

City of Hollister Personnel System Rules and Regulations

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SECTION 1. MERIT PERSONNEL SYSTEM**A. Merit System Principles**

The City of Hollister ("City") has established a personnel management system consistent with the following merit system principles:

1. Institute equitable and uniform procedures for managing personnel matters;
2. Attract the most competent workforce available to municipal service;
3. Ensure that appointment and advancement of employees are based on merit and ability; and
4. Ensure stable and productive employer/employee relations.

B. Purpose of Personnel Rules**1. Objectives**

These Personnel System Rules and Regulations ("Rules") are designed to facilitate efficient and economical service to the public and provide a fair and equitable system of personnel management in the municipal government. These Rules set forth policies and procedures to ensure similar treatment for those who compete for original and promotional employment and define certain obligations, rights, privileges, benefits and prohibitions, which are placed upon all City merit system employees.

2. Employment Standards

The City Council and the citizens of the City of Hollister expect that the City will employ the best qualified individuals available; that the continued tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, faithful and effective performance, proper personal conduct, and continuing qualifications for the position; and that each employee will be encouraged, trained, and developed to ensure optimum performance.

3. City Responsibility to Employees

Each merit system employee has the right to expect to be fully informed of his or her duties and responsibilities; to be provided with adequate administrative and supervisory direction; to be informed of his or her level of job performance; that

promotions will be made on the basis of merit and ability; that progressively improved work performance over an extended period will be recognized and rewarded; that incompetence will not be tolerated; and, after acquiring permanent status, to not be subject to suspension, demotion, reduction in salary, dismissal, or other disciplinary action without just cause.

4. Promotion and Training of Employees

The City will endeavor to provide employees with the training necessary to develop the skills required to qualify for promotional opportunities within normal and/or related career lines.

C. Authority

The City Council has approved the provisions of this Personnel System. The City Council must approve all additions, amendments, and revisions to the personnel policies and procedures contained herein.

D. Amendment and Revision of Rules

The City Council may amend these Personnel Rules by resolution with not less than thirty (30) days' notice to employees and subject to any requirements applicable under the City's Employer/Employee Labor Relations Resolution and Government Code section 3500 et seq. Employees at the Council meeting shall be given an opportunity to present their support or objection to the proposed rules. Employees will be advised of changes in policies, benefits, and procedures.

E. Equal Employment Opportunity

No person applying for employment with the City or employed by the City shall be discriminated against by reason of his or her actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other classification protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in Section 15 of these Personnel Rules.

F. Violation of Rules

Violation of a provision(s) of these Rules shall constitute grounds for disciplinary action including, but not limited to rejection of probation, dismissal, demotion, reduction in salary, suspension, or written reprimand. A violation shall not make disciplinary action mandatory, but shall be considered as appropriate in view of all the circumstances and at the discretion of the Personnel Officer or his or her designee.

G. Personnel Officer

The Personnel Officer of the City is the City Manager. The City Manager may delegate any personnel powers or duties to another employee of the City, or may recommend to the City Council that certain personnel powers or duties be performed under contract by a qualified individual or firm. The City Manager shall:

1. Prepare and recommend to the City Council personnel rules and revisions thereto;
2. Administer the provisions of the City's merit system not specifically reserved to the City Council; and
3. Appoint all department heads and employees of the City, except, the City Treasurer, the City Clerk, and the City Attorney. Department head appointments are subject to the approval of the City Council. The City Manager may delegate to any department head or employee the authority to hire or discharge any employees.

H. Administrative Rules

These Personnel Rules do not preclude the City Manager or individual City departments from developing and administering supplemental personnel rules as long as they **do not conflict** with these Rules, other Council resolutions and ordinances, or existing laws. In the event of any conflict, these Personnel Rules preempt any departmental rules.

I. Application of Personnel Rules

The provisions of Section 12 (Discipline) of these Personnel Rules shall apply to all employees and officers of the City. However, the following employees or officials are not covered by Section 12 and do not have a property interest in their positions:

1. Elected officers.

2. Members of appointive boards, commissions, committees, and agencies (unless they are also permanent City employees).
3. City Manager.
4. City Attorney.
5. Persons engaged under contract to supply expert professional, technical or other services (e.g., contractors or consultants).
6. Volunteer personnel (who are not also permanent City employees).
7. Emergency employees who are hired to meet the immediate requirements of an emergency condition which threatens life or property, such as extraordinary fire, flood, or earthquake.
8. Temporary employees hired to fill a full-time or part-time position for a limited period of time.
9. Part-time employees appointed at-will (non-benefitted).
10. Reserve police officers.
11. Reserve or voluntary Firefighters
12. Project employees hired for a specific project or special assignment.
13. Probationary employees.

J. Employment of Relatives

It is an express finding of the City that the situation specified in this section, the employment of relatives as that term is defined herein, is contrary to appropriate City goals of safety and efficiency and is generally prohibited. This policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace. The purpose of this section is to define those specific circumstances where it may be allowed and to delineate the manner in which such employment issues will be addressed.

For purposes of this policy, “relative” means spouse, domestic partner, child, step-child, parent, step-parent, grandparent, grandchild, brother, sister, step-brother, step-sister, aunt, uncle, niece, nephew, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, son /daughter-in-law, legal guardian, custodial child, and/or significant other as defined herein, or the same relatives of a domestic partner and/or any other individual related by blood or marriage living in the same household as the City employee.

It is found by the City that a business purpose exists and dictates that a prohibition on employment of relatives within City departments is essential to safety and efficiency when such employment results in any of the following:

1. A supervisor-subordinate relationship;
2. The related employees having job duties which authorize performance of shared duties on the same or related work assignments;
3. The related employees being under the jurisdiction of the same immediate supervisor;
4. One related employee would have access to confidential and privileged information concerning the other; or
5. An adverse impact on supervision, safety, security and/or morale.

Upon recommendation of the department head(s), exceptions to these rules may be granted by the City Manager, where, in the judgment of the City Manager, the employment of related persons would not be detrimental to City operations.

In the case of a violation of this rule, remedy may be sought through transfer or demotion within the City service or termination of one party, as recommended by the department head. All actions intended to remedy violations of this section are subject to the review and approval of the City Manager.

As of the effective date of this Policy, employees who are related (as defined herein) shall not be affected in their current job status except when the City Manager or his/her designee determines that the circumstances of that employment raises an undue hardship upon the other employees within the particular work unit and that such continued employment is detrimental to the supervision, safety, security and/or morale of the particular work unit.

Post-Employment Marriage or Creation of Other “Relative” Status of City Employees

In determining rules and regulations governing the employment of City employees who become related, as defined herein, after commencement of City employ, the City is guided by the principles enunciated in the California Fair Employment and Housing Act (FEHA), which prohibits discrimination on the grounds of marital status. However, FEHA and its Regulations defining the same do authorize restrictions being placed upon married City employees (or upon people deemed related as a result of marriage [i.e., in-laws]) where for business reasons of supervision, safety, security or morale, the employer may refuse to place one spouse or other relative under the direct supervision of another spouse or other relative and refuse to place both spouses or other relatives in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples or other relatives than for other persons. (Cal. Code Reg., tit. 2, section 11507; Government Code section 12940(a)(3)).

Recognizing the principles stated above, the City determines that “marital status” is defined as an individual’s state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for purpose of this policy. Further, a “spouse” is defined as a partner in marriage.

The City retains the right to refuse to place one spouse or other relative under the direct supervision of the other spouse where there is a potential for creating adverse impact on supervision, safety, security or morale.

The City retains the right to refuse to place either spouse or other relatives in the same department where doing so has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.

In order to implement these policies, and where the above circumstances exist and mandate that two spouses or other relatives shall not work in a prohibited relationship, the City will attempt to do any of the following: Attempt to redefine the job responsibilities of the related employees within the Department to minimize the conflict, and if the redefinition of job status is not feasible, the City will attempt to transfer one spouse or other relative to a similar classified position in another City department. Although the wishes of the involved parties as to which spouse or other relative is to be transferred will be given consideration by the City, the controlling factor in determining who is to be transferred shall be solely within management discretion with consideration of the City’s need for operational efficiency. If any such transfer results in a reduction in salary or compensation, the transfer shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.

In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which a spouse or other relative can be transferred, the City may request the voluntary resignation of one of the employees, and if one of the employees does not voluntarily resign, the employee with the least employment experience/service with the City may be discharged by the City Manager.

Married or other related employees may continue to be employed within the same City department subject to approval by the department head and the City Manager or his/her designee. However, any such continuing employment is predicated upon both spouses or other similarly situated relative as defined in this Policy not reporting to the same immediate supervisor, not being supervised by each other, not working the same shift at the same work site; or, otherwise becoming involved in a work environment having the potential for adverse impact on supervision, safety, security or morale. It is the duty of all involved employees who are in a situation prohibited under this policy to immediately notify their supervisor either in person or through the chain of command that a situation exists in which the involved employee may be in violation of this policy. The City reserves the right to reasonably investigate the situation and determine whether the employee has violated this policy.

K. Contracting for Special Services

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The City Council may contract with any qualified person or public or private agency for the performance of all or any of the following responsibilities and duties imposed by these Rules (subject to the City's current purchasing policy):

1. The preparation of personnel rules and subsequent revisions and amendments thereof.
2. The preparation of a position classification and compensation plan, and subsequent revisions and amendments thereof.
3. The preparation, conduct, and grading of competitive tests.
4. The conduct of employee training programs.
5. Special and technical services of any advisory or informational character on matters relating to personnel administration.

L. Conflicting Rules

1. Memorandum of Understanding

Where a conflict exists between items stated in a provision of these Rules and an applicable adopted memorandum of understanding (MOU) with a recognized majority representative, to the extent of such conflict, the memorandum of understanding shall prevail.

2. Applicable State or Federal Law

Where a conflict exists between items stated in these Rules and existing California state or federal law, the applicable state or federal statutes and regulations shall prevail.

3. Previous Rules and Regulations

The provisions contained in these Rules supersede any and all previously issued City policies, procedures, rules, or instructions related to matters discussed herein.

M. Not a Contract

These Rules do not create any contract of employment, either expressed or implied, or any rights in the nature of a contract.

SECTION 2. DEFINITION OF TERMS

Unless the context indicates otherwise, the following terms, whenever used in these Rules, shall be defined as follows:

1. Acting Appointment – the appointment for a limited period of a person who is already a probationary or permanent employee to a position in a higher class for which there is no employment list, or which is temporarily vacant due to a suspension, demotion, termination, or authorized leave of absence.
2. Acting Pay – additional compensation for temporary assignment to a position in a higher classification.
3. Administrative Leave – paid leave of absence provided to employees.
 - a. Disciplinary Administrative Leave: a temporary leave of absence with pay initiated by the City during a disciplinary action proceeding or investigation. This leave does not accrue and, when used, is not charged against any leave balance.
 - b. Exempt Administrative Leave: paid time off provided as a benefit to FLSA-exempt employees in lieu of overtime compensation as recognition that such employees may be required periodically or routinely to work long or irregular hours, and to attend various meetings and functions outside of normal business hours to fulfill their responsibilities. Typically, this type of leave is referred to simply as “administrative leave.” Additional provisions can be found in the applicable salary resolution and/or memorandum of understanding.
4. Advancement – a salary increase of one or more steps within the limits of the pay range established for a classification.
5. Allocation – the assignment of a single position to the proper classification in accordance with the specifications for that class.
6. Anniversary Date: the first day an employee reports to work is considered the official start date and corresponding anniversary date. The anniversary date is for the purpose of salary administration and performance evaluations. (See Section 5(c)(1).)
7. Applicant – an individual who has completed and submitted a formal application for employment with the City, in accordance with established procedures.

8. Appointing Authority – the City Manager or his or her designee, who has the final authority to appoint or remove a person to or from a position of employment within the City service. The City Council is the appointing authority for the City Manager, City Attorney, City Clerk and City Treasurer.
9. Appointment – the offer and acceptance of a position in the City service, either on a permanent or at-will basis.
10. At-Will – the status of those employees who serve at the pleasure of the appointing authority and may be dismissed without cause or right of appeal. This includes the City Manager, City Attorney, emergency employees, project employees, temporary employees, part-time (non-benefitted) employees, reserve police officers, volunteer personnel and contract employees (as specified in the contract), as well as employees serving an original probationary period.
11. Calendar Day – a 24-hour day as listed on the calendar.
12. Class Specification – a written description of a classification, setting forth factors and conditions which are essential characteristics of positions in the classification.
13. Classification or Class – a group of positions with sufficiently similar duties, responsibilities, authority, and minimum qualifications for employment to permit combination under a common title and equitable application of common standards of selection, compensation, transfer, and promotion.
14. Classification Plan – A complete list of all positions in the City service, and containing both an accurate description and all pertinent specifications of each job classification.
15. Classification Series – A group of two or more job classifications that are closely related in duties and where the differences involve required education and experience, complexity, degree of responsibility and other similar factors. A class series typically includes entry, journey, and/or advanced journey level classes.
16. Compensation Plan – the assignment by the City Council of salary ranges to each class, normally included in the annual City Budget.
17. Compensatory Time Off (CTO) – time off from work in lieu of monetary payment for overtime work.
18. Confidential (personnel) – key positions in the City service as designated by these Rules or the City Manager and who, due to their support of Executive Management,

are essential to an effective employer-employee relations program and whose participation in the labor relations process may compromise the performance of their duties and responsibilities.

19. Continuous Service – the employment without an uncredited break or interruption of service of an employee in a probationary or permanent status.
20. Contract Employee – an employee hired by written agreement with the City for a specific term and under conditions wholly contained within the employment agreement. The City Manager is a contract employee.
21. Day – a calendar day unless specified as a working day.
22. Demotion – the voluntary or involuntary change in status of a permanent employee from a position in one classification to a position in another classification having a lower maximum rate of pay.
23. Discharge or Dismissal – the involuntary separation of an employee from City service.
24. Eligible – a person whose name is on an eligible list or employment list.
25. Eligible List or Employment List – a list of individuals qualified for employment in a classification.
 - a. Open Employment List: a list of names of persons who have taken an open competitive examination for a class and have qualified.
 - b. Promotional Employment List: a list of names of persons who have taken a promotional examination for a class and have qualified.
 - c. Re-Employment List: a list of names of qualified permanent and probationary employees who have been laid off.
26. Emergency Appointment – an employee hired for the period of an emergency. An emergency employee serves at-will.
27. Employee – an individual who is legally employed by the City and is compensated through the City payroll.
28. Examination – the process by which the Human Resources Department determines the qualifications of applicants for employment in a classification.

- a. Open Competitive Examination: an examination for a particular classification which is open to all individuals meeting the minimum qualifications for the class.
 - b. Promotional Examination: an examination for a particular classification which is limited to City employees who meet the minimum qualifications of the class (includes permanent/temporary employees).
29. Executive Management – key positions in the City service that are essential to an effective employer-employee relations program and whose participation in the labor relations process, and personal interest in the outcome of labor disputes over working conditions, may compromise the performance of their duties and responsibilities.
30. Exempt Employee – an employee who is not entitled to overtime under the Fair Labor Standards Act.
31. Job Sharing – the sharing of one full-time, permanent position by two employees, with the same scheduled work hours, salary and benefits divided between them.
32. Non-Exempt Employee – an employee who is entitled to earn overtime under the Fair Labor Standards Act.
33. Original Appointment – a person’s first appointment as a City employee.
34. Overtime – compensation that is either paid or accrued as compensatory time off at the rate of one and one half the regular rate of pay as defined by the Fair Labor Standards Act or an applicable Memorandum of Understanding (MOU) or salary resolution.
- a. FLSA Overtime: overtime paid pursuant to the Fair Labor Standards Act (FLSA). FLSA Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated workweek. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so. The regular rate of pay is the average hourly rate of all compensation an employee earns (unless excluded by the Act) in a workweek or work period less extra compensation paid for overtime hours.

- b. MOU Overtime: overtime paid pursuant to provisions of a MOU and/or salary resolution.
- c. Compensatory Time Off ("CTO"): Accrual Rate: CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated workweek. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of [240] hours at any given time.

Employee Request to Use CTO: The City will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five calendar days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

City Cash Out: The City reserves the right to cash out accumulated CTO at any time.

Employee Cash Out: The employee can elect to receive cash for their accrued compensatory time off up to two times per calendar year, and in a cumulative amount not to exceed the number of hours the employee irrevocably elected to cash out in the prior year. However, if the employee's compensatory time off leave balance in the pay period containing December 15th is less than (the balance of) the total amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of leave the employee has accrued at the time of the cash out.

Value of CTO Cash Out:

During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays).

Employees separating from the City service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)

35. Part-Time Status – the status of an employee in a part-time position that is compensated on an hourly basis. A part-time employee may have either: (a) permanent status (sometimes called a part-time benefitted employee); or (b) at-will status (may also be called a part-time non-benefitted employee).
36. Part-Time Position – a position having a work week of fewer hours than the full work week established for a full-time position and compensated on an hourly basis.
37. Permanent Position or Employee – a full-time or part-time benefitted position or employee that is individually authorized in the budget and which is expected to exist indefinitely.
38. Position – a job with a combination of regularly assigned duties and responsibilities requiring the full-time or part-time employment of one individual.
39. Probationary Employee – an employee who has to serve a probationary period prior to appointment to a permanent position. Upon successful completion of the probationary period, a probationary employee becomes a permanent employee.
40. Probationary Period – a working test period that is part of the selection process and during which an employee is required to demonstrate to the City’s satisfaction his or her qualifications for the position to which he/she has been appointed by actual performance of job duties.
- a. Original Probationary Period: an employee’s first probation period during continuous City employment.
 - b. Promotional Probationary Period: the probationary period served upon promotion from one City position to another.
41. Probationary Status – the status of an employee during the probationary period. An original probationary employee serves at-will and may be dismissed without cause, notice, or right of appeal. A promotional probationary employee may be dismissed from the promotional position without cause or right of appeal. If the promotional position was within the same bargaining unit, the employee may return to his or her previous position.
42. Project Employee – an at-will employee who is hired in either a full-time or part-time capacity for a prescribed period of time to complete a project.
43. Promotion – the advancement of an employee from a position in one class to a position in another class having a higher maximum rate of pay.

- 44. Provisional Appointment – an appointment to a permanent position of a person who possesses the minimum qualifications established for a particular classification and who has been appointed to a position in that class in the absence of available eligible candidates. A provisional appointment may not exceed six (6) months. An employee receiving a provisional appointment will have at-will status in the position.
- 45. Reclassification – the movement of an employee from a position in one class to a position in another class as the result of the City’s determination that the duties and requirements of the employee’s position are inappropriate for the assigned classification. Reclassification may be to a position at a higher, lower, or lateral level.
- 46. Permanent Status – the status of an employee who has acquired a permanent full-time or part-time benefitted appointment to a merit system position after successfully passing the probationary period.
- 47. Reinstatement – the re-employment without examination of a former permanent or probationary employee.
- 48. Rejection – the involuntary separation from City service of: (a) an employee who does not successfully complete the probationary period in a position and who does not have permanent status in another position in a different classification; or (b) the change in status of an employee who did not successfully complete the probationary period in a position to another position in a different classification in which he/she has previously acquired permanent status.
- 49. Relative – means spouse, domestic partner, child, step-child, parent, step-parent, grandparent, grandchild, brother, sister, step-brother, step-sister, aunt, uncle, niece, nephew, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, son/daughter-in-law, legal guardian, custodial child and/or significant other as defined herein, or the same relatives of a domestic partner, and in the fraternization policy, and/or any other individual related by blood or marriage living in the same household as the City employee.
- 50. Reprimand – a verbal or written censure made as a disciplinary action.
- 51. Reserve Firefighter—any person serving the City as a reserve firefighter. Such person shall not be considered to have attained appointment to either a full-time or part-time position. Every reserve firefighter shall serve at the discretion of the Fire Chief and may be terminated without cause or right of appeal. The Firefighters Procedural Bill of Rights shall not apply to Reservists.

