenda, from the City Manager, City Attorney, City Clerk or
4 Department/Division Head prior to the meeting.

5 6. The Mayor and Councilmembers will not get involved in personnel issues except
6 during a closed session where personnel issues may be discussed or as otherwise appropriate
7 concerning the City Manager, City Attorney, City Clerk or other staff appointed by the City
8 Council. This includes hiring, firing, promoting, disciplining, and all other forms of personnel
9 matters.

10 7. If a Councilmember is unhappy about a department or an employee he/she may
11 discuss the situation with the City Manager, Assistant City Manager, or the City Attorney or City
12 Clerk as appropriate.

13 D. MAYOR AND CITY COUNCIL CONDUCT WITH THE PUBLIC

14 1. The Mayor and City Council will make the public feel welcome.

15 2. The Mayor and City Council shall not be partial, prejudiced or disrespectful
16 toward the public.

17 3. The Mayor and City Council should not make snappy, sarcastic comments to the
18 public or to each other.

19 4. The Mayor and City Council shall treat members of the public equally.

20 5. The Mayor and City Council members shall make no promises to the public on
21 behalf of the City Council.

22 6. The Mayor and City Council shall not argue with members of the public.

23 7. The Mayor and City Council shall listen courteously and attentively to all public
24 comments before the City Council.

25 E. MAYOR AND CITY COUNCIL CONDUCT WITH OTHER AGENCIES

26 1. The Mayor and City Council shall be clear about representing the City or personal
27 interests to members of other agencies.

28

2. The Mayor and City Council shall project a positive image of the City when dealing with other agencies.

3. The Mayor and individual Councilmembers can lobby or discuss with other legislators, government officials or developers issues that have been adopted by the City Council or are City Council policy; they should not represent themselves as the City if it is only an individual issue.

4. The Mayor and City Council shall show tolerance and respect for other agencies' opinions and issues and agree to disagree with them when necessary.

F. MAYOR AND CITY COUNCIL CONDUCT WITH BOARDS AND COMMISSIONS

1. The Mayor and City Council works through the board/commission chairs.

2. The Mayor and City Council shall treat all members of Boards and Commissions with appreciation and respect.

3. It has been the practice of the Mayor and City Council to not participate in Board and Commission meetings for the purpose of, and to avoid perception of, influencing the outcome of said meetings.

G. COUNCIL CONDUCT WITH STANDING CITY COUNCIL COMMITTEES

1. *Government Code* section 54952.2 defines a meeting of the legislative body of the City of Riverside and provides certain limitations on the attendance of its members.

2. A member of the City Council, who is not a member of the standing committee, may attend an open and noticed meeting of a standing committee of the City Council, provided that they attend only as observers and do not participate in any discussion.

H. MAYOR AND CITY COUNCIL CONDUCT WITH THE MEDIA

1. The Mayor and City Council shall never go "off the record", discuss information pertaining to closed sessions, personnel, litigation or acquisition of property items, when dealing with the media. Providing background information is acceptable.

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1 I. OBTAINING THE FLOOR

2 1. Any member of the City Council wishing to speak must further obtain the floor by
3 being recognized by the presiding officer. The presiding officer must recognize any
4 Councilmember who seeks the floor when appropriately entitled to do so.

5 2. With the concurrence of the presiding officer, a Councilmember holding the floor
6 may address a question to another Councilmember and that Councilmember may respond while
7 the floor is still held by the Councilmember asking the question. A Councilmember may opt not
8 to answer a question while another Councilmember has the floor.

9 VI

10 ROLE OF CITY STAFF

11 A. City staff will provide written analysis and information on all agenda items prior to the
12 meetings. Additionally, a copy of the materials, including technical reports will be available to
13 the public.

14 B. Staff will be available to answer questions of the City Council prior to and during City
15 Council meetings.

16 C. Staff will respond to questions from the public during City Council meetings when
17 requested to do so by the Mayor, City Council, or City Manager.

18 D. Staff will not argue with the public or the City Council.

19 E. During City Council meetings staff shall turn off or switch any electronic equipment such
20 as pagers and cellular telephones to a silent mode.

21 F. Councilmembers and staff who participate in meetings with outsiders should be apprised
22 of any follow-up correspondence to that party, particularly if there is some controversy; the City
23 Manager and all Councilmembers should get copied on all correspondence.

24 G. Staff will remain objective on issues. Staff should not be an advocate for issues unless so
25 directed by the City Council. Rather, they should promote or assist the efforts of City Council.

26 H. Staff will inform City Council as soon as possible of upcoming issues, particularly issues
27 that will impact the City significantly and may be coming before City Council on short notice.
28

1 I. Staff will provide each Councilmember with written notification of any meetings or
2 discussions relative to any development project in the Councilmember's respective ward. Each
3 Councilmember may, at their option, follow up with staff regarding the details of the project and
4 any policy issues that may be coming before the City Council.

5 J. If only one or two Councilmembers feel something is controversial or a "hot" issue and it
6 may be coming before the City Council, the City Manager will inform the Mayor and the
7 Councilmembers whose ward the issue concerns.

8 K. The City Manager will advise management to become aware of and sensitive to
9 potentially political or controversial issues coming before the City Council.

10 L. City staff will implement all City Council policies as directed by the City Manager; staff
11 will not implement any actions for the City without prior approval of the City Council and City
12 Manager.

13 VII.

14 ROLE OF THE PUBLIC

15 A. Members of the public attending the City Council meetings are requested to observe the
16 same rules and decorum applicable to the City Council and staff.

17 B. All speakers must approach the podium when recognized by the presiding officer.
18 Members of the public shall only speak from the podium.

19 C. Members of the public shall turn off or switch any electronic equipment such as pagers
20 and cellular telephones to a silent mode while attending a City Council meeting.

21 D. If a member of the public desires to provide written correspondence (11 copies
22 recommended) to the City Council, all such materials shall be given directly to the City Clerk
23 prior to the meeting, or if during the course of the meeting, the materials shall be given to the City
24 staff on the dais. At no time shall the public enter the well to provide the materials directly to
25 members of the City Council.

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VIII
MEETINGS

A. CALL TO ORDER - PRESIDING OFFICER

The Mayor, or in the Mayor's absence the Mayor Pro Tempore, shall take the chair at the hour appointed for the meeting and shall immediately call the City Council to order. Upon the arrival of the Mayor, the Mayor Pro Tempore shall immediately relinquish the chair at the conclusion of the business presently before the City Council.

B. ROLL CALL

Before the City Council shall proceed with the business before it, the City Clerk shall enter into the minutes the names of the Mayor and those Councilmembers present. The later arrival of any absentee shall also be entered into the minutes.

C. QUORUM CALL

During the course of the meeting, should the presiding officer note a City Council quorum is lacking, the presiding officer shall call this fact to the attention of the City Clerk. The presiding officer shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the Chair may declare a recess for a reasonable period of time in order to reestablish a quorum or the meeting shall be deemed automatically adjourned.

D. CITY COUNCIL MEETING SCHEDULE

Save and except for the months of July and August of each year, regular meetings of the City Council shall be held in the Art Pick Council Chamber, 3900 Main Street, Riverside, California, on the first four Tuesdays of each month, taking into consideration any legal holidays which may occur.

Regular meetings of the City Council shall commence at approximately 1:00 p.m., and shall include oral communication from the public followed by any closed sessions, workshops, public hearings, or other business, as necessary. Public hearings shall commence at approximately 3:00 p.m. An additional period for oral communications from the public shall be held at 7:00 p.m.

1 During the months of July and August, regular meetings of the City Council shall only be
2 held on the second and fourth Tuesdays beginning at the approximate hour of 1:00 p.m.

3 The appointed hours noted herein are set forth for the convenience of the City Council and
4 are subject to change.

5 E. ADJOURNED MEETINGS

6 The City Council may adjourn any regular, adjourned regular, special or adjourned special
7 meeting to a time and place specified in the order of adjournment as permitted by law and in
8 compliance with Chapter 4.05 of the Riverside Municipal Code.

9 F. SPECIAL MEETINGS

10 The Mayor or a majority of the City Council may call a special meeting by providing
11 notice five (5) days in advance of the meeting to the Mayor, all members of the City Council, to
12 all media outlets, and to persons having requested notification pursuant to State law.

13 G. CLOSED SESSIONS

14 The City Clerk or his/her designee shall attend each closed session of the City Council and
15 keep and enter in a minute book a record of topics discussed and decisions made at the meeting.
16 In the event of a closed session concerning personnel matters conducted in conformance with
17 *California Government Code* section 54957, the Mayor Pro Tempore or his/her designee shall
18 enter in a minute book a record of the topics discussed and decisions made at the meeting. The
19 minute book is not a public record subject to inspection pursuant to the California Public Records
20 Act (*California Government Code* section 6250 *et seq.*), and shall be kept confidential. The
21 minute book shall be available only to members of the legislative body or, if a violation of
22 *California Government Code* sections 54950 through 54962 is alleged to have occurred at a
23 closed session, to a court of general jurisdiction wherein the local agency lies.

24 All proper matters discussed during closed sessions shall be private and confidential, and
25 the disclosure by any person of the topics or details of such matters is expressly prohibited. If a
26 Councilmember feels it is necessary, then preliminary notes may be taken which should not be
27 kept as the Councilmembers permanent records. All closed session information, verbal or
28 written, is confidential and private.

1 H. EMERGENCY MEETINGS.

2 In the case of an emergency situation involving matters upon which prompt action is
3 necessary due to the disruption or threatened disruption of public facilities, the City Council may
4 hold an emergency meeting without complying with either the 24-hour notice requirement or the
5 24-hour posting requirement of *Section 54956* or both of the notice and posting requirement.

6 Each local newspaper of general circulation and radio or television station that has
7 requested notice of special meetings pursuant to *Section 54956* shall be notified by the presiding
8 officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or,
9 in the case of a dire emergency, at or near the time that the presiding officer or designee notifies
10 the members of the City Council of the emergency meeting. This notice shall be given by
11 telephone and all telephone numbers provided in the most recent request of a newspaper or station
12 for notification of special meetings shall be exhausted. In the event that telephone services are
13 not functioning, the notice requirements of this section shall be deemed waived, and the
14 legislative body, or designee of the legislative body, shall notify those newspapers, radio stations,
15 or television stations of the fact of the holding of the emergency meeting, the purpose of the
16 meeting, and any action taken at the meeting as soon after the meeting as possible.

17 During an emergency meeting, the City Council may meet in closed session pursuant to
18 *Section 54957* if agreed to by a two-thirds vote of the members of the City Council present, or, if
19 less than two-thirds of the members are present, by an unanimous vote of the members present.

20 All special meeting requirements, as prescribed in *Section 54956* shall be applicable to an
21 emergency meeting, with the exception of the 24-hour notice requirement.

22 The minutes of an emergency meeting, a list of persons who the presiding officer of the
23 City Council, or designee of the City Council, notified or attempted to notify, a copy of the roll
24 call vote, and any actions taken at the meeting shall be posted for a minimum of ten days in a
25 public place as soon after the meeting as possible.

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1 IX

2 AGENDA

3 A. DECLARATION OF POLICY

4 No ordinance, resolution, or item of business shall be introduced or acted upon before the
5 City Council at its meeting without it having been published on the agenda of the meeting and
6 posted in accordance with Riverside Municipal Code Title 4 and *California Government Code*
7 section 54954.2(a) as the same now exist or hereafter amended. Exceptions to this rule are
8 limited to those provided by State law and matters of business remaining uncompleted from a
9 regular meeting.

10 B. DEFINITIONS

11 For purposes of this section, the terms listed herein shall be defined as follows:

12 1. "Agenda Item" means an item placed on the agenda irrespective of location (save
13 and except for matters raised under Oral Communications) to be transacted or discussed by the
14 City Council. For purposes of this Section, any quasi-judicial appeals shall be considered action
15 items in accordance with *California Government Code* section 54952.6 as the same now exists or
16 hereafter may be amended.

17 Each agenda item shall contain a brief general description of each item of business to be
18 transacted or discussed at the meeting in accordance with *California Government Code* section
19 54954.2 as the same now exists or hereafter may be amended, whether the matter is to be
20 presented in Closed Session, on the Consent Calendar, the Discussion Calendar, the Public
21 Hearing Calendar, or such other time as may be scheduled.

22 Each agenda item shall be supported by all relevant documentation, which may include
23 but not be limited to the following as applicable:

- 24 a. The need therefore and the department or departments involved or affected
25 thereby;
- 26 b. Recommendation of the City Manager, if applicable;
- 27 c. Comments of the City Attorney, if the item involves legal issues;
- 28 d. Past City Council actions or practices, if any, relating to such matter;

- 1 e. Past legislative history or hearings, if any;
2 f. Financial benefits or costs which would accrue to the City as a result of the
3 recommended action;
4 g. For awards of contracts, the contracts shall be prepared and presented;
5 h. If funds are requested, the budgetary source of funds;
6 i. Person or persons to contact for further information;
7 j. Estimated balances shall be included for appropriations from General Fund
8 Contingency Reserve and supplemental appropriations from fund balance.

9 2. "Agenda" means the compilation of the descriptive titles of agenda items
10 submitted to the City Clerk, arranged in the sequence established in Section IX.E. hereof.

11 3. "Packet" means the Agenda and all supporting documentation.

12 4. "Emergency Situation" means both of the following:

13 a. An emergency, which shall be defined as a work stoppage, crippling
14 activity, or other activity that severely impairs public health, safety, or both, as determined by a
15 majority of the members of the City Council.

16 b. A dire emergency, which shall be defined as a crippling disaster, mass
17 destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and
18 significant that requiring a legislative body to provide one-hour notice before holding an
19 emergency meeting may endanger the public health, safety, or both, as determined by a majority
20 of the members of the City Council.

21 5. "Items Carried Over" means items uncompleted from a prior agenda of a City
22 Council meeting.

23 C. PROCEDURE FOR BRINGING MATTERS BEFORE CITY COUNCIL

24 1. Persons Who May Place Matters On The Agenda

25 Except for matters pending before any committee, commission or other advisory body of
26 the City or the City Council, matters pertinent to and within the jurisdiction of the City may be
27 placed on the agenda by the Mayor, any Councilmember, the City Manager, City Attorney or City
28 Clerk.

1 2. Scheduling Public Hearings Mandated By State, Federal or Local Statute.

2 The City Clerk may schedule a public hearing at any available time and date in those cases
3 where State, Federal or local statute mandates the City Council hold a public hearing.

4 3. Submission of Agenda Items.

5 Except for Items Carried Over, as a condition to placing an item on the Council's agenda,
6 by the Mayor, any Councilmember, the City Manager, the City Attorney or the City Clerk, a City
7 Council report should be prepared and submitted to the City Clerk not later than 12:00 p.m. of the
8 fifteenth (15th) day prior to each regular City Council meeting at which the item shall be heard.

9 4. Preparation of the Packet.

10 Not later than 5:00 p.m. twelve (12) days prior to each regular City Council meeting, the
11 City Clerk shall prepare the packet. No item shall be considered by the City Council if not
12 included in the packet, except as provided in section 4.05.050 of the Riverside Municipal Code.

13 5. Posting of Agenda.

14 The City Clerk shall post the agenda of each City Council Regular or Adjourned Regular
15 Meeting at least twelve (12) days in advance of said meeting in a location that is freely accessible
16 to members of the public. The City Clerk shall maintain an affidavit indicating the location, date
17 and time of posting each agenda.

