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CITY OF OAKLAND

TO: DEANNA J. SANTANA
City Administrator

FROM: Fred Blackwell
LaWanna Preston

SUBJECT: RAINBOW TEEN CENTER

DATE: March 6, 2012

City Administrator
Approval

Date

3/11/12

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL REPORT

The purpose of this supplemental report is to transmit to the full City Council responses to questions that were asked of by a City Councilmember. In addition, this supplemental transmits revisions and clarification regarding Council District 6 staffing, civil service hiring & labor represented employees, as well as a revised staffing structure to support the Rainbow Teen Center for the remainder of FY 2011-2012.

DISCUSSION

Below are the original questions received by staff from a City Councilmember and staff's responses to these questions:

Q) Provide the actual amounts of money that were paid to each of the individuals that are listed on the payroll for Council District 6, starting in FY 2009-10. Please show the amount in each fiscal year separately for each individual. Please include all 18 individuals listed as D6 staff, not just those working at the teen center.

Please see Attachment A.

Q) By how much have Council District 6 expenditures exceeded or fallen below the allocated budget for that district office starting in FY 2009-10 through present.

Please see Attachment B.

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Q) In the emails attached to the report, there is a request from CM Brooks to Larry Gallegos in March 2010 for a Grant Agreement for Pulte Homes. Was such a Grant Agreement ever prepared?

The Administration clarified with Larry Gallegos who confirmed that a Grant Agreement was never prepared. This was because it was originally thought that a façade improvement grant could be a potential source to pay for the improvements to the Rainbow Teen Center. However, because the Rainbow Teen Center is a City-owned facility, the façade grant would not be applicable given that the façade improvement grants are City-issued.

Council District 6 Staffing

Staff would like to correct information included in Table 3 on page 12 of the Administration's report dated February 24 on the Rainbow Teen Center. The first 16 employees on the list should be noted as City Council PSE 14 Part-Time (PT). It should be corrected that Karia Rush is a City Council PSE 14 Full Time (FT) (and we have learned is no longer with the City as of later January 2012) and Clara Garzon is a City Council PSE 51 FT.

Table 3: Corrected DHRM Listing of District 6 Staff

Name	Classification
Brian Bouldin	City Council PSE 14 PT
Patricia Brooks	City Council PSE 14 PT
Isaac Brown	City Council PSE 14 PT
Caleb Feldman	City Council PSE 14 PT
David Hudson II	City Council PSE 14 PT
Renard Hudson-Davis	City Council PSE 14 PT
Laurence Jackson	City Council PSE 14 PT
Bryan Matheson	City Council PSE 14 PT
Sallye Porter	City Council PSE 14 PT
Andrea President	City Council PSE 14 PT
Timothy Quick	City Council PSE 14 PT
Clayton Richardson	City Council PSE 14 PT
Emily Rogers	City Council PSE 14 PT
Barbara Taylor	City Council PSE 14 PT
David Unger	City Council PSE 14 PT
Tony Williams	City Council PSE 14 PT
Karia Rush	City Council PSE 14 FT
Clara Garzon	City Council PSE 51 FT

Source: DHRM

In addition, with respect to the Rainbow Teen Center Staff that was processed through the Office of Parks and Recreation, it has come to the Administration's attention that while Scott Marsh has passed the appropriate background checks, he has been working at the Teen Center without compensation by the City. Under Table 2 on Page 11 of the agenda report, it is noted that the paperwork for this individual would not be approved by the City Administrator unless for the purpose of issuing a final paycheck as a PSE 14. Upon further discussion with Vice Mayor Brooks, Assistant City Administrator Blackwell agreed to sign the requisition paperwork with a contingency that if the City Council approves staff's recommendation, that this individual is hired as a Provisional Recreation Specialist II permanent part time. Preparations to issue a final paycheck have been put in place.

Civil Service Hiring & Labor Represented Employees

The Rainbow Teen Center staffing model that is currently utilized is not consistent with other recreation site staffing. For instance, for every other Recreation Center site offering youth programs, there is at least one full time Recreation Program Director, Recreation Center Director or Recreation Supervisor responsible for overseeing the staff and operations of the facility's programs. These are Civil Service classifications represented by Service Employees International Union, Local 1021. *Civil Service Rule 3.01-Competitive Civil Service* requires all positions in the competitive civil service be appointed pursuant to civil service rules, (Attachment C).

