

Memorandum of Understanding

BETWEEN THE

City of Redlands

AND THE

*Redlands Association of
Management Employees*

July 1, 2009 - June 30, 2012



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**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF REDLANDS
AND
REDLANDS ASSOCIATION OF MANAGEMENT EMPLOYEES
July 1, 2009 – June 30, 2012**

Article 1. TERM OF MEMORANDUM OF UNDERSTANDING

Except where expressly stated otherwise herein, the City and Redlands Association of Management Employees agree that the provisions of this Memorandum of Understanding (MOU) shall become effective on July 1, 2009 and shall expire on June 30, 2012.

Article 2. PREAMBLE

It is the intent and purpose of this MOU to set forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding, but not limited to, matters relating to the wages, hours, and terms and conditions of employment between the City of Redlands (hereinafter referred to as "City") and the Redlands Association of Management Employees (hereinafter referred to as "Unit").

Article 3. RECOGNITION

The classifications which shall be included in the unit of representation are:

CLASSIFICATION TITLES	
Archivist/Curator	Assistant Utilities Director
Assistant City Attorney I/II	Executive Assistant to the City Manager
Assistant Community Development Director	Human Resources Manager
Assistant Finance Director	Public Information Officer
Assistant Engineering Director	Risk Manager
Assistant Quality of Life Director	

Article 4. SALARIES

- A. During the term of this MOU there shall be no cost of living adjustments to salaries.
- B. Compaction: A minimum salary differential of twenty percent (20%) shall be maintained between Management Unit classifications and Mid-Management Unit classifications. In the event there are increases to salaries in mid-management classifications that result in a differential less than twenty percent (20%) between mid-management unit classifications and the management unit they report to, all management classifications shall be adjusted upward until the differential is maintained. The existing salary differentials within the management unit shall be maintained.
- C. All Management Unit employees are responsible for the employee contribution to Social Security and Medicare.

- D. During fiscal year 2010/2011 all employees shall provide the equivalent of eighty (80) hours of furlough time. During the period of March 1, 2010 to April 30, 2010 the parties shall meet and confer on the "value" of the eighty (80) hours and the manner in which the eighty (80) hours will be provided (for instance the Unit may agree, at its option, to forfeit all, or a portion of, the floating holiday time set forth in Article 23). Absent mutual agreement by the parties on the manner in which the equivalent of eighty (80) hours by each employee will be provided, the parties will "default" to eighty (80) hours of furlough time.
- E. During fiscal year 2011/2012 all employees shall provide the equivalent of eighty (80) hours of furlough time. During the period of March 1, 2011 to April 30, 2011 the parties shall meet and confer on the "value" of the eighty (80) hours and the manner in which the eighty (80) hours will be provided (for instance the Unit may agree, at its option to forfeit all or a portion of the floating holiday time set forth in Article 23). Absent mutual agreement by the parties on the manner in which the equivalent of eighty (80) hours by each employee will be provided, the parties will "default" to eighty (80) hours of furlough time.
- F. If no savings alternative equivalent is agreed upon, the City will deduct and bank, from each unit member's paycheck, 4 hours of pay each pay period beginning the first full pay period of each Fiscal Year for twenty (20) consecutive pay periods for the term of this agreement. The banked furlough time will be taken off at the employee's discretion considering individual department's operational needs.

Article 5. RETIREMENT

- A. For Unit members hired prior to March 11, 2010, the City shall continue to pay to the Public Employees' Retirement System CalPERS on behalf of each employee covered by this agreement, the required employer contribution and an amount equal to the required employee contribution to that system provided the contribution will not exceed a total of seven percent (7%) of regular compensation. These contributions shall, at the time of termination, belong to the employee.
- B. Employees hired on or after March 11, 2010 shall pay five-sevenths (5/7) [i.e. five percent (5%)] of the required seven percent (7%) contribution on behalf of the employee to CalPERS. These contributions shall, at the time of termination, belong to the employee.
- C. The City shall continue to include in its contract with CalPERS, the following provisions:

HIGHEST SINGLE YEAR
SURVIVOR CONTINUANCE
2% @ 55 RETIREMENT FORMULA

Article 6. LONGEVITY PAY

- A. Employees hired prior to March 11, 2010, with fifteen (15) years cumulative service with the City, shall advance to the Step "F" on the salary resolution effective with the beginning of the pay period beginning closest to the first day of their 16th year of service.
- B. Employees hired on or after March 11, 2010 shall not be eligible for "F" step longevity pay.
- C. In the event that an employee is not at the E step when he/she is eligible for the F step, at the completion of fifteen (15) years of service, the employee will advance to the next step in the salary range, and continue to advance based on merit until the employee reaches the F step.

