

COMPREHENSIVE MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE REPRESENTATIVES OF MANAGEMENT  
FOR THE CITY OF RIVERSIDE  
AND RIVERSIDE FIRE MANAGEMENT GROUP

PREAMBLE

Representatives of Management for the City of Riverside (hereafter "City") and representatives of the Riverside Fire Management Group (hereafter "Group") have met on a number of occasions and have conferred in good faith exchanging proposals concerning wages, hours, fringe benefits and other terms and conditions of employee-members represented by the Group.

The City management representatives and the representatives of the Group have reached an understanding as to certain recommendations to be made to the City Council for the City of Riverside and have agreed that the parties hereto will jointly urge said Council to adopt one or more resolutions which will provide for the changes in wages, hours, fringe benefits and other terms and conditions of employment contained in these joint recommendations.

THEREFORE, the representatives of City management and the Riverside Fire Management Group agree as follows:

The parties hereto shall jointly recommend to the City Council of the City of Riverside that one or more salary resolutions be adopted setting forth the following salaries, fringe benefits and other terms of employment for the employees represented by the Fire Management Group for the period beginning July 1, 2011, and ending at the close of regular business hours June 30, 2014. This Comprehensive Memorandum of Understanding (MOU) supersedes the Comprehensive MOU between the parties covering the period between May 1, 2009 and June 30, 2011.

**SECTION 1  
SALARIES**

- A. Should employees represented by the Riverside City Firefighter's Association (RCFA) receive across-the-board enhancements to the existing salary ranges or other compensation enhancements between July 1, 2011 and June 30, 2014, a like increase will be provided to employees represented by the Group. If the compensation increase provided to employees represented by RCFA is unique to those employees and therefore cannot be afforded to employees represented by the Group, the employees represented by the Group shall receive a comparable increase in compensation in a form to be determined by the parties. If the parties

are unable to agree on the form, it shall be provided in the form of a salary increase of equal value to the compensation increase afforded employees represented by RCFA.

- B. The Group may reopen this Agreement on the subject of salaries, benefits, or any other mutually agreeable topics after January 1, 2013.

## **SECTION 2 LENGTH OF SERVICE REQUIREMENT FOR STEP PROGRESSION**

The City shall provide the following years of service requirement for eligibility for merit increases on appointment or promotion:

Step 1 to Step 2 – 6 months.

Each additional step within the range at one-year intervals.

## **SECTION 3 PROBATIONARY PERIOD**

All new hires and those promoted to classifications covered by the Group shall serve a probationary period of twelve (12) months.

## **SECTION 4 RECLASSIFICATION POLICY**

The City reclassification policy shall require a salary increase to the next, higher step upon upward reclassification.

## **SECTION 5 SALARY DIFFERENTIALS/CERTIFICATION BONUSES**

A. All employees certified for Emergency Medical Services (EMS) as an EMT by the Riverside County Health Department shall receive a two percent (2%) EMS bonus calculated as a percentage of base pay.

B. Effective January 1, 2005, the City will provide one (1) stipend equal to five percent (5%) of base salary for each of the following certificates and/or degrees, not to exceed the maximum aggregate of ten percent (10%):

1. State of California Fire Marshal/State Board of Fire Services. Fire Chief, Chief Officer, Fire Officer, Fire Marshal, Fire Prevention Officer 3, Instructor 3, Investigator 2.

2. International Association of Fire Chiefs. Chief Fire Officer Designation (CFOD)
3. National Fire Academy. Executive Fire Officer.
4. Accredited University or College.
  - a. Fire Science/Technology Certificate or equivalent Associate Degree.
  - b. Bachelor's or Master's Degree in a job related area based on the same criteria used to determine eligibility for tuition reimbursement, provided that all individuals who possess a Bachelor's Degree at the time the certification program takes effect shall be entitled to the bonus, irrespective of the area of study.

C. Stipends shall be counted as base pay and reported to CalPERS as pensionable income.

D. Certificates earned by the date of the signing of this contract shall be retroactive to July 28, 2006. Subsequent certifications earned shall begin with the pay period following the date of certification.

E. The City and the Fire Management Group agree that instruction, training, investigation, inspection and Fire Marshall duty time, as described in their job descriptions, can be reported to state certifying boards for certification requirements as validated by the Fire Chief.

F. In the event there are title changes for the certificate programs, the stipend provision shall continue to apply.

## **SECTION 6 MEALS**

The City shall continue to require that all affected sworn personnel assigned to the 24-hour shift schedule shall eat all on-duty meals together. This provision shall not obligate the City to purchase or provide the food for those meals. Nor shall this provision apply during emergencies.

## **SECTION 7 VACATION**

- A. Group members shall be entitled to utilize earned vacation benefits on the date or dates selected by the unit member subject to the following conditions:
- B. The Group member must:

1. Give at least twelve (12) hours advance notice;
2. Secure approval from their supervising Chief;
3. Utilize the time off in one or more twelve (12) hour blocks;
4. Procure a replacement in the same classification to fill in during his/her absence; and
5. Maintain all required certifications and satisfy all departmental mandated training requirements.

a. When a training session is designated as mandatory, the department will hold three (3) training sessions per shift; one at the beginning of the month, one at the end of the month, and one in the month following the training.

b. Employees are required to attend one of the three (3) training sessions offered while on duty. If an employee cannot attend one of the three (3) sessions offered on their assigned shift, said employee shall attend a training session offered on another shift on their own time.

c. Mandatory Training sessions are: EMT-Refresher training, HazMat training, Confined Space training, Respiratory training, and any other training deemed appropriate by the Training Division.

- C. The exercise of privileges under this section shall not apply to emergency situations or similar conditions where the needs of the Fire Department require employee availability; the exercise of privileges under this section is subject to existing vacation accrual limitations.
- D. An employee may not volunteer to work overtime on his/her own shift while utilizing vacation benefits. An employee may work to cover an absence caused by his/her vacation upon the condition that the employee be compensated therefore at his/her regular hourly rate of pay. When such occurs, vacation time shall not be counted as "hours worked" for purposes of the Fair Labor Standards Act during the affected pay period(s).
- E. Department management and Group representatives will periodically review the operations of section 7 to avoid abuses.
- F. Annual vacation benefits for represented employees shall be 200.2 hours per year for members assigned to a day assignment. Annual vacation benefits for members with ten (10) or more years of service shall be 306.54 hours per year for members on twenty-four (24) hours shift assignment.

## **SECTION 8 HOLIDAYS**

A. Annual holiday benefits equal to the value of 132 hours for suppression employees and 88 hours for "day shift" employees will be compensated by a cash payment during the last pay period of November of each year. This holiday compensation shall be reported to CalPERS as compensation earnable.

B. Authorized holidays are as follows:

January 1st - New Year's Day  
Third Monday in January - Martin Luther King Day  
Third Monday in February - President's Day  
Last Monday in May - Memorial Day  
July 4th - Independence Day  
First Monday in September - Labor Day  
Second Monday in October - Columbus Day  
November 11th - Veteran's Day  
Fourth Thursday in November - Thanksgiving Day  
The day following Thanksgiving Day  
December 25th - Christmas Day

## **SECTION 9 TIME EXCHANGE**

Each employee shall enjoy unlimited time exchange privileges subject to existing procedures.

The unit member must:

1. Give at least twelve (12) hours advance notice;
2. Secure approval from the supervising Chief;
3. Procure a replacement in the same classification to fill in during his/her absence; and
4. Maintain all required certifications and satisfy all department mandated training requirements.
  - a. When a training session is designated as mandatory, the department will hold three (3) training sessions per shift; one at the beginning of the month, one at the end of the month, and one in the month following the initial training.

b. Employees are required to attend one of the three (3) training sessions offered while on duty. If an employee cannot attend one of the three (3) sessions offered on their assigned shift, said employee shall attend a training session offered on another shift on their own time.

c. Mandatory Training sessions are: EMT-Refresher training, HazMat training, Confined Space training, Respiratory training, and any other training deemed appropriate by the Training Division.

## **SECTION 10 HEALTH AND DENTAL INSURANCE**

The City will pay the monthly premiums on behalf of each employee and eligible dependent under the medical insurance programs available through the City not to exceed \$875.00 per month.

The City shall contribute twenty dollars (\$20.00) per month toward the payment of premiums, on behalf of each Group employee participation, in the City's dental plan.

## **SECTION 11 HEALTH INSURANCE WAIVER STIPEND**

- A. Effective November 2011 employees who do not elect to participate in the City's health insurance program and receive the contributions described above in Section 11A and can show proof of insurance, shall receive a stipend of \$2,000 the last payroll period in November 2012. The same shall apply each November for the length of this agreement.
- B. Employees must be employed through the end of the last payroll period in November to qualify for this benefit.
- C. Current employees on payroll through November who did not work the entire 12-month period shall earn the stipend on a pro-rata basis.
- D. This can be paid into deferred compensation through payroll, not to exceed annual IRS deferred compensation limits.

## **SECTION 12 LIFE INSURANCE**

The City shall provide term life insurance in the amount of twice each employee's salary plus \$1,000 adjusted every January 1.

**SECTION 13  
RETIREMENT SYSTEM/CONTRIBUTION**

- A. Except as provided below, pursuant to Government Code Section 20691 the City shall pick up the entire amount of each affected employee's normal contribution to the Public Employee's Retirement System (PERS). Said PERS pick-up shall be credited to the employee's account with PERS. In no event shall the contribution by the City exceed nine percent (9%) of the affected employee's compensation for public safety members of PERS.

Bargaining unit employees hired after approval of this Agreement and execution of a forthcoming CalPERS resolution shall pay 100% of the employee's normal contribution to CalPERS.

- B. The above PERS pick-up shall not be considered base salary but shall be considered employer contribution pursuant to Section 414(h)(2) of the Internal Revenue Code.
- C. Except as provided below, the City shall provide the one-year highest compensation benefit for all Group employees (Government Code Section 20042).

Bargaining unit employees hired after approval of this Agreement and execution of a forthcoming CalPERS resolution shall receive the average of the three highest years compensation benefit. (Government Code Section 20037)

- D. Except as provided below, the City shall provide the three percent (3%) at age fifty (50) retirement formula to all employees represented by the Group, pursuant to Government Code Section 21362.2.

The City will implement a two-tiered retirement plan formula whereby all bargaining unit employees hired after approval of this Agreement and execution of a forthcoming CalPERS resolution will be covered by the three percent (3%) at 55 PERS retirement formula pursuant to Government Code Section 21363.1.

- E. The City shall provide the one half widow's continuance option to all employees in the Group.

**SECTION 14  
LONG-TERM DISABILITY**

The City shall contribute ten dollars (\$10.00) per month per Group member towards a long-term disability program maintained by the Riverside City Firefighter's Association. If not elected to be used for this purpose, the contribution for long-term disability insurance for the Group member will be added to the city provided deferred compensation contribution as set forth in Section 14 below.

**SECTION 15  
DEFERRED COMPENSATION**

- A. The City shall make available to Group members its 457 and 401a deferred compensation programs. The plans are subject to rules and limits established by plan administrators or the Internal Revenue Service.
- B. The City shall contribute two-hundred dollars (\$200) per month to Group members' 457 or 401a deferred compensation plans.