- 52. Reserve Officer – any person serving the City as a reserve police officer. Such person shall not be considered to have attained appointment to either a permanent full-time or part-time position. Every reserve officer shall serve at the discretion of the Chief of Police and may be terminated without cause or right of appeal. The Public Safety Officers Procedural Bill of Rights shall not apply to Reserve Officers.
- 53. Resignation – the voluntary separation of an employee from City service.
- 54. Review Date—Date of evaluation for current job duties during a specific time frame (i.e. annually)
- 55. Salary Plan – see Compensation Plan.
- 56. Salary Range – one or more specific salary rates, having a percentage relationship to one another, assigned to a classification as the base compensation for that classification.
- 57. Salary Review Date – the date on which a probationary or permanent employee is eligible, on the basis of satisfactory job performance for a prescribed period, for a merit salary increase within the salary range established for the position the employee occupies.
- 58. Salary Step – one of the established levels of pay within a prescribed salary range, usually designated by a letter.
- 59. Suspension – the temporary separation with or without pay of an employee from City service for purposes of disciplinary action.
- 60. Temporary Position – a full-time or part-time position of limited duration. Employees filling temporary positions do not acquire permanent status and may be dismissed at the pleasure of the appointing authority without cause or right of appeal.
- 61. Termination – the separation of an employee from City service because of retirement, resignation, death or dismissal.
- 62. Transfer – a change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of essentially similar duties and requiring substantially the same minimum qualifications.
- 63. Vacancy – an authorized position that is not occupied by an employee having either a probationary or permanent appointment to the position.

- 64. Work Shift – the number of working hours per day required of an employee occupying a particular position.
- 65. Working Day – a day on which an employee is scheduled to work. For the purposes of appeal or grievance rights under these Rules, where there is a difference in work schedules between a department head and an employee, working days should be counted based on the employee's schedule.
- 66. Y-Rating – the process by which an employee's salary is not decreased when either 1) the employee is reassigned to a classification with a lower range on the salary schedule or 2) the salary range for the employee's classification is set to a lower range on the salary schedule. Y-rating will automatically end once future increases bring the employee's new salary range up to a level where the employee's Y-rated salary falls within the new salary range.

SECTION 3. CLASSIFICATION PLAN**A. Purpose**

The Classification Plan provides a complete list of all positions in the City service and an accurate description and specifications for each job classification. The Classification Plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the City.

B. Preparation of Plan

The City Manager has determined the duties and responsibilities of all positions in the City with the assistance of the Human Resources Department and department heads. The Classification Plan will define each class by a class specification, including title, a description of typical duties and responsibilities and a statement of the education, training, experience and other qualifications to be required of applicants and incumbents of the classification. The Classification Plan maintains all positions substantially similar with respect to duties, responsibilities, authority, and character of work within the same class.

C. Allocation of Positions

The City Manager has allocated every position in the City service to one of the classes established by the Classification Plan.

D. Maintenance of Plan

The City Manager shall be responsible for the maintenance of the classification plan. The City Manager or designee may allocate positions to the appropriate class and may make revisions in the classification plan which shall consist of additions, abolishments, consolidations, or amendments to existing class specifications. The City Manager or designee can conduct classification studies or have studies conducted by qualified persons or companies outside City service of proposed new or existing positions in the City service when:

1. Notified by the City Manager that new positions are being authorized.
2. Notified by a department head that the duties and responsibilities of a position or group of positions may be improperly classified or have undergone significant change.

3. Periodically as a need arises to review a certain position or group of positions in the City service.

E. Use of Classification Titles

Classification titles are to be used in all personnel, accounting, budget, appropriation, and financial records. No person shall be appointed to or employed in any permanent position in the merit system under a title not included in the Classification Plan. Other unofficial "working titles" may be used in the course of business to indicate authority, status in the organization, or administrative rank, subject to approval of the Human Resources Department.

F. Use of Class Specifications

Class specifications are to be interpreted in their entirety and in relation to others in the Classification Plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are intended to be descriptive and explanatory of the kind of work performed, and not necessarily inclusive of all duties performed by all employees in the classification. Specifications are not to be construed as to declaring what the only duties or responsibilities of any position may be or as limiting or modifying the power of any department head to assign, direct, and control the work of employees under his or her supervision. However, changes in organization and work methods that might affect the duties of employees should be reported to the City Manager or designee.

G. Use of Classification Plan

The Classification Plan is to be used as a guide as follows:

1. In recruiting and examining candidates for appointment and promotion.
2. In determining lines of promotion.
3. In determining salary to be paid for various types of work.
4. In determining personnel staffing in departmental budgets.
5. In providing uniform job terminology understandable by all City officials and employees and the general public.

SECTION 4. COMPENSATION PLAN**A. Contents of Plan**

A Compensation Plan covering all classes of positions in the City service is in place, establishing the salary range and salary steps or rates of pay for each classification in the City.

B. Maintenance of Plan

The City Council will amend and revise the Compensation Plan by resolution.

C. Administration

The City Council shall administer the Compensation Plan for the City Attorney and the City Manager. The City Manager or designee shall administer the Compensation Plan for all other City employees. If a salary review indicates that there should be adjustments in the Compensation Plan, the City Manager or designee Personnel Officer shall make appropriate recommendations to the City Council.

In arriving at salary ranges, consideration shall be given to prevailing rates of pay for comparable work in public and in private employment, including consideration of conditions of work; current costs of living; suggestions of department heads; the City's ability to recruit and retain good employees; and the City's financial condition and policies. The City may conduct future studies considering the factors set forth above.

D. Meet and Confer Process

The Compensation Plan is subject to the meet and confer process with the appropriate representatives of recognized employee organizations.

SECTION 5. SALARY ADMINISTRATION**A. Application of Rates**

Employees occupying a position in the City service shall be paid a salary or wage within the range established for that position's classification in accordance with the Compensation Plan.

B. Basis of Compensation**1. Full-time Permanent and Probationary Appointments**

An employee having a permanent or probationary appointment that is on a full-time basis shall be paid bi-weekly, based on the bi-weekly rate specified in the Compensation Plan. The hourly rate of pay is the bi-weekly rate multiplied by twenty-six (26) and divided by two-thousand and eighty (2080) hours.

2. Other Appointments

Temporary, provisional, part-time, and emergency employees shall be compensated at an hourly rate, paid bi-weekly, based on the monthly rate specified in the Compensation Plan.

C. Anniversary Dates**1. Determination of Anniversary Date**

For the purpose of salary administration and performance evaluations, each employee shall have an anniversary date which shall be determined as follows:

- a. For a new employee, the first anniversary date shall occur the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day the employee was employed in a permanent position.
- b. For an employee who is promoted, the first review date shall occur the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day on which the employee promoted.
- c. For an employee who is demoted, the first review date shall be the first day of the following pay period, unless the date is the first day of the pay period, one (1) year from the first day on which the demotion is effective.

2. Anniversary Date Adjustment

Any person on leave without pay for thirty (30) consecutive calendar days, or two (2) consecutive pay periods, or more, shall have their anniversary date adjusted to reflect the time absent without pay. Upon recommendation of a department head and with the approval of the City Manager, this provision may be waived. For an explanation of how an extended leave of absence will affect an employee's probationary period, see Section 7(A).

3. Effect of Review Date Upon Transfer or Reclassification

Anniversary dates of employees who are transferred to a job classification designated by the same salary range or whose job classification is reclassified to a new classification with the same salary range shall not be changed. Anniversary dates of employees whose job classification is reclassified from one salary range to a higher salary range shall receive a new anniversary date in accordance with Section 5.C.1.b., above.

4. Review Date Postponement

For each employee whose step advancement is postponed by their department head, the anniversary date shall be changed to the date to which the advancement is postponed.

D. Salary Rates Upon Initial Appointment

1. General

All new employees shall normally be appointed at the first step of the salary range in effect for the class in which the appointment is made. The City Manager may approve initial City employment at a salary rate up to and including the final step of the salary range for cause, such as difficulty in recruiting, previous experience, or other related factors.

2. Temporary Appointees

Persons employed or re-employed for temporary or seasonal service may, upon written recommendation by the department head and approval of the City Manager, be compensated at any rate established for the classification.

E. Merit Increase within the Salary Range

Merit increases are not automatic. Full-time and part-time benefitted employees are eligible for an increase in salary according to the following schedule. Part-time non-benefitted classifications may have a different criteria or schedule for advancement prescribed by the City Manager or Human Resources Department.

1. An employee shall be eligible to move from the first salary step to the second salary step upon completion of six (6) months of employment (thirteen [13] pay periods) where the employee has demonstrated overall satisfactory performance.
2. An employee shall be eligible to move from the second salary step to the third salary step (and thereafter to each subsequent step through the final salary step in the employee's salary range) upon completion of one (1) year at the salary step (twenty-six [26] pay periods) where the employee has demonstrated overall satisfactory performance.
3. Merit increases shall be made on the anniversary date. For all employees eligible to advance between salary steps, the department head shall submit to the Human Resources Department a written evaluation and recommendation to approve, postpone, or deny the advancement. All advancements between salary steps are subject to approval by the City Manager or his or her designated representative.

F. Salary Range Increase

Whenever a class is reassigned to a higher salary range, the salary of each incumbent on the effective date of the increase shall be increased to the corresponding step in the new range and his or her salary review date shall not change.

G. Salary in Other Instances

Other salary adjustments may include:

1. Special Salary Adjustments

Notwithstanding anything in these Rules to the contrary, in order to correct gross inequities or to reward outstanding achievement and performance, the City Manager may, upon recommendation of the department head and approval of the City Manager, adjust the salary rate of an incumbent of a particular position to any step within the salary range for that class. If the incumbent is a

member of a recognized bargaining unit, the increase in salary is subject to meet and confer.

2. Salary on Promotion

An employee who is promoted shall be assigned to the lowest step of the new salary range which allows an increase of at least five (5) percent over salary at the time of promotion. The department head may recommend and the City Manager may approve assignment to a higher salary step based on special circumstances. In no event, however, shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range. The date of promotion will establish a new salary review date and the employee shall be eligible for the next merit increase in accordance with Section 5.E (Merit Increase within the Salary Range) of these Rules. The promotion date will be effective at the beginning of an established pay period.

3. Salary on Demotion

An employee who is demoted shall have his or her salary set at a salary step in the range for a lower class as follows:

a. Involuntary Demotion

Salary may be set at any salary rate which is less than employee's salary rate at the time of demotion. If the involuntary demotion is as a result of a reclassification and the salary of the employee is greater than the highest step of the new pay range, the **employee will be "Y-rated."**

b. Voluntary Demotion

Salary will be set at the highest salary rate which does not exceed the employee's salary rate at the time of demotion.

c. Next Merit Increase

An employee shall be eligible for the next merit increase, based on salary step, in accordance with Section 5.E (Merit Increase within the Salary Range) of these Rules.

d. Probationary Period

An employee who is demoted shall not be required to serve a new probationary period unless the employee is demoted to a classification in

which the employee has no previous experience. In that case, a probationary period of one year will be required.

4. Salary on Transfer or Reassignment

Any employee who is transferred into a position in the same salary range shall continue to receive the same salary rate. In the case of a transfer to a position on a class with a lower salary range, the employee may be placed in any step in the range where the employee does not receive a pay increase.

5. Salary Upon Reclassification

- a. Any employee in a position that is reclassified with a different salary range shall be compensated at the step in the new salary range that does not result in a loss of pay. Upon recommendation by the department head, and approval by the City Manager, an employee in a position that is reclassified may be placed in a step of the new salary range for the new class that provides for a minimum increase of approximately five (5) percent. In no event shall an employee receive an increase or be placed on a salary step which is beyond the maximum of the new range.
- b. The salary of an employee whose position is reclassified to a classification with a lower salary range and whose salary is above the maximum of the new salary range shall be Y-rated under Section 5.G.3.a (Involuntary Demotion). Y-rating will automatically end once future increases bring the employee's new salary range up to a level where the employee's Y-rated salary falls within the new salary range.

H. Overtime

As a general policy, overtime work is discouraged. A department head or designee may authorize overtime to meet the operational needs of the department. For non-exempt employees, overtime shall be paid at time and one-half of the Fair Labor Standards Act (FLSA) regular rate of pay; granted as equivalent compensatory time off (CTO); or, for employees covered by an MOU, as provided for in the applicable MOU.

An employee may not perform work outside of his or her scheduled work hours without advanced approval from the department head or designee. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency

occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures. Employees are required to record all work time on official City records so that the City may pay employees for their work. Employees may never choose to work and decline compensation.

I. Definition

1. Full-time Permanent and Probationary Employees

Unless otherwise stated in a memorandum of understanding, "overtime" is all hours an overtime-eligible employee actually works over 40 in his or her workweek, except for firefighters assigned to an average 56-hour work period. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating FLSA overtime pay.

The City shall pay overtime compensation or provide compensatory time off to all non-exempt employees as established in the appropriate salary resolution and/or MOU. Exempt employees are not eligible for overtime. Exempt employees include employees in classifications designated as Executive Management and Confidential, and also certain employees in the Mid-Management Unit.

2. Other Employees

Part-time, temporary, or provisional employees shall be paid overtime in accordance with the Fair Labor Standards Act (FLSA).

J. Call-Back Duty

1. A non-exempt employee who is called back to work after he/she has worked the scheduled shift and has departed from the place of employment shall be compensated with overtime for all travel time and time worked, either in cash or compensating time off, at the rate of time and one-half with a minimum of two (2) hours at such rate. Such call back shall include early call in to the next regularly scheduled shift if notification does not occur prior to the employee's departure after the previous shift.

2. This provision shall not apply to any employee assigned as City property caretaker and occupying on-site City housing in whole or in part as their place of employment.

K. Travel Policy

1. Commute Time

Travel time to and from work is commute time which is not compensable. However, if the employee is required to report to a work location that is different from the employee's regular work location and the amount of time to travel to the new location is longer than the normal commute time, then the employee will be compensated for the difference in time between the employee's normal commute and the new location.

Employees without a regular work location, or employees who regularly travel during their shift, will not be compensated for commuting time to and from their beginning or ending work location unless their beginning and/or ending work location results in an abnormally extended commute time. In that case, the employee will be compensated for the difference in time between the employee's normal commute time and the extended commute time.

Additionally, if the City requires the employee to meet at a designated location and use the City's transportation to and from the work site, then the travel time from the designated location to the work site and from the work site back to the designated location is compensable.

2. Travel During the Workday

Travel during the workday, after the employee has reported to work, is hours worked for the City unless it is in connection with a bona fide meal break. However, travel from the employee's last work location to home is not compensable, unless the employee's last work location results in an abnormally extended commute home. Supervisors should not require employees who will be traveling during the work day to report to their normal work site at the start or the end of their shift unless it is truly necessary for the employee to report to such location.

3. Overnight Travel

Except for time spent eating meals or engaging in personal pursuits (e.g., sleeping), time spent traveling to a location where the employee will be staying

overnight is considered hours worked. The hours worked includes time spent driving or as a passenger on an airplane, train, bus, taxi cab or car, or other mode of transportation, in traveling to and from the out of town location. In addition, time spent waiting to purchase a ticket, check baggage, or get on board a mode of transportation is compensable.

L. Additional Compensation

Employees may be eligible for the following types of additional compensation in accordance with the applicable salary resolution and/or MOU:

1. Holiday Pay
2. Bilingual Pay
3. Cell Phone Stipend
4. Court Standby Duty
5. Educational Incentive / Tuition Reimbursement
6. Vacation Leave Cash-Out
7. Jury Duty
8. Shift Differential
9. Special Assignment Pay (e.g. Field Training Officer, K-9 Officer)
10. Military Pay
11. Training Pay
12. Bereavement Pay
13. Uniform Allowance
14. HazMat
15. Notary

M. Pay Days and Final Paycheck

1. Regular Pay Days

Employees are paid biweekly, every other Wednesday. If a pay day falls on a holiday, paychecks will be available on the preceding non-holiday work day. Checks are distributed either by the employee's immediate supervisor or by the Finance Department. If the employee is absent when the paycheck is distributed, the employee may claim the paycheck from the Finance Department when the employee returns. An employee may establish alternate distribution arrangements by notifying the Finance Department in writing. Such alternate distribution arrangements shall be subject to the approval of the City Manager or designee.

2. Resignation and Final Paycheck.

a. Resignation in Good Standing

An employee may resign by presenting his or her resignation in writing to the department head. To resign in good standing, an employee must give the department head at least two (2) weeks prior notice, unless because of extenuating circumstances the department head agrees to accept a shorter period of notice. Failure of the employee to comply with this provision may be cause for denying future employment with the City. Resignations shall be promptly forwarded to the Personnel Officer by the department head.

b. Voluntary Resignation

An employee absent from duty without authorization for three (3) or more consecutive working days without an explanation satisfactory to the department head shall be deemed to have voluntarily resigned without notice and to have terminated employment with the City.

c. Exit Interviews

The City Manager or designee may conduct an exit interview for permanent employees who resign to verify reasons for resignation. Department heads are requested to assist terminating personnel to keep exit interview appointments. Copies of the information obtained during the exit interview shall be furnished to the appropriate department head.

d. Employee Property Clearance

A department head or his/her designee will certify that City property in an employee's custody has been returned to the City prior to the employee receiving their final check from the Finance Department. The value of all unaccounted-for City property may be withheld from the employee's final check or collected by other appropriate action.

e. Final Paycheck

Employees, including employees who are released during their initial probationary period or dismissed for disciplinary reasons, will receive their final paycheck on the regular pay day for the pay period in which they resign or are released/dismissed. The final paycheck will include payment for all earned salary due and not previously paid, and accrued but unused leave balances which are subject to pay-off. Final paychecks will be distributed by mail.

N. Emergency Cash-Out of Accrued Leave

1. Purpose

In addition to any cash-out of leave provided in a memorandum of understanding or resolution, the City Manager may authorize a cash-out of accrued leave upon a finding of a financial hardship arising from an unforeseen emergency.

2. Definition

For the purpose of this policy, "unforeseen emergency" is defined as a severe financial hardship resulting from a sudden and unexpected illness or accident of the employee or her/his dependent, the employee's loss of property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the employee's control. Request for emergency cash-out will not be authorized for expenditures that can be planned for or budgeted, such as a down payment on a home, the purchase of an automobile, payment of property taxes or educational expenses.

3. Policy

In the event of an unforeseen emergency, a permanent (non-probationary) employee may request an emergency cash-out of time from their accrued

vacation leave or compensatory time off bank, or any combination thereof, provided at least eighty (80) hours of accrued leave remain in the employee's leave bank(s) after the emergency cash-out.

Any amount approved for cash-out will be processed as part of a usual and regular payroll process. Additional taxes may be withheld pursuant to applicable state and/or federal tax withholding requirements.

4. Procedure

Requests for emergency cash-out are to be submitted to the Administrative Services Director, or his or her designee on an Emergency Cash-Out of Accrued Leave Request form, fully describing the circumstances for the request including any relevant documentation.

The Administrative Services Director or his or her designee will review all requests for emergency cash-out for determination of eligibility and make a recommendation to the City Manager for approval or denial.

An emergency cash-out eligibility determination is not subject to any form of administrative or judicial appeal or grievance procedure and the decision of the City Manager, or his or her designee, shall be final.

SECTION 6. RECRUITMENT AND SELECTION**A. Applications**

Announcements of employment opportunities shall be publicized as determined by the Human Resources Department to comply with the purposes of the merit system and shall normally specify the title, salary, examples of typical job duties, minimum qualifications required, and official application process. Announcements for vacancies to be filled by an open competitive examination process shall be publicized at least 10 days prior to the final filing date. All applications correctly filed on time by a qualified individual may be considered unless rejected for cause as herein provided.