Article 7. TUITION REIMBURSEMENT

- A. Employees shall be reimbursed up to the dollar amount charged for the same number of units per term by the University of California, Riverside. An employee shall not receive reimbursement in excess of five thousand dollars (\$5,000) in any one fiscal year. The difference between the City's maximum obligation during any fiscal year and the amount of any actual reimbursement received by the employee during that fiscal year shall not be carried over or be available to use by the employee in any subsequent fiscal year.
- B. Employees hired after March 11, 2010 shall be reimbursed up to the dollar amount charged for the same number of units per term by the University of California, Riverside. An employee shall not receive reimbursement in excess of two thousand five hundred dollars (\$2,500) in any one fiscal year. The difference between the City's maximum obligation during any fiscal year and the amount of any actual reimbursement received by the employee during that fiscal year shall not be carried over or be available to use by the employee in any subsequent fiscal year.
- C. The course must be satisfactorily completed with a minimum grade of "C" or equivalent to qualify for reimbursement.

Article 8. BILINGUAL PAY

- A. Eligible employees will be compensated \$65.00 per month for the performance of bi-lingual skills beginning the first pay period following certification by successful completion of a competency exam administered through the Human Resources Department or third party selected by the City.
- B. Recommendation by the Department Head and final approval by the City Manager.
- C. The determination of the number of employees designated to receive bi-lingual pay is at the sole discretion of the City.
- D. Bilingual pay shall apply regardless of the frequency or total time required to perform translation duties.
- E. In the event that a department head's bilingual employees are not available and a bilingual need occurs, that department head may request that another department head loan a bilingual employee to that department to handle the bilingual need for the duration of the assignment.
- F. In the event that an employee which is approved for bilingual pay receives a change in assignment, classification, job duties or is transferred or promoted, a determination may be made by the employee's department head that bilingual skills are not longer required for use on the job and this benefit will be removed from the employee with not right of appeal.
- G. In the event that there are more bilingual employees in a department or location than are required but the City to provide this service, the City will determine a method whereby qualified employees can receive this compensation on a rotational basis.
- H. The City reserves the right to determine the languages for which testing will be conducted.
- I. The City reserves the right to determine where the use of employee bilingual skills would be best served.
- J. The City may require employees to keep a log demonstrating that bilingual skills are being utilized.
- K. An employee's continuation in the bilingual program is subject to periodic evaluation and retesting.
- L. Only employees granted bilingual pay shall be required to speak the designated language.

Article 9. DEATH OF EMPLOYEE

- M. The eligible dependents of deceased employees shall be entitled to benefits as follows:
1. Sick leave accruals, lifetime medical insurance and other applicable benefits shall be calculated and/or compensated according to the eligibility requirements stated in the current MOU.
 2. In the event the deceased employee qualified for a service retirement (i.e. age 50 and with a minimum of five (5) years of service with the City), the City shall calculate and/or compensate benefits in the same manner as an employee service retirement.

Article 10. HEALTH INSURANCE

- A. For employees hired prior to March 11, 2010 the City shall continue to pay the monthly premium for employees in the unit and their eligible dependents in the same manner as set forth in the 2004-2009 MOU.
- B. Employees hired prior to March 11, 2010 who are currently in a recognized bargaining unit other than RAME, and are promoted at a later date to a position in the RAME bargaining unit, are not eligible for this benefit in paragraph A.; such employees shall "carry over" their then existing health benefit(s) to their new position represented by RAME.
- C. For employees hired on or after March 11, 2010, the City will contribute a maximum monthly health insurance contribution of three hundred and ninety-seven dollars (\$397.00) per month pursuant to Resolution No. 4572, adopted by the City Council on September 5, 1989. Additionally, the City will contribute on a monthly basis two hundred and three dollars (\$203.00) as a flexible benefit allotment to be utilized by the employee to purchase/contribute toward medical insurance premiums. Any amount of the flexible benefit allotment not utilized by the employee to purchase medical insurance will be placed in an individual Health Retirement Account ("HRA").
- D. The City agrees to provide a stipend of \$350, on a monthly basis, for those employees with alternative medical coverage who opt for the stipend in lieu of the medical insurance benefit.
- E. Insurance Adjustment: In July of each year, the City shall pay each Management Unit employee a cash payment in the amount of one hundred and fifty dollars (\$150) to offset the co-payments and deductibles for medical insurance plans.
- F. **Lifetime Medical:**
1. Upon service retirement and completion of fifteen (15) or more cumulative years of service with the City, and in lieu of any sick leave buyback or conversion, an employee hired prior to March 11, 2010, may elect fully paid lifetime medical insurance (excludes dental and vision coverage) for the employee and eligible dependents, under the City's medical insurance program.
 2. Employees hired on or after March 11, 2010 are not eligible for this benefit in F.1.
- G. During the term of the MOU the parties agree to "reopen" the MOU to discuss alternatives to the current CalPERS health insurance plans.

