City of Wasco
Personnel Policy

Adopted June 2011

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Section 1. Introduction and Administrative Provisions

1.01 Purpose and Policy

These Personnel Rules set forth in detail those procedures which define the obligations, rights, privileges, benefits, and prohibitions associated with City service.

1.02 Rights of Employment

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

1.03 Application

These Personnel Rules shall apply to all employees of the City unless a section or provision specifically excludes them or addresses them specifically. For employees who are employed pursuant to a written employment contract, where an express written provision of their employment contract is in direct conflict with a provision of these Personnel Rules, the employment contract shall prevail.

Any Department Head may, with the approval of the Personnel Officer, establish special rules to meet the needs of that department or any of its divisions if said rules and regulations are consistent with applicable state, federal and local law, the Personnel Rules as set forth herein, and any applicable Memorandum of Understanding.

1.04 Memorandum of Understanding ("MOU")

It is understood and agreed that, from time to time, amendments may be made to these Personnel Rules in order to conform with current Memoranda of Understanding ("MOU's") with recognized bargaining units.

Where an express written provision of an approved MOU is in conflict with a provision of these Personnel Rules, the MOU shall prevail unless the provision of these Personnel Rules has been negotiated more recently.

1.05 The Personnel Officer

The City Manager is the Personnel Officer. The Personnel Officer shall have general control and supervision over employees, and shall also have the authority to control, order, and give directions to all Department Heads and to subordinate officers and employees of the City under his/her jurisdiction through their Department Heads.

The City Manager may delegate any of the powers and duties conferred upon him/her as Personnel Officer in these Personnel Rules to any other employee of the City, or may recommend to the City Council that such powers and duties be performed under contract.

1.06 **Employment Constitutes Acceptance of Rules**

In accepting employment with the City of Wasco, each employee agrees to be governed by and to comply with these Personnel Rules and any administrative procedures established by the City, and stipulates and agrees that he/she has read and understands all of these rules, and additionally, all of the rules, regulations and directives of the department in which he/she is employed.

Upon accepting employment with the City of Wasco, each employee shall be given a copy of these Personnel Rules for which he/she will sign a receipt. The receipt will be made part of the personnel file of each employee.

1.07 **Severability**

If any provision of these Personnel Rules, or the application of such provision to any person or circumstance shall be held invalid, the remainder of these Personnel Rules 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 and shall remain in full force and effect.

1.08 **Management Rights**

A. The City shall retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law with respect to determining the level of, and the manner in which, the City's activities are conducted, managed, and administered, and it is the exclusive right of the City to establish and maintain departmental rules and procedures for the administration of its departments.

B. The City has the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City.

C. Every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties shall be performed by the employee.

D. The City reserves the right to discipline or discharge employees as set forth in these Personnel Rules. The City reserves the right to layoff personnel of the City at any time.

E. The City shall determine assignments, and establish methods and processes by which assignments are performed.

F. The City shall have the exclusive right to transfer employees within departments and to positions outside a department in a manner most advantageous to the City.

G. The City shall have the authority, without prior meeting and conferring, to effect reorganizations and reallocation of work of the City.

H. The City has the right, without prior meeting and conferring, to contract for matters relating to municipal operations, including contracting out bargaining unit work. The right of contracting or subcontracting is vested exclusively in the City.

I. The inherent and express rights of the City, including those herein specifically referred to that are not expressly modified or restricted by a specific provision hereof, are not in any way, directly or indirectly, subject to meeting and conferring or the Grievance Procedure as described herein.

Section 2. Definition of Terms

2.01 **Advancement**- Salary increase within the limits of a pay range established for a class.

2.02 **At Will-** "At Will" refers to any City employee who: (1) does not hold regular status; (2) serves at the pleasure of the City, the City Council or Personnel Officer; and (3) may be dismissed at any time without cause and without the opportunity for grievance, hearing or appeal.

2.03 **Business Day**- A day in which City Hall is open and doing business with the public.

2.04 **City-** The City of Wasco and, where appropriate herein, refers to the City Council or any duly authorized City representative as defined in these Personnel Rules.

2.05 **Classification and Compensation Plan-** Consists of the pay schedule and a list of class titles and salary ranges for all positions in the classified service. The Classification and Compensation Plan is typically found in the City's annual budget, and can also be accessed by requesting a copy from the City Clerk.

2.06 **Confidential Employee-** An employee who, in the course of his/her duties, has access to information relating to the City's administration or employer-employee relations. Confidential employees shall be so designated by the City Council.

2.07 **Classified Service-** All full-time or part-time regular or probationary employees of the City who hold a position that has a continuing basis, as distinct from temporary and provisional positions, Mid-Management employees and all other employees appointed to At Will status.

2.08 **Continuous Service-** Employment on a regular basis which is not interrupted by layoff, termination or leaves of absence without pay for a period in excess of one year, other than Military Leave.

2.09 **Day-** Means calendar day unless expressly stated otherwise.

2.10 **Eligibility List-** A list consisting of the names of applicants who passed the City's examination process for a particular position, arranged alphabetically.

2.11 **Eligible-** A person whose name is on an Employment or Eligibility List.

2.12 **Employment List-** An Eligibility, Promotional or Re-Employment List.

2.13 **Examination-** An examination may be defined as either of the following:

a. Open-Competitive examination: A structured examination process for a particular position which is open to all persons meeting the qualifications for the position unless there are so many qualified applicants that the Personnel Officer determines that giving the examination to all qualified applicants would unnecessarily burden the City.

b. Promotional examination: An examination for a particular position. Admission to the examination is limited to all employees in the classified service who meet the qualifications for the position.

2.14 **Mid-Management Employee-** A management/supervisory employee who is not a Department Head or in the classified service. Mid-Management employees are employed on an "at will" basis if hire after June 1, 2011. Mid-Management employees hired before June 1, 2011 are not "at will" and retain due process rights of a regular, full-time employee.

2.15 **Pay Status-** The period in which an employee is at work, or on vacation leave, sick leave, or any other approved leave of absence with pay.

2.16 **Probationary Employee-** An employee who is serving a probationary period. The probationary period is part of the selection process, a time during which the City determines whether work performance or work-related behavior meets the required standards of the position. The probationary period is normally six months, but may be extended by the Personnel Officer under certain circumstances. The probationary period for regular part-time employees will be adjusted based on the relationship of the employee's part-time work schedule to the position's standard workweek.

2.17 **Promotion-** Means the movement of an employee to a higher position within the City's Classification and Compensation Plan.

2.18 **Promotional List-** A list consisting of the names of regular or probationary employees who passed the City's examination process for a particular position.

2.19 **Provisional Employee-** An employee who possesses the desired qualifications established for a particular position and who has been appointed to that position on a temporary basis. A provisional employee: (1) does not hold regular status; (2) does not serve a probationary period; (3) can be dismissed from City employment at any time

without cause, right to appeal, grievance or hearing; and (4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves, except as required by law or otherwise stated in these Personnel Rules.

2.20 **Re-Employment List**- A list consisting of the names of former regular and probationary employees who have been demoted or laid off.

2.21 **Regular Full-Time Employee-** An employee in the classified service who has successfully completed the required probationary period and who regularly works forty (40) hours per week, or the maximum number of hours scheduled by a department or division.

2.22 **Regular Part-Time Employee-** An employee in the classified service whose normal workweek is less than forty (40) hours or the maximum number of hours scheduled by a department or division. Regular part-time employees who are regularly scheduled to work twenty (20) hours per week or more shall be entitled to participate in leave benefits (vacation, sick leave, and holiday) on a prorated basis.

2.23 **Salary Range**- A range of salary amounts (from Step A through F) to which positions in the classified service are assigned. The City's salary ranges are found within the Classification and Compensation Plan.

2.24 **Salary Steps**- A series of progressive steps (A through F) within a specific salary range.

2.25 **Seniority**- The status attained by length of continuous service with the City, regardless of time in a position, time in department or time at a particular location. A probationary employee shall have no seniority until the employee has completed his/her probationary period. Upon completion of the probationary period, the employee will acquire seniority from the date of hire.

2.26 **Suspension-** The temporary removal of an employee from pay status for disciplinary reasons.

2.27 **Temporary Employee-** An employee who is assigned to work for the City to meet a temporary or seasonal need. A temporary employee: (1) does not hold regular status; (2) does not serve a probationary period; (3) can be dismissed from City employment at any time without cause, right to appeal, grievance or hearing; and (4) is not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves, except as required by law or otherwise noted in these Personnel Rules.

2.28 **Termination-** The separation of an employee from City service. Termination may be by death, discharge with cause, resignation, retirement, work completion, lack of work, or lack of funds.

2.29 **Volunteer-** An individual who donates his/her services to the City without contemplation of compensation, reimbursement or future employment. Labor provided through the judicial system or the Department of Corrections shall also be considered volunteers.

2.30 **Workplace Training Program Labor-** Volunteer labor supplied to the City through outside agencies for the purpose of allowing the individual to obtain on-the-job skills.

Section 3. Employment Policies and Working Conditions

3.01 Equal Employment Opportunity

A. Purpose

To create a positive and nurturing work environment where the only limitations to an employee's success are his/her abilities and motivation to achieve.

B. Scope

This policy applies to all employees, applicants, contracted staff, volunteers, vendors and elected or appointed officials.

C. Policy

The City believes a strong commitment to Equal Employment Opportunity is more than a legal and moral obligation. It is sound business practice to realize the potential of every individual. In order to provide equal employment and advancement opportunities to all individuals, decisions are based upon: (1) individual merit, qualifications, and competence as they relate to the particular position; and (2) promotion of the principle of equal employment opportunity. Employment practices will not be influenced or affected by an applicant's or employee's race, ancestry, color, religion, sex, pregnancy, sexual orientation (including heterosexuality, homosexuality and bisexuality), gender identity, genetic characteristics, national origin, age, marital status, political affiliation, veterans' status, citizenship status, physical or mental disability (whether perceived or actual), medical condition or any other basis protected by law. This policy governs all aspects of employment, including selection, job assignment, compensation, counseling, discipline, termination, and access to benefits and training. The City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.

The City is committed to a results oriented management program aimed at achieving equal employment opportunity in all occupational levels of the City service. The Human Resources Manager is the designated Equal Employment Opportunity Officer and is vested with responsibility and authority for the implementation and enforcement of this policy with Department Heads sharing the responsibility. The City will update and reaffirm this policy annually.

Any employee with questions and concerns about any type of unlawful discrimination in the workplace is strongly encouraged to bring these issues to the attention of their immediate supervisor or the Human Resources Manager. Employees can raise concerns and make a report without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to corrective action, up to and including termination of employment.

3.02 **Americans with Disabilities**

A. It is the policy of the City to provide reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans With Disabilities Act.

B. An employee who desires a reasonable accommodation shall make a written request to the Personnel Officer in writing, stating: (1) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Personnel Officer may require additional information, such as reasonable documentation of the existence of a disability.

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

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

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

3.03 Harassment/Discrimination/Retaliation Prevention Policy

A. Purpose

It is the City's intent and the purpose of this policy to provide all employees, applicants, and contractors with an environment that is free from any form of discriminatory harassment, discrimination or retaliation as defined in this policy. This policy prohibits harassment or discrimination on the basis of any of the following classifications: an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), genetic characteristics, national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual) or any other category protected by law. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this policy. The protection from discrimination includes protection from retaliation for having taken action either as a complainant, or for assisting a complainant 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.

B. Policy

The City has zero tolerance for any conduct that violates this policy. Conduct need not rise to the level of a violation of law in order to violate this policy. Instead, a single act can violate this policy and provide grounds for discipline or other appropriate sanctions. 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 Human Resources Department.

C. Definitions

1. 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), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, genetic characteristics, medical condition and physical or mental disability (whether perceived or actual).

2. Policy Coverage: This policy prohibits elected 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 of an individual's protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

3. Discrimination: This policy prohibits treating individuals differently because of the individual's protected classification as defined by this policy.

4. Harassment: Harassment means unsolicited words or conduct which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:

   a. Verbal harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, or graphic verbal commentaries about an individual's body on the basis of his/her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.

   b. 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. Visual harassment includes mimicking the way someone walks or talks because of their protected classification.

   c. Physical harassment, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, taunting, or any physical interference with normal work or movement based on an individual's protected classification.

   d. 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:

      i. Submission to such conduct is either an expressed or implied term or condition of an individual's employment;

      ii. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual; or

      iii. 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.

By definition, sexual harassment is not within the course and scope of an individual's employment with the City.

D. Romantic and Sexual Relationships Between Supervisors and Subordinates

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of

favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

E. Retaliation

Retaliation against a person (or his/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; or (4) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

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

F. Reporting Harassment, Discrimination or Retaliation

An applicant, employee, officer or contractor who feels he/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.

All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

1. Object to the Conduct

Sometimes an individual is unaware that his/her conduct is offensive. 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 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 subsection 2 below or go directly to the formal reporting process.

2. Oral Report

If a person who believes that this policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, Department Head 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 may provide a written complaint to a supervisor, Department Head or any management employee who must direct the complaint to the Personnel Officer.

4. Option to Report to Outside Administrative Agencies

Applicants, employees, officers and contractors have the option to report harassment, discrimination, or retaliation to the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).

G. 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 Head and may hire an outside investigator if the City deems it appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and will be determined by the Personnel Officer.

The Personnel Officer may take interim action to diffuse volatile circumstances.

The investigator will review the complaint allegations. 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 interview and that retaliation against those who report alleged harassment or discrimination 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.

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 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 will 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.

H. Responsibilities of Employees, Management and Supervisory Employees

1. Employees

In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- Set an example of acceptable conduct by not participating in or provoking behavior that violates this policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different ethical values and standards and may be offended by behavior you think is proper. Tell the individual you did not realize your behavior was offensive, and immediately cease the conduct.

- Let fellow employees know when you consider their behavior offensive. The City hires people from a wide variety of backgrounds, and an individual may not realize behavior he/she thinks is proper could be seen by others as offensive.

- Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.

- If an employee witnesses harassment, he/she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he/she can demand that the harasser cease the behavior.

- Maintain confidentiality as required by this policy.

- Fully cooperate with the City's investigation of complaints made under this policy.

2. Managers and Supervisors

In addition to the responsibilities listed above, managers and supervisors are responsible for the following:

- Implementing this policy by taking all complaints seriously and modeling behavior that is consistent with this policy. Direct all complaints to the Personnel Officer.

- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.

- Making sure no Department Head, supervisor or other employee retaliates through any act of intimidation, restraint, coercion or discrimination.

- Monitoring the work environment and taking appropriate action to stop potential policy violations.

- Following up with those who have complained to ensure the behavior complained of has ceased.

- Informing complainants of their option to contact the DFEH or EEOC regarding a potential policy violation.

3.04 Workplace Security

A. Policy

The City is committed to providing a safe and secure workplace for employees and the public. The City will not tolerate acts or threats of violence in the workplace. The workplace includes any location where City business is conducted, including vehicles and parking lots. Any violation of this policy may lead to criminal prosecution, and/or disciplinary action up to and including termination.

B. Prohibited Behavior

1. Employees are prohibited from engaging in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of City employment. The City has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

2. Employees engaged in City business are prohibited from carrying weapons in violation of any law or this policy unless weapons are required for performance of the job. Employees who have legal authority to carry a weapon shall notify the Department Head in writing of what type of weapon is being carried. Employees who have legal authority to carry weapons violate this policy if they: accidentally discharge or lose their weapon; use, threaten to use, or display the weapon for a job related reason; or violate any law related to carrying a legal weapon while engaged in City business.

C. **Definitions**

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

   a. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.

   b. The destruction of, or threat of destruction of City property or another employee's property.

   c. Harassing or threatening phone calls.

   d. Surveillance.

   e. Stalking.

   f. Possession of offensive or defensive weapons (firearms, illegal knives, clubs, mace, pepper spray, tear gas, etc.) unless specifically required or authorized and approved by the Personnel Officer. Weapons are defined as firearms, chemical sprays, clubs or batons, and knives, and any other device, tool, chemical agent or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

D. **Incident Reporting Procedures**

1. Employees must immediately report workplace violence to their supervisor or Department Head. The supervisor or Department Head must report the matter to the Personnel Officer.

2. The Personnel Officer will document the incident, including employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information

regarding the incident.

3. The Personnel Officer will take appropriate steps to provide security, such as:

   a. Placing the employee alleged to have engaged in workplace violence on administrative leave pending investigation;

   b. Asking any threatening or potentially violent person to leave the site; or

   c. Immediately contacting an appropriate law enforcement agency.

E. **Investigation**

The Personnel Officer will see that reported violations of this policy are investigated as necessary.

F. **Management Responsibility**

Each Department Head has authority to enforce this policy by:

1. Training supervisors and subordinates about their responsibilities under this policy;

2. Assuring that reports of workplace violence are documented in an accurate and timely manner;

3. Notifying the Personnel Officer and/or law enforcement authorities of any incidents;

4. Making all reasonable efforts to maintain a safe and secure workplace; and

5. Maintaining records and following up on workplace violence reports.

G. **Follow-Up and Disciplinary Procedures**

An employee found in violation of this policy will be subject to disciplinary action up to and including termination of employment. The City may also direct that an employee submit to a fitness for duty examination. In addition, employees found in violation of this policy may be subject to criminal prosecution.

3.05 **Drug and Alcohol Free Workplace Policy**

A. **Policy**

1. The manufacture, distribution, dispensation, possession, or use of alcohol or any controlled substance is prohibited in both City workplaces and wherever City business is performed.
2. City employees are prohibited from working or being subject to call in if impaired by alcohol or any controlled substance.
3. An employee must notify his/her supervisor before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of City equipment. If there is a question regarding an employee's ability to perform assigned duties safely and effectively while using prescribed medications, the City may require medical clearance.
4. Compliance with this policy is a condition of City employment. Disciplinary action will be taken against those who violate this policy.
5. Employees who hold safety-sensitive positions are subject to requirements contained in this policy as well as the Drug and Alcohol Policy Pursuant to the Department of Transportation Regulations.

