

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

RESOLUTION NO. 22923

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, AS AUTHORIZED BY CHAPTER 10, DIVISION 4, TITLE 1 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA FOR THE PURPOSE OF PROMOTING IMPROVED EMPLOYER-EMPLOYEE RELATIONS BETWEEN PUBLIC EMPLOYERS AND THEIR EMPLOYEES BY ESTABLISHING UNIFORM AND ORDERLY METHODS OF COMMUNICATION BETWEEN EMPLOYEES AND THE PUBLIC AGENCIES BY WHICH THEY ARE EMPLOYED; AND ESTABLISHING REASONABLE RULES AND REGULATIONS TO ACHIEVE THIS OBJECTIVE AND REPEALING RESOLUTIONS NOS. 11446, 11626, 11858, 12438, AND 15079.

WHEREAS, Chapter 10, Division 4, Title 1 of the Government Code of the State of California states that one of its purposes is to promote improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS, Government Code Section 3507 empowers a City to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations; and

WHEREAS, the City of Riverside desires to adopt such reasonable rules and regulations as authorized by law;

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

ARTICLE I -- GENERAL PROVISIONS

Sec. 1. Title of Resolution

This resolution shall be known as the Employer-Employee Relations Resolution of the City of Riverside.

Sec. 2. Statement of Purpose.

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et. seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to

1 supersede the provisions of State law, City Charter, ordinances, resolutions and rules which establish  
2 and regulate the merit and civil service system, or which provide for other methods of administering  
3 employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil service  
4 and other methods of administering employer-employee relations through the establishment of  
5 uniform and orderly methods of communications between employees, employee organizations and  
6 the City.

7 It is the purpose of this Resolution to provide procedures for meeting and conferring in good  
8 faith with Recognized Employee Organizations regarding matters that directly affect and primarily  
9 involve the wages, hours and other terms and conditions of employment of employees in appropriate  
10 units and that are not pre-empted by Federal or State law or the City Charter. However, nothing  
11 herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters  
12 of general legislative or managerial policy, as more fully outlined in Section 5, City Rights and  
13 Responsibilities.

14 Sec. 3. Definitions.

15 As used in this Resolution, the following terms shall have the meanings indicated:

16 a. "Appropriate Unit" means a unit of employee classes or positions established  
17 pursuant to Article II hereof.

18 b. "Administrative Support Employee" means an employee who works in classifications  
19 which are responsible for internal and external communication, recording, and retrieval of data  
20 and/or information and other paperwork required in an office. Includes: account clerks, messengers,  
21 dispatchers, payroll clerks, legal support specialists, and office specialists.

22 c. "City" means the City of Riverside, California, and, where appropriate herein, refers  
23 to the City Council or any duly authorized City representative as herein defined.

24 d. "Confidential Employee" means an employee, who, in the course of his/her duties,  
25 has access to files or information relating to the City's administration of employer-employee  
26 relations; or whose duties and responsibilities are so closely aligned with those of a management  
27 employee as to establish an identification with the implementation or dissemination of management  
28 policies on a City-wide or Department-wide basis.

1 In connection with this latter definition and in the interest of preserving the City's efficient  
2 operations, certain positions in the following Departments or areas shall be deemed presumptively

3 Confidential:

- 4 i) City Manager's Office
- 5 ii) City Attorney's Office
- 6 iii) Mayor's Office
- 7 iv) City Clerk's Office
- 8 v) Human Resources
- 9 vi) Innovation and Technology
- 10 vii) Finance
- 11 viii) Administrative Support to Department Heads

12 e. "Consult/Consultation in Good Faith" means to communicate orally or in writing,  
13 upon the request of an Exclusively Recognized Employee Organization, for the purpose of  
14 presenting and obtaining views or advising of intended actions; and, as distinguished from meeting  
15 and conferring in good faith regarding matters within the required scope of such meet and confer  
16 process, does not involve any exchange of proposals and counter-proposals in an endeavor to reach  
17 agreement, nor is it subject to Article III hereof.

18 f. "Day" means calendar day unless expressly stated otherwise.

19 g. "Executive Employee" means City Manager, City Attorney, City Clerk, Assistant  
20 City Manager and Department Heads.

21 h. "Fire Suppression Employee" means an employee whose primary purpose is to  
22 respond to fire and emergency calls and is a safety member of the Public Employees Retirement  
23 System, which includes Firefighters, Engineers, and Captains.

24 i. "Fire Suppression Management Employee" means an employee whose primary  
25 purpose is to manage employees in the fire suppression and emergency service and is a safety  
26 member of the Public Employees Retirement System and who have managerial responsibility, as  
27 defined in the Management Employee definition of this section, - which includes Battalion Chiefs,  
28 including when serving as Division Chiefs or Deputy Chiefs.

1 j. "Impasse" means that the representatives of the City and a Recognized Employee  
2 Organization have reached a point in their meeting and conferring in good faith where their  
3 differences on matters to be included in a Memorandum of Understanding, and concerning matters  
4 on which they are required to meet and confer, remain so substantial and prolonged that further  
5 meeting and conferring would be futile.

6 k. "Inspection and Technical Employee" means an employee who is in an occupation  
7 which requires a combination of basic scientific or technical knowledge and manual skills which can  
8 be obtained through specialized post-secondary school education or through equivalent on-the-job  
9 training. Includes: Innovation and Technology (IT) technicians, drafters, survey and mapping  
10 technicians, inspectors, and similar classes.

11 l. "Law Enforcement Employee" means an employee who is a peace officer per Penal  
12 Code Section 830.1 and is a safety member of the Public Employees Retirement System, and other  
13 classes of employees whose primary functions are directly related to law enforcement.

14 m. "Law Enforcement Supervisory Employee" means an employee who is a peace  
15 officer per Penal Code Section 830.1 and is a safety member of the Public Employees Retirement  
16 System who has supervisor responsibility, as defined in the Supervisory Employees definition  
17 section.

18 n. "Law Enforcement Management Employee" means an employee who is a peace  
19 officer per Penal Code Section 830.1 and is a safety member of the Public Employees Retirement  
20 System who has managerial responsibility, as defined in the Management Employee definition  
21 section.

