



City of Soledad

Personnel Rules and Regulations Manual

March 31, 2010

Adopted: June 2, 2010

City Manager's Message

A sound personnel management system assists our employees with getting the most of their employment and ensures the formation of a fair and equitable system designed to help employees deliver the best possible service to the people we serve.

On October 7, 2009, the City Council adopted a Strategic Work Plan for 2009 - 2011. The Strategic Work Plan charts a course for the City's work for the future. One of the key goals of the strategic work plan is to establish a strong organizational foundation that positions the City of Soledad as the premier agency in South County. One measurable indicator to help us achieve our goal is to develop and implement a comprehensive personnel management program by adopting a personnel rules and regulations.

This Personnel Rules and Regulations document is a completely new set of personnel rules and regulations to replace an outdated and largely confusing set of personnel policies that have not been reviewed comprehensively since 1999. These Personnel Rules and Regulations establish a clear set of procedures for dealing with a large array of personnel-related matters. They assure that appointments and promotions of persons will be based on merit and fitness, provide a reasonable degree of security for our qualified workforce and define obligations, rights, privileges, benefits, and prohibitions which are placed upon City employees.

These Personnel Rules and Regulations provide a sound personnel management system for City employees and the City organization for many years to come. I ask that you familiarize yourself with the contents of these Personnel Rules and Regulations so that you will have a basic understanding of the City of Soledad's personnel management system.

Working together to deliver the best to those we serve,

Adela P. Gonzalez, City Manager

March 2010

March 2010

City of Soledad Personnel Rules and Regulations

For the International Association of Firefighters, Local 4584

Michael Meddles, IAFF President

Michael Meddles 3/31/2010
Date

For the City of Soledad, a Municipal Corporation:

Adela P. Gonzalez, City Manager

Adela P. Gonzalez 6-2-2010
Date

Approved as to form:

Michael F. Rodriguez, City Attorney

Date

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Section 1. Introduction and Administrative Provisions

1.01 Objective of Rules and Regulations

The objective of these Rules and Regulations is to give credit and recognition to City service, assure effective and economic service to the public, and provide a fair and equitable system of personnel management in the municipal service. These Rules and Regulations set forth procedures which assure equal treatment of employees, and define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the municipal service. 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.

1.02 Adoption of Rules and Regulations

These Rules and Regulations, once adopted by resolution of the City Council, establish regulations governing the Personnel System, including:

- A. Preparation, revision, and maintenance of a Classification Plan covering all positions in the Classified Service, including employment standards and qualifications for each class. See Compensation and Benefit Plan.
- B. Preparation, revision, and administration of a Compensation Plan correlated to the position Classification Plan, providing a rate or range of pay for each class. See Compensation and Benefit Plan.
- C. Announcement of all tests and acceptance of applications for employment.
- D. Preparation and conduct of tests, and the use of employment lists containing names of persons eligible for appointment.
- E. Certification and appointment of persons from employment eligibility lists, and procedures for provisional and emergency appointments.
- F. Performance evaluations of employees during probationary periods, and special evaluations at the discretion of the City Manager.
- G. Transfer, promotion, demotion, reinstatement, disciplinary action, and layoff of employees.
- H. Separation of employees from City Service.

- I. Standardization of hours of work, attendance and leave regulations, working conditions, and development of employee performance standards, welfare, and training.
- J. The establishment of access to personnel records.
- K. The establishment of grievance and appeal procedures.
- L. Other related matters deemed necessary for the proper functions of City organization and its employees.

1.03 Amendment and Revision of Rules

Unless it involves an emergency, the parties agree to meet and confer as soon as requested, on those changes to the Rules and Regulations which impact terms and conditions of employment. Proposed amendments or revisions to these Rules and Regulations subject to City Council approval shall be placed on the City Council Agenda. At the time of consideration, any interested party may appear and be heard. The City may adopt revisions to these Rules and Regulations as deemed necessary to facilitate the efficient conduct of City business.

The provisions of these sections shall not prohibit the adoption of a revision to these Rules and Regulations by emergency ordinance or resolution in compliance with current law relating to the adoption of such emergency ordinance or resolution.

1.04 Administration of the Personnel Classification Plan

The City Manager shall oversee the administration of the Classification Plan. Recommendations for removal or appointment to fill positions in various departments of the City shall be made by Department Directors to the City Manager who shall consider the recommendations. The City Manager has the power to hire, layoff and terminate employees at all levels, except the City Attorney and elected officials.

As used herein, the City Manager, Personnel Officer, Equal Employment Officer, and Employer Relations Officer are one and the same, unless modified at a later date by action of the City Council. Therefore, the words City Manager and the other noted designations are used interchangeably in these Rules and Policies Manual.

The City Manager may delegate any of the powers and duties to any other officer or confidential employee of the City, or may recommend to the City Council that such powers and duties be performed under contract. The Personnel Officer shall:

- A. Administer all the provisions of this Manual and personnel rules not specifically reserved to the City Council.
- B. Prepare and recommend to the City Council any and all revisions and amendments to these Rules and Regulations.
- C. Prepare or cause to be prepared a position Classification Plan, including class specifications and revisions to the plan. The plan, and any revisions thereof, shall become effective upon approval by the City Council.
- D. Prepare or cause to be prepared a Compensation Plan, and revisions thereof, covering all classifications in the Classified Service. The plan, and any revisions thereof, shall become effective upon approval by the City Council.
- E. When required, provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications thereof; the conducting and grading of tests; and the certification of the appointment to the appropriate position in the Classified Service.

1.05 Right to Contract for Special Service

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 or special services in connection with the operation of City as it pertains to personnel administration following notice and consultation with recognized employee groups on any items which affect terms and conditions of employment. The City Manager with City Council approval may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties:

- A. The preparation of Personnel Rules and subsequent revisions and amendments;
- B. The preparation of a position Classification Plan, and subsequent revisions and amendments;
- C. The preparation of a Compensation Plan, and subsequent revisions and amendments;
- D. The preparation, conduct and grading of competitive tests; and
- E. Special and technical services of an advisory or informational nature on matters relating to personnel administration.

1.06 Application of Rules

These rules shall apply to all departments. Any Department Director may, with the specific approval of the City Manager, establish special rules to meet the needs of that department or any of its divisions if said rules and regulations are consistent with and do not conflict with applicable legislation, the Rules and Regulations as set forth herein, or in a ratified and approved MOU then in effect.

1.07 Status of Present Employees

Any person holding a position included in the Classified Service, as referenced in Section 2.12, who, on the effective date of the adoption of these Rules and Regulations, has served continuously in such position or in some other position in the Classified Service, for a period equal to the probationary period prescribed in Section 2.28 of these Rules and Regulations for the employee's class, shall assume regular status in the Classified Service in the position held on such effective date without a qualifying test, and shall thereafter be subject in all respects to the provisions of these Rules and Regulations.

Any other employees holding positions in the Classified Service shall be regarded as probationers serving the balance of their probationary periods as prescribed in the Rules and Regulations before obtaining regular/permanent status, as referenced in Section 2.34. The probationary period in Section 2.28 shall be computed from the date of employment.

1.08 Employment Constitutes Acceptance of Rules

In accepting employment with the City of Soledad, each employee agrees to be governed by and comply with these Personnel Rules and Regulations, and administrative procedures established by the Personnel Officer, and agree that he or she has read these Rules and Regulations and understand directives of the department in which employed. The tenure and continued employment 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.

Upon accepting employment with the City of Soledad, each employee shall be given a copy of this manual and sign a receipt. A signed receipt constitutes the employee's acceptance of these Rules and Regulations. The receipt will be made part of the personnel file of each employee.

These Rules and Regulations are the property of the City, and intended for the personal use and reference of City employees and supervisors.

1.09 Memoranda of Understanding (MOU)

Where the written provisions of a ratified and approved MOU are in conflict with these Rules and Regulations, the MOU shall prevail.

1.10 Severability

If any provision of these Rules and Regulations, or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Manual or the application of such provision to persons, or circumstance other than those as to which it is held invalid, shall not be affected.

Section 2. Definition of Terms

2.01 Alternate Employment List

An existing list of qualified candidates in a classification which has similar or equivalent skills and qualifications at an equivalent salary range.

2.02 Anniversary Date

Anniversary date means the date of hire to City service. Subsequent salary increases in a new classification do not alter an employee's anniversary date.

2.03 At Will

At Will employees are categorized as unclassified employees not represented by any recognized labor organization. These employees work at the pleasure of the City Manager and/or the City Council, and may be dismissed at any time without the benefit of appeal or administrative hearing, unless otherwise required by law.

2.04 Business Day

Business Day means a day in which City Hall is open and doing business with the public.

2.05 City

City means the City of Soledad, a Municipal Corporation, and, where appropriate, also refers to the City Council or any duly authorized City representative as defined in these Rules and Regulations.

2.06 City Council

City Council shall mean the City Council of the City of Soledad.

2.07 City Manager

City Manager shall mean the City Manager, Personnel Officer, Equal Employment Officer, and Employee Relations Officer of the City of Soledad.

2.08 Classification Plan

Classification Plan shall mean a list of class titles for all regular positions in the Classified Service. It shall include job descriptions, a written specification including the class title and general description of the work, a summary statement of required duties and responsibilities, desirable qualifications for

appointment, and other pertinent information, as the Personnel Officer may deem necessary.

2.09 Classification Seniority

Classification seniority shall refer to the length of time an employee has been in a specific classification approved by City Council resolution, and listed in the Compensation and Benefits Plan, sometimes referred to as the Classification Plan. Classification seniority is distinctly different from anniversary date, which refers to the date of hire and start of City service.

2.10 Compensation and Benefits Plan

Compensation and Benefits Plan shall mean a list of job classifications, salary pay rates, ranges and steps covering all classes and positions in the Classified Service not designated as unclassified or At Will employees. The Compensation and Benefit Plan also includes descriptions of benefits including leave benefits that are not incorporated in an MOU.

2.11 Confidential Employee

Confidential employees are employees who in the course of their duties have access to confidential information related to the City's administration of employer-employee relations. Confidential positions may be added or deleted upon recommendation by the City Manager and authorization of the City Council.

2.12 Classified Service

All full-time, part-time, regular, permanent, or probationary employees of the City, except:

- A. City Manager;
- B. Assistant City Manager;
- C. City Clerk;
- D. Elective Officers, including Council Members;
- E. Department Directors, including the Fire Chief and Chief of Police;
- F. Members of appointive Boards, Commissions, and Committees;
- G. Persons engaged under contract to provide expert, professional, technical or other services;
- H. Volunteer personnel;

- I. Temporary and/or provisional positions;
- J. Other confidential, unclassified, and At Will employees;
- K. Emergency employees hired to meet the immediate requirements of an emergency condition, such as fire, flood, or earthquake which threatens life or property.

2.13 Continuous Service

Continuous Service shall mean employment on a regular basis which is not interrupted by lay-off or Military Leave for a period not to exceed one year.

2.14 Day

Day means calendar day unless expressly stated otherwise.

2.15 Eligible

A person whose name is on an Employment List.

2.16 Eligibility List

A list of eligible candidates for filling vacancies in specific classifications. An Eligibility List is typically developed following an open competitive recruitment.

2.17 Employment List

A list of eligible candidates for filling position vacancies in specific classifications. An employment List may be an Eligibility List, Re-employment List, or Promotional List.

2.18 Examination

- A. **Open-competitive examination:** A structured examination process for a particular position which is open to all persons meeting the qualifications for the position.
- B. **Promotional examination:** An examination for a particular position. Admission to the examination is limited to employees in the Classified Service meeting the qualifications for the position.

2.19 Exempt

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).

2.20 Full-Time Employee

An employee in the Classified Service in a regular position whose normal work hours equal or exceed forty (40) hours per week.

2.21 Non-Exempt

An employee who is subject to the overtime pay provisions of the Fair Labor Standards Act (FLSA).

2.22 Non-Pay Status

Non-Pay Status shall mean any period in which an employee is not at work and on leave of absence without pay.

2.23 Part-Time Employee

An employee in the classified service in a regular position whose normal work week is less than the standard forty-hour week, shall be entitled to participate in City-sponsored health and welfare programs. Leave benefits such as vacation, sick leave, holiday, etc. shall be prorated based on a percentage of their regular work week.

2.24 Pay Status

Pay Status shall mean the period in which an employee is at work, or on vacation, sick leave, paid leave as a result of an industrial accident, leave with full pay in lieu of temporary disability benefits, compensatory time off, paid military leave, or on an approved leave of absence with pay.

2.25 Performance Review Date

Performance review date refers to the date on which a performance review shall be performed on the employee's anniversary date in the existing classification. Performance review dates are not to be confused with Anniversary dates, which refers to the date the employee was first hired for City service.

2.26 Personnel Officer

Personnel Officer shall mean the City Manager.

2.27 Position

A position consists of a variety of duties, responsibilities, or things to be done and assigned by a competent authority requiring the full or part-time employment of one person.

2.28 Probationary Period

An evaluation period that is considered part of the selection process during which employees are required to demonstrate satisfactory performance for the duties to which they are appointed.

2.29 Promotion

Promotion shall mean the movement of an employee from one classification to another classification having a higher rate of pay.

2.30 Protected Classification

Protected classification includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual).

2.31 Provisional Appointment

An appointment of a person, not currently employed by the City, possessing desired qualifications needed for a specified period of time to perform specialized duties at the discretion of the City Manager.

2.32 Public Safety Employees

Employees who, by resolution of the City Council, are specifically designated as such; however, the term does not include clerical employees of the police and fire departments who, by resolution of the City Council, have been specifically designated as classified employees.

2.33 Reasonable Suspicion

The employee exhibits one or a combination of the following manifestations: Slurred speech, swaying with no body control, dilated pupils, bloodshot eyes, sweaty palms, drug or alcohol odor in breath. See also Section 3.09(F)(2).

2.34 Regular/Permanent Employee

A full-time or part-time employee in the classified service who has successfully completed the required probationary period, and has been retained as provided in these Rules and Regulations.

2.35 Reinstatement

The reinstatement of a former regular or probationary employee. The Personnel Officer may reinstate any employee for good cause and may, upon such reinstatement, compensate, in whole or in part, such employee for past tenure in the position.

2.36 Salary Steps

Salary Steps shall mean a series of progressive steps between a specific minimum and maximum rate, as approved or modified from time to time by the City Council, or ratified and approved MOU.

2.37 Seniority

Seniority are of two varieties: (1) the "anniversary date" which refers to when an employee started City service, and (2) "classification seniority" which refers to the length of time an employee has occupied a specific classification approved by City Council resolution and listed in the Compensation and Benefits Plan.

2.38 Separation

The separation of a probationary employee, retirement, or resignation.

2.39 Supervisory Employee

Any employee authorized, on behalf of the City, to supervise, assign, direct, discipline, or adjust the grievances of other employees, or effectively recommend such action, if the exercise of such authority is not merely routine or clerical in nature and requires the use of independent judgment.

2.40 Suspension

Suspension shall mean the temporary removal of an employee from pay status as a result of disciplinary action.

2.41 Temporary Employee

An appointment of a person for a limited time to meet a temporary or seasonal need not to exceed one thousand (1,000) hours. Temporary employees do not serve a probationary period, may be terminated at any time without advance notice to the extent allowed by law, and receive no City-sponsored benefits.

2.42 Termination

Termination shall mean the separation of an employee from service. Termination may be by death, discharge, resignation, reduction in force, retirement, work completion, and /or lack of work or funds.

2.43 Volunteer

An individual who performs service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipts of compensation. Reimbursement or payments for expenses and/or the granting of benefits shall not constitute compensation for the purpose of determining volunteer status. It should be specifically noted that City employees may not be asked, directed or volunteer to perform work or functions for which they would otherwise be compensated.

Section 3. Employment Policies and Working Conditions

3.01 Non-Discrimination

Employment and promotion by the City of Soledad shall be based on merit and fitness, free of personal and political considerations. There shall be no discrimination by the City of Soledad in employment conditions or treatment of employees on the basis of race, religious creed, color, national origin, ancestry, gender, age, marital status, sexual preference or orientation, physical disabilities, medical condition, membership, non-membership, or participation in the activities of any lawful organization or any other matter or manner prohibited by State, federal or local law.