B. **Scope of Policy**

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

C. **Searches**

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

D. Drug and Alcohol Testing

Except as provided otherwise in a memorandum of understanding, or as modified for employees who are required to participate in the City's federally mandated commercial drivers license holders drug/alcohol testing education program, the City has discretion to test a current employee for alcohol or drugs in the following instances:

1. Reasonable Suspicion Testing

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those persons reasonably suspected of using or being under the influence of a drug or alcohol at work. Testing must be approved by the Personnel Officer, the Department Head, or a designee.

"Reasonable suspicion" is based on objective factors, such as behavior, speech, body odor, appearance, or other evidence of recent drug or alcohol use which would lead a reasonable person to believe that the employee is under the influence of drugs or alcohol. In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion and discuss the matter with the Personnel Officer or Department Head. If there is a reasonable suspicion of drug or alcohol abuse, the employee will be relieved from duty and placed on paid leave until the test results are received.

2. Post-Accident Testing

The City may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided that the "reasonable suspicion" factors described above are present.

E. Employee's Responsibilities

A City employee must:

1. Not report to work or be on standby or on-call status while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
2. Not possess or use controlled substances (illegal drugs or prescription drugs without a prescription) at any time, or use alcohol at any time while on City property or while on duty for the City at any location;
3. Not directly or through a third party manufacture, sell, distribute, dispense, or provide controlled substances to any person, including any employee, at any time,

or manufacture, sell, distribute, dispense or provide alcohol to any employee while either or both are on duty;

4. Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of City equipment;
5. Notify the Department Head of any criminal conviction for a drug violation that occurred in the workplace within no more than five days after such conviction;
6. Notify a supervisor immediately of facts or reasonable suspicions when he/she observes behavior or other evidence that a fellow employee poses a risk to the health and safety of the employee or others; and
7. Consent to drug or alcohol testing and searches.

F. Management Employee Responsibilities

City management employees must:

1. Notify the state or federal granting agency which has funded the work or program, if any, of any criminal drug statute convictions for a violation that occurred at a site where work is/was being done with a specific grant or contract;
2. Record factors supporting "reasonable suspicion" as defined above and consult with other management staff in order to determine whether there is reasonable suspicion to test an employee as described by this policy;
3. Take appropriate disciplinary action for any criminal drug statute conviction that occurred in a City workplace, up to and including termination, or require that the convicted employee participate satisfactorily in a drug abuse assistance or rehabilitation program as a condition for returning to duty; and
4. Take appropriate disciplinary action for any violation of this policy.

G. Drug-Free Awareness Program

The following is the City's drug-free awareness program:

1. Distribution of a brochure on the dangers of drug abuse to each City employee and volunteer; and
2. Notification to each City employee and volunteer of the availability of counseling and treatment of drug-related problems through the City's Employee Assistance Program provider.

3.06 Employment of Relatives

A. Definitions

The following definitions apply to this policy:

1. "Relative" means child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
2. "Romantic Partner" means two persons who have a valid marriage and who are wife and husband, two people who are registered domestic partners, as that term is defined by California law, Family Code Section 297 et seq., or two people who are cohabitating in a romantic relationship.
3. "Supervisory relationship" is one in which one employee exercises the right to control, direct, reward, or punish another by virtue of the duties and responsibilities assigned to his/her City appointment.
4. "Employee," for purposes of this section only, is one who receives a City payroll check for services rendered.

B. **Policy as to Relatives**

A Department Head has discretion not to appoint, promote or transfer a person to a position within the same department in which the person's relative or romantic partner already holds a position, when such employment would result in any of the following:

1. A direct or indirect supervisory relationship;
2. The two employees having job duties which require performance of shared duties on the same or related work assignment;
3. Both employees having the same immediate supervisor; or
4. A potential for creating an adverse impact on supervision, safety, security, morale or efficiency that is greater for relatives or romantic partners than for unrelated persons.

C. **Policy as to Employees Who Become Romantic Partners**

1. If two City employees who work in the same department become romantic partners, the Department Head has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the employees in question will be given consideration, the Department Head retains sole discretion to determine which employee is to be transferred based upon City needs, operations, or efficiency. Notwithstanding any provision in these Personnel Rules, any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance, hearing or appeal.
2. If continuing employment of both employees cannot be accommodated in a manner the Department Head finds to be consistent with the City's interest in the promotion of safety, security, morale, and efficiency, then the Department Head retains sole discretion to separate one employee from City employment. Absent the resignation of one employee, the less senior employee will be separated. Notwithstanding any provision in these Personnel Rules, any such separation is not considered to be disciplinary and is not subject to any grievance, hearing or appeal.

3.07 Conflicts of Interest/Outside Employment

Employees are expected to devote their full time, attention, and efforts to their work during hours of duty as City employees. An employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his/her duties as a City employee. Employees are not permitted to participate in the following activities during or outside of working hours:

A. Activities involving the use, for private gain or advantage, of City time, facilities, equipment, and supplies, or the employee's ID card, uniform, prestige, or influence of one's City office or employment.

B. Activities involving receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of his/her City employment or as a part of his/her duties as a City employee.

C. Activities involving the performance of an act in other than his/her capacity as a City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which the employee is employed.

D. Activities involving conditions or factors which would probably, directly or indirectly, lessen the efficiency of the employee in his/her regular City employment or conditions in which there is a substantial danger of injury or illness to the employee.

E. Activities involving use or access to confidential information available by virtue of City employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.

F. Use of City-owned equipment, cars, trucks, instruments, tools, supplies, machines, or any other item which is the property of the City in conjunction with outside employment or any activity for compensation. In addition, no employee shall allow any unauthorized person to rent, borrow, or use any of the items discussed above.

G. Any activity that is contrary to existing state or federal conflict of interest laws.

Any violations of this policy respecting outside employment or activity and use of City property shall constitute sufficient grounds for disciplinary action, up to and including termination.

3.08 Employee Political Activities

A. Policy

The City prohibits:

1. Employees and officers from engaging in political activities during work hours;
2. Political campaigning in City buildings or on premises adjacent to City buildings; and
3. An employee or officer from using his/her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

B. **Examples of Prohibited Conduct**

1. Participating in political activities of any kind while in uniform;
2. Participating in political activities during working hours;
3. Participating in political activities on City worksites;
4. Placing or distributing political communications on City property;
5. Using City equipment to make political communications;
6. Favoring or discriminating against any employee because of political opinions or affiliations;
7. Interfering with any election; or
8. Attempting to trade job benefits for votes.

C. **Examples of Permitted Conduct**

1. Expressing opinions on all political subjects or candidates;
2. Becoming a candidate for any local, state, or national election;
3. Contributing to political campaigns;
4. Joining and participating in the activities of political organizations;
5. Requesting, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include City officers or employees;
6. Soliciting or receiving, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
7. Soliciting or receiving, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

3.09 Request for Assistance from Private Citizen

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

3.10 Gifts or Payments

Employees of the City are prohibited from:

A. Accepting any gift or gratuity in their professional capacities, including but not limited to, money, service, favors, discounts, promises and/or objects of value from any person, firm, corporation or other governmental entity.

B. Using their official position with the City to solicit special privileges for themselves or others, including discounts on goods or services.

Tokens of appreciation or modest gifts given in appreciation for services rendered such as flowers, candy, homemade foods and similar items may be accepted on behalf of the entire affected City Department subject to the employee immediately notifying his/her supervisor and placing the item in a common area of the employee's Department to be shared and/or appreciated by all Department employees.

3.11 **Personal Conduct**

Employees may not engage in off-duty conduct which violates the Conflicts of Interest/Outside Employment Policy in these Personnel Rules, undermines the employee's or the City's credibility with the public, or impacts the employee's job performance.

3.12 **Smoking**

Smoking shall not be permitted inside any workplace, meeting room, classroom, or restroom of any City facility, or within twenty (20) feet of main entrances, exits, and operable windows of any City building. Smoking shall not be permitted in any City vehicle.

3.13 Dress and Grooming Standards

The professional atmosphere and the image of the City is maintained, in part, by the image that employees present to the public. Employees of the City are required to dress appropriately for the jobs they are performing. Failure to follow the dress standards contained in this section shall be grounds for discipline.

A. All clothing must be neat, clean and in good repair.

B. Prescribed uniforms and safety equipment must be worn when required.

C. Footwear must be appropriate for the work environment and functions being performed.

D. Hair must be neat, clean and well groomed.

E. Beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion.

F. Reasonably-sized jewelry is acceptable except in areas where it constitutes a health or safety hazard.

G. Good personal hygiene is required.

H. Dress must be appropriate to the work setting, particularly if the employee deals with the public.

3.14 Tattoo and Piercing Policy

A. Tattoos

1. No tattoos are allowed anywhere on the head, face, or neck.
2. Any visible tattoos cannot be obscene, sexually explicit, discriminatory as to sex, race, religion, or national origin, extremist, and/or gang-related.
3. No visible tattoos shall be larger than 4 by 6 inches.
4. Any non-conforming tattoos must be covered with clothing or a bandage while at work or removed.
5. If an employee has a question about how the tattoo policy applies to them, the matter should be immediately raised with their supervisor for consideration and determination.

B. Piercings

1. No objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth except that an employee may wear one set of reasonably-sized earrings in the ear lobes.

2. Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear plastic spacer.
3. If an employee has a question about how the piercing policy is applicable to them, the matter should be immediately raised with their supervisor for consideration and determination.

3.15 Communication and Technology Policy

A. Purpose

The City provides a variety of electronic communication resources such as telephones, cellular telephones, computers, facsimile machines, pagers, electronic mail (e-mail) systems, and internet access for employees whose job performance would effectively be enhanced by the use of such technologies. The challenge is making maximum use of the benefits of such resources, meeting legal requirements for access to information, and providing adequate protection for proprietary information. This policy governs access to and the appropriate and effective use of City-provided electronic communication resources at all times, including work and non-work time, by City employees, consultants and/or contractors.

B. Scope

This policy applies to all users of electronic communication resources of City owned, leased or managed networks, equipment or services.

C. Policy

The City is the legal owner and operator of all electronic communications resources owned, leased or managed by the City.

The City recognizes that principles of shared governance, freedom of speech, and privacy hold important implications for the use of electronic communications resources. This policy reflects these principles within the context of the City's legal, management and other obligations.

The City's electronic communication resources may be monitored and searched at any time and for any reason. Messages sent or received on City equipment including cellular telephones may be saved and reviewed by others. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.

Electronic mail messages created or received by employees of the City are intended to be transitory. It is the policy of the City that such messages will not be stored or saved permanently.

Employee access to and use of electronic communication resources is intended for business-related purposes. Limited and reasonable use of these tools for occasional employee personal purposes is permitted, provided that such use:

1. Is kept to a minimum and limited to break times or non-work hours;
2. Does not have any impact upon other City employees or operations;
3. Is not abusive, illegal, or inappropriate; and
4. Does not result in any additional costs, loss of time or resources for the City.

Inappropriate use of the City's communication systems may result in discipline, up to and including termination. The following are examples of inappropriate and prohibited uses of the City's communications systems:

1. Exposing others, either intentionally or unintentionally, to material which is offensive, obscene or in poor taste;
2. Any use that would be offensive to a reasonable person because it involves an individual's 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, medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual);
3. Communication of confidential City information to unauthorized individuals within or outside the City;
4. Sending messages with content that conflicts with any City policies, rules or applicable laws;
5. Unauthorized attempts to access City data or systems;
6. Theft or unauthorized copying of electronic files or data;
7. Initiating or sustaining chain letters, and
8. Intentionally misrepresenting one's identity for improper or illegal acts.

All employees are expected to adhere to the Standards of Excellence policy, below, as it relates to the use of electronic communication resources and to follow all related federal and state statutes related to the use of electronic communication resources.

Standards of Excellence in the use of Electronic Communication Resources

1. The Standards of Excellence policy applies to all electronic communication resources as well as to other forms of communication and activity.
2. All electronic communication messages and voice mail messages should acknowledge recipients if additional time is required for a complete response. Telephone messages should be updated to reflect your status as "out of the office," "on vacation," etc.
3. Electronic mail should adhere to the same standards of conduct as any other form of mail. Respect others you contact electronically by avoiding distasteful, inflammatory, harassing or otherwise unacceptable comments. Harassment of any form will not be tolerated.
4. Respect the privacy of others and their accounts. Do not access or intercept files or data of others without permission. Do not use the password of others or access files under false identity.

5. Electronic communication resources may be subject to the California Public Records Act and therefore subject to disclosure.
6. Remember that you are responsible for all activity involving your account. Keep your account secure and private. Do not use identifying data or common words as a password. Your password should be difficult to crack or otherwise guess either by individuals or by sophisticated computer programs.
7. The City is the custodian of a wide array of personal and financial data and only those with authorization may access, communicate or use confidential information for official City purposes.

3.16 Use of City Property and Equipment

A. City property is to be used only for conducting City business unless otherwise authorized. City property includes, but is not limited to: telephones, cellular telephones, desks, computers (including hardware and software), file cabinets, lockers, communications stored or transmitted on City property (such as email and voicemail), vehicles and any other property used by City employees in their work. Employees do not have a reasonable expectation of privacy in City property or equipment.

B. Every City employee is required to adhere to all City rules and policies while on City property or using City property or equipment.

Section 4. Employment, Selection and Appointment

4.01 Announcement

Whenever an open competitive examination is to be given for a position in the classified service, the Personnel Officer shall, at least ten (10) calendar days prior to the final filing date, issue an appropriate announcements regarding the position.

4.02 Applications

A. Applying For Available Positions

All candidates for employment shall file with the Human Resources Department an application on an official City application form. Applications shall be made as prescribed on the job announcement and may require information covering training, experience, education and other pertinent information. All applications must be completed in full and signed by the individual applying. Incomplete or unsigned applications are subject to rejection by the City.

Unless otherwise authorized by the Personnel Officer, applications will only be distributed when the City has posted job openings, and applicants must state the specific position for which they are applying.

An 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.

B. **Volunteers**

All prospective volunteers (with the exception of those provided through the court system or the Department of Corrections) and Workplace Training Labor shall complete and return a City volunteer application. All applications must be completed in full and signed by the individual applying. The City Manager retains full discretion to reject volunteer applications for any reason.

C. **Selection Criteria and Ineligibility or Disqualification**

The Personnel Officer may reject an application for employment if the applicant:

1. Lacks of any of the requirements, certifications or qualifications established for the position;
2. Is a current user of illegal drugs;
3. Has been convicted of a crime, either a misdemeanor or a felony, that relates to the position duties that the applicant would perform;
4. Has made false statements of any material fact, or practiced any deception or fraud on the application or declarations;
5. Has had his/her privilege to operate a motor vehicle in the State of California suspended or revoked if driving is required for the position sought;
6. Failed to submit the employment application correctly or within the prescribed time limits;
7. Is physically or mentally unable to perform the essential functions of the job with or without reasonable accommodation;
8. Used or attempted to use political pressure or bribery to secure an advantage in the process;
9. Directly or indirectly obtained confidential information regarding examinations;
10. Is a relative or romantic partner of an employee and is subject to the Employment of Relatives Policy in these Personnel Rules.
11. For any material cause which in the judgment of the Personnel Officer would render the applicant unsuitable for the position, including a prior resignation from the City or a significant disciplinary action.

Whenever an application is disqualified or rejected, notice, with a statement of the reason, shall be mailed to the applicant. Such applicants may amend or re-file their application provided that the time limit for receiving applications has not yet expired.

4.03 **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, in his/her sole discretion, it is in the best interest of the City to do so.

B. After the time limit for receiving applications for a particular position has expired, the Personnel Officer or his/her designee will determine the total number of applicants who

meet the minimum qualifications for the position. If there are more than ten (10) qualified applicants, and the Personnel Officer determines that giving an examination of the nature and type appropriate to all the qualified applicants would unnecessarily burden the City, the Personnel Officer may rank, for qualifying purposes only, the applications submitted on the basis of the applicants' experience, education, training, and work history as related to the particular position, and may choose at least five (5) applicants who he/she determines would be the best fit for the position. The chosen applicants will then be given further examination in order to obtain a score and ranking on the Eligible List.

4.04 Selection Techniques

The selection techniques that will be used for any particular position are solely within the discretion of the Personnel Officer.

4.05 Scoring Examinations and Qualifying Scores

A. In the event that an examination is given, a candidate's scores shall be the average of his/her scores on each competitive part of the examination, weighed as shown in the examination announcement. Failure in one part of the examination, or failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination.

B. The Personnel Officer may at his/her discretion include, as a part of the examination, tests which are qualifying only.

4.06 Notification of Examination Results and Review of Papers

Each applicant taking an examination will be given written notice of the results thereof, including the final earned score.

4.07 Promotional Examinations

A. Existing regular or probationary employees may be given the opportunity to apply for positions before they become available to applicants who are not in City service. Promotional examinations may be conducted whenever, in the sole discretion of the Personnel Officer, it is in the best interest of the City to have such an examination.

B. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcement may compete in promotional examinations. Consideration will be give to education, training, experience, seniority, and time in grade.

C. Promotional recruitment announcements will be posted for a minimum of five (5) business days in all departments and at a central location in the Human Resources Department until the final filing date specified in the announcements.

D. The announcement will specify the tentative selection process which may include any one 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 sole discretion of the Personnel Officer, are necessary to evaluate the candidate's capacity to perform the job task.

E. At his/her sole discretion, the Personnel Officer may extend the filing period for any recruitment based upon considerations including the quantity and quality of applications received.

4.08 **Eligibility Lists**

A. Within a reasonable time after successful completion of all phases of the City's recruitment process, the Personnel Officer shall prepare and keep available an Eligibility List consisting of the names of applicants who passed the examination, arranged alphabetically. This list shall become effective upon its certification by the Personnel Officer. If there are less than three (3) names on the Eligibility List, the Personnel Officer may declare the list void and fill the position(s) by any method permitted in these Personnel Rules, including, but not limited to, undertaking new recruiting or testing procedures.

B. **Duration of List:** Eligibility Lists may remain in effect for six (6) months, unless the list is exhausted, or unless the list is extended prior to expiration by the Personnel Officer. The Personnel Officer may extend any such list for additional periods, but in no event shall an Eligibility List remain in effect for more than two (2) years.