Article 11. DENTAL INSURANCE

The City agrees to pay the full monthly premium for dental insurance under the Principal Financial dental plan or its equivalent for each employee in the unit and all eligible dependents.

Article 12. VISION CARE

The City agrees to reimburse each employee in the unit up to two hundred twenty five dollars (\$225) every fiscal year for the purchase of frames and lenses or contact lenses and the cost of eye examinations for the employee and/or his/her dependent.

Article 13. LIFE INSURANCE

The City shall contribute the monthly premium for term life insurance in the amount of twenty-five thousand dollars (\$25,000) for all employees in the unit. Employees may also purchase additional increments of life insurance at the City's group rate at their own expense.

Article 14. STATE DISABILITY INSURANCE (SDI)

Unit employees shall be required to participate in State Disability Insurance at employees' expense.

Article 15. VACATION

A. The vacation accrual for employees in the unit shall be as follows:

YEARS OF SERVICE	ACCRUAL RATE – HOURS
0 – 5	80
6 – 7	120
8 – 9	128
10 – 11	136
12 – 13	144
14 – 15	152
16 – 20	160
21	168
22	176
23	184
24	192
25+	200

Article 16. SICK LEAVE

- A. **ACCRUAL:** Unit employees shall receive eight (8) hours of sick leave per month.
- B. **USE:** Employees may use up to half of their annual sick leave accrual, forty-eight (48) hours, to care for ill family members.
- C. **BUY BACK:** In November of each calendar year, each employee in the unit may elect to be paid at his/her current hourly rate for each sick leave day accumulated during the preceding calendar year in excess of six (6) sick leave days. A total of one (1) year's accumulation, ninety-six (96) hours, must be on the books prior to any compensation being paid. Employees in the unit may also choose to accumulate all sick leave days, from calendar year to calendar year, to an unlimited amount.
- D. **CONVERSION TO CASH:** Upon separation of service with the City, employees with ten (10) years or more of continuous service shall be eligible to cash in unused sick leave at the following formula:

YEARS OF SERVICE	CONVERSION PERCENTAGE
10- 15	25%
16- 19	35%
20+	50%

- E. **AT SEPARATION OF SERVICE:** Unit employees will have the option of converting one hundred percent (100%) of individual sick leave accruals to service credit.
- F. **UPON SERVICE RETIREMENT:** In lieu of the benefit D and upon service retirement under the PERS retirement plan, employees in the unit may elect to have all remaining sick leave accrued at the time of retirement converted to cash value at their final rate of pay, and apply such cash value to applicable premiums payable under the City’s medical insurance program for the employee and the employee’s eligible dependents until the cash value is exhausted. In the event that the employee dies prior to exhaustion of the cash value of said benefits, the remaining cash value may be applied toward the premiums of covered dependents until exhausted, subject to the conditions and limitations of the applicable insurance policy.

Article 17. DEFERRED COMPENSATION

In January of each year, the City of Redlands makes an annual contribution to deferred compensation on behalf of each Management Unit employee in the amount of \$1125 per year + 2% of salary.

Article 18. 401 A PLAN

The City shall pay the costs to administer a 401(a) Retirement Plan. Participation by unit employees is optional and all other costs shall be borne by plan participants.

Article 19. VEHICLE ALLOWANCE

The City agrees to provide vehicles and/or allowances as follows:

Assistant Utilities Director	City vehicle provided
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Article 20. BEREAVEMENT LEAVE

In the event of a death in the immediate family, an eligible employee will be compensated with four (4) days paid leave. In addition, eligible employees may be allowed to use accrued sick leave with full pay not to exceed three (3) days. Immediate family shall be defined as the following relatives to either the employee or spouse: spouse, child (including foster child or ward of the court), parent, grandparent, brother, sister, niece, nephew, step-children, and grandchildren. The definition of immediate family will also include the aunt and uncle of the employee only. Bereavement leave may also be used for the significant other of the employee provided the employee shows proof of cohabitation.