B. Rejection of Applications

All applications for any City position will be retained in accordance with the requirements of state and federal law.

1. Disqualification

The Human Resources Department may reject any application, if the applicant:

- a. Lacks any requirements, certifications, or qualifications for the position;
- b. Has made any false statement of any material fact, or attempted to practice any deception or fraud in the application or selection process;
- c. Is physically or mentally unable to perform the essential duties of the position, with or without reasonable accommodation, and after a good faith interactive process, if disabled;
- d. Is a current user of illegal drugs;
- e. Is a relative of an employee or official, and is subject to the Employment of Relatives Policy (Section 1.J.);
- f. Used or attempted to use political pressure or bribery to secure an advantage in the process;
- g. Directly or indirectly obtained information regarding examinations;
- h. Failed to timely and correctly submit the employment application;
- i. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related; or

- j. Has applied to a position that is not currently open.

The Administrative Services Director, who oversees the operations of Finance and Human Resources Divisions, or his or her designee, may reject an application for any material cause which, in his or her judgment, would render the applicant unsuitable for the position, including a prior resignation or termination from employment with the City. Each respective department may be involved in this process.

2. Notice of Rejection

Defective applications may be returned to the applicant with notice to amend and refile, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection will be mailed to the applicant by the Administrative Services Director or designee.

3. Appeal

If the application is rejected, the applicant can appeal the rejection to the Administrative Services Director or designee within five (5) working days of notice. The Administrative Services Director or designee will review the appeal and affirm the rejection or reinstate the applicant. The Personnel Officer or designee's decision is final. Each respective department may be involved in this process.

C. Examinations

The Human Resources Department will evaluate the qualifications of the applicants examined to perform within that class by using one or more examination techniques as deemed by the Director of Administrative Services or his or her designee to be appropriate for the position. Examination techniques may include, but are not limited to, application review, supplemental questionnaire, oral interview, written test, performance test, physical agility test, psychological test, psychiatric test, character and credit investigation (positions that handle money), and evaluation of work samples or daily work performance.

1. Recruitment and Examination Type

Vacancies may be filled by either an open competitive or promotional recruitment and examination process. Any person meeting the requirements

specified in the job announcement of an open competitive recruitment may be eligible to compete in the examination process.

Promotional recruitments may be used to fill vacancies when determined by the Administrative Services Director to be in the best interests of the City. Only City employees (this includes employees who are currently employed in permanent full-time/temporary positions) who meet the requirements set forth in the job announcement for a promotional recruitment may compete in the examination process.

2. Examination Scores

The scoring system for each examination process shall be established as deemed appropriate by the Administrative Services Director. Scores on each examination or examination component may be qualifying (pass/fail), averaged, or given a weighted average. An applicant's failing score on one part of an examination may be grounds for failure on the entire examination or disqualification for subsequent parts of an examination.

3. Notification

Each applicant will be notified of his or her status at each step in the examination process.

4. Disqualification

An applicant may be disqualified during or after the examination process for any reason set forth in Section 6.B.1 (Disqualification).

5. Inspection of Written Tests

For written tests, any candidate has the right to inspect his or her own examination paper during normal working hours within five (5) calendar days after the notice of examination status. Any error in computation, or incorrectly scored written test answers that are called to the attention of and confirmed by the Administrative Services Director or designee will be corrected and the final score will be adjusted accordingly. Such corrections will not, however, invalidate appointments previously made. Examination papers of applicants are not subject to inspection by the public or by other applicants.

6. Appeal

Within the time period permitted by this section for inspection, an applicant may appeal the grade assigned on any part of an examination. The appeal must be in writing and must state the specific grounds for reconsideration that is, error in computation or incorrectly scored written test. All appeals and correspondence relating thereto must be submitted to the Administrative Services Director for consideration. The Administrative Services Director may permit the applicant to be heard. Within ten (10) working days from receipt of appeal, the City Manager or designee will make a determination of the final grade, which will be final for all purposes. Such corrections do not invalidate appointments already made.

D. Employment Lists (Eligible Lists)

1. Open and Promotional Employment Lists

Applicants who successfully pass all phases of the examination process shall earn placement on an open or promotional employment list (eligible list), as the case may be, by ranking order. Such lists may remain in effect for one (1) calendar year unless abolished, exhausted, or extended by the Human Resources Department for a maximum of two additional six (6) month periods. Open employment lists may be maintained as the result of a continuous recruitment with names placed on such lists for one (1) year and merged with any other names already on the list in ranking order. An employment list may be abolished by the Human Resources Department when it contains fewer than three (3) names or for reasonable cause.

2. Re-Employment Lists

The names of probationary and permanent employees who have been laid off pursuant to these Rules may, upon request at the time of layoff, be placed on an appropriate re-employment list, in accordance with Section 10.B.7 (Re-Employment List).

3. Removal of Names

The Human Resources Department shall notify and remove the name of any person appearing on any list if such person requests removal, resigns from City service, or fails to respond without excuse to a scheduled interview of which the individual was notified.

The Human Resources Department may also remove an applicant's name from the employment list for any reason set forth in Section 6.B.1 (Disqualification).

E. Appointments

1. Types of Appointment

Vacancies may be filled by re-employment, promotion, transfer, demotion, appointment of hourly employees, or from the appropriate eligible list, if available. The re-employment list has priority over other types of appointment. Other than the re-employment list, no specific list has priority over other lists. The City Manager or designee will decide in what manner the vacancy is to be filled.

2. Appointment

- a. The City Manager, or his or her designee, shall make all appointments. If no person appointed indicates a willingness to accept the appointment, the City Manager may request a new examination and establish a new eligible list, or may fill the position by any other method authorized by these Personnel Rules.
- b. The person accepting appointment must report to the Human Resources Director or designee on the date designated; otherwise, the applicant will be deemed to have declined the appointment.

3. Provisional Appointment

In the absence of eligible candidates from which appointment may be made, a person meeting the employment standards for a vacant position may be given an at-will provisional appointment. The appointment shall be subject to certification by the Human Resources Department that the applicant meets the employment standards prior to the effective date of employment. An employment list shall be established within six (6) months for any permanent position filled by a provisional appointment. No special credit shall be given to an employee with a provisional appointment in meeting employment standards for any open competitive examination, in determining rights under these Rules, establishing eligibility for benefits, or against the probationary period. Provisional appointments shall be made for a period not to exceed six (6) months.

4. Project Appointment

Project employees are those employees who hold a position which has been authorized by the City Council for a prescribed period of time or for the duration of a specified project. Project employees shall be employed as if for normal employment and shall be given written notice of the limited nature of their employment and of the fact they are at-will and do not earn the right to employment past the period authorized. Project employees shall receive the normal benefits to which they would otherwise be entitled as probationary or permanent employees.

5. Emergency Appointment

The City Manager may employ such persons as may be needed for the period of an emergency which threatens life, property, or the general welfare of the City, without regard to the regulations as to recruitment and appointments in these Rules.

6. Temporary Assignment

A full-time or part-time employee who is hired for a limited duration to prevent undue delay or interference with the delivery of necessary services, or when a short-term increase in workload requires additional employees. A vacant position shall not be filled successively by temporary assignment, and no person shall receive successive temporary assignments. The employee serves at-will and is not entitled to benefits, except as required by law.

7. Seasonal Assignment

A full-time or part-time employee who is hired for a limited duration during a season, not to exceed nine (9) months. The employee serves at-will and is not entitled to benefits, except as required by law.

8. Contract Appointment

An employee hired by written agreement with the City for a specific term and under conditions wholly contained within the employment agreement. Contract employees shall be entitled to only those benefits, rights and privileges as outlined in the employment contract.

9. Direct Appointment

Executive Management, Confidential, and department head or higher positions will normally be filled by direct appointment after a selection procedure determined by the City Manager, subject to approval by the City Council.

F. Additional Selection Criteria

1. Pre-employment Review

Prior to employment, a candidate must receive satisfactory results from a background investigation, physical examination, and administrative screening. In some cases, the City may also require a psychological examination. The physical and/or psychological examinations will be administered only after the Human Resources Department extends the candidate a conditional offer of employment.

2. Job Offer

After a candidate has completed all steps of the selection process to the City's satisfaction, the Human Resources Department may extend to a candidate an official offer of employment.

3. Veterans' Preference

In making an appointment, preference may be given to candidates who are veterans, if the candidates to be selected are identically qualified, in accordance with state law.

SECTION 7. EMPLOYMENT STATUS**A. Probationary Employment**

A probationary employee is one who is serving a probationary period.

1. Length of Probationary Period

- a. All original and promotional appointments shall be subject to a probation period of 12 months of actual service.
- b. The City Manager may establish a longer probationary period for specified classifications, provided that prospective employees are notified of the probationary period as a condition of employment.
- c. The department head may recommend to the City Manager to extend an employee's probationary period not to exceed six (6) months at the discretion of the department head or his or her designee. Approval of such extension by the City Manager shall be in writing with notification to the employee involved prior to the end of the original probationary period. Such an extension shall not be subject to further review nor shall it be subject to appeal.
- d. Not less than thirty (30) days prior to the end of the probationary period, the probationary employee's department shall submit to the Human Resources Department the appropriate documentation designating either successful completion of the probationary period or termination from employment.

2. Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for observing the employee's work, for confirming a new employee's suitability for the position, and for rejecting any probationary employee whose performance does not meet the City's expectations and required standards of work.

3. Rejection of Probationary Employee**a. Rejection of Probationary Employee**

During the probationary period, an employee may be rejected at any time by the department head, with approval of the City Manager, for

failing to successfully complete the probationary period, without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationary employee and a copy will be filed with the Human Resources Department.

b. Rejection of Promotional Probationary Employee

Any employee rejected during a promotional probationary period shall be reinstated to the position and status from which promoted unless he/she has been promoted into a different bargaining unit or has been discharged for cause or has resigned pursuant to these Rules. The employee is not entitled to notice or a hearing if rejected during probation and reinstated to his or her previous position.

4. Extension Due to Leave of Absence

Any leave of absence with or without pay exceeding two (2) workweeks shall cause the employee's probationary period to be extended by the number of days of such leave that are in excess of two (2) workweeks.

5. Reclassification and Probation

An employee who is reclassified shall not be required to serve a probationary period if the employee has completed probation in their current classification. An employee who is reclassified while serving a probationary period shall be credited with their prior probationary service and will continue through their original probationary period subject to the rules of this Section.

6. Reduction in Force and Probation

An employee who either displaces another employee or voluntarily demotes to a vacant position as a result of a reduction in force shall serve the established probationary period for the position to which the employee is assigned unless the employee has previously held the position within the last two (2) years.

B. Permanent Employment

1. Permanent Full-Time Employment

An employee who successfully completes the probationary period and who regularly works forty (40) hours per week, or the maximum number of hours scheduled by a department or division and whose position is designated as a permanent position.

2. Permanent Part-Time Employment

An employee who successfully completes the probationary period and who regularly works twenty (20) or more hours per week but less than forty (40) hours per week and whose position is designated as a permanent position.

All benefits for eligible part-time personnel shall be prorated based on percentage of fulltime status or as otherwise required by law or relevant Memorandum of Understanding.

Employees working less than twenty (20) hours per week do not acquire permanent status and are not entitled to benefits. Such employees serve at the pleasure of the appointing authority.

C. At-Will Employment

“At-will” refers to any City employee who: (1) does not hold permanent status and who serves at the pleasure of the Council, City Manager or appointing authority, and (3) can be terminated at any time without cause and without the opportunity to appeal. This includes the City Manager, City Attorney, temporary employees, part-time (non-benefitted) employees, reserve police officers, volunteer or reserve firefighters, all other volunteer personnel and contract employees (as specified in the contract), as well as employees serving an original probationary period.

Employees who move from “permanent” employment status to an at-will position shall sign a notification and acknowledgment of at-will employment as a condition of employment.

D. Temporary or Provisional Employees

An employee who is assigned to work on a particular project or on a job of limited or definite duration is a temporary, provisional, or seasonal employee. A temporary, provisional, or seasonal employee: (1) does not hold permanent status, (2) does not serve a probationary period, (3) can be dismissed from City employment at any time without cause, right to appeal, grievance or hearing, and (4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves, except as required by law.

SECTION 8. ATTENDANCE & LEAVES**A. Attendance**

Employees shall be in attendance at work in accordance with the rules regarding hours of work, holidays, and leaves.

1. Timekeeping

All departments shall keep daily attendance records of employees which shall be reported to the Finance Department in the form and on the dates specified by the Finance Department.

2. Absence Control

An employee arriving late to work or leaving before the employee's shift is over is prohibited unless he or she has express advanced permission to deviate from the employee's regularly scheduled hours.

3. Employee's Duty to Notify of Late Arrival or Absence

An employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the scheduled work time and report the expected time of arrival or absence. If the employee's immediate supervisor is not available, the employee must notify the department head. An employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence unless the employee's absence is protected as defined by the law. Upon return to work, such unprotected absence shall be justified to the department head who shall consider the need for disciplinary action.

4. Excessive Tardiness/ Absenteeism

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period for any unprotected reason. Excessive absenteeism occurs when the number of unapproved and unprotected absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive

tardiness or absenteeism may be grounds for discipline, up to and including termination.

5. Abuse of Leave

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination.

6. Job Abandonment

An employee is deemed to have resigned from his/her position if he or she is absent for three (3) consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the City's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Personnel Officer or his or her designee before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to any post-separation appeal.

B. Work Schedules

Work schedules for each position shall be as established by the department head, subject to the provisions of the applicable salary resolution and/or MOU.

C. Continuous Service Requirements

Continuous service, as required for advancement within salary ranges and for other purposes specified in these Rules, is defined as City employment on a probationary, permanent, or acting appointment basis without break or interruption. Authorized leaves of absence without pay of thirty (30) days or less and leaves of absence with pay for any period shall not constitute an interruption of an employee's continuous service and shall not be deducted in computing total City service. However, authorized leaves of absence without pay in excess of thirty (30) days shall be deducted in computing an

employee's total City service for advancement in salary range and for other purposes specified in these Rules.

D. Sick Leave

Sick leave is paid leave from work that can be used for the following purposes:

diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or for an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

1. Use of Sick Leave

- a. In order to apply for sick leave use, an employee shall notify the appropriate immediate supervisor within one (1) hour before the time established as the beginning of the employee's work day, unless the City determines that the employee's duties require more restrictive reporting. If the employee is absent on sick leave for more than one (1) day, the employee must keep the immediate supervisor informed as to the date the employee expects to return to work.
- b. Sick leave will not be granted to any employee absent from duty after separation from City service, or during a City-authorized leave of absence without pay, or any other absence from duty not authorized by the City.
- c. Sick leave will not be granted to any employee solely for the purposes of extending the employee's vacation.
- d. Supervisors have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties. Employees placed on unpaid involuntary leave as a result of illness or injury will be provided pre-leave notice and opportunity to be heard.

2. Accrual of Sick Leave

- a. Sick leave shall be accrued at a rate of 3.69 hours bi-weekly for full time employees at the rate of eight (8) hours for each full month of employment. Sick leave shall be accrued at a pro-rated rate of at least one (1) hour for every thirty (30) hours worked for part time, seasonal, and temporary employees.
- b. In accordance with California's Paid Sick Leave law, all employees may use the first 3 days or 24 hours of accrued paid sick leave in a 12-month period for one of the following reasons:
 1. For the employee's own diagnosis, care, or treatment of an existing health condition or preventative care.
 2. For the diagnosis, care, or treatment of an existing health condition or preventative care for an employee's family member, including:
 - i. Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.)
 - ii. Spouse or Registered Domestic Partner
 - iii. Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.)
 - iv. Grandparent
 - v. Grandchild
 - vi. Sibling
- c. To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
 - i. A temporary restraining order or restraining order.

- ii. Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.
- iii. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
- iv. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
- v. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
- vi. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

Employees do not receive compensation for any unused, accrued paid sick leave at the time of separation of employment, unless stated in a bargaining unit's Memorandum of Understanding. However, if an employee is re-hired with the City within 12 months of the previous separation of employment, the City will reinstate up to 3 days or 24 hours of previously accrued but unused paid sick leave that the employee previously accrued.

Part-time employees will be allowed to accrue three (3) days or twenty-four (24) hours of paid sick leave in a 12- month period. Part-time employees may also carryover a maximum of six (6) days or forty-eight (48) hours year to year.

An employee shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (*e.g.*, doctor's appointment scheduled in advance). If the need for paid sick leave use is unforeseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as is practicable. Failure to provide notice without a good reason shall result in that day of absence being treated as a leave of absence without pay. Where possible, employees are strongly encouraged to schedule appointments at the beginning or the end of the work day so as to have the least impact on the performance of their duties and the efficient operations of the City.

- d. Sick leave granted by the City and used by an employee will be deducted from the employee's accrued sick leave balance.

- e. Employees granted a leave of absence with pay or other approved leave with pay will accrue sick leave as provided herein.
- f. Sick leave will not be accrued by an employee absent from duty after separation from City service, or during a City authorized leave of absence without pay, or any other absence from duty not authorized by the City.
- g. Paid sick leave will not be considered hours worked for purposes of overtime calculation.
- h. In the event that an employee or a member of the employee's immediate family recovers from any such sickness after being granted sick leave, and during the regularly scheduled hours of work, then such employee shall notify the appropriate immediate supervisor and be available to return to duty.

3. Paid Sick Leave and Workers' Compensation Benefits

- a. Paid sick leave is a benefit that also covers absences for work-related illness or injury. Employees who have a work-related illness or injury are covered by workers' compensation insurance.
- b. However, workers' compensation benefits usually do not cover absences for medical treatment. When you report a work-related illness or injury, you will be sent for medical treatment, if treatment is necessary. You will be paid your regular wages for the time you spend seeking initial medical treatment.
- c. Any further medical treatment will be under the direction of the health care provider. Any absences from work for follow-up treatment, physical therapy or other prescribed appointments will not be paid as time worked. If you have accrued and unused sick leave, the additional absences from work will be paid with the use of sick leave.

If you do not have accrued, paid sick leave, or if you have used all of your sick leave, you may choose to substitute vacation/paid time off for further absences due to your work-related illness or injury.

4. Family Sick Leave (Kin Care Leave)

In accordance with California's Paid Sick Leave law, an employee may use one-half of their available annual accrual of sick leave in a 12-month period for one of the following reasons:

- a. For the employee's own diagnosis, care, or treatment of an existing health condition or preventative care.
- b. For the diagnosis, care, or treatment of an existing health condition or preventative care for an employee's family member, including:
 - 1. Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.)
 - 2. Spouse or Registered Domestic Partner
 - 3. Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.)
 - 4. Grandparent.
 - 5. Grandchild.
 - 6. Sibling.
- c. To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
 - 1. A temporary restraining order or restraining order.
 - 2. Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.
 - 3. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
 - 4. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
 - 5. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
 - 6. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

Any additional paid sick leave provided to an employee beyond the use of one-half of their annual accrual of sick leave can only be used for the employee's own diagnosis, care, or treatment of an existing health condition or preventative care.

Employees do not receive compensation for any unused, accrued paid sick leave at the time of separation of employment, unless stated in a bargaining unit's Memorandum of Understanding. However, if an employee is re-hired with the City within 12 months of the previous separation of employment, the City will reinstate up to 6 days or 48 hours of previously accrued but unused paid sick leave that the employee previously had at the time of separation.

5. Use of Paid Sick Leave Required Before Unpaid Leave of Absence

- a. You are required to take accrued and unused paid sick leave before taking unpaid leave, or having unpaid absences related to family and medical leaves as allowed under California and federal law. Family and Medical Leave (under both state and federal law) is included in this requirement.