4.09 **Re-Employment Lists**

A. Employees who are demoted as a result of a layoff will have their names placed on appropriate Re-Employment Lists in order of seniority. Vacant positions within these employees' prior classifications for which they are qualified will first be offered to employees on this list.

B. The names of probationary and regular employees who have been laid off may be placed on appropriate Re-Employment Lists in order of total continuous cumulative time served in probationary and regular status. Such names may remain thereon for one (1) year unless such persons are rehired sooner.

C. 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 power shall appoint such persons to fill the vacancies. An employee who is selected from the list to fill the vacancy, who refuses the assignment will be removed from the list without right of hearing, grievance or appeal.

4.10 Removal of Names From List

Employees or applicants may be removed from Eligibility, Re-Employment or Promotional Lists for the following reasons:

A. The eligible person requests in writing that his/her name be removed;

B. The eligible person fails to respond to notices or other documents mailed to his/her last known address; or

C. A current City employee with his/her name on a Promotional List resigns from City service.

It will be the responsibility of the eligible employee to keep the Human Resources Department informed of his/her current address and telephone number.

4.11 The Filling of Vacancies

A. All vacancies in the classified service may be filled by transfer, promotion, demotion, re-employment, reinstatement, or appointment from an Eligibility List certified by the Personnel Officer. The Personnel Officer shall decide in what manner a vacancy is to be filled. In the absence of acceptable persons eligible for appointment in this manner, provisional appointments may be made in accordance with these Personnel Rules.

B. The positions of Department Head and higher will normally be filled by direct appointment by the City Manager. The City Manager is appointed by the City Council.

C. Nothing in these Personnel Rules shall require the Personnel Officer to fill any vacancy in the classified service which may occur. The Personnel Officer has the discretion to recommend to the City Council that a vacant position be eliminated. The Personnel Officer may also recommend to the City Council that an alternative position or positions be created in place and instead of the vacant position. However, nothing within these Personnel Rules shall require the City to replace any vacant position with any alternative position or positions.

4.12 Provisional Appointment

A. In the absence of existing names of at least three (3) individuals on Eligibility, Re-Employment or Promotional Lists who are acceptable or willing to accept appointment to a vacant regular position, provisional appointment of a person meeting the minimum qualifications for the position may be made by the Personnel Officer for a period not to exceed six (6) months.

B. An Employment List shall be established within six (6) months for any regular position initially filled by a provisional appointment. The Personnel Officer may extend this

period for any provisional appointment for no more than thirty (30) days beyond the date that the Employment List was created.

C. No special time-in-service credit for service rendered under a provisional appointment shall be allowed to be used in meeting any qualification for a position in the classified service.

4.13 Temporary Appointments

A. Temporary appointments may be made from existing appropriate Employment Lists or from among qualified applicants.

B. In no event shall a period of temporary employment constitute satisfactory completion of any part of a probationary period for any regular position in City service.

4.14 Appointment

The Personnel Officer shall make appointments from among the top three (3) candidates on an Employment List. The person accepting appointment shall appear for processing on or before the date of appointment. If the applicant accepts the appointment and appears for duty on the date and time prescribed by the appointing authority, the applicant shall be deemed to be appointed; otherwise, such individual shall be deemed to have declined the appointment.

4.15 Minimum Employment Age

All persons who are selected for regular or provisional employment by the City must be at least eighteen (18) years of age. All persons who are selected for temporary employment by the City must be at least fifteen (15) years of age. Applicants may be asked to provide proof of age. Persons employed under the age of (18) must provide a valid work permit and may not be assigned to hazardous duties as defined by state and federal law.

4.16 Fitness For Duty Examinations

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment, as set out in Section 9.18 of these Personnel Rules.

Section 5. Promotion, Transfer, Reinstatement and Demotion

5.01 Promotion

A. Vacancies in the classified service may be filled by promotion from within the classified service.

B. If, in the sole opinion of the Personnel Officer, a vacancy in a position could be filled more appropriately by an open-competitive examination rather than a promotion from

within the classified service, he/she shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive Eligibility List.

5.02 **Transfer**

A. **Voluntary Transfer**: A regular employee may initiate a request to transfer to another position in the same or lower class for which the employee is qualified in the opinion of the Personnel Officer by submitting a request to transfer to the Human Resources Department. The request will be kept on file for one (1) year from the date of receipt. With the approval of the Department Head for whom the employee now works and the Department Head for whom the employee wishes to work, the employee will be transferred to the new position when the first vacancy becomes available. Employees with less than one year of service, less than satisfactory performance evaluations, a disciplinary suspension, reduction in pay or equivalent disciplinary action within the last year are not eligible for a voluntary transfer. If more than one employee applies for a transfer to the same position, the decision regarding the employee who will be transferred shall be made by the Personnel Officer and is not subject to any grievance, hearing or appeal.

B. **Involuntary Transfer**: The City may involuntarily transfer an employee at any time. Whenever possible, an employee being transferred from one position to another position in the same class, or a comparable class at the same salary level shall receive five (5) business days' notice. If the transfer requires the employee to move equipment from one location to another, the employee will receive seven (7) business days' notice. No employee shall be transferred to a position for which he/she does not possess the minimum qualifications.

C. Transfer shall not be used to effectuate a promotion or demotion, which may be accomplished only as provided in these Personnel Rules.

5.03 **Reinstatement**

At the discretion of the Personnel Officer and the appropriate Department Head, a regular or probationary employee who previously resigned with a satisfactory employment record may be considered for reinstatement within one (1) year of the effective date of the resignation to a vacant position in the same or comparable class. The employee will not be entitled to any previous privileges of employment such as longevity pay. The employee will be considered a new employee and will receive a new anniversary date which will be the first date of employment upon reinstatement. The employee will serve a new probationary period.

5.04 **Demotion**

Upon request of a regular or probationary employee and with approval of the Personnel Officer, an employee who has not held status in a lower classification may be allowed to demote to a vacant authorized position in the same department if he/she meets all the requirements of the lower position as determined by the Personnel Officer.

All employees who are demoted under this paragraph will be paid at the rate of pay for the lower position.

Section 6. Performance Evaluations, Probationary Period, and Seniority

6.01 Performance Evaluations

A. Performance evaluations of probationary, regular and Mid-Management employees shall be made as follows:

1. Probationary employees will be evaluated at the following intervals, at a minimum:

   a. Completion of three (3) months' employment;
   b. Completion of six (6) months' employment; and
   c. Completion of twelve (12) months' employment, which may occur after the employee has passed probation.

2. Regular and Mid-Management employees who have satisfactorily completed their probationary period will be evaluated as often as their supervisors or Department Heads deem appropriate, but at least on an annual basis.

3. Regular employees who are promoted or transferred to other positions will be evaluated at the completion of three (3) months' employment, six (6) months' employment and twelve (12) months' employment, at a minimum.

B. The performance evaluation shall be signed by the employee's supervisor and Department Head. Each performance evaluation shall be discussed in a private meeting with the evaluated employee. The employee shall sign the performance evaluation to acknowledge that he/she is aware of its contents and has discussed the evaluation with his/her supervisor. The employee's signature on the performance evaluation does not indicate agreement with its contents. The employee will receive a copy of the evaluation after the meeting, and a copy of will be placed in the employee's personnel file.

C. An employee does not have the right to appeal any matter relating to a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the performance evaluation in the employee's personnel file. The written statement must be submitted within ten (10) calendar days after the employee receives the evaluation. An employee may request to meet with his/her Department Head or the Personnel Officer if he/she received an overall rating of less than "satisfactory" on his/her performance evaluation.

6.02 **Probationary Period**

A. The probationary period shall be regarded as a part of the selection process, a time during which the City determines whether work performance or work-related behavior meets the required standards of the position.

B. All original appointments to regular classified service positions shall be subject to a probationary period which is normally six months.

C. The probationary period may be extended by the Personnel Officer in his/her sole discretion, for reasons including, but not limited to, a situation in which an employee was on a paid or unpaid leave of absence during the probationary period.

D. The probationary period for regular status part-time employees will be adjusted based on the relationship of the employee's part-time work schedule to the position's full-time standard workweek. The probationary period shall not exceed eighteen (18) months for regular part-time employees.

6.03 **Appointment or Rejection Following Probationary Period**

A. During the probationary period, an employee may be separated from City service by the Personnel Officer without cause and without right of appeal, grievance or hearing.

B. Prior to the end of the employee's probationary period, the Department Head shall notify the Personnel Officer in writing as to whether regular appointment or rejection is recommended. No probationary employee will receive a regular appointment without a written recommendation from the Department Head.

C. Notification of rejection shall be in writing and shall be served on the probationary employee, and a copy shall be included in employee's personnel file.

6.04 **Rejection Following Promotion**

An employee who is rejected during the probationary period following a promotional appointment is not entitled to an appeal, grievance or hearing. Such an employee shall be reinstated to the position from which the employee was promoted with no loss in seniority, provided that a vacancy exists and that there are no disciplinary actions pending against the employee. Notification of rejection shall be in writing and shall be served on the probationary employee, and a copy shall be included in employee's personnel file.

6.05 **Seniority**

A. Seniority shall mean the status attained by length of continuous service with the City, regardless of time in class, time in department or time at a particular location.

B. A probationary employee shall have no seniority until the employee has completed his/her probationary period. Upon completion of the probationary period, the employee will acquire seniority from the date of hire.

C. Whenever more than one person is appointed to the same classification on the same day, the seniority of each individual will be equal.

6.06 **Loss of Seniority**

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

A. Leaves City service.

B. Is terminated..

C. Does not return to work when being recalled after a layoff.

D. Is laid off for one (1) year without being recalled.

Section 7. Position Classification

7.01 Reclassification

The duties of any position which have changed materially so as to necessitate reclassification shall be reclassified by the Personnel Officer to a more appropriate class, whether new or already created. Reclassification shall become effective after approval of the Personnel Officer.

7.02 Pay Schedule Conformance

No position shall be assigned a salary not in conformance with the pay schedule found in the Classification and Compensation plan unless the pay schedule for the position is amended with the approval of the City Council.

7.03 Interpretation of Job Descriptions

Job descriptions are intended to be descriptive and explanatory and not restrictive. They should not be construed as limiting the assignment of duties and responsibilities to any position or modifying the power of any Department Head to assign, direct and control the work of employees under his/her supervision. The use of a particular illustration as to duties should not be interpreted to exclude others not mentioned, nor shall any specific omission necessarily mean that such duty is not included.

7.04 Working Above Classification

Employees who have successfully completed their probationary period and who work above their classification for more than ten (10) consecutive workdays, shall be entitled to the high classifications pay, as may be applicable, commencing on the eleventh (11th) consecutive day of the temporary assignment.

Should any employee be required to work above classification on the eleventh (11^{th}) day, the 5% increase shall be retroactive to the first (1^{st}) day of service.

Section 8. Compensation and Salary Administration

8.01 Administration and Review of the Classification and Compensation Plan

From time to time, the Personnel Officer may recommend to the City Council an appropriate salary range for each class. When the salary range for a class is changed by the City Council, all employees whose positions are affected shall be adjusted to the corresponding salary step in the new range, unless an alternate agreement is reached.

8.02 Application of Salary Ranges and Rates

A. Appointment: Initial appointments shall normally be at the first step of the appropriate salary range. The Personnel Officer may, at his/her sole discretion, make an appointment

to a position at an appropriate higher salary step when it is difficult to acquire qualified personnel at the starting salary, or when the education or experience of a proposed employee justifies a beginning salary in excess of the first salary step.

B. Promotion: An employee receiving a promotion shall start on the first step of the salary range of the class to which he/she is promoted unless his/her present salary level is equal to or exceeds the first salary step of the class to which he/she is promoted. In that event, the employee shall be assigned to the step in the salary range to which he/she is promoted which is the equivalent of at least a five percent (5%) increase in salary. When the employee's promotion includes the assigned responsibility of supervision of other employees, his/her salary level shall be increased to a step within the salary range that will ensure that his/her annual salary is higher than the employees he/she supervises.

C. Transfer: An employee who requests and receives a voluntary transfer will ordinarily be placed on the first step of the salary range of his/her new class unless the Personnel Officer, in his/her sole discretion, assigns the employee to a higher step in the salary range. An employee who experiences an involuntary transfer shall receive the salary amount he/she was receiving just prior to the transfer until the salary range of the new classification is equal to or exceeds the employee's salary prior to the involuntary transfer. This shall be referred to as "Y-rate".

D. Reclassification: In the event that a classified employee experiences a reclassification that is not a promotion, his/her salary shall be held at the salary amount he/she was receiving just prior to the reclassification until the salary range of the new classification is equal to or exceeds the employee's salary prior to reclassification. This shall be referred to as "Y-rate". An employee may be placed in a lower or higher salary step at time of reclassification with the approval of the Personnel Officer.

E. Demotion: In the event of demotion, the Personnel Officer shall determine the salary step within the applicable salary range to which the employee shall be assigned.

8.03 **Advancement Within Salary Range**

An employee shall be considered for salary advancement annually and in accordance with the following provisions:

A. **Step Increases:** Step increases are not automatic, but are merit-based and shall be granted for continued improvement and increased service value of an employee, and other pertinent factors as determined by the employee's Department Head and the Personnel Officer. Step increases shall be made only upon the recommendation of the Department Head concerned, and with the approval of the Personnel Officer.

B. **New Employees:** All new employees who exhibit satisfactory job performance may be granted a step increase after six months (13 pay periods) of continuous employment; thereafter, step increases may be granted if warranted on an annual basis until employee reaches top step.

C. Nothing herein prohibits the granting of a step increase to an employee at any time.

D. Salary adjustments shall become effective on the first day of the pay period coinciding with or following the employee's step increase, promotion, demotion, reclassification, transfer, basic salary rate change or other change.

E. No step increase shall be made so as to exceed any maximum rate established in the Classification and Compensation Plan for the class to which the employee's position is assigned.

8.04 Computation of Salary

Pay rates for all classified positions are set forth in the Classification and Compensation Plan. Hourly rates are based on 2080 hours per year (52 weeks/year).

Section 9. General Employment Policies

9.01 Attendance

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited. An employee is required to seek advance permission from his/her supervisor for any foreseeable absence or deviation from regular working hours.

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

An employee who is unexpectedly unable to report for work as scheduled must notify his/her immediate supervisor no later than the scheduled work time and report the expected time of arrival or absence. If the employee's immediate supervisor is not available, the employee must notify the Department Head. An employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

B. Excessive Tardiness/Absenteeism

Excessive tardiness occurs when an employee is late to work or returning from breaks more than two (2) times during any thirty (30) day period. Excessive absenteeism occurs when the number of absences exceeds three (3) days in any three (3) month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of accrued or unpaid leave time will be grounds for discipline, up to and including termination.

C. Attendance Records

All departments shall keep daily attendance records of their employees.

9.02 Rest Periods/Breaks

A fifteen (15) minute compensated rest period will be provided all employees for each four (4) hour period of service. The rest period shall be taken at a time designated by the employee's supervisor. The rest periods may not be combined to shorten the workday or to extend the meal period.

9.03 Meal Periods

A non-compensated meal period of thirty (30) to sixty (60) minutes shall be provided to all full-time employees. This meal period should be taken at the approximate mid-point of the shift, unless department rules, operational needs or an applicable MOU indicate otherwise.

9.04 Standard Work Day and Workweek

The workweek begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on Saturday, except as otherwise designated by an applicable MOU, or as otherwise designated for employees on a flexible schedule.

The standard workday for regular employees shall be eight (8) hours, and the standard workweek shall be forty (40) hours worked in five (5) consecutive workdays.

Employees working a 9/80 schedule will have either every other Monday, Wednesday or Friday off. For employees working a 9/80 work schedule, each employee's designated FLSA work week (168 hours in length) shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds with the employee's alternating regular day off.

The workday for part-time and Mid-Management Employees shall be established and directed by the Department Head.

9.05 Exceptions to Standard Work Periods

The Personnel Officer is hereby authorized to designate other work periods and working hours for employees when, in his/her sole discretion, the best interest of the City may be served by such adjustment.

9.06 Overtime and Compensatory Time Off ("CTO")

A. Overtime shall be worked only at the request of the Department Head. Working overtime without advance approval is grounds for discipline. Overtime-eligible employees directed to work overtime must do so.

B. Unless otherwise stated in an applicable MOU, "overtime" is all hours an overtime-eligible employee actually works over forty (40) in his/her work week. Regular employees required to work overtime shall be compensated in cash or CTO at a rate of time and one-half at the option of the employee.

C. No overtime shall be recorded or reported for less than eight (8) minutes of work.

D. Work schedules may be changed by mutual agreement to reflect alternative work schedules that do not require an overtime premium, i.e., a 9/80 schedule.

E. For classifications which require flexible scheduling to meet job needs, unless otherwise stated in a MOU, "overtime" will be all hours an overtime-eligible employee actually works over forty (40) in his/her workweek.

F. The use of CTO shall be scheduled through mutual agreement between the employee and his/her Department Head or supervisor.

G. Employees may receive only CTO for extra hours of work required by a civil disaster unless the City Council appropriates or receives moneys for such payment. In the event that funds are not made available, CTO shall be earned at the applicable rate and may exceed the maximum number of CTO hours (40) otherwise Permitted by these Personnel Rules.

H. Mid-Management Employees shall not be eligible for overtime pay and/or CTO.

I. Classified employees who are exempt from overtime in accordance with the FLSA shall not be eligible for overtime pay and/or CTO.

9.07 CTO Accumulation and Use

Employees may accumulate up to forty (40) hours of CTO.

The City will grant an employee's request to use accumulated CTO provided that: (1) the department can accommodate the use of CTO on the day requested without undue disruption; and (2) the employee makes the request in writing to his/her supervisor no later than five (5) days prior to the date requested. If the department cannot accommodate the time off within thirty (30) days of the request, the City will provide the employee the opportunity to cash out the CTO requested. The City reserves the right to cash out accumulated CTO at any time.

During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials). Employees separating from City service shall be compensated for all accrued, unused CTO hours at the current FLSA regular rate of pay, or the average regular rate for the prior three (3) years, whichever is higher.