**SECTION 16  
SUPERVISION RATIO**

The City and Group members agree to a manager to subordinate ratio not to exceed nine to one (9:1). This supervision ratio provision may be waived if a full-time safety aide/assistant is assigned to the Group member. For consecutive periods of eleven (11) hours or less, the Fire Department may operate at levels other than those prescribed supervision ratios because of temporary absences.

Notwithstanding the supervision ratio specified above, all staffing levels in place as of May 1, 2009 shall be maintained as Status Quo throughout the entire term of this Agreement.

**SECTION 17  
SICK LEAVE**

**A. SICK LEAVE**

Group members working fifty-six (56) hours per work week shall earn sick leave credit at the rate of twelve (12) hours per month of employment. All other employees in the Group shall accumulate eight hours of sick leave credit for each full month of employment or major portion thereof. Group members shall be eligible to use earned sick leave after completion of six (6) months of continuous employment. Such sick leave credit may be accumulated without limitation, except as provided elsewhere.

**B. FAMILY SICK LEAVE**

Group members may use up to one-half (1/2) of their earned annual sick leave or up to a total of three shifts (72 hours) in the case of family illness. Sick leave for family illnesses will be allowed only for the sickness or injury of the spouse, child, mother, father, registered domestic partner or child of the domestic partner of the employee. This sick leave benefit will not accumulate from year to year. All family sick leave must be approved by management in the department and a doctor's certificate may be required in the case of sick leave for family illnesses in excess of one and one-half ( 1

½) shifts. For illnesses that qualify under FMLA, the procedures set forth in Section 17 shall apply.

### C. SICK LEAVE PAYOUT

Accumulated unused sick leave at the time of retirement, or disability retirement, or death of an employee shall be paid to the individual or his beneficiary in accordance with the following formula:

1. More than five (5) years but less than ten (10) years of continuous service will be paid twenty-five percent (25%) of unused accumulated sick leave.
2. More than ten (10) years of continuous service will be paid fifty percent (50%) of unused accumulated sick leave.
3. Upon completing twenty-five (25) years with the City Fire Department, Group members are entitled to fifty percent (50%) sick leave payoff upon any honorable separation from the department. Honorable separation includes retirement from a non-work related injury, work related injury, voluntary early retirement or resignation providing conditions were honorable as previously indicated and not in lieu of termination.

## **SECTION 18 FMLA and FRA**

A. The City shall apply provisions of the Family and Medical Leave Act of 1993 (FMLA) and the Moore-Brown-Roberti Family Rights Act (Gov. Code, § 12945.2) (FRA) to eligible Group members.

B. To be eligible for this benefit, the Group member must have at least twelve (12) months service with the City and have worked at least 1,250 hours for the City in the preceding twelve (12) months.

C. Pursuant to FMLA and FRA, eligible Group members may use accrued vacation leave to care for a child, spouse or parent suffering from a serious health condition. If the leave is because of the employee's own serious health condition, accrued sick leave shall be exhausted before utilizing accrued vacation leave.

D. Family care and medical leave shall be counted against and run concurrently with such accrued vacation leave or sick leave as described in section C.

## **SECTION 19 HOURS AND OVERTIME**

A. The workweek of affected employees [excepting forty-hour (40) per week employees] shall be adjusted to fifty-six (56) hours per workweek, to be implemented in increments of twenty-four (24) hour shifts.

B. For all employees represented by the Group who are assigned to fire suppression duties and work shifts of twenty-four (24) hours duration (fire suppression employees), overtime shall be defined as all time worked in excess of the regularly scheduled work shift or in excess of 182 hours in a twenty-four (24) day work period commencing April 4, 1986. For all other employees the work period shall be seven (7) days commencing Friday midnight and extending to the following Friday midnight. Employee shall receive overtime compensation therefore as follows:

1. For the purposes of administering this policy, in accordance with the City's fourteen (14) day pay period, the City shall pay fire suppression employees 112 hours per pay period as follows:

- a. The first 106 hours shall be paid at straight time.
- b. The last six (6) hours shall be paid at one and one-half times the employee's regular hourly rate of pay. To the extent permitted by the Public Employees' Retirement System (PERS), earnings, if any, for these six hours shall be separately reported to PERS as "compensation earnable" for purposes of retirement calculations.

2. All hours worked beyond the regularly scheduled hours of work in a pay period shall be paid at one and one-half (1 ½) times the employee's regular hourly rate of pay.

3. For purposes of calculating eligibility for overtime compensation, the City shall continue to count as hours actually worked all paid leave time including, but not limited to, holiday, vacations, sick leave, industrial disability leave and compensatory time off.

4. With respect to fire suppression employees, hours worked because of a shift trade shall not be counted as time worked for purposes of calculating eligibility for overtime compensation; however, hours scheduled to be worked but not worked because of a shift trade shall be counted as time worked for purposes of calculating eligibility for overtime compensation.

5. It is the present intent of the City and the administration of the Fire Department to maintain the current practice regarding overtime assignments provided, however, that this agreement shall in no way be interpreted or applied to limit, abridge, restrict or modify the City's rights including, but not limited to, its pre-existing obligation to minimize overtime compensation.

C. Under the Fair Labor Standards Act (FLSA), the Battalion Chief position assigned to day shift (Battalion Chief D) is to be considered exempt. In addition to not being entitled to receive any overtime compensation while in an on-call status, employees in the classification of Battalion Chief (D) (Day shift) shall not be entitled to

overtime compensation for emergency call back unless the emergency call back exceeds three (3) hours. If the emergency call back or overtime assignment exceeds three (3) hours, the employee shall be entitled to premium overtime compensation at the rate of one and a half (1 1/2) times the hourly rate applicable to an employee in the classification of Battalion Chief (S) (Suppression) for all time worked on that occasion, including the first three (3) hours.

D. The priority for constant staffing fire suppression vacancies will be given to those Battalion Chiefs assigned to suppression

E. Long term vacancies of ninety (90) consecutive days or more in the position of Battalion Chief may be filled, at the discretion of the Fire Chief, with a temporary appointment in an acting capacity of a qualified person from the current Battalion Chiefs' promotional list.

F. Except as provided above, no Group member shall be permitted to work more than ninety-six (96) consecutive hours. Any such employee who works ninety-six (96) consecutive hours may not commence a new assignment until he/she has been off work for a minimum of twenty-four (24) hours. Exceptions to these requirements may be granted at the discretion of the Fire Chief or his designee.

G. Suppression Battalion Chiefs (Battalion Chief S) shall not receive any overtime pay for the first two (2) hours per month spent attending fire department staff meetings or training sessions outside of scheduled duty hours. The premium overtime rate of one and one half (1 1/2) the employee's regular rate of pay will be paid for all other time worked outside of duty hours.

H. Group members' annual overtime compensation shall be limited to thirty (30) percent of their base salary. This would include all overtime hours converted into CTO and CTOP. The Fire Chief, or his designee, can override the limit and allow additional overtime compensation for special and reasonable needs of the department such as Mutual Aid, Automatic aid, and Urban Search and Rescue activations, and the backfill for these assignments.

## **SECTION 20 COMPENSATION TIME**

Members may choose compensatory time off (CTO) in lieu of cash payment for overtime hours worked. Members are limited to a maximum accrual of one-hundred (100) hours.

Members shall also have the option to receive premium overtime compensation for all overtime worked in the form of Compensatory Time Off Personal (CTOP), subject to a

maximum accrual limit of one-hundred (100) hours. CTOP is allowable from two (2) to six (6) hours without creating the need for the Fire Department to replace the absent employee. In addition, the CTOP may be approved for up to ten (10) hours to pursue Fire Department sanctioned educational courses without creating the need for the Fire Department to replace the absent employee. Implementation procedures shall be developed by the Fire Chief in consultation with the Group.

#### **SECTION 21 FLEX TIME**

Group members assigned to "Day Shift" are eligible for a flex work schedule, subject to Fire Chief and City Manager approval, consisting of a four-ten (4/10), nine-eighty (9/80) or substantially equivalent two-week work period.

#### **SECTION 22 CALLBACK**

Any Fire Battalion Chief (S) who has been "called back" to duty to perform services for the City shall receive minimum overtime compensation of two (2) hours pay at the rate of time and a half (1 ½).

#### **SECTION 23 COURT TIME**

Employees will be compensated at the rate of one and one-half (1 ½) times their regular hourly rate for actual time spent outside their duty shift standing-by or testifying in Court related to their official duties, provided that, with respect to required Court appearances, employees shall receive a minimum of four (4) hours compensation at their regular hourly rate of pay, including automatic earnings.

#### **SECTION 24 ON-CALL**

One employee in the classification of Fire Battalion Chief (D) (Day Shift) shall be assigned to serve in an on-call capacity during the hours that are not part of the regular work schedule of employees in that classification. The responsibility shall be rotated among all employees in that classification. The employee so assigned shall not receive any additional compensation for serving in an on-call status.

#### **SECTION 25 GRIEVANCE PROCEDURE**

A. PUPOSE: To provide regular public safety employees with an orderly procedure for processing a grievance. The current M.O.U. for the bargaining unit should be referenced as to specific language.

B. DEFINITION: A grievance is an allegation by an employee that the employee has been adversely affected by a violation, misinterpretation, or misapplication of the specific written provisions of a Memorandum of Understanding, the City's salary and fringe benefit resolutions, or the City's written personnel policies and procedures.

C. POLICY: Regular employees in the Fire and Fire Management and Police and Police Management Units shall use the hereinafter prescribed procedure for grievances arising out of the administration of ordinances or regulations dealing with personnel, salary, or other benefits, any alleged improper treatment of an employee, or any alleged violation of commonly accepted safety practices and procedures.

1. Representation - An employee may be represented at all stages of the grievance procedure by himself/ herself or, at his/her option, by a representative.

In this grievance procedure, any reference to grievant means grievant, his/her representative, and/or a bargaining unit.

2. Time Limits - The time limits herein are maximum time limits; however, time limits may be extended by mutual agreement.

- a. In the event the grievant fails to meet a time limit, such failure shall constitute a waiver of the grievance.

- b. In the event the City fails to meet a time limit, such failure shall allow the grievant to proceed to the next level of the grievance procedure.

3. Arbitration Costs and Selection - The cost of the hearing officer/arbitrator shall be borne equally by the City and the Association. If the parties are unable to agree upon a hearing officer or arbitrator, hearing officers and arbitrators shall be selected from a panel submitted by the California State Conciliation Service; each party shall alternately strike names until there is one remaining. If the Association is neither the grievant or the grievant's representative, the cost of the hearing officer/arbitrator shall be borne equally by the City and the grievant.

D. PROCEDURE:

**Responsibility**

**Action**

Department, Grievant

1. Informal Step: As a general policy, attempts shall be made to ascertain all facts and adjust all grievances on

an informal basis between the grievant and a supervisor in the chain of command up to and including the Division Head.

Presentation of this grievance shall be made within ten (10) working days from the date the grievant knew or should have known of the act or occurrence giving rise to the grievance.

Grievant

2. Step One: If the grievance is not adjusted to the satisfaction of the grievant within five (5) working days after presentation of the grievance, the grievant may submit the grievance in writing to the department head within the next ten (10) working days.