18 6. Distribution of the Packet.

19 Not later than 6:30 p.m. twelve (12) days prior to each regular City Council meeting, the
20 City Clerk shall distribute the packet to the Mayor, each member of the City Council, the City
21 Manager and the City Attorney. Twelve (12) days prior to each regular City Council meeting,
22 the City Clerk shall distribute the packet to the designated department directors, and such other
23 persons or institutions as the City Clerk shall deem necessary or appropriate. Paper or electronic
24 copies of the packet shall be made for the news media and such other organizations, agencies,
25 institutions or persons as may wish to subscribe to receipt thereof, and the City Clerk will make
26 the packet available electronically on the City's webpage.

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1 7. Failure to Meet Deadlines.

2 a. The City Clerk shall not, without the consent of the City Manager or City
3 Attorney, accept any agenda item or revised agenda item after the deadlines established hereby.

4 b. Supplemental Agenda And Related Materials Requirements For Regular Meetings
5 Of The City Council and City Council Standing Committees. Notwithstanding the notice
6 provisions of Section 4.05.050(A) of the Riverside Municipal Code, the City Council and City
7 Council Standing Committees, may amend or supplement a posted agenda or agenda-related
8 materials no later than 72 hours before a regular meeting and only for the following reasons or
9 under the following conditions:

10 (i) to add an item due to an emergency or urgency, provided the local body
11 makes the same findings as required by Section 4.05.050(D) of the Riverside Municipal Code
12 before taking action;

13 (ii) to delete or withdraw any item from a posted agenda however, nothing
14 herein shall limit the ability of a local body to delete or withdraw an item during the meeting;

15 (iii) to provide additional information to supplement the agenda-related
16 material previously published with the agenda provided that the additional information was
17 not known to staff or considered to be relevant at the time the agenda-related materials
18 were filed. Examples of supplemental material permitted by this Section are reports
19 responding to questions or requests raised by members of a local body after posting and
20 filing of the twelve-day agenda and materials, and analyses or opinions of the item by the
21 Office of the City Attorney, any member of the City Council, or the Mayor;

22 (iv) to correct errors or omissions, or to change a stated financial amount, or
23 to clarify or conform the agenda title to accurately reflect the nature of the action to be taken
24 on the agenda time;

25 (v) to continue an agendized item to a future regular meeting of the local
26 body provided that members of the public are given an opportunity to address the local body
27 on the limited question whether to continue the item to a future meeting.
28

1 c. Excuse Of Sunshine Notice Requirements. If an item appears on an
2 agenda but the local body fails to meet any of the additional notice requirements under this
3 Section, the local body may take action only if:

4 (i) The minimum notice requirements of the Riverside City Charter and
5 the Brown Act have been met; and,

6 (ii) The local body, by a two-thirds vote of those members present, adopts
7 a motion determining that, upon consideration of the facts and circumstances, it was not
8 reasonably possible to meet the additional notice requirements under this Section and any
9 one of the following exists:

10 a. the need to take immediate action on the item is required to
11 avoid a substantial impact that would occur if the action were deferred to a subsequent
12 special or regular meeting; or,

13 b. there is a need to take immediate action which relates to federal,
14 state, county or other governmental agency legislation or action or the local body's eligibility
15 for any grant or gift; or,

16 c. the item relates to a purely ceremonial or commendatory action.

17 (iii) Notwithstanding the provisions of this subsection, if the Mayor or a
18 Council Member, with the concurrence of another Council Member, believe an item is
19 urgent, and the failure to meet any additional notice requirements was due to:

20 a. the need to take immediate action, which came to the attention of
21 the local body after the agenda was posted, or;

22 b. a software or hardware impairment as defined by Section
23 4.05.010(H) of the Riverside Municipal Code and such additional notice requirements are
24 satisfied no later than seventy-two (72) hours before the date of the meeting; or,

25 (iv) The item is a closed session item relating to ongoing, proposed or
26 threatened litigation.
27
28

1 d. Action On Items Not Appearing On The Agenda. Notwithstanding
2 subsection (C) of this Section, a local body may take action on items not appearing on
3 a posted agenda only if:

4 (i) The Matter Is An Emergency. Upon a determination by a majority
5 vote of the local body that a work stoppage, crippling disaster or other activity exists
6 which severely impairs public health, safety or both.

7 D. AGENDA-SETTING MEETING

8 1. The City Council agenda-setting meeting normally takes place on Wednesdays,
9 and sets the following two City Council agendas, but can be rescheduled, if necessary.

10 2. The members include the Mayor, Mayor Pro Tem, City Manager, City Attorney,
11 City Clerk, and Assistant City Managers. In the event that any of these representatives cannot
12 attend the meeting, they may send a representative in their place.

13 3. The City Clerk, as the City official who manages and publishes the agenda, shall
14 serve as the chairperson.

15 4. The role of the Mayor and Mayor Pro Tem, in addition to collaborating as team
16 members with executive management to set the agenda, is to track City Councilmembers' referred
17 items and ensure they are placed on the agenda. If an item is not addressed in the timeframe
18 noted, the Mayor Pro Tem will provide written notification to the City Councilmember(s) who
19 made the referral. The City Clerk's Master Meeting Calendar will be used as the tracking tool.

20 5. When a City Councilmember refers an item to be placed on the agenda, a
21 timeframe must be included. It will include the Councilmember's name, and the specific type of
22 item requested (action vs. discussion). City Council items should always be considered a priority
23 for scheduling.

24 6. Any City Councilmember may attend at the invitation of the Mayor Pro Tem
25 (provided it does not violate quorum rules).

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1 E. CONSENT CALENDAR

2 There shall be a consent calendar on all regular meeting agendas on which shall be
3 included those matters which the Mayor, Councilmembers, and City Manager deem to be routine
4 in nature and not likely to be subject to debate or inquiry.

5 All items for presentation on the consent calendar shall conform to the format, guidelines
6 and deadlines set out in Section B, above. On any matter not requiring immediate action,
7 Councilmembers are encouraged to utilize a Motion to Postpone to a Time/Date Certain, as
8 opposed to a Motion to Table the matter, in order to have substantive issues addressed further.

9 It is the policy of the City Council that Councilmembers wishing to ask questions
10 concerning consent calendar items should ask questions of the City Manager or staff person who
11 submitted the report prior to the City Council meeting so that the need for discussion of consent
12 calendar items can be minimized.

13 F. AGENDA SEQUENCE AND ORDER OF BUSINESS

14 1. The City Council agenda is to be arranged in the following order and sections:

15 a. Workshops or Discussion Calendar.

16 b. Joint session of the City Council and all other related agencies meeting to
17 receive oral communications from the public regarding closed session agenda items, or matters
18 within the jurisdiction of any such governing bodies.

19 c. Legislative report.

20 d. Closed Sessions.

21 e. Public Hearings/Land Use Appeals.

22 f. Brief reports on conferences, seminars and regional events; Ward updates;
23 Council comments; and announcements of upcoming events shall commence at 6:15 p.m.

24 g. Ceremonial Matters.

25 h. Oral communications from the audience regarding consent calendar items
26 or matters within the jurisdiction of the City. Oral Communications shall commence at
27 approximately 7:00 p.m., and may be moved or continued to later in the Council meeting at the
28 discretion of the presiding officer, with the concurrence of the City Council.

1 i. Consent Calendar.

2 Removal of items from the Consent Calendar, shall be followed by one motion for action
3 on uncontested Consent Calendar Items. Thereafter, removed consent items will be discussed
4 immediately after the Discussion Calendar.

5 j. Discussion Calendar.

6 k. Pulled consent calendar items, if any.

7 l. Mayor/Councilmember Communications.

8 m. Adjournment.

9 X

10 CONDUCT OF MEETING

11 A. ORDER OF DISCUSSION

12 The order of discussion after introduction of an item by the presiding officer will be as
13 follows:

14 1. Generally

15 a. Staff comments, information and reports, followed by questions from the
16 Mayor and Councilmembers.

17 b. Public comments and information followed by questions from the Mayor
18 and Councilmembers.

19 c. City Council discussion, motion and action.

20 2. Public Hearings

21 a. Staff comments, information and reports, followed by questions from the
22 Mayor and Councilmembers.

23 b. Public comments and information followed by questions from the Mayor
24 and Councilmembers.

25 c. Closure of public hearing.

26 d. Mayor and Council discussion, motion and action.

27 3. Appeals/Quasi-Judicial Hearings.

1 a. Staff comments, information and reports followed by questions from the
2 Mayor and Councilmembers.

3 b. Appellant/proponent comments, information and reports followed by
4 questions from the Mayor and Councilmembers.

5 c. Public comments, information and reports from others wishing to speak on
6 the item followed by questions from the Mayor and Councilmembers.

7 d. Closing statements by appellant/proponent limited to addressing comments
8 made in opposition.

9 e. Closure of public testimony.

10 f. Mayor and City Council discussion, motion and action.

11 Once the agenda item is placed before the City Council for discussion, motion and action,
12 no staff member nor member of the public shall be allowed to address the City Council without
13 the consent of the City Council.

14 B. CONSENT CALENDAR ITEMS CALLED UP FOR DISCUSSION

15 The Mayor, any Councilmember, or the City Manager may request that any matter be
16 removed from the Consent Calendar. If a matter placed on a Consent Calendar at a regular
17 business meeting is removed, it will be discussed immediately after adoption of the Discussion
18 Calendar. All matters remaining on the Consent Calendar and which have not been removed
19 shall be approved by a single action, such single action to have the legal effect of individual
20 action on each matter. The presiding officer or City Clerk shall read into the record each item on
21 the Consent Calendar which has been removed.

22 C. COMMUNICATIONS FROM THE AUDIENCE.

23 A portion of each agenda of a regular meeting of the City Council shall provide an
24 opportunity to members of the public to address the City Council on any issue concerning City
25 business, including closed session, consent calendar items, or item of interest that is within the
26 subject matter jurisdiction of the City ("Oral Communications").

27 The Mayor and members of the City Council may:

28 1. Briefly respond to statements made or questions posed by members of the public.

- 1 2. Ask questions for clarification.
- 2 3. Provide a reference to staff or other resources for factual information.
- 3 4. Request staff to report back to the City Council at a subsequent meeting on any
- 4 matter.
- 5 5. Take action to direct staff to place a matter of business on a future agenda.

6 The City Council retains the right, by majority vote, to alter the time allotted for public
7 remarks. Each person desiring to address the City Council during Oral Communications, City
8 Council Discussion Items, Workshops, or Public Hearings shall fill out and file a form provided
9 by the City Clerk. Requests to be heard may be submitted to the City Clerk any time prior to the
10 conclusion of public comment on the agenda item. Each person speaking shall limit his/her
11 remarks to three (3) minutes. For each and every public speaker, the presiding officer shall be
12 required to utilize the timing system which provides them with notice of their remaining time to
13 complete their presentations.

14 D. PUBLIC HEARINGS

15 The City Council or City Clerk shall set the time and place for each public hearing. In
16 the conduct of the public hearing, the presiding officer will direct those making presentations to
17 avoid repetition in order to permit maximum information to be provided the City Council
18 within the time allotted to the hearing.

19 E. PUBLIC DISCUSSION

20 The City Council may, from time to time, schedule a matter for a public meeting. At
21 the scheduled time for public discussion, the City Council may state the amount of time to be
22 allotted for testimony from the public.

23 F. TIME LIMITATION FOR PUBLIC TESTIMONY AT PUBLIC HEARINGS AND
24 PUBLIC DISCUSSION

25 The City Council may limit the total amount of time of testimony on particular issues and
26 for each individual speaker. Presentations for other than quasi-judicial hearings, are to be limited
27 to no more than one 3-minute presentation. More or less time may be authorized by a majority of
28 the City Council. For quasi-judicial hearings, presentations are to be limited as follows: an

1 appellant or applicant may be allowed one ten minute presentation and an additional five (5)
2 minutes for surrebuttal. A designated representative of an organization in opposition thereof may
3 be allowed a ten (10) minute presentation.

4 The City Council reserves the right to determine the total amount of time for testimony on
5 any particular hearing matter and/or for each individual speaker.

6 For each and every public speaker, the presiding officer shall be required to utilize the
7 timing system which provides them with notice of their remaining time to complete their
8 presentations. A green light on the timing system will be activated at the start of a presentation; a
9 yellow light will be activated as a warning that one minute remains; when the red light is
10 activated, the speaker shall cease speaking. In the further interest of time, speakers will be asked
11 to limit their comments to new materials and not repeat what a prior speaker said. Organized
12 groups may choose a single spokesperson who may speak for the group. Speakers may not
13 concede any part of their allotted time to another speaker.

14 XI

15 FACILITIES

16 A. COUNCIL CHAMBER CAPACITY

17 Council Chamber attendance shall be limited to the posted seating capacity thereof.
18 Entrance to the Council Chamber will be appropriately regulated by the City Manager on
19 occasions when the Council Chamber capacity is likely to be exceeded. While the City Council is
20 in session, members of the public shall not remain standing in the seating area or aisles of the
21 Council Chamber except to address the City Council, and sitting on the floor shall not be
22 permitted.

23 B. ALTERNATE FACILITIES FOR CITY COUNCIL MEETINGS

24 If the City Manager has reason to anticipate that the attendance for a meeting will be
25 substantially greater than the capacity of the City Council Chamber and insufficient time exists to
26 secure the approval of the City Council to hold the meeting at an alternate facility, the City
27 Manager, or his or her designee, shall make arrangements for the use of a suitable alternate
28 facility to which such meeting may be moved.

1 Furthermore, if, because of fire, flood, earthquake or other emergency, it would be unsafe
2 to meet in the customary location, the meetings may be held for the duration of the emergency at
3 some other place specified by the City Manager or his or her designee. The change of meeting
4 site shall be announced, by the most rapid means of communication available at the time, in a
5 notice to media organizations who have requested written notice of meetings.

6 XII

7 PROCEDURAL MATTERS

8 A. PERSONS AUTHORIZED TO SIT AT TABLES

9 No person, except officials, officers, employees and agents of the City shall be permitted
10 to sit at the tables in front of the City Council without the consent of the City Council.

11 B. DECORUM

12 It is the policy of the City Council that the right to express one's views at a City Council
13 meeting is fundamental to a free society; however, it is not absolute and is subject to valid
14 regulations. The public has a right to address the City Council at any meeting on any subject that
15 is within the City Council's subject matter jurisdiction and further, the public has the right to
16 express its criticism of the policies, procedures, programs or services of the City or its acts or
17 omissions. We must balance the right of the public to address the City Council with the need to
18 ensure that public comment does not hinder the smooth and efficient legislative function of the
19 City Council.

20 No member of the public shall approach the speaker's podium while the City Council is in
21 session, unless specifically requested to do so by the presiding officer. Unruly conduct, such as
22 undue noise, hissing, profanity, insult or physical disturbance which disrupts, disturbs or
23 otherwise impedes the orderly conduct of the Council meeting shall not be permitted. Any person
24 making personal, impertinent, slanderous or profane remarks to any member of the Council, staff
25 or general public which disrupts, disturbs, or otherwise impedes the orderly conduct of any
26 Council meeting shall, at the discretion of the presiding officer or a majority of the Council, be
27 barred from further audience before the City Council at said meeting, unless permission to
28 continue be granted by a majority vote of the Council.