9.08 **Paid Holidays**

A. Regular, probationary, and Mid-Management employees only are entitled to the following paid holidays:

- New Years Eve
- New Years Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Day After Thanksgiving Day
- Christmas Eve
- Christmas Day
- One floating holiday

B. When a holiday falls on a Saturday, it shall generally be observed on the preceding Friday. When the holiday falls on a Sunday, it shall generally be observed on the following Monday.

C. When Christmas Day or New Years Day fall on a Saturday, the "eve" shall be observed on Thursday. When Christmas Day or New Years Day fall on a Sunday or Monday, the "eve" shall be observed on Friday.

D. Eligible employees shall receive eight hours of compensation for the holiday. However, employees who, by virtue of the character of their functions, are required to work on holidays shall receive double time in addition to the eight hours compensation for the holiday.

E. An employee must have been employed by the City on the day preceding and the day following a holiday to qualify for holiday pay. For purposes of this section, an employee who is absent on authorized vacation with pay or on accrued sick leave shall be deemed to be employed at such time.

9.09 **Educational Reimbursement**

A. Regular and Mid-Management employees only may be eligible to receive tuition reimbursement for educational purposes, which tend to improve their ability to accomplish their City job duties. Courses must be taken on the employee's own time, and must be

approved in advance by the Personnel Officer. The courses must be given by an accredited institution or trade/technical school.

B. Employees will be reimbursed for approved educational expenses up to the current maximum set by the City Council. Reimbursement will be for tuition and books only. In order to be reimbursed, the employee must achieve at least a "C" grade or the equivalent. Employees will be reimbursed after proper proof of completion of class is submitted by producing a transcript.

9.10 Employee Identification Policy

A. The City is committed to providing a safe and secure workplace for all employees by providing clearly visible identification of City staff, interns, and volunteers to all members of the general public and to enhance security measures through visible staff member identification. The City maintains an employee identification system to provide an effective and efficient means of identifying employees of the City. Proper employee identification helps to provide a safe and secure environment for employees, affiliates, interns, volunteer, and visitors. This policy applies to all employees, volunteers and interns.

B. It is the policy of the City to issue employee identification (ID) cards to all employees to clearly identify them as employees of the City. The employee ID card must be worn at all times, in the office as well as outside of the office, when an employee is acting in an official capacity. Field employees shall carry their identification at all times in a manner in which it does not interfere with any equipment. The employee ID card shall be used as identification if requested by a member of the public or another City employee. Identification cards are to be prominently displayed on the front of the person between the neck and above the hips and are to be worn clipped to a piece of outer clothing, or worn around the neck on a lanyard. Identification cards shall not be defaced or altered with stickers, decals, etc. Employee ID Cards are to be worn so that the photo is clearly visible to others. No other ID cards or badges are to be used as official City identification. At no time shall an employee share his/her ID card with any person.

C. Each employee is responsible for safeguarding his/her own ID card and any lost ID card is to be reported immediately to his/her supervisor.

D. The employee ID card shall contain the following information: employee's photo, name, position title, and department.

9.11 Uniform, Official Badge or Insignia

No official or employee who wears a uniform, badge, or other official insignia as evidence of his/her authority and identity shall permit such uniform, badge or insignia to be used or worn by any other person without approval of the Personnel Officer.

9.12 Use of City and Private Automobiles for City Business

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

B. Mileage Allowance: When an employee must travel to complete his/her assigned duties, he/she must use a City vehicle if such a vehicle is available. If the employee has confirmed that there are no City vehicles available, the employee must use his/her personal vehicle and will be reimbursed for its use at the allowable IRS rate in effect at the time the expense is incurred.

9.13 Travel Policy

A. Commute Time

Travel time to and from work is commute time, which is not compensable, even if the employee is asked to report to different work locations on different days. Travel from home to the first work site of the day or from the last work site of the day to home is considered commute time. In addition, travel from home to a work site other than an employee's regular work location on an emergency basis (such as a call-out in the middle of the night) will not be compensated unless the employee must travel a substantial distance (i.e., significantly more than the normal home to work commute) to address the emergency.

B. Travel During the Workday

Travel during the workday, after the employee has reported to work, is hours worked for the City. However, travel from the employee's last work location to home is not compensable. Supervisors should not require employees who will be traveling during the work day to report to their normal work site at the start or the end of their shift unless it is truly necessary for the employee to report to such location.

C. Overnight Travel

Overnight travel is considered hours worked by the employee if it occurs:

1. During regular work hours; or
2. On an off day during the employee's normal work hours; or
3. Outside of work hours, if the employee has to drive to the location.

If the employee travels on public transportation or as a passenger in an automobile, the time is non-compensable. Supervisors should schedule overnight travel for employees on public transportation outside of their normal work hours if possible. If the employee is offered public transportation for travel outside of normal work hours and declines the offer, the travel time is non-compensable.

D. Special One Day Assignment Outside the City

If an employee is required to travel out of the City for a special assignment and the time spent traveling is significantly longer than the employee's normal commute, a portion of the travel time should be counted as hours worked. If the employee is driving to the location, only the time in excess of the employee's normal commute shall be considered as hours worked. Travel to attend a training program that is a regular and contemplated part of an employee's position shall not be considered a special assignment.

9.14 Attendance at Training Programs

A. General

An employee is not required to be compensated for attendance at a training program if each of the following four requirements are met:

- Attendance is voluntary;
- The training program occurs outside of normal working hours;
- The employee does not perform productive work; and
- The training is not directly related to the employee's current job.

Attendance is considered voluntary only if the employee's working conditions are not adversely affected if he/she does not attend the training. If a supervisor suggests that an employee's future advancement or performance evaluation will be affected if the employee does not attend the training, attendance would not be voluntary.

B. Classes Offered At a School Or College

If an employee voluntarily enrolls in a class outside of work hours that is offered at a school, college or vocational institute, the training is not considered hours worked as long as the employee does not perform any productive work. Additionally, if the City offers such a class to its employees outside of normal work hours, or pays for employees to attend such a class, it will not be hours worked.

C. State-Mandated Certifications

If state law requires that an employee obtain a certification for his/her job, and the employee voluntarily attends the necessary training to obtain such certification outside of normal work hours, the time spent at that training is not counted as hours worked.

D. **Coming Back to Work After Training Day**

All employees who attend training are required to return to their regular work location if, at the end of the training day, after traveling back to their regular City work location, there would be at least one half hour left in their work day.

E. **Holidays, Days Off and Vacations**

Employees directed to attend training courses held on their day(s) off will be permitted to reschedule their days off spent in such training courses, in lieu of compensation. Employees directed to attend training courses on a holiday will receive holiday pay. Employees directed to attend training courses held on their vacation days will be permitted to reschedule their vacation days spent in such training courses in lieu of compensation.

9.15 **Pay Periods**

A. Payday for all employees shall be on a biweekly basis, occurring every other Friday. When a regular payday coincides with a holiday, paychecks will be issued on the workday immediately preceding such holiday. Salaries will be paid on regular paydays only, unless early payment is approved by the Personnel Officer.

B. Employees, including employees who are released during their initial probationary period or dismissed for disciplinary reasons, will receive their final paycheck on the regular payday for the pay period in which they resign or released/dismissed.

9.16 **Deductions From Pay**

Deductions from an employee's pay shall be made in accordance with applicable state and federal laws, employment contracts, and any applicable MOUs.

9.17 **On The Job Injuries**

Any employee who sustains an injury on the job shall report it to his/her supervisor or Department Head immediately.

9.18 **Fitness For Duty Examinations**

A. **Conditional Offer of Employment Examinations**

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

B. Current Employee Examinations

The Personnel Officer may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his/her job when: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his/her job; and 2) there is reason to question the employee's ability to safely or efficiently complete work duties.

C. Role of Health Care Provider

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

D. Medical Information

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

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

An employee may submit confidential medical information to the City from his/her personal health care provider. If the employee provides written authorization, the Personnel Officer will submit the information that the employee provides to the City-paid health care provider who conducts the examination. If this information is submitted after a fitness for duty assessment is made, the Personnel Officer will request that the City-paid health care provider determine whether the information alters the original assessment.

F. Interactive Process Discussion

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any) the Personnel Officer will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his/her representatives, (if any). The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Personnel Officer will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical care leave.

G. **Determination**

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

9.19 **Personnel Files and References**

A. The City will maintain a personnel file for each City employee. Personnel files are City property, and access to the information they contain is restricted.

B. The official repository of personnel files and records for each employee shall be maintained in the Human Resources Department.

C. An employee may inspect his/her personnel file at reasonable times and at reasonable intervals. An employee who wishes to review his/her file should contact the Human Resources Department to arrange an appointment. The review must be done in the presence of an employee of the Human Resources Department or designee. The employee will have access to all contents of the file except: (1) records relating to the investigation of a possible criminal offense; (2) letters of reference; and (3) ratings, reports, or records that were obtained prior to the employee's employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.. An employee must initial and indicate the date he/she reviewed the file, with such information to be recorded on the upper left-hand side of the personnel file folder.On request, an employee is entitled to receive a copy of any employment-related document he/she has signed. An employee who wishes to receive such a copy should contact the Human Resources Department.

D. In the event an employee wishes to have another person/representative inspect his/her personnel file, the employee must provide the person/representative with written authorization. The Human Resources Department will notify the employee of the date, time and place of the inspection in writing. It is the employee's responsibility to notify the person to whom the employee has given written authorization of the date, time and place of the inspection. Under no circumstances is the employee and/or the employee's designee permitted to add or remove any document or other item from the employee's personnel file during the inspection.

E. An employee shall be entitled to read any statement written by a supervisor or Department Head regarding the employee's work performance or conduct, if such statement is to be filed in the employee's official personnel file. The employee shall acknowledge reading such material by affixing his/her 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 to be filed and may not necessarily indicate agreement with its content. If the employee refuses to initial, the Personnel Officer will sign noting

the refusal of the employee to affix his/her signature or initials. An employee shall also have thirty (30) days within which to file a written response to any adverse comment entered in his/her official personnel file. Such written response shall be attached to and shall accompany the adverse comment.

F. Each employee has the responsibility to keep personnel data up-to-date and must notify the Human Resources Department within five (5) days in the event of any change of name, address, telephone number, person(s) to be notified in case of an emergency, and any change of beneficiary or dependent(s).

G. Request for verification of employment or employment-related inquires should be directed to the Personnel Officer. Information will be released only if the employee signs an Authorization for Release of Employment Information, except that without such authorization, the following limited information will be provided: dates of employment and current employment status. Department Heads and supervisors should not provide information in response to requests for reference checks or verification of employment unless specifically approved by the Personnel Officer on a case-by-case basis.

H. **Public Information**: Upon request, the City will release to the public information about its employees as required by the Public Records Act.

I. **Medical Information**: All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with applicable state and federal laws. To enable the City to obtain certain medical information, the employee or applicant may need to sign an authorization for release of employee medical information. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. The City will not provide employee or applicant medical information to a third party (except as permitted by law) unless the employee signs an authorization for release of employee medical information. The City will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations to the person or entity to which it discloses the medical information.

9.20 Reports of Change of Status

All actions involving employment and change in status of employment, including but not limited to recommendations for transfer, promotion, demotion and change of salary rate shall be reported by the Department Head to the Personnel Officer in writing. Copies of such reports shall be furnished to the employee involved.

9.21 **Job Abandonment**

An employee absent from duty without authorization for three (3) or more consecutive business days without notice to the Department Head or the Personnel Officer shall be deemed to have voluntarily resigned without notice. Regular employees will be given an opportunity to explain the absence and failure of notification before final action is taken. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee has the right to an appeal for separation due to job abandonment.

9.22 **Resignation and Exit Interview**

A. **Resignation.** An employee wishing to leave City employment in good standing shall file with the Department Head a written resignation stating the effective date and reasons for leaving the service at least ten (10) business days prior to the effective date of said resignation. A resignation becomes final when accepted by the City. Once a resignation has been accepted by the City, it cannot be withdrawn.

B. **Exit Interview.** The Personnel Officer or his/her designee may conduct an exit interview for employees who resign to verify the reason(s) for resignation. Copies of the information obtained during the exit interview shall be furnished to the Department Head as appropriate.

Section 10. Leave of Absence Provisions

10.01 **Vacation Accrual**

A. The purpose of annual vacation leave is to enable each eligible employee to return to work mentally and physically refreshed. Regular and Mid-Management employees shall be entitled to annual vacation leave with pay, except those serving their original probationary period in City service. Vacation credits for probationary time shall be granted to each employee who later receives a regular appointment.

Regular employees in the first through fifth years of employment are entitled to accrue vacation time at the rate of 3.08 hours per bi-weekly pay period.

Beginning with the sixth year of continuous employment, regular employees begin to accrue vacation time at the rate of 4.62 hours per bi-weekly pay period.

Beginning with the eleventh year of continuous employment, regular employees begin to accrue vacation time at the rate of 6.16 hours per bi-weekly pay period.

Based on the above accrual rates, employees who are scheduled to and do work 40 hours per week will normally accrue vacation time as follows:

After 6 months	5 days
After next 6 months	5 additional days
2nd thru 5th year	10 days annually
6th thru 10th year	15 days annually
After 10th year	20 days annually

B. Vacation accrues to an eligible employee only in those pay periods when he/she is in pay status one-half time or more. An employee employed on a regular full-time basis shall accrue full vacation credits during the pay period. A regular part-time employee (no less than 20 hrs/week) shall accrue vacation at one-half (l/2) the time allowed a regular full-time employees.

C. Employees may not accrue more than one hundred sixty (160) hours of vacation at calendar year end. The maximum accrual of vacation shall include any vacation time, which has been deferred from the previous calendar year. Loss of accrued vacation shall not occur if vacation has been delayed by written request of the City Manager.

D. If vacation leave has been delayed by request of the City, accrued vacation time above one hundred sixty (160) hours may be carried over to the next year, however, it must be used as soon as is practical.

10.02 **Use of Vacation**

A. The times during a calendar year at which an employee may take vacation shall be determined by the Department Head with due regard for the wishes of the employee and the needs of the City. If the requirements of the City are such that an employee cannot take part or all of his/her earned annual vacation in a particular calendar year, such vacation shall either be taken prior to March 31st of the following calendar year, or paid at the discretion of the Personnel Officer.

B. Employees shall complete six (6) months of continuous service before becoming eligible to use accrued vacation leave.

C. Requests for vacation leave must be requested at least twenty-one (21) days prior to the desired vacation period, or as otherwise allowed by the Personnel Officer.

D. 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. When an illness or injury necessitates hospitalization of an employee during his/her vacation leave, the days of hospitalization will not be charged against the employee's vacation accrual.

10.03 **Vacation at Termination**

A. Employees who terminate employment shall be paid in a lump sum for all accrued vacation and CTO earned at employee's current rate of pay.

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.

C. In the event of death of an employee during employment with the City, all earned accrued vacation and CTO will be paid to employee's designated beneficiary.

10.04 **Sick Leave**

A. **Purpose**

To protect employees against loss of earnings through the establishment of a sick leave program for limited absences due to illness.

B. **Scope**

This policy applies to all regular full or part time employees and Mid-Management employees.

C. **Policy**

Sick leave is provided to continue the salaries of eligible employees who are absent from work because of illness, injury, exposure to contagious disease, disability, medical, dental and optical appointments and, in accordance with the limitations noted below, in the event of illness in the immediate family. Sick leave shall not be construed to be a privilege, which an employee may use at his/her discretion, but shall be allowed only in cases of necessity.

Sick leave accrues at the rate of four (4) hours per bi-weekly pay period to eligible employees only in those pays periods in which they are in pay status one-half time or more. Mid-Management employees and regular full-time employees in pay status one-half time or more shall accrue full sick leave credits during the pay period. Regular part-time employees in pay status (no less than 20 hrs/week) shall accrue sick leave proportional to the hours in pay status during the pay period.

An employee who is a new hire, re-employed or reinstated shall begin accruing sick leave effective with the closest pay period in which he/she is hired, reemployed or reinstated if the start date is after the first business day of the pay period.

In order to receive compensation while absent on sick leave, the employee shall notify his/her immediate supervisor one (1) hour prior to the time set for the beginning of his/her daily duties. Failure to do so without good reason may result in that day of absence being treated as leave of absence without pay.

If the employee is absent on sick leave for more than one (1) day, the employee must keep the immediate supervisor informed as to the date the employee expects to return to work. Necessity for use of sick leave as herein defined shall be established by the employee to the satisfaction of the City. During or after any sick leave absence, the employee may be required to provide a

physician's certification regarding the sickness or injury of the employee or their immediate family member and the date of the employee's intended return to work.

No payoff of accrued sick leave shall be granted to an employee terminated for any reason unless provided for in an applicable MOU or other written agreement.

Supervisors have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties.

Employees will be subject to disciplinary action for excessive use of sick leave and/or abuse of sick leave. Abuse of sick leave is a claim of entitlement to sick leave when the employee does not meet the requirements of sick leave as defined in this section.

Sick leave will not be granted to any employee absent from duty as a result of any sickness, injury or disability purposely self-inflicted or caused by willful misconduct.

D. Use of Sick Leave

Employee Illness: Sick leave may be used as needed and approved to the point of depletion, 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 the exception of an illness or injury that occurred while the employee was on vacation leave when such illness or injury causes the employee to be hospitalized.

Family Illness: An employee may use accrued sick leave for the care of an ill member of the immediate family as defined below:

Child: A biological, foster, adopted, or step child, or a legal ward, child of a domestic partner, or child of a person standing *in loco parentis*
Parent: A biological, foster, or adoptive parent, or a step-parent or legal guardian
Spouse: Legally married or registered domestic partner

An employee may use in any calendar year a maximum of one-half of his/her accrued and available sick leave to attend to an illness or injury of a child, parent, or spouse of the employee, as defined above. All conditions and restrictions placed by the City upon the use by the employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness or injury of an employee's child, parent or spouse.

10.05 Sick Leave Time Donation

A. Purpose

The City recognizes that employees may have a family emergency or a personal crisis that causes a severe impact to them resulting in a need for additional time off in excess of their

available sick leave time. To address this need, all eligible employees will be allowed to donate sick leave time from their unused balance to their co-workers in need in accordance with the policy outlined below. This policy is strictly voluntary.