Department Head

3. Meets with the grievant within five (5) working days of receipt of the written grievance and communicates a decision to the grievant within five (5) working days after the meeting.

Grievant

4. Step Two: If the grievant is not satisfied with the decision of the department head, the grievant may, within ten (10) working days after receipt of the department head's decision, submit in writing the grievance and request for a hearing to the Assistant City Manager for review.

Hearing Officer

5. Hears case and makes recommendation according to the type of grievance.  
a. Non-disciplinary grievances: Heard by a hearing officer who shall make advisory recommendations to the City

Manager. The City Manager's decision shall be final.

- b. Disciplinary grievances for regular employees who are suspended for ten (10) days or more [three (3) shifts or more for Fire Department personnel assigned to work more than forty (40) hours per week], are demoted in rank, or are terminated. Appeals to a hearing officer whose decision is final. Either party may seek review of the hearing officer's decision pursuant to Code of Civil Procedure Section 1094.5.
- c. Other disciplinary grievances for employees who receive discipline other than that which is indicated in b. The matter may be appealed to binding grievance arbitration. The arbitrator's decision and award shall be final and binding on the parties and may be reviewed only pursuant to Code of Civil Procedure Section 1285 et seq.

## **SECTION 26 DUTY STATION ASSIGNMENTS**

All employees in the classification of Fire Battalion Chief (D) (Day shift) shall serve in that capacity at the discretion of the Fire Chief. Those employees serving at the discretion of the Fire Chief may be assigned by the Fire Chief to serve in the classification of Fire Battalion Chief (S) (Suppression) without the necessity of establishing good cause and without any right to appeal.

## **SECTION 27 BEREAVEMENT LEAVE**

In addition to bereavement leave specified in the Human Resources Policy and Procedure Manual, one (1) day of paid bereavement leave shall be allowed for purposes of attending the funeral in the event of the death of an uncle or aunt.

## **SECTION 28 TRAINING**

Any scheduled drills which as scheduled would occur during a Stage "one" Smog Alert (0.50 ppm) or at a time when the temperature exceeds one-hundred degrees (100°F), shall not be held then and may be rescheduled at some other time.

## **SECTION 29 ABANDONMENT OF POSITION**

The City's disciplinary policy shall be modified to provide that absence without authorized leave for two consecutive working shifts creates a rebuttable presumption that the employee has voluntarily abandoned his/her position. This presumption may be rebutted by the presentation to the Fire Chief of a satisfactory explanation for the absence. Absent an explanation that satisfies the Fire Chief, the abandonment may be grounds for disciplinary action, subject to the established right of employees to appeal any such discipline.

## **SECTION 30 SALARY AND BENEFIT RELATIONSHIP WITH THE FIRE UNIT**

The following language is carried forward from the 1989 Memorandum of Understanding between the parties: "The City and Fire Management Unit agree that in subsequent years, salary and fringe benefit increases for Fire Battalion Chiefs will be at least equal to those received by the Fire Unit, if any. If classifications which are represented by the Fire Unit should, through the meet and confer process, receive a reduction of salary and/or fringe benefits, it will be presumed that a corresponding reduction also applies to the classifications which are represented by the Fire Management Group. However, the City agrees that prior to implementing such reduction in salary and/or fringe benefits, it will meet with representatives of the Fire Management Group to discuss such reductions. It is understood and agreed that if, following discussions between the City and Fire Management, it is agreed not to implement such salary and/or benefit reductions, that a subsequent restoration of such salary or benefits to the classifications which are represented by the Fire Unit will not trigger a corresponding increase in salary and benefits for the classifications which are represented by the Fire Management Unit."

**SECTION 31**  
**ESTABLISHMENT OF RETIREE MEDICAL TRUST FUND**

- A. Except as provided in subparagraph B below, the City shall contribute each month toward the retiree medical trust fund established by the Riverside City Firefighter's Association an amount equal to one-hundred dollars (\$100) for every employee in this unit of representation who is in a paid status.
- B. During the term of this Agreement only, all Fire Management Unit employees on paid status shall pay their own monthly contribution of one hundred dollars (\$100) toward the retiree medical trust fund through payroll deduction.
- C. The trust shall provide post-retirement medical benefits only to individuals who have retired under any of the following conditions:
  - 1. A service retirement with twenty (20) or more years of service with the City of Riverside.
  - 2. An industrial disability retirement with the City of Riverside.
  - 3. A non-industrial disability retirement after fifteen (15) or more years of service with the City of Riverside.
- D. Should the City request to audit of the books and records of the trust, the city shall provide the Group with a copy of the audit.
- E. Upon retirement of an employee in this Group of representation, the City shall make pre-tax (to the extent permitted by the Internal Revenue Service) contributions to the Inland Empire Fire Fighters Benefit Trust (or such other Trust as the RFMG may designate from time to time) in the amount equal to seventy-five percent (75%) of the value of the sick leave payout entitled the employee pursuant to Section 16C of this Memorandum of Understanding (MOU) based upon the employee's rate of pay immediately preceding retirement. The remaining twenty-five percent (25%) of the sick leave payout entitlement shall continue to be paid in cash to the employee upon retirement. These contributions shall only be used to pay retiree health insurance premiums or health services expenses, in accordance with the terms of the Trust. The employee shall not have the option to receive a cash contribution for the value of the sick leave benefits contributed to the Trust fund in lieu of making those contributions.

The City's obligation to provide pre-tax deposits would remain subject to Internal Revenue Service rules as they may be revised in the future. Should the Internal Revenue Service later determine that these contributions are no longer permissible on a pre-tax basis, the parties shall meet and confer in good faith to pursue alternative approaches for providing comparable benefits. If the parties

are unable to reach an agreement, the retiree shall receive the entire sick leave payout ion cash pursuant to the provisions of Section 16C of the MOU.

The parties understand that this amendment shall in no way obligate the City to incur any additional costs or obligations beyond those already set forth in the MOU.

**SECTION 32  
FIRE COMPLAINT POLICY**

The Fire Complaint Policy is SOP #1.12 and is found in its entirety in Attachment A.

**SECTION 33  
REASONABLE SUSPICION DRUG TESTING POLICY**

The Reasonable Suspicion and Post-Accident Drug and Alcohol Testing Policy for Group members is SOP # 1.13 and is found in its entirety in Attachment B.

**SECTION 34  
UNIFORM MAINTENANCE ALLOWANCE**

Group members shall receive eighty-dollars (\$80.00) per month Uniform Maintenance Allowance. The uniform maintenance allowance shall not be intended to be used for any fire resistive clothing or safety equipment. The monthly allowance shall be increased by the percentage of any future salary increases afforded to the Group.

**SECTION 35  
BODY ART**

During the term of this Agreement, the Fire Department shall prepare a Policy addressing tattoos and other body art after meeting and conferring in good faith with authorized representatives of the Association. The Policy shall identify which tattoos and body art must be covered while the employee is on duty and the manner in which any covering shall occur, taking into account heat stress and other safety factors.

**SECTION 36  
RESIDENCY REQUIREMENT**

Notwithstanding temporary road closures and delays, the principle residence of department members represented by the Group shall be no more than thirty-five (35) road miles from the Riverside city limits. Newly appointed department members represented by the Group must meet this requirement within six (6) months of the date of their appointment. This presumes that a substantial portion of that distance will be

traveled at freeway speed.

**SECTION 37  
TERMS AND CONDITIONS**

The following wages, hours and other terms and conditions of employment of Fire Group Members are described and set forth in the following sections of the City of Riverside FRINGE BENEFITS AND SALARY RESOLUTION:

Vacation Accrual	Section 7, subsections a, d, f and h
Bereavement Leave	Section 9
Industrial Accident Leave	Section 10
Leave of Absence	Section 11
Military Leave of Absence	Section 13
Witness Appearance Compensation (Civilian)	Section 14
Jury Duty Compensation	Section 15
Automobile Allowance and Reimbursement for Expenses	Section 16
Retirement Benefits	Table 12

The contents of those provisions of the City of Riverside FRINGE BENEFITS AND SALARY RESOLUTION as they existed on August 25, 2006 are incorporated by reference herein and shall remain in full force and effect during the entire term of this agreement unless amended by mutual agreement of the parties.

**SECTION 38  
PROVISIONS OF LAW**

- A. It is understood and agreed that the specific provisions contained in this Agreement shall prevail over all prior written agreements and all contrary practices and procedures. Any amendments to this agreement shall require approval by City Council adoption.
  
- B. It is understood that existing ordinances, resolutions and written policies of the City cover matters pertaining to employer-employee relations including, but not limited to salaries, wages, benefits, hours and other terms and conditions of employment. Therefore, it is agreed that all such ordinances, resolutions and policies, including the Employer-Employee Relations Resolution are hereby incorporated herein by this reference and made a part hereof as though fully set forth and except as provided herein shall remain in full force and effect during the term hereof. The parties hereto agree that nothing in this MOU shall in any manner abridge, restrict or modify the rights and prerogatives of the City and its employees as set forth in Article I, Sections 4 and 5, and Article III Section 1 B of Resolution No. 15079, or its successor, if any.

- C. The City and the Group agree that for the term of this Agreement, each party waives its rights and each party agrees that the other party shall not be obligated to meet and confer with respect to any subject or matter pertaining to or covered by this Agreement except as expressly provided for in this Agreement and as to meeting and conferring over the renewal or continuation of this MOU at its expiration date in accordance with said Employer-Employee Relations Resolution.
- D. It is understood and agreed that this MOU is subject to all present and future applicable federal or state laws or regulations and the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. If any part of this Memorandum of Understanding is in conflict with such applicable provisions of federal or state laws, or otherwise held invalid or unenforceable by any tribunal or competent jurisdiction, such part of provisions shall be suspended and superseded by such applicable laws and regulations and the remainder of the MOU shall not be affected thereby and shall remain in full force and effect.

Upon ratification by the membership of the Group and by the City Council this Memorandum of Understanding shall be effective through June 30, 2014, and for the duration of any agreed upon extension.

MANAGEMENT REPRESENTATIVES  
CITY OF RIVERSIDE

RIVERSIDE FIRE MANAGEMENT  
GROUP

By Behlul Q. Sidiq

By Michael D. Espayza

By \_\_\_\_\_

By RL RL

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

DATED February 11, 2011

DATED \_\_\_\_\_

**APPROVED AS TO FORM**  
[Signature] 1/31/11  
City Attorney

Attest: [Signature]  
City Clerk

## ATTACHMENT A COMPLAINT POLICY

### PROCEDURE

- I. The Department recognizes the Firefighters' Procedural Bill of Rights and will provide rights and protections afforded to employees by this legislation.

#### A. DEFINITIONS

1. Complaint: Any allegation of poor service or misconduct made by a citizen or employee against a member(s) of the Department is a complaint.

- Complaints of misconduct: Must allege a violation of law, Riverside Fire Department Policy, Procedure or Order or City Policy or Procedure.
- Complaints lodged by citizens will be classified as citizen complaints.
- Complaints lodged by employees/supervisors will be classified as internal complaints.