3.02 Fair Employment

No question in any test, or in any application form, or by any appointing authority, shall be so framed as to attempt to elicit information concerning race, religious creed, color, national origin: ancestry, gender, age, marital status, sexual preference or orientation, physical disability, medical condition, religious or political opinions or affiliations of any applicant in a manner contrary to existing law. No appointment or removal from a position in the Classified Service shall be affected or influenced in any manner by considerations not allowed by law.

3.03 Nondiscrimination Hiring Policy

- A. Policy and Purpose: The purpose of this policy is to assure equal employment opportunities to all persons and attain, to the extent reasonable and feasible, the elimination of discrimination in employment practices against any member of protected groups whether because of race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual) in seeking and advancing in positions of employment, except where gender, age and physical/mental educational handicaps are legal bonafide factors in occupational qualifications; and wherever reference is made to protected groups, it shall be deemed to include all members of employment protected groups identified herein. To carry out the policy and purpose of this policy, it shall be the duty of all City employees to take positive and affirmative steps to effectuate the goals and purpose set forth herein.
- B. Equal Employment Opportunity Officer: To assist and advise the City Council of the City of Soledad, and assure a continuing day to day implementation of this policy, the City Council of the City of Soledad does hereby direct the City

Manager to assume the duties and title of the City of Soledad's Equal Employment Opportunity Officer.

- C. Duties of Equal Employment Opportunity Officer: The duties of Equal Employment Opportunity Officer shall be to assure that this policy is carried out and ascertain that:

1. Recruiting

- a. That all local schools, colleges, employment offices, community organizations, and other interested groups will be advised in writing of this policy and will be urged to refer qualified protected class applicants to the City of Soledad for employment.
- b. Any recruiting programs presented at schools and colleges will include those attended by a substantial number of protected groups.
- c. Employment circulars, advertisements and other recruiting materials, when feasible, shall be printed in both English and Spanish, or any other language deemed appropriate to the surrounding community by the City Manager.
- d. Whenever a job opening occurs for any City position and recruitment is necessary to establish an eligibility list from which the vacancy will be filled, or when any testing is scheduled to provide an eligibility list from which future vacancies will be filled, the EEO Officer shall aggressively solicit and recruit employment of protected group applicants for all these positions.
- e. Recruiting notices include the inscription "AN EQUAL OPPORTUNITY EMPLOYER" and said notices are published in a newspaper of local circulation.
- f. Protected group persons contacting the City shall be assisted in completing applications for tests for which they are qualified. The City will assist persons interested in employment with the City to assess which type of job the applicant/candidate is best suited for, or for which particular interest is expressed.

2. Hiring

- a. The EEO Officer shall insure that examinations are valid, job related and non-discriminatory towards persons in protected groups.

- b. Non-essential requirements for employment shall be eliminated.
- c. All persons interviewed shall be considered on an equal basis and their related qualification and ability to perform the job, and shall be judged without regard to race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality, and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual).
- d. The EEO Officer shall review the rate of hiring of protected groups to determine whether statistically a disproportionate number of protected groups are being eliminated by any department. If it appears that any department is rejecting a percentage of protected group applicants inconsistent with the achievement of a level of employment at parity which reflects that percentage of that group within the work force, the EEO Officer shall be empowered to conduct investigations and present charges of discrimination to the Council.
- e. Within a reasonable time from the adoption of these Rules and Regulations, the job classification structure of the City of Soledad shall be reviewed for the purpose of removing non-essential educational and/or unnecessary experience requirements from the job specifications.
- f. The EEO Officer shall seek all available public and private resources to aid in the development of training programs that will facilitate employment and promotion of protected group applicants.

3. Reports

The EEO Officer shall render to the Soledad City Council such reports as the Council desires in order to keep them fully informed of the activities, progress and accomplishments related to the goals of this policy.

4. Merit Standards

It is not, and it shall not be, a policy of the City of Soledad to hire or promote on the basis of any quota system. No person shall be hired or promoted to any position except on the basis of bonafide occupational qualifications, and all employment shall be affected in accordance with these Rules and Regulations.

5. Goals and Timetables

It shall be the goals of the City of Soledad to strive for parity in the ethnic, racial and gender composition of the working force, subject to the local availability of qualified applicants and employee turnover in all classifications and departments, including supervisory, technical and administrative positions.

3.04 Americans with Disabilities

- A. It is the policy of the City to comply with all relevant and applicable provisions of the Americans with Disabilities Act (ADA). The City will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or condition of employment because of a person's physical or mental disability. The City will also make reasonable accommodations wherever necessary for all employees or applicants with disabilities, provided the individual is otherwise qualified to safely perform the full range of duties and assignments connected with the job, and that any accommodations made do not require significant difficulty or expense.
- B. Applicants and/or employees who feel they have a physical or mental disability which necessitates that the City make reasonable accommodation shall provide the Personnel Officer with a written request stating the nature of the disability, the type of accommodation necessary, any supporting documentation and an authorization to release pertinent information necessary for the City representatives to make a determination. This material shall be retained in a confidential medical file separated from the personnel file in conformity with the American Health Insurance Portability and Accountability Act of 1996 (HIPAA). The City may, at its discretion, verify or otherwise determine the scope and extent of the disability to determine an appropriate accommodation.
- C. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social recreational programs.
- D. Any employee or job applicant who believes that he or she has been discriminated against on the basis of disability should immediately bring the problem to the attention of the Personnel Officer.

3.05 Harassment Policy

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation as defined in this Policy. It is also the policy of the

City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy.

Definitions

- A. *Protected Classifications*: This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual).
- B. *Policy Coverage*: This Policy prohibits City officials, officers, employees and contractors from harassing or discriminating against applicants, officers, officials, employees, and contractors because: (1) of an individual's protected classification, (2) of 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.
- C. *Discrimination*: This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.
- D. *Harassment*: Harassment means unsolicited words or conduct which tends to annoy, alarm or abuse another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:
1. *Verbal harassment*, such as epithets (nicknames and slang terms), derogatory or suggestive comments, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those with a protected classification.
 2. *Visual forms of harassment*, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification.
 3. *Physical harassment*, such as assault, touching, impeding or blocking movement, grabbing, patting, propositioning, leering, making express or implied job-related threats in return for submission to physical acts, mimicking, taunting, or any physical conduct of a sexual nature or any physical interference with normal work or movement.

4. *Sexual harassment*, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
 - a. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - b. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment.

5. *Retaliation*, against a person (and his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; and (4) spreading rumors about a complaint or a complainant; (5) shunning and avoiding an individual who reports harassment or discrimination; or (6) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

Even well-intentioned attempts to insulate or protect a complainant by changing his or her work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Personnel Officer.

Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment complaint.

This Policy prohibits harassment or discrimination which can occur when prohibited verbal, visual or physical conduct is directed at individuals because of their race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS related medical condition, genetic characteristics, and physical or mental disability, whether perceived or actual ("protected

classification"). Retaliation against individuals for having taken action either as a complainant or grievor, or for assisting a complainant or grievor in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this policy is also prohibited.

In order to constitute harassment, discrimination or retaliation, as defined by law, the prohibited verbal, visual or physical conduct must be directed at an individual because of the individual's protected classification or perceived classification, but the City has zero tolerance for any verbal, visual or physical conduct prohibited by this Policy. That means that conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions no matter what is motivating the behavior. 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.

If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Personnel Officer.

Complaint Procedure: Reporting harassment, Discrimination, or Retaliation

An applicant, employee, officer, official or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly.

All employees involved in the complaint process may be represented by a person, union representative, or legal counsel of their choosing and at their own expense.

1. Object to the Conduct: Sometimes an individual is unaware that his/her conduct is offensive. In these situations the offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately.

A person who believes he/she is being harassed is encouraged, but is not required to use this process. When the conduct in question continues after the offending person has been informed it is offensive, or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with paragraph #2 below or go directly to the formal reporting process.

2. Oral Report: If a person who believes this Policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, department director or any City management employee. The individual may also seek the advice, assistance or consultation of a supervisor, department director, or any City management employee. Any supervisory or management employee who receives such a report must direct it to the Personnel Officer. The Personnel Officer will determine what level of investigation and response is necessary.
3. Written Process: An individual who believes this Policy has been violated and does not feel comfortable using the process outlined above may provide a written complaint to a supervisor, department director or any management employee who, in turn, must direct the complaint to the Human Resources Division. Individuals are encouraged to use the Confidential Complaint Form for this purpose (form attached).
4. Option to Report to Outside Administrative Agencies: Applicants, employees, officers, officials and contractors have 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 governmental agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the phone book as well as on posters located on City bulletin boards.

City's Response to Complaint of Harassment, Discrimination, or Retaliation

1. Investigation: Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Personnel Officer will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Personnel Officer may coordinate the investigation with the complainant's department director and may hire an outside investigator if deemed appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and shall be determined by the Personnel Officer.

The Personnel Officer may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. No interim action should be taken to change the complaining individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the

allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview and that retaliation against those who report alleged harassment or who participate in the investigation is prohibited.

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 or not the recipient of the alleged action or a third party reports a potential violation.

At the conclusion of the investigation, if it is determined that the alleged conduct did not occur or that it did not violate this Policy, the Personnel Officer will notify the complainant and the alleged perpetrator, if appropriate, of the general conclusion(s) of the investigation and whether any further action is warranted.

2. Remedial and Disciplinary Action: If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.
3. Closure. At the conclusion of the investigation, the Personnel Officer shall notify the complainant in general terms of the outcome of the investigation.
4. 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 potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Officer. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. 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 a court order.

Training

Assembly Bill 1825 requires that all employees who become supervisors after July 1, 2005, must receive training within six months of assuming a supervisory position. Human Resources will track all individuals who are required to receive this mandated training and will work with department directors or their designee to ensure that training needs are met.

Dissemination of Policy

The Personnel Officer shall ensure that all employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed to all employees.

Attachment: Harassment/Discrimination/Retaliation Complaint Form

3.06 Personal Relationships in the Workplace

Employees at every level are cautioned that personal relationships in the workplace have the potential to go sour, with the possibility of creating a hostile work environment for the involved employees, as well as others. Therefore, the City will treat with equal vigor any false accusation of harassment motivated by retaliation as a result of a failed relationship. Employees who refuse to cooperate with the investigative process, or retaliate against the investigating authority/officer may also be subject to disciplinary action up to and including termination.

3.07 Violence in the Workplace

The City is committed to providing a safe, violence-free workplace and strictly prohibits employees, consultants, customers, visitors, or anyone else on City premises or engaging in a City related activity from behaving in a violent or threatening manner. As part of this policy, the City seeks to prevent workplace violence before it begins through the recognition of early warning signs. The City is committed to assuring that safety policies and procedures involving workplace violence are communicated and understood by all employees.

A. Workplace Violence Defined

The three major types of workplace violence include:

1. "Type I" is violent act by an assailant with no legitimate relationship to the workplace that enters the workplace to commit a robbery or other criminal act.

2. "Type II" is a violent act by a recipient of the services provided by the City, such as a customer or another member of the public.
3. "Type III" is an event that involves a violent act by a current or former employee, including a supervisor, manager, or another person who has some employment-related relationship with the City, such as an employee's spouse or significant other; an employee's relative or friend, or another person who has a dispute with an employee or the City.

Workplace violence shall be defined as:

1. Threats of any kind;
2. Threatening remarks, including those related to gender, ethnicity, or sexual preference; physical aggressiveness, or violent behavior, such as intimidation or attempts to instill fear in others;
3. Other behavior that suggests a propensity toward violence, which can include belligerent speech, arguing or swearing, sabotage, or threats of sabotage of City property, or demonstrated pattern of refusal to follow City policies and procedures;
4. Defacing City property, sabotage of network or telephone systems, or causing physical damage to facilities; or
5. With the exception of security personnel, bringing weapons or firearms of any kind to City premises, City parking lots, or while conducting City business.

B. Reporting Requirements

1. Any employee who observes or becomes aware of any of the listed actions or behavior by an employee, customer, consultant, visitor, or anyone else, should immediately notify their supervisor, Department Director, or Personnel Officer.
2. Employees should notify their immediate supervisor, Department Director, or Personnel Officer if any restraining order is in effect, or if a potentially violent non work-related situation exists that could result in violence in the workplace.

C. Investigation

All reports of workplace violence will be taken seriously and promptly and thoroughly investigated. In appropriate circumstances, the City will inform the

reporting individual of the results of the investigation. To the extent possible, the City will maintain confidentiality of the reporting employee and of the investigation, but may need to or be required to disclose results in appropriate circumstances to law enforcement authorities in order to protect individual safety of minors. The City will not tolerate retaliation against any employee who reports workplace violence.

D. Corrective Action and Discipline

If the City determines that workplace violence has occurred, the City will take appropriate corrective action and impose discipline on offending employees. The appropriate discipline will depend on the particular facts, but may include an oral warning, written reprimand, transfer or reassignment, suspension, or termination. Under certain circumstances, the City may request or require that the employee participate in counseling, either voluntarily or as a condition of continued employment, and submit written documentation of compliance and completion of this requirement. If the violent behavior is that of a non-employee, the City will take appropriate corrective action in an attempt to assure that such behavior is not repeated.

E. Employee Assistance Program

1. Employee Assistance Program: Employees who believe they have a problem which could lead to violent behavior or adversely affect their work performance are encouraged to use the City's Employee Assistance Program "EAP". The EAP is a professional, confidential counseling service available to all employees and members of their household to assist in resolving emotional difficulties, marital and family conflict, stress, chemical or alcohol dependency, conflicts at work, and any other personal concerns. The EAP counselor can assist in the resolution of these issues and develop a confidential action plan, or make appropriate referrals to other professional services.
2. EAP Services are prepaid by the City, and information regarding the City's Employee Assistance Program may be obtained from Human Resources.

3.08 Policy Against Retaliation

The City is committed to provide City employees with an environment free of retaliation for the reporting of incidents of discrimination or harassment, including sexual harassment, and workplace violence. Retaliation by a City employee or official for reporting incidents of harassment, including, but not limited to, sexual harassment or discrimination, may subject the retaliating employee or public official of the City to disciplinary action up to and including termination. In similar

fashion, a false accusation will result in appropriate disciplinary action up to and including termination.

3.09 Alcohol and Controlled Substance Abuse

- A. The City is committed to providing a work environment that is safe, healthy and free of any adverse effects caused by the use, possession, or distribution of alcohol or controlled substances. City employees shall not be permitted to possess, distribute, or use alcohol or controlled substances while on duty for the City, on City property, or using City equipment; and are not permitted to perform services while under the influence of those substances.
- B. For the purpose of enforcing this policy and maintaining a drug and controlled substance free workplace, the City reserves the right, consistent with the Public Safety Officers Procedural Bill of Rights Act and Firefighters Procedural Bill of Rights Act, to search, with or without prior notice to the employee, all work areas and property in which the City maintains full or joint control with the employee, including but not limited to City vehicles, desks, work stations, lockers, file cabinets, and bookshelves.
- C. While the use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify a 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, can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.
- D. The City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his/her possession, or in an area jointly or fully controlled by the City.
- E. The City will provide reasonable accommodation to those employees whose drug or alcohol problems classify them as disabled and/or suffering from medical condition under federal and/or State law.
- F. Definitions:
 - 1. Controlled Substance means any drug or substance that (a) is not legally obtainable or (b) is legally obtainable, but has not been legally obtained or (c) has been legally obtained, but is being sold or distributed unlawfully.
 - 2. Reasonable Suspicion is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Such observations can include the employee's activity or

inactivity, equilibrium, attention span, mental and physical reactions, slurring of speech, unfocused vision, odor of intoxicants on the breath or clothing, or any other conduct or behavior which indicates probable alcohol misuse or use of controlled substances. Observations may also include indications of chronic use and the withdrawal effects of controlled substances, and chronic absenteeism.

3.10 Drug Testing

1. Pre-Employment Testing

As part of the City of Soledad's employment screening process, any applicant for a position in a classification the City has determined is subject to pre-employment drug and alcohol screening, and to whom an offer of employment is made must pass a test for alcohol, drugs and controlled substances, under the procedures described below. Any offer of employment is conditional on a negative test result. Applicants will be informed of the City's drug testing policy in the employment application. An applicant's failure to consent to applicable tests will result in the withdrawal of a conditional offer of employment and disqualification from further consideration for employment.