1 C. ENFORCEMENT OF DECORUM

2 Any law enforcement or security officers on duty or whose services are commanded by
3 the presiding officer shall be Sergeant-at-Arms of the City Council meetings. The Sergeant-at-
4 Arms shall carry out all orders and instructions given by the presiding officer for the purpose of
5 maintaining order and decorum at the City Council's meetings. Upon instructions of the presiding
6 officer, it shall be the duty of the Sergeant-of-Arms, or any of them present, to place any person
7 who violates the order and decorum of the meeting under arrest, and cause the person to be
8 prosecuted under the provisions of applicable law, the complaint to be signed by the presiding
9 officer.

10 D. PRECEDENCE OF MOTIONS

11 When a question is before the City Council, no motion shall be entertained except:

12 1. Motion To Adjourn.

13 A motion to adjourn requires a second and is not debatable except to set the date and time
14 to which the meeting is adjourned to consider the unfinished business. The purpose of a motion
15 to adjourn is to terminate the meeting forthwith, notwithstanding that the business on the agenda
16 has not been completed, and notwithstanding a time fixed for adjournment has not yet arrived. A
17 motion to adjourn shall be in order at any time, except as follows: (i) When repeated without
18 intervening business or discussion; (ii) when made as an interruption of a Councilmember while
19 speaking; (iii) when the previous question has been moved; and (iv) while a vote is being taken.

20 2. Motion To Lay On The Table.

21 The purpose of the motion is to terminate further consideration of the subject being
22 discussed, without qualification. The effect of the motion, if approved, is to not only end
23 discussion on any other motion being considered, but to preclude any other motion being made.
24 A motion to table requires a second, is not amendable, and is not debatable. The foregoing shall
25 not preclude any Councilmember from placing the subject on an agenda for a later City Council
26 meeting.

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1 3. Motion to Call for The Question (Close Debate).

2 The Councilmember moving any item before the City Council, including, the adoption of
3 an ordinance or resolution, or the Mayor Pro Tem, shall have the privilege of moving to close the
4 debate and at once to take the vote on the immediately pending question. Such a motion requires
5 a second and is not debatable, and is not amendable, and shall require a two-thirds vote of
6 Councilmembers present and voting for adoption. Such a motion also requires that each
7 Councilmember be afforded at least one opportunity to speak on the item before closing the
8 debate. The making of the motion shall not constitute a violation of Section V of these rules.

9 4. Motion To Postpone To A Certain Time/Day.

10 A motion to postpone to time certain is amendable, and is debatable as to the propriety of
11 postponement and as to time set in the motion. The purpose of the motion is to postpone the
12 subject under discussion to another, specified time.

13 5. Motion to Substitute.

14 A motion to substitute the motion under consideration with another motion requires a
15 second, is not amendable and is debatable. A motion to substitute must be germane to the subject
16 and compatible with the underlying purpose of the motion under consideration; and if passed, the
17 substitute motion will, by its own action, eliminate the necessity to vote on the motion being
18 substituted. If the substitute motion fails to pass, debate will resume on the motion previously
19 being contested. Only two substitute motions shall be on the floor at any time.

20 6. Motion to Amend.

21 A motion to amend the motion under consideration requires a second, but the proposed
22 amendment must be germane, or related, to the main motion, and is debatable. A motion to
23 amend is defined as amending a motion that is on the floor and has been seconded, by inserting
24 or adding, striking out, or striking out and inserting words within the main motion. The
25 proposed amendment is voted on first, and if adopted, there is a vote on the main motion as
26 amended. If the motion fails, debate will resume on the main motion.

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1 7. Motion To Reconsider.

2 A motion to reconsider any action taken by the City Council must be based upon a
3 different state of facts and must be made not later than the second succeeding official regular
4 meeting of the City Council. Such a motion can only be made by a member who voted with the
5 majority. The motion to reconsider must be specifically agendized as a motion for
6 reconsideration and cannot be acted upon on under Future Agenda Items. However, if the motion
7 to reconsider is made at the same Council meeting when the motion was originally adopted, it
8 does not have to be included on the agenda. At the time such reconsideration is heard by the City
9 Council, testimony shall be limited to the alleged facts in support of the motion. No question
10 shall be twice reconsidered, except by unanimous consent of the City Council, except that action
11 relating to any contract may be reconsidered at any time before the final execution thereof.

12 These motions shall have precedence in the order indicated. Any such motion, except to
13 adjourn, amend, or substitute, shall be put to a vote without discussion.

14 E. RULES OF DISCUSSION

15 1. Presiding Officer May Debate: The presiding officer may debate from the chair,
16 subject only to such limitations of debate as are by these rules imposed on all members, and shall
17 not be deprived of any of the rights and privileges as a member of the City Council by reason of
18 acting as the presiding officer.

19 2. Getting the Floor: Improper References to be Avoided: Every member desiring to
20 speak shall utilize the electronic call device to gain the attention and priority of the presiding
21 officer, and upon recognition by the presiding officer, shall confine him/herself to the question
22 under debate, avoiding all personalities and indecorous language.

23 3. Interruptions: A Councilmember, once recognized, shall not be interrupted when
24 speaking unless it be to call the person to order, or as herein otherwise provided. If a
25 Councilmember, while speaking, be called to order, the Councilmember shall cease speaking until
26 the question of order be determined, and, if in order, shall be permitted to proceed.

27 4. Division of Question: If the question contains two or more divisional propositions,
28 each of which is capable of standing as a complete proposition if the others are removed, the

1 presiding officer may, and upon request of a Councilmember shall (unless appealed), divide the
2 question.

3 5. Withdrawal of Motion: A motion may not be withdrawn by the mover without the
4 consent of the Councilmember seconding it.

5 6. Voting: On the passage of every motion, the vote shall be taken by electronic
6 voting device and entered in full upon the record. If the device is inoperable, the vote shall be
7 taken by roll call voice vote recorded by the City Clerk. The presiding officer shall announce the
8 result of the vote. No member shall be excused from voting except on matters involving the
9 consideration of the Councilmembers own official conduct, or where a conflict of interest exists.
10 Refusal to vote without excuse shall be an affirmative vote.

11 F. ADDRESSING THE CITY COUNCIL

12 Any person desiring to address the City Council shall first secure the permission of the
13 presiding officer to do so. Under the following headings of business, unless the presiding officer
14 rules otherwise, any interested person shall have the right to address the City Council in
15 accordance with the following conditions and upon obtaining recognition by the presiding officer:

16 1. Speakers. Any person desiring to provide public comment or public testimony,
17 shall do so in accordance with Section X.C. Each person addressing the City Council shall step
18 up before the City Council and may give their name and neighborhood in an audible tone of voice
19 for the record. All remarks shall be addressed to the City Council as a body and not to any
20 Councilmember, Mayor or staff member thereof.

21 2. Written Communications. Interested parties or their authorized representatives
22 may address the City Council by written communications in regard to matters of concern to them.
23 Communications received by the City Clerk prior to close of business on the day prior to a City
24 Council meeting shall be submitted to the City Council at the meeting if related to an item which
25 is on the agenda for that meeting.

26 3. Public Hearings. Interested persons or their authorized representatives may
27 address the City Council by reading protests, petitions, or communications relating to matters then
28 under consideration, subject to the time limitations imposed by the City Council.

committees as requested by the City Council, and (c) any other matters referred by the City Council or board/commission.

5. For Standing Committee and regional organization appointments, preferences of senior elected officials shall be honored. However, with five (5) affirmative votes, the City Council may appoint a non-senior member. The Mayor and Councilmembers shall forward preferences on Standing Committee assignments to the City Clerk to be shared at the Mayor's Nominating and Screening Committee Meeting.

Initially, each elected official shall be limited to two (2) regional organizational appointments. Remaining vacant positions and any appointment declined by an elected official shall be filled by seniority of elected officials desiring such appointments. There shall be no limitation to the number of appointments as "Alternate" to regional organizations. The provisions of this section shall not apply to organizations where the City Council is not the appointing authority.

"Seniority" shall be honored as to the elected office currently held.

B. REFERRAL OF MATTERS TO CITY COUNCIL STANDING COMMITTEES

1. Generally, all items agendized for City Council Standing Committees must first be referred by the City Council for review and a recommendation to the City Council within 120 days, subject to the exceptions set forth below or as otherwise modified by the City Council.

2. The Annual Year-End Finance Report by the Public Utilities Department is automatically referred directly to the Finance Committee for review and a recommendation to the City Council within 120 days.

3. All Successor Agency to the Redevelopment Agency matters are automatically referred to the Development Committee for review and a recommendation to the Successor Agency to the Redevelopment Agency Board within 120 days.

4. All requests for comments on projects within the City's sphere of influence are automatically referred to the Utility Services/Land Use/Energy Development Committee for review and submission of comments to the County of Riverside or as a recommendation to the City Council as time permits.

5. With the concurrence of the Committee Chairperson and the City Manager, an item may be sent directly to a Council committee without City Council referral. If a matter is so referred to a Council committee, the committee agenda will note such fact on the face of the agenda. Such referrals are not required to be forwarded to the City Council for action following committee review. The below guidelines shall be considered for such referrals.

Policy Committee	Types of Items Referred to the Committee
Community Services & Youth	Matters related to Parks, Recreation & Community Services activities
Development	All Successor Agency to the Redevelopment Agency matters are automatically referred to the Development Committee for review and recommendation to the Successor Agency to the Redevelopment Agency Board within 120 days; screening of Development proposals.
Finance	The Annual Year-End Finance Report by the Public Utilities Department is automatically referred directly to the Finance Committee for review and recommendation to the City Council within 120 days; matters related to the Finance Department Activities; budget, fees & charges.
Governmental Affairs	Matters related to City policy
Mayor's Nominating & Screening Committee	Following each election and/or appointment to fill a City Council vacancy, reorganization of City Council Standing Committee and regional organizational assignments shall be considered by the Mayor's Nominating and Screening Committee for a

	recommendation to the City Council.
Public Safety	Matters related to Public Safety.
Transportation	Matters related to the Public Works Department and transportation.
Utility Services/Land Use/Energy Development	All requests for comments on projects within the City's sphere of influence are automatically referred to the Utility Services/Land Use/Energy Development Committee for review and submission of comments to the County of Riverside or as a recommendation to the City Council as time permits; matters related to utilities and energy (including Riverside Public Utilities), and land use.

6. Board and Commissions, by majority vote, may forward matters to any City Council Standing Committee, as appropriate. The below guidelines shall be considered for such referrals.

BOARD/COMMISSION	CITY COUNCIL COMMITTEE
Airport Commission	Transportation Committee
	Finance Committee
Community Police Review Commission	Public Safety Committee
	Finance Committee
Cultural Heritage Board	Utility Services/Land Use/Energy Development Committee
	Development Committee
	Finance Committee

1	Commission on Disabilities	Community Services & Youth Committee
2		Finance Committee
3	Board of Ethics	Governmental Affairs Committee
4		Finance Committee
5	Human Relations Commission	Mayor's Nominating and Screening Committee
6		Finance Committee
7	Human Resources Board	Governmental Affairs Committee
8		Finance Committee
9	Board of Library Trustees	Community Services & Youth Committee
10		Finance Committee
11	Mayor's Commission on Aging	Mayor's Nominating and Screening Committee
12		Finance Committee
13	Metropolitan Museum Board	Community Services & Youth Committee
14		Finance Committee
15	Park and Recreation Commission	Community Services & Youth Committee
16		Finance Committee
17		Utility Services/Land Use/Energy Development
18	Planning Commission	Committee
19		Development Committee
20		Finance Committee
21		Utility Services/Land Use/Energy Development
22	Board of Public Utilities	Committee
23		Finance Committee
24	Transportation Board	Transportation Committee
25		Finance Committee
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XIV

BOARDS, COMMISSIONS, AND COMMITTEES

A. For vacancies on the Community Police Review Commission, Board of Ethics, Planning Commission and Board of Public Utilities, the Mayor's Nominating and Screening Committee shall review applications submitted and identify applicants for interview with the Mayor and City Council. The City Clerk shall notify the City Council of those selected for interview. The Mayor and each member of the City Council may add an additional applicant for interview, if desired. Appointments shall be made by the Mayor and City Council immediately following the interviews. With a full quorum, five affirmative votes are required.

B. For Citywide vacancies on any of the remaining boards and commissions, the Mayor shall recommend an applicant for appointment by the Mayor and City Council. For Ward-specific seats, the Councilmember for the Ward shall recommend an applicant for appointment by the Mayor and City Council. With a full quorum, five affirmative votes are required. With less than a full quorum, four affirmative votes are required.

C. For appointments to City Council citizen ad hoc committees, the City Council shall affirmatively select one of the following options:

1. Option 1: The Mayor's Nominating and Screening Committee shall review the applications submitted and identify applicants for interview with the Mayor and City Council. The City Clerk shall notify the City Council of those selected for interview. The Mayor and each member of the City Council may add an additional applicant for interview, if desired. The Mayor and City Council shall interview, make the appointments and select the Chair; or

2. Option 2: By formal motion, the City Council shall authorize each member of the City Council to select a member from their Ward and the Mayor to select two at-large members. The ad hoc committee shall elect a Chair from among its members; or

3. Option 3: By formal motion, any other method of appointment as desired by the City Council.

D. Board/commission members shall make every effort to notify the Chairperson or his/her designee no later than 24 hours prior to any regular meeting of his/her intent not to attend said

1 meeting. A member's inability to provide 24 hours advance notice shall not preclude the
2 board/commission from exercising its discretion to excuse said absence as outlined in Section
3 805 of the City Charter. If a member of a board or commission absents himself/herself from
4 three consecutive regular meetings of such board or commission, unless by permission of such
5 board or commission expressed in its official minutes, or is convicted of a crime of moral
6 turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall
7 be so declared by the City Council.

8 E. The City Clerk shall provide quarterly attendance reports to the Mayor and City Council.

9 F. The City Clerk shall notify the Mayor for Citywide seats and the appropriate
10 Councilmember for Ward specific seats for direction to be taken in the event of either of the
11 following conditions: (a) a board/commission member is absent unexcused from three
12 consecutive regular meetings of the board/commission; or (b) a board/commission member is
13 absent, whether excused or unexcused, from more than one-third of the regularly scheduled
14 meetings in any calendar year.

15 XV

16 COUNCIL REQUESTS

17 A. All Council requests dealing with policy issues and those requests which may be
18 construed as direction, go through the City Manager, except for general inquiries or questions in
19 which case the City Council may go to the Department Heads or key staff in the City Manager's
20 Office. Councilmembers may also deal directly with the City Attorney, City Clerk or other staff
21 appointed by the City Council.

22 B. Any request from the City Council requiring funding must go through the City Manager.
23 The City Manager will respond in a timely manner.

24 XVI

25 ADMINISTRATION

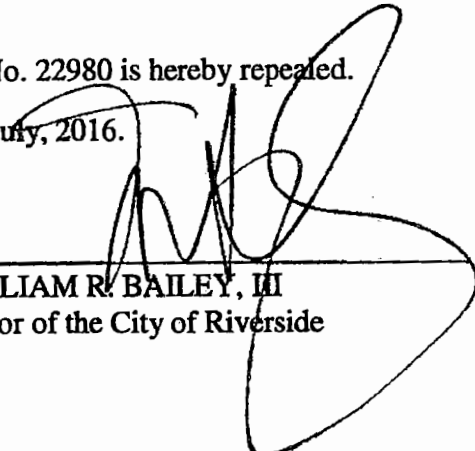
26 A. The City Council will review and revise the City Council norms and procedures as needed
27 or every two (2) years.