2. Examples of complaints contemplated by this policy include, but are not limited to, the following:

Sexual Harassment/Discrimination  
Criminal Conduct  
Racial/ethnic slurs  
Poor service  
Discourtesy  
Improper Procedure  
Conduct Unbecoming (CUBO)

3. Each allegation in a complaint shall have one of the following FINDINGS:

**Unfounded:** The alleged act did not occur.

**Exonerated:** The alleged act occurred but was justified, legal and proper.

**Not Sustained:** The investigation produced insufficient information to prove or disprove the allegation.

**Sustained:** The Department member committed all or part of the alleged acts of misconduct or poor service.

**Misconduct Noted:** The Department member violated a section of the Department Policies, Rules or Procedures not originally alleged in the complaint.

Management & Administration

Title: Complaint Policy

SOP: 1.12

Effective: 12/00

Revised: 08/10

4. Inquiry: If, during the investigation, it is determined that a citizen is merely requesting clarification of a policy or procedure, that complaint, with the concurrence of the Operations Deputy Chief, may be considered an Inquiry. The Operations Deputy Chief, or his designee, shall be responsible for inquiry responses.

B. COMPLAINT RECEPTION AND ROUTING

1. Non-supervisory employees shall immediately refer complaints to an on-duty supervisor (i.e., Fire Captain, Battalion Chief). Supervisors shall accept complaints in writing, in person, or by telephone or from anonymous persons. The purpose for this is to encourage citizens or employees to bring forward legitimate grievances regarding poor service or misconduct by Department members. Citizens and members of the Department will not be discouraged in any manner from making a complaint.
2. Supervisors shall immediately record complaints on a Complaint Control Form. Supervisors may resolve minor complaints with appropriate corrective action including non-disciplinary counseling and training. Supervisors shall report all complaints to the on-duty Battalion Chief as soon as possible. The Battalion Chief shall direct the supervisor to fill out a Complaint Control Form.
3. The supervisor accepting a complaint in person shall give a copy of the Complaint Control Form to the complainant. The original shall be forwarded to the Operations Deputy Chief via the Battalion Chief on duty. In the case of a complaint of serious misconduct of a criminal nature, the Operations Deputy Chief or the Fire Chief shall be notified immediately by the on-duty Battalion Chief.
4. Upon receipt of the Complaint Control Form, the Operations Deputy Chief will notify the complainant in writing that the complaint has been received and that an investigation has been initiated (or other appropriate corrective action has been taken). A copy of the Complaint Control Form will also be mailed to the complainant if it has not already been provided to him or her by the accepting supervisor.
5. The Operations Deputy Chief will be responsible for assignment of the complaint for investigation. The Operations Deputy Chief shall retain the original Complaint Control Form for tracking purposes. A copy of the Complaint Control Form will be forwarded to the investigator assigned to investigate the complaint. A copy of the Complaint Control Form shall be given to the Department member(s) against whom the complaint was lodged. This should be done within a reasonable and appropriate time, as determined by the Operations Deputy Chief. The Complaint Control Form shall be furnished to the subject employee prior to interview by the investigator(s).

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Title: Complaint Policy

SOP: 1.12

Effective: 12/00

Revised: 08/10

6. The investigator(s) may be chosen from the Arson Investigation Unit due to their specialized training in investigations. In complaints against arson investigators, the Fire Chief shall assign the investigator.
  
7. The Operations Deputy Chief shall be responsible for notifying the complainant in writing by registered mail within thirty (30) days of the disposition of the complaint. Additionally, the Operations Deputy Chief or assigned investigator will notify, in writing, the Department member(s) against whom the complaint was lodged and the member's supervising officer of the disposition of the complaint.

The letter sent to the complainant will only include the following information:

- Finding(s) of the investigation. A definition of the finding will be provided.
- Definitions are listed in section A3 above.
- Name of the investigator who investigated the complaint.

If an allegation resulted in a finding of "Sustained", the letter will state that "appropriate corrective/disciplinary action will be taken against the involved Department member". The name of the involved Department member(s) and the specific action to be taken will not be included in the letter.

### C. COMPLAINT INVESTIGATION

1. The supervisor accepting the complaint shall be responsible for accurately and fully completing the Complaint Control Form. The supervisor shall obtain preliminary statements from the complainant and any immediately available witnesses. Additionally, the supervisor shall collect and preserve any physical evidence that is readily available or may be time or weather sensitive.
  
2. In the case of complaints of a minor nature (non-disciplinary), the Battalion Chief shall have the discretion of assigning a complaint to the Captain level for investigation or appropriate corrective action (i.e., training, non-disciplinary counseling, etc.)
  
3. Allegations that a Department member violated a criminal law (felony or misdemeanor) shall be investigated by the Riverside Police Department or the appropriate outside law enforcement agency. The internal administrative investigation will be conducted concurrent with or after the completion of the criminal investigation, at the discretion of the Fire Chief or his/her designee. Supervisors becoming aware of a criminal investigation involving a Department member who may be suspected of committing a misdemeanor or felony crime shall

immediately complete a Complaint Control Form and route it to the Operations Deputy Chief through the on-duty Battalion Chief.

4. RIGHTS OF SUBJECT OF INVESTIGATION:

If it is determined in the course of an investigation that an employee could be subject to punitive action, prior to obtaining a statement from the employee, the employee will be informed of the nature of the investigation and given an "Admonition Form" explaining his/her rights as an investigation subject. The Arson Investigator Admonition Form is attached to this Policy as Appendix A. The Fire Unit/Fire Management Admonition of Rights form is attached to this Policy as Appendix B. Also attached is a progressive discipline overview as Appendix C.

D. COMPLAINT INVESTIGATION REVIEW AND APPROVAL

1. Completed complaint investigations will be routed through the chain of command to the Operations Deputy Chief, who shall review the completed investigation and provide a written statement of concurrence or disagreement with the conclusions and findings of the investigator.
2. Verbal or written disclosure of any information concerning the conclusions and findings of a complaint investigation to the involved Department member shall be made by the Fire Chief or the Operations Deputy Chief. Assigned investigators shall only discuss with or disclose to the Fire Chief or the Operations Deputy Chief their preliminary conclusions or findings.
3. Once the completed investigation is approved by the Operations Deputy Chief, he or she, or his or her designee, shall review the investigation with the involved Department member(s). The Department member will read and sign a copy of the investigation. Department members will be provided with a copy of the investigation if it is used as a basis for disciplinary action.

E. COMPLAINT INVESTIGATION FILES

1. The Operations Deputy Chief will be responsible for maintaining a comprehensive file of all complaints and investigations.
2. For Departmental purposes, complaint files will be stored under the following categories:
  - a. Complaints Directed at Individual Conduct  
Citizens' complaints including allegations of use of racial/ethnic slurs, serious discourtesy, excessive force, or false arrest.
  - b. Complaints Directed at Group Conduct  
Citizens' complaints alleging poor service or procedural violations by a group of employees.
  - c. Internal Complaints

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Employee/supervisor complaints of misconduct.

3. Complaint files related to the conduct of arson investigators shall be maintained for a period of five years. After five years they will be destroyed. All other complaint files will be maintained for a period of two years. After two years they will be destroyed. Files may be retained longer if the subject matter of the file is the subject of pending litigation.
4. Complaint files will not be stored in the employee's personnel files. Only disciplinary documents which result in sustained findings of misconduct shall be stored in the employee's personnel file.

F. REBUTTAL TO INVESTIGATION

If a Department member who is the subject of an investigation disagrees with the content or findings of the investigation, he/she may submit a written rebuttal within thirty (30) days. The Operations Deputy Chief shall review the rebuttal and, if appropriate, order the matter to be reopened for additional investigation. The rebuttal will be filed with the completed investigation.

G. PITCHESS MOTIONS

This section only applies to complaints involving arson investigators.

1. A Pitchess Motion is a motion for discovery of peace officer personnel records where the defense counsel is attempting to establish a custom, habit or practice of excessive force, untruthfulness or false arrest against a peace officer.
2. If a Pitchess Motion is received by the Department, the City Attorney's Office will be contacted immediately for advice and response.

**DEFINITIONS:**

None

Management & Administration  
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Revised: 08/10

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**APPENDIX "A"**

RIVERSIDE FIRE DEPARTMENT  
PEACE OFFICER ADMONITION OF RIGHTS (FOR ARSON INVESTIGATORS ONLY)

An investigation is being conducted on:

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Location: \_\_\_\_\_  
Present: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In reference to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Wherein the nature of the investigation focuses on:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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As a peace officer under Section 830.37 of the Penal Code and a firefighter under Section 3251 of the Government Code, you have the following rights:

1. You have the right to have any interrogation conducted at a reasonable hour, with a representative of your own choosing present. Preferably, the interrogation will take place at a time when you are on duty, or during your normal waking hours, unless the seriousness of the investigation requires otherwise.
2. You have the right to be compensated for time spent in interrogations that are conducted in your off duty time at the normal rate for the Department. You shall not be released from employment for any work you missed.
3. You have the right to be informed of the name, rank and command of the officer in charge of an interrogation, the interrogating officer(s), and all persons to be present during the interrogation, in advance of the interrogation.
4. You have the right to have all questions directed to you through no more than two interrogators at one time.
5. You have the right to have the interrogation session limited to a reasonable period, taking into consideration the gravity and complexity of the issue being investigated.
6. You have the right, during interrogations, to be allowed to attend to your own personal physical necessities.
7. You have the right not to be subjected to offensive language or threatened with punitive action. An employee refusing to respond to questions or submit to interrogation shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promises of reward shall be made as an inducement to answering any questions.

No statement which you make during interrogation under duress, coercion, or threat of punitive action shall be admissible in any subsequent civil proceeding. This protection is subject to the following qualifications:

- a. This protection shall not limit the use of statements you make when the Riverside Fire Department is seeking civil sanctions against any public safety officer, including disciplinary action brought under Government Code Section 19572.
- b. This protection shall not prevent the admissibility of statements made by you under interrogation in any civil action, including administrative actions, which you or your exclusive representative initiate arising out of a disciplinary action.

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- c. This protection shall not prevent statements made by you under interrogation from being used to impeach your testimony after an in camera review to determine whether the statements serve to impeach your testimony.
  - d. This protection shall not otherwise prevent the admissibility of statements you make under interrogation after your death.
8. You have the right not to be subjected to visits by the press or news media without your express consent nor shall your home address or photograph be given to the press or news media by the Department without your express consent.
9. You shall have access to any tape recording(s) of any of your interrogations and you shall have the right to use your own tape recorder.
10. You have the right to a transcribed copy of any notes made by a stenographer, or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports, which are deemed to be confidential, may be entered in your personnel file.
11. You have the right to be informed of your constitutional rights if it is deemed that you may be charged with a criminal offense before the interrogation starts.
12. You have the right to have a representative present if formal charges have been made or if punitive action may be taken as a result of the interrogation.
13. You have the right not to be temporarily reassigned, to a location or duty assignment if a member of the Department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
14. You shall not be subjected to punitive action, or denied promotion, or be threatened with any such treatment due to your lawful exercise of any rights under any administrative grievance procedure.

The Fire Chief of the Riverside Fire Department shall not be precluded from ordering you to cooperate with any other agencies involved in criminal investigations. If you fail to comply with such an order, the Riverside Fire Department may officially charge you with insubordination.

No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by the Riverside Fire Department without providing you with an opportunity for administrative appeal.