6. Excessive use of Sick Leave

Excessive use of unprotected sick leave may be considered in establishing the performance rating. Unprotected sick leave is sick leave which is not used in connection with any protected leave, a reasonable accommodation for a disability, or any other leave that is provided under the law for which sick leave may be used. Excessive use of sick leave, tardiness, and failing to use the call-in procedures when absent or tardy, can negatively impact the performance of your job or affect others in the performance of their job.

During periods when an employee is unable to work because of a job related injury or illness, and he or she is eligible for Workers' Compensation temporary disability benefits, the employee will receive his or her regular pay check until his or her accrued sick leave has been exhausted, as follows:

- a. Workers' Compensation temporary disability payments payable to the employee, shall be endorsed to the City. The City will use the employee's accrued sick leave to supplement these payments, or to cover those normal workday periods not covered by the temporary disability payments, until the accrued sick leave is exhausted.

- b. Upon exhaustion of the employee's sick leave, the employee will be placed on leave without pay unless he/she opts to supplement temporary disability payments with compensatory time or accrued vacation. If placed on leave without pay, the City will send the temporary disability payment directly to the employee for his/her use. This shall be the only payment to the employee.

7. Advance Payment of Sick Leave

No advance payment of sick leave shall be authorized until all accumulated leave has been utilized. The City Manager or designee may allow the advancement of sick leave to those permanent employees who are ill or disabled and have exhausted their accumulation of sick leave. These advances are in effect loans, and must be repaid from future accumulations of sick leave or vacation leave, or in the event of termination of employment prior to the accumulation of sufficient leave credits, these will be repaid in cash.

8. Sick Leave and Termination

An employee shall neither receive compensation for accumulated sick leave upon termination nor be allowed use of accumulated sick leave following termination.

9. Conflict with Memorandum of Understanding

If a negotiated Memorandum of Understanding (MOU) provision is in conflict with a provision of this policy, the MOU provision shall be followed.

E. Vacation Leave

The purpose of annual vacation leave is to enable each eligible employee to return to his or her work mentally and physically refreshed. It is City policy that each employee will take a vacation of reasonable length at least once each year.

1. Accrual of Vacation Leave

- a. Vacation accrual shall be based on total career service with the City during the current continuous period of employment. The accrual time for vacation is in accordance with the following schedule or is otherwise specified in the relevant Memorandum of Understanding:

Vacation Accrual for Full-Time Employment

<u>Length of City Service</u>	<u>Per Year</u>	<u>Per Month</u>	<u>Per Pay Period</u>
Beginning 1-3 years of service	10 days	6.67 hrs.	3.08 hrs.
Beginning 4-7 years of service	15 days	10.0 hrs.	4.62 hrs.
Beginning 8-15 years of service	20 days	13.33 hrs.	6.14 hrs.
Beginning 16-20 years of service	22 days	14.67 hrs.	6.77 hrs.
Beginning of 21 st year	25 days	16.67	7.69 hrs.

- b. Persons on fractional or part-time assignments shall accrue vacation directly proportionate to a full-time assignment; provided that vacation allowance shall be accrued only on total assignments of twenty (20) hours a week or more. Such accrual shall be rounded to the nearest quarter hour.
- c. An employee who is a new hire, re-employed or reinstated shall receive no vacation credit for the pay period in which he/she is hired, re-employed or reinstated if the start date is after the first working day of the pay period.
- d. When the employee reaches the maximum accrual he/she shall cease earning vacation leave until the balance falls below the maximum accrual.

2. Use of Vacation Leave

- a. No use of vacation time shall be permitted during the first six (6) months of City service unless approved by the City Manager or designee.
- b. Vacation time shall not be deducted for time that includes any official City holidays which occur during an employee's scheduled vacation period.
- c. Vacation usage may not exceed the accrued vacation balance as of the prior pay period.
- d. Employees unable to use approved vacation leave due to the operational needs of the City may receive a conversion to cash, upon approval of the City Manager or designee.

3. Scheduling of Vacation Leave

- a. Vacation leave shall be taken with the approval of the employee's department head or designee (direct supervisor).
- b. Requests for vacation leave usage of more than two (2) weeks must be requested at least two (2) weeks prior to the desired vacation period.

4. Workers' Compensation and Use of Vacation

An employee may elect to use accrued vacation leave to supplement temporary disability payments.

5. Vacation Payout

Current Memoranda of Understanding may contain provisions allowing represented employees to cash out their accrued vacation hours. Employees should refer to their respective Memorandum of Understanding for any provisions applicable to cashing out vacation hours.

6. Accrued Vacation Leave and Separation

An employee shall be paid for accumulated unused vacation leave upon separation from City service at his or her current base hourly rate of pay. Vacation leave will not be granted immediately prior to separation for the purpose of extending service to encompass paid holidays or completing a full month service for additional vacation leave accrual.

F. Holidays

1. Observed Holidays

The number of authorized holidays per year shall be established by the City Council. City employees shall receive time off on authorized holidays. City offices shall be closed on authorized holidays. Authorized holidays shall be as follows:

New Year's Day	Labor Day
Martin Luther King's Birthday	Veteran's Day
Washington's Birthday	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Juneteenth	Christmas Day
Independence Day	Christmas Eve ½ day (4 hours)

City offices shall be closed and City employees shall receive time off on every additional day that is appointed by the President or Governor as a public day of mourning, thanksgiving, or holiday when ratified within 5 days or less by the City Council.

If one of the holidays listed above falls on a Sunday, then it shall be observed on the following Monday. If one of the holidays listed above falls on a Saturday, then it shall be observed on the previous Friday.

In addition to the above holidays, each employee (excluding Police and Fire) shall be entitled to two days off as floating holidays, said day to be given at each employees request during each fiscal year, subject to operational needs. Floating holidays must be taken off in the fiscal year in which granted. No payment for unused floating holidays shall be made and a floating holiday not taken shall not be paid off at separation.

2. Holiday Pay

Permanent non-exempt employees are eligible to receive pay for each observed holiday. To be eligible to receive holiday pay a permanent employee must be in pay status the scheduled work day before the holiday and the scheduled work day following the holiday. Employees who resign in good standing on the work day following a holiday must work that last scheduled day to receive holiday pay.

Permanent employees working full-time shall receive eight (8) hours pay for each holiday. Those employed part-time (not less than 50% time) shall receive holiday pay proportional to their hours in a pay status excluding holiday hours, during the pay period in which the holiday falls.

3. Holidays Worked

In addition to holiday pay, as provided for above, regular non-exempt employees who are required to work on a holiday shall be granted either equivalent time off at 1 ½ time the amount of hours worked with pay during the same work week where the holiday occurs or pay at 1 ½ time the amount of hours worked at employee's regular rate of pay. Those other employees who are required to work on a holiday shall be granted either equivalent time off without pay or pay at the employee's established rate. Prior approval of the City Manager is required if cash payment for holidays worked is to be made.

4. Equivalent Holiday Compensation

Unless otherwise provided for in an applicable M.O.U., employees entitled to receive equivalent compensation for holidays in lieu of holidays off, shall receive payment as follows:

- a. Newly Hired Employees: The holiday equivalent compensation received shall be proportionate to the non-overtime hours of service during the employee's first calendar or fiscal year, as applicable. Such pay shall be to the nearest full holiday.
- b. Terminating Employees: The holiday equivalent compensation received shall be proportionate to the non-overtime hours of service during the employee's last calendar or fiscal year, as applicable. Such pay shall be to the nearest full holiday or quarter, as is the practice for newly hired employees.

G. Disability Leaves

1. Industrial Disability Leave (Workers' Compensation Leave)

An employee who suffers a work-related injury or illness is eligible for Industrial Disability Leave in accordance with applicable Workers' Compensation laws and the guidelines set forth in these Rules.

a. Probationary Civilian Employees and Part-Time Benefitted Employees

For any probationary civilian employee or part-time benefitted employee who is disabled from performing the duties of his or her position by reason of a bodily injury or illness occurring in the course and scope of employment, as contemplated by the workers' compensation laws of the State of California, the City shall pay the employee's regular wages or salary prior to the time the employee is eligible for workers' compensation temporary disability payments pursuant to state workers' compensation law (i.e. during the statutory waiting period).

At the conclusion of the statutory waiting period, the employee may be eligible for temporary disability payments from the worker's compensation claims administrator, in accordance with state workers' compensation law.

During the time that the employee is on Industrial Disability Leave, sick leave shall not be charged for the purpose of paying Industrial Disability Leave benefits. However, the employee may choose to use accumulated sick and vacation leave hours to supplement temporary disability payments (up to the amount of regular wages or salary) or health insurance benefits.

b. Sworn Public Safety Employees

Any sworn public safety employee who is a member of the California Public Employees Retirement System (CalPERS) and is disabled temporarily or permanently by injury or illness arising out of and in the course of employment, shall be paid in accordance with all applicable workers' compensation laws. While so disabled, an employee is entitled to a leave of absence without loss of salary in lieu of temporary disability payments which would otherwise be payable, in accordance with Labor Code Section 4850. If the employee remains on Industrial Disability Leave after salary continuation benefits have expired, the employee may be eligible for temporary disability payments in accordance with the law.

During the time that the employee is on Industrial Disability Leave, sick leave shall not be charged for the purpose of paying Industrial Disability Leave benefits.

However, the employee may choose to use accumulated sick and vacation leave hours to supplement temporary disability payments (up to the amount of regular wages or salary) or health insurance benefits.

c. Full-Time Permanent Non-Safety Employees

Any non-safety employee having a full-time, permanent appointment who is disabled from performing the duties of his or her position by reason of a bodily injury or illness occurring in the course and scope of employment, as contemplated by the workers' compensation laws of the State of California, shall be paid the following salary continuation benefits in lieu of temporary disability payments which would otherwise be payable:

- i. Full salary and benefits up to a maximum of three (3) months if the employee has less than three (3) years of City service; or

- ii. Full salary and benefits up to a maximum of six (6) months if the employee has three (3) or more years of City service.

If the employee remains on Industrial Disability Leave after salary continuation benefits have expired, the employee may be eligible for temporary disability payments in accordance with the law.

During the time that the employee is on Industrial Disability Leave, sick leave shall not be charged for the purpose of paying Industrial Disability Leave benefits. However, the employee may choose to use accumulated sick leave hours and, after exhaustion of sick leave, accumulated vacation leave hours to supplement temporary disability payments (up to the amount of regular wages or salary) or health insurance benefits.

Salary continuation and temporary disability benefits will be terminated upon any of the following, whichever occurs first:

- i. The employee returns to duty; or
- ii. Temporary disability payments are terminated by means of agreed settlement or permanent disability rating; or
- iii. The employee retires from City service.

d. Modified Duty Program

The City has established a Modified Duty Program in order to encourage a speedy and healthful return to work for employees who have suffered an injury or illness. The program applies to all City employees who have a temporary disability which prohibits them from performing full job duties or meeting the essential functions of their positions. The Modified Duty Program applies to both industrial and non-industrial injuries and illnesses.

A modified duty assignment is not guaranteed, and there may be instances where modified duty is not available. Each case of eligibility for modified duty is considered independently of any other past or present assignments. Thus, the circumstances of each case, the needs of the City, the availability of assignments, and the nature of the work shall determine the availability of modified duty assignments.

Modified duty is defined as temporary work, which can be accomplished by an injured/ill employee within the stipulated work restrictions or functional limitations prescribed by the employee's primary treating physician, and without exposing others to the risk of harm. Modified duty is temporary in nature. The City will consider extended modified duty on a case-by-case basis if a written statement from the treating physician is received that indicates a "date certain" that the employee will be released to full duty. The Director of Administrative Services or his or her designee, is responsible for the administration of this program. Employees are responsible for informing their treating physician(s) of the City's modified duty policy. Upon receipt of medical documentation that outlines specific work restrictions or functional limitations, the Director of Administrative Services, or his or her designee, will consult with the applicable department head, or his or her designee, as to the availability of modified duty. If it is determined that modified duty is available, the department head, or his or her designee, will work with the Administrative Services Department to monitor the employee's progress in returning to full duty status.

**LEAVE RIGHTS IN ACCORDANCE WITH THE FAMILY AND MEDICAL LEAVE ACT, CALIFORNIA
FAMILY RIGHTS ACT, AND PREGNANCY DISABILITY LEAVE ACT**

A. The City provides:

- (1) Family care and medical leave for up to 12 weeks per year in accordance with California's Moore-Brown-Roberti Family Rights Act and the federal Family and Medical Leave Act of 1993;
- (2) Pregnancy Disability Leave for up to four months in accordance with the California Fair Employment and Housing Act;
- (3) Disability leave as required to reasonably accommodate employees with a qualified disability under the Americans with Disabilities Act (ADA), the Fair Employment and Housing Act, or with a workplace injury;
- (4) Paid Family Leave provided under Section 3300, *et seq.*, of the California Unemployment Insurance Code, and
- (5) Leave for other legally required reasons as set forth below. Employees having any questions regarding this policy should contact the Administrative Services Director, or his or her designee.

Family and Medical Leave (FMLA)

- A. Eligibility: To be eligible for family/medical leave, an employee must have worked for:
1. the City for at least twelve (12) months, and
 2. At least 1,250 hours in the twelve (12) calendar months immediately preceding the leave.
- B. Permissible Reasons for Leave: You may take up to 12 weeks of unpaid job-protected family/medical leave within a 12-month period for any of the following reasons:
1. The birth of a child and to bond with or provide care for such child.
 2. The placement of a child with you for adoption or foster care and to bond with or care for a new child.
 3. To care for a parent, child, spouse, or domestic partner with a serious health condition.
 4. For your own serious health condition that renders you unable to perform the functions of your position.
 5. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings. (Leave for this reason is referred to in this policy as “qualifying exigency leave” and is not covered under the leave provisions of the California Family Rights Act (CFRA).)
 6. Eligible employees may take up to 26 weeks of FMLA leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. (Leave for this reason is referred to in this policy as “Military Caregiver Leave” and is not covered under the leave provisions of the CFRA.)

A “serious health condition,” as specified above, is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Leave for birth or child care, as defined above in subdivision (B)(1) and (2) must be completed within the 12-month period beginning on the date of birth or placement. In addition, in cases in which City employs both parents, they may take a maximum combined total of 12 weeks’ leave during any 12-month period for the first two reasons.

When City employs both husband and wife, they may take a maximum combined total of 26 weeks in a single 12-month period for military caregiver leave, or a combination of qualifying exigency leave and military caregiver leave. For only qualifying exigency leave, the husband and wife may take a maximum combined total of 12 weeks.

C. Calculating the 12-Month Period:

The City uses a rolling 12-month period method to calculate the 12-month period during which eligible employees may take 12 weeks of Family/medical leave.

NOTE that military caregiver leave is a one-time FMLA benefit and as such, the 26 weeks are only available during a single 12-month period. Note, however, that an employee may be entitled to more than one period of military caregiver leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 work weeks of leave may be taken within any single 12-month period. The City will begin counting the 12-month period on the first day of leave taken to care for the injured or ill service member. During the 12-month period when military caregiver leave is used, an employee is limited to a combined total of 26 weeks of FMLA leave for any reason.

D. Pregnancy, Childbirth, and Related Conditions:

While pregnancy and prenatal care are included in the definition of “serious health condition” under the FMLA, they are not covered under the leave provisions of the CFRA. If you take leave for pregnancy disability (up to four months, as certified by your health care provider) and are also eligible for FMLA, your FMLA-protected family/medical leave will run concurrently with your pregnancy disability leave. Once you are no longer disabled by pregnancy/childbirth, you may apply for up to 12 weeks of leave under the CFRA to bond with your newborn.

E. Notice of Leave:

If your need for FMLA leave is foreseeable, you must give the City at least 30 days prior written notice. If this is not possible, you must give notice as soon as practicable (generally the same day or next business day after the employee learns of the need for leave, depending on the circumstances), and you must comply with the City’s usual and customary notice and procedural requirements for requesting leave (such as call-in procedures), absent unusual circumstances. Failure to provide such notice may be grounds for delay of leave. Additionally, if you are planning a medical treatment, you must consult with your supervisor regarding the dates of such treatment in order to minimize disruption to the City operations.

For foreseeable leave due to a qualifying exigency, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable.

If your need for FMLA is not foreseeable, you must notify the City as soon as practicable regarding the facts and circumstances of your situation.

When providing notice, you must include sufficient information for the City to determine if the leave may qualify for FMLA/CFRA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA/CFRA leave was previously taken or certified.

The City has Request for Family/Medical Leave forms available. You should use these forms when requesting leave.

F. Certification:

The City requires requests for FMLA to be supported by a medical or other certification, as described below. You may obtain approved certifications forms from your Program Manager/Supervisor. When you request leave, the City will notify you of the requirement for certification and when it is due (no less than 15

calendar days after you request leave). If you are unable to obtain the certification due to reasons beyond your control, notify your Program Manager/Supervisor as soon as possible. Failure to provide requested certification in a timely manner may result in delay of leave until the required documentation is provided.

G. Serious Health Condition:

A request for FMLA because of your own serious medical condition or to care for a family member with a serious health condition must be supported by a medical certification from a health care provider. The medical certification must include the following information:

1. The name, address, telephone number, and fax number of the health care provider and type of medical practice/specialization;
2. The approximate date on which the serious health condition commenced, and its probable duration;
3. The health care provider's statement documenting the need for leave;
4. If you are the patient, a statement from the health care provider establishing that you are unable to work at all or perform any one or more of the essential functions of your position due to the serious health condition;
5. If the patient is a covered family member with a serious health condition, confirmation that the family member is in need of care.

The City, at its expense, may require an examination by a second healthcare provider designated by the City if it is a question about the validity of the medical certification you initially provide. If the second healthcare provider's opinion conflicts with the original medical certification, the City, at its expense, may require a third, mutually agreed on, healthcare provider to conduct an examination and provide a final and binding opinion.

The City may require updated medical recertification for additional leave, even if for the same medical condition. Failure to provide requested certification within 15 days, except where it is not practical under the circumstances, may result in delay of further leave until the certification is provided.

H. Qualifying Exigency:

If you request qualifying exigency leave, you must provide the City with a copy of the military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active

duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

You must also provide a certification that includes the following information:

1. A statement or description, signed by you, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested, accompanied by any available documentation that supports the request;
2. The approximate date on which the qualifying exigency commenced or will commence.
3. The beginning and end dates for the absence;
4. If the leave will be taken on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency; and
5. If the qualifying exigency involves meeting with a third party, appropriate contact information for that individual or entity and a brief description of the purpose of the meeting.

I. Military Caregiver Leave:

Leave requested to care for a covered service member with a serious injury or illness must be supported by a certification, including a medical certification.

J. Leave is Generally Unpaid:

Family/medical leave is generally unpaid. However, accrued vacation and other personal paid time off (except sick leave) may be substituted for unpaid leave for any type of family/medical leave. In addition, accrued sick leave may be substituted for unpaid leave when the family/medical leave is for your own serious health condition, and you may elect to substitute paid sick leave for the care of a family member, or for military caregiver leave, or for any other situation for which paid sick leave is normally available under the City policies and procedures, or as required by State or Federal law. The term "substitute" means that the paid leave will run concurrently with the unpaid FMLA leave.

The use of paid leave for family/medical leave is, in all circumstances, subject to the terms and conditions contained in the City's usual policies and procedures and restrictions applicable to that type of paid leave.

Depending on the circumstances, you may be eligible for other wage-replacement benefits, including short-or long-term disability insurance payments, and workers' compensation benefits.

NOTE that neither the substitution of paid leave nor the integration of other wage-replacement benefits for unpaid leave shall extend the maximum family/medical leave period or result in your receiving more than 100 percent of your salary.

K. Medical and Other Benefits:

During an approved family/medical leave, the City will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the City will deduct your portion of health plan premium as a regular payroll deduction. If your leave is unpaid, the City will put you on a direct payment plan with CalPERS Health. CalPERS will bill you for your portion of the premium. Your healthcare coverage will cease if your premium payment is more than 30 days late. If your payment is more than 15 days late we will send you a letter to this effect.