28

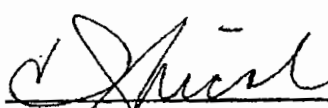
1 B. During City Council discussions, deliberations, and proceedings, the Mayor has been
2 designated with the primary responsibility to ensure that the City Council, staff and members of
3 the public adhere to the Council's norms and procedures.

4 BE IT FURTHER RESOLVED that Resolution No. 22980 is hereby repealed.

5 ADOPTED by the City Council this 26th day of July, 2016.

6
7
8 
WILLIAM R. BAILEY, III
Mayor of the City of Riverside

9 ATTEST:

10 
11 COLLEEN J. NICOL
12 City Clerk of the City of Riverside

13 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
14 foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City
15 at its meeting held on the 26th day of July, 2016, by the following vote, to wit:


16
17 Ayes: Councilmembers Gardner, Melendrez, Soubrou, Davis, Mac Arthur, Perry,
18 and Burnard

19 Noes: None

20 Absent: None

21 Abstained: None

22
23 IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the
24 City of Riverside, California, this 27th day of July, 2016.

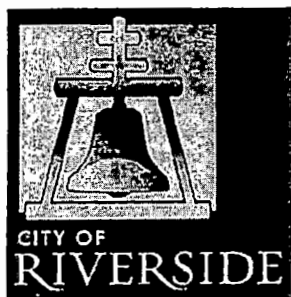
25 
26 COLLEEN J. NICOL
27 City Clerk of the City of Riverside

28 O:\Cycom\WPDocs\DO15\PO23\00286907.doc
16-0961

The foregoing instrument is certified,
under penalty of perjury, to be a
correct copy of the original on file in
this office.

29 
Colleen J. Nicol, City Clerk
City of Riverside, California

Executed on March 5, 2018 at

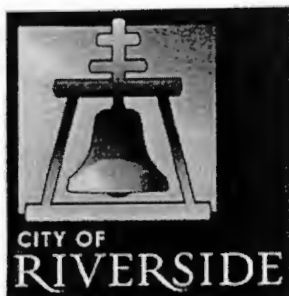


CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

	WARDS	1	2	3	4	5	6	7
Roll Call:	Present	X	X	X	X	X	X	X
Mayor Bailey called the meeting to order at 2 p.m., in the Art Pick Council Chamber with all Councilmembers present.								
ORAL COMMUNICATIONS FROM THE AUDIENCE								
Theresa Newham spoke regarding Blues musician William Clarke and the Ward 7 City Council seat. Quincy Fains, Jr., spoke regarding a parking ticket. Mary Humboldt spoke regarding the water and electricity rates increase. Scott Andrews spoke regarding speed limits near Wells Elementary School. Karen Wright spoke regarding the City Manager employment contract.								
<u>COMMUNICATIONS</u>								
LEGISLATIVE REPORT								
The Intergovernmental relations and legislative update was not held.								
<u>PRESENTATION</u>								
DESIGNATION AS BICYCLE FRIENDLY COMMUNITY								
The City Council received and ordered filed a certificate awarded by the League of American Bicyclists designating the City as a Bicycle Friendly Community for Riverside's exemplary efforts in expanding bicycling citywide.								
<u>DISCUSSION CALENDAR</u>								
MEASURE Z - DEFERRED MAINTENANCE CAPITAL PROJECTS UPDATE	Motion Second All Ayes							
Following discussion, the City Council received and ordered filed the update on the Measure Z deferred maintenance capital projects.						X		X
EMPLOYMENT AGREEMENT - CITY MANAGER	Motion Second		X	X				
Following discussion, motion was made and seconded to approve and authorize the Mayor and Mayor Pro Tem to execute the Employment Agreement with John A. Russo as City Manager extending the term of the Agreement by five years for a total seven-year contract.								



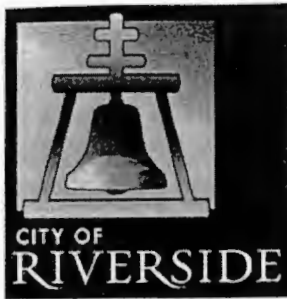
CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

COUNCILMEMBERS

		G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
	WARDS	1	2	3	4	5	6	7
Following further discussion, a substitute motion was made and seconded to continue the matter for 90 days.	Motion Second	X						X
Following further discussion, a second substitute motion was made and seconded to (1) approve the Employment Agreement and provide a three percent salary increase over each of the first two years of the contract; and (2) authorize the Mayor and Mayor Pro Tem to execute the Agreement with John A. Russo as City Manager extending the term of the Agreement by five years for a total seven-year contract.	Motion Second			X		X		
Following further discussion, the second on the first substitute motion was withdrawn.								
Following further discussion, the second substitute motion carried.	Ayes Noes	X	X	X	X	X	X	X
Councilmember Perry left the meeting at this time.							A	
<u>PUBLIC HEARINGS/PLANNING REFERRALS AND APPEALS</u>								
CASES P15-1010, P17-0124, AND P17-0838 - GENERAL PLAN, ZONING CODE TEXT, AND ZONING CODE AMENDMENTS - 2014 MARCH AIR RESERVE BASE/INLAND PORT AIRPORT COMPATIBILITY PLAN - RESOLUTION - ORDINANCES INTRODUCED Hearing was called on the proposal of the City of Riverside to amend the City General Plan, Zoning Code, and Zoning Map to create consistency with the March Air Reserve Base/March Inland Port Airport Land Use Compatibility Plan. No one spoke on the matter. The public hearing was officially closed. Following discussion, the City Council (1) determined the proposed project is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15183; (2) approved Planning Cases P15-1010 (General Plan Amendment), P17-0124 (Zoning Code Text Amendment), and P17-0838 (Zoning Map Amendment) based on the findings and recommendations as outlined in the staff report; (3) adopted a resolution amending the General Plan 2025; (4) introduced an ordinance amending Title 19 of the Riverside Municipal Code; and (5) introduced an ordinance amending the Zoning Map; whereupon, the title having been read and further reading waived, Resolution No. 23265 of the City Council of the City of Riverside, California, Amending the Land Use and Urban Design, Public Safety, Noise, and Circulation and Community Mobility Elements of								



CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

WARDS

GARDNER	MELNDRIZ	SOURDIS	CONDER	MACARTHUR	PERRY	ADAMS
1	2	3	4	5	6	7

the General Plan 2025 Pursuant to the 2014 March Air Reserve Base/Inland Port Airport Compatibility Plan, was presented and adopted; an ordinance entitled, "An Ordinance of the City of Riverside, California, Amending Chapters 19.100, 19.110, 19.120, 19.130, 19.140 19.145, 19.148 and 19.150, Adding Chapter 19.149 and Deleting Chapter 19.170 of Title 19 of the Riverside Municipal Code in Furtherance of the 2014 March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan"; and An Ordinance entitled, "An Ordinance of the City of Riverside, California, Amending the Zoning Map of the City of Riverside Pursuant to Chapter 19.090 of the Riverside Municipal Code by Rezoning Land to Allow for the Removal of the AP - Airport Protection Overlay Zone from Fourteen Properties in Furtherance of the 2014 March Air Reserve Base/March Inland Port Airport Land Use Compatibility Plan", were presented and introduced.

Motion
Second
All Ayes

HOUSING AUTHORITY - DISPOSITION, DEVELOPMENT, AND LOAN AGREEMENT - SALE OF HOUSING AUTHORITY-OWNED PROPERTIES - 65-UNIT AFFORDABLE HOUSING COMMUNITY DEVELOPMENT - 1705, 1719, 1725, 1733, 1747, 1753, AND 1761 SEVENTH - RESOLUTION - SUPPLEMENTAL APPROPRIATION

The Housing Authority (1) conducted a public hearing in accordance with the California Health and Safety Code Section 34312.3 for the conveyance of 1705, 1725, and 1733 Seventh Street to Wakeland Entrada LP for \$1; (2) approved the Disposition, Development, and Loan Agreement and all related documents; (3) authorized the Executive Director, or his designee, to execute the Disposition, Development, and Loan Agreement and all related documents, and to make any minor and non-substantive changes to those documents; (4) authorized a supplemental appropriation of \$4 million from Housing Authority Fund Balance Account 0000280-298000 to a project account titled "Entrada" to be established by the Finance Department under the Housing Authority 280 Fund; (5) authorized the Executive Director, or his designee, to sign and execute any refinancing agreements over the life of the Project financing that are consistent with State law, beneficial to the financial capacity of the Project, does not diminish the Housing Authority security interest in the property, and enhances the City and the Housing Authority ability to provide affordable housing units; and (6) adopted a resolution approving the Replacement Housing Plan regarding 1705-1761 Seventh Streets; whereupon, the title having been read and further reading waived, Resolution No. 9 of the Housing Authority of the City of Riverside, California, Adopting the Replacement Plan for the Chicago-Linden Phase I Project, was presented and adopted.

Motion
Second
All Ayes



CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

WARDS

G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
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CLOSED SESSIONS

The Mayor and City Council recessed to the City Council Board Room for closed sessions pursuant to Government Code (1) §54956.8 to instruct City's Negotiator, John A. Russo, regarding price and terms of payment for the purchase, sale, exchange, or lease of no site address, generally described as portion of Public Parking Lot 33 located on the southwest corner of Market and Third Streets, APN(s): 213-111-016 and 012 (portion), by Robert Sonnenblick, Negotiator; (2) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning Timothy Strack v. City of Riverside, WCAB Claim No.: ADJ 1053725; (3) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning City of Riverside v. Mitsubishi Heavy Industries, et al., USDC Case No. 13-CV-1724-BEN (KSC); SCE, et al. v. Mitsubishi Nuclear Energy Systems, et al., International Chamber of Commerce International Court of Arbitration, Case No. 19784/AGF; Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison and San Diego Gas & Electric Associated with the San Onofre Nuclear Generating Station Units 2 and 3; CPUC Investigation 12-10-013; (4) §54956.9(d)(2) to confer with and/or receive advice from legal counsel concerning one case of anticipated litigation; and (5) §54956.9(d)(4) to confer with and/or receive advice from legal counsel concerning one case of anticipated litigation.

RECESS

The City Council recessed at 5:56 p.m. and reconvened at 6:18 p.m., in the Art Pick Council Chamber with Councilmember Perry absent and Mayor Bailey presiding.

The Invocation was given by Councilmember Gardner.

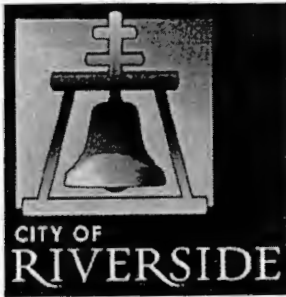
The Pledge of Allegiance was given to the Flag.

MAYOR/COUNCILMEMBER COMMUNICATIONS

BRIEF STATUS REPORTS FOR REGIONAL ORGANIZATIONS, CONFERENCES, SEMINARS, AND MEETINGS ATTENDED BY MAYOR AND CITY COUNCIL - WARD UPDATES - ANNOUNCEMENTS

Mayor Bailey reported on the Read with the Mayor event and the Black History Month parade. Councilmember Soubierous reported on the City Manager's birthday and a Magnolia Area Neighborhood Alliance meeting.

COUNCILMEMBERS



CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

WARDS

G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
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Councilmember Conder reported on the Ward 4 Budget community meeting. Councilmember Melendrez reported on the Riverside Art Museum and Riverside Metropolitan Museum Tlatilco Exhibit Opening and the 14th Annual Battle of the Bakers Soroptomist fundraiser. Councilmember Soubrious reported on the Riverside Art Museum and Riverside Metropolitan Museum Tlatilco Exhibit Opening. Councilmember Gardner reported on the Riverside Art Museum and Riverside Metropolitan Museum Tlatilco Exhibit Opening and a Ward 1 Budget Community workshop.

PRESENTATIONS

Mayor Bailey called upon Councilmember Mac Arthur who presented a Proclamation to Arlington Temporary Assistance recognizing their 100th Anniversary.

Mayor Bailey recognized Officer Darrell Hill for his heroic efforts on December 25, 2017.

RIVERSIDE PRIDE SUCCESS REPORT

Councilmember Conder reported on the Mission Grove Stater Bros. Market in Ward 4.

ORAL COMMUNICATIONS FROM THE AUDIENCE

Marilyn Whitney spoke regarding the Agricultural Park. Theresa Newham spoke regarding Musician William Clarke and marijuana.

CONSENT CALENDAR

The following items were approved by one motion affirming the actions appropriate to each item.

Motion
Second
All Ayes

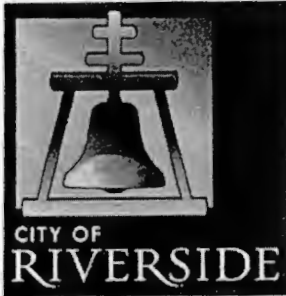
BOARD AND COMMISSION RESIGNATIONS AND APPOINTMENT

The City Council (1) accepted the resignations of Juan M. Lopez (Citywide) from the Human Relations Commission and Judy G. Teunissen (Ward 6) from the Planning Commission, effective immediately; (2) requested the City Clerk to process the vacancies; and (3) appointed Lovelyn J. Razzouk to the Ward 7 seat on the Metropolitan Museum Board for a term ending March 1, 2021.

X

X

COUNCILMEMBERS



**CITY COUNCIL
AND
HOUSING AUTHORITY
MINUTES**

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

GARDNER	MELNDRIZ	SOURDIS	CONDER	MACARTHUR	PERRY	ADAMS
1	2	3	4	5	6	7

MINUTES

The Minutes of the City Council meetings of January 16, 18, and 23, 2018, were approved as presented.

ANNOUNCEMENT OF COMMITTEE MEETINGS

The City Council Governmental Affairs Committee will meet at 3:30 p.m. on Wednesday, February 7, 2018, in the Art Pick Council Chamber. The City Council Transportation Committee will meet at 1 p.m. on Thursday, February 8, 2018, in the Art Pick Council Chamber.

LEASE AGREEMENT AMENDMENT - MISSION SQUARE OFFICE BUILDING - 3750 UNIVERSITY, SUITE 570

The City Council (1) approved the Sixth Amendment to Lease Agreement Mission Square with Raincross Hospitality Corporation doing business as Raincross Convention and Visitors Bureau, Riverside, for a five-year term with one option for a five-year extension, for approximately 4,488 square feet of rentable space located at 3750 University Avenue, Suite 570; and (2) authorized the City Manager, or his designee, to execute the Sixth Amendment to Lease Agreement and the one optional five-year extension, including making minor, non-substantive changes, and to sign all documents and instruments necessary to complete the transaction.

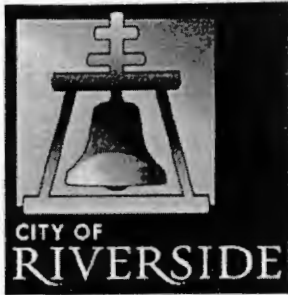
CASE P17-0921 - FINAL ENVIRONMENTAL IMPACT REPORT ADDENDUM - SYCAMORE CANYON BUSINESS PARK BUILDINGS 1 AND 2 - CONTINUED

The City Council continued consideration of the Addendum to the Certified Final Environmental Impact Report for Sycamore Canyon Business Park Buildings 1 and 2 for Case P17-0921 to March 6, 2018, at 3 p.m.