15. You have the right not to have any comment, adverse to your interest, entered in your personnel file, or any other file used for any personnel purposes by the Department or City, without you having first read or signed the instrument containing the adverse comment indicating that you are aware of such comment. If you refuse to sign the document, it will be so noted and placed in your file.

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16. You have the right to refuse to inform the Department of information regarding items of property, income, assets, source of income, debts or personal or domestic expenditures and those of your family, except such information as required by State law or which is necessary for the Department to ascertain the desirability of assignment to a special unit in which there is a strong possibility that bribes or other inducements may be offered.
17. You have the right to have your locker, or other space for storage assigned to you, free of search except when you are present, or with your consent, or unless a valid search warrant has been obtained or when you have been notified that a search will be conducted.
18. You have the right to have thirty (30) calendar days within which to file a written response to any adverse comment entered in any personnel file and have it attached to, and accompany the adverse comment.
19. You have the right to refuse to submit to a polygraph examination. No disciplinary action, records, or testimony may be given to indicate that you refused the polygraph.

***I have read and received a copy of my rights under the PUBLIC SAFETY OFFICERS' PROCEDURAL BILL OF RIGHTS ACT (Government Code 3300, et seq.)***

\_\_\_\_\_  
Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Are you taking any medication that could cause you to be unable to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

Have you failed to take any prescribed medication that would assist you to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

Are you suffering from any mental or physical condition that could cause you to be unable to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

The California Supreme Court, in interpreting Government Code Sections 3303(e), 3303(g), and 3304(a) stated that an officer must be given Miranda Rights when it is apparent that he or she may be charged with a criminal offense.

**MIRANDA STATEMENT OF RIGHTS**

**SPECIFIC WARNING**

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.
4. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

**WAIVER**

5. DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?

RESPONSE: \_\_\_\_\_

6. HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?

RESPONSE: \_\_\_\_\_

*The foregoing was read and fully explained to:*

\_\_\_\_\_  
*Full name person questioned*

By:

\_\_\_\_\_  
*Signature of person giving advisement*

\_\_\_\_\_  
*Date*

*The above is true:*

\_\_\_\_\_  
*Signature of person questioned*

\_\_\_\_\_  
*Date*

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Effective: 12/00

Revised: 08/10

Although you have a right to remain silent and not incriminate yourself, your silence can be deemed insubordination and result in administrative discipline up to and including termination.

Any statement that you make under compulsion of the threat of such discipline cannot be used against you in a later criminal proceeding.

Although nothing which you say pursuant to the direct order of the Department may be used against you in any future criminal proceedings, the Department is legally obligated to provide a copy of the compelled statement upon the demand of any Federal or State prosecutorial agency which may be investigating your conduct. However, you have the right to challenge the prosecutorial agency and the charges by requesting a hearing and requiring that the prosecutor prove that all evidence was obtained independently and not as a result of your compelled statement.

I am hereby ordering you to answer truthfully and completely questions relating to this interview or investigation.

You have the right to have a representative present while being interviewed.

Do you wish to have a representative present with you?

Response: \_\_\_\_\_

Name of representative present: \_\_\_\_\_

***The foregoing was read and fully explained to:***

\_\_\_\_\_

*Full name person questioned*

By:

\_\_\_\_\_

*Signature of person giving advisement*

\_\_\_\_\_

*Date*

*The above is true:*

\_\_\_\_\_

*Signature of person questioned*

\_\_\_\_\_

*Date*

**APPENDIX "B"**

RIVERSIDE FIRE DEPARTMENT

EMPLOYEE (FIRE UNIT/FIRE MANAGEMENT UNIT) ADMONITION OF RIGHTS

An investigation is being conducted on:

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

Time: \_\_\_\_\_

Location: \_\_\_\_\_

Present: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In reference to: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Wherein the nature of the investigation focuses on:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Management & Administration

Title: Complaint Policy

SOP: 1.12

Effective: 12/00

Revised: 08/10

You have the following rights pursuant to the Firefighters' Procedural Bill of Rights Act:

1. You have the right to have any interrogation conducted at a reasonable hour, with a representative of your own choosing present. Preferably, the interrogation will take place at a time when you are on duty, or during your normal waking hours, unless the seriousness of the investigation requires otherwise.
2. You have the right to be compensated for time spent in interrogations that are conducted in your off duty time at the normal rate for the Department. You shall not be released from employment for any work you missed.
3. You have the right to be informed of the name, rank and command of the officer in charge of an interrogation, the interrogating officer(s), and all persons to be present during the interrogation, in advance of the interrogation.
4. You have the right to have all questions directed to you through no more than two interrogators at one time.
5. You have the right to have the interrogation session limited to a reasonable period, taking into consideration the gravity and complexity of the issue being investigated.
6. You have the right, during interrogations, to be allowed to attend to your own personal physical necessities.
7. You have the right not to be subjected to offensive language or threatened with punitive action. An employee refusing to respond to questions or submit to interrogation shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promises of reward shall be made as an inducement to answering any questions.
8. You have the right not to be subjected to visits by the press or news media without your express consent nor shall your home address or photograph be given to the press or news media by the Department without your express consent.
9. You shall have access to any tape recording(s) of any of your interrogations and you shall have the right to use your own tape recorder.
10. You have the right to a transcribed copy of any notes made by a stenographer, or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports, which are deemed to be confidential, may be entered in your personnel file.
11. You have the right to be informed of your constitutional rights if it is deemed that you may be charged with a criminal offense before the interrogation starts.

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SOP: 1.12

Effective: 12/00

Revised: 08/10

12. You have the right to have a representative present if formal charges have been made or if punitive action may be taken as a result of the interrogation.
13. You have the right not to be temporarily reassigned, to a location or duty assignment if a member of the Department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
14. You shall not be subjected to punitive action, or denied promotion, or be threatened with any such treatment due to your lawful exercise of any rights under any administrative grievance procedure.

The Fire Chief of the Riverside Fire Department shall not be precluded from ordering you to cooperate with any other agencies involved in criminal investigations. If you fail to comply with such an order, the Riverside Fire Department may officially charge you with insubordination.

No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by the Riverside Fire Department without providing you with an opportunity for administrative appeal.

15. You have the right not to have any comment, adverse to your interest, entered in your personnel file, or any other file used for any personnel purposes by the Department or City, without you having first read or signed the instrument containing the adverse comment indicating that you are aware of such comment. If you refuse to sign the document, it will be so noted and placed in your file.
16. You have the right to refuse to inform the Department of information regarding items of property, income, assts, source of income, debts or personal or domestic expenditures and those of your family, except such information as required by State law or which is necessary for the Department to ascertain the desirability of assignment to a special unit in which there is a strong possibility that bribes or other inducements may be offered.
17. You have the right to have your locker, or other space for storage assigned to you, free of search except when you are present, or with your consent, or unless a valid search warrant has been obtained or when you have been notified that a search will be conducted.
18. You have the right to have thirty (30) calendar days within which to file a written response to any adverse comment entered in any personnel file and have it attached to, and accompany the adverse comment.
19. You have the right to refuse to submit to a polygraph examination. No disciplinary action, records, or testimony may be given to indicate that you refused the polygraph.

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Effective: 12/00

Revised: 08/10

*I have read and received a copy of my rights:*

\_\_\_\_\_  
Employee (Fire Unit/Fire Management Unit)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Are you taking any medication that could cause you to be unable to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

Have you failed to take any prescribed medication that would assist you to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

Are you suffering from any mental or physical condition that could cause you to be unable to understand and respond truthfully and fully to the questions that will be asked of you?

Response: No \_\_\_\_\_ Yes \_\_\_\_\_

The California Supreme Court, in interpreting Government Code Sections 3303(e), 3303(g), and 3304(a) stated that an officer must be given Miranda Rights when it is apparent that he or she may be charged with a criminal offense.

**MIRANDA STATEMENT OF RIGHTS**

**SPECIFIC WARNING**

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.
4. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

**WAIVER**

5. DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?

RESPONSE: \_\_\_\_\_

6. HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?

RESPONSE: \_\_\_\_\_

*The foregoing was read and fully explained to:*

\_\_\_\_\_  
*Full name person questioned*

By:

\_\_\_\_\_  
*Signature of person giving advisement*

\_\_\_\_\_  
*Date*

*The above is true:*

\_\_\_\_\_  
*Signature of person questioned*

\_\_\_\_\_  
*Date*

Management & Administration

Title: Complaint Policy

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Effective: 12/00

Revised: 08/10

Although you have a right to remain silent and not incriminate yourself, your silence can be deemed insubordination and result in administrative discipline up to and including termination.

Any statement that you make under compulsion of the threat of such discipline cannot be used against you in a later criminal proceeding.

Although nothing which you say pursuant to the direct order of the Department may be used against you in any future criminal proceedings, the Department is legally obligated to provide a copy of the compelled statement upon the demand of any Federal or State prosecutorial agency which may be investigating your conduct. However, you have the right to challenge the prosecutorial agency and the charges by requesting a hearing and requiring that the prosecutor prove that all evidence was obtained independently and not as a result of your compelled statement.

I am hereby ordering you to answer truthfully and completely questions relating to this interview or investigation.

You have the right to have a representative present while being interviewed.

Do you wish to have a representative present with you?

Response: \_\_\_\_\_

Name of representative present: \_\_\_\_\_

***The foregoing was read and fully explained to:***

\_\_\_\_\_

*Full name person questioned*

By:

\_\_\_\_\_

*Signature of person giving advisement*

\_\_\_\_\_

*Date*

*The above is true:*

\_\_\_\_\_

*Signature of person questioned*

\_\_\_\_\_

*Date*

**APPENDIX "C"**

OVERVIEW – FIRE UNIT/FIRE MANAGEMENT

ACTION TAKEN	LOWEST LEVEL	GRIEVANCE RIGHTS	DOCUMENTATION	PRE-DISC. NOTICE
INFORMAL COUNSELING	Captain	N/A	N/A	No
DOCUMENTATION OF COUNSELING MEMO	Captain	Rebuttable	Division File One Year	No
PERFORMANCE CONTRACT MEMO	Captain	No	Division File One Year	No
WRITTEN ADMONISHMENT	Captain	Rebuttable	Division File One Year	No
EMERGENCY SUSPENSION WITH PAY	Battalion Chief	No	Personnel File	No
ADMINISTRATIVE LEAVE WITH PAY	Fire Chief's Office	No	Personnel File	No
WRITTEN REPRIMAND	Captain	Yes	Personnel File	No
PAY REDUCTION	Fire Chief's Office	Yes	Personnel File	Yes
SUSPENSION WITHOUT PAY	Fire Chief's Office	Yes	Personnel File	Yes
DEMOTION	Fire Chief's Office	Yes	Personnel File	Yes
TERMINATION	Fire Chief's Office	Yes	Personnel File	Yes

## ATTACHMENT B

Effective Date: July 28, 2006

**SUBJECT:**        **REASONABLE SUSPICION AND POST-ACCIDENT DRUG AND ALCOHOL TESTING POLICY FOR MEMBERS OF THE RIVERSIDE FIRE MANAGEMENT GROUP**

**PURPOSE:**

To establish a policy that provides a procedure for reasonable suspicion and post-accident drug and alcohol testing for members of the Riverside Fire Management Group.