The applicant will be referred to a City designated certified medical clinic or laboratory to administer the test at the City's expense. The employee shall have the opportunity to alert the clinic or laboratory personnel about any prescription or non-prescription drugs taken that may affect the outcome of the test. Unless otherwise requested, all drug and alcohol testing will be performed through urinalysis. The clinic or laboratory will inform the Personnel Officer, or designee, of the results of the test. If the applicant failed the test, or refuses to take the test, the applicant will be immediately disqualified from any consideration for City employment.

2. Reasonable Suspicion Testing

If there is suspicion that an employee is working in an impaired condition, including an accident while conducting a City vehicle, the employee will be asked about any use of alcohol or controlled drugs and offered an opportunity to give an explanation. If the employee is unable to satisfactorily explain the behavior, the employee will be requested by the Personnel Officer or designee to take a drug test in accordance with the procedures outlined below. If the employee refuses to cooperate with the administration of the test, the refusal will be treated as a positive test result.

3. Drug Testing of Safety-Sensitive Positions

Employee(s) subject to random testing fall under the rules and regulations of the Federal Omnibus Transportation Testing Act of 1991. The City will comply

with the testing procedures and requirements under the rules and regulations issued by the Department of Transportation (DOT), or the Federal Highway Administration (FHWA) for persons in safety sensitive positions, and issue an administrative policy to affected unit employees.

3.11 Nepotism; Employment of Relatives

- A. Nepotism is defined as an employee using personal authority or influence to aid or hinder another in the employment setting because of a close personal or blood relationship. A close personal relationship is an association with an individual by adoption, marriage, cohabitation, or blood in the third degree.
- B. Employees who have a close personal relationship may work in the same organizational unit, division or department, however, appointments or assignments shall not be made where any of the following would apply:
 - 1. Employees would work in a small unit or close association with each other.
 - 2. Employees would have a direct supervisor-subordinate or Department Director-subordinate relationship.
- C. Employees who have a close personal relationship shall not be appointed or assigned where such a relationship would adversely affect them in any of the following:
 - 1. Work, safety, and/or morale of the unit, division or department.
 - 2. Fair and impartial supervision and evaluation of employees.

3.12 Conflict of Interest

No employee shall engage in any business transaction, or have a financial interest, direct or indirect, which is incompatible with the proper discharge of the employee's official duties, is against public interest, or would tend to impair independence of judgment or action in the performance of official duties, or in otherwise contrary to existing State or federal laws or regulations of the City of Soledad.

3.13 Solicitation

Employees are prohibited from soliciting funds, donations, or anything of value during working hours from other employees, members of the public, vendors, or other third parties, or while wearing a City uniform, unless the activity relates to a City-sponsored event and has been fully authorized by the City Manager or Department Director. Any infraction of this nature will result in appropriate disciplinary action up to and including termination.

3.14 Outside Employment; Off-Duty Notification

Employees will be permitted to engage in off-duty employment if such secondary employment meets the following standards:

- A. The outside occupation does not conflict with the interests of the City.
- B. The outside work must not adversely affect the employee's duties at the City.
- C. The employment must be such that the City bears no responsibility or liability for injury incurred on the outside job.
- D. The job does not interfere with the requirement that the employee be readily accessible and available in case of emergencies.
- E. Subject to review by the Personnel Officer or designee, the basis for approval by the immediate supervisor and Department Director is as follows:
 1. No employee will be allowed to engage in any outside employment without first filling out an off-duty employment permit, which in turn is to be approved or denied by the employee's Department Director. A copy of each permit shall be approved by the Department Director and the Personnel Officer, and renewed at least on a yearly basis. Forms for this purpose are available at Human Resources. Approved permits will be maintained in the employee's personnel file.
 2. Each request to engage in outside work is to be considered individually. Certain types of work, which are incompatible to the department, may be so designated in writing by the Department Director and the Department Director may refuse permits for such outside employment.

3.15 Request for Assistance from Private Citizen

Under no circumstances shall a City of Soledad employee request or authorize a private individual to assist in any manner in the performance of the employee's job function or duties, except for volunteers or public safety personnel engaged in an emergency.

3.16 Financial Affairs

Employees shall so arrange their personal financial affairs in order that creditors and collection agencies will not make use of the offices of the City, contact Department Directors or the Personnel Officer for the purpose of making collections.

3.17 Gifts or Payments

No City employee shall accept any gift, service, money or thing of value including, but not limited to, tickets to events or trips from members of the public, vendors, or other third parties with which the employee has or may have official dealings. It should be understood that such gifts are not for personal use or benefit, and should be shared by all employees. Any questions should be referred to the Personnel Officer for proper disposition or disposal.

3.18 Personal Conduct

The conduct of all employees shall be governed at all times by ordinary and reasonable rules of behavior observed by law-abiding citizens, and shall not reflect unfavorably upon City service. This shall apply whether or not the employee is acting in an official employment capacity. Failure to do so may result in disciplinary action up to and including termination.

3.19 Tobacco Products in the Workplace

Smoking or tobacco products shall not be permitted in any workplace, meeting room, classroom, or restroom of any City facility except for designated areas. Smoking or tobacco products shall not be permitted in any City vehicle, or within twenty (20) feet of any City building or worksite.

3.20 Dress and Grooming Standards

The professional environment of the City is maintained by the image employees present to the public. It is expected that all employees will dress in a manner consistent with good hygiene and safety. Neatness and cleanliness are necessary at all times. Individual City departments may adopt different dress and grooming standards, depending on the needs of their operations, subject to approval by the Personnel Officer.

3.21 Computer Network, Internet and Cell Phone Policy

Each employee of the City shall comply with the City's computer network, internet and cell phone policy in accordance with the terms and conditions as may be set forth in an administrative Memorandum/Directive issued by the City Manager. It should also be understood that computer stations and communications networks are the property of the City and there should be no expectation of privacy in conducting personal business. The City shall have the right to access an employee's work space and equipment, as well as e-mail, voice mail, and all written or electronic files, created or stored on City equipment.

Section 4. Employment, Selection and Appointment

4.01 Application Forms

Application shall be made as prescribed on the job announcement. Application forms shall require information covering training, experience, education and other pertinent information. All applications must be signed by the individual applying. Incomplete applications are subject to rejection.

4.02 Application

A. All candidates for employment and volunteer positions without pay, shall file with Human Resources an application on an official City application form. Such application may be rejected if it is not signed, dated and completed in its entirety, or if the applicant does not meet all the qualifications specified in the job description to warrant acceptance.

B. Ineligibility or Disqualification

The Personnel Officer may withdraw anyone from consideration if the candidate does not meet required qualifications and whose appointment is not in the best interest of the City. Whenever an application is disqualified or rejected, written notice shall be mailed to the applicant. No specific reason need be given for the rejection, other than the applicant was not qualified for the position.

Reasons for disqualification may include, but shall not be limited to the following:

1. Lack of any of the requirements and qualifications established for the examination or position for which applied.
2. Evidence of intoxicants and/or habit-forming drugs.
3. Conviction of a felony, or plea of no contest, or conviction of a misdemeanor involving moral turpitude.
4. Resignation from any position to avoid dismissal.
5. Deception or fraud in making the application.
6. Unacceptable driving record, as determined by most recent DMV readout, when a license is required for the position sought.
7. Request by applicants that their names be withdrawn from consideration.

8. Failure to apply within the time frame specified by the Personnel Officer to an advertised/posted position.
9. Disqualification or unsuitability for employment for any reason specified in any City or pertinent department rules and regulations.

4.03 Announcement

All announcements for positions in the Classified Service shall be publicized by posting in City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the position is announced, the nature of the work to be performed, and minimum qualifications.

4.04 Recruitment

Recruitment for qualified applicants may be a continuing process so the City may have available applications of interested, qualified persons for possible future employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements, college placement offices, community organizations, or professional agencies offering services that will result in response from qualified persons. However, the City shall not pay any fee or service charge for any applicant referred to City by any employment agency, unless it is the result of a contractual agreement with the employment agency.

4.05 Special Provisions

- A. The Personnel Officer may authorize the expenditure of funds or reimburse applicants for cost and expenses related to the recruiting and selection process where it is in the best interest of the City to do so.
- B. The Personnel Officer may limit the number of qualified applicants to be examined in the selection process when there is a large pool of qualified applicants compared to the number of anticipated vacancies. Qualified applicants to be examined may be determined by lot, date of application or other means as determined by the Personnel Officer.

4.06 Conduct of Examination

The Personnel Officer may contract with any industry recognized agency for the development and conduct of examinations. The Personnel Officer shall see that grading of examinations are performed by an employee in Human Resources.

4.07 Nature and Types of Examination

The selection techniques used in the examination process shall be impartial, and relate to subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which applicants seek to be appointed. Examinations shall consist of selection techniques which test fairly for knowledge, skills, and abilities of candidates.

4.08 Notification of Examination Results and Review of Papers

Each candidate taking an examination shall be given written notice of the results thereof within thirty (30) days.

4.09 Promotional Examinations

- A. Existing qualified regular or probationary employees shall be given the opportunity to apply before positions become available to applicants who are not in City service.
- B. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations. For each promotional examination, there must be a minimum of two qualified candidates for each vacancy.
- C. Promotional recruitment announcements will be posted for a minimum of five (5) business days in all departments and at a central location in Human Resources until the final filing date specified in the announcement. The announcement will specify a selection process which may include anyone or a combination of the following: application appraisal, written test, performance test, physical fitness test, personal interview or any other selection techniques which, in the judgment of the Personnel Officer, in consultation with the Department Director or other Subject Matter Expert, are necessary to evaluate the candidate's capacity to perform the job tasks.
- D. The Personnel Officer may extend the filing period for any recruitment based upon consideration of the quantity and quality of applications received.

4.10 Scoring Examinations and Qualifying Scores

A candidate's score in a given examination shall be the average scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing the entire examination, or disqualified for subsequent parts of an examination.

4.11 Eligibility Lists

- A. Eligibility Lists: Within a reasonable time after successful completion of all phases of the City's recruitment process, the Personnel Officer or designee shall prepare and keep available an Eligibility List. If there are less than three (3) candidates on the list, the Personnel Officer may cause the list to expire, and may commence a new recruitment.
- B. Duration of Lists: Employment/Eligibility lists may remain in effect for one year, unless exhausted, and may be extended prior to the expiration date by action of the Personnel Officer. All open-competitive and promotional lists shall remain in effect for one year, unless exhausted or abolished within that period as provided below. The Personnel Officer may extend any such list for additional periods, but in no event shall an employment list remain in effect for more than two (2) years. The effective date of a list shall be the date it is approved by the Personnel Officer.

4.12 Re-Employment Lists

- A. The names of probationary and regular employees who have been laid off may be placed on appropriate re-employment lists in the order of total continuous cumulative time served on probationary and regular status. Such names may remain on the lists for one year unless such persons are rehired prior to that date. Re-employment Lists may be extended at the discretion of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years.
- B. When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list, the number of names equal to the number of vacancies to be filled, and the appointing authority shall appoint such persons to fill the vacancies. The Personnel Officer shall send a notice of certification to persons appearing on the re-employment list.

4.13 Certification and Appointment

A. Filing Vacancies

1. The Department Director shall notify the Personnel Officer or designee of an anticipated vacancy in an established career position, except for positions outside the classified service. The Personnel Officer and Department Director shall determine the means to be used to fill the vacancy.
2. With the approval of the Personnel Officer, the vacancy may be filled through a transfer or voluntary demotion of an employee. If appointment

is not made in this manner, the vacancy shall be filled by appointment from an existing employment list in the following order:

- a. Re-employment List: A list established as a result of a reduction in force.
 - b. Promotional List: A list of qualified employees in City service.
 - c. Reinstatement List: A list of applicants which were previously in City service.
 - d. Open-competitive List: A list of qualified applicants outside City service.
3. If there are less than two (2) candidates on the applicable promotional list and/or less than three (3) candidates on the applicable open-competitive list, the Personnel Officer may:
- a. Authorize appointment from among the available candidates.
 - b. Cancel the existing employment list and declare an alternate employment list.
 - c. Cancel the existing employment list and order a new examination. The Personnel Officer may also authorize a temporary appointment for the interim period while the recruitment process is conducted. The interim period may not exceed six (6) months.

B. Certification of Candidates

1. When a vacancy is to be filled from either a promotional or an open-competitive list, the Personnel Officer shall provide the Department Director with a list containing an appropriate number of candidates. The number of candidates certified shall depend upon the type of recruitment and number of vacancies. The names of the top three (3) candidates from a promotional list or the top seven (7) candidates from an open-competitive list will be certified for a single vacancy and, where there is more than one vacancy, one additional name for each vacancy in excess of one.
2. Following interview and recommendation by the Department Director, the City Manager may appoint from those candidates certified and interviewed. Appointments shall not be retroactive.
3. Regular appointments are contingent upon results of reference checks, background investigations, agility, psychological, physical and any

other examinations, which may be required at the discretion of the Personnel Officer.

4.14 Removal of Names From List

- A. The name of any person appearing on an employment, re-employment, or promotional list shall be removed by the Personnel Officer if the eligible person requests in writing that the name be removed, or the employees or applicants fail to respond to notices of certification mailed via certified mail to the last known address.
- B. The names of persons on promotional employment lists who resign from City service shall automatically be dropped from such lists.

4.15 Temporary Appointments

- A. Temporary positions and appointments exist to fill a temporary need, including but not limited to vacation relief, sick leave relief, temporary projects, extra help to accelerate a program, seasonal work, surges of work, and under special circumstances to temporarily substitute for a regular appointment. Because they are intended to be interim in nature, work hours shall not exceed one thousand (1,000) in a twelve (12) month period. Temporary employees may be terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure.
- B. Temporary appointments may be made from existing appropriate employment lists or from among qualified applicants. Qualified applicants for this purpose shall mean individuals who meet the minimum qualifications for the classification as defined in the class specification.
- C. In no event shall a period of temporary appointment constitute satisfactory completion of any part of a probationary period for any appointment in a regular position in City service.
- D. Temporary employees shall not gain a property interest in their jobs.

4.16 Types and Categories of Appointment

All vacancies in the Classified Service may be filled by transfer, promotion, demotion, re-employment, reinstatement, or from eligibility lists certified by the Personnel Officer. In the absence of persons eligible for appointment in this manner, provisional appointments may be made in accordance with these Rules and Regulations.

Employment in the Classified Service is divided into the following categories:

- A. Regular: Regular employees are those who have been appointed to an authorized position in the City's Compensation and Benefits Plan, having successfully completed the probationary period, and retained as provided in these Rules and Regulations. A regular employee may be full-time or part-time. Part-time employees who have been appointed to an authorized position in the City's Compensation and Benefit Plan through appointment from an eligibility list are designated as Regular employees after successfully completing a probationary period.
- B. Probationary: Probationary employees are those who, through the regular examining process, have been appointed to an authorized position in the City's Compensation and Benefits Plan, but have not completed the applicable probationary period.

4.17 Personnel Officers Discretion Regarding Vacant Position

Nothing in this Section shall require the Personnel Officer to fill any vacancy in the Classified Service. The Personnel Officer has the discretion to recommend to the City Council that the vacant position be eliminated, retitled, or an alternative position or positions be created in place thereof. However, nothing within this Section shall require the Personnel Officer to replace any vacant position.

4.18 Citizenship

Except as otherwise provided by State or Federal law, employment is open to qualified men and women who are citizens of the United States, qualified non-citizens of the United States, and those who have employment rights under the United States Constitution, or State and Federal Law (e.g., non-residents holding temporary work permits).

4.19 Legal Authority to Work

All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal status to work in the United States. Each applicant must document legal authority to work in the United States, and verify identity in accordance with applicable federal statutes by completing and signing required forms, such as the I-9. All offers for employment will be contingent on receiving this verification, which must be completed as soon as possible after an offer of employment is made, but no later than at the time an individual first reports to work. Failure to provide proof of legal residence and authorization to work in the United States shall be the basis for disqualification in employment and immediate termination.