22 o. "Management Employee" means an employee who is under the direction of a  
23 department head or Sr. Manager and having responsibility for formulating, administering or  
24 managing the implementation of City policies or programs on either a City-wide or Department-  
25 wide basis through supervisory and subordinate employees, which may include responsibility for  
26 labor relations and training supervisory employees.

27 p. "Municipal Employee Relations Officer" (MERO) means the City Manager or that  
28 person's duly authorized representative.

1 q. "Para-professional Employee" means an employee performing work in classifications  
2 possessing some of the characteristics of professional employees, including substantial general  
3 education or extensive experience and training in professionally-oriented or sub-professional fields.  
4 It may include those who have demonstrated ability to assume significant responsibilities in a  
5 general way, as well as those who have had substantial but incomplete professional training.

6 r. "Professional Employee" means an employee whose work is predominantly  
7 intellectual, varied and specialized in character, which involves significant exercise of discretion and  
8 judgment in its performance which may be of such a character that the output produced or the results  
9 accomplished may not be standardized in relation to a given period of time, and which requires  
10 knowledge of an advanced type of field of science or learning customarily acquired by a prolonged  
11 course of specialized intellectual instruction and study in a higher or specialized learning as  
12 distinguished from a general education and vocational or other training in the performance of routine  
13 mental, manual or physical processes; includes employees who have completed the courses of  
14 specialized intellectual instruction and are performing related work under the supervision of a  
15 professional person and are awaiting required licensing or performing limited work experience in  
16 order to achieve full professional status.

17 s. "Proof of Employee Support" means (1) an authorization card recently signed and  
18 personally dated by an employee, or (2) a verified authorization petition or petitions recently signed  
19 and personally dated by an employee. The only authorization which shall be considered as proof of  
20 employee support hereunder shall be the authorization last signed by an employee. The words  
21 "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

22 t. "Recognized Employee Organization" means an employee organization which has  
23 been formally acknowledged by the City as the sole employee organization that represents the  
24 employees in an appropriate representation unit pursuant to Article II hereof.

25 u. "Peace Officer" means those employees defined as peace officers by California  
26 Statute.

27 v. "Senior Management Employee" means an employee who is not included in the  
28 Executive group, but exercises great independence and control over a significant work group or

1 subject area, and/or influences the direction of City projects. Employees in this group exercise more  
2 influence and independence that those employees in the Management group.

3 w. "Service-Maintenance Employee" means an employee in classifications in which they  
4 perform work which results in or contributes to the comfort, convenience, hygiene or safety of the  
5 general public or which contributes to the upkeep and care of buildings, facilities or grounds of  
6 public property. Workers in this category may operate machinery. Includes: bus drivers, truck  
7 drivers, garage laborers, custodial employees, gardeners and groundkeepers, refuse collectors,  
8 construction laborers, park rangers, craft apprentices/trainees/helpers, and kindred workers.

9 x. "Skilled Craft Worker Employee" means an employee in classifications which require  
10 special manual skill and a thorough and comprehensive knowledge of the process involved in the  
11 work which is acquired through on-the-job training and experience or through apprenticeships or  
12 other formal training programs. Includes: mechanics and repairers, electricians, heavy equipment  
13 operators, stationary engineers, skilled machining occupations, carpenters, compositors and  
14 typesetters, power plant operators, water and sewage treatment plant operators, and kindred  
15 occupations.

16 y. "Supervisory Employee" means an employee having authority, in the interest of the  
17 City, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other  
18 employees, or responsibility to direct them, or to adjust their grievances, or effectively to  
19 recommend such action, if, in connection with the foregoing, the exercise of such authority is not of  
20 a merely routine or clerical nature, but requires the use of independent judgment.

21 In the sworn safety services Police ranks of Sergeant and above, and Fire ranks of Captain  
22 and above shall be considered presumptively Supervisory.

23 Miscellaneous: The enactment of this Resolution shall not disturb the composition of  
24 bargaining units existing as of July 1, 1983, otherwise affected by the definitions and presumptions  
25 contained herein except under the following circumstances: (a) A valid and timely petition is filed by  
26 an appropriate party other than the Municipal Employee Relations Officer; (b) A unit determination  
27 proceeding is initiated pursuant to a comprehensive Federal or State labor relations statute governing  
28 such matters in City employment; (c) Following the passage of such comprehensive labor relations

1 statute, a valid and timely petition is filed by any rightful party including the Municipal Employee  
2 Relations Officer, provided the MERO is a rightful party, on behalf of the City under such statute.

3 Sec. 4. Employee Rights.

4 A. Employees of the City shall have the right to form, join and participate in the lawful  
5 activities of Recognized Employee Organizations of their own choosing for the purpose of  
6 representation on matters within the scope of representation. Employees of the City shall also have  
7 the equal alternative right to refuse to join or participate in the activities of Recognized Employee  
8 Organizations and shall have the right to represent themselves individually in their employment  
9 relations with the City; provided however, that nothing in this Resolution shall be interpreted or  
10 applied to preclude the City from making an agreement with a Recognized Employee Organization  
11 to require as a condition of employment the maintaining of membership therein or the paying of  
12 periodically required agency fee thereto.

13 B. No employee shall be interfered with, intimidated, restrained, coerced or  
14 discriminated against by the City or by any Recognized Employee Organization because of the  
15 exercise of these rights.

16 C. Professional employees shall have the right to be represented separately from non-  
17 professional employees.

18 D. Management and confidential employees who are members of a Recognized  
19 Employee Organization that includes as members employees who are not management or  
20 confidential employees shall not:

21 1. Serve on committees which deal with areas within the scope of representation  
22 with respect to non-management and non-confidential employees, or

23 2. Serve as a representative of such Recognized Employee Organization before  
24 City management on matters within the scope of representation with respect to non-management and  
25 non-confidential employees, or

26 3. Otherwise engage in any activity with or on behalf of any Recognized  
27 Employee Organization which would result in an actual or apparent conflict of interest.

28 E. Each Recognized Employee Organization shall notify the Municipal Employee

1 Relations Officer as to its officers and committee members. Such notice shall be given prior to the  
2 commencement of the meet and confer process each year and as soon as any changes are made  
3 during the year. The burden shall be upon the employee and Recognized Employee Organization in  
4 question to establish compliance with this Subsection E.