**GENERAL BACKGROUND:**

The City of Riverside ("the City") recognizes that its employees are its most important resource. The City also has a "zero tolerance" approach to employee use and misuse of drugs/alcohol related to the performance of required duties. A policy for reasonable suspicion and post-accident drug and alcohol testing for all affected City employees is intended to accomplish the following objectives:

1. To provide a safe working environment for City employees;
2. To protect the safety of persons and property;
3. To provide the highest quality of public service;
4. To promote efficiency and productivity;
5. To avoid adverse effects on employee health and well-being, as well as to minimize the City's related health costs;
6. To prevent loss of public confidence in City employees and damage to the City's reputation;
7. To prevent drug-related theft and other employee misconduct;
8. To encourage employees to seek voluntary assistance to deal with alcohol and/or drug use; and,
9. To comply with the Drug Free Workplace Act of 1988 (41 U.S.C. 702-706) and the City's Drug-Free Workplace Policy (Personnel Policy and Procedure Manual, III-5).

## **DEFINITIONS:**

Drug abuse is defined as:

1. The excessive use or intentional misuse of lawfully obtained prescription drugs or over-the-counter drugs when such use impairs job performance, alters behavior, and/or creates a risk to the health and/or safety of the employee or others; and/or,
2. The intentional use of illegal drugs or controlled prescription drugs obtained unlawfully.

Alcohol use considered in violation of this policy is defined as:

1. Using or possessing alcohol on the job.
2. Consuming alcohol within 4 hours of reporting for regular assignment, and overtime assignment, or while on call to provide public service, in any capacity, as a City employee.
3. Having a blood-alcohol concentration of 0.02 or greater while at work.
4. Allowing alcohol to impair job performance or create a safety risk.

## **POLICY:**

The consumption of alcohol is prohibited during a work-shift (including breaks and/or meals), during an overtime assignment, while on call, or within four hours of a scheduled shift or of being on call. The use of illegal drugs or the excessive use or intentional misuse of lawfully obtained prescription drugs is prohibited at any time.

Employees shall be tested for drugs and/or alcohol under the following conditions:

1. When there is a reasonable cause/suspicion that an employee may be impaired by the use of drugs or alcohol;
2. If an employee is involved in a traffic accident in the performance of his/her duties resulting in death or serious bodily injury;
3. Upon an employee's return to duty after testing positive for drugs and/or alcohol;
4. Follow-up testing after it has been determined that an employee has tested positive for alcohol or drug use.

If a test shows that the employee is under the influence of drugs or alcohol, the employee may, at the City's sole discretion, be eligible for treatment or rehabilitation. A positive test result for either drugs or alcohol will result in disciplinary action, up to and including termination. Pre-employment drug tests are subject to the Personnel Policy and Procedure Drug Test Policy, III-7.

In addition, the following shall apply:

1. City management will evaluate the circumstances of a positive test to determine if the case merits the opportunity for rehabilitation in lieu of termination.
2. Employees who test positive for drugs and/or alcohol and who are given the opportunity for rehabilitation or who self-identify and seek rehabilitation prior to an incident that violates policy may use accrued sick leave, vacation, and other benefits while they are participating in rehabilitation programs prior to being released to return to work. Employees who have exhausted their sick leave or vacation accruals shall be eligible for a leave of absence without pay, based upon the City's Employee Assistance Program's treatment plan.
3. The City of Riverside is not responsible for the costs of medical treatment for employees who test positive for drugs and/or alcohol. Employees may use options provided under their medical coverage, if applicable.
4. At the City's discretion, an employee who tests positive for drugs and/or alcohol, may be offered a Last Chance Agreement that mandates compliance with a treatment plan and associated testing. Employees who are permitted to return to work and who subsequently test positive for drugs and alcohol shall be terminated from City employment.

All affected employees shall be given a copy of this policy.

All Supervisory Fire Department Personnel responsible for the implementation and enforcement of this Policy shall also comply with the requirements of SOP Number 405 (Personnel Complaint Policy).

**PROCEDURE:**

<b><u>Responsibility</u></b>	<b><u>Action</u></b>
Human Resources	<ol style="list-style-type: none"><li>1. Provides notice to employees of reasonable suspicion and post-accident drug and alcohol testing policy.</li><li>2. Provides informational programs on the risks associated with drug and alcohol abuse.</li><li>3. Provides drug and alcohol counseling and rehabilitation programs through employee assistance program.</li><li>4. Provides Reasonable Suspicion Training opportunities to all supervisory and management employees.</li></ol>

Department/Division

5. Ensures that every supervisor and manager takes training in Reasonable Suspicion for Drug and Alcohol Use no less than every two years.
6. Completes Reasonable Suspicion checklist on any employee whose demeanor or behavior leads to suspicion that he/she may be under the influence of drugs or alcohol.
7. Contacts the Human Resources Department Safety Division if the use of the Reasonable Suspicion checklist reinforces the belief that an employee may be under the influence of drugs or alcohol.

Human Resources

8. Safety Division facilitates immediate testing for drugs and/or alcohol.
9. Takes the lead role in an appropriate disciplinary action, up to and including termination. Disciplinary action may include mandated participation in a drug/alcohol abuse assistance or rehabilitation program approved by federal, state, or local health, law enforcement, or other appropriate agency.

Employee

10. Participates in drug/alcohol abuse assistance or rehabilitation programs, if required as a condition of continued employment, utilizing medical coverage and vacation/sick leave or other approved leave of absence.

Human Resources

11. Keeps Department/Division informed relative to the status of an employee's ability to return to work.
12. Monitors an employee's satisfactory completion of any mandated drug/alcohol assistance or rehabilitation program.

Attachments: Reasonable Suspicion and Post-Accident Drug and Alcohol Testing Information For Members of the Riverside City Firefighters' Association

**REASONABLE SUSPICION AND POST-ACCIDENT  
DRUG AND ALCOHOL TESTING INFORMATION FOR  
MEMBERS OF THE RIVERSIDE FIRE MANAGEMENT GROUP**

The requirements and information should be fully understood by all affected City employees. Questions should be referred to the Human Resources Department, (951) 826-5508, City of Riverside, 3780 Market Street, Riverside, CA 92501.

Adopted: July 28, 2006

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## **DRUG AND ALCOHOL POLICY**

The City of Riverside has a vital interest in providing its employees with safe and healthful working conditions and in providing its citizens and visitors with high-quality municipal services that are effective, safe, and efficient. To this end, it is critical that the City strive to guarantee a workforce free of any substance or alcohol abuse. The City will not tolerate any drug or alcohol use which may affect the job performance or pose a hazard to the safety and welfare of the employee, the public, or other employees of the City. Off-duty illegal drug use, which affects the employee's job performance, or jeopardizes workplace and public safety is, under City policy, proper cause for disciplinary action up to and including dismissal.

Employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs. Employees who abuse alcohol and drugs are a danger to themselves, to other employees, and to the public. In addition, drug and alcohol abuse inflicts a terrible toll on the nation's productive resources and the health and well-being of American workers and their families. Alcohol, for instance, is a depressant which can impair judgment, reaction times, and reflexes. Though a legal drug, the possession and use on the job is prohibited and off-hours use is prohibited within 4 hours of reporting for regular assignment, an overtime assignment, or while on call to provide public service, in any capacity as a public employee.

The City is committed to establishing and maintaining a safe and healthy work environment free from the influence of alcohol and drugs and to preserving public confidence in City employees and maintaining the reputation of the City. With this objective in mind, the City has established the following Drug and Alcohol Policy with regard to the use, possession, sale, manufacture, and distribution, of alcohol or drugs.

This policy is adopted pursuant to The Drug-Free Workplace Act of 1988, as enacted by the United States Congress, which requires the establishment of drug-free workplace policies, and the reporting of certain drug-related offenses to the appropriate federal agency.

## **RESPONSIBILITIES**

**Employees** shall receive, read, and sign for a copy of this Policy.

**Managers and Supervisors** will be held strictly accountable for the consistent application and enforcement of the Policy. Any Manager/Supervisor who knowingly disregards the requirements of this Policy, or who is found to deliberately misuse the Policy in regard to subordinates, shall be subject to discipline up to and including termination, in accordance with the City's disciplinary process.

## **DEFINITIONS USED IN THE POLICY**

The following definitions shall apply for drug and alcohol testing of individuals subject to Reasonable Suspicion or Post-Accident drug/alcohol testing.

**Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

**Breath Alcohol Technician (BAT)** - A trained individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.

**Drugs/Controlled Substances** - The drugs for which tests are required under this policy are amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).

**Employee** - Any employee of the City.

**5 Panel Drug Test** - Five categories of drugs established by the federal government which fall under "controlled substances." They are amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP).

**Medical Review Officer (MRO)** - A licensed physician certified to review and interpret all drug tests before they are reported to the Human Resource Director or designee.

**Premises** - Buildings, property, work areas, vehicles, parking lots and any place the employee happens to be during the course and scope of City employment.

**Prescription Drugs** - Any drug or medication prescribed by licensed physician for a medical condition.

**Refusal to Test** - Behaviors that constitute a refusal to submit to a drug and/or alcohol test include the following: refusal to comply with an administrative order to take the test; inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation; tampering with or attempting to adulterate the specimen or interfere with the collection procedure; not reporting to the collection site in the time allotted; leaving the scene of an accident without valid reason before the tests have been conducted; failure to sign DOT required testing forms for urine collection; refusal to remove outer garments or leave them outside the testing area; and, refusal to empty pockets. A refusal to test will be considered a positive test and an insubordinate action by the employee, subject to appropriate disciplinary action.

**Reasonable Cause/Suspicion** - The employer/supervisor believes that the actions, appearance, speech, body odors or conduct of an on-duty employee are indicative of the use of drugs, alcohol, or other controlled substances.

**Safety Sensitive Functions** - A work function that utilizes a commercial vehicle and requires the employee to have a commercial driver's license.

**Safety Sensitive Personnel** - Employees holding a Commercial Drivers' License and driving a commercial vehicle, on a full-time, part-time or intermittent basis.

## **WHO IS AFFECTED BY THIS POLICY?**

All employees of the City of Riverside are subject to the terms of this policy.

## **TRAINING**

Supervisors will receive training on reasonable suspicion (60 minutes total for signs and symptoms of drug use/misuse and for signs and symptoms of alcohol use/misuse). Refresher training will take place every two years. Training shall include the following:

Identification of the contact person, telephone number and office location for drug and alcohol related questions; the effects of drug and alcohol misuse on an individual's health, work, and personal life; the signs and symptoms of a drug and/or alcohol problem; the available methods of intervening when an alcohol problem is suspected.

## **TESTING**

The privacy of the employee will be protected, the integrity and validity of the test process will be maintained for each employee during the testing process. Records will be maintained in confidence, pursuant to federal and state law.

## **Drug Testing**

In accordance with City policy, an employee must receive authorization to work from their supervisor and the employee's doctor prior to taking any legal drug which may cause drowsiness or which may otherwise impair to any extent the employee's ability to safely and efficiently perform his/her job. The employee's doctor may authorize the employee to work while taking a legal drug with a signed authorization which states to the supervisor's satisfaction that the employee will not be impaired in the performance of his/her duties as identified by his/her job description.