4.20 Minimum Employment Age

All persons who are selected for regular employment by the City must be at least eighteen (18) years of age. All persons who are selected for temporary and/or seasonal employment by the City must be at least sixteen (16) years of age. Applicants may be asked to provide proof of age at any time. Persons employed under the age of eighteen (18) must provide a valid minor work permit and shall not be assigned to "hazardous" duties as determined by the Department Director and Personnel Officer.

4.21 Pre-Employment Medical Examination

All offers of employment are contingent upon successful completion of a health questionnaire and/or medical examination which includes a pre-employment drug test. Each prospective employee shall be required to complete a pre-employment health questionnaire and, as determined by the Personnel Officer, take a pre-employment medical examination after receiving an offer of employment. The medical examination shall be conducted by a physician authorized or approved by the City at its expense. Medical records shall be maintained in a separate confidential folder open for inspection only on a need to know basis, and stored in a secured area consistent with the requirements of American Health Insurance Portability and Accountability Act of 1996 (HIPAA).

4.22 Background/Reference Checks

As soon as possible and practicable, a live fingerprint scan, background and reference check will be performed and completed for each employee receiving a conditional offer of employment.

4.23 Reappointment; Break in Service

An employee who voluntarily leaves the City Service and is rehired at a later date is not eligible to receive any benefits that may have previously been afforded. Reappointments following resignation will be considered new employment. Employees rehired within 60 days after separation will have their service bridged. This means that the employee will retain the original date of hire and will continue to accrue insurance benefits, previously in effect. In addition, these employees who have been rehired will accrue benefits (vacation and sick leave accruals) at the same rate as was in effect prior to the separation.

With regard to accrued sick leave benefits prior to separation, an employee is eligible to be reinstated with 50% of the remaining balance after being laid-off or separated.

For example, an employee at time of separation who had 45 days of sick leave accrued, is eligible to be paid directly for up to 15 days, this leaves a balance of 30 accrued days of which 50% or 15 days of sick leave could be reinstated.

4.24 Transfer

An employee may be transferred by the Personnel Officer from one position to another position in a comparable class. No person shall be transferred to a position for which the employee does not possess the minimum qualifications. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications. If the transfer involves a change from one department to another, both Department Directors must consent to the transfer, unless the Personnel Officer orders the transfer for purposes of economy, efficiency, or the best interest of the City.

4.25 Demotion

The Personnel Officer or Department Director may demote an employee:

1. Whose ability to perform required duties falls below acceptable standards;
2. For disciplinary reasons;
3. When the need for the position which an employee fills no longer exists;
4. When an employee request such demotion.

Section 5. Probationary Period and Seniority

5.01 Objective of Probationary Period

The probationary period shall be regarded as part of the selection process and utilized to closely observe and employee's work performance, evaluate the adjustment of a new employee to the position, and reject any probationary employee whose performance does not meet acceptable standards of work.

5.02 Performance Evaluation Reports

- A. A performance evaluation report of each employee shall be made as follows:
- 1a. No later than sixty (60) days prior to the completion of the applicable probationary period.
 - 1b. Prior to completion of probation the Department Director shall submit a performance evaluation report and recommendation to release from probation or to confirm permanent/regular status.
 2. Every twelve (12) months on the anniversary date thereafter, or the anniversary date of appointment to a different position or classification.
 3. Special evaluations for good cause deviating from these time frames may be authorized by the Personnel Officer or Department Director.
 4. In the event a performance evaluation is not completed within fifteen (15) days after the anniversary date, the employee shall automatically receive a "satisfactory" rating (i.e., attains goals), and documented in a memo to file.
- B. The performance evaluation report shall be signed by the employee's Supervisor and Department Director. Each report must be discussed with and signed by the evaluated employee, then submitted to the Personnel Officer and permanently retained in the employee's personnel file.
- C. Employee will receive a review of their job performance in order to determine whether or not a step adjustment is in order. Step increases are not to be construed as automatic in nature. If an employee's performance proves to be satisfactory, that employee shall be eligible for an increase which is defined as a Merit or Step Increase. A step increase shall not be denied as a result of the failure to complete an annual performance evaluation.

5.03 Probationary Period

- A. A working evaluation period during which employees are required to demonstrate satisfactory performance for the duties to which they are appointed. Probationary periods range from six (6) to eighteen (18) months depending on the position, and will be extended for periods of paid or unpaid leave of absence upon recommendation of a Department Director and approval of the City Manager.
- B. A promotional appointment shall be probationary for six (6) months, twelve (12) months, or eighteen (18) months, as applicable. Probationary periods will be extended for periods of paid or unpaid leave of absence upon recommendation of a Department Director and approval of the City Manager.

5.04 Rejection of Probationer

- A. During the initial probationary period, an employee may be separated from City service by the Personnel Officer for cause or no cause without appeal rights. The Department Director shall notify the Personnel Officer in advance as to whether a regular appointment or rejection is recommended.
- B. Notification of rejection in writing shall be served on the probationary employee and a copy included in the employee's personnel file.

5.05 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted with no loss of seniority at the discretion of the Personnel Officer.

5.06 Seniority for Lay Off Purposes

Whenever more than one person is appointed to the same classification on the same day, the seniority of each individual will be equal. In the event of a reduction in force (RIF), for whatever reason, individuals with the same seniority date will be laid off based on the following criteria:

- Years of service;
- Overall performance in City employment; and
- Special knowledge, skill, training, or experience.

5.07 Loss of Seniority

Seniority shall not be broken by vacations, sick time, or any authorized leave of absence or call to military service. All seniority rights shall be lost by an employee under the following circumstance if the employee:

- A. Resigns;
- B. Is discharged and fails to appeal;
- C. Fails to return to work when recalled after a layoff;
- D. Is laid off for one year without being recalled, or two (2) years if the Re-employment List has been extended.

Section 6. Position Classification Plan

6.01 Classified Service Plan

The Personnel Officer shall ascertain and record the duties and responsibilities of all positions in the Classified Service and, after consulting with Department Directors, shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the Classified Service defined by class specifications, including job title. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

6.02 Adoption, Amendment and Revision of Plan

The Classification Plan shall be adopted and may be amended from time to time by resolution of the City Council. Notice of City Council consideration of the proposed Classification Plan amendments, or revisions, shall be provided to Recognized Employee Organizations that represent the new or amended position class.

6.03 Assignment of Positions

Following the adoption of the Classification Plan, the Personnel Officer shall assign every position in the Classified Service to one of the classes established by the Plan.

6.04 New Positions

Newly established classifications shall be approved by the City Council.

6.05 Reclassification

The duties of any position which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions. A reclassification shall become effective after approval of the City Manager.

6.06 Salary Schedule Conformance

Employees shall be assigned a salary in conformance with the classification salary schedule, as the same may be amended from time to time by the City Council.

6.07 Interpretation of Class Specifications

The class specifications, commonly referred to as "job descriptions" are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions that are allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position or modifying the authority of any Department Director to assign, direct and control the work of employees under supervision. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar in kind or quantity, nor shall be any specific omission necessarily mean that such duty or requirement is not included. The specifications for each class should be considered in its entirety, and in relation to other classes in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications, and relation to other positions so that collectively they describe the kind of employment the class is designed to embrace.

6.08 Use of Class Title

Class title shall be the official title of every position allocated to the class for the purpose of personnel actions, and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. Any other "working title" desired and authorized to be used by the Department Director may be used as a designation for purposes of internal administration or in contacts with the public, subject to advanced approval of the City Manager or designee.

Section 7. Compensation and Salary Administration

7.01 Application of Salary Ranges and Rates

- A. Appointment: Initial appointments designated in the City Job Classification Plan shall normally be at the first step of appropriate salary range. Because it is sometimes difficult to secure qualified personnel at the normal hiring rate, or a person of unusually high qualifications is available, the City Manager may hire or promote at a higher range and step at his/her discretion. If the City Manager exercises his/her discretion to hire or promote a person at a step higher than set forth above, said person shall be eligible for a step increase upon successful completion of the probationary period.
- B. Promotion: Any employee receiving a promotion shall start on the first step of the salary range of the class to which promoted, and be eligible for merit increases as elsewhere provided, unless the present salary level is equal to or exceeds the first step of the class to which promoted. In that event, the employee shall be assigned to the step in the salary range to which promoted, which is the equivalent to at least a five (5%) increase in salary.
- C. Out of Class Pay: An employee working out of class for at least ten (10) consecutive work days to temporarily perform duties in a higher classification shall be compensated at the next higher step in the worked classification which is at least 5% above the employee's current salary. At no time should any employee work out of class for a period of more than 6 (six) months. There will also be no change to the employees current benefits.

7.02 Advancement within Salary Range

An employee shall be considered for salary advancement in accordance with the following time intervals:

- Step 1** Payable during probationary period. The first step in an assigned range is normally the minimum rate at the initial hiring for a specific classification.
- Step 2** Payable after successful completion of probation.
- Step 3** Payable after one year of service at Step "2" and upon recommendation of the Department Director based on a positive performance evaluation and an employee's demonstrated ability to meet or exceed job standards. Approval by the City Manager is required.

Step 4 Payable after one year of service at Step "3" and upon recommendation of the Department Director based on a positive performance evaluation and an employee's demonstrated ability to meet or exceed job standards. Approval by the City Manager is required.

Step 5 Payable after one year of service at Step "4" and upon recommendation of the Department Director based on a positive performance evaluation and an employee's demonstrated ability to meet or exceed job standards. Approval by the City Manager is required.

- A. Step advancements are merit increases and are not automatic. An employee must perform the duties of the position and be rated satisfactory by the Department Director to receive a step advancement.
- B. Salary adjustments shall become effective on the first day of the pay period coinciding with or following the employee's step advancement, promotion, demotion, reclassification, transfer, basic salary rate change, longevity pay eligibility, bilingual pay eligibility, education incentive pay eligibility, etc. Such salary adjustments shall not be retroactive.

7.03 Criteria for Step Increase

No salary advancement shall be made which exceeds any maximum rate established in the pay plan for the class to which the advanced employee's position is assigned.

7.04 Request for Step Increase

- A. In the event the Department Director fails to complete the required performance evaluation, the step increase within range shall not be withheld.
- B. Nothing herein prohibits granting a merit salary advancement prior to the normal time intervals, subject to approval of the Personnel Officer. A Department Director may recommend a step increase through the City Manager for any employee in the department as a result of outstanding service or any special circumstances which merit a step increase on a date other than the anniversary date. Such step increases are effective on the date approved by the City Manager, and does not change the employee's anniversary date.

7.05 Assignment for Reclassification and Demotion

- A. No Classified employee shall suffer a salary reduction as a result of reclassification, but the employee's salary may be held at the current amount at time of reclassification until the salary range of the new classification is equal to or exceeds the employee's salary. This shall be referred to as "Y-rate". An employee may be placed in a lower or higher salary step at the time of reclassification with the approval of the Personnel Officer.
- B. In the event of demotion due to discipline, the Personnel Officer shall determine the step within the applicable salary range to which the employee shall be assigned.

7.06 Computation of Salary

Salary rates for all authorized classified positions are set forth in the Compensation and Benefits Plan. Hourly rates are based on 2080 hours per year. Hourly rates for Fire personnel are based on 2912 hours per year.

7.07 Compensation during Attendance at Training Courses During Vacation, Holidays, and Days Off

City employees should feel free to attend training courses available during their vacation, holidays or days off if authorized to do so in advance by the Department Director. However, compensation for attendance at training courses held during days off, weekends, vacations, or holidays will be authorized only where employees have been directed by their Department Director to attend on the following basis:

- A. Days Off: Employees directed to attend training courses held on their day(s) off will have their work schedule adjusted to reflect day(s) off in compensation.
- B. Holidays: Employees directed to attend training courses on a holiday will be compensated double times their regular rate of pay, or allowed to take off another day for missed holiday, unless a different rate of compensation is provided in a current ratified and approved MOU, in which case the latter shall apply.
- C. Vacations: Employees directed to attend training courses held on vacation days will be permitted to reschedule their vacation days spent in such training courses in lieu of compensation.

Section 8. General Working Conditions

8.01 Attendance

Employees shall be in attendance and on time at their assigned workstation in accordance with Department rules regarding hours of work. All departments shall keep daily attendance records of employees. An employee absent without approved leave may be subject to disciplinary action.

8.02 Meal and Break Periods

Each regular employee should be entitled to an uninterrupted, unpaid meal period of a minimum of thirty (30) minutes and a maximum of sixty (60) minutes at or about the mid-point of their workday. The length of the meal period and the time the meal period is taken shall be determined by the Department Director unless provided otherwise in a ratified and approved MOU. Employees are entirely relieved of responsibilities and restrictions during their meal period, unless they have been directed to work by a supervisor or management staff, in which case it will be treated as paid time.

Each regular employee is also entitled to two (2) fifteen-minute paid break periods to be scheduled by a supervisor based on operational needs. The initial break period shall be taken within the first half of the shift, and the second within the second half of the shift.

8.03 Standard Work Periods

The standard workday for regular employees shall be forty (40) hours worked in five (5) consecutive workdays. The workday and workweek for regular, part-time employees shall be established and directed by the Department Director.

8.04 Exceptions to Standard Work Periods

With the approval of the Personnel Officer, Department Directors are authorized to designate other work periods and working hours for employees when the best interest of the City may be served by such adjustment of the standard work periods and hours. Exempt employees are expected to work the number of hours necessary to complete the task.

8.05 Overtime and Compensatory Time

Overtime is any time worked at the direction of management beyond the standard forty (40) hour work week for non-exempt employees.

- A. Overtime shall be worked only at the request and authorization of the Department Director. Regular employees required to work in excess of forty (40) hours in a work week shall be compensated at time-and-a-half, or compensatory time off at a rate of time-and-a-half at the option of the Department Director.
- B. Work schedules may be changed, by mutual agreement, to reflect work hours in excess of eight (8) within a day without overtime premium being required, e.g., four-ten hour days, or as provided in a ratified and approved MOU.
- C. The use of compensatory time shall be scheduled by mutual agreement between the employee and Department Director. Employees retain the right to cash payment for any compensatory time on the books as provided in a ratified and approved MOU, or with the approval of the Personnel Officer.
- D. Unless otherwise previously accrued, exempt employees shall not be eligible for overtime pay and/or compensatory time off.
- E. Classified employees who are designated as exempt under the Fair Labor Standards Act (FLSA) shall not be eligible for overtime pay and/or compensatory time off.
- F. There may be variations to standard overtime and work schedules as permitted by FLSA Section 7(k) exemption.

8.06 Compensatory Time Accumulation and Use

Employees may accumulate up to forty-eight (48) hours of compensatory time off. If compensatory time is not allowed, the employee shall be paid for such overtime in cash at the rate of one and one-half times the regular rate of pay, or as provided in a ratified and approved MOU. Non-exempt employees who move to an exempt status shall have their approved compensatory time off cashed out by the end of the current fiscal year.

8.07 Bilingual Pay

The City retains the right to determine how many and which positions it needs to provide bilingual services, and which languages shall qualify. To be eligible, the Department Director must approve the employee for certification testing, and then pass an oral examination in the applicable language certifying that the person has the appropriate language skills.

8.08 Paid Holidays

- A. All regular and probationary employees are entitled to municipal holidays off as provided in a ratified and approved MOU or Resolution adopted by the City Council.
- B. When a holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday.
- C. Employees who are required to continue their job responsibilities on holidays (such as in the Public Works, Police and Fire Departments) shall receive holiday pay as provided in a ratified and approved MOU, and/or Resolution adopted by the City Council. The rate of pay for the holiday shall be based on eight (8) hours.
- D. In cases where employees are afforded a Floating Holiday, the "holiday" must be used no later than December 31, the end of the City's current calendar year. If not used by that date, said holiday will be canceled and removed from Payroll Records.
- E. Council approved holidays, except floating holidays, will be considered work days for purposes of calculating overtime.

8.09 Tuition Reimbursement

- A. Regular employees may be eligible to receive tuition reimbursement for educational purposes which improve their ability to accomplish their City job duties, subject to approval of the Department Director and the Personnel Officer.
- B. Except as provided in a ratified and approved MOU, reimbursement will be for books, tuition, and enrollment only up to a maximum of five hundred (\$500) dollars per fiscal year. The employee must achieve at least a "C" in the class, and be reimbursed after proper proof of completion of the class.