B. **Eligibility**

All employees of the City having been employed with the City for a minimum of six months are eligible to request sick leave donations. All employees, regardless of tenure, may donate sick leave in accordance with this policy.

C. **Criteria/Conditions**

Employees who would like to make a request to receive donated sick/personal time from their co-workers must meet the following criteria:

1. The employee must have been employed in a regular position for a minimum of six (6) months;

2. The employee must be absent from work due to his/her own catastrophic illness or injury for more than twenty (20) consecutive work days (as verified by a physician's statement), or be absent from work in order to attend his/her immediate family member who has a catastrophic illness or injury (as verified by a physician's statement); and

3. The employee must have exhausted all earned leave balances (including sick leave [if related to the employee's own illness], vacation, overtime and holiday credits), except however, the appointing authority may approve the solicitation/acceptance of leave donations prior to all balances being exhausted, when the physician's statement and leave balances indicate the probable exhaustion of balances within two pay periods.

D. **Sick Leave Donations**

Donated sick leave shall be changed to its cash value at the donor's base rate of pay and then credited to the recipient in equivalent hours of vacation at the recipient's base rate of pay. Sick leave donations are subject to the following guidelines.

1. Donations are voluntary.
2. All donations are to be made from accrued sick time balances and in whole hour increments.
3. All donations are irrevocable, and if any donated hours remain at the end of the recipient's catastrophic leave, they shall remain available for the sole use of the recipient.
4. Income received through donations is taxable on the part of the recipient, in accordance with IRS regulations, and is subject to withholding as required by law.

5. An employee may not receive more than forty (40) hours of donated sick time, calculated at the recipients' rate of pay, from any single employee.
6. Employees who receive donated sick time may receive no more than nine hundred sixty (960) hours; however, donations in excess of nine hundred sixty (960) hours may be considered and approved by the City Manager.
7. All donated sick leave shall be immediately available for use by the recipient but may not be used retroactively to cover absences occurring in a prior pay period.

E. **Procedure**

Employees who meet the above criteria and would like to make a request to receive donated sick leave time are required to complete a Sick Leave Donation Request Form which includes authorization to present their request to the employees of the City for the sole purpose of soliciting donations. The completed request form shall be submitted to the Human Resources Department.

Upon approval of a request for donations, the Human Resources Department shall post a notice of the eligible employee's need for donations on departmental bulletin boards accessible to employees and or via electronic email. Said notice shall be valid for a period of thirty (30) days at which time the donation period shall end and no further donations will be accepted.

Employees who wish to donate sick leave time to a co-worker in need must complete a Donation of Sick Leave Time Form. The completed donor form shall be submitted to the Human Resources Department. Once the donation is verified by the Human Resources Department it shall be presented to the Finance Department where it shall be recorded into the City's payroll system.

The Human Resources Department shall maintain a log of all sick leave requests and donations.

10.06 Bereavement (Compassionate) Leave

The City recognizes that employees may require a period of time away from work upon the death of an immediate family member. Employees are provided with paid time off for making arrangements, settling family affairs, bereavement, and/or attending the funeral or memorial service of a member of the immediate family. The City reserves the right to require documentation of the death (e.g., death certificate, obituary, documentation from funeral home). Paid bereavement leave is a benefit provided by the City for regular full-time employees.

A maximum of three (3) days off with pay is permitted within three (3) months of the death of a regular full time employee's:

- Parent
- spouse or registered domestic partner
- child
- brother or sister
- son or daughter-in-law

- mother or father-in-law
- brother or sister-in-law
- Grandparents
- Grandchildren
- stepchild

Bereavement leave is granted on an as-needed basis and employees do not accrue (earn) bereavement leave. Any bereavement leave that is used is not deducted from any leave balances.

An employee may make a request to his/her supervisor to use vacation time for death of family members or friends not covered by this policy or if the employee needs additional days off in excess of the time allowances outlined in this policy for family members defined above.

10.07 **Leave of Absence Without Pay**

A. Upon the request of the employee, a leave of absence without pay may be granted by the Personnel Officer on a case-by-case basis for reasons including, but not limited to, depletion of accumulated sick leave. The Personnel Officer shall, at his/her sole discretion, make such a determination. Such leave is not a right but a privilege.

B. Written request for leave of absence without pay must be made by the employee in writing to the respective Department Head, with a copy to Personnel Officer. This request shall state specifically the reason for the request, the date when the employee desires to begin the leave, and the probable date of return.

C. Employees on authorized leave of absence without pay may not extend such leave beyond ninety (90) days without express approval of the City Manager. Employees are required to submit an additional written request for extension of a leave of absence without pay.

D. Leave of absence without pay is not a break in service or employment, and rights accrued at the time the leave is granted are retained by the employee; however, vacation credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits shall not accrue to a person granted such leave during the period of absence. During the period of such leaves, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

E. While on an approved leave of absence without pay, the City is not required to maintain contributions toward group insurance or retirement coverage.

F. Failure of an employee on an approved leave of absence `without pay to report to work promptly at its expiration, or within three (3) business days after receiving notice to return to duty will, except under extraordinary circumstances, constitute the employee's separation from City employment.

10.08 Pregnancy Disability Leave

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four (4) months.

A. Notice and Certification Requirements

1. Requests for pregnancy disability leave should be submitted in writing as soon as the employee determines with reasonable certainty the date and intended duration of the pregnancy disability leave. Pregnancy disability leave must be approved by the Personnel Officer before the leave begins. The request must be supported by a written certification from the attending physician stating that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.
2. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Personnel Officer prior to being taken. Requests for an extension of leave must be submitted in writing to the Personnel Officer prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition.

B. Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave.

C. Benefits During Leave

1. An employee on pregnancy disability leave may receive any group health insurance coverage that was provided before the leave on the same terms as provided to other employees who become disabled off-duty, if: 1) the employee is eligible for concurrent family and medical care leave; and 2) the employee has not already exhausted this twelve (12) week group health insurance coverage benefit in the current family and medical care leave eligibility period. The City may recover premiums it paid to maintain health coverage, as provided by the family and medical leave laws, if an employee does not return to work following pregnancy disability leave.
2. An employee on pregnancy disability leave who is not eligible to receive group health insurance coverage as described above may receive health insurance coverage in conjunction with COBRA guidelines by making monthly premium payments to the City. The City will not pay for fringe benefits for employees during Pregnancy Disability Leave.
3. Sick and Vacation Leave Accrual: Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

D. **Reinstatement**

1. Upon the expiration of pregnancy leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position, so long as it was not eliminated for a legitimate business reason during the leave.
2. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position, provided that such a comparable position is available.
3. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.
4. An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

10.09 Family and Medical Care Leave

A. Statement of Policy

To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA") and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this policy, "leave" under this policy shall mean leave pursuant to the FMLA and CFRA.

B. Definitions

1. "Twelve-Month Period" means a rolling twelve (12) month period measured backward from the date leave is taken and continuous with each additional leave day taken.

2. "Single twelve-month period" means a twelve (12) month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends twelve months after that date.

3. "Child" means a child under the age of eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child.

A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living — such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

4. "Parent" means the biological, adoptive, step or foster parent of an employee, or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

5. "Spouse" means a husband or wife as defined or recognized under California state law for purposes of marriage.

6. "Domestic Partner," as defined by Family Code §§ 297 and 299.2, shall have the same meaning as "Spouse" for purposes of CFRA Leave.

7. "Serious health condition" means an illness, injury impairment, or physical or mental condition that involves:

   a. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or

   b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

      (i) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

         - Treatment two or more times within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist by a health care provider, by a nurse, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider. The first in-person treatment visit must take place within seven (7) days of the first day of incapacity; or
         - Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of

incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

(ii) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave).

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

- Requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

(iv) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

8. "Health Care Provider" means:

a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;

c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;

d. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law;

e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

f. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

9. "Active Duty or Call to Active Duty Status" means a duty under a call or order to active duty (or notification of an impending call or order to active duty) in a foreign country for members of any branch of the Armed Forces, including reserve components and the National Guard.

10. "Covered Servicemember" means a current member of the Armed Forces, including a member of the National Guard or Reserves, or a veteran who was a member of the Armed Forces at any time in the last five (5) years, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury sustained in the line of duty, or for a serious injury or illness that existed before active duty, but was aggravated by the servicemember's actions in the line of duty.

11. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA.

12. "Serious Injury or Illness" means an injury or illness incurred by a covered servicemember in the line of duty on active duty, or an injury or illness that existed before active duty, but was aggravated by the servicemember's actions in

the line of duty, that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

C. **Reasons For Leave**

Leave is only permitted for the following reasons:

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. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;

4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;

5. Leave for a "qualifying exigency" may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in a foreign country from any branch of the Armed Forces (under the FMLA only, not the CFRA); or

6. Leave to care for a spouse, son, daughter, parent, or "next of kin" servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty, or an injury or illness that existed before active duty, but was aggravated by the servicemember's actions in the line of duty (this leave can run up to twenty-six (26) weeks of unpaid leave during a single twelve (12) month period) (under the FMLA only, not the CFRA).

D. **Employees Eligible For Leave**

An employee is eligible for leave if the employee:

1. Has been employed for at least twelve (12) months; and

2. Has been employed for at least one-thousand two-hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the leave.

E. **Amount of Leave**

Eligible employees are entitled to a total of twelve (12) workweeks (or twenty-six (26) weeks to care for a covered servicemember) of leave during any twelve (12) month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

1. Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one (1) year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one (1) day, but less than two (2) weeks duration on any two (2) occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

2. Spouses Both Employed By the City

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twenty-six (26) workweeks during any twelve (12) month period if leave is taken to care for a covered servicemember.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

F. **Employee Benefits While on Leave**

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. 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 premiums in advance in accordance with the requirements necessary to maintain coverage.

Your coverage on a particular plan may be dropped if you are more than thirty (30) days late in making a premium payment. However, you will receive a notice at least fifteen (15) days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or

onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.).

G. **Substitution of Paid Accrued Leaves**

While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

1. Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave

Where an employee has earned or accrued paid vacation, administrative leave, CTO, or sick leave, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

a. The leave is for the employee's own serious health condition; or

b. The leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

2. The City's Right To Require An Employee to Use Paid Leave When Using FMLA/CFRA Leave

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

a. Employees are required to use accrued CTO earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and

b. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

3. The City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's twelve (12)_week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code § 4850.

4. The City's and Employee's Rights if an Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above.

H. Medical Certification

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

Employees who request leave to care for a covered servicemember who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

1. Time To Provide A Certification

When an employee's leave is foreseeable and at least thirty (30) days' notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least fifteen (15) calendar days

after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2. Consequences For Failure To Provide An Adequate Or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

3. Second and Third Medical Opinions

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

4. Intermittent Leave Or Leave On A Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

I. Employee Notice of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. Except for qualifying exigency leave, if leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable.

J. Reinstatement Upon Return From Leave

1. Right To Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her readiness to return.

2. Employee's Obligation To Periodically Report On His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

3. Fitness For Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

4. Reinstatement of "Key Employees"

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid ten (10) percent of all employed by the City within seventy-five (75) miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

K. **Required Forms**

Employees must fill out the following applicable forms in connection with leave under this policy:

1. "Request For Family or Medical Leave Form" prepared by the City to be eligible for leave. NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST WHICH WILL SET FORTH CERTAIN CONDITIONS OF THE LEAVE;

2. Medical certification -- either for the employee's own serious health condition or for the serious health condition of a child, parent, spouse or domestic partner.

3. Authorization for payroll deductions for benefit plan coverage continuation; and

4. Fitness-for-duty to return from leave form.

10.10 Jury Duty and Court Leave

A. Purpose

The City considers jury duty to be an important civic responsibility. Having loyal, conscientious, honest citizens serving on our juries is a basic and essential element of our American system of justice. Therefore, it shall be the policy of the City to encourage jury service by its employees.

B. Scope

This policy applies to all regular full-time employees called to jury duty,

C. Policy

An employee who is summoned to serve on a jury must notify his/her supervisor or Department Head as soon as possible after receiving notice of both possible and actual jury service in order to receive time off for the period of actual service required.

Regular full-time employees called to jury duty after completing their probationary period are eligible for their regular rate of pay for time spent in performing jury duty. If any payment for jury service is accepted, the employee shall submit the warrant or its equivalent minus any expenses (e.g. mileage, parking, etc.) to payroll. An employee called to jury duty on his/her regular day off shall not be compensated. The employee must report to work on any day, or part of a day, when excused from going to court. If the employee does not report to court or to the workplace for any reason, the time will be considered unauthorized leave without pay, and the employee may be subject to disciplinary action.

Evidence of jury duty attendance must be presented to your supervisor by attaching the Court's approved record of jury service to the corresponding time report. This record is necessary to authorize any pay. Failure to produce such records will result in unexcused leave. In those circumstances, an employee may be required to take leave without pay or use accrued vacation.

An employee who is requested to appear by subpoena as a witness in court or to respond to an official order from a governmental jurisdiction regarding an event or transaction which he/she perceived or investigated in the course of his/her City job duties shall be granted a leave of absence with pay from his/her assigned duties. 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 a travel allowance shall not be considered as a fee and shall be retained by the employee.

In those instances where a City employee is subpoenaed to appear in court in a matter unrelated to his/her City job duties or because of civil or administrative proceedings that he/she initiated, the employee will not receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use accrued vacation for time spent related to those proceedings. The time spent in these proceedings is not considered work time.

10.11 **Time Off to Vote**

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

10.12 **Military Leave**

Military leave shall be granted in accordance with the provisions of state and federal law. An employee requesting leave for this purpose shall provide the Human Resources Department, whenever possible, with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the Department Head and Human Resources may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

10.13 **Administrative Leave**

Mid-Management Employees shall be entitled to five (5) days of administrative leave per fiscal year. Only one (1) day of administrative leave may be carried over to the next calendar year.

10.14 **School Related Leave**

Any employee who is a parent, guardian or grandparent having custody of one or more children in kindergarten or grades one (1) through twelve (12) or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. The employee must provide reasonable advance notice of the planned absence. The employee may be required to use vacation and/or CTO to cover the absence. The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody work for the agency at the same work site, only the first parent requesting will be entitled to leave under this provision.

10.15 **Time Off For Victims of Violent Crimes or Domestic Abuse**

An employee who has been a victim of a violent crime or domestic violence may take time off to: 1) appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; 2) seek medical or psychological assistance; or 3) participate in safety planning to protect against further assaults.

An affected employee must give the City reasonable notice that he/she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the City with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee uses vacation or accrued time off.

Section 11. Layoff Procedure

11.01 Layoff Due to Economic and Non-Economic Reasons

A. Generally

Whenever, in the sole judgment of the City, it becomes necessary to eliminate one or more positions, employees currently filling such positions may be laid off, transferred or demoted. When layoffs within the classified service are necessary due to non-economic reasons, the City shall have the sole right to determine which class(es) and employees shall be subject to layoff. When layoffs within the classified service are necessary due to economic reasons, the City shall have the sole right to determine which class(es) shall be subject to layoff, and the employees shall be laid off in order of seniority. For employees represented by an exclusively recognized employee organization, layoffs will conform to any relevant provisions regarding layoffs contained in any applicable MOUs.

B. Appeal

The decision to layoff one or more employees shall not be subject to any grievance, hearing or appeal procedure.

C. Notice of Layoff

Ten (10) business days before the effective date of the layoff of a regular employee, the Personnel Officer shall give the employee a written Notice of Layoff. A copy of such notice shall also be given to the Department Head and the name of the employee laid off shall be placed on an appropriate Re-Employment List as provided by these Personnel Rules.

D. Order of Layoff

For layoffs due to economic reasons, employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined by length of continuous service with the City, regardless of time in class, time in department or time at a particular location.

In cases where there are two (2) or more employees in the classification in the department from which the layoff is to be made who have the same seniority date, such employees will be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to lay off, as follows: First, all employees having ratings of "0;" second, all employees having ratings of "1;" third, all employees having ratings of "2," fourth, all employees having ratings of "3,", fifth, all employees having ratings of "4," and sixth, all employees having ratings of "5."

E. Bumping

A regular employee who is designated to be laid off has the right to displace employees of lower seniority in the inverse order of seniority in any comparable classification, as determined by the Personnel Officer.

Alternatively, a regular employee subject to layoff may request a voluntary demotion to any lower classification within any department in which he/she has had prior regular employee status within the last five (5) years provided a vacancy exists or the employee who wishes to be demoted has higher seniority than the employee to be bumped. The demotion may occur if the Personnel Officer makes a determination that the duties of lower classification are comparable to those of the higher position.

A regular employee subject to layoff may also request a voluntary demotion to a vacant position in a lower classification provided the employee can provide proof to the satisfaction of the Personnel Officer that he/she is qualified to perform the duties of the position.

All employees who are demoted in lieu of layoff will be paid at the rate of pay for the lower position.

All employees must exercise bumping privileges within five (5) business days after receipt of the Notice of Layoff, by written notice to the Personnel Officer. If this choice is not exercised within the specified time period, it is automatically forfeited.

F. **Transfer**

The Personnel Officer may transfer an employee to a vacant position if the employee is qualified and capable of performing the duties, as determined by the sole discretion of the Personnel Officer.

Employees who are transferred will be paid at the rate of the position to which they are transferred. Any employee who does not accept a transfer within five (5) business days after a receiving notice of the transfer will have automatically forfeited the ability to transfer.

If the transfer involves a change from one department to another, both Department Heads must consent unless the Personnel Officer orders the transfer for purposes of economy or efficiency.

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

H. **Re-Employment For Laid Off Employees**

Regular employees laid off or demoted in lieu of layoff shall have a priority 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 six (6) months from the date of demotion or separation of the City service.

Section 12. Grievance Procedure

12.01 Grievance Procedure

Unless otherwise specified in an applicable MOU, the following is the City's grievance procedure for City employees:

A. **Eligibility to File a Grievance**

A grievant is a regular employee who is personally affected by an act or omission that occurred no more than ten (10) days prior to the initiation of the grievance, provided that the act or omission comes within the definition of "grievance" as described herein.