MEASURE Z - BID 7526 - RIVERSIDE FIRE STATION NO. 8 ROOF REMOVAL AND REPLACEMENT - 11076 HOLE

The City Council (1) awarded Bid 7526 to R&R Roofing and Waterproofing, Inc., Lake Elsinore, in the amount of \$72,844.75 for removal and replacement of the roof at Riverside Fire Station No. 8 located at 11076 Hole Avenue; (2) authorized 15 percent change order authority for up to \$10,926 for project changes including, but not limited to, unforeseen conditions or necessary design changes for a total contract amount of \$83,770.75 from Measure Z Account; and (3) authorized the City Manager, or his designee, to execute a Construction Agreement with R&R Roofing and Waterproofing, Inc., including making minor and non-substantive

COUNCILMEMBERS

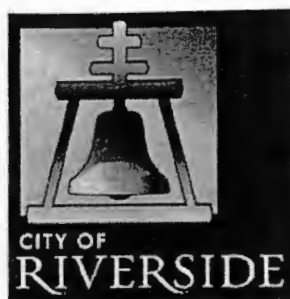


CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

	G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
	1	2	3	4	5	6	7
changes.							
<p>MEASURE Z - BID 7527 - LA SIERRA LIBRARY ROOF REMOVAL AND REPLACEMENT - 4600 LA SIERRA</p> <p>The City Council (1) awarded Bid 7527 to R&R Roofing and Waterproofing, Inc., Lake Elsinore, in the amount of \$112,244.75 for removal and replacement of the roof at La Sierra Library located at 4600 La Sierra Avenue; (2) authorized 15 percent change order authority for up to \$16,836 for project changes including, but not limited to, unforeseen conditions or necessary design changes for a total contract amount of \$129,080.75 from Measure Z Account; and (3) authorized the City Manager, or his designee, to execute a Construction Agreement with R&R Roofing and Waterproofing, Inc., including making minor and non-substantive changes.</p>							
<p>CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM - ORDINANCE ADOPTED</p> <p>The City Council adopted an ordinance authorizing an amendment to the contract between the City of Riverside and the Board of Administration of the California Public Employees' Retirement System; whereupon, the title having been read and further reading waived, Ordinance No. 7410 of the City of Riverside, California, Authorizing an Amendment to the Contract Between the City of Riverside and the Board of Administration of the California Public Employees' Retirement System, was presented and adopted.</p>							
<p>HUMAN RESOURCES POLICY AND PROCEDURE MANUAL - PERSONNEL POLICIES REVISIONS</p> <p>The City Council adopted the Human Resources Policy and Procedure Manual policy revisions including non-sworn employee performance evaluations, position control, education reimbursement, employee leave donation, and drug-free workplace policies.</p>							
<p>BID 7519 - DELL LATITUDE 14 RUGGED LAPTOPS - COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT</p> <p>The City Council awarded Bid 7519 to ConvergeOne, Inc., Ontario, in the amount of \$66,501.88 from Community and Economic Development Code Enforcement Computer Equipment Purchases Under \$5,000 and Permit Software-Computronix GF-Computer Systems Upgrade Professional Services Accounts for purchase of twenty-two Dell Latitude 14 Rugged Laptops for the Community & Economic Development Department.</p>							



CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

WARDS

G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
1	2	3	4	5	6	7

BOARD AND COMMISSION APPOINTMENTS AND INTERVIEWS

The City Council (1) concurred with the Mayor's Nominating and Screening Committee recommendations for interview for the Board of Ethics, Planning Commission, and Board of Public Utilities outlined in the written staff report for terms ending March 1, 2022, with notification to the City Clerk of any additional applicants for interview; (2) reappointed members of various boards and commissions for terms outlined in the written staff report; (3) approved the recommended appointments of the Mayor for Citywide and respective Councilmembers for Ward specific seats on various boards and commissions for terms outlined in the written staff report; and (4) referred remaining vacancies to the Mayor for Citywide and respective Councilmember for Ward specific seats on various boards and commissions for recommendation to the Mayor and City Council.

VEHICLE DOCKING PACKAGE - POLICE DEPARTMENT

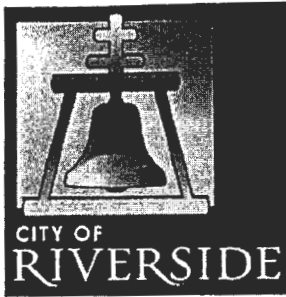
The City Council approved purchase of 120 new police vehicle docking stations with blue tooth capabilities from COBAN Technologies, Inc., in the amount of \$68,250 from State COPS 17/18 Grant funds enabling body-worn camera in-field integration with the in-car video system.

FINAL PARCEL MAP 36966 - STATER BROS. MARKETS - LINCOLN/MARY - RESOLUTION

The City Council adopted a Resolution of Acceptance for final approval of Parcel Map 36966 proposed by Stater Bros. Markets to subdivide approximately 6.3 acres developed with a commercial complex into three parcels for commercial use located at the southeast corner of Lincoln Avenue and Mary Street; whereupon, the title having been read and further reading waived, Resolution No. 23266 of the City Council of the City of Riverside, California, Accepting the Final Map of Parcel Map 36966, was presented and adopted.

SPEED LIMIT ZONES - JOHN/MASSACHUSETTS/MISSION VILLAGE - ORDINANCE ADOPTED

The City Council adopted an ordinance amending Section 10.76.010 of the Riverside Municipal Code designating the prima facie speed limits for streets and portions thereof in accordance with provisions of Sections 10.20.020 and 10.20.030 establishing speed limit zones of 30 mph on Massachusetts Avenue from Iowa Avenue to the westerly terminus and 35 mph on Mission Village Drive from Trautwein Road to Northrup Drive, and reducing the existing speed limit from 35 mph to 30 mph on John Street from Cleveland



CITY COUNCIL AND HOUSING AUTHORITY MINUTES

TUESDAY, FEBRUARY 6, 2018, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R Y	A D A M S
1	2	3	4	5	6	7

Avenue to southerly terminus; whereupon, the title having been read and further reading waived, Ordinance No. 7411 of the City of Riverside, California Amending Section 10.76.010 of the Riverside Municipal Code Designating the Prima Facie Speed Limits for Streets and Portions Thereof In Accordance with the Provisions of Sections 10.20.020 and 10.20.030, was presented and adopted.

5-TON WEIGHT LIMIT REVISION - FAIR ISLE/LOCHMOOR - ORDINANCE ADOPTED

The City Council adopted an ordinance amending Section 10.56.020 of the Riverside Municipal Code designating the restriction of commercial vehicles for certain streets and portion thereof to revise the adopted 5-ton weight limit restrictions on Fair Isle and Lochmoor Drives; whereupon, the title having been read and further reading waived, Ordinance No. 7412 of the City of Riverside, California, Amending Section 10.56.020 of the Riverside Municipal Code Designating the Restriction of Commercial Vehicles for Certain Streets and Portions Thereof to Revise the Adopted 5-Ton Weight Limit Restrictions on Fair Isle Drive and Lochmoor Drive, was presented and adopted.

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY - PERMANENT EASEMENT AND JOINT ESCROW INSTRUCTIONS - RIVERSIDE COUNTY TRANSPORTATION COMMISSION - 3441 CENTRAL

The Successor Agency to the Redevelopment Agency recommended that the Oversight Board (1) adopt a resolution authorizing the City of Riverside as Successor Agency to the Redevelopment Agency of the City of Riverside execute an Agreement for Permanent Easement and Joint Escrow Instructions to convey an easement to Riverside County Transportation Commission for a portion of the Property located at 3441 Central, identified as APN's 225-173-028 and -031; and (2) authorize the Executive Director, or his designee, to take any and all actions including making minor and non-substantive modifications and execute the attached easement.

COMMUNICATIONS

CITY ATTORNEY REPORT ON CLOSED SESSIONS

City Attorney Geuss announced there was nothing to report on closed sessions.

**CITY COUNCIL
AND
HOUSING AUTHORITY
MINUTES**



February 6, 2018

To my colleagues on the Riverside City Council,

Regarding: Mayor Vetoes City Manager's 7-year contract, which if left unchecked will swell to a \$500,000 annual compensation package

Consistent with the checks and balances provided by Riverside City's Charter, including the authority granted to the Mayor, I exercised the veto power with regard to the formal action of the City Council to renegotiate the City Manager's contract mid-term. My reasons for exercising this power are explained below:

Bad Timing

In May of 2015, the City of Riverside entered into a fair employment agreement with Mr. Russo, a five-year contract with a base salary of \$295,000, a 38% increase over his previous employment. Overall, Mr. Russo's total compensation is approximately \$400,000 annually – which is more than the Governor of California.

Since that time, the City Council has taken steps to secure the city's long-term financial future, including substantial belt-tightening, debt reduction, shoring up our reserves, shifting retirement costs to employees, asking voters to approve a 1% sales tax increase, and proposing to raise utility rates. I believe that the City Manager's request to renegotiate his contract mid-term is bad timing and inconsistent with the steps the City Council has taken to protect our fiscal condition. It also sets a bad precedent. The city is in the middle of challenging budget hearings, with department heads being asked to squeeze their budgets because of a potential deficit. And vendors were asked to voluntarily give back 10% of their contracted funding.

Equally important, the City Manager's request is a terrible signal to send our residents, employees, and our local businesses.

Bad Business

Upon hire, the City Manager was provided with a base salary of \$295,000, nearly five times the median household income in Riverside. The employment agreement also guaranteed Mr. Russo a 3% annual raise if he received a "satisfactory" performance review. Mr. Russo has now decided that the contract that was negotiated fairly and at arm's length is no longer good enough ... that he deserves more compensation and other perks. It is my strong opinion that it is bad business to renegotiate an employee's contract – any employee's contract – in the middle of its term. I am calling on Mr. Russo to honor his contract with the City of Riverside – to let his "yes" be an actual "yes."



Equally as troubling, Mr. Russo's justification for his requested raise and additional benefits is that he's doing a good job. Didn't we expect him to do a good job when we hired him? Isn't that what we are paying him a generous salary to do? Don't our residents and businesses expect all of us to do a good job without having an expectation of getting increased compensation?

During the last 2½ years, we have asked residents, our employees, vendors and department heads to share in the burden of shoring up the city's finances. Residents voted to approve a 1% sales tax increase to provide for critical public safety services. Many of our employees agreed to skip raises in 2016-2017 and to voluntarily return portions of their raises in subsequent years to offset rising retirement costs. Vendors were asked to voluntarily reduce 10% from existing contracts. Department heads were asked to decrease departmental budgets by 4% over three consecutive years. I am confident that our residents, employees, vendors, and department heads would not have been so willing and eager to make these concessions and do their part to protect the city's financial position had they known that our already well-compensated City Manager would turn around and demand sizable increases to his compensation package half-way through his employment contract.

Yet the City Manager is not willing to do his part. When I learned that some of our least compensated employees agreed to skip raises in 2016-17, I asked the City Manager to make a symbolic good faith gesture and to voluntarily forego his guaranteed 3% raise. He refused. He wasn't interested in leading by example.



Bad Policy

We do not need to look far to find other cities that have faced huge financial crises as a result of high salaries, large pensions, a lack of financial accountability, and an absence of checks and balances. Riversiders can't afford to let our city go down this path.

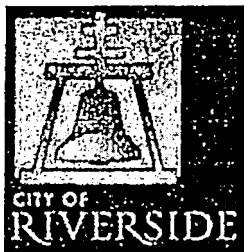
Under the renegotiated contract I have vetoed, the City Manager would receive:

- A 7-year contract, which may be the longest term of any public servant in the state, and that will require the city to provide a one-year severance package, even if the City Manager is terminated for poor performance.
- Guaranteed 3% raises for satisfactory performance over the next 7 years.
- A spot bonus in the amount of \$44,034, under the pretenses of a one-time allocation of 280 hours of vacation time.
- 98 days off annually.
- \$6,000 a year for an automobile allowance.
- Free medical, dental, and optical care for himself and his family.
- A 15-year term life insurance policy in the amount of \$700,000.
- A government pension AND matching contributions to a deferred compensation account.

If that were not enough, Mr. Russo is asking the city to provide him with a 15-year, \$675,000 home loan at a drastically reduced interest rate, another form of income.

What will then stop him from renegotiating contracts with his assistant city managers mid-term, and then department heads, and so on? We cannot create a pyramid of wages and benefits that are already unsustainable at their current levels.

It is my strong opinion that a 7-year contract is not in the best interests of the residents and taxpayers. We have a Council-Manager form of government. For a City Manager to have a longer term than a Councilmember is simply bad policy. The Council should not tie the hands of future Councils to come. We should not become a Manager-Council form of government.



Bad Message

Daily, I encounter hard-working Riverside residents and business owners who are struggling to make ends meet. As your Mayor, I do not take lightly my responsibility to advocate on their behalf. Nor do I take lightly my responsibility to ensure that our city and its leaders are good stewards of the public's money. All told, this is bad timing, bad business and bad policy, and it sends a very bad message to our community.

It is for these very reasons that I am calling on our City Manager to honor his existing contract, our City Council to uphold this veto, and our residents to engage with their representatives in support of the veto power. Governmental checks and balances are a cornerstone of our democracy. Let's keep it that way.

Riverside Pride,

A handwritten signature in black ink, appearing to read "Rusty", is written over the printed name of the Mayor.

William R. "Rusty" Bailey, III
Mayor

February 5, 2018

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED
COMMUNICATION AND ATTORNEY WORK PRODUCT
VIA E-MAIL AND FIRST CLASS MAIL

Hon. Rusty Bailey
Mayor, City of Riverside
Riverside City Hall
3900 Main Street
Riverside, CA 92501

Re: Charter Interpretation of Mayor's Veto Power

Dear Mayor Bailey:

As requested, I am writing to provide you with our opinion concerning Section 413 of the Riverside City Charter, which establishes the power of the Mayor to veto decisions of the City Council with certain exceptions. More specifically, you have inquired whether this veto power may be exercised in relation to a possible upcoming formal action of the City Council to renew or extend the otherwise expiring employment contract of the City Manager. As analyzed below, we preliminarily conclude that such a City Council decision is subject to the Mayor's veto power pursuant to Charter Section 413.

Charter Section 413 (entitled "Adoption of ordinances and resolutions") speaks to procedural aspects of the requirements for ordinances and resolutions to be adopted by the City Council. It states in relevant part as follows:

"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 not adopted."

(Exhibit 1; emphasis added.) Section 413 obligates the Mayor to provide a written veto message to explain the reasons for the veto within a specified period. Subsequently, the City Council must reconsider the vetoed decision and determine whether to override the veto. An override necessitates five affirmative votes.

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The City's first Charter was approved in 1907.¹ In this original iteration of the Charter, the Mayor was granted powers similar to the ones now at issue. Chapter 1 of Article III of the Charter dealt with "The Council," and section 9 thereof read as follows:

"Ordinances and resolutions are the formal acts of the council reduced to writing and passed under legal restrictions governing action thereon. Orders embrace all other actions which being less formal in character, require only to be duly passed by the council and spread upon the minutes. *No order, resolution or ordinance shall have any effect without the approval of the mayor.* In the case of orders, the approval of the mayor shall be presumed, unless at the same meeting at which the order was passed, the mayor causes his disapproval with his reasons therefor to be spread upon the minutes.