8.10 Credit for Training

Participation in and successful completion of special training courses may be considered in making advancement and promotions, as provided in a ratified and approved MOU. Evidence of such activity shall be filed by the employee with the Department Director and Human Resources.

8.11 Training Responsibility

The City encourages the training of employees. Responsibility for developing training programs for employees shall be assumed jointly by the Personnel Officer and Department Directors. Such training programs may include, but not limited to, lecture courses, workshops, demonstrations, assignment of reading materials, or such other assignments as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal employees in the performance of their respective duties.

8.12 Uniform, Official Badge or Insignia

Officials or employees who wear a uniform, badge, or other official insignia as evidence of authority and City identity shall not permit such uniform or insignia to be used or worn by any other person.

8.13 Compensation for Use of Private Automobile on City Business and City Vehicle Assignment

- A. General Policy: It is the policy of the City to assure 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.
- B. Authorization for Use of Privately-Owned Vehicles: Use of privately owned vehicles in connection with official City business during normal work hours shall be authorized prior to such use by the Personnel Officer or Department Director.
- C. Mileage Allowance: Subject to direction concerning the use of a City vehicle, the City will make a City vehicle available for official use to employees when so required. If there are no City vehicles available and the employee must use a personal vehicle, the employee will be reimbursed at the IRS authorized mileage reimbursement rate in effect at the time.
- D. Administrative Regulations: Administrative regulations covering conditions for use, financial responsibility, procedures for requesting travel authorization and reimbursement shall be established by the City Manager, or designee, consistent with the Fair Labor Standards Act (FLSA).
- E. With the approval of the City Manager, the Department Director may from time to time authorize the use and assignment of a City vehicle for ongoing "Bonafide-Official" business of the City in the course of employment of the employee. The Department Director shall take into consideration the employees job duties, responsibilities and "around-the-clock" availability.

Vehicles shall not be used for personal use. City Employees shall report all accidents involving personal or City assigned vehicles while being used in City Business, no matter how minor the damage may be to the employee's immediate supervisor or City Manager or designee handling risk and insurance claims. Any injury sustained by an employee while operating a vehicle (personal or City assigned vehicles) on city business should be reported as required under the worker's compensation policy.

Each employee shall be responsible for the lawful operations of vehicles in accordance with both state and local law. Violations of law are the responsibility of the vehicle operator. Fines and other expenses that result from traffic violations or parking violations, other than mechanical problems of a City vehicle, are responsibilities of the employee.

Employees shall give due consideration of the Internal Revenue Code (IRC) under "Imputed Income" creating a taxable issue which may apply to assignment of city vehicles.

8.14 Pay Periods

- A. Pay periods for all employees shall be on a biweekly basis, every other Friday of each month. When a regular payday coincides with a holiday, paychecks will be issued on the workday immediately preceding such holiday. Salaries will be paid on a regular payday only, unless early payment is approved by the Personnel Officer.
- B. The method of distributing payroll checks shall be established by the Personnel Officer. All employees shall be required to participate in the City's direct deposit program.

8.15 Deductions from Pay

Deductions from employee's pay shall include all required employment deductions, as well as union dues, voluntary deductions, or court orders.

8.16 On-The-Job Injuries/Workers' Compensation

- A. Report of Injury: Any employee who sustains any injury on the job shall report the injury to a supervisor or Department Director before completing the shift in which the injury occurred. The injury report must be written and made within the specified time or said employee may be subject to disciplinary action up to and including dismissal for non-compliance.
- B. Treatment at Authorized Facilities: Any employee who sustains an on the job injury shall report for medical treatment only at those medical facilities approved by the City for treatment of employees or pre-designated physician.

If the employee suffers the injury at a location outside the City which makes this impractical, the employee may seek medical attention at the nearest medical facility where the injury occurred.

- C. Workers' compensation benefits shall be as provided in applicable federal and State laws and regulations, Council Resolution, or ratified and approved MOU.

8.17 Modified Duty: Return to Work Program

- A. Program Objectives: The City acknowledges the high cost of workers' compensation insurance, and strives to reduce this cost by all reasonable means. An essential feature of a cost containment effort includes the availability of a modified duty return to work program which enables injured employees to return to work as soon as medically released.
- B. Modified duty/return to work assignments are designated for employees who were injured in the course of City employment and can return to work within the physical restrictions set forth by the attending physician. Modified duty may be made available to employees for non-work related injuries, at the discretion of the Department Director. Modified duty/return to work assignments are temporary in nature to assist injured or ill employees to progress to full-duty status. The length of the assignments will be at the discretion of the Personnel Officer in consultation with the Department Director. Assignments established for modified duty/return to work participants are not permanent in nature. The City has the responsibility to reasonably accommodate injured employees within their current work assignment, under the requirements of the Americans With Disabilities Act (ADA).
- C. Modified duty/return to work assignments will be established on a case-by-case basis, depending on the specific limitations of the injured employee. Modified duty/return to work assignments shall be established with the approval of the Department Director and Personnel Officer. Assignments may be made based on the following:
 - 1. The assignment is not designed to be demeaning and/or punitive;
 - 2. The assignment should benefit the employee by offering an opportunity to return to work and benefit the City by providing supplemental tasks, enhancing services, or having tasks accomplished which may not have otherwise been completed without additional expense;

3. Modified duty/return to work assignments will be based upon the availability of modified duty assignments. Any modified duty/return to work assignment shall be made based upon the business necessity or business requirements of the City.

While assigned to a modified duty/return to work assignments, the injured employee will earn the normal classification rate.

8.18 Fitness for Duty Examinations

- A. As deemed necessary and with the recommendation of the Department Director, the Personnel Officer shall have the authority to request employees to submit to medical and or psychological fitness-for-duty examinations from time to time to assure City employees maintain the necessary health to perform their assigned work tasks in a full, complete and safe manner. Such examinations shall be done at the City's expense by physicians or medical care providers as the City may select.
- B. Periodic physicals and/or psychological fitness-for-duty examinations for all Sworn Peace Officers are mandatory and shall be conducted in accordance with their applicable ratified and approved Memoranda of Understanding.

8.19 Personnel Files and References

- A. An employment history of each City employee will be maintained by the City. The information in the personnel file is permanent property of the City and shall be maintained in a manner consistent with the American Health Insurance Portability and Accountability Act (HIPAA), and other applicable laws and regulations. The personnel file shall contain, but is not limited to, information pertinent to date of employment, positions held, salary history, payroll, benefits, sick leave, annual leave, performance evaluations, leave of absence requests, training data, compensation and other information as may be deemed appropriate and/or required by law, including, but not limited to, provisions of the American Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The official repository of the personnel file and records for all employees shall be maintained by Human Resources. Department files may be established for the purpose of having readily available pertinent employee records related to the employee's daily performance.
- C. The personnel file of an employee will be open for inspection by the employee or authorized representative during business hours by appointment, and advanced written request. Employees or authorized representatives, as designated in writing on a case-by-case basis, shall have access to their

personnel files in the presence of the Personnel Officer or designee. The employee will have access to all contents of the file except those materials which are a part of the employment/selection process, including letters of reference and letters of recommendation, and any records relating to investigations of possible criminal offenses. A copy of the material in the personnel file to which the employee has access will be provided to the employee upon request, at the prevailing cost for duplication.

- D. An employee shall be entitled to read any statement written by the Supervisor or Department Director, regarding the employee's work performance or conduct, if such statement is to be placed in the personnel file. The employee shall acknowledge reading such material by affixing a signature or initials and date on the document, with the understanding that such signature or initials merely signifies that the employee has read the material in the file and may not necessarily indicate agreement with its content. If the employee refuses to initial, the Personnel Officer, or designee, will sign, noting the refusal of the employee to affix his/her signature or initials.
- E. Each employee has the responsibility to keep personal data up-to-date and must notify Personnel within ten (10) calendar days in the event of any change of name, address, telephone number, persons(s) to be notified in case of an emergency, and any change of beneficiary or dependent(s).
- F. Request for verification of employment or employment-related inquiries should be directed to the Personnel Officer or designee. The City will only verify length of employment and current employment status. Any requests for additional information contained in the personnel file shall be based upon written employee consent and must be approved by the Personnel Officer, or designee.
- G. An employee shall have thirty (30) calendar days upon becoming aware of any adverse comment entered in the employee's personnel file, within which to file a written response. Such written response shall be attached to and shall accompany the adverse comment.

8.20 Reports of Change Status

All actions involving employment and change in status of employment shall be reported by the Department Director to the Personnel Officer in writing utilizing the Personnel Action Form (PAF). Copies of such reports shall be furnished to the employee involved. All recommendations of transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be submitted in writing to the Personnel Officer by the respective Department Director utilizing the PAF.

8.21 Absence Without Leave

An employee absent from duty without authorization for two or more consecutive working days without satisfactory explanation to the Department Director or the Personnel Officer shall be deemed to have voluntarily resigned without notice and the Department Director or Personnel Officer shall initiate the process to discharge the individual from City employment.

8.22 Resignation and Exit Interview

- A. Resignation: An employee wishing to leave City employment in good standing shall file with the Department Director a written resignation stating the effective date and reasons for leaving the service at least fourteen (14) calendar days prior to the effective date of said resignation. A final performance evaluation as to the resigned employee's service performance and other pertinent information may be forwarded to the Personnel Officer by the Department Director. Failure of the employee to give notice as required by this section may be cause for denying future employment by the City. The Department Director or the Personnel Officer may authorize a resignation in good standing when, in their opinion, there are sufficient reasons to waive the requirements of this section.
- B. Exit Interview: The Personnel Officer or designee may conduct an exit interview for employees who resign to verify the reasons for resignation. Copies of the information obtained during the exit interview shall be furnished to the Department Director as appropriate.
- C. Employees, including those released during their initial probationary period, or dismissed for disciplinary reasons, will receive their final paycheck on the next regular payday following separation from City service. The final paycheck will include payment for all earned salary due and not previously paid, and accrued but unused leave balances subject to pay-off.

Section 9. Leave of Absence Provisions

9.01 Annual Vacation Leave

A. Employees shall be entitled to accrual of vacation leave upon the date of hire. Eligible employees working a forty-hour work week shall earn vacation credits based on the following schedule, or as provided in a current ratified and approved MOU.

YEARS OF SERVICE	ANNUAL EXECUTIVE/ MANAGEMENT	ANNUAL REGULAR FULL-TIME GRADES/ PART-TIME EMPLOYEES
Date of hire - 36 months	15 days/yearly 10 hours/monthly 4.62 hours/bi-weekly	10 days/yearly 6.67 hours/monthly 3.08 hours/bi-weekly
37 - 120 months	20 days/yearly 13.33 hours/monthly 6.15 hours/bi-weekly	15 days/yearly 10 hours/monthly 4.62 hours/bi-weekly
121 - 180 months	22 days/yearly 14.67 hours/monthly 6.77 hours/bi-weekly	17 days/yearly 11.33 hours/monthly 5.23 hours/bi-weekly
181 months and over	25 days/yearly 16.67/monthly 7.7 hours/bi-weekly	20 days/yearly 13.33 hours/monthly 6.15 hours/bi-weekly

B. Vacation accrues to an eligible employee only during pay periods when the employee is on pay status one-half time or more. Employees on a half-time pay status shall accrue only half of their vacation entitlement. An employee on full-time pay status shall accrue full vacation during that pay period. An employee on a part-time status (no less than 30 hours/week) shall accrue vacation on a prorated basis, or shall accrue full vacation credits when assigned to full-time status approved by the Personnel Officer.

C. All employees may not accrue more than two times the annual accrual specified in Section 9.01 (A).

D. Loss of accrued vacation shall not occur if vacation has been delayed by written request and approval of a Department Director or Personnel Officer.

E. Temporary employees are not eligible for vacation leave benefits.

9.02 Use of Vacation

A. An employee must complete six (6) months of continuous service before becoming eligible to use accrued vacation leave.

- B. Request for vacation leave usage of two weeks or more must be requested at least two (2) weeks prior to the desired vacation period and approved before leaving on vacation. Employees who leave on vacation without advance approval shall be considered to have abandoned their work, and be subject to appropriate disciplinary action up to and including discharge.
- C. Vacation or compensatory time may be used when taking time off for illness of family members who do not qualify under the sick leave policy or other applicable rules and regulations.
- D. An employee shall not work for the City during vacation leave, unless requested to do so by the Department Director.

9.03 Holidays Falling During Vacation

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work, and for which no other compensation is made, said holiday shall not be charged as a vacation day.

9.04 Vacation at Termination

- A. Employees who terminate their employment shall be paid in a lump sum for all accrued vacation and compensatory time earned at the employee's applicable rate of pay on the pay period following last day of work.
- B. Vacation leave will not be granted immediately prior to termination of employment for the purpose of extending service to encompass paid holidays or completing a full month of service for additional vacation leave accrual. City service cannot be extended through the use of vacation, sick leave, or any other compensable accumulation balances.
- C. In the event of death of an employee during employment with the City, all earned vacation and compensable paid leave balances will be paid to employee's designated beneficiary on file with Human Resources.
- D. Unused vacation entitlement may be paid to employees upon separation provided they have completed at least six months of continuous service. Pay may be computed based on the rate earned upon separation.

9.05 Sick Leave

- A. All eligible employees working a forty-hour workweek shall earn sick leave credits based on the following schedule:

PER YEAR	PER MONTH	PER PAY PERIOD
12 DAYS	1 DAY	3.69 HOURS

- B. Sick leave accrues to an eligible employee only in those pay periods when the employee is on pay status one-half time or more; employees who are on a half time pay status shall accrue only half of their sick leave entitlement. An employee on a pay status on a full-time basis shall accrue full sick leave credits during that pay period. An employee on a part-time basis (no less than 30 hours/week) shall accrue sick leave on a prorated basis, or shall accrue full sick leave credit when assigned to full-time status and approved by the Personnel Officer.
- C. Unused sick leave may be accumulated up to a maximum of ninety (90) days, or 720 hours.
- D. Sick leave is a benefit not a privilege, and shall be available only for medical, dental, personal or family illness, death in family or physical incapacity preventing performance of duties caused by factors over which the employee has no reasonable control.
- E. In order to receive compensation while absent on sick leave, the employee shall notify the immediate supervisor prior to the time set for the beginning of daily duties, but in any event no later than fifteen (15) minutes after the time set for the beginning the employee's daily duties. Failure to provide such notification may be the basis for disciplinary action, up to and including termination.
- F. Necessity for the use of sick leave shall be established and documented by the employee to the satisfaction of the City. During any sick leave absence in excess of two (2) days, the employee may be required to establish the necessity for such absence to the City's satisfaction including a physician's certificate. Upon the first day of return from sick leave, if required, an employee must submit a physician's certificate indicating the date(s) sick time was taken. Failure to submit the requested physician's certificate on the first day of return to work may result in disciplinary action, up to and including discharge.

9.06 Sick Leave Eligibility

Regular and probationary employees shall be eligible to accrue sick leave. Use of sick time off prior to the first six (6) months of employment may be granted for extraordinary reasons with the approval of the Personnel Officer. Temporary employees are not eligible for this benefit.

9.07 Use of Sick Leave

- A. Employee Illness: Sick leave may be used as needed and approved up to the depletion of sick leave balance, at which time the employee will no longer receive pay for sick leave. Sick leave will not be granted for illness during any

leave of absence other than sick leave, with exception that an illness or injury which occurs while on vacation may be covered by sick leave if documented to Human Resources, and approved by the Department Director or Personnel Officer.

- B. Family Illness: Sick leave may be taken for family illness of a spouse, son, daughter, adopted child, step-child, parent, grandparent, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, or close relative if residing in the employee's household. If not residing in the employee's household, then other type of leave must be used, such as vacation or earned compensatory time off, unless otherwise approved by the Personnel Officer.

9.08 Deductions of Sick Leave

- A. All employees: All City employees shall be charged sick leave at the rate of their normally scheduled shift for each full day of absence, unless exceptions to this rule are approved by the Personnel Officer. An absence less than a full day will be charged to sick leave at the rate of one hour of sick leave for each hour absent.
- B. When illness occurs on a Holiday: Employees scheduled to work on a holiday that report sick will have their scheduled shift charged to sick leave.