B. **Grievance Defined**

Subject to the exclusions listed in this policy, a grievance is defined as any dispute that: (1) is job-related; (2) is wholly or partially within the province of the City to rectify or remedy; (3) concerns terms and conditions of employment; (4) involves the interpretation, application, or alleged violation of these Personnel Rules or a current MOU between the City and a recognized employee organization representing City employees; and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

The following matters are excluded from the definition of " grievance":

1. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meet and confer process or matter within the scope of representation;
2. Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling memos;
3. Challenges to the decision to reclassify, layoff, transfer, deny reinstatement, or deny a step or merit increase;
4. Challenges to any disciplinary action; and
5. Challenges to examinations or the appointment to positions.

C. **General Provisions**

1. If an employee is given an order that he/she wishes to grieve, the employee must first comply with the order and file a grievance later, unless the employee reasonably believes that the assignment endangers the health or safety of the employee or others or if the employee reasonably believes that the requested assignment violates the employee's constitutional rights.
2. If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized, unless an extension of time to a definite date has been mutually agreed upon in writing.
3. If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal the grievance to the next higher level.
4. The grievant may be represented by a person of his/her choice at any formal level of this procedure, except that no one may be represented by an employee he/she supervises, and no employee may be represented by his/her supervisor or Department Head. If an employee's representative is a fellow employee, that employee will receive time off from his/her work assignment for the time of the grievance meeting or hearing plus reasonable travel time. Forty-eight (48) hours prior to the grievance meeting, the employee shall inform the immediate supervisor, Department Head, or the Personnel Officer whether he/she will be represented at the grievance meeting and shall identify the representative.
5. Time limits may be waived by mutual written consent of the parties.
6. Proof of service shall be accomplished by registered mail.
7. An employee shall not be penalized for using this procedure.
8. A grievant may withdraw any grievance at any time, without prejudice, by giving written notice to the City representative who last took action on the grievance, and by providing a copy of the notice to the Human Resources Department.
9. Upon mutual consent of the person hearing the grievance and the grievant, a grievance may be resubmitted to a lower step in the grievance procedure for reconsideration.
10. Day Defined. For purposes of this grievance procedure, "day" is defined as a calendar day.

11. The Personnel Officer may delegate his/her responsibilities in this process to non-involved Department Heads or other management-level employees. The findings and recommendations they render will be advisory to the Personnel Officer, whose ultimate decision will be final and binding.

D. **Grievance Procedure - Informal Grievance Level**

1. The employee may bring a grievance to the attention of his/her immediate supervisor at the earliest possible date, but within a period of ten (10) 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 his/her immediate supervisor that he/she wishes to discuss an informal grievance. At that time, the supervisor shall set a date and time for the informal grievance discussion. The supervisor and the employee shall discuss and attempt resolution of the grievance at the informal level. The grievance need not be in writing at this stage.
2. The supervisor will give the employee an oral reply within ten (10) days after the discussion. If the grievance is not resolved at the informal level, the employee may, within the specified time limits, file a formal grievance.
3. If the employee does not make himself/herself available for discussion during the informal grievance process, the grievance shall be considered abandoned.

E. **Grievance Procedure - Formal Levels**

If the employee is not satisfied by his/her supervisor's oral reply to the informal grievance, the employee may file a formal grievance within ten days (l0) of receiving the supervisor's oral reply.

Level 1. A formal grievance shall be submitted to the employee's immediate supervisor in writing. The written grievance must identify all of the following:

1. How the grievant is/was adversely affected by a specific act or omission which gave rise to the alleged violation, misinterpretation, or misapplication;
2. The specific provision of these Personnel Rules or an applicable MOU that was allegedly violated, misinterpreted, or misapplied;
3. The date or dates on which the violation, misinterpretation, or misapplication allegedly occurred;
4. The documents, witnesses or other evidence that support the grievance;
5. The desired solution or remedy;
6. The signature and identification of the grievant;
7. The person, if any, the grievant has chosen to be his/her representative;
8. The date that the informal grievance was taken to the grievant's supervisor;
9. The date(s) of the discussion with the supervisor; and
10. A brief summary of the outcome of the discussion(s) with the supervisor.

No grievance will be accepted for processing until all of the information listed above is provided. The supervisor or designee shall, within seven (7) days have a meeting with the grievant and within seven (7) days thereafter give a written answer to the grievant on the form provided.

Level 2: Any grievance not resolved at Level 1 may be submitted in writing to the Department Head no later than seven (7) days after the date of the supervisor's written reply. The grievant shall provide the Department Head with copies of the Level 1 response. The Department Director may, in his/her discretion, schedule a meeting with the grievant for the purpose of giving the parties the opportunity to resolve the grievance. Within fifteen (15) days of receipt of the written appeal, the Department Head or his/her designee, shall investigate the grievance. The Department Head or his/her designee shall give a written answer to the grievant within twenty-one (21) days of receipt of the Level 2 written appeal.

Level 3: If the grievant is not satisfied with the written answer from the Department Head, he/she may, within seven (7) days from the receipt of such answer, file a written appeal to the Personnel Officer. The grievant shall provide the Personnel Officer with copies of the Level 1 and Level 2 responses. The Personnel Officer may, in his/her discretion, schedule a meeting with the grievant to discuss the matter. Within fifteen (15) days of receipt of the written appeal, the Personnel Officer or his/her designee shall consider the facts and conduct an investigation if he/she deems one necessary. The Personnel Officer or his/her designee shall give a written answer to the grievant within twenty-one (21) days of receipt of the Level 3 written appeal.

The decision of the Personnel Officer shall be final and binding. The Personnel Officer's decision will be limited as follows:

1. The decision shall neither add to, detract from, nor modify the language of these policies or any applicable MOU.
2. The decision shall be confined to the precise issue(s) the grievance had raised and that the grievant has submitted.
3. Any monetary award in favor of the grievant may not exceed wages or benefits that the grievant has actually lost as a result of the matters alleged in the grievance. In no event shall any grievance award include any compensatory damages or attorneys' fees.

Section 13. Disciplinary Procedure and Appeal Process

13.01 Disciplinary Action – General

Unless otherwise specified by an applicable MOU, the following constitutes the City's policy regarding disciplinary actions:

The following categories of persons can be terminated at will and have no rights to receive a Notice of Intent or to any of the pre- or post-disciplinary processes or procedures provided in this Section: (1) Temporary employees; (2) Provisional employees; (3) Probationary employees; (4) Any person who serves pursuant to a contract; and (5) Any person who is designated "at-will" in any City policy, document, acknowledgement, resolution or ordinance, including Mid-

Management employees. In addition, any regular employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) is not subject to any disciplinary penalty which is inconsistent with his/her FLSA overtime-exempt status. These procedures shall not apply to a layoff, or a reduction in pay which is part of a reclassification action, reorganization or layoff.

13.02 Causes for Disciplinary Action

Regular employees may be counseled, admonished, reprimanded, suspended, demoted, discharged or incur a reduction in pay for, including but not limited to, any of the following causes of discipline:

1. Fraud or misrepresentation, whether intentional or negligent, in securing appointment, securing promotion, maintaining employment or in the performance of job duties;
2. Neglect of duty;
3. Insubordination or the insulting or demeaning the authority of a supervisor or manager;
4. Unsatisfactory job performance;
5. Dishonesty, including but not limited to the dissemination of false information to a Department Head, City Manager, City Council member or other City or governmental body concerning City affairs;
6. Inefficiency;
7. Violation of the City's Drug Free Workplace Policy, including refusal to consent to drug or alcohol testing and/or searches;
8. Excessive absenteeism and/or tardiness as defined by the employee's Department Head, these Personnel Rules, or an applicable MOU;
9. Use of disability leave in a manner not authorized or provided for pursuant to these Personnel Rules;
10. Making any false statement, omission or misrepresentation of a material fact;
11. Absence without authorized leave;
12. Malfeasance or misconduct, which shall be deemed to include, but shall not be limited to, the following acts or omissions:

    a. Conviction of a felony. "Conviction" shall be construed to be a determination of guilt by the accused by a court, including a plea of guilty or nolo contendere, regardless of sentence, grant of probation, or otherwise;
    b. The damaging of City property, equipment, or vehicles, or the waste of City supplies through negligence or misconduct.

13. Discourteous treatment of the public or other employees;
14. Unapproved outside employment or activity that violates City policy, or other enterprise that constitutes a conflict of interest with service to the City;
15. Violation of OSHA Safety Standards or City safety policies and/or procedures;

16. Loss, misuse or unauthorized use of any City property, including but not limited to: physical property, tools, equipment, communication systems, City vehicles or intellectual property;
17. Violation of any department rule, City policy, City regulation, ordinance or resolution;
18. Any conduct that impairs, disrupts, or causes discredit to the City, the employee's City employment, the public service, or other City employees' employment;
19. Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity;
20. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with employment;
21. Failure to maintain and continuously fulfill requirements of the employee's position as listed in the employee's job description;
22. Theft;
23. Mishandling of public funds;
24. Falsifying any City record;
25. Failure to cooperate with supervisors or fellow employees;
26. Violation of the City's Harassment/Discrimination/Retaliation Prevention Policy;
27. Violation of the City's Workplace Security Policy;
28. Altering, falsifying or tampering with time records, or recording time on another employee's time record;
29. Working overtime without prior authorization or refusing to work assigned overtime; and
30. Carrying firearms or other dangerous weapons on City premises at any time, unless authorized to do so.

13.03 Types of Disciplinary Action

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

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

B. **Written Reprimand.** A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. The employee shall have the right to have a written rebuttal attached to the written reprimand in the employee's personnel file if the rebuttal is submitted to the Human Resources Department within 10 days of the date the written reprimand was received. A written reprimand is not subject to appeal.

C. **Reduction in Pay.** An employee's pay may be reduced for cause. 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 shall become part of the

employee's personnel file when the discipline becomes final. An employee subject to a reduction in pay will receive prior written notice and the opportunity to appeal in accordance with this disciplinary appeal process.

D. **Demotion.** An employee may be demoted from his/her position for cause. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final. An employee subject to a demotion will receive prior written notice and the opportunity to appeal in accordance with this disciplinary appeal process.

E. **Suspension.** An employee may be suspended from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. During suspension, vacation and sick leave shall not accrue. However, health, dental and life insurance shall remain in effect. An employee subject to suspension will receive prior written notice and the opportunity to appeal in accordance with this disciplinary appeal process.

F. **Discharge.** An employee may be discharged from his/her position for cause. Documents related to discharge shall become a part of an employee's personnel file when the discipline becomes final. An employee subject to discharge will receive prior written notice and the opportunity to appeal in accordance with this disciplinary appeal process.

13.04 Administrative Leave With Pay

The City may place an employee on administrative leave with pay pending investigation of misconduct, potential disciplinary action, or for any other reason that the Personnel Officer, in his/her sole discretion, believes warrants such leave. Administrative leave with pay shall not, in and of itself, be considered a disciplinary action and is not subject to any grievance, hearing or appeal procedure.

13.05 Notice of Intended Disciplinary Action

In cases of proposed suspensions, demotions, reductions in pay or discharges (hereinafter referred to as "Significant Discipline"), the proposed disciplinary action shall be served on the employee personally or by mail, at last known address on file in the Human Resources Department. The written notice of intended disciplinary action shall include:

1. The level of discipline intended to be imposed;
2. The specific charges upon which the intended discipline is based;
3. A summary of the facts upon which the intended discipline is based;
4. A copy of all written materials, reports, or documents upon which the intended discipline is based;
5. Notice of the employee's right to respond to the charges either in writing or orally, at the option of the employee. The employee shall be advised that he/she has seven (7) days within which to file a written response or request, in writing, a predisciplinary conference;

6. Notice of the employee's right to have a representative of his/her choice at the conference, should he/she choose to respond orally; and
7. Notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline.

13.06 Employee's Response and the Predisciplinary (*Skelly*) Conference

If the employee requests an opportunity to respond orally, the conference must be scheduled at least ten (10) days after the date of the Notice. The conference will be an informal meeting with the Department Head or designee, at which the employee has an opportunity to rebut the charges against him/her and present any mitigating circumstances. The Department Head or designee will consider the employee's presentation before any final disciplinary action.

The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his/her written response to be delivered 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 discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

13.07 Final Notice of Discipline

Within ten (10) days of the predisciplinary conference or within ten (10) days of the receipt of the employee's timely written response, the Department Head or his/her designee will: (1) dismiss the notice of intent and take no disciplinary action against the employee; (2) modify the intended disciplinary action; or (3) impose the intended disciplinary action. In any event, the Department Head will prepare and provide the employee with a notice that contains the following:

A. The level of discipline, if any, to be imposed and the effective date of the discipline;

B. The specific charges upon which the discipline is based;

C. A summary of the facts upon which the charges are based;

D. A copy of all written materials, reports, or documents upon which the discipline is based; and

E. A statement of the employee's right to appeal.

13.08 Right of Appeal

A. If Significant Discipline is imposed on an employee following a predisciplinary hearing or after submitting a written response to the charges against him/her, the employee shall have the right to appeal the Significant Discipline to the City Manager or the City Manager's designee, by giving notice to the Human Resources Department of his/her request to appeal the discipline within ten (10) days after the employee receives the Final

Notice of Discipline. An employee who chooses to waive the right to a predisciplinary hearing or the right to respond to the charges in writing allows the discipline to be imposed as stated in the Final Notice of Discipline and shall not have a right to appeal the discipline.

B. If the employee requests an appeal of discipline, it shall not prevent the discipline from being served or imposed prior to the appeal hearing.

C. The discipline appeal hearing shall be held at a date and time to be scheduled by the City Manager or his/her designee. The City Manager or his/her designee may, in his/her discretion, take into consideration the scheduling needs and concerns of the employee. The hearing will be closed to the public unless the employee requests in writing that the hearing be open to the public.

D. The employee may be represented at the appeal hearing by a representative of his/her choice who may or may not be an attorney.

E. The City may be represented by a representative of its choice who may or may not be an attorney.

F. Both the employee and the City shall have the right to call and cross-examine witnesses, subject to the following:

1. The employee and the City shall provide each other with a copy of all evidence (except rebuttal evidence), and a list of all witnesses (except rebuttal witnesses) intended to be called at the hearing no later than fifteen (15) days prior to the hearing;
2. All witnesses shall testify under oath;
3. The City Manager has authority to issue subpoenas in the name of the City prior to the commencement of the hearing. Each party is responsible for serving his/her/its own subpoenas.

G. Both the employee and the City shall have the right to present documentary and tangible evidence at the hearing.

H. The City Manager or his/her designee shall preside over the hearing and has the discretion to conduct the proceedings and allow admission of evidence based upon such rules of procedure and evidence as the City Manager, or his/her designee, shall choose. In no event shall the City Manager, or his/her designee, impose rules of procedure or evidence more stringent than the California Rules of Civil Procedure and the California Rules of Evidence.

I. During the hearing, the City shall have the burden of proof and production that the discipline as imposed was correct based upon a preponderance of the evidence.

J. The hearing shall proceed in the following order unless the City Manager or his/her designee directs otherwise:

1. The City shall be permitted to make an opening statement.
2. The employee shall be permitted to make an opening statement.
3. The City shall produce its evidence.
4. The employee shall produce his/her evidence.
5. The City, followed by the employee, may offer rebuttal evidence.
6. Closing arguments of no more than twenty (20) minutes may be permitted at the discretion of the City Manager. The City shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.

K. Within thirty (30) days following the close of the appeal hearing, the City Manager or his/her designee shall issue a written Notice of Decision. The Notice of Decision shall specify the following:

1. Whether the discipline imposed is upheld, reduced, or voided; and
2. The grounds upon which the decision is made.

L. The Notice of Decision and a copy of this policy shall be mailed to the employee or the employee's representative by first-class mail, postage prepaid, including a copy of a proof of service.

M. If any portion of the discipline is reduced or voided, the employee shall be entitled to corresponding back wages and/or benefits lost, if any.

N. The decision of the City Manager or his/her designee shall be final and binding.

O. An employee seeking to appeal the decision of the City Manager or his/her designee in a superior or district court must file a petition in a court of competent jurisdiction within ninety (90) days after the Notice of Decision is mailed to the employee or will otherwise be considered to have waived the right to do so. (California Code of Civil Procedure 1094.6).

P. An employee who chooses not to exercise his/her right to appeal an imposition of significant discipline to the City Manager, consistent with the terms and conditions of this policy, shall be barred from appealing the imposition of such discipline in superior or district court for failure to exhaust administrative remedies. This shall include any employee who chooses to prematurely terminate appeal proceedings before the City Manager (or his/her designee) has issued the Notice of Decision.

City of Wasco

ACKNOWLEDGEMENT OF RECEIPT OF

PERSONNEL RULES AND REGULATIONS

This is to acknowledge that I have received a copy of the City of Wasco's Personnel Rules and Regulations dated _____, and I understand that it contains important information on the City's policies and on my obligations and responsibilities as an employee. I acknowledge that I am expected to read, understand, and adhere to City policies and will familiarize myself with the provisions in the Personnel Rules and Regulations.

I understand that I am governed by the provisions in these Personnel Rules and Regulations and that it may be necessary for the City to make revisions to these Personnel Rules and Regulations. When this happens, the City will make these changes through established processes and advise employees of material changes within a reasonable time period.

_____

Employee's Signature **Date**

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

EXHIBIT "B"

City of Wasco
Employer-Employee Relations Policy

ARTICLE I – GENERAL PROVISIONS

Sec. 1 -- Statement of Purpose

A. This policy 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" (the Meyers-Milias-Brown Act) 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 or federal law, City ordinances, resolutions, and rules which establish and regulate the merit system, or which provide for other methods of administering employer-employee relations. This policy is intended instead to strengthen civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.

B. The purpose of this policy is to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly affect and primarily involve wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. 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 missions 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 its 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 of performing its work, including as may be affected by budgetary constraints existing within the City.

Sec. 2 -- Definitions

As used in this policy, the following terms shall have meaning as indicated:

1. **Appropriate Unit** means a unit of employee classes or positions, established pursuant to Article II of this policy.

2. **City** means the City of Wasco, and, where appropriate herein, refers to the City Council or any duly authorized City representative as defined herein.

3. **Confidential Employee** means an employee who, in the course of his/her duties, has access to information relating to the City's administration of employer-employee relations.