All resolutions and ordinances after passage by the council must be submitted to the mayor who shall, within ten days after he has received the same, endorse his approval or disapproval thereon, giving the reason of his disapproval; *provided, however, that if the mayor disapproves any order, resolution or ordinance it may be passed by a vote of not less than five members of the council and shall then be as valid as if approved by the mayor. Any written contract requiring the action of the council shall be subject to the approval of the mayor in the same manner as resolutions and ordinances.*"

(Exhibit 2; emphasis added.)² This language was retained when the Charter was amended in 1934. (Exhibit 3 [see Article III, Chapter 1, Section 10].)

¹ Charter cities exist by virtue of the California Constitution. (Cal. Const., art. XI, § 3(a).) The primary benefit of establishing a charter city is the constitutionally-created "supreme" authority to govern municipal affairs, thereby allowing the adopted charter to override state laws on the same subject. (*Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 170; Cal. Const., art. XI, § 5(a); see generally *Johnson v. Bradley* (1992) 4 Cal.4th 389, 394-398.) A charter functions as an instrument of limitation on powers otherwise available. (*City of Glendale v. Trondsen* (1957) 48 Cal.2d 93, 98.) So, for example, whereas the elective mayor in a general law city "is a member of the city council and has all of the powers and duties of a member of the city council" (Gov. Code § 34903), Section 405 of the Riverside City Charter states that the Mayor has no right to vote in City Council proceedings except to break a tie-vote.

² The last sentence of the quoted Charter excerpt did not differentiate between types of contracts (e.g., employment, purchases, real property transactions, etc.).

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While unclear without further research as to whether there were intervening amendments, Section 412 of the 1964 version of the Charter recites the power of the Mayor to “request the reconsideration of any formal action taken by vote of the City Council including any ordinance or resolution, except an emergency ordinance or an ordinance proposed by initiative petition. Thereupon, upon reconsideration . . . , such ordinance, resolution or action is deemed neither approved, adopted nor rejected.” (Exhibit 4.) Upon voting anew, the City Council may adopt or approve the ordinance, resolution or action with the same number of votes ordinarily required (*i.e.*, no super-majority vote required). Apparently sometime in the 1970’s, the term “veto” was inserted in place of “request for reconsideration” and the requirement for a super-majority override vote was restored.

Charter provisions are interpreted “using the same principles that govern construction of legislative enactments.” (*Kreeft v. City of Oakland* (1998) 68 Cal.App.4th 46, 54; *First Street Plaza Partners v. City of Los Angeles* (1998) 65 Cal.App.4th 650, 663.) Thus, the “fundamental task” when “construing a statute” is “to ascertain the Legislature’s intent so as to effectuate the purpose of the statute.” (*Smith v. Superior Court* (2006) 39 Cal.4th 77, 83.) Courts begin by looking at the plain language of a statute. (*Hunt v. Superior Court* (1999) 21 Cal.4th 984, 1000.) This entails first examining the statute’s words, giving them their ordinary, usual, and commonsense meanings. (*People v. Gonzales* (2017) 2 Cal.5th 1138, 1141.) The plain meaning of a statute controls if the statutory language is unambiguous. (*Fluor Corp. v. Superior Court* (2015) 61 Cal.4th 1175, 1198.) Only if the statutory language is reasonably susceptible to more than one interpretation would extrinsic aids (e.g., legislative history) be considered to determine intent. (*Ibid.*) Also, a literal construction of a statute may be rejected if it would frustrate the clear purpose of the statute or lead to an absurd result. (*Simpson Strong-Tie Co., Inc. v. Gore* (2010) 49 Cal.4th 12, 27.)

When reviewing the language of Section 413, its plain meaning and intent are clear and unambiguous. “[A]ny formal action taken by vote of the City Council,” including but not limited to resolutions and ordinance, is subject to the Mayor’s veto power with certain specified exceptions (“an emergency ordinance, the annual budget or an ordinance proposed by initiative petition”). The City Council’s approval of a contract at a public meeting is certainly a formal action, and the approval of contracts is not listed as an exception from the scope of the veto authority. A court’s task when construing a statute is “simply to ascertain and declare what is in terms and substance contained therein, not to insert what has been omitted.” (Code Civ. Proc. § 1858.) “It is . . . against all settled rules of statutory construction that courts should write into a statute by implication

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express requirements which the Legislature itself has not seen fit to place in the statute.” (*In re Rudy L.* (1994) 29 Cal.App.4th 1007, 1011; quotation and citations omitted.)³

Either by the 1964 Charter amendment, or another amendment between 1934 and 1964, the sentence in the 1907 and the 1934 Charters relating to contracts – “Any written contract requiring the action of the council shall be subject to the approval of the mayor in the same manner as resolutions and ordinances” – was deleted. We do not yet know specifically when this change occurred or, more importantly, if there was a particular reason why the quoted language was deleted. Obviously, if the express purpose was to remove contract approvals from the Mayor’s power to disapprove such actions, that would be material to our analysis. However, preliminary research by your office reveals sixteen instances of a mayoral veto occurring between 1982 and 1993, including two actions dealing with contractual matters (Exhibit 5 [actions on March 19, 1985 and February 9, 1993].) Therefore, absent evidence to the contrary, we think it more likely that the authors of the Charter amendment believed the sentence to be superfluous inasmuch as the approvals of contracts would necessarily be encompassed within the newly-added phrase “any formal action taken by vote of the City Council including any ordinance or resolution.”

A city charter defines and allocates the powers and duties of the city council, the mayor and other city officials, and the relative relationship and limits of those powers when interacting as a system of government. (*See In re Dunscomb* (1922) 58 Cal.App. 610, 611-612.) Here, Riverside’s Charter, from its origins in 1907 to the present day, has expressed an intent to repose extraordinary powers in the Mayor, specifically including the authority to (depending on the version of the Charter) veto or disapprove actions of the City Council, subject to an override process.⁴ A possible contention that the drafters of the subsequent Charter amendment must have intended to exempt the approval of contracts from the Mayor’s veto power, even though such actions were not included from the list of excepted actions, would be also blunted by the fact the topic of the approval of contracts was referenced in prior versions of the Charter as being subject to the disapproval authority of the Mayor. So, the drafters, thereby presumably aware of the issue, could have (but did not) place the approval of contracts on the list of actions excluded from the veto power.

³ Courts are respectful of the maxim *expressio unis est exclusio alterius*: “The expression of some things in a statute necessarily means the exclusion of other things not expressed.” (*Gikas v. Zolin* (1993) 6 Cal.4th 841, 852.)

⁴ The intent to place this veto power exclusively in the hands of the Mayor is manifested by the Section 405 of the Charter, which specifically provides that the Mayor Pro Tempore cannot exercise the veto power.

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Additionally, with specific regard to a possible City Council action relating to the employment contract of the City Manager, the Charter's provisions for the appointment and tenure of the City Manager (*see* Section 600) do not create a carve-out from the Mayor's veto power. Nor does a veto of an action to renew or extend an expiring contract – an action separate and distinct from the action to enter into the contract in the first place – seem impermissibly in conflict with Section 600's recital that "[t]he City Manager shall serve at the pleasure of the City Council." The exercise of a veto in such circumstances is not equivalent to dismissal or otherwise premature termination of one's employment, and thus would not rise to the level of a breach of contract, assuming the contract has not created a vested right to the continuation of its duration once the contract has expired on its own terms by the passage of time.

In closing, for the reasons discussed above and based on the document review and research conducted to date, we believe that the Mayor's veto power pursuant to Section 413 of the Riverside City Charter may be exercised with regard to a formal action of the City Council to renew or extend the otherwise expiring employment contract of the City Manager.

Please do not hesitate to contact me if you have any questions concerning the matters set forth in this letter.

Very truly yours,

RUTAN & TUCKER, LLP



Philip D. Kohn

Attachments

EXHIBIT 1

RIVERSIDE CITY CHARTER

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

RIVERSIDE CITY CHARTER

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

EXHIBIT 2

left bank of the Santa Ana river; thence southwesterly along the southerly or left bank of the Santa Ana river to its intersection with the west line of township two south, range five west, the point of beginning.

Sec. 5. The boundaries of the said wards may at any time hereafter be changed by ordinance passed by the mayor and council; *provided*, that such change shall not be made more than once in every two years and shall be made at least ninety days before any general municipal election.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

CHAPTER 1.

THE COUNCIL.

SECTION 6. The legislative power of the city is hereby vested in a mayor and a common council consisting of six members. A member of the council must be at least twenty-five years of age and must have been a qualified elector of the city for the three years and a resident of the ward from which he is elected for one year next preceding the day of his election, and in case any member of the council shall change his residence from the ward which he represents his office shall immediately become vacant and shall be filled as directed in this charter; *provided*, however, that in case the boundaries of any ward are changed, no member of the council whose residence is included within a different ward from that from which he was elected shall lose his office by reason of such change.

Sec. 7. Four members of the council shall constitute a quorum, but a less number may adjourn from time to time or compel the attendance of other members. No order, except to adjourn for a lack of quorum or to compel the attendance of a quorum, and no ordinance or resolution shall be valid unless it receives the affirmative vote of four councilmen, such vote to be by the ayes and noes and recorded on the journal.

Sec. 8. No resolution granting any franchise and no ordinance for any purpose shall be passed by the council on the day of its introduction nor within five days thereafter nor at any other than a regular or an adjourned regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting or at an adjourned regular meeting.

Sec. 9. Ordinances and resolutions are the formal acts of the council reduced to writing and passed under legal restrictions governing action thereon. Orders embrace all other acts which being less formal in character, require only to be duly passed by the council and spread upon the minutes. No order,

resolution or ordinance shall have any effect without the approval of the mayor. In the case of orders, the approval of the mayor shall be presumed, unless at the same meeting at which the order was passed, the mayor causes his disapproval with his reasons therefor to be spread upon the minutes.

All resolutions and ordinances after passage by the council must be submitted to the mayor who shall, within ten days after he has received the same, endorse his approval or disapproval thereon, giving the reason of his disapproval; *provided*, however, that if the mayor disapproves any order, resolution or ordinance it may be passed by a vote of not less than five members of the council and shall then be as valid as if approved by the mayor. Any written contract requiring the action of the council shall be subject to the approval of the mayor in the same manner as resolutions and ordinances.

Sec. 10. All ordinances shall be attested by the city clerk, and before taking effect, shall be published at least once in a newspaper published in said city, or posted in at least three public places therein or printed and mailed as provided in Section 251, Article XVIII.

Sec. 11. The council shall judge of the qualifications of its members and of all election returns and determine contested elections of all city officers. The council shall establish rules for the conduct of its proceedings and punish any member or other person for disorderly behavior at any meeting, and shall cause the city clerk to keep a correct journal of all its proceedings and at the desire of any member of the council shall cause the ayes and noes to be taken on any question and entered on the journal.

Sec. 12. All meetings of the council shall be public and the council shall by ordinance fix the time and place of all regular meetings; *provided*, that at least one regular meeting shall be held each month and until such ordinance is passed, the existing ordinance of the city relating to meetings of the board of trustees shall apply. Adjournments may be taken from a meeting to a day certain and in such case the adjourned meeting shall be deemed an adjourned regular meeting. Special meetings may be called by the mayor or by two members of the council as herein provided, but no business can be transacted except that mentioned in the call.

Sec. 13. The mayor shall preside at all meetings of the council but shall not be entitled to vote, except in case of a tie, when he shall have the casting vote. The council shall choose one of their own number to preside in the absence of the mayor and who shall retain the right to vote upon all questions under consideration. The member thus chosen shall be designated the president of the council. In case of vacancy or if by reason of absence from the city or sickness or from any other cause the mayor is unable to perform the duties of his office,

EXHIBIT 3

Sec. 10. Ordinances and resolutions are the formal acts of the council reduced to writing and passed under legal restrictions governing action thereon. Orders embrace all other acts which being less formal in character, require only to be duly passed by the council and spread upon the minutes. No order, resolution or ordinance, except initiative, referendum, recall election or tax ordinances, shall have any effect without the approval of the mayor. In the case of orders, the approval of the mayor shall be presumed, unless at the same meeting at which the order was passed, the mayor causes his disapproval with his reasons therefor to be spread upon the minutes.

All resolutions and ordinances after passage by the council must be submitted to the mayor who shall, within ten days after he has received the same, endorse his approval or disapproval thereon, giving the reason of his disapproval; provided, however, that if the mayor disapproves any order, as above provided, or if the mayor shall disapprove any resolution or ordinance, or fails to act on the same within a period of ten days, it may be passed by a vote of not less than six members of the council, and shall then be as valid as if approved by the mayor. Any written contract requiring the action of the council shall be subject to the approval of the mayor in the same manner as resolutions and ordinances.

Sec. 11. All ordinances shall be attested by the city clerk, and before taking effect, shall be published at least once in a newspaper published in said city, or posted on the bulletin board at the city hall.

Sec. 12. The council shall judge of the qualifications of its members and of all election returns and determine contested elections of all city officers. The council shall establish rules for the conduct of its proceedings and punish any member or other person for disorderly behavior at any meeting, and shall cause the city clerk to keep correct journal of all its proceedings and at the desire of any member of the council shall cause the ayes and noes to be taken by roll call on any question entered on the journal.

Sec. 13. All meetings of the council shall be public, except that the members thereof may meet in executive session for deliberation, and the council shall by ordinance fix the time and place of all regular meetings; provided, that at least one regular meeting shall be held each month. Adjournments may be taken from a regular meeting to a day certain and in such case the adjourned meeting shall be deemed an adjourned regular meeting.

Sec. 14. The mayor shall preside at all meetings of the council but shall not be entitled to vote, except in case of a tie, when he shall have the casting vote. The council shall choose one of their own members to preside in the absence of the mayor, and who shall retain the right to

vote upon all questions under consideration. The member thus chosen shall be designated the president of the council. In case of vacancy, or if by reason of absence from the city, or sickness, or from any other cause, the mayor is unable, neglects, or refuses, to perform the duties of his office, the president of the council shall act as mayor pro tempore and shall have all powers and authorities which the mayor would have possessed if personally present and attending to such duties, but such mayor pro tempore shall not lose his vote as councilman.

Sec. 15. The enacting clause of all ordinances shall be as follows: "The mayor and council of the City of Riverside do ordain as follows:"

CHAPTER 2.

POWERS OF THE COUNCIL

GENERAL CORPORATE AND GOVERNMENTAL POWERS

Section 16. The mayor and council of said city shall have power:

1. To pass ordinances, not in conflict with the constitution of this state or of the United States or the provisions of this charter;
2. To purchase, lease or receive such real and personal property within and without the limits of said city as may be necessary or proper for municipal purposes, and to operate, lease, control, dispose of and convey the same for the benefit of the city;
3. To erect and maintain buildings for municipal purposes; to appoint an art commission of five members who shall have such powers and duties as may be designated by ordinance;
4. To exercise the right of eminent domain for the purpose of acquiring real and personal property of every kind, including water rights and water works, within or without the city limits, necessary or convenient for the use of the said city or its inhabitants;
5. To establish and maintain police and fire departments;
6. To provide a seal for the City of Riverside, and for its bureaus and departments as may require the same;
7. To provide for the holding of municipal elections, prescribe notice thereof, establish and alter election precincts as provided for in this charter, and appoint necessary election officers;
8. To provide for supplying the city with electricity, gas and water for resale and municipal purposes, together with the necessary generating, manufacturing and distributing systems therefor; or to lease, option, acquire, own, construct, maintain and operate, any lands, wells, water sources, pumps, aqueducts, reservoirs, distributing systems,

EXHIBIT 4

emergency at such place as is designated by the mayor, or, if he should fail to act, by four members of the city council.