9.09 Depletion of Sick Leave

In accordance with Section 9.12, upon completion of accumulated sick leave for injury or illness, a leave of absence without pay may be authorized by the Personnel Officer.

9.10 Sick Leave Buy Back

Upon an employee's resignation, the City shall compensate employees in all classifications a portion of their accumulated sick leave if leaving in good standing. Employees who are terminated are not considered to have left in good standing. In case of resignation, each employee shall be compensated up to but not exceeding fifteen (15) days or 120 hours of accumulated sick leave. In case of retirement, each employee shall be compensated up to but not exceeding thirty (30) days or 240 hours. Retirement shall be defined as meeting service and age requirements necessary to qualify and receive pension payments. Said compensation shall be based on the individual's regular salary rate of pay.

9.11 Bereavement /Compassion Leave

- A. The City shall provide employees with paid bereavement leave to handle affairs and attend a funeral as follows: Three (3) days or five (5) days, if travel is required over a 600 mile radius (300 miles one way); five (5) days of paid

leave is permitted in case of the death of an immediate family member, meaning spouse or domestic partner, a parent, grandparent, child, brother, sister, aunt, uncle, mother-in-law, father-in-law, brother-in-law or sister-in-law of an employee, step-mother, step-father, and spouse's grandparent.

- B. When authorized by the Department Director, leave for family members other than immediate family and others shall be taken as vacation or compensatory time off. Exceptions are at the discretion of the Personnel Officer.

9.12 Catastrophic Leave; Medical Leave of Absence Without Pay

A. Policy and Guidelines:

1. Catastrophic leave benefits have been established for the benefit of regular City employees who have exhausted all accumulated leave rights. Catastrophic leave is an attempt to provide a portion or all of an employee's pay during the time the employee would otherwise be on medical leave of absence without pay due to an unforeseen catastrophic illness. Although employees on catastrophic leave will receive catastrophic pay, for all other purposes, such employees will be considered on leave of absence without pay, and shall not accrue any vacation, sick or holiday leave rights.
2. The Catastrophic Leave Bank will consist of voluntary time transfers of donor vacation and sick leave, and shall not be administered in a fashion, which is discriminatory or gives preferential treatment to a particular employee.
3. Catastrophic leave and leave of absence without pay, including leaves of absence under the Family Medical Leave Act (FMLA), shall run concurrently. An eligible employee may be paid catastrophic leave for a maximum ninety (90) day period for all or a portion of the time off work, depending on the amount of catastrophic leave donated to the employee. One extension of ninety (90) days may be granted at the sole discretion of the Personnel Officer.
4. This policy allows employees to donate sick leave or vacation to a catastrophic leave bank when the donating employee's combined vacation, sick, and/or compensatory time would not be reduced to less than forty (40) hours, and the recipient employee has met all the requirements of this section. Information about donors will be kept strictly confidential.
5. Donated hours do not affect eligibility for Sick Leave Payout at Calendar Year End.

B. Establishing a Catastrophic Leave Bank

Procedures for establishing a Catastrophic Leave Bank will be established, administered, and distributed by Human Resources. Employee donations are irrevocable and will be placed in the Catastrophic Leave Bank on a straight hour-per-hour basis.

1. Regular employees, or their designees, requesting catastrophic leave donations from the Bank must submit a written request to the Personnel Officer, or designee. The request must provide sufficient information to enable a determination to be made whether the employee qualifies for catastrophic leave. This information will be maintained confidential.
2. Catastrophic leave requests for injury/illness must include medical verification from a physician which describes the employee's catastrophic illness or injury.
3. Medical insurance coverage will continue as if the recipient employee was on sick leave; however, the recipient employee will not accrue sick leave or vacation benefits while using catastrophic leave.
4. Federal and state income taxes will be deducted from the leave recipient's pay at the time of usage based on the recipient's normal payroll deductions.

C. Participation in the Catastrophic Leave Program shall be terminated when one or more of the following occurs:

1. The employee has exhausted ninety (90) calendar days of "Leave of Absence Without Pay". Any leave of absence for a period of time longer than ninety (90) calendar days must be approved by the Personnel Officer, during which such time the employee may only participate in the Catastrophic Leave Program if approved by the Personnel Officer, and shall be supported by the same documentation noted above.
2. Donated leave credits have been exhausted.
3. If the recipient employee should become eligible to receive long-term disability payments, the employee will no longer be eligible to receive donations under this section.

9.13 Authorized Leave Without Pay

- A. Leave of absence without pay may be granted in cases of emergency, or where such absence would not be contrary to the best interests of the City. The Personnel Officer shall make such determination. Such leave is not a right but a privilege.

- B. Leave of absence without pay may be authorized by the Personnel Officer depending on the merit of the individual case. Written request for leave of absence without pay must be made by the employee in writing to the respective Department Director, with copy to the Personnel Officer, and subject to approval or disapproval of the Personnel Officer. A leave request form cannot be substituted for notification in writing for an authorized leave of absence.
- C. Employees on an authorized leave of absence without pay may not extend such leave beyond ninety (90) days without the expressed approval of the Personnel Officer. Employees are required to submit an additional written request for each extension of leave of absence.
- D. No vacation, sick leave or holiday benefits shall be accrued during the time that an employee is on leave of absence without pay.
- E. While on an approved absence without pay, the employee shall be responsible for direct payment to the City for health insurance providers. The City shall not provide fringe benefits such as uniform, bilingual pay, etc. during absences without pay.
- F. It is the employee's responsibility to continue paying Union dues or representational fees directly to the Union, or formally recognized employee organization during absences without pay.

Failure on the part of an employee on leave to report promptly at its expiration, or within three (3) working days after written notice to return to duty during this leave shall be cause for discharge for work abandonment.

9.14 Pregnancy Disability Leave (PDL)

- A. Regular and probationary female employees shall be provided up to a maximum of four (4) months disability leave for pregnancy. Such leave may be taken before or after birth or at any period of time she is physically unable to work because of the pregnancy or pregnancy-related condition. Periods of leave shall be totaled in computing the four (4) months. Pregnancy-related absenteeism may be counted against the four (4) month leave requirement.
- B. Use of accumulated sick leave and/or vacation credits during the four (4) month disability leave shall be granted to the employee at her request.
- C. As with all other types of leave of absences without pay, employees on Pregnancy Disability Leave will not earn sick leave, vacation or holiday accruals during such leave.
- D. The City requires that the employee obtain written medical verification from her physician of her inability to work because of the pregnancy, and medical

verification that continuing work will not be hazardous to the employee or fetus.

- E. The employee is obligated to inform her Department Director or the Personnel Officer in writing as soon as she determines with reasonable certainty the date and duration of her intended pregnancy leave. If the employee desires to return to work earlier than agreed, the City has up to thirty (30) days to accommodate her request for change in the return date.
- F. The employee is entitled to the same job upon return only if she returns no later than the end of the four-month disability leave. If business necessity requires placement in a different position, the City shall offer a job that is similar in terms of pay, location, job content, promotion, and all other opportunities associated with the position.

9.15 Family Care Leave

The City shall provide Family Care Leave consistent with the Moore-Brown-Roberti California Family Rights Act of 1993 (CFRA), California Government Code Section 12945, et. Seq., and the Federal Family and Medical Leave Act of 1993 (FMLA), United States Code, Section 2600, et. Seq., as follows:

- A. Eligibility for Unpaid Leave: Employees with at least twelve (12) months of service with the City, which need not be consecutive months, and have worked at least 1250 hours during the 12-month period immediately preceding the commencement of the leave, may take up to twelve (12) workweeks of unpaid leave in a 12-month period because of:
 - 1. The birth of a child or to care for a newborn of an employee;
 - 2. The placement of a child with an employee in connection with the adoption or foster care of a child;
 - 3. The employee is needed to care for a family member (child, spouse, or parent) with a serious health condition;
 - 4. The employee's own serious health condition makes the employee unable to do the job.
- B. Entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.
- C. Accrued Leave: A leave granted under this provision will normally be leave without pay, except that an employee must exhaust accrued sick leave, vacation or other accrued time off prior to leave without pay. At the request of an employee and with the prior approval of the Personnel Officer, or

- designee, an employee may retain and not use accrued sick leave in connection with a leave for the care of a newborn, adopted or foster care child, or to care for a family member with a serious health condition.
- D. Intermittent Leave: Leave may be used in one or more increments, but shall not exceed a total of twelve (12) workweeks of leave in a 12-month period measured backward from the date leave begins. A leave for the care of a newborn, adopted or foster care child shall be taken on a continuous basis in increments of not less than two (2) weeks. An employee may request intermittent leave in one-day increments for the care of a seriously ill family member; or for the treatment of a serious health condition of the employee. A reduced leave schedule (i.e. a work schedule that reduces the number of hours per workweek or workday) may be established where medically necessary for an employee to care for a seriously ill family member; or for the treatment of a serious health condition of the employee.
- E. Advance Notice: Unless the need for leave arises out of an unforeseen emergency, employees requesting leave will be expected to provide reasonable advance written notice no more than seven (7) calendar days prior to the start of leave. Failure to provide advance notice may be cause for delaying the effective date of the leave to assure adequate coverage of the position.
- F. Medical Certifications: The City shall require employees requesting family care leave for the care of a seriously ill family member, or medical leave for the treatment of a serious health condition of the employee to provide medical certification of the illness.
- G. Definition of Serious Health Condition: Serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or a residential medical care facility (i.e., an overnight stay), or continuing treatment or continuing supervision by a health care provider. "Continuing treatment" is any condition, which warrants absence from work or school or usual daily activities for more than three (3) consecutive calendar days and requires treatment from a health care provider. Serious health condition also includes any period of incapacity due to pregnancy, any period of incapacity due to a chronic health condition, such as asthma, diabetes, or epilepsy, and periods of incapacity due to conditions for which there is no treatment.
- H. Insurance Premiums: Employees on leave will be eligible to continue medical and dental insurance coverage and other group coverage as if the employee were on a regular pay status. The City will pay the premiums necessary to maintain coverage as if the employee remained on a paid status. If an employee elects to maintain insurance coverage while on family care leave and there is normally a payroll deduction, the employee may authorize a payroll deduction or pay the premiums in advance in accordance with the

requirements necessary to maintain coverage. Failure to pay premiums that are the employee's responsibility may result in cancellation or loss of benefit coverage. For the period of family care leave on paid status, if any, the employee will continue to accrue vacation, sick leave and holidays.

- I. **Employee Status while on Leave:** Employees retain "employee" status while on medical and family leave. The leave shall not constitute a break in service for seniority or any employee benefits. An employee on leave without pay for thirty (30) or more consecutive calendar days, shall have their anniversary date adjusted to reflect the time absent without pay. Employees on probation will have their probationary period extended by the length of time on leave.
- J. **Reinstatement Guarantee and Fitness for Duty:** The employee shall cooperate with the City in scheduling the date to return to work, and, whenever possible shall give the city at least thirty (30) days advanced notice of availability. Upon return from leave, the City shall restore the employee to the previous or comparable position provided the employee gives the City thirty (30) days advance notice. Where the medical leave was for the treatment of a serious health condition of the employee, the City shall require the employee to provide medical verification of fitness to return to duty.
- K. **Exemptions:** The City retains the right to exempt key salaried employees who are among the highest paid (in the upper 10% salary bracket) from Family Medical Leave Act, if required to prevent substantial and grievous economic harm to the City.

9.16 Jury Duty Leave

- A. Regular employees of the City required to serve as jurors shall be entitled to be absent from duty during the period of such service, or while requested by the Clerk of the Court to be present as a result of such call. Under such circumstances the employee shall be paid full salary provided any payment received, except travel pay for such duty, is remitted and signed over to the City.
- B. An employee called to Jury Duty service on regular day off shall not be compensated by the City.
- C. A Leave Request must be submitted with a copy of the Jury Duty Notice attached for each such absence.

9.17 Witness Duty

A regular employee who because of employment with the City is requested to appear by subpoena as a witness in court, or to respond to an official order from a governmental agency for reasons not brought about through an action of the

employee, or through the connivance or misconduct of the employee, may be granted a leave of absence with pay from such appearances. The employee shall remit all fees received for such appearances to the City within three (3) days from the date any fee is received by the employee. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

In those instances where the required testimony is not related to knowledge or information gained pursuant to the employee's employment with the City (e.g., a car accident witnessed after hours or on a day off), and in which the employee is called to appear as a witness in court other than as a litigant, the employee has the option of requesting the time off from vacation leave and retain any received fees for such appearance.

9.18 Military Leave

- A. Military leave shall be granted in accordance with the provisions of applicable federal and State laws. All employees entitled to military leave shall give the Department Director an opportunity within the limits of military regulations and obligations, such as weekend reserve duty, to determine when such leave shall be taken.
- B. An employee who interrupts municipal City employment because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.
- C. In accordance with Section 395.01 of the California Military and Veterans Code, employees who have been employed by the City for at least one year will be paid their regular salaries for up to thirty (30) days of active duty.
- D. Employees returning from active military duty shall be reinstated to their regular full time job classification, or comparable position, without any loss of benefits.

9.19 Employee Time Off to Vote

Time off with pay to vote at any general, local primary, or presidential primary election shall be granted to employees. Employees who are registered voters may request time off to vote at an election if the employee does not have sufficient time outside regular working hours to vote. The employee may, without loss of pay, take up to one hour of time off to vote. The time off for voting shall be only at the beginning or the end of the regular work shift, whichever allows the most free time to vote, and the least time off from work. The employee shall give the direct supervisor at least two (2) working days notice of the need for time off to vote.

Section 10. Layoff Procedure

10.01 Layoff Due to Lack of Work, Funds or Other Reasons

A. The City Manager shall have the sole right to determine which class or classes shall be subject to lay-off. Before regular employees are separated due to lack of work, the City shall explore reasonable possibilities of reassignment. Reduction in Force (RIF) includes the following:

- Temporary Reduction: Recall to work is expected within twelve (12) months.
- Permanent Reduction: Recall to work is not expected because the position has been eliminated, the contract has expired, the department has closed, or the reduction in force is due to budgetary constraints.

B. Whenever, in the judgment of the City Manager, one or more positions are to be eliminated for reasons of lack of work, lack of funds, reorganization, or other reasons of economy or efficiency, an employee filling such position may be laid off, transferred or demoted without taking disciplinary action or the right of appeal, based on the following criteria:

- Years of service;
- Overall performance in City employment; and
- Special knowledge, skill, training, or experience.

C. Thirty (30) calendar days before the effective day of layoff, the City Manager shall notify the employee in writing of the intended action indicating the reasons, and a statement certifying whether or not the employee's services have been satisfactory. A copy of such notice shall be given to the Department Director and the affected employee. If certified as having given satisfactory service, the name of the employee laid off shall be placed on an appropriate reemployment list as provided in these Rules and Regulations. Such non-disciplinary action shall not be subject to appeal.

The City will provide a "Levine Hearing" for affected employees prior to making the layoff final.

D. In the event of a reduction in force (RIF), or the reduction or elimination of a particular classification, there shall be no bumping into positions in which the

employee has previous City service credit unless otherwise provided in a ratified and approved MOU.

- E. In the case of layoffs, temporary and probationary employees within the class or classes subject to lay-off will be laid off before any regular employees are affected by layoffs.

The order of lay-off of probationary and regular employees shall be according to seniority based on classification seniority with the employee(s) having the lowest seniority to be laid off first. Among employees with equal seniority, the order of lay-off shall be determined as provided in paragraph "B", above.

- F. Before hiring new regular employees from outside the City, employees laid off or demoted in lieu of lay-off shall have the right of return to their prior class or to any lower class in the same or comparable classification series. This right shall remain effective for one (1) year from the date of demotion or separation from City service. Re-employment Lists may be extended at the discretion of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years. When considering recall of employees with similar skills and abilities for job classifications for which they qualify, past performance and date of hire may be considered as the primary selection criteria. Employees recalled shall not be required to serve a new probationary period, unless recalled or rehired to a new or different classification. An employee to be recalled shall be notified by certified letter sent to the last known address on record. If the employee does not contact the City to make satisfactory arrangements for return to work within ten (10) days of the mailing date of the letter, the offer of recall will be deemed withdrawn, and the employee will be eligible for reinstatement only if some exceptional circumstances prevent the employee from responding, to the satisfaction of the City Manager.