5 F. Peace officers are prohibited from forming, joining, or participating in any employee  
6 organization except that peace officers may join and participate in any employee organization which:

7 1. Is composed solely of such peace officers and/or retired peace officers and  
8 concerns itself solely and exclusively with the wages, hours, working conditions, welfare programs,  
9 and advancement of the academic and vocational training in furtherance of the police profession, and

10 2. Is not subordinate to any other employee organization, and

11 3. Is not affiliated with any other employee organizations representing  
12 employees within the City.

13 Sec. 5. City Rights and Responsibilities.

14 In order to insure that the City is able to carry out its functions and responsibilities as  
15 imposed by law, the City of Riverside has and will retain the exclusive right to manage and direct  
16 the performance of City services and the work force performing such services and therefore the  
17 following matters will not be subject to the meet and confer process but shall be within the exclusive  
18 discretion of the City; these rights include, but are not limited to, the exclusive right to: determine  
19 the mission of its constituent departments, commissions and boards; set standards of service;  
20 determine the procedures and standards of selection for employment; direct its employees; take  
21 disciplinary action; relieve its employees from duty because of lack of work or for other lawful  
22 reasons; maintain the efficiency of governmental operations; determine the methods, means and  
23 personnel by which government operations are to be conducted; take all necessary actions to carry  
24 out its mission in emergencies; exercise complete control and discretion over its organization and the  
25 technology of performing its work; determine the context of job classifications; determine issues of  
26 public policy; determine the merits, necessity, or organization of any service or activity conducted  
27 by the City; expand or diminish services; determine and change the number of locations, and types  
28 of operations and the processes and materials to be employed in carrying out all City functions,

1 including but not limited to, the right to subcontract any work, assign work to employees in  
2 accordance with requirements as determined by the City and establish and change work schedules  
3 and assignments, and establish the days and hours when employees shall work; establish employee  
4 performance standards, including but not limited to, quality and quantity standards; establish  
5 reasonable work and safety rules and regulations in order to maintain the efficiency and economy  
6 desirable in the performance of City services; the preceding rights are limited only by the specific  
7 provisions of current Memoranda of Understanding, and only to the extent that such provisions are  
8 lawful; this limitation does not inhibit City conduct consistent with MOU provisions, nor does it  
9 inhibit conduct not specifically prohibited or covered by the MOU.

## 10 ARTICLE II - REPRESENTATION PROCEEDINGS

### 11 Sec. 1. Policy and Standards for Determination of Appropriate Units

12 The policy objectives in determining the appropriateness of units shall be the effect of a  
13 proposed unit on (1) the efficient operations of the City and its compatibility with the primary  
14 responsibility of the City and its employees effectively and economically to serve the public, and (2)  
15 providing employees with effective representation based on recognized community of interest  
16 considerations. These policy objectives require that the appropriate unit shall be the broadest feasible  
17 grouping of positions that share an identifiable community of interest. With the exception of Police  
18 and Fire sworn safety employees, departmental units shall be presumptively inappropriate.

19 General factors to be considered shall be:

- 20 a. Similarity of the general kinds of work performed, types of qualifications required,  
21 and the general working conditions.
- 22 b. History of representation in the City and similar employment; except however, that  
23 no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which  
24 employees in the proposed unit have organized.
- 25 c. Consistency with the organizational patterns of the City.
- 26 d. Number of employees and classifications, and the effect on the administration of  
27 employer-employee relations created by the fragmentation of classifications and proliferation of  
28 units.

1 e. Effect on the classification structure and impact on the stability of the employer-  
2 employee relationship of dividing a single or related classification among two or more units.

3 Notwithstanding the above, management, supervisory and confidential employment functions  
4 are critical factors in determining appropriateness of bargaining units. Accordingly, management,  
5 supervisory and/or confidential employees shall be excluded from units which include non-  
6 management, non-supervisory and/or non-confidential employees. No management or supervisory  
7 employee may be represented by the same employee organization which represents employees who  
8 are supervised by such management or supervisory employee; except in a grievance brought by such  
9 management or supervisory employee. The Municipal Employee Relations Officer shall, after notice  
10 to and consultation with affected employee organizations, allocate new classifications or positions,  
11 delete eliminated classifications or positions from units in accordance with the provisions of this  
12 Section. Management, supervisory and confidential employees may not represent or negotiate on  
13 behalf of any employee organization which represents non-management, non-supervisory and/or  
14 non-confidential employees, when that organization is actively representing such non-supervisory,  
15 non-management and/or non-confidential employees.

16 Sec. 2. Filing of Recognition Petition by Employee Organization.

17 An employee organization that seeks to be formally acknowledged as the Recognized  
18 Employee Organization representing the employees in an appropriate unit shall file a petition with  
19 the Municipal Employee Relations Officer containing the following information and documentation:

- 20 a. Name and address of the employee organization.
- 21 b. Names and titles of its officers.
- 22 c. Names of employee organization representatives who are authorized to speak on  
23 behalf of the organization.
- 24 d. A statement that the employee organization, as one of its primary purposes, represents  
25 employees in their employment relations with the City.
- 26 e. A statement whether the employee organization is a chapter of, or affiliated directly  
27 or indirectly in any manner, with a local, regional, state, national or international organization, and,  
28 if so, the name and address of each such other organization.

1 f. Certified copies of the employee organization's constitution and by-laws.

2 g. A designation of those persons, not exceeding two in number, and their addresses, to  
3 whom notice sent by regular United States mail will be deemed sufficient notice on the employee  
4 organization for any purpose.

5 h. A statement that the employee organization has no restriction on membership based  
6 on race, color, creed, religion, sex, national origin, age, marital status, political affiliation or  
7 handicap.

8 i. The job classifications or titles of employees in the unit claimed to be appropriate and  
9 the approximate number of member employees therein.

10 j. A statement that the employee organization has in its possession proof of employee  
11 support as herein defined to establish that at least forty (40) percent of the employees in the unit  
12 claimed to be appropriate have designated the employee organization to represent them in their  
13 employment relations with the City. Such written proof shall be submitted for confirmation to the  
14 Municipal Employee Relations Officer.

15 k. A request that the Municipal Employee Relations Officer formally acknowledge the  
16 petitioner as the Recognized Employee Organization representing the employees in the unit claimed  
17 to be appropriate for the purpose of meeting and conferring in good faith.