The staffing structure currently used at the Rainbow Teen Center consists exclusively of temporary part time (PT) employees under the classification of City Council PSE 14. Additionally, the classification of Council PSE 14 is exempt from Civil Service and has been determined by staff as not an appropriate classification for the work being performed. Traditionally, the Office of Parks and Recreation has a mixture of full time employees, permanent part time employees and temporary part time employees. Temporary Part Time employees are exempt from Civil Service pursuant to *City Charter Chapter IX Section 902 (d)-The Competitive Service*, (Attachment D). It is a violation of *Civil Service Rule 3.03—Title of Position*, to appoint an employee to do the work of one classification while hiring the employee under the title of a different classification. Civil Service Rule 3.03 states "The class title of a position shall be used to designate such position in all budgets, payrolls, and other official records in connection with all personnel transactions. No employee shall be appointed, employed or paid under any title or position other than that to which he/she was appointed, except in cases of acting pay." (See Attachment C).

Revised Proposed Staffing Structure

With respect to the proposed staffing structure noted on Page 9 of the agenda report, the Administration would like to offer a lower cost option for the Teen Center:

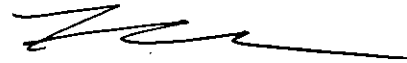
- Current Recreation Program Director of the Rainbow Recreation Center would also be responsible for overseeing the functions of the Teen Center (Cost Neutral)

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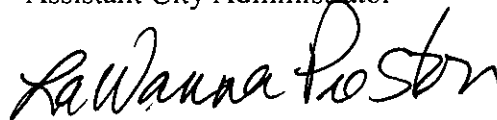
- .75 Recreation Specialist I Permanent Part Time (PPT) (30 hrs/wk) (Annual cost of \$38,211)
- 1.5 Recreation Specialist I Temporary PT (3 positions) (Annual cost of \$64,447)
- 1.0 Recreation Specialist II Temporary PT positions (2 positions) (Annual cost of \$61,590)

The above staffing option will cost approximately \$164,000 on an annual basis, or \$55,000 until the end of this fiscal year, \$12,000 less than the previous configuration proposed in the February 24, 2012 memo.

Respectfully submitted,



FRED BLACKWELL
Assistant City Administrator



LAWANNA PRESTON
Employee Relations Director

Attachments

- A. Council District 6 Payroll Summary by Fiscal Year Fiscal Years 2009-2010, 2010-2011 and 2011-2012
- B. Council District 6 Expenditures
- C. Civil Service Rule 3.01-Competitive Civil Service
- D. City Charter Chapter IX Section 902 (d)-The Competitive Service
- E. Civil Service Rule 3.03—Title of Position

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ATTACHMENT A

Council District 6 Payroll Summary Fiscal Years (FY) 2009-2010, 2010-2011 and 2011-2012

FY 2009-10

NAME	Total
Brooks, Desley Anne	\$ 79,437
Brooks, Patricia Renee	\$ 525
Garzon, Clara P.	\$ 79,137
Hudson II, David Vernon	\$ 2,813
Hudson-Davis, Jr., Renard Kenotae	\$ 1,688
Rogers, Emily Davenport	\$ 10,500
Taylor, Barbara Ann	\$ 5,950
Total FY 2009-10	\$186,949

FY 2010-11

NAME	Total
Bouldin, Brian William	\$ 13,550
Brooks, Desley Anne	\$ 82,262
Brooks, Patricia Renee	\$ 10,750
Brown, Isaac Patrick Francis	\$ 700
Garzon, Clara P.	\$ 80,704
Hudson II, David Vernon	\$ 2,763
Hudson-Davis, Jr., Renard Kenotae	\$ 2,078
Jackson, Laurence*	\$ 5,829
Matheson, Bryan K*	\$ 3,248
Porter, Sallye Theresa	\$ 3,850
President, Andrea America*	\$ 8,578
Quick, Timothy A*	\$ 6,819
Richardson, Clayton Dwight*	\$ 5,901
Rogers, Emily Davenport	\$ 9,625
Taylor, Barbara Ann	\$ 11,025
Williams, Tony	\$ 3,000
Total FY 2010-11	\$250,680