Editor's note.—The original catchline of this section was "Place of meetings."

Sec. 410. Same—Quorum; proceedings.

A majority of the members of the city council shall constitute a quorum to do business but a less 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 by the clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the city council, but need not specify the matters to be acted upon. 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 rules for the conduct of its proceedings and evict or prosecute 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.

At the demand of any member, or upon the adoption of any ordinance, resolution, or order for the payment of money, the city clerk shall call the roll and shall cause the ayes and noes taken on such questions to be entered in the minutes of the meeting.

Editor's note.—The original catchline of this section was "Quorum. Proceedings."

Sec. 411. Same—Citizen participation.

No citizen shall be denied the right, personally or through counsel, to present grievances at any regular meeting of the council, or offer suggestions for the betterment of municipal affairs.

Editor's note.—The original catchline of this section was "Citizen participation."

Sec. 412. 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 Councilmen 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, or for the making or approving of any order for the payment of money. No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

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, request the reconsideration of any formal action taken by vote of the City Council including any ordinance or resolution, except an emergency ordinance or an ordinance proposed by initiative petition. Thereupon, pending reconsideration as herein provided, such ordinance, resolution or action shall be deemed neither approved, adopted nor rejected. At any regular

or adjourned meeting held not less than thirty days, nor more than sixty days after such request for reconsideration, the City Council shall reconsider such ordinance, resolution or action and vote upon the same anew. The same number of votes shall be required for its adoption or approval as would have been required in the absence of such request for reconsideration. The Mayor shall have no right to request a second reconsideration of any ordinance, resolution or action.

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk. (As amended April 1, 1964)

Sec. 413. Publication of ordinances.

The city clerk shall cause each ordinance to be published at least once in a newspaper of general circulation within the city within fifteen days after its adoption.

Editor's note.—The original catchline of this section was "Ordinances. Publication."

Sec. 414. 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 as 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 shall be repealed as of the effective date of 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 man-

ner provided in this section. Maps, charts and diagrams also may be adopted by reference in the same manner.

Editor's note.—The original catchline of this section was "Codification of ordinances."

Sec. 415. 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 improvement proceeding ordinance adopted under some law or procedural ordinance.

(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.

Editor's note.—The original catchline of this section was "Ordinances. When effective."

Sec. 416. Violation of ordinances and penalty therefor.

A violation of any ordinance of the city shall constitute a misdemeanor 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 five hundred dollars, or a term of imprisonment for a period not exceeding six months, or both such fine and imprisonment.

Editor's note.—The original catchline of this section was "Ordinances. Violation. Penalty."

Sec. 417. Contracts—Restrictions 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 five years 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

EXHIBIT 5

Historical Use of Veto Authority
City of Riverside Mayors – Ab Brown and Teresa Frizzell

Date	Mayor	Summary of Motion	Outcome (If Known)
2/4/82	Brown	Board of Public Utilities – Appointment to board as alternate (7-0)	3/16/82 Overridden by council (5-2)
4/12/83	Brown	Building Utilization Policy and Fee Schedule and adopt appropriate resolution (4-2)	5/17/83 Revised resolution returned to council and veto overridden (6-1)
3/19/85	Brown	Lobbyist in Sacramento: Approve in concept retention of lobbyist, request staff to work on proposed details of contractual relationship and a recommendation for the person to provide these services	5/14/85 Recommendation amended (7-0)
7/22/86	Brown	Izaak Walton Building: Adoption of a resolution requesting conclusion of licensing agreement with Boys and Girls Club (7-0)	9/2/86 Council approved use of Izaak Walton building by Boys and Girls Club for one year (7-0)
2/24/87	Brown	Draft EIR for County of Riverside Hall of Justice (5-2)	3/24/87 Council upheld veto (7-0)
12/1/87	Brown	Boys and Girls Club – Fairmount Park: Continuation of tenancy of the Boys and Girls Club operation at Isaac Walton building. Substitute motion that the City not renew lease and Government Affairs committee to appoint a committee to develop a program for youth. (4-3)	1/12/88 Veto Overridden (7-0) Recreation that committee look into relocating Boys and Girls Club to Bobby Bonds Park
1/5/88	Brown	I Care Shelter Home: recommendation that Council request City Manager to look into City's financial involvement with I Care Shelter Home (7-0)	2/9/88 Motion not reconsidered, veto stands (7-0)
12/20/88	Brown	Zoning Case: SE Corner of Palmyrita and Northgate: Motion to approve zoning case and request preparation of the resolution to set a hearing to consider vacation of a portion of Northgate Street. (5-2)	1/24/89 Veto Overridden (6-1)
1/24/89	Brown	Set Measure E report prepared by staff for presentation on 2/7/89 with the Government Affairs committee presenting guidelines for the conduct of the discussion	2/28/89 Council decided to treat item as moot and take no action.
11/20/90	Frizzell	Authorize issuance of \$97 million in electric bonds and \$53 million in water bonds, adopt related resolutions and take required actions in the report. (4-3)	(Unknown)
1/8/91	Frizzell	Proposed Plaza Las Fuentes Office Building (4-3)	2/13/91 Ad Hoc Committee of Council formed, 3/5/91: Recommended not to vote on Mayor's veto
2/19/91	Frizzell	Amendment to General Plan and Zoning Case. Motion made to approve land use committee recommendations as amended by Chief Assistant City Attorney. (4-3)	4/2/91 – Council approved recommendation from Mayor for possible compromise of La Sierra Specific Plan, Case continued. 6/4/91 – Approved pending mitigation measures.
12/17/91	Frizzell	Ad Hoc Space Committee Recommendations: implementation of City Center Proposal as recommended by Ad Hoc Committee	2/11/91 – Recommendation to reconsider mayor's veto for 120 days to study City Hall space needs
2/9/93	Frizzell	Coyote Abatement Contract Cancellation: Work with Humane Society to box trap coyotes (5-2)	3/1/1993 – Mayor presented reason for veto and no action was taken on veto
7/13/93	Frizzell	Electric Rate Increase: adopt appropriate resolution approving revised electric rate schedules (4-3)	8/17/93 – Mayor presented reason for veto and no action was taken on veto
9/7/93	Frizzell	Alternatives for Business Tax – Crafters Mall: Motion to take no action and to not amend municipal code to change business tax requirements (4-2)	10/12/93 – Mayor presented reason for veto and no action was taken on veto



CITY COUNCIL MINUTES

TUESDAY, DECEMBER 5, 2017, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

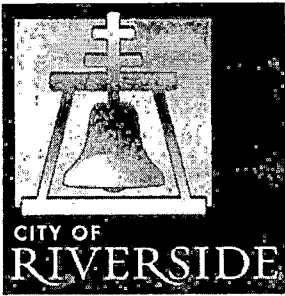
		G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
	WARDS	1	2	3	4	5	6	7
Roll Call:	Present	X	X	X	X	X	X	X
Mayor Bailey called the meeting to order at 2 p.m., in the Art Pick Council Chamber with all Councilmembers present.								
ORAL COMMUNICATIONS FROM THE AUDIENCE Karen Wright spoke regarding the City Manager performance evaluation and the new Main Library.								
<u>COMMUNICATIONS</u>								
LEGISLATIVE REPORT The Intergovernmental relations and legislative update was not held.								
<u>PRESENTATION</u>								
CITY MANAGER'S OFFICE AND EMPLOYEE RECOGNITION Following discussion, the City Council received and ordered filed the City Manager's Office overview and employee recognition.	Motion Second All Ayes			X			X	
<u>DISCUSSION CALENDAR</u>								
CITY ATTORNEY EMPLOYMENT AGREEMENT Following discussion, the City Council (1) approved the updated employment agreement with Gary G. Geuss, City Attorney, as presented; and (2) authorized the Mayor and Mayor Pro Tem to execute the agreement.	Motion Second Ayes Noes	X X	X X	X X	X X	X X	X X	X X
<u>CLOSED SESSIONS</u>								
The Mayor and City Council recessed to the City Council Board Room for closed sessions pursuant to Government Code (1) §54957(a) for consultation with Lea Deesing, Chief Innovation Officer; Sergio Diaz, Chief of Police; and Girish Balachandran, General Manager of Public Utilities regarding threat to public services or facilities; (2) §54956.9(a) to confer with and/or receive advice from legal counsel concerning City of Riverside v. Black & Decker (U.S), Inc., et al., LACSC Case No. BC 410878; (3) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning Wells Fargo Bank, N.A. vs County of Riverside, et al., RCSC Case No. RIC 1405724, C/W No. RIC 1406260, and No. RIC 1611273; (4) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning City of Riverside, et al. v. AMBAC Financial Group, et al., S.F. Superior Court Case No. CJC-08-004555, JCCP No. 4555;								

TUESDAY, DECEMBER 5, 2017, 2 P.M.
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WARDS

ADAMS	7	
PERRY	6	
MACARTHUR	5	
CONDER	4	
SOUTHERN	3	
MELNDRIZ	2	
GARDNER	1	

Mayor Bailey called upon Fire Chief Moore who presented the Firehouse Magazine Michael O. McNamee Award of Valor to Firefighter Leroy Lopez and recognized Engine 4 and Squad 1 for Unit Citation-Honorable Mention for the Mount Rubidoux Manor Fire.



CITY COUNCIL MINUTES

TUESDAY, DECEMBER 5, 2017, 2 P.M.
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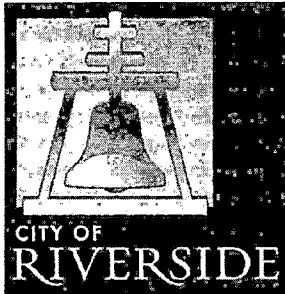
City of Arts & Innovation

	G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
WARDS	1	2	3	4	5	6	7
Mayor Bailey called upon City of San Bernardino Information and Technology Director Mitch Cochran who presented the Municipal Information Systems Association of California Award to City of Riverside Innovation and Technology Department.							
Councilmember Adams reported on Five Points Plaza and Dining Center in Ward 7.							
ORAL COMMUNICATIONS FROM THE AUDIENCE Cathleen Baswell spoke regarding City employment. Carolyn Brodeur spoke regarding recognition of a teacher at Twin Hill School.							
<u>CONSENT CALENDAR</u> The following items were approved by one motion affirming the actions appropriate to each item.						X	X
BID 7516 - MEASURE Z - POLICE MOTORCYCLES The City Council awarded Bid 7516 to New Century BMW Motorcycles, Alhambra, in the amount of \$163,975.20 from the Police Department Measure Z Vehicle Replacement Account as approved in the Measure Z Spending Plan for purchase of six current model BMW R12000RTP Police Motorcycles.							
PURCHASE OF HELICOPTER MAIN ROTOR HEAD ASSEMBLY - POLICE DEPARTMENT AVIATION UNIT The City Council approved purchase of one main rotor head assembly from Heli-Mart, Inc., Costa Mesa, in the amount of \$59,812.50 from the Police Department Budget, in accordance with the Purchasing Resolution No. 22576, Section 201(d).							
REVISION OF FIVE-TON WEIGHT LIMIT RESTRICTION - WATKINS/SPRUCE/CENTRAL - ORDINANCE INTRODUCED The City Council introduced an ordinance revising the boundaries of the adopted five-ton weight limit restriction on Watkins Drive from "Spruce Street to Central Avenue" to "Spruce Street to the southerly City limits;" whereupon, an ordinance entitled, "An Ordinance of the City of Riverside, California, Amending Section 10.56.020 of the Riverside Municipal Code Designating the Restriction of Commercial Vehicles for Certain Streets and Portions Thereof to Revise the Five-Ton Weight Limit Restriction on Watkins Drive," was presented and introduced.							

TUESDAY, DECEMBER 5, 2017, 2 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

	GARDNER	MELNDRIZ	SOURIROUS	CONDER	MACARTHUR	PERRY	ADAMS
WARDS	1	2	3	4	5	6	7

Hearing was called for the annual review of the Code of Ethics and Conduct, as required by Riverside Municipal Code Section 2.78.110 to review recommended changes to the City's Code of Ethics and Conduct based on input from the City's boards and commissions and recommendations from the Board of Ethics and the City Council Governmental Affairs Committee. One person spoke on the matter. The public hearing was officially closed. Following discussion, the City Council (1) introduced an ordinance,



CITY COUNCIL MINUTES

TUESDAY, DECEMBER 5, 2017, 2 P.M.
ART PICK COUNCIL CHAMBER
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3900 MAIN STREET

City of Arts & Innovation

	G A R D N E R	M E L E N D R E Z	S O U B I R O U S	C O N D E R	M A C A R T H U R	P E R R Y	A D A M S
WARDS	1	2	3	4	5	6	7
<p>amending Chapter 2.78 of the Riverside Municipal Code, Code of Ethics and Conduct, as presented except for the recommended change in reporting party for the annual report to the City Council; (2) requested the Board of Ethics forward any further recommendations to the City Council Governmental Affairs Committee upon completion of continued review; and (3) referred to the Board of Ethics consideration of (a) the recommendations in the letter from Virginia Blumenthal and Ronald O. Loveridge; and (b) the appropriate party to present the annual report to the City Council as required by Riverside Municipal Code Section 2.78.110(D) for recommendation to the City Council Governmental Affairs Committee, and a report back to the City Council no later than March 6, 2018; whereupon, an ordinance entitled, "An Ordinance of the City of Riverside, California, Amending Chapter 2.78 of the Riverside Municipal Code, Code of Ethics and Conduct," was presented and introduced.</p> <p><u>COMMUNICATIONS</u></p> <p>ITEMS FOR FUTURE CITY COUNCIL CONSIDERATION</p> <p>There were no items requested for future City Council consideration.</p> <p>CITY ATTORNEY REPORT ON CLOSED SESSIONS</p> <p>City Attorney Geuss announced there was nothing to report on closed sessions.</p> <p>The City Council adjourned at 7:41 p.m., in memory of Corporal Todd L. McGurn.</p> <p>Respectfully submitted,</p> <p>COLLEEN J. NICOL City Clerk</p>							
Motion Second All Ayes		X	X				



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** DECEMBER 5, 2017
FROM: MAYOR PRO TEM PERRY **WARD:** ALL
SUBJECT: CITY ATTORNEY EMPLOYMENT AGREEMENT

ISSUE:

Approve an updated employment agreement for Gary G. Geuss, City Attorney.

RECOMMENDATIONS:

That the City Council:

1. Approve the updated employment agreement with Gary G. Geuss, City Attorney, as presented; and
2. Authorize the Mayor and Mayor Pro Tem to execute the agreement.

BACKGROUND:

The first employment agreement with Gary G. Geuss to serve as City Attorney was executed on April 12, 2015. This agreement is scheduled to expire on April 12, 2018. In connection with the City Attorney's recent annual performance evaluation, the City Council wished to update the employment agreement with City Attorney, Gary G. Geuss. Mayor Pro Tem Perry was requested to negotiate the terms to, in part, mirror the other Charter Officers. Differences are acknowledged in the final proposed terms related salary adjustments and the cost of living increase based on the partnership compensation model.

FISCAL IMPACT:

Upon completion of a satisfactory performance evaluation, the agreement provides for annual three percent (3%) merit increases. Cost of living adjustments will be based on the partnership compensation model. The current salary of the City Attorney with this agreement is \$295,000. All fiscal impacts will be absorbed within the current City Attorney's Office Budget.