Article 21. LEAVE OF ABSENCE WITHOUT PAY

If an employee takes more than five (5) accumulated days of leave without pay in a calendar year, commencing at the beginning of the sixth (6th) day of leave without pay and any day of leave without

pay thereafter during the calendar year; sick leave and vacation accruals will be adjusted proportionately to eliminate benefit accruals for any day an employee is on leave without pay status.

Article 22. PERSONAL LEAVE

Management Unit employees may use up to a maximum of eight (8) hours of accrued sick leave per year for personal leave, subject to advanced approval by his/her supervisor.

Article 23. EXECUTIVE LEAVE

Unit employees shall receive one hundred ten (110) hours of Executive Leave annually. Executive leave shall be used within the calendar year or it will be removed from the books as of December 31st of each year.

Article 24. HOLIDAYS

A. The holidays which will be honored for employees in the unit will include the following, along with any additional day as designated by action of the City Council:

HOLIDAY	DAY OBSERVED
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Third Thursday in November
Friday after Thanksgiving Day	Friday after Thanksgiving Day
Christmas Day	December 25

- B. If the holiday falls on Saturday, Friday shall be designated as the holiday and if the holiday falls on Sunday, Monday shall be designated as the holiday. Christmas Eve Day shall be observed as a holiday when Christmas Day falls on Tuesday, Wednesday, Thursday, or Friday.
- C. If a scheduled holiday falls on an employee's regular day off, the employee shall be compensated for one day of holiday compensation at straight time. Employees should not be scheduled to work both the designated holiday and the actual holiday.
- D. Holiday pay shall be compensated in accordance with the employee's standard work schedule.
- E. Employees hired prior to March 11, 2010 are entitled to receive: two (2) floating holidays annually. Floating holidays accrued but not taken are paid off during January of the year following the year in which the holidays were accrued. Employees hired on or after March 11, 2010 will not be entitled to this benefit.
- F. The A.K. Smiley Public Library will be closed on the Saturday following Thanksgiving Day.

Article 25. PROBATION

- A. Employees hired on or after March 11, 2010 shall serve a probationary period of twelve (12) months.
- B. Employees who are promoted shall serve a probationary period of six (6) months.
- C. Probationary periods may be extended as set forth in the City's Personnel Rules and Regulations.

Article 26. REVIEW/EVALUATION DATE

For all unit employees the “review/evaluation date” shall be the day of the month in which the employee completes six (6) months of employment. When an employee receives a promotion, the new review/evaluation date shall be the day of the month in which the employee completes six (6) months of employment in the new classification. When a salary increase is granted, it shall be effective on the beginning of the pay period falling closest to the day of the month the employee was hired or promoted.

Article 27. PERFORMANCE EVALUATIONS

In cases where a performance evaluation has not been received by an employee within 30 days of the eligibility date, the employee should contact the supervisor, who must complete and file the evaluation within ten (10) working days.

Article 28. DISCIPLINARY PROCEDURE

A. The Investigatory Interview Process

Prior to any investigatory interview or consultation between an employee and the Department Head or City Manager, that could reasonably be construed to result in disciplinary action against the employee, the employee shall be given notice of the interview or consultation as soon as reasonably practical, and shall be advised of his or her right to representation under this section; and upon request shall be afforded an opportunity to contact and consult privately with a representative of the Unit. If requested, the employee may have Unit representative present during any such investigatory interview or consultation, and, to the extent practicable, such interviews or consultations shall be conducted during an employee’s working hours. Only those persons reasonably necessary to the conduct of the interview shall be present.

The employee or the City may elect to record any such investigatory interview or consultation, unless the parties mutually agree not to record such interview or consultation; however, in the event the City elects to record such an interview or consultation, it shall upon request provide the employee with a copy of said recording. The cost of providing a copy of the recording to the employee shall be borne by the employee.

B. Disciplinary Procedures

No employee shall be disciplined without cause. Disciplinary action shall be defined to include: oral warnings, written reprimands, suspensions, demotions (non-probationary), reduction in pay and discharge. Oral and written reprimands may be initiated at the supervisor/Division Manager level. Disciplinary action more serious than a written reprimand must be initiated at the Department Head level.

1. Notice of Proposed Action

Whenever an employee is to be discharged, suspended (for more than five (5) working days) demoted (non-probationary), or reduced in step, for disciplinary purposes, written notice of at least five (5)¹ days of the proposed disciplinary action shall be given before such action is to be taken and must include:

- a. Notice of proposed action;
- b. Reasons for proposed action;
- c. A copy of charges stating specific incidents or specific courses of conduct, e.g. as evidenced by work performance evaluations, and a copy of the written materials upon which the decision to take proposed disciplinary action is based; and
- d. A notice to the employee of the right to respond in writing or orally within the five (5) day period.