If you elect not to return to work for at least 30 calendar days at the end of the leave period, you will be required to reimburse the City for the cost of the premiums paid by the City for maintaining coverage during your unpaid leave, unless you cannot return to work because of a serious health condition or other circumstances beyond your control.

During family/medical leave, you will accrue benefits, such as sick and vacation days, only when paid leave is substituted for unpaid leave and only if you would otherwise be entitled to continuing accruing benefits. The use of family/medical leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

The City will continue to make contributions to retirement (CalPERS) during a paid leave. Contributions are stopped if and when the leave becomes unpaid.

L. Intermittent and Reduced-Schedule Leave:

Leave because of a serious health condition or military caregiver leave may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours you work per work week or work day) if medically necessary. Qualifying exigency leave may also be taken intermittently or on a reduced-leave schedule.

Leave for bonding or the care of a new child must be taken in blocks of at least two weeks, but you are allowed two exceptions to this rule.

If leave is unpaid, the City will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced-schedule

leave, the City may temporarily transfer you to an available alternative position that better accommodates your recurring leave and that has equivalent pay and benefits.

M. Reinstatement:

Employees returning from family/medical leave will be restored to the original or an equivalent position (with equivalent pay, benefits, and other employment terms). However, the City reserves the right to deny reinstatement of 'key employees' whose salary is among the top ten percent if it would cause substantial and grievous economic injury to the operations of the City.

As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, the City requires the employee to obtain and present certification from the employee's health care provider that the employee is able to resume work.

N. Employer Responsibilities:

The City is required to inform employees requesting leave whether they are eligible for family/medical leave. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the notice must provide a reason for the ineligibility.

The City must inform employees if leave will be designated as FMLA/CFRA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA/CFRA-protected, the employer must notify the employee.

O. Unlawful Acts by Employers:

It is unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under FMLA/CFRA; or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA/CFRA or for the involvement in any proceeding under or relating to FMLA/CFRA.

P. Enforcement:

An employee may file a complaint with the U.S. Department of Labor or the California Department of Fair Employment and Housing; or may bring a private lawsuit against an employer. FMLA/CFRA do not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Q. Substitution of Paid Leave for Family Care and Medical Leave:

Employees are required to substitute accrued vacation time for all family care and medical leaves. Employees are required to substitute sick leave only for medical leaves.

The substitution of paid leave for family care or medical leave does not extend the total duration of family care and medical leave to which an employee is entitled to beyond twelve (12) weeks in a 12-month period. For example, if an employee has accrued four (4) weeks of unused paid vacation time at the time of the request for family care or medical leave, paid vacation time will be substituted for the first four weeks of family care or medical leave, leaving up to eight (8) additional weeks of unpaid leave unless paid sick leave is available and appropriate for such leave.

Family care leave taken for the birth, adoption, or foster care placement of a child generally must be taken in blocks of at least two (2) weeks duration; however, the City will provide employees with family care leave for birth, adoption, or foster care placement for less than two (2) weeks duration on any two (2) occasions. Family care leaves for the birth, adoption or foster care placement of a child must be concluded within one (1) year of the birth, adoption or placement.

Family care or medical leave for the employee's own serious health condition, or for the serious health condition of the employee's spouse, parent, or child may be taken intermittently or on a reduced schedule. The City retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

R. Leave's Effect on Benefits:

During an employee's family care or medical leave, for up to a maximum of twelve (12) weeks in a 12-month period, the CITY shall continue to pay for the employee's participation in the City group plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave.

Employees on family care and medical leave accrue employment benefits, such as sick leave or vacation benefits only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

S. Procedure for Requesting Family Care and Medical Leave:

1. Notice Requirements:

As noted above, employees should notify the City of their request for family care or medical leave as soon as they are aware of the need for such leave. For

foreseeable events, if possible, the employee must provide 30 calendar days' advance notice to the City of the need for family care or medical leave. For events that are unforeseeable 30 days in advance, but are not emergencies, the employee must notify the City as soon as he or she learns of the need for the leave, ordinarily no later than 1 or 2 working days after the employee learns of the need for the leave. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee may be requested to reschedule the treatment so as to minimize disruption of the City business.

If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the taking of the leave until at least 30 days after the date the employee provides notice of the need for family care or medical leave.

All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. Any requests for extensions of a family care or medical leave must be received at least five (5) working days before the date on which the employee was originally scheduled to return to work and must include the revised anticipated date(s) and duration of the family care or medical leave.

2. Medical Certification:

Any request for medical leave for an employee's own serious health condition or for family care leave to care for a child, spouse, or parent with a serious health condition must be supported by medical certification from a health care provider. For foreseeable leaves, employees must provide the required medical certification before the leave begins. When this is not possible, employees must provide the required certification within fifteen (15) calendar days after the City's request for certification, unless it is not practical under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within fifteen (15) days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

T. Leave's Effect on Reinstatement:

Employees returning from family care or medical leave are entitled to reinstatement to the same or comparable position consistent with applicable law. The City retains the right to deny reinstatement to employees who are among the highest paid ten percent (10%) of the CITY employees and whose reinstatement would cause substantial and grievous economic injury to the City's operations under provisions of law.

Pregnancy Related Disability Leave or Transfer**A. Eligibility and Duration:****1. Leave of Absence**

Any employee who is disabled on account of pregnancy, childbirth, or related conditions may take a pregnancy-related leave of up to four (4) months (17 1/3 weeks), in addition to any family care or medical leave to which the employee may be entitled under the Family Care and Medical Leave Policy.

2. Temporary Transfer Before Childbirth

Any employee affected by pregnancy is entitled to transfer temporarily to a less strenuous or hazardous position or to less strenuous or hazardous duties if the transfer is medically necessary and the transfer can be reasonably accommodated.

B. Substitution of Paid Leave for Pregnancy-Related Disability Leave

An employee taking pregnancy-related disability leave must substitute any available sick pay for her leave and may, at her option, substitute any accrued vacation time for her leave. The substitution of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled.

C. Leave's Effect on Benefits

If an employee taking a pregnancy-related disability leave is also eligible for family care and medical leave under this policy, then the employee is entitled to the City's continuation of benefits as described herein up to a maximum of up to four months (17 1/3 weeks) in a 12-month period.

D. Other Terms and Conditions of Leave

The provisions of the City's Family Care and Medical Leave policy regarding the leave's effect on pay and reinstatement also apply to all pregnancy-related disability leaves.

Other Disability Leaves

In addition to medical or pregnancy-related disability leaves, employees may take a temporary disability leave of absence, if necessary, to reasonably accommodate a workplace injury or an ADA-qualified disability. Any disability leave under this section

may run concurrently with any medical leave to which the employee is entitled under Section 11.2 of this policy.

Disability leaves under this section will be unpaid by the employer.

Employees taking disability leave must comply with the Family Care and Medical Leave provisions regarding substitution of paid leaves, notice, and medical certification. For the purpose of applying these provisions, a disability leave will be considered to be a medical leave.

If a disability leave under this section extends beyond twelve (12) weeks in a 12-month period, the employee will not be entitled to any continued employer contributions towards any employee benefit plan. An employee, however, may elect to continue participating in such benefit plans, at the employee's own expense, to the extent permitted by such plans.

The duration of a leave under this section shall be consistent with the law, but in no event shall the leave extend past the date on which an employee becomes capable of performing the essential function of his or her position, with or without reasonable accommodations.

Should an employee fail to return on the expected return date after an FMLA absence or fail to remain employed for more than thirty (30) days after expiration of the leave, the employee may be required to reimburse the employer for the cost of benefits provided pursuant to the Act for the period of the leave.

Other Leaves of Absence

Leave of Absence With Pay

1. Jury Duty

All employees shall receive their regular City salary while on jury duty.

2. Military Duty

Any eligible City employee ordered to serve on military duty for a period not to exceed thirty (30) calendar days within any calendar year shall receive his/her regular City salary during such service. Any compensation, other than subsistence, Basic Allowance for Quarters (BAQ), and per diem, must be turned in to The City Finance Department. Service beyond thirty (30) days will be honored and benefits provided according to the provisions of 389-398 of the California Military and Veterans Code.

a. Health Insurance Benefits

Any employee on Military Leave may elect to continue health care coverage for himself/herself and any eligible dependents for a maximum of twenty-four (24) months by paying the premium amount.

b. Leave Benefits

Employees on active duty are not entitled to accrue Sick or vacation leave with the exception that a National Guard member on active duty is entitled to accrue vacation leave and holiday compensation for the first thirty (30) days of active duty.

c. Re-employment Rights of Employees Returning From Military Leave

Employees returning from Military Leave are entitled to re-employment to their previous position (or a position of similar seniority, status and pay) if:

- i. The employee has given advance written or verbal notice of such military service to the employer unless giving notice is impossible, unreasonable, or precluded by military necessity;
- ii. The cumulative length of the absence and of all previous absences from a position of employment with the City by reason of military service does not exceed five (5) years; and
- iii. The returning veteran reports to, or submits a re-employment application, to the employer in accordance with the notice provisions mandated by federal law. The amount of notice an employee must provide an employer of his or her intent to return to work depends on the amount of time the employee has been on Military Leave.

The City may refuse reinstatement if:

- i. The City's circumstances have changed so much as to make the re-employment impossible or unreasonable; or
- ii. Re-employment of the individual would impose an undue hardship on the City; or

- iii. The position from which the person left existed for a brief, non-recurrent period and there was no reasonable expectation the job would continue indefinitely or for a significant period.

3. Time off to Vote

If an employee who is not exempt does not have sufficient time outside of working hours to vote in a statewide election, the employee may take up to two hours off without loss of pay at the beginning or end of the day. Prior approval by the employee's supervisor 48 hours before the leave for this time off is required.

Leave of Absence Without Pay

- Any employee who is a parent, guardian, or grandparent having custody of one or more children in kindergarten or grades one (1) through twelve (12) or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. The employee must provide reasonable advance notice of the planned absence. The employee may be required to use vacation and/or CTO to cover the absence.
- The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If parents, guardians, or grandparents having custody work for the City at the same work site, only the first parent requesting will be entitled to leave under this provision.
- An employee who has been a victim of violent crime or domestic violence may take time off to: (1) appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; (2) seek medical or psychological assistance; or (3) participate in safety planning to protect against future assaults.
- An affected employee must give the City reasonable notice that he/she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the City with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee uses vacation or accrued time off.
- Leave of absence without pay up to thirty (30) days for any purpose may be granted to full-time employees by the City Manager. Leave of absence in excess of thirty (30) days for any purpose may be granted to full-time employees at the

recommendation of the City Manager and approved by the City Council for periods not to exceed one year.

- Employees on leave of absence without pay shall not earn vacation, sick leave, or credit for annual salary increments during the period of leave. Continuation of employee benefits will be determined by the City Manager, based upon length of the leave of absence without pay.
- Employees will be granted leave without pay beyond one year of absence for military service, upon recommendation of the City Manager and approval of the City Council.
- Any leave of absence shall include a written agreement as to the intention of the City and employee to return the employee to the former position, or a comparable position, and is contingent upon the availability of such a position at the time of the expiration of the leave of absence.
- An employee may return prior to expiration of leave upon approval of the City Manager and if necessary, the City may require a fitness for duty examination before return.

An employee who fails to return from any leave when such leave is no longer authorized may be deemed to have resigned.

Fitness-for-Duty Examination

1. Conditional Offer of Employment Examinations

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment.

2. Current Employee Examinations

The Administrative Services Director or a designee may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when there is significant evidence: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job (i.e. job-related); and 2) there is reason to question the employee's ability to safely or efficiently complete work duties (i.e., consistent with business necessity).

3. Role of Health Care Provider

A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether: 1) the employee is fit to perform essential job functions; 2) there are any reasonable accommodations that would enable the employee to perform essential job functions; and 3) the employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

4. Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

5. Medical Information from the Employee's Health Care Provider

An employee may submit confidential medical information to the City from his or her personal health care provider. If the employee provides written authorization, the Administrative Services Director, or his or her designee will submit the information that the employee provides to the City-paid health care provider who conducted the examination. The Administrative Services Director will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

6. Interactive Process Discussion

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any is provided by the employee) the Administrative Services Director or his or her designee will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Administrative Services

Director or his or her designee will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

7. Determination

After the discussions, the Administrative Services Director or his or her designee will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on City finances or operations. The Director of Administrative Services or his or her designee will inform the employee of his or her determination. The Director of Administrative Services will use his or her discretion based upon the particular facts of each case.

- Additional Leaves of Absence

1. Bereavement Leave

a. Amount of Leave

Pursuant to this policy, a permanent employee is entitled to a paid leave of absence not to exceed three (3) days per death. However, if the employee must travel out of state for bereavement leave, and upon submitting a request to Human Resources and with approval by the City Manager, a permanent employee may receive up to five (5) days of paid leave for a death. Employees may be permitted to use sick leave for additional time with the approval of the City Manager or designee. Such approval shall not be unreasonably denied.

b. Eligibility for Leave

An employee is eligible to take bereavement leave in the event of the death of a member of his or her family. For purposes of this section, "family" consists of the following: employee's spouse, domestic partner, child, stepchild, parent, step-parent, grandparent, grandparent-in-law, grandchild, brother, sister, mother/father-in-law, son /daughter-in-law, brother/sister-in-law, aunt, uncle, niece, nephew, legal guardian, or custodial child, or the same relatives of a domestic partner.

2. Donation of Paid Leave Time

a. Purpose

The Donation of Paid Leave Time policy provides employees a procedure for the voluntary transfer of accrued paid leave to a co-worker who has either suffered a catastrophic illness or injury or whose dependent family member has suffered a catastrophic illness or injury. This plan is intended to enable employees who have exhausted their leave balances to receive voluntary leave donations from other City employees for the period of time that leave is necessary.

b. Policy

It is the policy of the City to authorize employees to voluntarily transfer accrued paid leave hours to another employee under the criteria specified in this policy. Such transfer of leave balances shall be limited to situations where the requesting employee has exhausted all of his or her available paid leave (e.g. sick leave, administrative leave, and compensatory time off) as a result of the employee's, or the employee's dependent family member's, qualifying long-term illness or injury (as defined in this policy) and, therefore will be placed on unpaid leave status.

Donation of Leave Time requests must be submitted in writing and are subject to approval by Human Resources.

3. Definitions

- i. Medical Emergency / Catastrophic Illness or Injury – An unanticipated illness or injury, either for a permanent or temporary period anticipated to exceed two weeks, fourteen (14) calendar days, that incapacitates an employee or the employee's dependent family member (spouse, domestic partner, child, parent), and which limits the employee's ability to perform the essential functions of his or her usual and customary job.
- ii. Medical Emergency/Catastrophic Leave (MECL) Hours – Leave hours donated to the requesting employee by the donating employee(s).
- iii. Dependent Family Member – For purposes of this policy, includes a spouse, domestic partner, child, legal guardian, or parent who

will depend on the employee for assistance as a result of the medical emergency / catastrophic illness or injury.

4. Employee Eligibility

The employee must meet all of the following criteria to be eligible for receipt of MECL hours:

- i. The employee must be employed as a full- or part-time permanent employee for at least 30 days prior to the event requiring time off.
- ii. The approved medical leave of absence must be for at least 30 consecutive days. In the event the leave is needed for a dependent family member, that individual must be incapacitated from work, school, or other regular daily life activities for at least 30 consecutive days.
- iii. The employee must provide a medical certification by the applicable health care provider verifying that the illness or injury 1) meets the definition of medical emergency / catastrophic illness or injury as defined in this policy and 2) medically requires at least 30 consecutive calendar days of leave.
- iv. The employee must have exhausted all available leave time including sick leave, vacation leave, administrative leave, and/or compensatory time off.

5. Donation Regulations

- i. All donations shall be made on an hour-for-hour basis, regardless of the hourly pay rate of either the donor or the recipient.
- ii. Donations must be made in one (1) hour increments.
- iii. Donations may come only from paid leave banks, referenced in section vi.
- iv. Donations will be provided to the recipient employee incrementally each pay period in the order in which the donations were received. Once approved, the donations shall be removed from the donor's leave bank. This transfer is irrevocable, unless the employee returns to service prior to depleting the donated

leave, which will be returned to donors in the order by which it was received.

- v. Donations are made on a voluntary basis and shall be kept confidential and not revealed to the recipient, other donors, and/or other employees.
- vi. Employees may donate sick leave, administrative leave, vacation leave, and compensatory time off to the extent they choose.
- vii. The maximum amount of donations an employee may receive per year is 800 hours. These hours must be integrated with the employees' STD/LTD or workers' compensation benefit payments if applicable. In no event shall an employee receive a combination of leave donations, STD/LTD, and/or Workers' Compensation in an amount that would exceed the employees' pre-incident earnings.
- viii. Once a recipient has exhausted his or her accrued paid leave balances and is receiving only donated MECL hours, accrual of paid leave will cease until such time as the employee returns to work and begins receiving regular earnings for time worked.
- ix. Under special circumstances intermittent use of MECL hours may be approved.

6. Procedures

i. MECL Request

- A. Eligible employees may request MECL donations by completing the Medical Emergency / Catastrophic Leave (MECL) Request Form.
- B. The accepting/requesting employee must provide medical certification(s) indicating the duration of the illness/injury will be for 30 consecutive calendar days or longer.
- C. The employee shall submit the MECL Request Form and medical certification to Human Resources for approval and processing.
- D. Upon approval and with the employee's consent, Human Resources will accept donations and (if authorized)

advertise the request for MECL donations. Advertising may be in the form of e-mail, flyers, staff meeting announcements, or other authorized advertising approved by Human Resources and with the employee's consent.

ii. MECL Donation

- A. Employees who wish to donate leave time may do so by completing the Medical Emergency / Catastrophic Leave (MECL) Donation form.
- B. Employees may donate sick leave, administrative leave, vacation leave, and compensatory time off to the extent they choose.
- C. MECL Donation Forms shall be sent to the Human Resources Department for approval. Donations will be kept strictly confidential.
- D. The Human Resources Department will monitor donations to ensure the maximum hourly donations per recipient are not exceeded.
- E. Donations will be provided to the recipient employee incrementally each pay period in the order in which the donations were received. Once approved, the donations shall be removed from the donor's sick leave bank. This transfer is irrevocable.

7. Special Leaves with and without Pay

Special Leaves are unprotected leaves of absence that are granted in rare, unusual circumstances and are not covered under other provisions of these Rules or an MOU or salary resolution and are not protected leaves under state or federal law.

a. 30 Days or Less

Upon the written recommendation of the department head, the City Manager may authorize special leaves of absence without pay for one or more periods not to exceed thirty (30) days in a calendar year for any purpose deemed by the City Manager not to be detrimental to the City.

8. Greater than 30 Days

The City Council may, upon the recommendation of the City Manager, grant special leaves of absence with or without pay in excess of thirty (30) days for purposes deemed by the City Manager to be beneficial to the City. Failure of the employee to return to service at the end of the leave, except in extraordinary circumstances, will constitute an automatic termination.

SECTION 9. TRANSFERS AND ASSIGNMENTS**A. Employee Transfers**

Any employee in a permanent position who has successfully completed a probationary period may request a transfer to another vacant position in the same or similar classification within a different department without being subject to a new probationary period. An employee desiring to be transferred should make his/her request in writing to the Human Resources. As vacancies occur in other departments, to which the employee would be eligible for transfer his/her name will be submitted to the department head for consideration. An employee transfer request shall remain active for a period of one (1) year.

The transfer of an employee from one classification to another without a significant change in level may be made when the employee meets the minimum qualifications for the new classification; if it is the best interest of the City; if further training and development of an employee in another classification would be beneficial to future staffing potential of the City; and it meets the personal need of the employee as consistent with the other requirements of this rule.