4. **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 required scope of such meet and confer process, does not involve an exchange of proposals and counter-proposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to the impasse procedures contained herein.

5. **Day** means calendar day unless expressly stated otherwise.

6. **Employee Relations Officer** means the City Manager or his/her duly authorized representative.

7. **Exclusively Recognized Employee Organization** shall mean an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

8. **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 concerning which they are required to meet and confer, remains so substantial and prolonged that further meeting and conferring would be futile.

9. **Management Employee** means an employee having responsibility for formulating, or administering or managing the implementation of City policies or programs.

10. **Proof of Employee Support** means: (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee; (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 such proof of support.

11. **Supervisory Employee** means any employee having authority, in the interest of the City, 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 effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a routine or clerical nature, but requires use of discretion or independent judgment.

12. Terms not defined herein shall have the meanings set forth in the MMBA.

ARTICLE II – REPRESENTATION PROCEEDINGS

Sec. 3 -- Filing of Recognition Petition by Employee Organization

An employee organization that 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, 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 an manner, with a local, regional, state, national or international organization, and, if so, the name and address of such other organization;

F. Certified copies of the employee organization's constitution and by-laws;

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, national origin, religion, sexual orientation, age, creed, sex, mental or physical disability, or medical condition.

I. The job classifications or 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 upon 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.

Sec. 4 -- 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 9 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. 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 thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Section 12 of this policy.

Sec. 5 -- 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 recognized 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 3 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 9 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 to appeal such determination pursuant to Section 12 of this Article II.

Sec. 6 -- Granting Recognition Without an Election

If the petition is in order, and 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.

Sec. 7 -- Election Procedures

A. When recognition is not granted pursuant to Sec. 6, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this policy. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The choice of "no organization" shall also be included on the ballot.

B. 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 the valid votes cast in the election.

C. In an election involving three (3) 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 (2) choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

D. There shall be no more than one (1) valid election under this policy pursuant to any petition in a twelve (12) month period affecting the same unit.

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

F. 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.

Sec. 8 -- Procedure for Decertification of Recognized Employee Organization

A. 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 November 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 (2) or more employees or their representatives, 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:

1. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information;

2. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit;

3. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an appropriate unit, and any other relevant and material facts relating thereto; and

4. 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.

B. 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 allegations and information required under this Section 8, and otherwise conforms to the requirements of Section 3 of this Article.

C. The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If 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 statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 12 of Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

D. The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about 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 7 of this Article II.

E. During the "open period" specified in the first paragraph of this Section 8, 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 Sec. 8, which the Employee Relations Officer shall act on in accordance with this Sec. 8.

F. If, pursuant to this Section 8, 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.

Sec. 9 -- Policy and Standards for Determination of Appropriate Units

A. 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.

B. Factors to be considered shall be:

1. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions;

2. 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;

3. Consistency with the organizational patterns of the City;

4. Number of employees and classification, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units;

5. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two (2) or more units; and

6. Effect of differing legally mandated impasse resolution procedures.

C. Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Section 2 of this policy are determining factors in establishing appropriate units hereunder. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

D. Peace officers may be required, and have the right, to be represented in separate units consisting solely of peace officers. These units shall not be represented by an organization which, directly or indirectly, is subordinate to any other employee organization which includes non-peace officers.

E. 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 Employee Relations Officer shall be final.

Sec. 10 -- Procedure for Modification of Established Appropriate Units

A. 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 8 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 3 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 9 of Article II. The Employee Relations Officer shall process such petitions as other Recognition Petitions under Article II.

B. The Employee Relations Officer may on his/her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organizations 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 9 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 12 of this Article. 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 Article II, Section 3.

Sec. 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 10 for modification requests.

Sec. 12 -- Appeals

A. 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 (Section 3), Challenging Petition (Section 5) Decertification Petition (Section 8), Unit Modification Petition (Section 10) -- or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition

(Section 8) or Severance Request (Section 11) -- has not been filed in compliance with the applicable provisions of this Article, 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 thereof 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.

B. Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (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

Sec. 13 -- Submission of Current Information by Recognized Employee Organizations

A. All changes in the information filed with the City by an Exclusively Recognized Employee Organization under items (A) through (H) of its Recognition Petition under Section 3 of this policy shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

B. Exclusively Recognized Employee Organizations that are party to an agency shop provision shall provide annually to the Employee Relations Officer and to unit members within sixty (60) days after the end of its fiscal year the financial report required under Government Code Section 3502.5 (f) of the Meyers-Milias-Brown Act.

Sec. 14 -- Employee Organization Activities - Use of City Resources

A. The use of City paid time, facilities, equipment and other resources by employee organizations and those representing them and 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 policy pertaining directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

B. The City shall provide reasonable space on bulletin boards at places of work for the use of Exclusively Recognized Employee Organizations to inform employees

about organizational activities and affairs. Material shall be posted under the following conditions:

1) Posted material shall bear the date and identity of the organization.

2) Posted material shall not contain defamatory material known to be false.

3) Material shall be neatly displayed and shall be removed when no longer timely.

Material that violates City policy, including but not limited to, the City's Harassment/Discrimination/Retaliation Prevention policy, may be removed.

C. Agents of an Exclusively Recognized Employees Organization when accompanied by representatives of the City chosen by the City Manager, shall be allowed to visit places of city employment where employees it represents are at work, for the purpose of observing conditions of work, or consulting with members regarding immediate grievances or job problems. Such visits shall not be permitted to interfere with the orderly flow of work, nor to cause unsafe working conditions.

Sec. 15 -- Administrative Rules and Procedures

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

ARTICLE IV – IMPASSE PROCEDURES

Sec. 16 -- Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in Section 2 of this policy, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse 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 procedures provided herein.

Sec. 17 -- Impasse Procedures

Impasse procedures are 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 did not agree on mediation or the selection of a mediator, or having so agreed, the impasse has not been resolved, the City Council may take such action regarding the impasse as it deems appropriate in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

Sec. 18 – Costs of Impasse Procedures

A. The costs for the services of mediation utilized by the parties, and other mutually incurred costs of mediation, shall be borne equally by the City and the Exclusively Recognized Employee Organization.

B. Separately incurred costs shall be borne by the party incurring the cost.

ARTICLE V – MISCELLANEOUS PROVISIONS

Sec. 19 – Construction

This Resolution shall be administered and construed as follows:

A. Nothing in this policy 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 policy shall be interpreted so as to carry out its purpose as set forth in Article I.

C. Under the Meyers-Milias-Brown Act and other applicable state and federal laws, employees may have the right to participate in a strike or other protected concerted activity. However, nothing in this policy shall be construed as limiting the City's right to address any unlawful strike, sickout, or other total or partial stoppage or slowdown of work not protected under state or federal law or as determined by an applicable court of law or administrative agency. Where such action is unlawful, the City reserves the right to subject violators to disciplinary action, up to and including termination of employment, and may be replaced; and employee organization may thereby forfeit rights accorded to them under City law or contract

Sec. 20 – Severability

If any provision of this policy, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this policy, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected hereby and shall continue in full force and effect.

Sec. 21 – Payroll Deductions on behalf of Employee Organizations

A. Upon formal acknowledgment by the City of an Exclusively Recognized Employee Organization under this policy, only such Exclusively Recognized Employee Organizations may be provided payroll deductions of membership dues and union-sponsored benefit programs upon the written authorization of employees in the unit represented by the Exclusively Recognized Employee Organization on forms provided by the City. The providing of such service to the Exclusively Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

B. No payroll deductions shall be made other than for Health Insurance, Pension Plan Contributions, LTD, SDI, Credit Union, Deferred Compensation, and recognized employee organization dues, unless otherwise approved by the Personnel Officer.

EXHIBIT "C"

INJURY AND ILLNESS PREVENTION PROGRAM FOR THE CITY OF WASCO

RESPONSIBILITY

The administrative responsibility for workplace security lies with the IIPP Administrator, who is also the City Manager, or his designee. The IIPP Administrator has the authority and responsibility for implementing the provisions of this program for the City of Wasco.

All Department Heads and supervisors are responsible for implementing and maintaining this IIPP in their work areas and for answering employee questions concerning it. A copy of this IIPP is available in Human Resources.

COMPLIANCE

Management is responsible for ensuring that all safety and health policies and procedures are clearly communicated and understood by all employees. Department Heads and supervisors are expected to enforce the rules fairly and uniformly.

All employees are responsible for using safe work practices; for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

The following is the City's system of ensuring that all employees comply with work practices that are designed to make the City safe:

- Informing employees of the provisions of the IIPP;
- Evaluating the safety performance of all employees;
- Recognizing employees who perform safe and healthful work practices. This recognition is accomplished by noting it on employee performance evaluations;
- Providing training and/or counseling to employees whose safety performance is deficient; and
- Disciplining employees for failure to comply with safe and healthful work practices. For more information about the City's disciplinary procedures for violation of OSHA safety standards or City safety policies and/or procedures, please see the City's Personnel Rules and Regulations.

COMMUNICATION

The City recognizes that to maintain a safe, healthy, and secure City we must have open two-way communication between all employees, including managers and supervisors, on all City safety, health, and security issues. The City has a communication system designed to encourage a continuous flow of safety, health, and security information between management and our employees without fear of reprisal and in a form that is readily understandable.

The communication system consists of the following items:

- New employee orientation, including a discussion of site-specific safety and health policies, procedures, and work practices;
- Follow-through by supervisory employees to ensure effectiveness;
- Periodic review of the City's IIPP with all employees;
- Training programs designed to address specific aspects of workplace safety;
- Regularly scheduled safety meetings with employees;
- A system to ensure that all employees, including managers and supervisors, understand City workplace safety policies;
- Posted or distributed City safety information;
- Promptly addressing workplace security issues brought to the attention of the City; and
- Effective written communication of safety and health concerns between workers and supervisors, including language translation where appropriate.

HAZARD ASSESSMENT

Periodic inspections to identify and evaluate workplace hazards shall be performed according to the following schedule:

- Upon adoption of the IIPP;
- When new, previously unidentified safety and/or security hazards are recognized;
- When occupational injuries or threats of injury occur;
- Whenever workplace conditions warrant an inspection; and
- On a semi-annual basis.

Periodic inspections consist of identification and evaluation of workplace hazards utilizing applicable sections o the attached Hazard Assessment Checklist (See Exhibit A), and any other effective methods to identify and evaluate workplace hazards.

Periodic inspections may be performed in the following areas of the City:

- Corporate Yard, Wastewater Plant and Greenwaste Building;
- City Hall Annex;
- City Hall; and
- Water Shop.

ACCIDENT/EXPOSURE INVESTIGATIONS

Investigation of workplace accidents, hazardous substance exposures and near-accidents will be done by a Department Head or his/her designee and will include:

- Reviewing all previous incidents;
- Visiting the scene as soon as possible;
- Interviewing affected employees and witnesses;
- Examining the workplace for factors associated with the accident/exposure/near-accident;
- Determining the cause(s) of the accident/exposure/near-accident;
- Taking corrective action to prevent the accident/exposure/near-accident from recurring; and
- Recording the findings and corrective actions taken on the attached OSHA Form 301 (See Exhibit B).

HAZARD CORRECTION

Unsafe or unhealthy work conditions, practices or procedures at City facilities shall be corrected in a timely manner based on the severity of the hazards, and according to the following procedures:

- When observed or discovered;
- When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, the City will remove all exposed employees from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided with the necessary protection; and
- All such actions taken and dates they are completed shall be documented on the attached Identified Hazards and Correction Record (See Exhibit C).

TRAINING AND INSTRUCTION

All employees, including managers and supervisors, shall have training and instruction on general and job-specific safety and health practices. Training and instruction shall be

provided as follows:

- When the IIPP is first established and periodically thereafter;
- To all new employees;
- To all employees for whom training has not previously been provided;
- Whenever new substances, processes, procedures or equipment are introduced to the workplace and present a new hazard;
- Whenever the City becomes aware of a new or previously unrecognized hazard; and
- To all employees, supervisors, and managers given new job assignments for which specific training for that job assignment has not previously been provided.

This training and instruction includes, but is not limited to, the following:

- Explanation of the City's IIPP, including measures for reporting any unsafe conditions, work practices and injuries;
- Availability of toilet, hand-washing and drinking water facilities;
- Provisions for medical services and first aid, including emergency procedures;
- Proper housekeeping, such as keeping stairways and aisles clear, work areas neat and orderly, and promptly cleaning up spills;
- Prohibiting horseplay, scuffling, or other acts that adversely affect safety; and
- Proper storage to prevent: 1) stacking goods in an unstackable manner; and 2) storing materials and goods against doors, exits, fire extinguishing equipment and electrical panels.

Where applicable, the City's training may also include:

- Prevention of muscoskeletal disorders, including proper lifting techniques;
- Use of appropriate clothing, including gloves, footwear and personal protective equipment;
- Information about chemical hazards to which employees could be exposed and other hazard communication program information; and
- Proper food and beverage storage to prevent them from becoming contaminated.

In addition, the City provides specific instructions to all employees regarding hazards unique to their job assignment, to the extent that such information was not already covered in other trainings.

EXHIBIT A
CITY OF WASCO
HAZARD ASSESSMENT CHECKLIST

The following checklist can be used to identify and evaluate hazards in your workplace. This checklist covers a wide variety of workplace safety and health hazards. All of the topics covered in this checklist may not apply to your particular workplace. When evaluating your workplace, use the sections of the checklist that apply to your workplace and work activities.

GENERAL WORK ENVIRONMENT

☐ Are all worksites clean and orderly?
☐ Are work surfaces kept dry or appropriate means taken to assure the surfaces are slip-resistant?
☐ Are all spilled materials or liquids cleaned up immediately?
☐ Is combustible scrap, debris and waste stored safely and removed from the worksite promptly?
☐ Is accumulated combustible dust routinely removed from elevated surfaces, including the overhead structure of buildings?
☐ Is combustible dust cleaned up with a vacuum system to prevent the dust going into suspension?
☐ Is metallic or conductive dust prevented from entering or accumulation on or around electrical enclosures or equipment?
☐ Are covered metal waste cans used for oily and paint-soaked waste?
☐ Are all oil and gas fired devices equipped with flame failure controls that will prevent flow of fuel if pilots or main burners are not working?
☐ Are paint spray booths, dip tanks and the like cleaned regularly?
☐ Are the minimum number of toilets and washing facilities provided?
☐ Are all toilets and washing facilities clean and sanitary?
☐ Are all work areas adequately illuminated?
☐ Are pits and floor openings covered or otherwise guarded?

PERSONAL PROTECTIVE EQUIPMENT

☐ Are protective goggles or face shields provided and worn where there is any danger of flying particles or corrosive materials?
☐ Are approved safety glasses required to be worn at all times in areas where there is a risk of eye injuries such as punctures, abrasions, contusions or burns?
☐ Are employees who need corrective lenses (glasses or contacts lenses) in working environments with harmful exposures, required to wear only approved safety glasses, protective goggles, or use other medically approved precautionary procedures?
☐ Are protective gloves, aprons, shields, or other means provided against cuts, corrosive liquids and chemicals?
☐ Are hard hats provided and worn where danger of falling objects exists?
☐ Are hard hats inspected periodically for damage to the shell and suspension system?

☐ Is appropriate foot protection required where there is the risk of foot injuries from hot, corrosive, poisonous substances, falling objects, crushing or penetrating actions?
☐ Are approved respirators provided for regular or emergency use where needed?
☐ Is all protective equipment maintained in a sanitary condition and ready for use?
☐ Do you have eye wash facilities and a quick drench shower within the work area where employees are exposed to injurious corrosive materials?
☐ Where special equipment is needed for electrical workers, is it available?
☐ When lunches are eaten on the premises, are they eaten in areas where there is no exposure to toxic materials or other health hazards?
☐ Is protection against the effects of occupational noise exposure provided when sound levels exceed those of the Cal/OSHA noise standard?

WALKWAYS

☐ Are aisles and passageways kept clear?
☐ Are aisles and walkways marked as appropriate?
☐ Are wet surfaces covered with non-slip materials?
☐ Are holes in the floor, sidewalk or other walking surface repaired properly, covered or otherwise made safe?
☐ Is there safe clearance for walking in aisles where motorized or mechanical handling equipment is operating.
☐ Are spilled materials cleaned up immediately?
☐ Are materials or equipment stored in such a way that sharp projectiles will not interfere with the walkway?
☐ Are changes of direction or elevations readily identifiable?
☐ Are aisles or walkways that pass near moving or operating machinery, welding operations or similar operations arranged so employees will not be subjected to potential hazards?
☐ Is adequate headroom provided for the entire length of any aisle or walkway?
☐ Are standard guardrails provided wherever aisle or walkway surfaces are elevated more than 30 inches above any adjacent floor or the ground?
☐ Are bridges provided over conveyors and similar hazards?

FLOOR AND WALL STAIRWAYS

☐ Are floor openings guarded by a cover, guardrail, or equivalent on all sides (except at entrance to stairways or ladders)?
☐ Are toe boards installed around the edges of a permanent floor opening (where persons may pass below the opening)?
☐ Are skylight screens of such construction and mounting that they will withstand a load of at least 200 pounds?
☐ Is the glass in windows, doors, glass walls that are subject to human impact, of sufficient thickness and type for the condition of use?
☐ Are grates or similar type covers over floor openings such as floor drains, of such design that foot traffic or rolling equipment will not be affected by the grate spacing?
☐ Are unused portions of service pits and pits not actually in use either covered or

protected by guardrails or equivalent?
□ Are manhole covers, trench covers and similar covers, plus their supports, designed to carry a truck rear axle load of at least 20,000 pounds when located in roadways and subject to vehicle traffic?
□ Are floor or wall openings in fire resistive construction provided with doors or covers compatible with the fire rating of the structure and provided with self-closing feature when appropriate?