In the case of a suspension of five (5) working days or less, the foregoing procedures shall be afforded the employee either before or during the suspension, or within a reasonable time thereafter.

2. Limitations and Exceptions

- a. Oral notice is insufficient as full notice to an employee and may be given only as the initial notice in extraordinary circumstances which call for immediate action.
- b. Prior written notice is required in each case, unless provided otherwise herein, regardless of seriousness unless extraordinary circumstances are involved.
- c. Employees may be suspended without prior written notice in extraordinary circumstances when it is essential to avert harm to the public, other employees, or to avert serious disruption of governmental business. The appointing authority may schedule an employee for vacation or holiday leave as the circumstances may warrant. Extraordinary circumstances include but are not limited to situations involving misappropriation of public funds or property; working while under the influence of alcohol or intoxicating drugs; open insubordination; commission of a crime involving moral turpitude punishable by imprisonment for six (6) months or more; and disruption of City business through willful misconduct (altercations, etc.)
- d. Oral notice is insufficient as full notice for proposed disciplinary action. In extraordinary circumstances when immediate suspension, demotion, removal, or reduction in step is warranted, initial notice may be given orally. The employee should be told when the initial action is taken what the reasons for the actions are and, in addition, the employee will have an opportunity to respond in writing and/or orally to those charges. The written charges in the case of an immediate disciplinary action must be prepared as soon as possible and normally within a day or two (2) of the initial oral notice.

3. Employee's Response to Proposed Discipline

¹ Unless specifically noted to be "working days," any reference to days is calendar days.

- a. An employee receiving a Notice of Proposed action shall have the right to respond to the Department Head. An employee's opportunity to respond to the Department Head is not intended to be an adversary hearing. An employee has the right to have a representative of his/her own choosing at the meeting. The employee shall not be accorded the opportunity to cross-examine a department's witnesses, nor to present a formal case in opposition to the proposed discipline. However, the limited nature of this response does not obviate the Department Head's responsibility to initiate further investigation if the employee's version of the facts raises doubts as to the accuracy of the Department Head's information leading to the discipline proposal. An employee may elect not to respond, thereby waiving any further pre-disciplinary response.
- b. The Department Head will evaluate the proposed discipline in light of the employee's response, if any. Within ten (10) days of the employee's response, or deadline for response, a decision will be transmitted in writing to the employee. Service of the decision will be in person or by mail.

4. City Manager Level Appeal

- a. Any permanent employee shall have the right to appeal any termination, suspension, reduction in salary, or non-probationary demotion. The appeal process shall not be applicable to those positions which may be deemed exempt or to probationary employees. The appeal process shall not be applicable to verbal and written reprimands, probationary demotions, performance evaluations and denial of performance increases. An employee desiring to appeal the Department Head's decision shall have ten (10) days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the City Manager and received in the City Manager's office so that same is date stamped by the City Manager's office within the ten (10) day period.
- b. If, within the 10-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the Department Head shall be considered conclusive and shall take effect as prescribed. If within the ten (10) day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the City Manager, an appeal meeting shall be scheduled.
- c. The meeting with the City Manager shall be conducted in the same manner as the Response to Proposed Discipline set forth in paragraph 2(C) above.
- d. The City Manager will evaluate the discipline in light of the employee's response, if any. Within ten (10) days of the employee's response a decision will be transmitted in writing to the employee. Service of the decision will be in person or by mail.

5. Advisory Arbitration

- a. An employee desiring to appeal the City Manager's decision shall have ten (10) days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the City Manager and received in the City Manager's office so that same is date stamped by the City Manager's office within the ten (10) day period.
- b. If, within the 10-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the City Manager shall be considered

conclusive and shall take effect as prescribed. If within the ten (10) day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the City Manager, an appeal hearing shall be established as follows:

- i. The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the City and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall confer to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
- ii. Where practicable, the date for a hearing shall not be less than twenty (20) days, nor more than sixty (60) days, from the date of the filing of the appeal with the City Manager. The parties may stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.
- iii. All hearings shall be private provided, however, that the hearing officer shall, at the request of the employee, open the hearing to the public.
- iv. Subpoenas and subpoenas duces tecum pertaining to a hearing shall be issued at the request of either party, not less than seven (7) days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- v. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.
- vi. Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (City, hearing officer, employee/employee representative) mutually agree that same is not necessary.
- vii. The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
 1. The party imposing discipline shall be permitted to make an opening statement;