*Rainbow Teen Center Employee

ATTACHMENT A, continued

FY 2011-12

NAME	Total
Bouldin, Brian William	\$ 7,175
Brooks, Desley Anne	\$ 49,236
Brooks, Patricia Renee	\$ 9,100
Brown, Isaac Patrick Francis	\$ --
Feldman, Caleb Zachary*	\$ 3,663
Garzon, Clara P.	\$ 56,823
Hudson II, David Vernon	\$ 5,125
Hudson-Davis, Jr., Renard Kenotae	\$ 3,075
Jackson, Laurence*	\$ 7,900
Matheson, Bryan K*	\$ 4,975
Porter, Sallye Theresa	\$ 10,675
President, Andrea America*	\$ 14,238
Quick, Timothy A*	\$ 7,438
Richardson, Clayton Dwight*	\$ 11,588
Rogers, Emily Davenport	\$ 7,350
Rush, Karla M.**	\$ 14,574
Taylor, Barbara Ann	\$ 7,550
Unger, David Michael*	\$ 7,550
Williams, Tony	\$ 7,888
Total FY 2011-12 (through Feb 3 pay period)	\$235,921

*Rainbow Teen Center

**No longer City employee

ATTACHMENT B

District Six [All Funds Budget]

Fiscal Year	Revised Budget	Total Year End Expenditures	YTD Expenditures (FY11-12: P07-12)	(Over)/Under
FY09-10	449,266	264,656	-	184,610
FY10-11	406,640	432,336	-	(25,696)
FY11-12*	408,671	-	322,778	(156,053)

Excludes Priority Project and Special Project Funds

**P07-12 (Jun-Jan) Budget, Actuals and YE Projections*

RULE 3 - CLASSIFICATION OF POSITIONS

Section 3.01 – Competitive Civil Service. All positions in the City shall be in the competitive civil service except those positions designated in section 902 of the City Charter or otherwise exempted by the Board. All positions in the competitive civil service shall be under the jurisdiction of the Board. No appointment to positions within the competitive civil service shall be made except in accordance with these Rules.

Section 3.02 - Definition of Classification Plan.

- (a) Classification of Positions: All positions in the competitive civil service shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties, functions, and responsibilities so that similar positions may be assigned similar titles and embraced within the same class specifications, so that similar requirements as to training, experience, knowledge, skill, and ability, and same rates of pay are applicable. The purpose of such classification is to provide uniform standards, uniform pay scales and an orderly means of regulating the status of incumbents. The classification plan fixes titles of positions to their proper classes so that all positions with the same titles may be in the same class. The classification plan shall identify job series and feeder classes, where applicable.
- (b) Preparation and Amendment of Classification Plan: The classification plan, including class specifications, shall be prepared, maintained and, subject to Board approval, amended by the Personnel Director.
- (c) Purpose and Effect of Class Specifications: Each class specification describes the main characteristics and qualification requirements of positions in the class and gives examples of specific duties which employees holding such positions may properly be required to perform. Class specifications provide a basis for determining the relationship among classes, including the series to which a classification belongs, where applicable. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks of related kind or character or skills.
- (d) Performance of Higher Level Duties: When an employee is assigned to perform duties of a higher class for training purposes, the Personnel Director must be informed and such training is subject to her/his approval as to the individual working out of classification. The basis for approval shall be that benefit accrues to both the employee and the City as a result of this training. Such training shall not be of more than six (6) months' duration.
- (e) Application of Specifications to Positions: In determining the class to which a position should be allocated, the specification of each class shall be considered in its entirety and in relation to the specification of other classes in the classification plan; and the position shall be related to other positions of its kind in the City service.
- (f) Statement of Minimum Qualifications: The statement of qualifications in a class specification is intended to be used in determining the admissibility of applicants

to competitive examinations, and as an aid in the preparation of such examinations. The minimum qualifications may also be used in determining the relationship between positions in one class and positions in other classes. The Personnel Director, after consultation with the appointing authorities, shall determine desired combinations of training and experience as minimum qualifications for the respective classes and, subject to Board approval, these minimum qualifications shall become part of the class specification.

Section 3.03 - Title of Positions. The class title of a position shall be used to designate such position in all budgets, payrolls, and other official records in connection with all personnel transactions. No employee shall be appointed, employed or paid under any title or position other than that to which he/she was appointed, except in cases of acting pay.

Section 3.04 - Administration and Maintenance of the Classification Plan.

- (a) Responsibilities of the Personnel Director and the Board: The Board shall oversee and the Personnel Director shall administer and maintain the classification plan.
- (b) Creation of New Classifications: New classifications shall be subject to meet and confer to the extent required by law and shall become effective upon approval by the Board. In recommending the establishment of a new classification, the Personnel Director shall submit to the Board a class title and specification for such classification. The date of the Board's action shall be included on new class specifications.
- (c) Amendments to Class Specifications: Amendments to existing class specifications that fall within the mandatory scope of bargaining shall be subject to meet and confer. In the event that the affected union agrees with the proposed amendments, the amended class specification shall be effective upon approval of the Personnel Director, subject to ratification on a consent calendar at the next regularly scheduled meeting of the Board.