B. Reassignments between Departments/Divisions

The City Manager or designee may authorize the transfer of an employee from one position in a department to another of the same or comparable classification in another department. The City Manager or designee will provide the employee a two-week notice prior to the transfer.

Transfer from one department/division to another department/division under different department heads shall be done with the consent of both departments, unless such a transfer is ordered by the City Manager for purposes of economy or efficiency.

Any person transferred to a different department shall possess the minimum qualifications for the position.

C. Reassignments Within Department

The department head may assign an employee to another position in the same classification in the same department at any time. The City Manager or designee will provide the employee a two-week notice prior to reassignment.

D. Promotion

Promotions are discussed in Section 5.G.2 (Salary on Promotion) and Section 6.C.1 (Recruitment and Examination Type).

E. Demotion

1. Involuntary Demotion

A department head may demote an employee whose ability to perform his or her required duties falls below standard or for misconduct. An employee involuntarily demoted is entitled to the rights provided in Section 12 of these Rules (Discipline) or an applicable salary resolution and/or MOU.

2. Voluntary Demotion

Upon request of the employee, and approval of the department head, an employee may voluntarily demote to a position in a lower classification. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications.

F. Suspension

An employee may be suspended by the department head without pay for cause in compliance with Section 12 (Discipline) of these Rules or an applicable salary resolution and/or MOU.

G. Reduction in Salary

A department head may reduce an employee's salary for cause (i.e. discipline, due process). A reduction in salary for disciplinary purposes may take one of two forms: (1) a decrease in salary to a lower step within the salary range, or (2) a decrease in salary paid to an employee for a fixed period of time. An employee whose salary is reduced is entitled to the rights provided in an applicable MOU or Section 12 (Discipline) of these Rules.

H. Reinstatement

For a period of up to one (1) year, upon recommendation of the department head and with the approval of the City Manager, a permanent employee who has resigned in good standing with satisfactory performance may be reinstated to his or

her former position, if vacant, or to a vacant position in the same or comparable classification. Upon reinstatement, the employee, for all purposes, shall be considered a new employee, and hence will receive a new anniversary date and serve a new probationary period.

SECTION 10. SEPARATION FROM SERVICE**A. Discharge or Dismissal****1. At-Will Probationary Employees**

An at-will probationary employee may be discharged by the department head at any time, with or without cause and without right of appeal.

2. Permanent Employees

A permanent employee may be discharged for cause. An employee who is discharged for cause is entitled to the rights provided by an applicable MOU or Section 12 of these Rules (Discipline).

B. Layoff**1. Authority to Lay Off**

The City Manager may lay off employees for lack of work, budgetary reasons, technological changes or other City actions that necessitate a reduction in the work force.

2. Definitions

- a. Original probationary period – an employee’s first probation period during continuous City employment.
- b. Promotional probationary period – the probationary period served upon promotion from one City position to another.
- c. Seniority - length of continuous service with the City from date of hire into a merit system position. For purposes of this section, time served on a military leave of absence, protected leave under the Family Medical Leave Act or California Family Rights Act, and a leave of absence due to a workers’ compensation injury shall be considered City service. An employee shall continue to accrue seniority during any unpaid leave of absence of 30 days or less taken for purposes of a military leave of absence pursuant to Military and Veterans Code section 395, et seq; however, seniority will continue for the length of any protected leave under the FMLA or the CFRA.
- d. Designation of Positions for Layoff

When it becomes necessary to reduce the work force, the City Manager shall designate the position(s) or classification(s), and division(s), department(s), or other organizational unit(s) in which positions are to be eliminated. Contract, provisional, and temporary employees in the same classification as the positions proposed for elimination within the affected organizational unit shall be laid off first. Probationary promotional employees who are laid off shall be returned to the position held prior to their promotion.

3. Order of Layoff

- a. The names of all original probationary employees occupying positions in the affected class shall be listed in alphabetical order. The City Manager or his or her designee shall select from this list one employee, regardless of his or her place on the list, to be laid off for each position to be abolished.
- b. If the positions to be abolished exceed the number of employees available for layoff after layoff of original probationary employees as described above, a "Subject to Layoff List" shall be prepared. The list shall be composed of all permanent and promotional probationary employees in the class from which a position is to be abolished. Names of the employees shall be listed in reverse order of their lengths of City service; i.e., those having the least seniority will be listed first.
- c. In selecting employees to be laid off, those employees at the top of the list shall be laid off first. When employees have equal seniority, the City Manager will select the employee to be laid off with consideration given to the employee's past performance and in consultation with the concerned department head.
- d. The names of laid off employees shall be listed on a reemployment list in the reverse order of their dates of layoff.

4. Bumping Rights

Any employee subject to layoff who has held permanent status in a position in a lower classification in the class series from which he/she is to be laid off may request placement in the lower classification. Employees subject to layoff must request placement in writing to the Human Resources within five working days after receipt of the Notice of Layoff. This request will result in the layoff of the

least senior employee in the lower classification, provided the requesting employee subject to layoff held permanent status in the lower classification longer than the least senior employee currently in the lower classification.

An employee who has been involuntarily transferred to a class from which a layoff is to be made shall have automatic bumping rights to his or her previous classification for up to one (1) year from the effective date of the transfer.

5. Re-Employment List

The name of every permanent employee who is laid off or demoted in lieu of layoff shall be placed on a re-employment list in reverse order of their dates of layoff.

Names may be removed from a re-employment list for any of the following reasons:

- a. The expiration of twenty-four (24) months from the date of placement on the list.
- b. Re-employment in any permanent full-time position, regardless of department or classification level.
- c. Failure to respond within twenty-one (21) calendar days of mailing of a letter sent via Certified Mail regarding availability of employment.
- d. Failure to report to work within fourteen (14) calendar days of mailing of a registered letter containing a notice of re-employment, absent mitigating circumstances.
- e. An individual request in writing that his or her name be removed from the list.

6. Re-employment

Vacancies to be filled within a department shall be offered first to individuals on the re-employment list who held a position in the same classification as the vacancy to be filled, pending background results and confirmation of any required certifications.

A permanent employee who has been laid off and is re-employed in a permanent position within twenty-four (24) months from the effective date of his or her layoff shall be entitled to:

- a. Restoration of seniority accrued prior to layoff and during layoff.
- b. Upon re-employment by the City an employee shall be credited with service performed prior to him or her being laid off and will accrue vacation at the accrual rate applicable as if the employee had not been laid off. Sick leave balances, if any, will be reinstated at the time of re-employment, upon re-employment, employees will be eligible for insurance benefits as if they are a new hire unless they had maintained coverage or unless otherwise provided by the insurance carrier.
- c. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same job classification from which he/she was laid off. Placement in the salary range at the same step held prior to layoff if the employee is reinstated to the same job classification from which he/she was laid off.

If the person who is re-employed had not satisfactorily completed the required probationary period in the department of appointment prior to layoff, he/she shall serve a new probationary period upon re-employment.

7. Notices

At least a 30-day notice (30 calendar days) shall be given to any employee who is to be laid off. All notices and requested actions referenced in this section shall be in writing and sent by Certified Mail or delivered personally to the addressee. All notices to the City shall be addressed to the City Manager. Employee shall be responsible for notifying the City of any address change and any such notice shall be served in accordance with this paragraph.

8. Displacement of Part-Time Employee

In the event a reduction in force is necessary, a part-time employee may not displace a full-time employee. However, a full-time employee may displace a less senior part-time employee provided he/she is otherwise eligible to displace the less senior employee.

9. No Appeal

Employees do not have any right to appeal their layoff from employment except as otherwise provided by law.

An employee who has any questions regarding the layoff decision or process should make an appointment with the Director of Administrative Services, or his or her designee for a pre-layoff review.

C. Resignation

An employee wishing to leave City service in good standing shall file a written letter of resignation with the department head or Director of Administrative Services at least ten (10) working days before leaving City service. The letter shall be forwarded to the Administrative Services Department. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported immediately by the department head to the Administrative Services Department. A resignation becomes final once accepted by the department head. Once a resignation has been accepted, it cannot be withdrawn.

D. Disability

1. Policy

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. On a case by case basis, an employee may be transferred or separated from service for disability only when he/she cannot perform the essential functions of the job because of a physical and/or mental impairment and only after the City and the employee have engaged in an interactive process and a determination has been made that no reasonable accommodations exist to allow the employee to perform the essential functions of their job. Where available to the employee, the City will submit to CalPERS an application for disability retirement before separating for inability to reasonably accommodate. An accommodation will not be provided if it would pose an undue hardship on the City or would present a direct and imminent threat to the health and safety of the employee or others.

2. Procedure

a. Request for Accommodation

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to

the Human Resources Department. The request must identify: (a) the job-related functions at issue; and (b) the desired accommodation(s).

3. Reasonable Documentation of Disability

Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability and the need for reasonable accommodation. If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

4. Fitness for Duty Examination

The City may require an employee to undergo a fitness for duty examination at the City's expense to determine whether the employee can perform the essential functions of the job with or without reasonable accommodation. The City may also require that a City-approved physician conduct the examination.

5. Interactive Process Discussion

After receipt of reasonable documentation of disability and/or a fitness for duty report, the City will arrange for a discussion, in person or via telephone conference call, with the employee, and his or her representative(s), if any. The purpose of the discussion is to work in good faith to fully discuss all feasible potential reasonable accommodations.

6. Case-by-Case Determination

The City determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee in writing of its decision as to reasonable accommodation(s).

E. Retirement

When an employee meets the conditions set forth in these Rules and the California Public Employees' Retirement System (CalPERS) retirement plan regulations, the employee may elect to retire and receive all benefits earned under the retirement plan.

F. Disability Retirement

1. Local Miscellaneous Retirement Plan

For an employee enrolled in the Local Miscellaneous retirement plan (i.e. a civilian employee), disability status and entitlement to a disability retirement shall be established by the California Public Employees' Retirement System (CalPERS).

2. Local Safety Retirement Plan

For a sworn police employee who is enrolled in the CalPERS Local Safety retirement plan, the determinations as to whether (1) that employee is disabled, and (2) such disability was industrially caused, shall be made by the City Council. The Director of Administrative Services, or his or her designee, shall submit recommendations regarding the employee's disability retirement to the City Council for adoption and certification to the CalPERS board. Once adopted by the City Council, all decisions shall be final.

SECTION 11. GRIEVANCES

Unless otherwise specified in a memorandum of understanding, the following is the City's grievance procedure for City employees:

A. Definition

A grievance is a claimed violation, misapplication, or misinterpretation of these rules or a Memorandum of Understanding which adversely affects the grievant.

B. Stale Grievance

A grievance shall be void unless filed in writing within fifteen (15) calendar days from the date upon which the City is alleged to have misinterpreted or misapplied this agreement, or within fifteen (15) calendar days from the time an employee might reasonably have been expected to have learned of the alleged misinterpretation or misapplication. Such discovery period shall not exceed 180 days regardless of the date of discovery. In no event shall a grievance include a claim for money relief for more than the fifteen (15) day period plus such reasonable discovery period.

C. Informal Discussion with Employee's Supervisor.

Before proceeding to the formal grievance procedure, an employee shall discuss his/her grievance with his/her immediate supervisor in private and attempt to work out a satisfactory solution. Any solution reached at this level must be reviewed by the City Manager or designee to assure compliance with this agreement before it has any binding effect.

D. Formal Written Grievance to Employee's Supervisor

If the employee chooses to formally pursue his or her grievance, the employee or his/her representative shall present the written grievance to the employee's immediate supervisor within five (5) working days after the employee had engaged in an informal discussion explained above. The formal written grievance shall specify the provisions of either these rules or the MOU at issue that is alleged to have been misinterpreted or misapplied, the remedy sought, and such other specific dates, times, places and persons and other facts necessary to derive a clear understanding of the matter being grieved. The immediate supervisor shall respond to the formal written grievance within five (5) working days from the receipt of the supervisor's answer within which to file an appeal to the next level.

In the event a group grievance is formally submitted by the recognized employee organization, its initial submission will be to the department head and subsequent steps will be followed as outlined in this section.

E. Grievance to Department Head/City Manager

The department head or the City Manager, if the department head was the grievant's immediate supervisor, shall have seven (7) working days in which to review and answer the grievance in writing. Unless waived by mutual agreement of the employee or his/her representative and the department head or City Manager, a

meeting is required at this level and the employee and his/her representative shall have the right to be present and participate in such a meeting. The time limits at this level may be extended by mutual agreement between the department head or City Manager and the employee or his/her representative.

F. Waiver of Appeal Steps

If the grievance is not resolved after the immediate supervisor has answered it in writing, the grievant(s) and the department head may, by mutual agreement, waive the review of the grievance at Step E and proceed to present the grievance to the City Manager.

G. Advisory Fact Finding Grievances

In the event the grievance is not resolved by the City Manager, the recognized employee organization may within fifteen (15) days after receipt of the decision of the City Manager, request that the grievance be heard by a neutral fact finder.

H. Selection of a Fact Finder

The fact finder shall be selected by mutual agreement between the City and the Union. If the parties are unable to agree on the selection of a fact finder, they shall jointly request the State Mediation and Conciliation Service to submit a list of five (5) qualified fact finders. The City and the grievant, or his/her representative, shall flip a coin and the winner shall choose which party strikes the first name from the list. The City and the grievant will then alternately strike names from the list until only one name remains, and that person shall serve as fact finder.

I. Duty of Fact Finder

Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the fact finder to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a proposed disposition of the grievance which will be advisory in nature. The proposed disposition shall be based solely on the interpretation of the applicable provisions of these Personnel Rules and/or relevant MOU, if applicable to the grievance, and he/she shall not add to, subtract from, modify or disregard any of the terms or provisions of the Personnel Rules or relevant MOU.

J. Payment of Costs

Each party to a hearing before a fact finder shall bear its own expenses in connection therewith. All fees and expenses of the fact finder shall be borne one-half by the City and one-half by the grievant. If the City does not implement the proposed disposition of the grievance made by the fact finder, the City shall pay all fees and expenses of the fact finder.

K. No Retribution

An employee shall not be penalized for using this procedure.

SECTION 12. DISCIPLINARY PROCEDURES

Section 12.01 General

The City expects all employees to render the best possible service to the public, to reflect credit upon the City service, and to serve the public interest. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct and expected job performance. However, reliance on progressive discipline before imposing significant discipline depends on the underlying facts of the misconduct and is at the discretion of the department head or his or her designee.

- A. The procedures set forth in these sections shall not apply to probationary employees who are rejected during probation, or to any employee serving in a seasonal or temporary appointment. These procedures shall not apply to a reduction in force, or a reduction in pay which is part of a reclassification action or reorganization approved by the City Council. These procedures shall not apply to employees who are governed by contract.
- B. The City Manager may take disciplinary action based upon a department head's recommendation or initiate such action based upon his/her own authority. The City Manager may delegate the responsibility to take disciplinary action to a department head. As used in this section, "disciplinary authority" shall mean either a department head or the City Manager, whoever initiates the disciplinary action; "working day" shall mean any day of the month when the City offices are officially open for business.
- C. The procedures set forth in this section shall not preclude an employee from entering into a written agreement with the City to settle a pending disciplinary matter, and further shall not preclude an employee from waiving any of the notice provisions herein provided for, as part of that written settlement agreement.
- D. Disciplinary Administrative Leave pending an investigation:

The City may place an employee on disciplinary administrative leave from the municipal service in the best interests of the City, including but not limited to enable the City to conduct an investigation. Except in the case of an at-will employee, the leave shall be with pay.

Section 12.02 Grounds for Discipline (located in M.O.U., located on City Website)

An employee may be reprimanded, suspended, denied a merit increase, demoted or dismissed for any of the following reasons:

- 1. Furnishing false information to secure employment.
- 2. Incompetence, which shall mean that the employee lacks adequate ability, knowledge, motivation, or fitness to satisfactorily perform the duties of his/her position.
- 3. Inefficiency in performance of work which result in performance lower than that which is typically expected of the position or that which is in the best interest of the City.
- 4. Neglect of duty meaning failure to perform his or her duties.

5. Insubordination, which shall mean refusal or failure to follow a direct, lawful order or instruction which the employee is capable of following.
6. Nonobservance of work hours.
7. Excessive absenteeism, tardiness, or unprotected absence without authorized leave.
8. Violation of City Personnel Rules and Regulations, administrative policies and procedures, department rules and regulations, safety rules, resolutions, ordinances or codes.
9. Damage to or waste of public property, equipment or supplies, or unauthorized possession or use of public property, supplies or equipment.
10. Any conduct related to employment which impairs, disrupts or causes discredit to the employment or the City, including but not limited to conduct which is or would be cause for discipline under any other provision of this section.
11. Willful failure or refusal to properly perform official duty.
12. Gross negligence in the discharge of official duty.
13. Dishonesty.
14. Any act of moral turpitude which adversely reflects on the employee's ability or fitness to perform his/her duties.
15. Soliciting or taking for personal use a fee, gift or other valuable thing in the course of the employee's work, or in connection with the contributing party's expectations or hope of receiving favorable or better treatment than that afforded other persons.
16. Disclosure of confidential information to an unauthorized source.
17. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment by the City.
18. Falsification of time sheets or any official City records.
19. Misuse of sick leave.
20. Consuming, possessing, or being under the influence of an alcoholic beverage while being on duty.
21. Unless legally authorized, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale while on duty, any drug which can or does impair the employee's work performance, or any controlled substance as the latter term is defined in the California Health and Safety Code.
22. Discourteous or disrespectful treatment of the public, other employees, or City officials.
23. Violation of the City's anti-harassment, discrimination, and retaliation policy.
24. Engaging in outside employment in violation of City policies or rules.

25. Engaging in non-City business during work hours, excluding employee free times, such as lunch and breaks.

Section 12.03 Types of Disciplinary Action

A. Counseling or Oral Warning

A counseling or oral warning will not be placed in the employee's personnel file except as part of a regular or special performance evaluation report of the employee on which the employee is given an opportunity to respond. A counseling or oral warning for a performance evaluation reports is not subject to the appeal process outlined below.

B. Written Reprimand

A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. Such reprimands shall not be subject to the appeal process outlined below, but the employee shall have the right of rebuttal by providing a written statement which will be included in the personnel file along with the written statement.

- C. Imposition of special employment conditions that do not result in a decrease in the employee's pay. Such actions shall not be subject to the appeal process outlined below.

- D. Suspension without pay. Fringe benefits such as vacation and sick leave shall not accrue during a period of suspension without pay. However health, dental, and life insurance shall remain in effect during a period of suspension without pay. Such action shall be subject to the appeal process outlined below.

- E. Reduction in pay level not to exceed one (1) year. Such action shall be subject to the appeal process outlined below.

- F. Demotion. Such action shall be subject to the appeal process outlined below.

- G. Dismissal or discharge. Such action shall be subject to the appeal process outlined below.

Section 12.04 Notice of Interdisciplinary Action

- A. In cases of proposed disciplinary action, except counseling, oral warning, or written reprimand, the proposed disciplinary action shall be served on the employee personally or by mail. The written notice of intended disciplinary action shall include:
 - 1. The reason for the disciplinary action, those facts alleged to be the basis for the intended action and copies of any documents or materials upon which the disciplinary action is based;
 - 2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
 - 3. The proposed effective date of the intended disciplinary action; and
 - 4. The right of the employee to respond to the disciplinary action either in writing or orally, at the option of the employee. The employee shall be advised that he/she has ten (10) working days within which to file a written response or request, in writing, an informal pre-disciplinary conference before the disciplinary authority or his/her designee.
- B. A copy of the notice of intended disciplinary action shall be placed in the employee's personnel file.