18 The Petition, including the proof of employee support and all accompanying documentation,  
19 shall be declared to be true, correct and complete, under penalty of perjury, by duly authorized  
20 officer(s) of the employee organization executing it. All changes in such information shall be filed  
21 forthwith in a like manner.

22 Sec. 3. City Response to Recognition Petition.

23 Upon receipt of the Petition, the Municipal Employee Relations Officer shall promptly  
24 determine whether:

- 25 a. There has been compliance with the requirements for a Recognition Petition, and
- 26 b. The proposed representation unit is an appropriate unit in accordance with Section 1  
27 of this Article II.

28 If an affirmative determination on the foregoing two matters is made, the Municipal  
Employee Relations Officer shall so inform the petitioning employee organization, shall post notice

1 on approved bulletin boards of such request for recognition and shall notify other affected  
2 recognized employee organizations and shall take no action on said request for thirty (30) days  
3 thereafter.

4 The Municipal Employee Relations Officer's determination under sub-section "a" above or  
5 the timelines outlined in Sections 4, 5, or 6 below shall be conclusive and not subject to appeal. In  
6 such event the Municipal Employee Relations Officer shall dismiss the Petition.

7 If the Municipal Employee Relations Officer determines that the unit is inappropriate, an  
8 offer to consult thereon with such petitioning employee organization shall be made, and, if such  
9 determination thereafter remains unchanged, shall inform that organization in writing. The  
10 petitioning employee organization may appeal such determination in accordance with Section 9 of  
11 this Resolution.

12 A petitioner which seeks to sever certain classifications from a pre-existing unit shall be  
13 deemed to seek a presumptively inappropriate unit.

14 **Sec. 4. Open Period for Filing Challenge Petition.**

15 Within thirty (30) days of the date written notice was given to affected employees that a valid  
16 recognition petition for an appropriate unit has been filed, any other employee organization may file  
17 a competing request to be formally acknowledged as the Recognized Employee Organization of the  
18 employees in the same unit, by filing a petition evidencing proof of employee support in the unit  
19 claimed to be appropriate of at least forty (40) percent and otherwise in the same form and manner as  
20 set forth in Section 2 of Article II. Thereafter, the Municipal Employee Relations Officer shall  
21 determine whether the petition complies with the requirements for a recognition petition. Such  
22 determination shall be conclusive and not subject to appeal.

23 **Sec. 5. Procedure for Decertification of Recognized Employee Organization.**

24 A Decertification Petition alleging that the incumbent Recognized Employee Organization no  
25 longer represents a majority of the employees in an established appropriate unit may be filed with  
26 the Municipal Employee Relations Officer only during the thirty (30) day period commencing one  
27 hundred eighty (180) days and ending one hundred fifty (150) days prior to the termination date of a  
28 Memorandum of Understanding then in effect. A Decertification Petition may be filed by two or  
more employees or their representative, or an employee organization, and shall contain the following

1 information and documentation declared by the duly authorized signatory under penalty of perjury to  
2 be true, correct and complete:

3 a. The name, address and telephone number of the petitioner and a designated  
4 representative authorized to receive notices or requests for further information.

5 b. The name of the established appropriate unit and of the incumbent Recognized  
6 Employee Organization sought to be decertified as the representative of that unit.

7 c. An allegation that the incumbent Recognized Employee Organization no longer  
8 represents a majority of the employees in the appropriate unit, and any other relevant and material  
9 facts relating thereof.

10 d. Proof of employee support that at least forty (40) percent of the employees in the  
11 established appropriate unit no longer desire to be represented by the incumbent Recognized  
12 Employee Organization. Such proof shall be submitted for a confirmation to the Municipal  
13 Employee Relations Officer within the time limits specified in the first paragraph of this Section.

14 An employee organization must include in its petition the information required under Section  
15 V for Recognition Petitions.

16 The Municipal Employee Relations Officer shall initially determine whether the Petition has  
17 been filed in compliance with the applicable provisions of this Article II. The Municipal Employee  
18 Relations Officer's determination that the 13 procedural and/or timeline prerequisites have not been  
19 met shall be conclusive and not subject to appeal.

20 The Municipal Employee Relations Officer shall thereupon arrange for a secret ballot  
21 election to be held in conformance with Section 8 of this Article II.

22 Sec. 6. Procedure for Affiliation or Disaffiliation of Recognized Employee Organization.

23 A petition alleging that the incumbent Recognized Employee Organization seeks to affiliate  
24 with, or disaffiliate from, another employee organization may be filed with the Municipal Employee  
25 Relations Officer only during the thirty (30) day period commencing one hundred eighty (180) days  
26 and ending one hundred fifty (150) days prior to the termination date of a Memorandum of  
27 Understanding then in effect. The petition may be filed by two or more employees or their  
28 representative, or an employee organization, and shall contain the following information and

1 documentation declared by the duly authorized signatory under penalty of perjury to be true, correct,  
2 and complete:

3 a. The name, address and telephone number of the petitioner and a designated  
4 representative authorized to receive notices or requests for further information.

5 b. The name of the established appropriate unit and the employee organization that the  
6 incumbent Recognized Employee Organization seeks to affiliate with or disaffiliate from.

7 c. An allegation that the incumbent Recognized Employee Organization seeks to  
8 affiliate with or disaffiliate from another employee organization.

9 d. Proof of employee support that at least forty percent (40%) of the employees in the  
10 established appropriate unit desire to affiliate with, or disaffiliate from, another employee  
11 organization. Such proof shall be submitted 14 for confirmation to the Municipal Employee  
12 Relations Officer within the limits specified in the first paragraph of this Section.

13 An employee organization must include in its petition the information required under Section  
14 2 for Recognition Petitions.

15 The Municipal Employee Relations Officer shall initially determine whether the Petition has  
16 been filed in compliance with the applicable provisions of this Article II. The Municipal Employee  
17 Relations Officer's determination that the procedural and/or timeline prerequisite have not been met  
18 shall be conclusive and not subject to appeal.

19 The Municipal Employee Relations Officer shall thereupon arrange for a secret ballot  
20 election to be held in conformance with Section 8 of this Article II.

