

**RESOLUTION NO. 76-23**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND TO APPROVING A SIDE LETTER AGREEMENT BETWEEN THE CITY OF RICHMOND AND RICHMOND POLICE OFFICERS' ASSOCIATION (RPOA)**

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**WHEREAS**, the Memorandum of Understanding (MOU) is the collective bargaining agreement between the City of Richmond and Richmond Police Officers' Association (RPOA); and

**WHEREAS**, On October 18, 2022, the City Council adopted a resolution approving a Memorandum of Understanding between the City of Richmond and the Richmond Police Officers Association (RPOA) with an effective date of July 1, 2022 - June 30, 2025; and

**WHEREAS**, the Memorandum of Understanding (MOU) mentions the concept of disciplinary appeals in Section 30 (Procedures for Grievances) but does not describe the procedural components; and

**WHEREAS**, the City of Richmond and RPOA have met and conferred and reached a proposed side letter agreement which outlines the disciplinary appeal procedures applicable to full-time, non-probationary members of RPOA.

**WHEREAS**, a Side Letter is desired to memorialize the disciplinary appeal procedures applicable to full-time, non-probationary members of RPOA; and

**WHEREAS**, the City of Richmond and RPOA have met and conferred in good faith; and

**WHEREAS**, a Side Letter agreement between the City of Richmond and RPOA has been created that incorporates the settled legal principles applicable to disciplinary appeals by full-time, non-probationary members of RPOA; and

**WHEREAS**, the changes incorporated are reflective of previous and current practice; and

**NOW, THEREFORE, BE IT RESOLVED** that the Richmond City Council hereby authorizes the execution of the Side Letter attached hereto as Attachment 1.

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I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting thereof held on July 11, 2023, by the following vote:

AYES: Councilmembers Bana, Jimenez, Robinson, Zepeda, Willis,  
Vice Mayor McLaughlin, and Mayor Martinez.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

PAMELA CHRISTIAN  

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CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

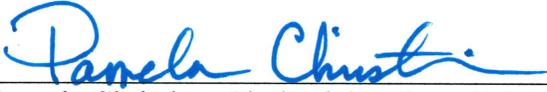
EDUARDO MARTINEZ  
Mayor

Approved as to form:

DAVE ALESHIRE  
City Attorney

State of California            }  
County of Contra Costa        } : ss.  
City of Richmond               }

I certify that the foregoing is a true copy of **Resolution No. 76-23**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on July 11, 2023.

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Pamela Christian, Clerk of the City of Richmond



**SIDE LETTER OF MUTUAL AGREEMENT BETWEEN THE RICHMOND POLICE OFFICERS' ASSOCIATION (RPOA) RE: PRE-DEPRIVATION ADMINISTRATIVE DISCIPLINARY APPEALS: RPOA 2022-2025 MOU**

This Side Letter Agreement is entered into by and between the Richmond Police Officers' Association ("POA") and the City of Richmond ("City") (collectively, the "Parties").

- A. The Parties agree that full-time, non-probationary members of the POA have a property right to their continued employment protected by the due process clauses of the Constitutions of the United States and State of California. (*Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194).
- B. As such, the Parties agree to the following procedure for affording members pre-deprivation due process protections prior to making a final disciplinary determination and imposing discipline.
1. An initial disciplinary decision-maker, which may include the Chief of Police, shall notify a member of the City's initial finding that misconduct has occurred, and the initial determination of what discipline to impose.
  2. The notification to the member is accomplished by serving the affected member a "Notice of Proposed Discipline" (the "Notice") which shall set forth: the factual findings, the rules and policies allegedly violated, an analysis of the level of discipline the City intends to impose, and a list of the documents and materials relied upon by the initial decision-maker in making the determinations.
  3. Should the affected member so choose, the member may request a pre-deprivation due process "Skelly meeting" before a "Skelly officer."
  4. The appealing member and/or their representative shall have the right to demand that the Chief of Police be precluded from serving as the Skelly officer. If such a demand is made, a Department Head and/or other individual from another department will be selected to act as the Skelly Officer for that particular Skelly meeting. Such selection will be at the sole discretion of the Human Resources Director and/or the Labor Relations Manager. The RPOA will not be involved in this selection of the Skelly Officer.
  5. The Skelly officer shall be provided a copy of the Notice and all documents and materials relied on by the initial decision-maker in making the initial findings and determination, as set forth in the Notice itself. The appealing member shall be afforded the same documents and information prior to the Skelly meeting.
  6. A Skelly meeting shall be held if the member requests one. The meeting is not an evidentiary hearing. Attendees of the meeting may be the appealing member,

his/her representative, an observer from the POA, the Skelly officer, and one or more City observers.

- 7. The City, including any of its agents and representatives, is prohibited from providing the Skelly officer additional information, documents, or other material from the initial decision-maker in support of the initial determination, in any manner unless it subsequently provides an amended Notice and opportunity for another Skelly meeting.
  - 8. During the meeting, the appealing member (and his/her representative) may provide additional information – including documents, materials, and argument – to the Skelly officer, in furtherance of affording the appealing member the opportunity to address and rebut the information contained within, and the documents and materials identified by, the Notice.
  - 9. Following the Skelly meeting, the Skelly officer shall provide a written recommendation to the City Manager recommending either agreement, rejection, or modification of the initial proposed findings and disciplinary determination. The Skelly officer shall base this recommendation on the information provided during the Skelly meeting – the Notice, all documents and materials identified therein, and information provided by the appealing member. The City Manager shall then consider this recommendation and make a final determination, thereby acting as the City’s final decision maker. The City Manager shall not be provided, nor shall the City Manager consider, any information, documents, or materials not provided to the Skelly officer or appealing member unless the City provides an amended Skelly notice and an opportunity for another Skelly meeting.
- C. The procedure set forth above is not intended to, nor shall it, limit in any way the pre-deprivation due process rights of a POA member as set forth in applicable law.
  - D. The procedure set forth above is not intended to, nor shall it, affect in any way the post-deprivation due process or administrative appeal rights of a POA member, as set forth in applicable law, including but not limited to the Memorandum of Understanding between the POA and City or the City’s Personnel Rules.
  - E. This side letter agreement is not intended to conflict with any other existing side letter agreement.

**On Behalf of the Richmond POA:**

**On Behalf of the City of Richmond:**

By: \_\_\_\_\_  
Benjamin Therriault, POA President

By: \_\_\_\_\_  
Shasa Curl, City Manager

Dated: July \_\_\_, 2023

Dated: July \_\_\_, 2023

**Approved as to Form:**

RAINS LUCIA STERN ST. PHALLE &  
SILVER, PC

By: \_\_\_\_\_  
Zachery A. Lopes  
Attorney for Richmond POA

**Approved as to Form:**

CITY OF RICHMOND

By: \_\_\_\_\_  
Alan Cohen, Senior Assistant City  
Attorney