2. The appealing party shall then be permitted to make an opening statement;
 3. The party imposing disciplinary action shall produce the evidence on his/her part; the City bears the burden of proof and burden of producing evidence;
 4. The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
 5. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case;
 6. Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- i. The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing. His/her decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and conclusions.
 - ii. The hearing officer may recommend sustaining or rejecting any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee. He/she may not recommend discipline more stringent than that issued by the City Manager.
 - iii. The hearing officer's opinion and recommendation shall be filed with the City Council, with a copy sent to the charged employee, and shall set forth his/her findings and recommendations. If it is a dismissal hearing and a dismissal is not the hearing officer's recommendation, the opinion shall set forth the date the employee is recommended to be reinstated and/or other recommended action. The reinstatement date, if appropriate, may be any time on or after the date of disciplinary action.
 - iv. Within sixty (60) days of the receipt of the hearing officer's findings, recommendation, and transcript, the City Council shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision which modifies or rejects the recommendation of the hearing officer, the City Council shall order and read the transcript of the hearing. Prior to making a decision which supports the hearing officer, the City Council may order and read the transcript, at its option. The City Council shall not conduct a de novo hearing. The City Council may, at its option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Council shall be final and conclusive. Copies of the City Council's decision, including the hearing officer's recommendation(s), shall be

- filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the City Council.
- v. Each party shall equally bear the cost and fees of the hearing officer, the cost of facilities, the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee. This process shall not apply to mutual settlements by the parties which result in a hearing officer fee.
 - vi. In the case of suspension, demotion, reduction in salary, or dismissal prescribed by the City Council, the time of such suspension, demotion or dismissal shall be effective from the first day after such delivery of said decision or shall relate back to and be effective as of the date the employee was disciplined pending hearing before and decision by the City Council, whichever is applicable. If discipline imposed resulted in loss of pay, and the decision results in reduction or elimination of loss of pay, the pay loss shall be restored to the employee based on the number of standard work hours lost computed at his/her then base hourly rate.
 - vii. The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.

Article 29. GRIEVANCE PROCEDURE

A. Definition

A "grievance" is a formal, written allegation by a grievant that he/she has been adversely affected by an existing violation, misinterpretation or misapplication of the specific provisions of the Memorandum of Understanding, provisions of the Personnel Rules and Regulations, and/or written City Policy. Other matters for which a special method of review is provided by law, ordinance, resolution, or by administrative regulations and procedures of the City, are not within the scope of this procedure. This procedure is not to be used in lieu of the Disciplinary Appeal Procedure set forth in Article 27.

B. Procedure

1. Every effort shall be made to resolve a grievance through discussion between the employee and his/her immediate supervisor. It is the spirit and intent of this procedure that all grievances are settled quickly and fairly without subsequent discrimination against employees who may seek to adjust a grievance. Every effort should be made to find an acceptable solution at the lowest level of supervision. Within fifteen (15) days² after a grievant knew, or by reasonable diligence should have known, of the condition upon which a grievance may be based, the grievant shall attempt to resolve it by an informal conference with the grievant's immediate supervisor. A supervisor shall render a verbal decision within seven (7) days of the conclusion of the informal conference.
2. If the problem cannot be resolved between the employee and the supervisor, the employee may, within seven (7) days from the date of receiving the answer from his/her supervisor, file a

² Days refer to calendar days.

written grievance and request a meeting with the Division Manager, if one exists, in order to discuss the grievance. The written grievance shall contain the following information:

- a. Name of grievant and job title;
 - b. Department/Section;
 - c. Clear and concise statement of the nature of the grievance including the circumstances and dates involved;
 - d. The specific provision(s) of the M.O.U., City Policy or Personnel rules alleged to have been violated;
 - e. Requested remedy;
 - f. Name of the grievant's Labor Representative, if any; and
 - g. Date and signature of the grievant or Labor Representative.
3. The Division Manager shall render a decision and comments in writing and return them to the grievant within ten (10) days after receiving the written grievance.
 4. If the Division Manager and employee cannot reach a solution to the grievance (or if a Division Manager does not exist), the employee may, within seven (7) days from the date of receiving the answer from the Division Manager, request, in writing, a meeting with the Department Head.
 5. The Department Head shall render his/her decision in writing within fifteen (15) days of receiving the appeal. If the Department Head and employee are unable to arrive at a satisfactory solution, the employee may, within ten (10) days from the date of the decision by the Department Head, submit a written appeal to the Human Resources Director.
 6. The City Manager shall review the grievance and respond to the employee within twenty (20) days of receiving the appeal. The response shall be in writing.
 7. An employee desiring to appeal the City Manager's decision shall have ten (10) days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the Human Resources Director and received in the Human Resources office so that same is date stamped by the Human Resources office within the ten (10) day period.
 8. If, within the 10-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the grievance shall be considered conclusive as set forth in the City Manager's decision and shall take effect as prescribed. If within the ten (10) day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the Human Resources Director, an appeal hearing shall be established as follows:
 - a. The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the City and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall confer to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
 - b. Where practicable, the date for a hearing shall not be less than twenty (20) days, nor more than sixty (60) days, from the date of the filing of the appeal with the Human Resources Director. The parties may stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.