21 Sec. 7. Procedure for Modification of Established Appropriate Units.

22 Requests by employee organizations to modify established appropriate units may be filed  
23 with the Municipal Employee Relations Officer only during the period specified in Section 5 of this  
24 Article II. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to  
25 the requirements set forth in Section 2 of this Article, shall contain a complete statement of all  
26 relevant facts and citations in support of the proposed modified unit in terms of the policies and  
27 standards set forth in Section 6 hereof; except that the required showing of support shall be forty  
28 percent (40%) of the employees to be added to or deleted from the bargaining unit. The Municipal

1 Employee Relations Officer shall process such petitions as other Recognition Petitions under this  
2 Article II. The Municipal Employee Relations Officer may on his/her own motion, propose during  
3 the period specified in Section 5 of this Article, that an established unit be modified.

4 The Municipal Employee Relations Officer shall give written notice of the proposed  
5 modification(s) to any affected employee organization and shall 15 hold a meeting concerning the  
6 proposed modification(s), at which time all affected employee organizations may be heard.  
7 Thereafter the Municipal Employee Relations Officer shall determine the composition of the  
8 appropriate unit or units in accordance with Section 1 of this Article II, and shall give written notice  
9 of such determination to the affected employee organizations. The Municipal Employee Relations  
10 Officer's determination may be appealed as provided in Section 9 of this Article. If a unit is modified  
11 pursuant to the motion of the Municipal Employee Relations Officer hereunder, employee  
12 organizations may thereafter file Recognition Petitions seeking to become the Recognized Employee  
13 Organization for such new appropriate unit or units pursuant to Section 2 hereof. An incumbent  
14 employee organization shall be entitled automatically to a place on the ballot.

15 **Sec. 8. Election Procedure.**

16 The Municipal Employee Relations Officer shall arrange for a secret ballot election to be  
17 conducted by a party agreed to by the Municipal Employee Relations Officer and the concerned  
18 employee organization(s), in accordance with its rules and procedures subject to the provisions of  
19 this Resolution. All employee organizations who have duly submitted petitions which have been  
20 determined to be in conformance with this Article II shall be included on the ballot. The choice of  
21 "no organization" shall also be included on the ballot. Employees entitled to vote in such election  
22 shall be those persons employed in permanent positions within the designated appropriate unit who  
23 were employed during the pay period immediately prior to the date which ended at least fifteen (15)  
24 days before the date the election commences, including those who did not work during such period  
25 because of illness, vacation or other authorized leaves of absence, and who are employed by the City  
26 in the same unit on the date of the election. An employee organization shall be formally  
27 acknowledged as the Recognized Employee Organization for the designated appropriate unit  
28 following an election or run-off election if it received a numerical majority of all valid votes cast in

1 the election. In an election involving three or more choices, where none of the choices receives a  
2 majority of the valid votes cast, a run-off election shall be conducted between the two choices  
3 receiving the largest number of valid votes cast; the rules governing an initial election being  
4 applicable to a run-off election.

5 There shall be no more than one valid election under this Resolution pursuant to any petition  
6 in a 12-month period affecting the same unit. The twelve (12) month period shall commence with  
7 the date the election results are certified and no new petition will be accepted during this period.

8 In the event that the parties are unable to agree on a third party to conduct an election, the  
9 election shall be conducted by the State Conciliation Service.

10 Costs of conducting elections shall be borne in equal shares by each employee organization  
11 appearing on the ballot.

12 An employee organization which fails or refuses to participate in arranging for an election  
13 shall be deemed to have waived its right to do so and the Municipal Employee Relations Officer  
14 shall proceed to arrange for the election. Such waiver shall not deprive the employee organization of  
15 a place on the ballot if it is otherwise entitled thereto nor will it relieve such organization from  
16 sharing in the cost of such election.

17 Sec. 9. Appeals.

18 An employee organization aggrieved by an appropriate unit determination of the Municipal  
19 Employee Relations Officer under this Article II may, within ten (10) days of notice thereof, appeal  
20 such determination to the City Council for final decision.

21 Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof  
22 provided to the Municipal Employee Relations Officer. The City Council shall commence to  
23 consider the matter within thirty (30) days of the 17 filing of the appeal. Any decision of the City  
24 Council shall be final and binding.

25 **ARTICLE III**

26 Sec. 1. Meet and Confer Process.

27 A. The City, through its representatives, upon request, shall meet and confer in  
28

1 good faith with the representatives of Recognized Employee Organizations regarding wages, hours,  
2 and working conditions within the scope of representation for the members of such Recognized  
3 Employee Organization.

4 B. The City and Recognized Employee Organizations shall not be required to  
5 meet and confer on the following matters:

- 6 1. Any subject preempted by federal or state law or by the City Charter;
- 7 2. City responsibilities and rights as defined in Article I, Section 5;
- 8 3. Any amendments or proposed amendments to this Resolution.

9 C. Where a Recognized Employee Organization desires to meet with the City,  
10 through its representatives, on matters within the scope of representation, said organization shall  
11 make a request in writing to the Municipal Employee Relations Officer or his designated  
12 representative and specify the subjects to be discussed. The Recognized Employee Organization  
13 must submit all requests which it intends to have considered no sooner than one hundred eighty  
14 (180) days and no later than one hundred fifty (150) days prior to the expiration date of the  
15 Memorandum of Understanding then in effect. The City's initial proposal shall be submitted by the  
16 close of the second negotiating session.

17 D. If agreement is reached by the representatives of the City and the Recognized  
18 Employee Organization, all agreed matters shall be incorporated as joint recommendations to the  
19 City Council in a written Memorandum of Understanding signed by the Municipal Employee  
20 Relations Officer, or designee, and the duly authorized employee representatives. Said Memorandum  
21 of Understanding shall not be binding but said joint recommendations shall be submitted to the City  
22 Council for its determination; provided however that once a Memorandum of Understanding has  
23 been ratified both by the Recognized Employee Organization and the City Council, said  
24 Memorandum of Understanding shall represent a binding agreement between the parties.

25 E. Where the City proposes to take action on matters within the scope of  
26 representation, whether such action be by ordinance, resolution, rule or regulation, reasonable  
27 written notice shall be given to each Recognized Employee Organization affected thereby, and each  
28 shall be given the opportunity, upon request to meet and confer with the City, through its  
representatives, prior to the adoption of same. In cases of emergency when the City Council

1 determines that an ordinance, resolution, rule or regulation must be adopted immediately without  
2 prior notice or meeting with any Recognized Employee Organization, the City shall provide such  
3 notice and opportunity to meet at the earliest practical time following the adoption of same. In either  
4 event, the Recognized Employee Organization shall be deemed conclusively to have waived any  
5 right to meet and confer as to any matter so noticed by the City if, within one (1) week after receipt  
6 of said notice, said employee organization fails to deliver to the Municipal Employee Relations  
7 Officer a written request for a meeting with respect thereto.