Section 11. Grievance Procedure

11.01 Grievance Procedure

- A. General Provisions: As used in these Rules and Regulations, a grievance is a dispute concerning an alleged violation in terms and conditions of employment as provided in an existing ratified and approved Memorandum of Understanding (MOU).
1. If a grievant fails to carry the grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the previous step.
 2. If a Department Director fails to respond with a written answer within the specified time period, the grievant may appeal the grievance to the next higher level.
 3. Grievants may be represented by a Union Representative, Steward or person of their choice at any formal level of this procedure.
 4. Time limits and formal levels may be waived by mutual written consent of the parties.
 5. Proof of service shall be accomplished by registered mail served on the employee at the last known address on record in the employee's Human Resources personnel file.
 6. For purposes of this grievance procedure, "day" is defined as a day in which City Hall is open and doing business with the public.
- B. Grievance Procedure – Informal level
1. The employee may bring a grievance to the attention of the immediate supervisor at the earliest possible date, but no later than ten (10) calendar days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action. The employee shall inform the immediate supervisor of the desire to discuss an informal grievance. The supervisor shall discuss, or set a date and time for such discussion, and inform the employee. The grievance does not need to be in writing at the informal stage. The supervisor and the employee shall discuss and attempt resolution of the issues at the informal level.

2. If the issues are not resolved at the informal level, or a supervisor is not available for discussion during the informal level, the employee may, within the time limits specified herein, file a formal grievance.
3. If the employee does not make himself/herself available for discussion during the informal process, the grievance shall be considered abandoned.

C. Grievance Procedure – Formal Level

The employee may file a formal grievance within fifteen (15) calendar days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action, provided the following have taken place:

- The employee has taken the grievance to the immediate supervisor for discussion.
- The issues have either been discussed without resolution or without resolution satisfactory to the employee; or a supervisor was not available for discussion.

Level 1. A formal grievance shall be submitted to the Department Director in writing on a union grievance form containing the name, classification, department of the grievant, the date and a description of the action that caused the grievance, the section(s) of the MOU allegedly violated, and the remedy sought. The formal grievance shall be signed by the employee, and specify the date(s) of discussion with the supervisor, and a brief summary of the outcome of that discussion.

The Department Director may meet with the grievant, and shall thereafter render a decision and comments in writing, and return the grievance to the employee within twenty (20) calendar days after receiving the grievance. If the grievant does not agree with the decision reached, or if no answer has been received with twenty (20) calendar days, the employee may present the grievance to the City Manager. Failure of the employee to take further action within twenty (20) calendar days after receipt of the decision, or within twenty (20) calendar days from the receipt of the grievance by the Department Director if no decision is rendered, will constitute withdrawal of the grievance.

Level 2. Upon receiving the grievance, the City Manager shall discuss the grievance with the employee and all other appropriate persons within ten (10) calendar days of receipt of the grievance. The City

Manager may designate an individual not in the normal line of supervision to advise or conduct whatever investigation is deemed appropriate or necessary concerning the grievance. The City Manager shall render a decision in writing to the employee within twenty (20) calendar days after receiving the grievance.

All employees shall be free from reprisal, discrimination or coercion for using the grievance procedure. Compliance with all the steps outlined above shall be considered as mandatory to the exhaustion of available internal administrative remedies.

11.02 Advisory Arbitration Procedure

A. Eligibility:

Grievances not settled pursuant to the grievance procedure above and which either party desires to contest further, may be submitted to Advisory Arbitration. Only those grievances which directly concern or involve the interpretation or application of the specific terms and provisions of a current ratified and approved Memorandum of Understanding may be appealed to Advisory Arbitration.

B. Appointment of Arbitrator:

1. As soon as possible, but no later than ten (10) calendar days after either party receives written notice from the other of the desire to submit the issue to advisory arbitration, the parties shall meet and attempt to agree on the appointment of an Arbitrator.
2. If no agreement is reached within ten (10) calendar days, an arbitrator shall be selected from a list of five (5) persons requested from the California State Mediation and Conciliation Service by alternate striking of names until one name remains. The party who strikes the first name from the panel shall be determined by mutual agreement. If there is no agreement on who should make the first strike, the party with the earliest letter in the alphabet by last name shall make the first strike. The Arbitrator remaining on the list received from the State Mediation and Conciliation Service shall serve as the Arbitrator.

C. Conduct of Hearing:

1. The Arbitrator shall preside at the hearing and conduct the proceedings in accordance with acceptable arbitration procedures, be limited to the cited MOU sections at issue, and not exceed the authority allowed in the interpretation and application of the affected MOU provision(s).

2. Either the City or the employee's representative may call any employee as a witness, and the City agrees to release said witness from work at no loss of pay with adequate prior notification to the City. A list of desired witnesses must be received by the City Manager at least five (5) calendar days prior to the date of the hearing so that adequate coverage for the absent employees may be arranged.

D. Timeliness of Decision:

The decision of the Arbitrator shall be rendered no later than forty-five (45) days from the close of the hearing, and submission of legal briefs by the parties, if briefs are requested by the Arbitrator. Such decision shall be set forth in writing, dated, and signed by the Arbitrator.

E. Effect of Decision:

The advisory decision of the Arbitrator shall be binding on all parties, unless the City Council overrules or modifies the decision within thirty (30) calendar days from the date of the decision. The City Council's decision shall be final and binding on all parties.

F. Extension of Time Limits:

The parties may extend any of the time limits by mutual agreement, and approval of the Arbitrator.

G. Copies of Proceedings:

All parties to the proceedings shall receive a copy of all documents, rulings and decisions at their own expense.

H. Fees and Expenses:

All fees and expenses of the hearing shall be shared equally by the City and the appealing party, except that each party shall be responsible for the fees of its own counsel if utilized.

I. Single Grievance:

The Arbitrator may collectively hear multiple grievances which raise the same issue, the same or related MOU provisions, or the same factual matters.

J. Limitation on Arbitrator's Authority:

The Arbitrator shall have no power to alter, amend, change, add to, or subtract from the cited or affected provisions of the MOU raised by the grievance.

Section 12. Disciplinary Procedure

12.01 Purpose

The standard for all City employees shall be to render the best service to the public, reflect credit upon City service, and serve the public interest and trust. The continued employment of every employee shall be conditioned on good behavior and satisfactory performance of assigned duties. Progressive corrective and disciplinary action is intended to improve employee performance and compliance with City Rules and Regulations, procedures, personnel policies, standards of conduct, and performance.

The procedures set forth in this section shall not apply to the following categories of persons who can be terminated at any time and have no rights to any pre or post-disciplinary procedures: 1) Temporary employees, 2) seasonal employees, 3) probationary employees, 4) any person employed under contract (unless the contract provides otherwise), 5) any person designated "at will". Any employee "exempt" from overtime provisions of the Fair Labor Standards Act (FLSA) is not subject to any disciplinary penalty or sanction inconsistent with FLSA overtime-exempt status regulations and standards.

The City Manager may take disciplinary action based on the recommendation of a Department Director, or initiate such action based on his/her own authority. In addition to any disciplinary action initiated by the City Manager, Department Directors are authorized to take appropriate disciplinary action up to, but excluding termination. The provisions of this section shall be subject to the Peace Officers Bill of Rights, Government Code Section 3300, *et. seq.*, and the Firefighters Procedural Bill of Rights Act of 2007.

12.02 Causes for Disciplinary Action

Grounds or causes for discipline shall include, but not be limited to, the following:

- A. Violation of these Rules and Regulations, safety policies, and OSHA Safety Standards;
- B. Absence without leave;
- C. Excessive absenteeism;
- D. Use of sick leave in a manner not authorized or provided in these Rules and Regulations, or other City policies;
- E. Making any false statement, omission or misrepresentation of material fact in the conduct of City or City-related business, including, but not limited to, City investigations;

- F. Falsification of records, providing wrong or misleading information or other fraud in securing an appointment, promotion or maintaining employment;
- G. Unsatisfactory job performance;
- H. Inefficiency;
- I. Malfeasance or misconduct, which shall be deemed to include, but not limited to conviction of a felony. "Conviction" shall be construed to be a determination of guilty by a court, including a plea of not guilty or *nolo contendere*, regardless of sentence, grant of probation, or lesser disposition; or misdemeanor involving moral turpitude.
- J. Insubordination, dishonesty, theft, or disobedience, including, but not limited to, negligence or misconduct which causes damage to public property, tools, equipment, communications and computer systems, intellectual property, or waste of supplies;
- K. The use, possession or consumption of, or being under the influence of an alcoholic beverage during the work day or at any time while at the workplace or in City uniform; the use, possession, consumption or sale, or being under the influence of illegal drugs or narcotics not lawfully prescribed;
- L. Sexual harassment, discrimination, retaliation, or workplace violence or threats;
- M. Mishandling of public funds;
- N. Discourteous treatment of the public or other employees;
- O. Failure to cooperate with a supervisor or fellow employees;
- P. Unapproved outside employment or activity in violation of the City's outside employment policy, or any enterprise which constitutes a conflict of interest with City service;
- Q. Conduct which impairs, disrupts, or causes discredit to the City, the employee's continued employment or that of other employees;
- R. Failure to report any contact with law enforcement authorities which may affect employment with the City;
- S. Altering, falsifying, and tampering with time records; recording time on another employee's time card, clocking in for another employee, or asking another employee to clock in or out for the employee.

- T. Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from a supervisor.
- U. Use of abusive or vulgar language toward or in the presence of others (employees, guests, members of the public) in the workplace.

12.03 Types of Disciplinary Action

As used in this section, "disciplinary action" shall mean any of the following taken singularly or in combination:

- A. Counseling Memo: A counseling memorandum will be placed in the employee's personnel file. The employee does not have the right to an evidentiary appeal as provided for in these Rules. Police and fire employees have the right to an administrative appeal before the Police/Fire Chief to discuss the counseling memorandum before or after it is placed in their employee's file.
- B. Oral Admonishment or Reprimand: An oral admonishment or reprimand shall be memorialized in writing, and will be placed in the employee's personnel file. The employee does not have the right to an evidentiary appeal as provided for in these Rules. Police and fire employees have the right to an administrative appeal before the Police/Fire Chief to discuss the oral admonishment or reprimand before or after it is placed in their officer's file.
- C. Written Admonishment or Reprimand: A Department Director may reprimand an employee by furnishing the employee a written statement of the reasons for the reprimand. A copy of the admonishment or reprimand will be retained in the employee's personnel file, and may not be appealed. The employee shall have the right to provide a written rebuttal, to be attached to the reprimand in the employee's personnel file. The employee does not have the right to an evidentiary appeal as provided for in these Rules. Police and fire employees have the right to an administrative appeal before the Police/Fire Chief to discuss the written reprimand before or after it is placed in their officer's file.
- D. Suspension: A Department Director may suspend an employee. Documents related to a suspension become part of the employee's permanent work record. An employee subject to suspension will receive prior written notice and the right to appeal any suspension exceeding five (5) days as provided herein. FLSA-exempt employees are not subject to suspension except in work day increments for violation of workplace conduct rules, or violations of major safety rules.
- E. Demotion: A Department Director may demote an employee. Documents related to a reduction in pay become part of the employee's permanent

work record. An employee subject to demotion shall be entitled to prior written notice and the right to an appeal as provided herein.

- F. Reduction in Pay: A Department Director may reduce an employee's pay. A reduction in pay 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. Documents related to a reduction in pay become part of the employee's permanent work record. An employee subject to a reduction in pay shall be entitled to prior written notice and the right to an appeal as provided herein. FLSA-exempt employees are not subject to reductions in pay.
- G. Termination: An employee may be terminated by the City Manager. A terminated employee is entitled to prior written notice and appeal as provided herein. Documents related to discharge become part of the employee's permanent work record.

12.04 Administrative Leave With Pay

A Department Director or the City Manager may place an employee on administrative leave with pay pending potential disciplinary action 1) when it is believed the employee's continued presence in the work place could have detrimental consequences to the City's operations; or 2) pending investigation into charges of misconduct; or 3) the employee presents a threat to himself or other employees or City property.

12.05 Notice of Intended Disciplinary Action and Skelly Hearing

A. Notices of Proposed Disciplinary Action

In cases of proposed disciplinary action, except counseling, oral admonishment or reprimand, written admonishment or reprimand, the proposed disciplinary action shall be served on the employee personally or by mail at the last known address of record on file in Human Resources. The written notice of intended disciplinary action shall include:

1. The reasons for the proposed disciplinary action, the facts alleged to be the basis for the intended action, and copies of any documents, reports, or materials upon which the disciplinary action is based;
2. The specific proposed action to be taken, including any time period or other conditions associated with the discipline;
3. The proposed effective date of the intended disciplinary action;
4. The right of the employee to respond to the proposed disciplinary action either in writing or orally, or both, at the option of the employee. The employee shall be advised that he/she has ten (10) calendar days

within which to file a written response or request, in writing, an informal pre-disciplinary hearing before the City Manager or designee; and

5. Failure to respond within the specified time shall constitute a waiver of the right to respond prior to the imposition of disciplinary action. The employee's failure to make an oral response at the arranged conference time, or the employee's failure to submit a written response by the date and time specified in the notice, constitutes a waiver of the employee's right to respond prior to the imposition of the proposed discipline. In that case, the proposed disciplinary action and terminations will be imposed on the date specified in the notice of intended disciplinary action.

B. Pre-Disciplinary "Skelly" Hearing

An employee shall have the right to request an informal pre-disciplinary Skelly hearing for demotions, suspensions, reductions in pay, and terminations. The appointing authority may continue the hearing for the convenience of the City, or upon written application from the employee, for a period not to exceed an additional fifteen (15) calendar days from the receipt of the request by either party. The Skelly pre-disciplinary hearing is not an evidentiary hearing, but an opportunity for the employee or representative to present facts or circumstances which may cause the proposed disciplinary action to be modified or dismissed. The Skelly Officer may investigate any matter raised during the hearing. The Skelly Officer shall render a written decision within ten (10) calendar days from the close of the hearing, and send the written decision to the last known address of the employee on record with Human Resources.

12.06 Appeal of Discipline

A regular employee may appeal any disciplinary action except counseling, oral admonishment or reprimand, written admonishment or reprimand pursuant to these procedures.

The appeal must be received within ten (10) calendar days from the time the employee is notified of the disciplinary decision. Failure to file an appeal within such period constitutes a waiver of the right to appeal. The appeal must be in writing and must specifically state the reason for the appeal. As soon as practicable, the parties shall agree on a hearing date.

Appeals of suspensions, demotions or reductions in pay shall be heard by the City Manager or his or her designee.

Either party may be represented at the hearing by someone of his or her choice, including legal counsel. The conduct and decorum of the hearing shall be under control of the City Manager or designee, with due regard to the rights and privileges of the parties appearing before him or her. All testimony shall be

presented under oath, and need not be conducted according to technical rules of evidence. The City Manager or designee shall limit his/her decision to the interpretation, application, enforcement, or the intent of the terms or provisions of these Rules. All fees and expenses of the hearing shall be shared equally by the City and the labor organization representing the employee in the appeal, except that each party shall be responsible for the fees of its own counsel. If a transcript of the hearing is requested, the party making such a request shall bear the entire cost.

The decision of the City Manager or designee shall be final and binding.

An employee who is terminated has the right to appeal the decision to a neutral hearing officer. No later than fifteen (15) calendar days from the date the City Manager receives notice of the requested appeal, the parties shall select a hearing neutral by mutual agreement of the parties, or from a list of five (5) names requested from the State Mediation and Conciliation Service. If selected from a list provided by the Service, the parties will use the strike method. The party with the first strike shall be selected by agreement and if the parties cannot agree, between the City Manager and appellant, the person with the earliest letter in the alphabet by last name shall make the first strike.