In the event that the City and affected union do not come to agreement on the proposed amendments, the amendments shall be calendared for approval at the next regularly scheduled meeting of the Board. The union shall have the opportunity to be heard by the Board at such meeting before the proposed amendment is effective.

The date of the Board's action shall be included on amended class specifications.

- (d) Classification Studies: The Personnel Director may initiate and conduct classification studies of any positions in the competitive civil service when he/she deems such study necessary, and shall recommend a change in classification where the facts warrant such action.

An appointing authority may submit to the Personnel Director requests for classification studies of positions within her/his jurisdiction.

An employee who contends that he/she is working outside of her/his classification or who contends that her/his position has been improperly classified may submit to the Personnel Director a request for a classification study. The Personnel

Director shall review such requests and take further action as he/she deems appropriate, subject to appeal to the Board as provided in section 3.04(e) of these Rules.

- (e) Appeal to Board regarding Changes in Classification: In the event the Personnel Director has made a decision regarding a change to an employee's classification or regarding an employee's request for review of her/his classification, and the affected employee does not agree with this decision, the employee or affected union shall have an opportunity to be heard by the Board before the Personnel Director's decision becomes effective. The employee shall file an appeal with the Secretary to the Board within fifteen (15) working days of notice of the Personnel Director's decision. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification. At the hearing, the appointing authority, employee and/or affected union shall have an opportunity to present their positions, either orally or in writing. The Personnel Director or her/his designee shall also have an opportunity to be heard by the Board. The Board shall issue a final and binding decision regarding the classification issue in dispute.
- (f) Quarterly Updates: For both employee and employer initiated classification studies, the Personnel Director shall provide quarterly updates to the Board and the affected employee. For any classification studies pending for more than one (1) year, the update shall be accompanied by an explanation for the delay. An employee may request an update on her/his employee request for classification study at any time.

Section 3.05 – Treatment of Incumbents as a Result of Reclassification of Positions. In the event of a classification study, incumbents may be upgraded, downgraded or unchanged. Should an incumbent be upgraded or downgraded, the following shall occur:

- (a) Upgrading of Position: When a position is reclassified to a class of higher grade, the incumbent may be assigned to the class of higher grade without examination providing he/she has performed the duties of the class for one year prior to the inception of the classification study. The department head must attest to the fact that the employee has performed these duties for a period of one year. No classification study shall be performed if the incumbent has served less than one year in the position.
- (b) Downgrading of Position: When a position is reclassified to a class of lower grade, the incumbent may be assigned to the position of a lower grade at no loss in salary at the time of the downgrading. The salary shall be "Y-rated" until such time as it becomes equivalent to the salary paid the classification. The employee shall be placed on the laid-off list of her/his former class and shall have priority re-employment rights to the classification from which he/she was downgraded for a period of two (2) years from the date of the Board's action changing the classification.
- (c) Redesignation: When a position is retitled to a class of the same grade, the incumbent shall be redesignated to the new classification without loss in status.

- (d) Notification: When a position is reclassified to a class of a lower or higher grade, the incumbent, her/his appointing authority, and the affected union (when applicable), shall be notified in writing at least two (2) calendar weeks in advance of the reallocation. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification.

Section 3.06 – Conditions for Accenting an Exempt Classification into the Competitive Civil Service. In the event that classifications, which were previously exempted from the competitive civil service, are to be included in the competitive civil service, the following procedure shall be followed:

- (a) The Personnel Director shall review the classification to determine that its organizational structure, job design, and compensation meet the standards established for other City classifications. If these standards are met, the classification shall be placed in the competitive civil service in the same manner as any new classification.
- (b) In the event a position in such a classification has an incumbent, and the incumbent meets the minimum requirements for the classification, has lawfully served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Personnel Director shall grant permanent status in the competitive civil service.
- (c) Should a position be occupied by an incumbent whose service is less than one year and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 days from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the classification shall be deemed classified.

Oakland, California, Code of Ordinances >> - THE CHARTER OF THE CITY OF OAKLAND >>
 ARTICLE IX - PERSONNEL ADMINISTRATION >>

ARTICLE IX - PERSONNEL ADMINISTRATION

Section 900. Personnel Policy.