8           Sec. 2. Resolution of Impasse.

9           If the meet and confer process has reached impasse as defined by this Resolution either party  
10 may initiate the impasse procedures by filing with the other party a request for mediation.

11           A mediator shall be selected either by mutual agreement between the Recognized Employee  
12 Organization and the Municipal Employee Relations Officer or by 19 request submitted to the  
13 California Conciliation Service.

14           The mediator shall meet with the parties in private. The mediator will attempt to facilitate  
15 voluntary adjustment of the differences, but shall make no findings of fact or public  
16 recommendations; nor shall he/she take any public position covering the disputed issues.

17           In the event mediation is unsuccessful in resolving the issues, the unresolved issues may be  
18 submitted to the City Council for determination. The City Council may either direct the City's  
19 negotiators to attempt further resolution through meeting and conferring or mediation or the City  
20 Council may unilaterally implement changes in wages, hours and working conditions consistent with  
21 the City's current negotiating positions. The term "consistent with" means one or more, but not  
22 necessarily all, of the components of the City's offer, and means less than or equal to, but not in  
23 excess of, the City's offer.

24           Sec. 3. Grievances and Appeals Procedure

25           City-wide and other similar grievances which cannot practically be considered and disposed  
26 of under the hereinafter prescribed grievance procedure may be processed directly with the  
27 Municipal Employee Relations Officer upon written notice to him. If said grievance is not then  
28 adjusted to the satisfaction of the aggrieved parties, it may then be submitted to a mutually

1 acceptable impasse procedure. If the grievance is still not adjusted, or if the parties fail to agree upon  
2 a mutually acceptable impasse procedure, after all reasonable means of settlement have been  
3 exhausted, the aggrieved parties may file a written appeal to the City Council for final determination  
4 after recommendation thereon by the Human Resources Board.

5 Any grievances, including alleged violation of or complaint arising out of administration of  
6 ordinances or regulations dealing with administration personnel, salary, or other benefits, any  
7 alleged improper treatment of an employee, or any alleged violation of commonly accepted safety  
8 practices and procedures shall be considered to be a matter subject to review through the hereinafter  
9 prescribed grievance procedure.

10 1. An attempt shall be made to ascertain all facts and adjust all grievances on an  
11 informal basis between the employee and, if he desires, his designated representative and a  
12 supervisor in the employee's chain of command up to and including his division head. Presentation  
13 of this grievance shall be made within ten (10) working days of the incident causing the grievance.

14 2. If the grievance is not adjusted to the satisfaction of the employee involved within  
15 five (5) working days after the presentation of the grievance, the grievance shall be submitted in  
16 writing by the employee and/or his designated representative to the department head within the next  
17 ten (10) working days. The department head shall meet with the employee and/or his designated  
18 representative within five (5) working days of receipt of the written grievance and shall deliver his  
19 answer to the employee within five (5) working days after the meeting.

20 3. If the grievance is not adjusted to the satisfaction of the employee involved in the  
21 second step, the employee and/or his designated representative shall submit it in writing requesting a  
22 hearing to the Human Resources Director for transmittal to the Human Resources Board within five  
23 (5) working days after the department head's answer is received. The Chairman of the Human  
24 Resources Board shall set the date of the hearing as the first item on the agenda at the next regularly  
25 scheduled meeting. The complaining employee shall receive a copy of the notice of the time and  
26 place set for the hearing. This must be sent at least five (5) working days prior to the date of the  
27 hearing. The Human Resources Board shall submit written findings and conclusions together with  
28 such recommendations as it deems proper to the City Manager within ten (10) working days after the

1 completion of the hearings.

2 4. The City Manager or the Manager Pro Tem shall deliver his answer to the employee  
3 and/or his designated representative within five (5) working days after receipt of the Human  
4 Resources Board's recommendations. The action of the City Manager or the Manager Pro Tem on  
5 the recommendations of the Human Resources Board shall be final and conclusive.

6 Notwithstanding the above, the City and Recognized Employee Organizations may, through  
7 the meeting and conferring process, agree upon any other lawful grievance procedure to be  
8 incorporated into a Memorandum of Understanding.

9 Sec. 4. Payroll Deductions.

10 Only a Recognized Employee Organization may be provided payroll deductions of  
11 membership dues upon the written authorization of employees in the unit represented by the  
12 Recognized Employee Organization on forms provided thereon by the Recognized Employee  
13 Organization.

14 Dues deduction shall be for a specified dollar amount, certified to the City by the appropriate  
15 Recognized Employee Organization officer, and shall be made only upon the voluntary written  
16 authorization of the member. Dues deduction authorization may be cancelled and the dues check-off  
17 payroll discontinued at any time by the member upon voluntary written notice to Payroll. Employee  
18 payroll deduction authorizations shall be in uniform amounts for dues deductions. The phrase  
19 "specified dollar amount" shall be satisfied if a Recognized Employee Organization has a sliding  
20 scale dues structure and has provided the City with a written schedule of said dues structure. The  
21 City may deduct for other programs mutually agreed to by the City and affected employee  
22 organizations.

23 The employee's earnings must be regularly sufficient after other legal and required  
24 deductions are made to cover the amount of the dues check-off authorized. When a member in good  
25 standing of a Recognized Employee Organization allowed dues deduction is in a non-pay status for  
26 an entire pay period, no dues withholding will be made to cover that pay period from future earnings  
27 nor will the member deposit the amount with the City which would have been withheld if the  
28 member had been in a pay status during that period. In the case of an employee who is in a non-pay

1 status during only a part of the pay period and the salary is not sufficient to cover the full  
2 withholding, no deduction shall be made. In this connection, all other legal and required deductions  
3 have priority over Recognized Employee Organization dues.

4 Dues withheld by the City shall be transmitted to the officer designated in writing by the  
5 Recognized Employee Organization as the person authorized to receive such funds, at the address  
6 specified.