- c. All hearings shall be private provided, however, that the hearing officer shall, at the request of the grievant, open the hearing to the public.
- d. Subpoenas and subpoenas duces tecum pertaining to a hearing shall be issued at the request of either party, not less than seven (7) days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- e. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.
- f. Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the grievant does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (City, hearing officer, employee/employee representative) mutually agree that same is not necessary.
- g. The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
 - i. The grievant shall be permitted to make an opening statement;
 - ii. The City shall then be permitted to make an opening statement;
 - iii. The grievant shall produce the evidence on his/her part; the grievant bears the burden of proof and burden of producing evidence;
 - iv. The City may then open its defense and offer its evidence in support thereof; the City bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
 - v. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case;
 - vi. Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- h. The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing

- chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing. The opinion shall set forth findings of fact and conclusions.
- i. The hearing officer may recommend sustaining or rejecting any or all of the grievance.
 - j. The hearing officer's opinion and recommendation shall be filed with the Human Resources Director, with a copy sent to the grievant, and shall set forth his/her findings and recommendations.
 - k. Within sixty (60) days of the receipt of the hearing officer's findings recommendation, and transcript, the City Council shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision which modifies or rejects the recommendation of the hearing officer, the City Council shall order and read the transcript of the hearing. Prior to making a decision which supports the hearing officer, the City Council may order and read the transcript, at its option. The City Council shall not conduct a de novo hearing. The City Council may, at its option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Council shall be final and conclusive. Copies of the City Council's decision, including the hearing officer's recommendation(s) shall be filed where appropriate, including the grievant's personnel file.
 - l. Each party shall bear equally the cost of facilities, fees and expenses of the hearing officer, including the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee. This process shall not apply to mutual settlements by the parties which result in an arbitration fee.
 - m. The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.
9. If the time limits for employees' appeals at any step should elapse, the grievance shall be considered withdrawn. Time limits may be extended by mutual consent. If the City fails to respond within the prescribed time limits, the grievance will be deemed to have been denied and the employee may go to the next step. If the City Manager fails to respond within the prescribed time limit, the grievance will be deemed to have been denied and the employee will be deemed to have exhausted his/her administrative remedy.
 10. The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her grievance at any level of review. In the event the employee desires the presence of a representative who is an employee of the City, he/she shall make such request through the supervisor and the supervisor shall make the necessary arrangements for the employee representative to be present.
 11. The employee and/or his/her representative may use a reasonable amount of work time as determined by the appropriate supervisor or Department Head in presenting the grievance.

However, no employee shall absent himself/herself without first being excused by his/her supervisor.

12. No employee shall be required to be represented by an employee organization in processing a grievance.
13. Employees shall be assured freedom from reprisal for using the grievance procedures by both the City and the employee organization.
14. The settlement terms of a grievance which is processed by an employee individually or by a recognized employee organization shall not conflict with the express provisions of a Memorandum of Understanding between the City and the formally recognized employee organization for such unit.
15. A group grievance may be filed when one (1) set of circumstances or occurrences affects more than one (1) employee in the same manner or to the same extent. The group may file one (1) document which all members of the group have read and signed. Members of the group shall be limited to those who have signed the grievance. The resolution of a group grievance may not be consistent among all employees in the group grievance due to differences in the circumstances or occurrences that brought about the grievance.
16. A group grievance affecting all members of an employee organization may be brought by the employee organization itself. In such case the procedure shall be commenced directly at the City Manager level within fifteen (15) days after authorized representatives of the employee organization knew, or by reasonable diligence should have known, of the condition giving rise to the grievance and shall be subject to all applicable time limitations and the provisions set forth above.

Article 30. DEMOTION/NON-DISCIPLINARY

Regular employees who are demoted due to layoff or other non-disciplinary reasons will be required to serve a new probationary period in the lower classification, provided they have not held regular status in the lower classification previously. While serving this new probationary period, the employee will retain due process rights and cannot be disciplined or terminated from City service without due process.