The use and ingestion of illegal drugs is prohibited at all times. An employee may be tested for drugs anytime while on duty, subject to reasonable suspicion. Drug testing is a two-stage process. First, a screening test is performed. If it is positive for one or more drugs, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. The GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

All urine specimens are analyzed only for the following drugs:

- Marijuana (THC Metabolite)
- Cocaine
- Amphetamines
- Opiates (including heroin)
- Phencyclidine (PCP)

An employee who wishes to dispute the accuracy of a positive test may request that the untested portion of the split sample be analyzed at his/her own expense.

For information on the Specimen Testing Procedure, employees should refer to page 8.

### **Alcohol Testing**

An alcohol test may be conducted just before, during, or just after the work shift. The following acts are prohibited:

- Having an alcohol concentration of 0.02 or greater as indicated by an alcohol breath test.
- Using or possessing alcohol on the job.
- Consuming alcohol within 4 hours of reporting for regular assignment, an overtime assignment, or while on call to provide public service, in any capacity, as a City employee.
- Refusing to submit to an alcohol test.
- Using alcohol within eight (8) hours after an accident or until tested.

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first using evidential breath testing devices (EBT) required and approved by the Federal Highway Administration (FHA). Any result less than 0.02 alcohol concentration is considered a negative test. If the alcohol concentration is 0.02 or greater, a second or confirmation test is conducted.

For information on the Testing Procedure, individuals should refer to page 10.

### **Consent**

Before a drug and/or alcohol test is administered, employees will be requested to sign a consent form voluntarily submitting to the test. Appendix E.

### **Administrative Order**

If the request is denied, and no probable cause exists to seize blood or urine samples for criminal evidence, the employee will be administratively ordered to take the test by a supervisor. See Appendix F. If so ordered, the employee shall take the test in conformance with this Policy. The sample/test results may then only be utilized in an administrative action.

## **Refusal to Test**

Refusal to comply with an administrative order for drug/alcohol testing will be considered a positive test and an insubordinate action by the employee. An employee's failure to submit to drug and/or alcohol testing required by the City for any reason may result in disciplinary action, up to and including termination, according to City policy.

The following behaviors constitute a refusal to submit to a test: refusal to comply with an administrative order to take the test, inability to provide sufficient quantities of breath or urine without a valid medical explanation, tampering with or attempting to adulterate the specimen or interfere with the collection procedure, not reporting to the collection site in the time allotted, leaving the scene of an accident without a valid reason before the tests have been conducted, refusal to remove outer garments or leave them outside the testing area, and refusal to empty pockets.

Where there is a reasonable suspicion that the employee is then under the influence of alcohol or drugs, employee shall not return to work prior to completing all requirements for return-to-duty. The manager or supervisor shall arrange for the employee to be safely transported home after testing. An employee shall not be permitted to transport him/herself.

## **Reasonable Cause/Suspicion**

The possession, transportation, distribution, receipt, sale, purchase or arranging for the sale, purchase or distribution of alcohol, including medicines containing alcohol (prescription or over-the-counter), is prohibited while on duty, unless, with respect to medicine, the packaging seal is unbroken.

The use, sale, distribution and/or manufacture of controlled substances is against the law. The use of prescribed drugs is not in direct violation of the policy; however, the use or prescribed use that may cause significant impairment, thus creating a safety hazard on the job, is in direct violation of this policy.

Reasonable Cause/Suspicion means that the employer/supervisor believes that the actions, appearance, speech, body odors or conduct of an on-duty employee are indicative of the use of drugs, alcohol, or other controlled substances. Indicators of the use of drugs, alcohol, or other controlled substances are identified in Appendix C of this document, Reasonable Suspicion Checklist. The City shall require an employee to be tested, upon reasonable cause, for the use of drugs and/or alcohol.

The behavior/conduct of the employee must be witnessed by a supervisor who has received training consisting of at least 1 hour for alcohol and drug use/misuse recognition. The training includes identification of actions, appearance or conduct which are indicative of the use of drugs or alcohol. The supervisor must directly observe and document the behavior and is encouraged, when possible, to contact the Safety Manager, the Safety Officer, the Public Works Safety Officer, or the Public Utilities Safety Officer for additional observation and documentation of the suspect behavior. Reasonable cause/suspicion may not be based upon hearsay.

The documentation of the employee's behavior/conduct shall be prepared and signed by the supervisor utilizing the Reasonable Suspicion Checklist within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

Drug and/or alcohol testing may be performed only if the observations are based on observable behavior at the job site during, just before, or immediately after the work shift that the employee is required to be in compliance. An employee may be directed to undergo a reasonable cause/suspicion alcohol test just before, during, or just after the work shift.

If an alcohol test is not administered within two (2) hours following a reasonable cause/suspicion determination, the supervisor shall document the reasons for the delay. If not administered within eight (8) hours, the test shall not be conducted. The supervisor shall document the reasons.

An employee who has an alcohol concentration of 0.02 or greater must be removed from duty and must be referred to the EAP.

Once a reasonable cause/suspicion determination is made, it is the responsibility of the supervisor to assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine and/or breath sample.

Any employee tested for reasonable cause/suspicion will be denied all work-related motor vehicle driving privileges until test results are received. If test results are negative, the employee may resume regular work duties.

### **Post Accident**

A traffic accident is defined as an incident involving a motor vehicle which results in death or serious bodily injury and which occurs in the performance of his/her duties.

As soon as practicable after an accident, alcohol and drug tests shall be administered to every surviving employee who receives a moving citation or whose operation of the vehicle cannot be ruled out by the supervisor as a contributing factor.

The following will apply for all affected employees resulting from accidents, incidents or related occurrences:

1. Post accident drug and alcohol tests must be given as soon as practicable during the eight (8) hours following an accident/incident.
2. The employee must be readily available for the test or they will be deemed to have refused the test.
3. The alcohol test should be administered as soon as possible. If the test not administered within two (2) hours of the accident, then the Supervisor must prepare and maintain a record stating why they were unable to administer the test. If eight (8) hours have passed, the attempts should be discontinued. The Supervisor must prepare and maintain a record as to why they were unable to administer the test.
4. If a drug test is not administered within 32 hours following the accident, the test shall not be administered and the supervisor shall document the reasons.
5. Following an accident, the employee shall remain available for such testing, or may be deemed to have refused to submit to testing. This does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.
6. An employee subject to post-accident testing may not use alcohol within eight (8) hours following the accident or before an alcohol test, whichever comes first.

### **Return-to-Duty**

Employees who violate the City's policy and are accepted into Return-to-Duty and Follow-Up status must have a negative drug and/or alcohol test. Employees who return to duty are subject to follow-up testing.

### **Follow-up Testing**

1. All employees identified by the Employee Assistance Program (EAP) counselor as needing assistance will be subject to follow-up testing upon return-to-duty.
2. Employees will be subject to a minimum of six (6) unannounced tests over the following 12 months or as otherwise set forth in a Last Chance Agreement.

3. The EAP counselor can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the EAP counselor determines that the testing is no longer necessary and is supported by the employer.
4. Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drug when the EAP counselor has reason to suspect other drug or alcohol use during the follow-up period.

### **DISCIPLINE FOR WORK-RELATED PROBLEMS**

The City may impose disciplinary measures, up to and including termination, for policy violations and work-related problems, separate and apart from violations of the drug and alcohol policy even if such rule violations or work-related problems result from drug and alcohol abuse.

### **CONFIDENTIALITY**

Confidentiality is an essential element of this policy.

1. Any employee violating confidentiality shall be subject to discipline and may also be civilly or criminally liable.
2. The results of any testing shall be used for employment purposes only. The testing laboratory is only authorized to release test results to the MRO. The MRO and the BAT are only authorized to release test results to the Human Resources Director or designee.
3. All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Human Resources Director or designee. It shall be separate from the employee's other personnel records.
4. The employee may request and receive the results of his/her tests.
5. The City may disclose specific test results without the employee's consent only when:
  - a. All information is compelled by law or by judicial or administrative process;
  - b. The information has been placed at issue by the employee in a formal dispute between the employee and the City;
  - c. The information is necessary to administer an employee benefit plan; or,
  - d. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
6. Any positive test results determined by a second test to be negative shall be removed from the employee's file and destroyed.

## RECORD KEEPING

The Human Resources Director or designee will retain the records as follows:

RECORD	RETENTION PERIOD
Results of an employee's alcohol test which indicates an alcohol concentration level of .02 or higher	5 years
Result of an employee's drug test which is positive	5 years
Documentation of any employee who refused to submit to a required alcohol/drug test	5 years
Calibration documentation of evidentiary breath testing devices	5 years
Employee assessments and referrals by substance abuse professionals, as well as records of employee compliance with EAP recommendations, including results of return to duty and follow-up testing for drug use and alcohol misuse.	5 years
Records documenting the collection process for the alcohol and drug test and all drug and alcohol education and training records	2 years
Results of any alcohol test which is less than .02	2 years
Documentation of any negative or canceled drug test	2 years

## FOLLOW-UP FOR POSITIVE TESTING

### Employee Assistance Program (EAP) Services

The City supports an opportunity for treatment to be made available to affected employees. The City will provide for an EAP evaluation to assess employees with drug and/or alcohol misuse problems. The counselor will provide referrals for counseling, treatment programs, or other sources. Employees will be monitored for successful completion of counseling and treatment programs.

Each affected employee who violates this policy will be given the opportunity to be evaluated to determine whether the employee needs assistance resolving problems associated with drug and/or alcohol misuse, and, if necessary, a referral for further treatment. The City has no obligation to provide or pay for treatment. This is the responsibility of the employee.

Before returning to duty, each employee identified as needing assistance must: (1) be evaluated again by an EAP counselor to determine whether the employee has successfully complied with the treatment proscribed following the initial evaluation; (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and (3) be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following 12 months.

### **SUPERVISORY PROCEDURES FOR DOCUMENTING REASONABLE SUSPICION OF DRUG AND/OR ALCOHOL USE**

**BACKGROUND:** Reasonable cause/suspicion means that an employer/supervisor believes that the actions appearance, speech, body odors, or conduct of an on duty employee are indicative of the use of drugs, alcohol or other controlled substances. The City shall require an employee to be tested upon reasonable cause for the use of drugs or alcohol.

The supervisor must use the following process to validate the reasons for considering a drug and/or alcohol test. All observed behaviors must be documented on the Reasonable Suspicion checklist. In all cases of reasonable cause/suspicion, the Human Resources Director or designee must be contacted.