7 All Recognized Employee Organizations who receive dues check-off shall indemnify and  
8 hold harmless the City for any loss or damages, claims or causes of action, and legal fees arising  
9 from the operation of the check-off of Recognized Employee Organization dues. No Recognized  
10 Employee Organization shall have any claim against the City for any deductions made or not made,  
11 as the case may be. In addition, all such Recognized Employee Organizations shall refund to the City  
12 any amount paid in error upon presentation of supporting evidence.

13 Notwithstanding the above, the City and Recognized Employee Organization may, through  
14 the meet and confer process, agree upon any other lawful organizational security arrangement to be  
15 incorporated into a Memorandum of Understanding.

16 Such organizational security arrangement may be rescinded by a majority of unit employees  
17 in a secret ballot election any time during the term of a Memorandum of Understanding; provided,  
18 however, that no more than one such election may be held during the term of any such  
19 Memorandum.

20 A request for such vote must be in writing supported by the signatures of at least thirty (30)  
21 percent of the employees in the unit. Such request shall be submitted to the Municipal Employee  
22 Relations Officer who shall arrange for an election after verifying the thirty (30) percent  
23 requirement.

24 The organizational security arrangement shall be null and void during the period following  
25 expiration of a Memorandum containing it and prior to entering into a successor agreement  
26 containing the same provision for organizational security.

27 Sec. 5. Access to and Use of City Facilities.

28 Subject to reasonable rules and regulations, Recognized Employee Organizations may, with

1 the prior approval of the Municipal Employee Relations Officer, be allowed to use City facilities  
2 during non-working time provided space is available, the meeting does not interfere with the City 1s  
3 operations, safety and/or security, the meeting does not interfere with the duties of City employees  
4 and the meeting is not for the purpose of seeking new or additional members.

5 A request for use of facilities must be submitted to the Municipal Employee Relations  
6 Officer in writing and must state the purpose or purposes of the meeting.

7 On-duty employees may not attend such meeting without the prior consent of the Municipal  
8 Employee Relations Officer.

9 The City reserves the right to assess reasonable charges for the use of such facilities. The  
10 Recognized Employee Organization shall pay a reasonable fee for any unusual wear or damage to  
11 City facilities caused by their activities. The use of City equipment other than items normally used in  
12 the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly  
13 prohibited, the presence of such equipment in approved City facilities notwithstanding.

14 Authorized representatives of Recognized Employee Organizations shall be permitted to  
15 transact official organization business on City property only during non-working time and only when  
16 it does not interfere with City operation or the duties of City employees. No representatives may  
17 enter a work location without the prior consent of the Division Head, Department Head or Municipal  
18 Employee Relations Officer.

19 Solicitation of membership shall not be conducted during working time. Activities concerned  
20 with the internal management of an employee organization, such as collecting dues, holding  
21 membership meetings, campaigning for office, conducting elections and distributing literature, shall  
22 not be conducted during working time except as may be approved by the Municipal Employee  
23 Relations Officer. Failure to observe these requirements may result in limiting or denying access to  
24 employee work locations.

25 Sec. 6. Use of Bulletin Boards.

26 Recognized Employee Organizations may use portions of City bulletin boards, as designated  
27 by the Municipal Employee Relations Officer, under the following conditions:

28 1. All materials must receive the approval of the Municipal Employee Relations Officer  
prior to posting of material on the bulletin board.

1           2.       All material must be dated and must identify the Recognized Employee Organization  
2 that published them.

3           3.       The actual posting of materials may be done by the Recognized Employee  
4 organization as soon as possible after they have been approved. Unless special arrangements are  
5 made, materials posted will be removed 31 days after the publication date. Materials which the  
6 Municipal Employee Relations Officer considers objectionable will not be posted, provided,  
7 however, the Municipal Employee Relations Officer shall first discuss this denial with the  
8 Recognized Employee Organization.

9           4.       The City reserves the right to determine where bulletin boards shall be placed and  
10 which ones or what portion of them are to be allocated to Recognized Employee Organizations'  
11 materials.

12           5.       A Recognized Employee Organization that does not abide by these rules will forfeit  
13 its privilege to have materials posted on City bulletin boards.

14           Sec. 7. Availability of Data.

15           The City will make available to Recognized Employee Organizations upon request such non-  
16 confidential information pertaining to employment relations as is contained in the public records of  
17 the agency, subject to the limitations and conditions set forth in this rule and State Statute.

18           Such information shall be made available during regular office hours in accordance with the  
19 City's rules and procedures for making public records available and after payment of reasonable  
20 costs, where applicable.

21           Information which shall be made available to Recognized Employee Organizations includes  
22 regularly published data covering subjects under discussion. Data collected on a promise to keep its  
23 source confidential may be made available in statistical summaries, but shall not be made available  
24 in such form as to disclose the source.

25           Nothing in this rule shall be construed to require disclosure of records that are:

26           1.       Personnel, medical and similar files, the disclosure of which would be contrary to  
27 merit system principles or would constitute an unwarranted invasion of personal privacy except in  
28 those instances where the aggrieved employee gives their written permission to the Municipal

1 Employee Relations Officer that the employee organization may look at files of this type.

2 2. Working papers on memoranda which are not retained in the ordinary course of  
3 business or any records where the public interest served by not making the record available clearly  
4 outweighs the public interest served by disclosure of the record;

5 3. Records pertaining to pending litigations to which the City is party, or to claims or  
6 appeals which have not been settled;

7 4. Nothing in this rule shall be construed as requiring the City to do research for an  
8 inquirer or to do programming or assemble data in a manner other than usually done by the agency.  
9 Recognized Employee Organizations may contract with the City for such work on a cost basis,  
10 providing the City is in a position to provide such service.

11 Sec. 8. Peaceful Performance of City Services.

12 Recognized Employee Organizations and other employee organizations covered by this  
13 Resolution, their officers, agents, members are prohibited from participating in, encouraging,  
14 causing, instigating, and/or condoning any strike, work stoppage, slowdown, speedup, sick-out, sit-  
15 in, picketing in connection therewith, refusal or failure fully and faithfully to perform job functions  
16 and responsibilities, or otherwise interfering with the City's operations including compliance with  
17 the request of other employee organizations to engage in similar activities.

18 Participation by any employee in activity proscribed by this Section is unlawful and shall  
19 subject the employee to disciplinary action, up to and including discharge. The City reserves the  
20 right selectively to discipline employees.