Section 12.05 Pre-disciplinary Conference

When an employee has requested an opportunity to respond orally, the discipline authority or his/her designee shall cause an informal pre-disciplinary conference to be held to review the statement of charges and to provide the opportunity for the employee or his/her representative to answer the charges. The disciplinary authority or his/her designee shall allow the parties to present any relevant evidence tending to prove or disprove the facts upon which the action is based or upon the nature and severity of the proposed disciplinary action. Failure of the employee to appear at the pre-disciplinary conference, if requested, shall forfeit the employee's right to respond to the statement of charges.

Section 12.06 Notice of Disciplinary or Rejection of Discipline

- A. If the employee does not respond or upon conclusion of the pre-disciplinary conference, the disciplining authority or his/her designee shall, by written notice to the employee and the supervisor, affirm, reduce or abandon the proposed disciplinary action.
- B. If the decision is to affirm or reduce the proposed disciplinary action, such action shall be served on the employee personally or by mail. The written notice of disciplinary action shall include:

1. The reason for the disciplinary action, those facts alleged to be the basis for the disciplinary action and copies of any documents or materials upon which the disciplinary action is based;
 2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
 3. The effective date of the disciplinary action; and
 4. The right of the employee to appeal the disciplinary action. The employee shall be advised that he/she has ten (10) working days within which to file a written appeal of the disciplinary action.
- C. A copy of the notice of disciplinary action shall be placed in the employee's personnel file.
- D. If the decision is to abandon all action, the notice of intended disciplinary action shall be removed from all personnel files.

Section 12.07 Appeal of Disciplinary Action

An employee who has been discharged, demoted, reduced in salary or suspended without pay has the right to appeal the disciplinary action to the City Manager by filing a written notice of appeal within ten (10) working days from the date of the action. Failure to file within the time allowed constitutes abandonment of appeal rights. The evidentiary appeal shall be heard by a neutral Hearing Officer.

Section 12.08 Appeal

- A. The City Manager's designee shall be responsible for obtaining a list of potential hearing officers from the State Mediation & Conciliation Service ("SMCS"). The City Manager's designee shall ask SMCS to randomly provide the names of five neutral arbitrators. The City and the employee facing discipline shall flip a coin and the winner shall choose which party strikes the first name from the list. The City and the employee will then take turns striking names until only one name remains. The remaining arbitrator shall conduct the hearing on behalf of the City Manager. The City shall pay for the service of the Hearing Officer.
- B. The Hearing Officer shall assume responsibility for scheduling and conducting the hearing in accordance with the provisions of Chapter 12. The Hearing Officer shall conduct the hearing and prepare a decision that includes findings of fact and recommendation(s). The City Manager shall be bound by the findings of fact but reserves final authority on the recommendation(s) of the Hearing Officer. The decision of the City Manager shall be final unless appealed to the City Council.

- C. If the final decision is to affirm or modify the disciplinary action, the Hearing Officer's decision shall be placed in the employee's personnel file. If the final decision is to modify or reverse the disciplinary action, that notice of disciplinary action shall be implemented. If the final decision is to reverse the intended disciplinary action, the original notice of disciplinary action shall be removed from the employee's personnel file.

Section 12.09 Evidentiary Appeal Hearing Procedures

- A. The Hearing Officer shall provide the appellant and City with written notice of the date, time and place of the hearing no less than ten (10) working days in advance of the scheduled hearing date. Any timelines contained in this section may be extended upon mutual agreement of the City and the appellant for good cause.
- B. The hearing shall be closed to the public unless the appellant, prior to the commencement of the hearing, requests in writing that it be open to the public. The hearing shall be conducted in accordance with the provisions of Section 1513 of the Government Code which reads:
 - 1. Oral evidence shall be taken only on oath or affirmation.
 - 2. Each party shall have these rights: to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If respondent does not testify in his or her own behalf he or she may be called and examined as if under cross-examination.
 - 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
 - 4. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible

- over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.
5. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
 6. The presiding officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- C. The appellant may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code. The appellant shall be allowed to appear personally at the hearing and appellant shall have the right to legal counsel or lay representation of appellant's choice and sole expense at all times throughout the proceeding, and appellant shall be allowed to produce such competent evidence in his/her own defense and in rebuttal to the charges as the appellant or appellant's representative may wish to offer.
- D. The hearing shall be recorded by a stenographer reporter. If any transcript is ordered by the appellant or the City, the party ordering the transcript shall bear the costs of the transcription. If both the appellant and the City order transcriptions, the cost of the transcription, along with the cost of the reporter, shall be borne equally by the City and the appellant.
- E. The Hearing Officer shall have the power to subpoena and require the attendance of witnesses, and the production of books, papers, and other evidence pertinent to the hearing, and to administer oaths to witnesses. In arriving at a recommendation, the hearing officer may consider any prior disciplinary actions taken against the appellant.
- F. Unless the circumstances were beyond the control of the appellant, failure of the appellant to appear at the hearing shall be deemed a withdrawal of the appeal and the action of the department head in the notice of disciplinary action shall be final without right of appeal to the City Council. The participation of the appellant's representative at the hearing shall constitute appearance of the appellant.

The City Manager shall review the Hearing Officer's report including finding of fact and recommendation(s) and, within thirty (30) days after receiving the Hearing Officer's report, the City Manager will issue his or her written decision

affirming, reversing, or modifying the discipline which shall be final unless appealed to City Council.

- G. An employee can appeal the City Manager's decision to the City Council by filing the written notice of appeal with the City Clerk within five (5) working days from the date of the mailing of the City Manager's decision.
- H. Within ten (10) days after receipt of the appeal, the City Clerk shall give notice of the appeal to each member of the City Council, the City Manager, and other persons named or affected by the appeal and shall schedule a hearing before the City Council.
- I. The hearing before the City Council shall be non-evidentiary in nature and shall be limited to oral arguments from either parties or their representatives. The City Council shall be bound by the findings of the facts prepared by the Hearing Officer. The appellant and the City shall each have 20 minutes of oral arguments with an additional 5 minutes of rebuttal arguments. The hearing before the City Council shall be closed to the public unless prior to the hearing, **the appellant requests in writing that the hearing be open to the public.**
- J. The City Council shall deliberate in closed session and shall issue a declaration which affirms, reverses, or modifies the discipline imposed by the City Manager. The City Council's decision is final and any measure of discipline that the Council sustains will be implemented.
- K. If the Council's decision is to affirm or modify the disciplinary action, the City Manager's decision shall be placed in the employee's personnel file. If the Council decides to reverse all disciplinary action, the notice of intended disciplinary action and the notice of disciplinary action shall be removed from the employee's personnel file.
- L. The decision of the City Council shall be final and subject to judicial review under Code of Civil Procedure 1094.5.

Section 12.10 Serving Notice

Written notice shall be served either by direct personal service on the person affected, or by mail. Mailed notices to the City Manager or his/her designee, a

department head, an appellant and/or his/her designee or the City Council shall be effective upon recorded deposit with the United States Postal Service.

Section 12.11 Summary Suspension

Prior to any disciplinary proceedings under this section, the City Manager may summarily place any City employee on an immediate suspension status with or without pay. Such suspension shall be made only in cases where the employee's continued active duty status might in the sole opinion of the City Manager, constitute a hazard to the employee conduct. If the disciplinary action or suspension is not subsequently ordered and/or affirmed, the employee shall be reinstated in status and restored all pay and fringe benefits lost during such suspension.

Section 12.12 Right to Representation

An employee subject to an investigatory interview that may result in disciplinary action, a pre-disciplinary conference, or hearing has the right, upon request, to be represented by an employee representative or an attorney retained by the employee at the employee's expense. Any employee, other than those defined as management, mid-management and confidential employees shall be permitted to represent another City employee or group of City employees.

Section 12.13 Records Purged

An employee personnel file shall be purged of all documents relating to ordered disciplinary actions, except dismissal, after three (3) years from the end of such action upon the written request of the employee or former employee against whom the action was taken.

SECTION 13. PERSONNEL RECORDS

A. Personnel Files

1. Maintenance of Personnel File

The Human Resources Department shall maintain a personnel file on each City employee. An employee's personnel file will only contain material that is

necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted. Personnel files may be maintained in electronic and/or paper format.

2. Changes in Employee's Personal Information

Each employee is responsible to promptly notify the Human Resources Department of any changes in relevant personal information, including:

- Mailing address
- Telephone number
- Persons to contact in emergency
- Number and names of dependents
- Marriage or domestic partnership

B. Medical Information

1. Separate Confidential Files

All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with applicable state or federal law.

2. Information in Medical Files

The City will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act. To enable the City to obtain certain medical information, the employee or applicant may need to sign an Authorization for Release of Employee Medical Information.

3. Access to Medical Information

Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical Information Act) unless the employee signs an Authorization for Release of Employee Medical Information. The City will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations to the person or entity to which it discloses the medical information.

C. Release of Personnel Information

1. Public Information

Upon request, the City will release to the public information about its employees as required by the Public Records Act. The City will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or pose a unique and specific threat to the employee's safety.

2. Reference Checks and Employment Verification

All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Administrative Services Director. Information will be released only if the employee signs an Authorization for Release of Employment Information form, except that without such authorization, the following limited information will be provided: job title and dates of employment. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Administrative Services Director.

3. Medical Information

Medical information will be released only in accordance with subsection B above.

D. Employee Access to Personnel Files

1. Inspection of Personnel File

An employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact the Human Resources Division to arrange an appointment. The review

must be done in the presence of the Administrative Services Director or his or her designee.

2. Copies

On request, an employee is entitled to receive a copy of their personnel file. An employee who wishes to receive such a copy should contact the Human Resources Department. The City may charge the employee for the actual cost of producing the copy.

3. Limitations

The employee does not have the right to inspect letters of reference or ratings, records or reports obtained by a representation of confidentiality.

E. Additional Employee Files

Separate files are maintained by the Human Resources Department for records of each employee's medical, workers' compensation, and/or confidential disciplinary matters. Access to these records is limited and subject to more stringent guidelines.

F. Changes in Employee Status

Every temporary or permanent change in the status of an employee requires the completion of a Personnel Action Form (PAF) with all required signatures, including those of the department head and the Director of Administrative Services, and the City Manager.

G. Destruction of Records

All records relating to employment and personnel may be destroyed in accordance with existing legal guidelines and/or adopted City Council resolutions.

SECTION 14. OTHER EMPLOYEE WORK CONDITIONS AND POLICIES

A. Employee Performance Evaluations

1. Purpose and Objectives

The purpose of employee performance evaluations is to evaluate individual performance, to motivate employees and inform them of their job performance with the view of improving performance and public services.

2. Job Standards and Performance Criteria

- a. Job standards are established by management and supervision and are derived from class specifications for a particular position. From these standards, an employee shall know what his/her job requires and through supervisory instruction, how he/she is expected to perform said requirements.
- b. Performance criteria shall be established by supervision as a measure of the quality and quantity of work an employee produces. Each employee is then rated against the standard performance requirements of the job, without regard to current salary range step. From such performance criteria, an employee should, through periodic reviews, know how well he/she has performed in relation to what is expected.
- c. Current ratings shall be based on performance and/or behavior which occurred during the rating period. Previous ratings may be referenced to support trends or patterns of performance but prior performance shall not be used solely as the basis of arriving at current ratings.

3. Performance Review

- a. The performance review shall be conducted by the supervisor directly responsible for an employee's performance:
 - i. At the end of the month 1/3 of the way through an established probationary period.
 - ii. At the end of the month 2/3 of the way through an established probationary period.
 - iii. Annually on the anniversary date for all permanent employees, or as soon thereafter as may reasonably occur.
 - iv. Whenever commendation or a serious problem warrants a special performance review, or as deemed appropriate by the supervisor.
- b. Supervisors shall conduct private interviews with each employee in an unhurried informal atmosphere. Supervisors shall indicate on the review form the overall rating given the employee. The employee must sign the performance review form, indicating that it was discussed with him or

her, not that the employee agrees with or endorses the evaluation. The employee may add written comments to the performance review.

4. No Appeal

An employee does not have the right to appeal any matter relating to a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 calendar days after the employee receives the evaluation.

B. Training

1. General Policy

The City shall encourage and promote training opportunities for all City employees to insure that services they render to the City may be made more effective. The Director of Administrative Services or his or her designee may assist department heads in meeting the training needs of the personnel of their departments; and in cooperation with department heads, shall encourage the development of departmental and interdepartmental training programs designed to meet personnel needs and to prepare employees for promotion to positions of greater responsibility.

2. Time of Training Periods

Training periods may be conducted either during or after regular working hours or both. Attendance by employees at training sessions conducted after regular working hours, however, shall be voluntary and will not be considered compensable work time under the Fair Labor Standards Act ("FLSA") unless the City has expressly agreed in writing to consider training time compensable under the FLSA. Training sessions conducted during regular working hours will be arranged so as to minimize interference with work schedules.

3. Types of Training

For the purpose of administering this provision, the recognized general categories of training are:

a. In-Service Training

This category includes those courses initiated by the City that are aimed primarily at improving the specific abilities of employees in either performing or broadening their general comprehension of municipal operations.

4. Specialized Individual Training

This category includes special training courses which are usually initiated by some other group but which have special interest directly relating to the work performed by one or more City employees. This category includes seminars and training sessions held by professional organizations and specialized professional short courses.

5. Academic Training

This category includes courses offered by academic institutions for credit. The subject matter of the courses shall be related directly to the functions of the City and contribute to the performance of that employee in his or her present City position.

6. Tuition Aid

"Tuition aid" is defined as full or partial payment or reimbursement of registration fees and the minimum requirement of tests for specialized individual academic training which is related to the employee's current job or which prepares an employee for a promotional opportunity within City service. Texts purchased for training by the City will become the City's property upon completion of the training. The individual will have the option of purchasing the texts from the City.

- a. Tuition Aid for Specialized Individual Training shall be made to the employee only upon evidence of completion of the training. In those instances, where it is desirable because of the nature of the training to advance tuition aid, a department head may request payment of tuition aid prior to the training.
- b. Tuition Aid for Academic Training shall be made to the employee only upon evidence of satisfactory completion of the training. Satisfactory completion will be considered a grade of C or better, or an equivalent grade.

7. Procedure for Obtaining Tuition Aid

- a. Employees who desire tuition aid for specialized individual training or academic training shall submit their requests to their department heads. Requests will be reviewed by the department heads and forwarded with recommendation to the Personnel Officer for authorization, if the department head determines that the training is valuable to the needs of the department. Requests for aid and costs shall be processed within the administrative section of the department's budget. Prior authorization of the Personnel Officer must be obtained before the training starts in order for the employee to qualify for tuition aid. Employees will be required to pay the tuition costs themselves, prior to the course, but will be reimbursed if the course is authorized and successfully completed as provided for herein. When the training is completed, evidence of satisfactory completion of the training must be submitted to the Personnel Officer for the purpose of obtaining reimbursement. Nothing in this section or in these Personnel Rules shall create any entitlement for any employee to receive tuition reimbursement. The decision to provide tuition reimbursement is solely within the discretion of the Personnel Officer.
- b. An employee being subsidized by another agency, either governmental or private, shall receive tuition aid only to the extent not reimbursed by such other agency.

C. Uniforms and Special Clothing

1. The City, when required by State law, shall furnish special safety or protective clothing and equipment to City employees for their use. The City shall provide and maintain uniforms or work clothing for employees holding Maintenance Worker, Water Operator, and Equipment Mechanic positions in the Community Services and Airport Department.
2. Members of the Police, Animal Control, Code Enforcement, and Fire, Department shall be granted cash allowances for the purchase and maintenance of uniforms and other equipment required in the performance of their City duties, as provided in the appropriate M.O.U., which shall become the property of the employee upon 1 year of service.

D. Mileage Allowance and Use of Privately-Owned Vehicles

1. General Policy

It is the policy of the City to ensure that all employees requiring transportation for the satisfactory completion of their assigned duties will either (1) have a City vehicle available for their use as required by the nature of their work or (2) be reimbursed for the use of their own private vehicle when such use is authorized.

2. Authorization for Use of Privately-Owned Vehicles

Use of privately owned vehicles in connection with official City business during normal work hours may be authorized prior to such use by the City Manager.

3. Mileage Allowance

Employees who use their own vehicle for City business shall be reimbursed at the prevailing IRS standard business mileage rate in effect at the time the mileage occurred.

4. Administrative Regulations

Administrative regulations covering conditions for use, financial responsibility, and procedures for requesting travel authorization and reimbursement procedures shall be established by the City Manager.

E. Executive Management and Confidential Personnel

1. Defined

The Executive Management and Confidential Personnel are key positions in the City service which are essential to an effective employer-employee relations program whose participation in the labor relations process and personal interest in the outcome of labor disputes over working conditions may compromise the performance of their duties and responsibilities. The Executive Management and Confidential Personnel are also intended to facilitate management responsiveness to the direction of the City Manager, create a system of accountability to the City Manager and provide a reasonable degree of security for management and confidential personnel.

2. Executive Management Personnel Positions

Executive Management Personnel include the following positions:

City Manager	Assistant City Manager
City Attorney	Development Services Director
Administrative Services Director	City Building Inspector
City Clerk	Management Services Director
Police Chief	Engineering Manager/City Engineer
Police Captain	Airport Director
Fire Chief	Community Services Director
Human Resources Manager	Program Manager
Parks & Recreation Director	Utility Manager
Division Fire Chief/Fire Marshall	Information Systems&Tech. Director
Airport Manager	Information Systems Manager

3. Confidential Personnel Positions

Confidential Personnel include the following positions:

Accounting Manager	Human Resources Analyst
Executive Assistant to City Manager	Administrative Analyst
Deputy City Clerk	Payroll Manager
Accountant	Management Analyst
Human Resources Technician I/II	Information Systems Technician
Legal Administrative Assistant	Information Systems Analyst
Support Services Assistant II (confidential)	Administrative Analyst
Sr. Support Services Assistant (confidential)	

4. Appointment

The appointing authority for the City Manager and the City Attorney shall be the City Council. A majority vote of the City Council concurring with the selection of the City Manager and City Attorney shall constitute confirmation of the appointment. The appointing authority for all other personnel defined as Executive Management and Confidential Personnel shall be the City Manager. All department head appointments shall be subject to the advice and consent of the City Council and after reasonable consideration of the appointee's qualifications after selection procedures.

5. Benefits and Working Conditions

Unless specifically excluded, Executive Management and Confidential Personnel shall be subject to and benefit from all provisions of this Resolution.

6. Management/Administrative Leave

Each employee appointed to career status as Executive Management, Mid-Management, or Confidential Personnel shall be eligible for ten (10) days (not to exceed 80 hours) management/administrative leave with pay each year. Leave will be granted in accordance with conditions set forth in an Administrative Memorandum to be issued by the City Manager. Said leave shall not be cumulative and shall not be converted into monetary compensation.

7. Designation of Confidential

The City Manager reserves the right to classify designated positions as confidential for the reasons of holding specific executive and/or administrative information in trust, which in his/her judgment, are material to the labor relations program of the City in which they are participants at some significant level. Confidential Personnel shall not belong to a recognized employee organization except as a member of a unit consisting solely of confidential personnel.

SECTION 15. STANDARDS OF CONDUCT

This section applies to all officials and employees of the City, regardless of whether they are in the merit system. This includes contractors, temporary employees, volunteers, and all thirteen (13) groups of individuals excluded from other sections of these Rules as specified in Section 1.I (Application of Personnel Rules).