The hearing neutral shall notify all parties in writing of the time and place of the hearing, and shall have authority to call witnesses requested by the parties. Either party may be represented at the hearing by someone of his or her choice, including legal counsel. The conduct and decorum of the hearing shall be under control of the hearing neutral, with due regard to the rights and privileges of the parties appearing before him or her. All testimony, shall be presented under oath, and need not be conducted according to technical rules of evidence. The hearing neutral shall have no authority to add to, delete, or alter any provisions of these Rules and Regulations, but shall limit his/her decision to the interpretation, application, enforcement, or the intent of the terms or provisions of these Rules and Regulations. All fees and expenses of the hearing shall be shared equally by the City and any labor organization representing the employee in the appeal, except that each party shall be responsible for the fees of its own counsel. If a transcript of the hearing is requested, the party making such request shall bear the entire cost.

The decision of the neutral shall be final and binding.

Section 13. Employee Relations Policy

Article I -- General Provisions

13.01 Statement of Purpose

- A. This Statement implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, City ordinances or resolutions, and rules which provide for other methods of administering employer-employee relations. This Statement is intended, instead, to strengthen methods of administering employer-employee relations through the establishment of a uniform and orderly process for communications between employees, employee organizations, and the City.
- B. It is the purpose of this Statement to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters that affect terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law, City ordinances. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology for performing its work.

13.02 Definitions

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

- A. "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II herein.
- B. "City" means the City of Soledad, and, where appropriate, refers to the City Council or any duly authorized City representative as herein defined.

- C. "Confidential Employee" means an employee who has access to confidential information relating to the City's administration of employer-employee relations.
- D. "Consult/Consultation in Good Faith" means to communicate orally or in writing with all effected recognized employee organizations for the purpose of presenting and obtaining views, or advising of proposed actions in a good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the scope of required meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV herein.
- E. "Day" means calendar day unless expressly stated otherwise.
- F. "Employee" means any person holding a regular position of employment with the City.
- G. "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate unit pursuant to Article II herein, having the exclusive right to meet and confer in good faith concerning required subjects pertaining to unit employees, and thereby assuming the corresponding obligation to fairly represent such employees.
- Such recognition status may not be challenged by another employee organization (1) within twelve (12) months of such recognition, and (2) to take effect during a Memorandum of Understanding having a term of up to three (3) years.
- H. "Impasse" means that the representatives of the City and a recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and subjects over which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- I. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of City policies, procedures, and programs.
- J. "Meet and Confer in Good Faith" means the performance, by the Employee Relations Officer or his/her authorized representative, and by the duly authorized representative of a formally recognized employee organization, of

their mutual obligation to meet and confer promptly upon request by either party and to continue for a reasonable period of time in order to freely exchange information, opinions and proposals. "Meet and confer in good faith" does not require either party to agree to a proposal or to make a concession.

- K. "Memorandum of Understanding" or "MOU" means a written, negotiated agreement or contract between the City and an Exclusively Recognized Employee Organization that sets out wages, hours and fringe benefits over a stated period of time. MOU's are not binding until ratified by the labor organization and approved by the City Council.
- L. "Personnel Officer" means the City Manager or duly authorized representative or designee.
- M. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.
- N. "Scope of Representation" means all matters relating to employment conditions in employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except however, that the scope of representation shall not include matters reserved to management discretion under the MMBA- i.e. management rights, including consideration of the merits, necessity or organization of any service or activity carried out by the City.
- O. "Supervisory Employee" means any employee having authority, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a mere routine or clerical nature, but requires the use of independent judgment.

Article II -- Representation Proceedings

13.03 Filing of Recognition Petition by Employee Organization

An employee organization which seeks to be formally acknowledged as an exclusively recognized employee organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- A. Name and address of the employee organization.
- B. Names and titles of its officers.
- C. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- D. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the City.
- E. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- F. Certified copies of the employee organization's constitution and bylaws.
- G. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- H. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, gender, national origin, age, sexual orientation, mental or physical disability or medical condition.
- I. The job classifications or position titles of employees in the unit claimed to be appropriate, and the approximate number of member employees therein.
- J. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed disinterested third party.

- K. A request that the Employee Relations Officer formally acknowledge the petitioner as the exclusively recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

13.04 City Response to Recognition Petition

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- A. There has been compliance with the requirements of the Recognition Petition; and
- B. The proposed representation unit is an appropriate unit in accordance with Section 13.09 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, the Officer shall so inform the petitioning employee organization, give written notice of such request for recognition to the employees in the unit, and take no action on said request for thirty (30) days thereafter, as directed by PERB or the applicable State agency. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination remains unchanged, shall inform that organization of the reasons therefore in writing.

The petitioning employee organization may appeal such determination in accordance with Section 13.12 of this Statement.

13.05 Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 13.03

of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 13.08 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination, or appeal such determination pursuant to Section 13.12 of this Article II.

13.06 Granting Recognition Without an Election

If the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the exclusive recognized employee organization for the designated unit.

13.07 Election Procedure

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Officer and the affected employee organization(s), in accordance with such party's rules and procedures, and subject to the provisions of this Statement. All employee organizations who have duly submitted petitions which have been determined to be in conformance with Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the exclusively recognized employee organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid

votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Statement pursuant to any petition in a 12-month period affecting the same unit.

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

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

13.08 Procedure for Decertification of Exclusively Recognized Employee Organization

A Decertification Petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of March of any year following the first full year of recognition, or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- A. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- B. The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as a representative of that unit.
- C. An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- D. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized employee organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a

mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent, that includes the allegation and information and otherwise conforms to the requirements of Section 13.03 of this Article II.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If the determination is in the negative, the Employee Relations Officer shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 13.12 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if a negative determination is reversed on appeal, the Officer shall give written notice of such Decertification or Recognition Petition to the incumbent exclusively recognized employee organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 13.07 of this Article II.

During the "open period" specified in the first paragraph of this Section 13.08 of this Article II, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent exclusively recognized employee organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Section 13.08, which the Employee Relations Officer shall act on in accordance with this Section 13.08 of this Article II.

If, pursuant to this Section 13.08 of this Article II, a different employee organization is formally acknowledged as the exclusively recognized employee organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

13.09 Policy and Standards for Determination of Appropriate Units

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- A. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- B. History of representation in the City and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- C. Consistency with the organizational patterns of the City.
- D. Effect of differing legally mandated impasse resolution procedures.
- E. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- F. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.
- G. The application and consistency of wage, hour, and benefit packages (including retirement benefits) within the proposed bargaining unit.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Section 13.02 of this Statement, are determining factors in establishing appropriate units hereunder, and therefore such managerial, supervisory and confidential employees may only be included in units that do not include non-managerial, non-supervisory and non-confidential employees. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

Peace Officers may be required to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, directly or indirectly, is subordinate to any other employee organization which includes non-peace officers.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Labor Relations Officer shall be final.

13.10 Procedure for Modification of Established Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 13.08 of this Article II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 13.03 of this Article II, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 13.09 of this Article II. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may by his/her own motion propose that an established unit be modified. The Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 13.09 of this Article II, and shall give written notice of such determination to the affected employee organization(s). The Employee Relations Officer's determination may be appealed as provided in Section 13.12 of this Article II. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to Section 13.03 of this Article II.

13.11 Procedure for Processing Severance Requests

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in Section 13.10 for modification requests.

13.12 Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec.

13.03), Challenging Petition (Sec. 13.05), Decertification Petition (Sec. 13.08), Unit Modification Petition (Sec. 13.10), or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Sec. 13.08) has not been filed in compliance with the applicable provisions of this Article II, may, within ten (10) days of notice of the Employee Relations Officer's final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu therein or thereafter, appeal such determination to the City Council for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination, or the termination of mediation proceedings, whichever is later.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy therein served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty calendar (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

Article III -- Administration

13.13 Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the City by an exclusively recognized employee organization under items (A.) through (K.) of its recognized petition under Section 13.03 of this Statement shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

13.14 Employee Organization Activities - Use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Statement that pertain directly to the employer-employee relationship and not internal employee organization business such as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

13.15 Administrative Rules and Procedures

The City Manager or designee is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Statement after consultation with affected employee organizations.

Article IV -- Impasse Procedures

13.16 Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in Section 13.02 of this Statement, either party may initiate the impasse procedure by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- A. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
- B. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedure provided herein.

13.17 Impasse Procedure

The Impasse Procedures is as follows:

- A. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- B. If the parties fail to agree to submit the dispute to mediation or fail to agree on the selection of a mediator, or fail to resolve the dispute through mediation within fifteen (15) calendar days after the mediator commenced meeting with the parties, the parties may agree to submit the impasse to fact-finding.
- C. If the parties agree on fact-finding, they may agree on the appointment of one or more fact-finders. If they fail to so agree on one or more fact-finders, a fact-finding panel of three (3) shall be appointed in the following manner: One member of the panel shall be appointed by the Employee Relations Officer, one member shall be appointed by the exclusively recognized employee organization, and those two shall name a third, who shall be the chairperson. If they are unable to agree upon a third, they shall select by agreement the third member from one or more lists of five (5) names of individuals having fact-finding experience in the municipal sector to be provided by the California State Mediation and Conciliation Service.
- D. The following constitute the jurisdictional and procedural requirements for fact-finding:

- (1) The fact-finders shall consider and be guided by applicable federal and state laws.
- (2) Subject to the stipulations of the parties, the fact-finders shall determine and apply the following measures and criteria in arriving at their findings and recommendations:
 - a. First, as relevant to the issues in dispute, the fact-finders shall compare the total compensation, hours and conditions of employment of the employees involved in the fact-finding proceeding with the total compensation, hours and conditions of employment of other employees performing similar services in public and private employment in the same and comparable communities. "Total compensation" shall mean all wage compensation, including but not limited to premium, incentive, standby, out-of-class and deferred pay; all paid leave time; all allowances, including but not limited to educational and uniform benefits; and employer payments for all health, welfare and pension benefits.
 - b. The fact-finders shall then adjust the results of the above comparison based on the following factors:
 - (i) The compensation necessary to recruit and retain qualified personnel.
 - (ii) Maintaining compensation relationships between job classifications and positions within the City.
 - (iii) The pattern of change that has occurred in the total compensation of the employees in the unit at impasse as compared to the pattern of change in the average "consumer price index" for goods and services, and the pattern of change in wages and compensation of other wage earners.
 - c. The fact-finder(s) shall then determine preliminary recommendations based on the comparisons as adjusted above which, however, shall be reduced as appropriate based on the financial resources of the City to implement them. In assessing the City's financial resources, the fact-finder(s) shall be bound by the following:
 - (i) Other legislatively determined and projected demands on agency resources, i.e., budgetary priorities as established by the governing body; and

- (ii) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s); and
 - (iii) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s); and
 - (iv) Assurance of sufficient and sound budgetary reserves; and
 - (v) Constitutional, statutory limitations on the level and use of revenues and expenditures.
- (3) The fact-finders shall make written findings of fact, and advisory recommendations for the statement of the issues in dispute, which shall be presented in terms of the criteria, adjustments, and limitations specified above. Any member of a fact-finding panel shall be afforded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Officer and the designated representative of the exclusively recognized employee organization.
- a. If the parties have not resolved the impasse within ten (10) calendar days after service of the findings and recommendations upon them, the fact-finder or the chairperson of the fact-finding panel shall make them public by submitting them to the City Clerk for consideration by the City Council in connection with the Council's legislative consideration of the impasse.
 - b. If the parties did not agree on mediation or the selection of a mediator and did not agree on fact-finding, or having so agreed, the impasse has not been resolved, the City Council may take such action regarding the impasse as in its discretion it deems appropriate and in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

13.18 Costs of Impasse Procedures

The cost for the services of a mediator and fact-finder or chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the City and the exclusively recognized employee organization. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

Article V -- Miscellaneous Provisions

13.19 Construction

This Statement shall be administered and construed as follows:

- (a) Nothing in this Statement shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by federal or State law.
- (b) This Statement shall be interpreted so as to carry out its purpose as set forth in Article I.
- (c) Nothing in this Statement shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall be subject to disciplinary action up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights afforded to them under City law or a ratified and approved MOU.

13.20 Severability

If any provision of this Statement, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Statement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

13.21 City Management Rights

Unless specifically in conflict with a ratified and approved MOU, all management rights shall remain vested exclusively with the City. In addition to all rights or powers granted by law, City's management rights include but are not limited to:

- A. The right to determine the mission of the City, including without limitation the City's departments, divisions, institutions, boards and commissions;

- B. The right of full and exclusive control of the management of the City; supervision of all operations; determinations of methods, means, location and assignments of performing all work; and the composition, assignment, direction, location and determination of the size and mission of the work force;
- C. The right to determine the work to be done by employees, including establishment of service levels, appropriate staffing and the allocation of funds for any positions(s) within the City;
- D. The right to review and inspect, without notice, all City-owned facilities, including without limitation desktop computers, work areas and desks, e-mail, computer storage drives, voicemail systems and filing cabinets and systems, to the full extent permitted by law;
- E. The right to change or introduce different, new or improved operations, technologies, methods or means regarding any city work, and to contract out for work;
- F. The right to establish and modify qualifications for employment, including the content of any job classification, job description or job announcement, and to determine whether minimum qualifications are met;
- G. The right to maintain and modify the City's classification plan;
- H. The right to establish and enforce employee performance standards;
- I. The right to schedule and assign work, make reassignments and assign overtime work;
- J. The right to hire, fire, promote, discipline, reassign, transfer, release, layoff, terminate, demote, suspend or reduce in step or grade, all employees;
- K. The right to establish and modify bargaining units; to assign new or amended classifications to particular bargaining units; and to designate any position confidential, supervisory, management or otherwise for bargaining unit assignments pursuant to the MMBA;
- L. The right to inquire and investigate regarding complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require employees to appear, respond truthfully and cooperate in good faith regarding any City investigation;
- M. The right to maintain orderly, effective and efficient operations;

- N. The right to publish its views, and to distribute appropriate information, concerning any labor relations issue;
- O. The right to correct misstatements and other inaccurate information disseminated by third parties concerning the City's labor relations and any aspect thereof; and
- P. The right to take any appropriate lawful measure to ensure the best delivery of services to the public in response to any work stoppage, including without limitation: (a) altering work schedules or locations to ensure coverage; (b) investigating absences to ensure no violation of City policies.

Except in cases of emergencies as defined in the MMBA, the City shall provide advance notice to each recognized employee organization affected by any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall give such recognized employee organization the opportunity to meet with city representatives. In the event of emergency causing the City to immediately adopt an ordinance, rule, resolution or regulation directly relating to matters within the scope of representation, the City shall provide notice and opportunity to meet at the earliest practicable time.

13.22 Rights of City Employees

Unless specifically in conflict with a ratified and approved MOU, all employees shall enjoy the following rights:

- A. The right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations;
- B. The right to refuse to join or participate in the activities of employee organizations;
- C. The right to represent themselves individually in their employee/employer relations; and
- D. The right to be free of interference, intimidation, restraint, coercion, or discrimination because of exercising rights specified in this section.

CONFIDENTIAL

**HARASSMENT/DISCRIMINATION/RETALIATION
COMPLAINT FORM**

Name of Complainant: _____ Date: _____

Job Title: _____ Department: _____

Street Address: _____ City: _____ State: _____ Zip: _____

Work Phone Number: _____ Home Phone Number: _____

I prefer to be contacted at Home Work Best time to Contact: _____ a.m. p.m.

Nature of complaint: *(Please provide as much information as possible. Include description of incident, date, location, parties involved and other details you feel that we need to know. Use additional sheets if necessary)*

Corrective Action Desired:

I certify that the above statement is true and accurate:

Signature

Date

CITY OF SOLEDAD

**Acknowledgement of Receipt of
Personnel Rules and Regulations**

(Date _____)

This is to acknowledge that I have received a copy of the Personnel Rules and Regulations Manual dated _____ and understand it contains important information on the City's Rules and Regulations, and my obligations and responsibilities as an employee. I acknowledge that I am expected to read, understand, and adhere to these Rules and Regulations and familiarize myself with the provisions in this Manual. I understand that I am governed by these Rules and Regulations, and that the City may change, modify, or revise the Manual from time to time at its sole and absolute discretion with or without prior notice. The City will advise recognized employee organizations of any changes, modifications, or revisions to this Manual which affect terms and conditions of employment, as defined by applicable MMBA and PERB provisions.

I acknowledge and agree to abide by these and any new or revised Rules and Regulations.

Employee's Signature

Date

Print Name

Department

This document shall be signed by the employee and placed in the employee's personnel file.