- (a) It is the policy of the City that there shall be a comprehensive personnel system based on merit which considers diversity based upon the relevant labor pool as set forth in section 900(b). Such system shall be continued and maintained for the purpose of providing an equitable and uniform procedure for dealing with personnel matters; to serve the mutual interests of the people, the City as an employer and its employees through accepted modern concepts and practices of public personnel administration; to attract to municipal service the best and most competent person available; to assure that appointments will be based on merit and fitness as ascertained by practical competitive examination and by records of achievement; and to provide the employees security of tenure, with advancement or promotion within the service, where practicable, from among employees having appropriate qualifications, free of discrimination, subject to their adherence to established standards of performance and conduct, all as more particularly hereinafter set forth in this article.
- (b) The City shall study its workforce in comparison to the relevant labor pool to determine if there are manifest racial or gender imbalances in traditionally segregated job classifications. If the study demonstrates such manifest imbalances, the City shall adopt a remedial voluntary affirmative action plan which shall be periodically updated and in effect only until the imbalances are eliminated.

(Amended by: Stats. November 1988 and March 1996.)

Section 901. Enforcement and Administration. The provisions of this article, and of the ordinances and rules adopted to give effect thereto, shall be enforced by a Civil Service Board. The Board shall be constituted and appointed as provided in Article VI. The Board shall be responsible for the general supervision of the personnel system, without impairment of the responsibility and duty of the City Administrator, department heads and other supervisory personnel to exercise the administrative discretion vested in them by this Charter, or by ordinance.

(Amended by: Stats. November 1988 and March 2004.)

Section 902. The Competitive Service. The Council may establish departments, divisions, offices and positions of employment by ordinance, and may change or abolish the same and prescribe their powers, functions and duties. The Council may by resolution provide for temporary employment of services when required. The competitive Civil Service shall include all offices and employments in the City government except:

- (a) Offices required by this Charter to be filled by election or to be appointed by the Mayor and City Council.
- (b) One secretary and all professional and administrative assistants in the office of the City Administrator the Mayor's secretary and an assistant and such other staff as authorized by Council; one secretary and one assistant to the City Attorney and the Auditor respectively; and the heads of such other departments and an assistant to each as may be provided for by ordinance. The City Administrator, the Mayor, the City Attorney, and the Auditor shall respectively appoint such exempt personnel.
- (c) Department heads, one secretary to the executive director, the secretary of the board, commercial representatives and freight and cargo handlers and checkers employed by the Port Department; also such others engaged in the handling of ships and shipping as are found by both the Board of Port Commissioners and the action of the Civil Service Board as provided for pursuant to Article VI to hold positions peculiar to the operations of the Port as a commercial enterprise.
- (d) Part-time employees who are regularly employed for less than one-half the established working hours throughout the year; or those who are employed in any seasonal employment for not more than 120 days in any consecutive 12 months.
- (e) Individuals or organizations engaged by contract after a finding by the Council or the Board of Port Commissioners, as the jurisdiction may be, that the service is of a professional, scientific or technical nature and is temporary in nature, or after finding by vote of two-thirds of the members of the Council or said Board that the performance of the service by contract, regardless of nature or term, is in the public interest because of economy or better performance; provided, that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service.
- (f) Such additional positions as may be excepted upon the recommendation of the Council, approved by the Civil Service Board as provided for pursuant to Article VI.

(Amended by: Stats. November 1988 and March 2004.)

Section 903. Provisional Appointments. When there is no appropriate eligible list, provisional appointments to positions in the competitive civil service may be made pending the creation of such lists, but such provisional employment may not extend beyond the creation of the list nor in any event may such employment be renewed or extended beyond 120 days.

(Amended by: Stats. November 1988.)

Section 904. Personnel Ordinance. The Council shall by ordinance provide a modern system of personnel administration for the competitive civil service.

(Amended by: Stats. November 1988.)

Section 905. Continuation. Pending adoption of the ordinance required in Section 904, the provisions of Article IX, as the same appeared in the Charter immediately prior to the adoption of this section, shall continue in full force and effect except as the same may hereafter be changed by amendment thereof in the manner provided by law for the amendment of charter provisions. Said provisions of Article IX shall cease to have any force or effect immediately upon the adoption of the ordinance required in Section 904. The rules of the Civil Service Board shall remain effective until modified as authorized by ordinance pursuant to Article VI.

(Amended by: Stats. November 1988.)

Section 906. (Repealed by: Stats. November 2000.)