1. The supervisor should personally escort the employee to an office or other private area. Another supervisor should be present as a witness.
2. The supervisor should state the definition of reasonable suspicion to the employee and give the reasons the supervisor suspects drug and/or alcohol usage.
3. Using the Reasonable Suspicion Checklist, the supervisor will question the employee and document information and behavior. The supervisor will complete the form and following a conversation with the employee, makes a determination as to whether or not the employee appears to have used drugs and/or alcohol during, just before or after the work shift the employee is required to be in compliance. The supervisor shall comply with SOP Number 405 (Personnel Complaint Policy).
4. If the employee does not appear to be under the influence of drugs, including prescription drugs, and/or alcohol, the supervisor should release the employee to perform regular work duties.
5. If the supervisor believes that the employee is under the influence of drugs and/or alcohol, the supervisor notifies the Human Resources Director or designee, who will then refer the employee to the approved drug and alcohol testing site.
6. If the employee refuses drug and/or alcohol testing, the Human Resources Director or designee refers the employee to the Employee Assistance Program.
7. If the employee consents to drug and/or alcohol testing, the supervisor personally escorts the employee to the approved drug and alcohol testing site. Another supervisor should be present.
8. At the collection site, the employee meets with the Collection Site Technician who will conduct the testing process.
9. The supervisor remains at the collection site and after the collection process, transports the employee back to the work site.
10. If the alcohol test is below 0.02, the employee may return to work with no corrective action.
11. The supervisor notifies the employee that, until the drug test results are completed, the employee will be on leave with pay.
12. If it is believed that the employee is impaired, the supervisor makes arrangement to have the employee taken home. If the employee refuses assistance, a witness should verify that the employee refused assistance. If the employee cannot control his/her actions and leaves without assistance, the supervisor must call the Police Department immediately to inform them of the employee's condition and refusal for assistance. The Police Department needs to be provided with the employee's name and description of the vehicle including the license number.

## **SPECIMEN COLLECTION PROCEDURES**

### **Drug Testing**

1. The employee arrives at the collection site.
2. If the employee does not arrive at the assigned time for testing, the Human Resources Director or designee should be contacted for instructions.

3. The identity of the employee to be tested is verified by examining a photo identification or by verifying with the employer's representative. If the identity cannot be established, the process stops.
4. If the employee being tested requests it, the Collection Technician (CT) should present their identification as well.
5. Once the employee identification has been verified, the first portion of the chain of custody requisition should be completed.
6. The CT requests that the employee remove unnecessary outer garments, such as a coat or jacket, and relinquish any briefcase, purse, or similar item, along with the outer garments for safekeeping during the collection process. The employee may retain his or her wallet. If requested, a receipt for personal items will be provided.
7. The CT instructs the employee to wash and dry hands his or her hands. Once this is done, the employee must remain in the presence of the CT. He or she is not to be permitted access to a fountain, faucet, soap dispenser, cleansing agent, or other materials that could be used to adulterate the urine specimen.
8. The CT provides the employee with a specimen bottle and allows him/her to provide the specimen in the privacy of a stall or other partitioned and secured area.
9. If the employee refuses to provide a specimen or otherwise fails to cooperate with the process, the Human Resources Director or designee is notified and the refusal is documented on the custody and control form.
10. The CT will note any unusual behavior on the custody and control form. If the CT suspects tampering or substitution, the CT will consult with the test site supervisor before requesting a direct observation specimen collection.
11. Upon receiving the specimen, the CT will make certain that the sample contains at least 45 milliliters of urine.
12. In the case of post-accident or reasonable suspicion testing where the employee has difficulty providing an adequate sample, the CT will request that he or she consume reasonable quantities of fluids until he or she can provide a sufficient sample or, until 3 hours have passed from the beginning of the collection process. If the 3 hours have expired without an acceptable sample, the CT will request guidance from the Medical Review Officer (MRO).
13. If a second specimen is indicated, the CT makes certain a fresh container is used. The original inadequate specimen is discarded.
14. Once an adequate sample is provided, the CT allows the individual to wash his or her hands.
15. The CT tests the specimen for temperature within four (4) minutes of urination. The acceptable range is 32 degrees - 38 degrees C (90 - 100 F).
16. The CT inspects the sample for color and any sign of contamination or tampering. Any unusual signs are noted on the custody and control form. In the case where tampering is suspected, the collector will consult with a test site supervisor before collecting a second specimen under the direct observation of a testing site person.
17. The CT keeps the specimen in view at all times prior to sealing and labeling. The specimen also remains in view of the individual. In full view of the individual, the CT transfers the collected specimen to the primary and to split specimen containers.

18. The CT inspects the collection area to ensure that specimen adulteration did not occur. Any unusual findings will be noted on the chain of custody form. If adulteration of the specimen did occur, the CT will conduct an observed collection.
19. The date of collection is written on the peel-off labels located at the side of the requisition.
20. The CT peels off one label and places it on the lid of the collection container. The remaining label is placed on the lid of the split specimen container. The donor initials each label on the containers.
21. The CT removes the "laboratory original" copy of the chain of custody requisition and places it in the outside pocket of the chain of custody bag.
22. The individual initials the chain of custody bag in the appropriate locations to document that the correct specimen is being sent to the laboratory. The CT signs and dates the same seal.
23. The CT retains the "collector copy" of the chain of custody requisition and gives the "donor copy" to the individual. The "company copy" of the chain of custody requisition will be forwarded to the Human Resources Director or designee. The MRO copy will be sent to the Medical Review Officer.
24. The sealed chain of custody bag remains in control of the CT or in a secured area within the collection site until shipment to the laboratory.
25. When the test results are received by the MRO, a thorough review of documentation, test results, and circumstances will be made before making a decision regarding an individual. A final decision will be made and communicated to the individual within three days unless there are extenuating circumstances. In all cases where alcohol or drug involvement is confirmed, the employee will be referred to the EAP.
26. If the City receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), another specimen will be required immediately.

### **Alcohol Testing**

1. The employee arrives at the testing site.
2. If the employee does not arrive at the assigned time for testing, the Human Resources Director or designee should be contacted for instructions.
3. The ID of the employee to be tested is verified by examining a photo ID or employer's representative. If the ID cannot be established the process stops.
4. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present their ID.
5. Once the employee's ID has been established, Step 1 will be completed on the U.S. Department of Transportation (DOT) Breath Alcohol Testing Form.
6. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign the certificate, it is regarded as a refusal to take the test.
7. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Analyzer Test (EBT).
8. The BAT will open an individually sealed mouthpiece in view of the employee and attach it to the EBT according to instructions.
9. The employee will blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.

10. The BAT completes Step 3 of the DOT testing form.
11. If the test results are less than 0.020 on the screening test, a copy of the form will be provided to the employee. One will be forwarded to the employer and one will be retained by the BAT.
12. If the test results are greater than 0.020, a confirmation test will be conducted as follows:
  - a. The BAT will explain that a confirmation test will be conducted.
  - b. The employee must stay in the room observed for a 15-minute waiting period. During this time, they may not eat, drink or put any object or substance into their mouth.
  - c. The confirmation test will be conducted no less than 15 minutes after the screening test but within 30 minutes of the completion of the screening test.
  - d. The confirmation test will be completed according to Steps 1-11 of this procedure.
  - e. If the result of the confirmation test is different than the screening test, the confirmation test will be considered the accurate results.

### **Appeal**

Any positive result may be appealed by the employee as follows:

1. The employee must file a written request for retesting the sample (and/or comparison testing of the split sample or second sample) in dispute to the Fire Chief within 15 working days of the positive test notification or prior to any pre-disciplinary hearing (Skelly), whichever comes first.
2. The retest order must be accomplished within five (5) working days after the notice of appeal has been approved.
3. The employee and his or her representative or attorney must coordinate the retest through the laboratory at the employee's expense. If the employee wants the test to be conducted by another laboratory, that laboratory shall be certified for drug testing by the U.S. Department of Health and Human Services. In that case, a strict chain of custody procedure shall be agreed upon by both the Department and the employee. In addition, the laboratory shall provide simultaneous notification of the results to the employee and the Human Resources Director.
4. If the results of the retest are negative, the original sample will be considered negative. If the results are positive, there will be no further appeal as to retesting.

# Appendix A

## Cut Off Levels Information

### Initial Cut Off Levels

Marijuana Metabolites	50ng/ml
Cocaine Metabolites	300ng/ml
Opiate Metabolites	2000ng/ml
Phencyclidine	25ng/ml
Amphetamines	1000ng/ml

### Confirmatory Cut Off Levels

Marijuana Metabolites	15ng/ml
Cocaine Metabolites	150ng/ml
Opiates	
Morphine	2000ng/ml
Codeine	2000ng/ml
Phencyclidine	25ng/ml
Amphetamines	
Amphetamine	500ng/ml
Methamphetamine	500ng/ml

# Appendix B

City of Riverside

Collection Sites and Laboratory

**Collection Site:**

***For Employees Who Do Not Use Class A or Class B Licenses in the Course of City Employment (Fire Engineers are the only Class A or Class B Drivers who are sent to this collection site):***

Inland Empire Occupational Medicine  
3579 Arlington Avenue  
Riverside, California

**Laboratory:**

Pacific Toxicology Laboratories  
6160 Variel Avenue  
Woodland Hills, California 91367

# Appendix C

## Reasonable Suspicion Checklist

See following page.

# Appendix D

## Acknowledgment/Receipt Form

See following page.

**ACKNOWLEDGMENT/RECEIPT FORM**

I hereby acknowledge that I have received a copy of the City of Riverside's Drug and Alcohol Testing Policy for Members of the Riverside City Firefighters' Association.

I have read and understand the provisions outlined in the City of Riverside's Drug and Alcohol Testing Policy and agree to comply with all of the requirements contained therein. I understand that disciplinary action may be taken if I am found in violation of the policy.

\_\_\_\_\_  
Employee Name (Print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

# Appendix E

## Riverside Fire Department Consent to Drug Alcohol Testing

See following page.

**RIVERSIDE FIRE DEPARTMENT**

**CONSENT TO DRUG/ALCOHOL TESTING**

I have been requested to submit to a drug and/or alcohol test pursuant to SOP Number \_\_\_\_\_.

I understand that the sample will be submitted for forensic testing to determine any drug or alcohol content. I hereby release custody of the sample to be collected for Department use, and consent to the release of the test results to the Department in connection with its criminal and/or administrative investigations.

I understand that a portion of my sample will be preserved to allow for independent testing by the laboratory of my choice, at my own expense.

I have read and understand the contents of this admonishment and consent form, and

- consent to provide a blood or urine sample.
- consent to alcohol testing.
- refuse to provide a voluntary sample of blood or urine or to voluntarily submit to an alcohol test.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Employee

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Witness

# Appendix F

## Administrative Order to Submit to Drug/Alcohol Testing

See following page.

**RIVERSIDE FIRE DEPARTMENT**

**ADMINISTRATIVE ORDER TO SUBMIT TO DRUG/ALCOHOL TESTING**

Pursuant to SOP Number \_\_\_\_\_, you have been requested to voluntarily submit to a drug and/or alcohol test. It is our understanding that you have refused the request. Consequently, I am hereby issuing an administrative order for you to submit to a drug and/or alcohol test. Your refusal to submit may be deemed insubordination and result in administrative discipline up to and including termination. Since you are acting under compulsion of the threat of discipline, the test results may not be used against you in any subsequent criminal proceedings.

I understand that a portion of my sample will be preserved to allow for independent testing by the laboratory of my choice, at my own expense.

Do you understand this order?

Response \_\_\_\_\_

Are you now willing to comply with the order and submit to the test?

Response \_\_\_\_\_

***The foregoing was read and fully explained to:***

\_\_\_\_\_  
Full name of person questioned

By:

\_\_\_\_\_  
Signature of person giving advisement

\_\_\_\_\_  
Date

The above is true:

\_\_\_\_\_  
Signature of person admonished/questioned

\_\_\_\_\_  
Date