Article 31. LAYOFF PROCEDURE

- A. Should the City Manager determine reductions in force to be necessary due to lack of work or for financial reasons, he/she may initiate Layoffs. Classifications to be affected and the number of employees included will be determined by the City.
- B. In determining the order of Layoffs, a combination of factors shall be considered, including but not limited to: qualifications, productivity, general performance, seniority with the City of Redlands, seniority in job classification, and needs of the City. Variations from the order of Layoffs and recall from Layoff may occur when the City deems such variations appropriate under the circumstances.
- C. The factors the City, in its discretion, may use to determine include but are not limited to the following:
 1. An employee's last four performance evaluations, if any;
 2. Any history of employee commendations, awards, etc.;
 3. Any history of employee disciplinary action;
 4. Attendance record, including tardiness and unexcused absences;

5. Safety record, including personal injury and damage to city property;
6. Probationary and temporary employees shall be laid off before a regular employee in the same classification;
7. Between two regular appointees in the same classification with the same skills, abilities, qualifications, merit and/or record, the employee with lesser seniority in the classification may be laid off first;
8. Between two regular appointees in the same classification the employee with lesser skills, abilities, qualifications, merit and/or record than may be laid off first, without regard to seniority;
9. Memoranda of Understanding ("MOU") between the City and effected bargaining units.

D. BUMPING

1. "Bumping" means the displacement of an employee from his/her position by an employee in a higher classification who formerly held the same position, or a position in the same job family, within that employee's department.
2. Where two or more employees are laid off from the same position, the employee with the greatest seniority in that classification shall have the first opportunity to bump as set forth below.
3. A laid-off employee shall be entitled to bump an employee in the same position previously held by the laid off employee, or a position in the same job family (set forth in the applicable MOU), in accordance with the criteria specified in paragraph C of this Rule, in that employee's department. Alternatively, an employee may "bump" into a position in a different department which he/she held within the prior five (5) years. The laid off employee must be able to perform the essential job functions of the former position and possess the minimum qualifications of the position as specified by the job classification specification. A laid-off employee shall not bump an employee with greater skills, abilities, qualifications, merit and/or record. Employees must utilize the option that places them in the highest available position.
4. The City will notify laid-off employees of any positions available for bumping. Bumping shall only be available in the laid-off employee's Department. Following such notification, the employee must notify the Human Resources Director in writing of his/her intent to exercise the bumping rights within seven (7) calendar days, and the position and classification in to which he/she intends to bump. Failure to provide such notification will be deemed a waiver of bumping rights by the employee.
5. Where there is more than one employee in a position available for bumping, the factors in paragraph C of this Rule, or the conditions set forth in an approved Memorandum of Understanding, will be used to determine which employee, if any, will be bumped.
6. The process will be repeated at the next classification level where an employee bumps in and creates an overage in that classification.
7. Any displaced employee shall be considered as laid-off for the same reason as the person who displaced them and shall in the same manner be eligible to displace another employee based on the criteria specified in paragraph C of this Rule.

E. REINSTATEMENT FROM LAYOFF



1. The names of probationary and regular employees who have been laid off shall be placed on appropriate reemployment lists. Such names shall remain thereon for a period of one year unless such persons are sooner reemployed.
2. When a reemployment list is to be used to fill vacancies, the Human Resources Director shall certify from such lists the number of names equal to the number of vacancies. An employee who is reemployed shall receive credit for former service for purposes of seniority, benefit compensation, and salary advancement.
3. Employees who, following layoff from a position or layoff from City employment may be reinstated upon the recommendation of the Department Head and with the approval of the Human Resources Director, to the position from which they were laid off based on their qualifications, availability, and the needs of the organization pursuant to this paragraph.

Article 32. PREVAILING BENEFITS

All benefits, privileges, and working conditions enjoyed by Unit employees at the present time, which are not included in this agreement, shall remain in full force, unchanged and unaffected in any manner, during the term of this agreement unless changed by mutual consent.

Article 33. SAVINGS CLAUSE

If any provision of this MOU, or the application of any provision, should be rendered invalid by court or legislative action, the remaining portions of this Agreement shall remain in full force and effect.

CITY OF REDLANDS	REDLANDS ASSOCIATION OF MANAGEMENT EMPLOYEES - RAME	
		4/26/10
PAT GILBREATH, MAYOR	DON MCCUE, PRESIDENT	DATE
ADOPTED, SIGNED AND APPROVED THIS <u>4TH</u> DAY OF <u>May</u> , 2010		

ATTEST:



Sam Irwin, City Clerk