Section 907. Nepotism. The Mayor or City Council shall not appoint as an employee or officer, to receive any compensation from the City, any person who is a relative by blood or marriage within the third degree of the Mayor or any one or more of the members of the Council; nor shall the City Administrator or any other appointing authority appoint to any such position any relative of his or of the Mayor or any member of the Council within such degree of kinship.

(Amended by: Stats. November 1988 and March 2004.)

Section 908. Social Security. Provisions for an employee retirement system shall not be construed to prevent the City and its employees from participating in any state or national social security system to the extent permitted by law for public employees.

(Amended by: Stats. November 1988.)

Section 909. Authority to Join Pension System. Notwithstanding the provisions of Section 1209 the City, by and through its Council, may join or arrange for reciprocity of membership in, or continue as a contracting agency in, any retirement or pension system or systems existing or hereafter created under state or federal law to or in which municipalities and municipal officers or employees are eligible, either for all such officers and employees, or for less than all on the basis of a reasonable classification, provided that no employee or officer or classification thereof shall be unreasonably omitted from all systems referred to in this section or in Section 908 of this Charter.

(Amended by: Stats. November 1988.)

Section 910. Arbitration for Uniformed Members of the Police and Fire Departments.

- (a) It is hereby declared to be the policy of the voters of the City to endeavor to establish and maintain, without labor strife and dissension, wages, hours, and other terms and conditions of employment for the uniformed members of the Police and Fire Departments which are fair and comparable to similar private and public employment. To such purpose, the voters of the City hereby recognize the efficiency of and adopt the principle of binding arbitration as an equitable alternative means to arrive at a fair resolution of terms of wages, hours, and other terms and conditions of employment for such employees when the parties have been unable to resolve these questions through negotiations.
- (b) Pursuant to the public policy hereinabove declared, the City or the recognized employee organization for the uniformed members of the Police and Fire Departments may, as the result of an impasse after meeting and conferring in good faith on matters within the scope of representation as required by applicable State law, refer any such matters which are unresolved to binding arbitration under the provisions of this Section; except that the Charter provisions concerning the Police and Fire Retirement System and such other provisions of this Charter which specifically govern wages, hours and other terms and conditions of employment of uniformed members of the Police and Fire Departments shall not be subject to change by arbitration. In any such arbitration, the arbitrator is directed to take into consideration the City's purpose and policy to create and maintain wages, hours and other terms and conditions of employment which are fair and comparable to similar private and public employment and which are responsive to changing conditions and changing costs and standards of living. The arbitrator shall also consider: the interest and welfare of the public; the availability and sources of funds to defray the cost of any changes in wages; hours and conditions of employment; and all existing benefits and provisions relating to wages, hours and terms and conditions of employment of the uniformed members of the Police and Fire Departments, whether contained in this Charter or elsewhere.
- (c) Any unresolved dispute or controversy arising under the provisions of this Section, or any unresolved

dispute or controversy pertaining to the interpretation or application of any negotiated agreement covering uniformed members of the Police and Fire Departments shall be submitted to an impartial arbitrator. Representatives designated by the City and representatives of the recognized employee organization affected by the dispute or controversy shall select the arbitrator. In the event that said parties cannot agree upon the selection of the arbitrator within five days from the date of any impasse, then the California State Conciliation Service shall be requested to nominate five (5) persons, all of whom shall be qualified and experienced as labor arbitrators. If the representatives of the recognized employee organization and the City cannot agree on one of the five to act as arbitrator, they shall strike names from the list of said nominees alternately until the name of one nominee remains who shall thereupon become the arbitrator. The first party to strike a name from the list shall be chosen by lot. Every effort shall be made to secure an award from the impartial arbitrator within thirty (30) calendar days after submission of all issues to him.

- (d) The arbitration proceedings herein provided shall be governed by Sections 1280, et seq., of the California Code of Civil Procedure. The arbitrator's award shall be submitted in writing and shall be final and binding on all parties. The City and the affected employee organization shall take whatever action is necessary to carry out and effectuate the award. The expenses of arbitration, including the fee for the arbitrator's services, shall be borne equally by parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.
- (e) Nothing herein shall be construed to prevent the parties from submitting controversies or disputes to mediation, fact-finding or other reasonable method to finally resolve the dispute should the City and the recognized employee organization in the controversy or dispute so agree. An impasse may be declared by either the City or the recognized employee organization in the event the parties fail to reach an agreement on matters within the scope of representation after meeting and conferring in good faith as required by applicable State law, or after other mutually agreed-upon settlement methods fail to result in agreement between the parties.

(Added by: Stats. 1973. Amended by: Stats. November 1988.)