21 If a Recognized Employee Organization, its authorized representatives, or members on its  
22 behalf engage in activity proscribed by this Section, the Municipal Employee Relations Officer may,  
23 in addition to any other lawful remedies or disciplinary action, suspend or revoke the recognition  
24 granted to such Recognized Employee Organization, suspend or cancel any or all payroll deductions  
25 payable to such organization, prohibit the use of bulletin boards, prohibit the use of City facilities,  
26 prohibit access to former work or duty stations by such Recognized Employee Organization, and  
27 withdraw any other rights, privileges, or services accorded the Recognized Employee Organization.

28 The obligation of the City to meet and confer shall be automatically suspended during any

1 period of Recognized Employee Organization strike or work stoppage as described above.

2 Any decision of the Municipal Employee Relations Officer made under the provisions of this  
3 Section may be appealed to the City Council by filing a written Notice of Appeal with the Municipal  
4 Employee Relations Officer, accompanied by a complete statement setting forth all of the grounds  
5 upon which the appeal is based. Such Notice of Appeal must be filed within ten (10) days after the  
6 affected Recognized Employee Organization first receives notice of the decision upon which its  
7 complaint is based, or its complaint will be considered closed and not subject to any other appeal.

8 Sec. 9. Reasonable Time Off to Meet and Confer.

9 A Recognized Employee Organization may select not more than two employee members of  
10 such organization to attend scheduled meetings with the Municipal Employee Relations Officer or  
11 other management officials on subjects within the scope of representation during regular work hours  
12 without loss of compensation. Where circumstances warrant, the Municipal Employee Relations  
13 Officer may approve the attendance at such meetings of additional employee representatives with or  
14 without loss of compensation. The Recognized Employee Organization shall, whenever practicable,  
15 submit the names of all such employee representatives to the Municipal Employee Relations Officer  
16 and the affected Department Head at least two (2) working days in advance of such meetings. The  
17 Department Head shall grant permission for employee representatives to attend meetings with the  
18 Municipal Employee Relations Officer except in case of emergencies, as determined by the  
19 Department Head. Any such meeting is subject to scheduling by City management in a manner  
20 consistent with operating needs and work schedules.

21 Sec. 10. Revocation or Suspension of Recognition.

22 Recognized Employee Organization may be suspended and/or terminated after reasonable  
23 notice and opportunity to be heard from for:

- 24 1. Repeated or continued failure or refusal to comply with any provisions of this  
25 Resolution; or
- 26 2. Intentional furnishing of false information to the City in any report required by  
27 resolution; or intentionally misrepresenting membership of any employee or that he/she has  
28 authorized representation by the organization; or

1           3.       Participation in, encouragement of, or condoning any strike, walkout, slowdown,  
2 speedup, sick-out, work stoppage, or other concerted work activity against the City or any person,  
3 corporation, business entity or agency acting as a customer, vendor, supplier of the City; or

4           4.       Ceasing to represent employees of the City which may be presumed by failure to  
5 respond to inquiries concerning representation after ninety (90) days; or

6           5.       Unlawful discrimination in practice or as contained in the organization's by-laws or  
7 constitution.

8           Sec. 11. Implementation.

9           For purposes of implementation of this Resolution, exclusively Recognized Employee  
10 Organizations as of the effective date of this Resolution shall not be required to stand for election in  
11 order to continue such representation until thereafter challenged pursuant to the provisions of this  
12 Resolution.

13           Sec. 12. Construction.

14           This Resolution shall be administered and construed as follows:

15           a.       Nothing in this Resolution shall be construed to deny to any person, employee,  
16 organization, the City, or any authorized officer, body or other representative of the City, the rights,  
17 powers and authority granted by Federal or State law or City Charter provisions.

18           b.       This Resolution shall be interpreted so as to carry out its purposes as set forth herein.

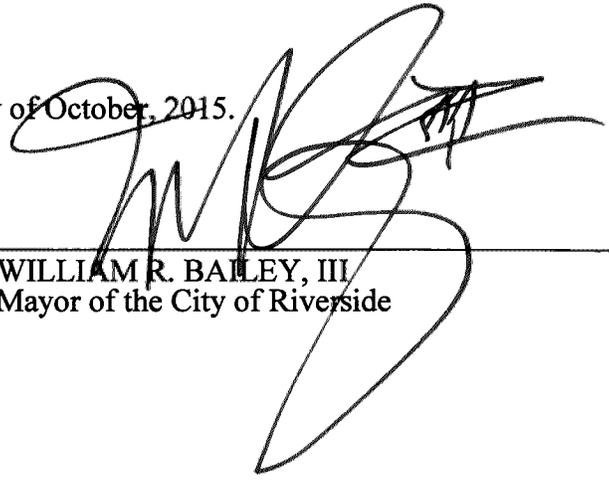
19           Sec. 13. Severability.

20           If any provision of this Resolution, or the application of such provision to any person or  
21 circumstance, shall be held invalid, the remainder of this Resolution, or the application of such  
22 provision to persons or circumstances other than those as to which it is held invalid, shall not be  
23 affected thereby.

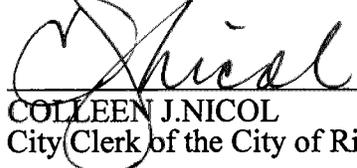
24           Sec. 14. Resolution No. 15079 is hereby appealed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ADOPTED by the City Council this 27th day of October, 2015.

  
\_\_\_\_\_  
WILLIAM R. BAILEY, III  
Mayor of the City of Riverside

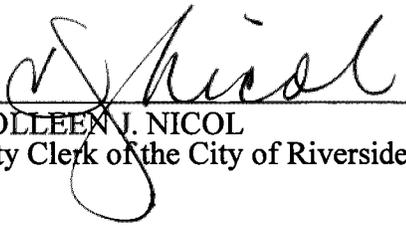
Attest:

  
\_\_\_\_\_  
COLLEEN J. NICOL  
City Clerk of the City of Riverside

I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City at its meeting held on the 27th day of October, 2015, by the following vote, to wit:

- Ayes: Councilmembers Gardner, Melendrez, Soubirous, Davis, Mac Arthur, Perry, and Burnard
- Noes: None
- Absent: None
- Abstained: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this 28th day of October, 2015.

  
\_\_\_\_\_  
COLLEEN J. NICOL  
City Clerk of the City of Riverside