Prepared by:



JIM PERRY
Mayor Pro Tem

Approved as to form: Gary G. Geuss, City Attorney

Attachment:

1. Employment Agreement

EMPLOYMENT AGREEMENT

CITY ATTORNEY

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2017, by and between the City of Riverside a California charter city and municipal corporation ("Employer") and Gary G. Geuss ("Employee"), collectively party or parties, both of whom understand and agree to the following:

RECITALS

WHEREAS, the City Council of the City of Riverside ("City Council"), the governing body of the Employer, on April 12, 2015 by written agreement ("Original Agreement"), retained the services of the Employee as the City Attorney, as that office has been created in Article VII, Section 700 of the City of Riverside City Charter ("Charter"); and

WHEREAS, it is the desire of the City Council to revise and supersede the Original Agreement; and

WHEREAS, this Agreement provides for benefits and establish certain terms and conditions of employment as set forth herein.

TERMS

NOW, THEREFORE, in consideration of mutual covenants herein contained, the parties agree as follows:

Section 1. Duties

The City Council hereby employ the Employee as the City Attorney of the City of Riverside to perform the functions and duties of the City Attorney as specified in the Charter and to perform other legally permissible and proper duties and functions consistent with the office of the City Attorney, as the City Council shall from time to time assign. Employee shall also serve

as General Counsel to the City's various Authorities currently in existence or as subsequently created by the City Council.

Section 2. Term

The term of this Agreement shall become effective beginning on the date written above, and shall remain in effect for a period of five (5) years, unless otherwise terminated pursuant to the provisions stated herein. At the end of the initial term, this Agreement may be extended upon mutual agreement of the parties. During the term of this Agreement, the Employee shall be a full-time City Attorney.

Employee shall not engage in any conduct which constitutes a criminal act involving moral turpitude, fraud, malfeasance or act of misfeasance. In the event that Employee is charged with any such conduct, Employee may be subject to discipline up to and including being placed on administrative leave. In the event that Employee is convicted of any such conduct, Employee may be subject to discipline up to and including termination of employment and termination of this Agreement.

Section 3. Salary

The Employer agrees to pay the Employee for services rendered, as provided herein, Two Hundred Ninety Five Thousand Dollars (\$295,000) per year, payable in installments at the same time and in the same manner as other employees of the Employer are paid. Thereafter, Employee's salary shall automatically increase by three percent (3%) annually upon satisfactory evaluation. Along with the automatic increase, beginning in January of each year, Employee shall be entitled to a cost of living increase based on the partnership compensation model consistent with the represented and non-represented employees' agreements.

Section 4. Deferred Compensation

In addition to the sums otherwise payable to Employee hereunder, the Employer agrees to contribute matching funds to a deferred compensation account in the amount set forth in the Employer's Fringe Benefit and Salary Plan ("FBSP").

Section 5. Pension

The Employer agrees to continue the Employee as a member of the Public Employee Retirement System. Employee shall pay the required employee contribution.

Section 6. Benefits

The Employer agrees to provide Employee with the same benefits as are provided to the other Executive Group of the Employer per the FBSP, including but not limited to accrual of sick leave, medical, dental and optical coverages, and holiday schedule, which shall be the same as for the Executive Group set forth in Section 1-1 of the FBSP. Employee may purchase disability insurance as set forth in Section 19-1 of the FBSP. Employer shall pay for Employee's State of California Annual Bar dues, Minimum Continuing Legal Education requirement costs and all costs for attendance at the League of California Cities City Attorney's Spring Conference and Annual Conference.

Section 7. Life Insurance

The Employer agrees to provide Employee, at Employer's expense, with a term life insurance policy equal to twice the Employee's annual salary (Table 9, Section 18-2 FBSP).

Section 8. Vacation, and Administrative Leave

Employee will accrue vacation at the rate of two hundred (200) hours per year of employment accruable and subject to cash out consistent with that provided for the Executive Group (Section 6 and Table 4 of the FBSP).

Employee will receive eighty (80) hours of administrative leave per year. Administrative leave must be used by June 30th of each year, which is the end of each fiscal year. There shall be no carryover of any administrative leave.

Section 9. Automobile Allowance

Employee shall receive an automobile allowance of Five Hundred Dollars (\$500) per month or as may be modified in the future.

Section 10. Termination and Severance Pay

In the event Employee is terminated prior to the expiration of this Agreement, and Employee is willing and able to perform duties under this Agreement, the Employee shall be entitled to a cash payment of compensation equal to one year's annual salary ("Severance Pay"). Notwithstanding the above, in the event Employee is terminated because of any criminal act involving moral turpitude, fraud, malfeasance, or act of misfeasance, then, in that event, Employer shall have no obligation to continue the employment of Employee and shall have no obligation to make the Severance Pay stated above.

Section 11. Performance Evaluation

The City Council shall review and evaluate the performance of the Employee at least once annually. The annual review and evaluation shall be in accordance with specific criteria developed jointly by the City Council and the Employee. Such criteria may be added to or deleted as the City Council may from time to time determine in consultation with the Employee, provided, however, that such criteria shall be established within the limits of the resources made available to Employee for accomplishment of the identified goals and objectives. At such annual evaluation, the City Council and the Employee shall define such goals and performance objectives which they determine necessarily for the attainment of the City Council's policy objectives and the City

Council and the Employee shall further establish a relative priority among those various goals and objectives to be reduced to writing. Employer agrees that it will act in good faith to assure that Employee has available those resources reasonably necessary to achieve compliance of identified goals and objectives within the anticipated time frames. In giving effect to the provisions of this section, the City Council and the Employee mutually agree to act in good faith and abide by all provisions of applicable law.

In recognition of accomplishments of objectives and excellent performance, a merit increase may be granted to the Employee.

Section 12. Other Terms and Conditions of Employments

The City Council, in consultation with the Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the provisions of this Agreement, the Charter, any ordinance or resolution of Employer, or any other applicable law.

Section 13. Nondiscrimination

Employee agrees that in the performance of Employee's functions and duties, he shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression or sexual orientation.

Section 14. General Provisions

This shall constitute the entire agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous oral and written understandings or agreements of the parties. No promise, representation, warranty or covenant not included in this Agreement has

been or is relied on by any party thereto. If any provision or any portion hereof is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion hereof shall be deemed severable, shall not be affected, and shall remain in full force and effect. This Agreement may only be amended in writing and duly execute by both parties.

Section 15. Notices

Notices pursuant to this Agreement shall be in writing and shall be personally served, given by mail or by overnight delivery. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the respective parties at 3900 Main Street, Riverside, California, 92522, or such other address as may be given, in writing, to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

[Signatures on following page.]

EMPLOYER

William R. Bailey, III
Mayor

Jim Perry
Mayor Pro Tem

Attested to by:

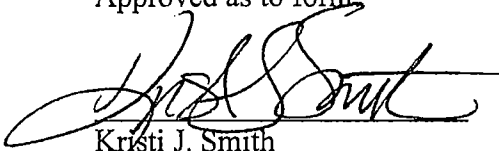
Colleen J. Nicol
City Clerk

EMPLOYEE



Gary G. Gauss

Approved as to form:



Kristi J. Smith
Chief Assistant City Attorney

Chapter 2.32

SALARY REGULATIONS

Sections:

- 2.32.010 Short title.
- 2.32.020 Purpose of chapter.
- 2.32.030 The salary plan.
- 2.32.040 The classification plan.
- 2.32.050 Salary differentials.
- 2.32.060 Administration of the salary and classification plan.
- 2.32.070 Attendance, hours and working time computations.
- 2.32.080 Overtime and call time.
- 2.32.090 Vacation.
- 2.32.100 Holidays.
- 2.32.110 Sick leave.
- 2.32.120 Bereavement leave.
- 2.32.130 Industrial accident leave.
- 2.32.140 Leave of absence and military leave.
- 2.32.150 Payroll deductions.
- 2.32.160 Automobile allowance and reimbursement for expenses.

Section 2.32.010 Short title.

This chapter shall be known as the "Salary Regulations of the City," and may be cited as such. (Prior code § 2.21)

Section 2.32.020 Purpose of chapter.

This chapter is enacted pursuant to Section 701 of the City Charter to provide for the number, titles, qualifications, powers, duties, compensation and terms of employment of City officers and employees and to conform to the principle of equal pay for equal work. (Ord. 6393 § 7, 1997; prior code § 2.22)

Section 2.32.030 The salary plan.

The basic monthly compensation plan for City officers and employees shall be established by resolution of the City Council. (Prior code § 2.23)

Section 2.32.040 The classification plan.

The classification plan for City officers and employees and allocation of class titles to salary ranges shall be established by resolution of the City Council. (Prior code § 2.24)

Section 2.32.050 Salary differentials.

Exceptions to the City salary plan and classification plan shall be established by resolution of the City Council. (Prior code § 2.25)

Section 2.32.060 Administration of the salary and classification plan.

No employee shall receive less than the minimum nor more than the maximum rate of compensation established for the class to which such employee is assigned except that

Exhibit H

reclassified employees may retain their current compensation as a special rate until the rate is included in their new class range. Initial appointments shall be made up to the mid-point of the salary range, and the City Manager may approve a higher initial rate of compensation if the best interests of the City so require. An employee who is promoted from one class to another class which is allocated to a higher salary range shall receive no less than the equivalent of a one-step increase in the class to which such employee is promoted. All salary advancements within each class shall not be automatic, but shall be based upon merit and fitness and upon the financial ability of the City to make such advancements.

Each employee may be granted a one-step salary increase after the completion of six months of continuous service following appointment to the first step of the classification or after completion of one year of continuous service after the appointment to any other step of the classification and in accordance with established personnel policies and procedures, and said employee may be granted a one-step salary increase at the completion of each additional year of continuous service thereafter until said employee reaches the top of the salary range for such employee's classification; provided, however, each employee appointed to an approved apprenticeship program so providing may be granted a one-step salary increase at the completion of each six months of continuous service when the work and educational standards have been completed for that step until said employee reaches the top of the salary range for that classification.

Each employee who is promoted may be granted a one-step salary increase after the completion of six months of continuous service following promotion to the first step of the new classification or one year of continuous service following promotion to any other step of the new classification in accordance with established personnel policies and procedures, and said employee may be granted a one-step salary increase upon completion of each additional year of continuous service thereafter until said employee reaches the top of the salary range for that classification.

If a position is reclassified to a classification in which the salary range is higher and it is administratively determined that the incumbent meets the minimum qualifications and selection requirements of the classification and is in fact performing the full range of duties and responsibilities of that position, the incumbent of the position shall be entitled to a salary increase which shall advance such employee to the closest step within the new range that would provide a five-percent salary increase.

Notwithstanding the foregoing, except for the direct reports of the City Attorney and the City Clerk, the City Manager may approve a special meritorious increase prior to the expiration of the required time. Except for the direct reports of the City Attorney and the City Clerk, all appointments, promotions, merit and salary increases shall be recommended by the department head and approved by the City Manager.

Further, notwithstanding the foregoing, the City Attorney and the City Clerk may approve a special meritorious increase prior to the expiration of the required time as well as all appointments, promotions, merit and salary. (Ord. 7341 § 2, 2016; Ord. 7229 § 4, 2013; Ord. 5628 § 1, 1988; Ord. 4117 § 1, 1974; Ord. 4053 § 1, 1973; Ord. 3360 § 1, 1966; prior code § 2.26)

Section 2.32.070 Attendance, hours and working time computations.

All officers and employees of the City shall be in attendance at their work in accordance with the working hours established for the several departments, except that the City Manager, department heads and supervisory personnel designated by the City Manager shall work such hours as may be necessary for the effective operation of their respective departments. Employment by the City shall be eight hours per day and forty hours per week except that the City Manager may authorize employment on a different basis when the nature of the

employment or the best interests of the City so require. Each department head shall certify to the attendance of his employees at such time and in such manner as the Chief Financial Officer may require. Working time computation for regular hourly pay rates shall be computed on the basis of twelve times the monthly rate divided by fifty-two, divided by the number of hours in the regular work week for the position for which such rate is computed. (Ord. 7341 § 2, 2016; Ord. 3621 § 1, 1969; prior code § 2.27)

Section 2.32.080 Overtime and call time.

Overtime and call time for City officers and employees shall be established by resolution of the City Council. (Ord. 3934 § 1 (part), 1972; Ord. 3789 § 1, 1971; Ord. 3621 § 2, 1969; prior code § 2.28)

Section 2.32.090 Vacation.

Vacation provisions for City officers and employees shall be established by resolution of the City Council. (Ord. 3934 § 1 (part), 1972; Ord. 3579 § 1, 1969; Ord. 3494 § 1, 1968; prior code § 2.29)

Section 2.32.100 Holidays.

Authorized holidays for City officers and employees shall be established by resolution of the City Council. (Ord. 3934 § 1 (part), 1972; Ord. 3782 § 1, 1970; Ord. 3724 § 1, 1970; Ord. 3621 § 3, 1969; prior code § 2.30)

Section 2.32.110 Sick leave.

Sick leave for City officers and employees shall be established by resolution of the City Council. (Ord. 3959 § 1, 1972; Ord. 3782 § 2, 1970; Ord. 3724 § 2, 1970; Ord. 3462 § 1 (part), 1967; prior code § 2.31 (part))

Section 2.32.120 Bereavement leave.

Bereavement leave for City officers and employees shall be established by resolution of the City Council. (Ord. 4043 § 1 (part), 1973; Ord. 3485 § 1, 1967; Ord. 3462 § 1 (part), 1967; prior code § 2.31 (part))

Section 2.32.130 Industrial accident leave.

Industrial accident leave for City officers and employees shall be established by resolution of the City Council. (Ord. 4043 § 1 (part), 1973; Ord. 3462 § 1 (part), 1967; prior code § 2.31 (part))

Section 2.32.140 Leave of absence and military leave.

Leave of absence and military leave for City officers and employees shall be established by resolution of the City Council. (Ord. 4043 § 1 (part), 1973; prior code § 2.32)

Section 2.32.150 Payroll deductions.

The Chief Financial Officer shall deduct from each employee's salary the amount required for income tax purposes and make payment thereof to the United States as required by law. The Chief Financial Officer shall deduct from each employee's salary the amount required for the employee's contribution to the State Employees' Retirement System and make payment thereof as required by law. Any officer or employee may authorize the Chief Financial Officer to make such deductions from his salary as are authorized by the City Council. When so

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the within action. My business address is **3610 Fourteenth Street, P. O. Box 1299, Riverside, California 92502.**

On May 24, 2018, I served the foregoing document described as **VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY RELIEF (CODE OF CIVIL PROCEDURE SECTION 1085, ET SEQ.) AND COMPLAINT FOR DECLARATORY RELIEF** on the interested parties in this action.

☒ by placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s), addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY REGULAR MAIL:** I deposited such envelope in the mail at 3610 Fourteenth Street, Riverside, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

☐ **BY FACSIMILE MACHINE:** I transmitted a true copy of said document(s) by facsimile machine, and no error was reported. Said fax transmission(s) were directed as indicated on the service list.

☐ **BY OVERNIGHT DELIVERY:** I caused such documents to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressees. The envelope or package was deposited with delivery fees thereon fully prepaid.

☐ **BY ELECTRONIC MAIL:** I transmitted a true copy of said document(s) via electronic mail, and no error was reported. Said email was directed as indicated on the service list.

☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the above addressee(s).

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

Executed on May 24, 2018, at Riverside, California.



JANET CLARKE

SERVICE LIST

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Ryan Thomas Dunn, Esq.
John L. Jones II
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RIVERSIDE

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