A. Code of Ethics

1. Each official and employee has an obligation to the citizens, to the people's elected representatives and to fellow employees to meet the highest ethical and professional standards and to enhance the public's respect and trust for the City and its operations.
2. Employees of the City have responsibilities unique from their counterparts in private industry. Employment with the City carries an obligation of personal integrity and conduct that serves to establish public respect, confidence, and trust.
3. Employees represent the City and the quality of City service is judged through their performance and conduct. The citizens of the City of Hollister have the right to expect that City employees will provide services in an efficient, thorough and courteous manner. It is intended that the rules and procedures that follow will assist employees in maintaining high ethical standards and proper job performance, and in avoiding potential conflicts of interest both in fact and appearance.
4. The City, as a condition of employment, expects to receive from the employee:
 - a. Initiative and a conscientious effort to perform productive work.
 - b. Cooperative, positive, responsive, and courteous relations with fellow employees, supervisors, subordinates, and the public.
 - c. A continuous effort to strive for greater knowledge and skill on the job in order to maintain performance at a high level.
 - d. Compliance with all policies, regulations, rules of conduct and ordinances established by the City.
 - e. Responsible work habits demonstrated by:

- i. Dependability, promptness, reliable attendance, and performing required duties competently in a timely manner.
- ii. Keeping informed of developments and matters affecting job performance,
- iii. Being flexible and adaptable to change.
- iv. Accepting constructive suggestions and criticism.
- v. Neat and clean grooming and attire appropriate to the job assignment. Prescribed uniforms and safety equipment must be worn where applicable.
- vi. Effectively implementing the official policies of the City when serving in their official capacity with customers, clients, and the public and/or when identifying themselves as City employees in the course of their work.
- vii. Demonstrable care and respect for City-owned property and office space.

B. Conflicts of Interest

- 1. Officials and employees of the City are prohibited from:
 - a. Engaging in or having any interest in any business or transaction, or incurring any obligation that conflicts with or impairs, or appears to conflict with or impair, their independent judgment in the discharge of their official duties.
 - b. Accepting any gift or compensation (money, favors, or other considerations) for work they would be required or expected to perform in the regular course of their duties.
 - c. Accepting any gift or compensation of any kind from any non-governmental person or entity performing or seeking to perform any work or service on behalf of the City, where such person or entity can be expected to do business with the City within the employee's area of responsibility. An employee may accept occasional, non-cash gifts of an incidental nature, such as, for example, a working lunch or a seasonal gift offered to an entire work group.

- d. Disclosing confidential information acquired by or made available to them in the course of their employment with the City, or using such information for any purpose other than performance of their official duties.
2. Employees must disclose and report all situations presenting potential conflicts of interest to his or her department head or the City Manager.
3. Employees engaged in the award and administration of state funded contracts, including the prevention of conflicts of interest must comply with California Government Code §4526, California Government Code §4529.12, and California Government Code §1090

C. Gifts and Gratuities

No official or employee shall accept a fee, compensation, gift, payment of expenses, or any other thing of monetary value in any circumstances in which acceptance may result in or create the appearance of any one or more of the following:

1. Use of public office and/or employment for personal or private gain.
2. Preferential treatment of any person.
3. Loss of complete independence or impartiality.
4. Making a City decision outside of official channels.
5. Reduction of public confidence in the integrity of City government and/or its employees.
6. Impeding government efficiency or economy.

Employees who are designated in the City's conflict of interest code shall follow all guidelines in accordance with applicable state law.

D. Political Activity

1. Policy

The City prohibits:

- a. Employees and officers from engaging in political activities during work hours;

- b. Political campaigning in City buildings or on premises adjacent to City buildings; and
- c. An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

While on duty, no City officer or employee shall use his or her position to influence any vote or other political activity within the City. An officer or employee who is engaged in political activity while off-duty shall not knowingly solicit political contributions from other City employees unless done incidentally to a solicitation of a larger segment of the public which may happen to include City employees. No City officer or employee shall participate in political activities of any kind while on duty, in uniform, or while using City equipment or property.

2. Examples of Prohibited Conduct

- a. Participate in political activities of any kind while in uniform;
- b. Participate in political activities during working hours;
- c. Participate in political activities on City worksites;
- d. Place or distribute political communications on City property;
- e. Use City-owned equipment to make political communications;
- f. Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
- g. Favor or discriminate against any employee because of political opinions or affiliations;
- h. Interfere with any election; or
- i. Attempt to trade job benefits for votes.

3. Examples of Permitted Conduct

- a. Express opinions on all political subjects or candidates;
- b. Become a candidate for any local, state, or national election;
- c. Contribute to political campaigns;

- d. Join and participate in the activities of political organizations;
- e. Request, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include City officers or employees;
- f. Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
- g. Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.
- h. Participate in authorized union activity.

E. Smoking

Smoking shall not be permitted in any workplace, meeting room, classroom, auditorium, restroom, or elevator of any City facility or City property.

An officer or employee who resides on City-owned property is exempt from provisions of this policy for off-duty circumstances that would be considered appropriate or legal if his or her residence were on private property (Gov. Code 7597(a)).

F. Outside Employment

No employee shall engage in outside employment which is inconsistent with, incompatible with, in conflict with, or which will lessen his or her effectiveness as a City employee.

1. Definition

Outside employment will be considered inconsistent with, incompatible with, in conflict with, or lessening his or her effectiveness as a City employee if:

- a. The employment conflicts with the employee's work schedules, duties and responsibilities.

- b. The employment creates an actual or potential conflict of interest or incompatibility with City employment.
- c. The employment has a detrimental effect upon the employee's work performance with the City.
- d. The employment involves conducting business during the employee's hours of employment with the City or while the employee is on an emergency call or on stand-by.
- e. The employee uses City premises, facilities, vehicles, equipment, or supplies in his/her outside employment.

2. Self-Employment

Self-employment is considered outside employment and is subject to the same limitations as other outside employment. Additionally, self-employment may not involve ownership of a private business that is incompatible with the employee's position with the City, as defined in Section 15.F.1.

3. Approval Process

To gain approval for outside employment, an employee must first file an application with Human Resources. If Human Resources approves the request, the application shall be forwarded to the City Manager for review and final approval. Outside employment is not permitted until the employee receives authorization from the department head and the City Manager.

4. Restrictions

No City-owned equipment, vehicles, tools, or supplies shall be used by any employee while the employee is engaged in any outside employment or activity. No work related to outside employment shall be performed while an employee is being compensated by the City for performing work.

Employees shall not use the influence of City employment for personal gain nor perform work subject to City inspection.

An employee will not engage in outside employment while on Industrial Disability Leave (workers' compensation leave) status with the City. Under special circumstances of undue hardship, the City Manager may consider authorizing outside employment upon request.

5. Revocation

Approval may be rescinded at any time if, in the judgment of the department head, the outside employment is inconsistent with, incompatible with, in conflict with, or harmful or unfavorable to the employee's duties as a City employee.

G. Drug and Alcohol-Free Workplace and Drug and Alcohol Testing

City is concerned about employees being under the influence of alcohol, drugs, and/or controlled substances at work. The purpose of this policy is to promote a drug and alcohol-free workplace and to eliminate substance abuse and its effects in the workplace.

1. Policy

- a. The manufacture, distribution, dispensation, possession, or use of alcohol or any controlled substance is prohibited in both City workplaces and wherever City business is performed.
- b. A City employee is prohibited from working or being subject to call in if impaired by alcohol or any controlled substance.
- c. An employee must notify his/her supervisor before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City equipment. If there is a question regarding an employee's ability to perform assigned duties safely and effectively while using prescribed medications, the City may require medical clearance.
- d. Compliance with this policy is a condition of City employment. Disciplinary action will be taken against those who violate this policy.
- e. Employees who are required to participate in the City's "Federally Mandated Commercial Driver's License Holders Drug/Alcohol Testing Education Program" are subject to requirements contained in this policy as well as the mandated policy.

2. Scope of Policy

This policy applies to all City employees when they are on City property or when performing City-related business elsewhere.

3. Searches

In order to promote a safe, productive, and efficient workplace, the City has the right to search and inspect all City property, including but not limited to lockers, storage areas, furniture, City vehicles, and other places under the common control of the City, or joint control of the City, and employees. No employee has any expectation of privacy in any City building, property, or communications system.

4. Drug and Alcohol Testing

Except as provided otherwise in a memorandum of understanding, or as modified for employees who are required to participate in the City's "Federally Mandated Commercial Driver's License Holders Drug/Alcohol Testing Education Program," the City has discretion to test an applicant or current employee for alcohol or drugs in the following instances:

a. Pre-Employment Testing for External Applicants for Certain Jobs:

Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but are not limited to:

1. Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and
2. Jobs that involve the direct influence over children.

a. Reasonable Suspicion Testing

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those persons reasonably suspected of using or being under the influence of a drug or alcohol at work. Testing must be approved by the Director of Administrative Services, the department head, or a designee and will be conducted through an outside laboratory.

"Reasonable suspicion" to test exists if, based on objective factors, a reasonable person would believe that the employee

is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use. If the City suspects drugs or alcohol may have played a role in an accident involving City property or equipment that will also constitute reasonable suspicion.

b. Document and Analysis:

In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Administrative Services Director or his or her designee. Any reasonable suspicion testing must be pre-approved by the Administrative Services Director.

c. Testing Protocol

If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Administrative Services Director has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

5. Employee's Responsibilities

A City employee must:

- a. Not report to work or be on standby or on-call status while his or her ability to perform job duties is impaired due to on or off duty alcohol or drug use;

- b. Not possess or use controlled substances (illegal drugs or prescription drugs without a prescription) at any time, or use alcohol at any time while on City property or while on duty for the City at any location;
- c. Not directly or indirectly through a third party manufacture, sell, distribute, dispense, or provide controlled substances to any person, including any employee, at any time; or manufacture, sell, distribute, dispense or provide alcohol to any employee while either or both are on duty;
- d. Notify his or her supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment;
- e. Notify their department head of any criminal conviction for a drug violation that occurred in the workplace no more than five days after such conviction;
- f. Notify their supervisor immediately of facts or reasonable suspicions when he or she observes behavior or other evidence that a fellow employee poses a risk to the health and safety of the employee or others;
- g. Consent to drug or alcohol testing and searches pursuant to this policy; and
- h. Follow the City's drug and alcohol-free workplace policy.

6. Management Employee Responsibilities

City management employees must:

- a. Notify the state or federal granting agency which has funded the work or program, if any, of any criminal drug statute convictions for a violation that occurred at a site where work is/was being done with a specific grant or contract;
- b. Record factors supporting "reasonable suspicion" as defined above and consult with other management staff in order to determine whether there is reasonable suspicion to test an employee as described by this policy;

- c. Take appropriate disciplinary action up to and including termination for any criminal drug statute conviction that has a nexus to the employee's employment, or require that the convicted employee participate satisfactorily in a drug abuse assistance or rehabilitation program as a condition for returning to duty;
- d. Take appropriate disciplinary action for any violation of this policy consistent with existing discipline procedures;
- e. Enforce this policy;
- f. Report any suspected violation of this policy to the Director of Administrative Services; and
- g. Any manager or supervisor who knowingly permits a violation of this policy by any employee shall be subject to disciplinary action.

H. Harassment, Discrimination, and Retaliation

1. Purpose

The purpose of this Policy is to: establish a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints. The City encourages all covered individuals to report—as soon as possible— any conduct that is believed to violate this Policy.

All City employees are expected to support and comply with this policy. Any supervisor or manager observing or knowing of a situation which constitutes discriminatory harassment, discrimination or retaliation shall take immediate action to stop it. Supervisory and management personnel who receive reports of harassment are expected to consider all such complaints seriously and take immediate steps to implement this policy in accordance with the provisions contained herein. Harassing behavior, sexual or otherwise, as defined herein, is not within the course and scope of employment at the City.

2. Sexual Harassment Training

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this policy at least once every two (2) years. New nonsupervisory employees shall be provided training within six months of hire. New supervisory employees

shall be provided training within six months of the assumption of a supervisory position. Seasonal, temporary, or other employees that are hired to work for less than six months, shall be provided training within 30 calendar days after their hire date or within 100 hours worked, whichever occurs first.

The Human Resources Department will schedule training sessions each year to ensure that employees are able to attend the mandatory training. Attendance at the training will be documented.

3. Policy

The City has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law to violate this Policy. A single act can violate this Policy and provide grounds for discipline, up to and including termination, or other appropriate sanctions.

Harassment or discrimination against an applicant, unpaid intern, volunteer, or employee by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or any other protected classification as defined below, will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

4. Definitions

- a. Discrimination – treating individuals differently because of the individual's protected status as defined by this policy.

- b. Harassment – unsolicited words or conduct, based on an individual’s protected class, which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual’s protected status:
- i. Physical harassment, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, mimicking, taunting, or any physical interference with normal work or movement.
 - ii. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, physical, or visual behavior of a sexual nature where:
 - a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual's welfare; or
 - c) Such conduct has the purpose or effect of substantially interfering with an individual's welfare or work performance, or creates an intimidating, hostile, offensive, or demeaning work environment.
 - iii. Verbal harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, intimidation, threats, gestures, flirtations, or graphic verbal commentaries about an individual’s body or that identify a person on the basis of his or her protected status. Verbal harassment includes patronizing or ridiculing statements that tend to disparage those of a protected status.

- iv. Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of protected status.

Note that harassment is not limited to conduct by employees. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public.

- c. Protected Classifications – any classification (whether actual or perceived) that is protected by law, including race, color, religion, religious dress or grooming practices, national origin, ancestry, disability, medical condition, genetic characteristics, marital or domestic partner status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender identity and/or expression, military or veteran status, age (40 and over), or any other characteristic or classification protected by federal, state, and local laws and ordinances. Policy Coverage: This Policy prohibits the employer, elected or appointed officials, officers, employees, or contractors from harassing or discriminating against applicants, officers, officials, employees, unpaid interns, volunteers, or contractors because of: 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- d. Guidelines for Identifying Harassment - Harassment may include, but is not limited to, the following types of behavior, if that behavior is taken because of a person's protected classification:
 - (1) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
 - (2) Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting,

propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.

- (3) Visual acts, such as derogatory posters, cartoons, emails, pictures, or drawings related to a protected classification.
- (4) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment

5. Romantic and/or Sexual Relationships between Supervisors and Subordinates

In order to promote efficient operation of the City and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, morale, and possible claims of sexual harassment and/or gender based discrimination, romantic or sexual relationships between supervisors and subordinate employees are prohibited. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism and/or harassment by other employees. Further, a welcome sexual relationship may change with the result that sexual conduct which was once welcome becomes unwelcome and harassing.

If the City determines that a prohibited supervisor-subordinate relationship exists, remedial measures, including but not limited to a transfer, reassignment, demotion, or dismissal, shall be utilized to mitigate issues that arise relevant to the enforcement of this policy. Any transfer or reassignment to mitigate issues that arise from a prohibited supervisor-subordinate relationship that does not result in a reduction in salary or compensation is not disciplinary and is not subject to any grievance, hearing, or appeal. If circumstances warrant it, the City may also take disciplinary action against an employee whose romantic relationship disrupts the workplace or is in violation of this policy.

6. Retaliation Prohibited

Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process, or made any complaints about any unlawful activity described herein, is prohibited. "Adverse conduct" includes but is not limited to: taking sides because an individual has reported harassment or discrimination,

spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

7. Exceptions

Any employee who knowingly files a false and malicious report of harassment, as opposed to a complaint which, even if erroneous, is made in good faith; or anyone who fails to report an actual or perceived form of harassment as outlined in this policy, may be the subject of appropriate disciplinary action, up to and including termination.

8. Complaint Procedure

- (A) An employee, job applicant, unpaid intern, volunteer, or contractor who believes he or she has been harassed may make a complaint verbally or in writing with any of the following. There is no need to follow the chain of command:
 - 1) Immediate supervisor;
 - 2) Any supervisor or manager within or outside of the department;
 - 3) Any department head; or
 - 4) Director of Administrative Service.
- (B) Any supervisor or department head who receives a harassment complaint should notify the Administrative Services Director immediately.
- (C) The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

9. Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

10. Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on employer bulletin boards for office locations and telephone numbers.

11. Responsibilities

Managers and Supervisors are responsible for:

- a. Informing employees of this Policy.
- b. Modeling appropriate behavior.
- c. Taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring.
- d. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- e. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- f. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.

- g. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
- h. Assisting, advising, or consulting with employees and the Human Resources Director regarding this Policy and Complaint Procedure.
- i. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with employer Personnel Rules, up to and including discharge.
- j. Implementing appropriate disciplinary and remedial actions.
- k. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Human Resources Department or the department head.
- l. Participating in periodic training and scheduling employees for training.

Each employee or contractor is responsible for:

- a. Treating all employees and contractors with respect and consideration.
- b. Modeling appropriate behavior.
- c. Participating in periodic training.
- d. Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
- e. Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview, except as directed by the department head or Human Resources Director.
- f. Reporting any act, he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Human Resources Director.

- (A) Upon receiving notification of a harassment complaint, the Director of Administrative Services or his or her representative shall:

- 1) Provide the complainant with a timely response indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.
 - 2) Timely authorize and supervise a fair and thorough investigation of the complaint by impartial and qualified personnel and/or investigate the complaint. The investigation will afford all parties with appropriate due process and include interviews with: a) the complainant; b) the accused harasser; and c) other persons who have relevant knowledge concerning the allegations in the complaint.
 - 3) Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 - 4) Timely notify the complainant, accused, supervisor, and department head when the investigation has concluded. Complainant will not be advised if any discipline is imposed.
 - 5) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
 - 6) Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.
 - 7) Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- (B) The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- (C) Dissemination of Policy - All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee has received, read, and understands this Policy.
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I. WORKPLACE VIOLENCE PREVENTION POLICY

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

1. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
2. The destruction of, or threat of destruction of City property or another employee’s property.
3. Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
4. Striking, punching, slapping, or assaulting another person.
5. Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
6. Harassing or threatening phone calls.
7. Surveillance.
8. Stalking.
9. Possessing a weapon(s) during work hours unless the City issues the weapon(s) for performance of the job. “Weapon” is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

Any person who witnesses or is a victim of any workplace violence should immediately report such conduct to an immediate supervisor, any department head, any sworn officer in the City’s police department, or the Director of Administrative Services.

J. USE OF CITY EQUIPMENT

A. POLICY

1. City property is to be used only for conducting City business unless otherwise authorized. City property includes, but is not limited to: telephones, cell phones, desks, computers (including hardware and software), file cabinets, lockers, communications stored or transmitted on City property (such as e- and voice-mails), vehicles and any other City

property used by City employees in their work. Employees do not have a reasonable expectation of privacy in City property or equipment.

2. City property may be monitored and searched at any time and for any reason. Messages sent or received on City equipment including cell phones may be saved and reviewed by others. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.
3. Every City employee is required to adhere to all City rules and policies while on City property or using City property or equipment.

B. USE OF COMMUNICATIONS EQUIPMENT

1. Minimal Personal Use of Communications Equipment Permitted

City employees may use City telephones and e-mail for personal use provided that the use:

- a. Is kept to a minimum and limited to break times or non-working hours;
- b. Does not interfere or conflict with City operations or the work performance of any City employees;
- c. Allows the employee to more efficiently perform City work;
- d. Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- e. Clearly indicates it is for personal use and does not indicate or imply City sponsorship or endorsement.

2. Inappropriate Use of Communications Equipment Prohibited

The following are examples of inappropriate and prohibited uses of the City's communications systems:

- a. Exposing others, either intentionally or unintentionally, to material which is offensive, obscene or in poor taste;
- b. Any use that would be offensive to a reasonable person because it involves an individual's actual or perceived race, color, religion, religious dress or grooming practices, national origin, ancestry, disability, medical condition, genetic characteristics, marital or domestic partner

status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender identity and/or expression, military or veteran status, age (40 and over), or any other characteristic or classification protected by federal, state, and local laws and ordinances;

- c. Communication of confidential City information to unauthorized individuals within or outside the City;
 - d. Sending messages with content that conflicts with any City policies, rules or other applicable laws;
 - e. Unauthorized attempts to access City data or systems;
 - f. Theft or unauthorized copying of electronic files or data;
 - g. Initiating or sustaining chain letters, and
 - h. Intentionally misrepresenting one's identity for improper or illegal acts.
3. Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, computers, faxes, email, internet, or anything stored on the City's internet servers or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.