STAIRS & STAIRWAYS

□ Are standard stair rails or handrails on all stairways having four or more risers?
□ Are all stairways at least 22 inches wide?
□ Do stairs have at least a 6'6" overhead clearance?
□ Do stairs angle no more than 50 and no less than 30 degrees?
□ Are stairs of hollow-pan type treads and landings filled to noising level with solid material?
□ Are step risers on stairs uniform from top to bottom, with no riser spacing greater than 7-1/2 inches?
□ Are steps on stairs and stairways designed or provided with a surface that renders them slip resistant?
□ Are stairway handrails located between 30 and 34 inches above the leading edge of stair treads?
□ Do stairway handrails have a least 1-1/2 inches of clearance between the handrails and the wall or surface they are mounted on?
□ Are stairway handrails capable of withstanding a load of 200 pounds, applied in any direction?
□ Where stairs or stairways exit directly into any area where vehicles may be operated, are adequate barriers and warnings provided to prevent employees stepping into the path of traffic?
□ Do stairway landings have a dimension measured in the direction of travel, at least equal to width of the stairway?
□ Is the vertical distance between stairway landings limited to 12 feet or less?

ELEVATED SURFACES

□ Are signs posted, when appropriate, showing the elevated surface load capacity?
□ Are surfaces elevated more than 30 inches above the floor or ground provided with standard guardrails?
□ Are all elevated surfaces (beneath which people or machinery could be exposed to falling objects) provided with standard 4-inch toe boards?
□ Is a permanent means of access and egress provided to elevated storage and work surfaces?
□ Is required headroom provided where necessary?
□ Is material on elevated surfaces piled, stacked or racked in a manner to prevent it from tipping, falling, collapsing, rolling or spreading?
□ Are dock boards or bridge plates used when transferring materials between docks and

trucks or rail cars?

EXITING OR EGRESS

☐ Are all exits marked with an exit sign and illuminated by a reliable light source?
☐ Are the directions to exits, when not immediately apparent, marked with visible signs?
☐ Are doors, passageways or stairways, that are neither exits nor access to exits and which could be mistaken for exits, appropriately marked "NOT AN EXIT", "TO BASEMENT", "STOREROOM", and the like?
☐ Are exit signs provided with the word "EXIT" in lettering at least 5 inches high and the stroke of the lettering at least 1/2 inch wide?
☐ Are exit doors side-hinged?
☐ Are all exits kept free of obstructions?
☐ Are at least two means of egress provided from elevated platforms, pits or rooms where the absence of a second exit would increase the risk of injury from hot, poisonous, corrosive, suffocating, flammable, or explosive substances?
☐ Are there sufficient exits to permit prompt escape in case of emergency?
☐ Are special precautions taken to protect employees during construction and repair operations?
☐ Is the number of exits from each floor of a building, and the number of exits from the building itself, appropriate for the building occupancy load?
☐ Are exit stairways which are required to be separated from other parts of a building enclosed by at least two hour fire-resistive construction in buildings more than four stories in height, and not less than one-hour fire resistive construction elsewhere?
☐ When ramps are used as part of required exiting from a building, is the ramp slope limited to 1- foot vertical and 12 feet horizontal?
☐ Where exiting will be through frameless glass doors, glass exit doors, storm doors, and such are the doors fully tempered and meet the safety requirements for human impact?

EXIT DOORS

☐ Are doors that are required to serve as exits designed and constructed so that the way of exit travel is obvious and direct?
☐ Are windows that could be mistaken for exit doors, made inaccessible by means of barriers or railings?
☐ Are exit doors openable from the direction of exit travel without the use of a key or any special knowledge or effort, when the building is occupied?
☐ Is a revolving, sliding or overhead door prohibited from serving as a required exit door?
☐ Where panic hardware is installed on a required exit door, will it allow the door to open by applying a force of 15 pounds or less in the direction of the exit traffic?
☐ Are doors on cold storage rooms provided with an inside release mechanism that will release the latch and open the door even if it's padlocked or otherwise locked on the outside?
☐ Where exit doors open directly onto any street, alley or other area where vehicles may be operated, are adequate barriers and warnings provided to prevent employees stepping

into the path of traffic?
□ Are doors that swing in both directions and are located between rooms where there is frequent traffic, provided with viewing panels in each door?

PORTABLE LADDERS

□ Are all ladders maintained in good condition, joints between steps and side rails tight, all hardware and fittings securely attached, and moveable parts operating freely without binding or undue play?
□ Are non-slip safety feet provided on each ladder?
□ Are non-slip safety feet provided on each metal or rung ladder?
□ Are ladder rungs and steps free of grease and oil?
□ Is it prohibited to place a ladder in front of doors opening toward the ladder except when the door is blocked open, locked or guarded?
□ Is it prohibited to place ladders on boxes, barrels, or other unstable bases to obtain additional height?
□ Are employees instructed to face the ladder when ascending or descending?
□ Are employees prohibited from using ladders that are broken, missing steps, rungs, or cleats, broken side rails or other faulty equipment?
□ Are employees instructed not to use the top 2 steps of ordinary stepladders as a step?
□ When portable rung ladders are used to gain access to elevated platforms, roofs, and the like does the ladder always extend at least 3 feet above the elevated surface?
□ Is it required that when portable rung or cleat type ladders are used the base is so placed that slipping will not occur, or it is lashed or otherwise held in place?
□ Are portable metal ladders legibly marked with signs reading "CAUTION" "Do Not Use Around Electrical Equipment" or equivalent wording?
□ Are employees prohibited from using ladders as guys, braces, skids, gin poles, or for other than their intended purposes?
□ Are employees instructed to only adjust extension ladders while standing at a base (not while standing on the ladder or from a position above the ladder)?
□ Are metal ladders inspected for damage?
□ Are the rungs of ladders uniformly spaced at 12 inches, center to center?

HAND TOOLS & EQUIPMENT

□ Are all tools and equipment (both, company and employee-owned) used by employees at their workplace in good condition?
□ Are hand tools such as chisels, punches, which develop mushroomed heads during use, reconditioned or replaced as necessary?
□ Are broken or fractured handles on hammers, axes and similar equipment replaced promptly?
□ Are worn or bent wrenches replaced regularly?
□ Are appropriate handles used on files and similar tools?
□ Are employees made aware of the hazards caused by faulty or improperly used hand tools?
□ Are appropriate safety glasses, face shields, and similar equipment used while using

hand tools or equipment that might produce flying materials or be subject to breakage?
☐ Are jacks checked periodically to assure they are in good operating condition?
☐ Are tool handles wedged tightly in the head of all tools?
☐ Are tool cutting edges kept sharp so the tool will move smoothly without binding or skipping?
☐ Are tools stored in dry, secure location where they won't be tampered with?
☐ Is eye and face protection used when driving hardened or tempered spuds or nails?

PORTABLE (POWER OPERATED) TOOLS & EQUIPMENT

☐ Are grinders, saws, and similar equipment provided with appropriate safety guards?
☐ Are power tools used with the correct shield, guard or attachment recommended by the manufacturer?
☐ Are portable circular saws equipped with guards above and below the base shoe?
☐ Are circular saw guards checked to assure they are not wedged up, thus leaving the lower portion of the blade unguarded?
☐ Are rotating or moving parts of equipment guarded to prevent physical contact?
☐ Are all cord-connected, electrically operated tools and equipment effectively grounded or of the approved double insulated type?
☐ Are effective guards in place over belts, pulleys, chains, and sprockets, on equipment such as concrete mixers, air compressors, and the like?
☐ Are portable fans provided with full guards or screens having openings 1/2 inch or less?
☐ Is hoisting equipment available and used for lifting heavy objects, and are hoist ratings and characteristics appropriate for the task?
☐ Are ground-fault circuit interrupters provided on all temporary electrical 15 and 20 ampere circuits, used during periods of construction?
☐ Are pneumatic and hydraulic hoses on power-operated tools checked regularly for deterioration or damage?

ABRASIVE WHEEL EQUIPMENT GRINDERS

☐ Is the work rest used and kept adjusted to within 1/8 inch of the wheel?
☐ Is the adjustable tongue on the top side of the grinder used and kept adjusted to within 1/4 inch of the wheel?
☐ Do side guards cover the spindle, nut, and flange and 75 percent of the wheel diameter?
☐ Are bench and pedestal grinders permanently mounted?
☐ Are goggles or face shields always worn when grinding?
☐ Is the maximum RPM rating of each abrasive wheel compatible with the RPM rating of the grinder motor?
☐ Are fixed or permanently mounted grinders connected to their electrical supply system with metallic conduit or other permanent wiring method?
☐ Does each grinder have an individual on and off control switch?
☐ Is each electrically operated grinder effectively grounded?
☐ Before new abrasive wheels are mounted, are they visually inspected and ring tested?

☐ Are dust collectors and powered exhausts provided on grinders used in operations that produce large amounts of dust?
☐ Are splashguards mounted on grinders that use coolant, to prevent the coolant reaching employees?
☐ Is cleanliness maintained around grinder?

POWDER ACTUATED TOOLS

☐ Are employees who operate powder-actuated tools trained in their use and carry a valid operator's card?
☐ Do the powder-actuated tools being used have written approval of the Division of Occupational Safety and Health?
☐ Is each powder-actuated tool stored in its own locked container when not being used?
☐ Is a sign at least 7" by 10" with bold type reading "POWDER-ACTUATED TOOL IN USE" conspicuously posted when the tool is being used?
☐ Are powder-actuated tools left unloaded until they are actually ready to be used?
☐ Are powder-actuated tools inspected for obstructions or defects each day before use?
☐ Do powder-actuated tools operators have and use appropriate personal protective equipment such as hard hats, safety goggles, safety shoes and ear protectors?

MACHINE GUARDING

☐ Is there a training program to instruct employees on safe methods of machine operation?
☐ Is there adequate supervision to ensure that employees are following safe machine operating procedures?
☐ Is there a regular program of safety inspection of machinery and equipment?
☐ Is all machinery and equipment kept clean and properly maintained?
☐ Is sufficient clearance provided around and between machines to allow for safe operations, set up and servicing, material handling and waste removal?
☐ Is equipment and machinery securely placed and anchored, when necessary to prevent tipping or other movement that could result in personal injury?
☐ Is there a power shut-off switch within reach of the operator's position at each machine?
☐ Can electric power to each machine be locked out for maintenance, repair, or security?
☐ Are the noncurrent-carrying metal parts of electrically operated machines bonded and grounded?
☐ Are foot-operated switches guarded or arranged to prevent accidental actuation by personnel or falling?
☐ Are manually operated valves and switches controlling the operation of equipment and machines clearly identified and readily accessible?
☐ Are all emergency stop buttons colored red?
☐ Are all pulleys and belts that are within 7 feet of the floor or working level properly guarded?
☐ Are all moving chains and gears properly guarded?
☐ Are splashguards mounted on machines that use coolant, to prevent the coolant from

reaching employees?
□ Are methods provided to protect the operator and other employees in the machine area from hazards created at the point of operation, ingoing nip points, rotating parts, flying chips, and sparks?
□ Are machinery guards secure and so arranged that they do not offer a hazard in their use?
□ If special hand tools are used for placing and removing material, do they protect the operator's hands?
□ Are revolving drums, barrels, and containers required to be guarded by an enclosure that is interlocked with the drive mechanism, so that revolution cannot occur unless the guard enclosure is in place, so guarded?
□ Do arbors and mandrels have firm and secure bearings and are they free from play?
□ Are provisions made to prevent machines from automatically starting when power is restored after a power failure or shutdown?
□ Are machines constructed so as to be free from excessive vibration when the largest size tool is mounted and run at full speed?
□ If machinery is cleaned with compressed air, is air pressure controlled and personal protective equipment or other safeguards used to protect operators and other workers from eye and body injury?
□ Are fan blades protected with a guard having openings no larger than 1/2 inch, when operating within 7 feet of the floor?
□ Are saws used for ripping, equipped with anti-kick back devices and spreaders?
□ Are radial arm saws so arranged that the cutting head will gently return to the back of the table when released?

LOCKOUT BLOCKOUT PROCEDURES

□ Is all machinery or equipment capable of movement, required to be de-energized or disengaged and blocked or locked out during cleaning, servicing, adjusting or setting up operations, whenever required?
□ Is the locking-out of control circuits in lieu of locking-out main power disconnects prohibited?
□ Are all equipment control valve handles provided with a means for locking-out?
□ Does the lockout procedure require that stored energy (i.e. mechanical, hydraulic, air,) be released or blocked before equipment is locked-out for repairs?
□ Are appropriate employees provided with individually keyed personal safety locks?
□ Are employees required to keep personal control of their key(s) while they have safety locks in use?
□ Is it required that employees check the safety of the lock out by attempting a start up after making sure no one is exposed?
□ Are the appropriate electrical enclosures identified?
□ Is means provide to assure the control circuit can also be disconnected and locked out?

WELDING, CUTTING & BRAZING

☐ Are only authorized and trained personnel permitted to use welding, cutting or brazing equipment?
☐ Do all operator have a copy of the appropriate operating instructions and are they directed to follow them?
☐ Are compressed gas cylinders regularly examined for obvious signs of defects, deep rusting, or leakage?
☐ Is care used in handling and storage of cylinders, safety valves, relief valves, and the like, to prevent damage?
☐ Are precautions taken to prevent the mixture of air or oxygen with flammable gases, except at a burner or in a standard torch?
☐ Are only approved apparatus (torches, regulators, pressure-reducing valves, acetylene generators, manifolds) used?
☐ Are cylinders kept away from sources of heat?
☐ Is it prohibited to use cylinders as rollers or supports?
☐ Are empty cylinders appropriately marked their valves closed and valve-protection caps on?
☐ Are signs reading: DANGER NO-SMOKING, MATCHES, OR OPEN LIGHTS, or the equivalent posted?
☐ Are cylinders, cylinder valves, couplings, regulators, hoses, and apparatus keep free of oily or greasy substances?
☐ Is care taken not to drop or strike cylinders?
☐ Unless secured on special trucks, are regulators removed and valve-protection caps put in place before moving cylinders?
☐ Do cylinders without fixed hand wheels have keys, handles, or non-adjustable wrenches on stem valves when in service?
☐ Are liquefied gases stored and shipped valve-end up with valve covers in place?
☐ Are employees instructed to never crack a fuel-gas cylinder valve near sources of ignition?
☐ Before a regulator is removed, is the valve closed and gas released form the regulator?
☐ Is red used to identify the acetylene (and other fuel-gas) hose, green for oxygen hose, and black for inert gas and air hose?
☐ Are pressure-reducing regulators used only for the gas and pressures for which they are intended?
☐ Is open circuit (No Load) voltage of arc welding and cutting machines as low as possible and not in excess of the recommended limits?
☐ Under wet conditions, are automatic controls for reducing no-load voltage used?
☐ Is grounding of the machine frame and safety ground connections of portable machines checked periodically?
☐ Are electrodes removed from the holders when not in use?
☐ Is it required that electric power to the welder be shut off when no one is in attendance?
☐ Is suitable fire extinguishing equipment available for immediate use?
☐ Is the welder forbidden to coil or loop welding electrode cable around his body?
☐ Are wet machines thoroughly dried and tested before being used?

☐ Are work and electrode lead cables frequently inspected for wear and damage, and replaced when needed?
☐ Do means for connecting cables' lengths have adequate insulation?
☐ When the object to be welded cannot be moved and fire hazards cannot be removed, are shields used to confine heat, sparks, and slag?
☐ Are firewatchers assigned when welding or cutting is performed, in locations where a serious fire might develop?
☐ Are combustible floors kept wet, covered by damp sand, or protected by fire-resistant shields?
☐ When floors are wet down, are personnel protected from possible electrical shock?
☐ When welding is done on metal walls, are precautions taken to protect combustibles on the other side?
☐ Before hot work is begun, are used drums, barrels, tanks, and other containers so thoroughly cleaned that no substances remain that could explode, ignite, or produce toxic vapors?
☐ Is it required that eye protection helmets, hand shields and goggles meet appropriate standards?
☐ Are employees exposed to the hazards created by welding, cutting, or bracing operations protected with personal protective equipment and clothing?
☐ Is a check made for adequate ventilation in and where welding or cutting is preformed?
☐ When working in confined places are environmental monitoring tests taken and means provided for quick removal of welders in case of an emergency?

COMPRESSORS & COMPRESSED AIR

☐ Are compressors equipped with pressure relief valves, and pressure gauges?
☐ Are compressor air intakes installed and equipped to ensure that only clean uncontaminated air enters the compressor?
☐ Are air filters installed on the compressor intake?
☐ Are compressors operated and lubricated in accordance with the manufacturer's recommendations?
☐ Are safety devices on compressed air systems checked frequently?
☐ Before any repair work is done on the pressure system of a compressor, is the pressure bled off and the system locked-out?
☐ Are signs posted to warn of the automatic starting feature of the compressors?
☐ Is the belt drive system totally enclosed to provide protection for the front, back, top, and sides?
☐ Is it strictly prohibited to direct compressed air towards a person?
☐ Are employees prohibited from using highly compressed air for cleaning purposes?
☐ If compressed air is used for cleaning off clothing, is the pressure reduced to less than 10 psi?
☐ When using compressed air for cleaning, do employees use personal protective equipment?
☐ Are safety chains or other suitable locking devices used at couplings of high pressure hose lines where a connection failure would create a hazard?
☐ Before compressed air is used to empty containers of liquid, is the safe working

pressure of the container checked?
□ When compressed air is used with abrasive blast cleaning equipment, is the operating valve a type that must be held open manually?
□ When compressed air is used to inflate auto tires, is a clip-on chuck and an inline regulator preset to 40 psi required?
□ Is it prohibited to use compressed air to clean up or move combustible dust if such action could cause the dust to be suspended in the air and cause a fire or explosion hazard?

COMPRESSED AIR RECEIVERS

□ Is every receiver equipped with a pressure gauge and with one or more automatic, spring-loaded safety valves?
□ Is the total relieving capacity of the safety valve capable of preventing pressure in the receiver from exceeding the maximum allowable working pressure of the receiver by more than 10 percent?
□ Is every air receiver provided with a drainpipe and valve at the lowest point for the removal of accumulated oil and water?
□ Are compressed air receivers periodically drained of moisture and oil?
□ Are all safety valves tested frequently and at regular intervals to determine whether they are in good operating condition?
□ Is there a current operating permit issued by the Division of Occupational Safety and Health?
□ Is the inlet of air receivers and piping systems kept free of accumulated oil and carbonaceous materials?

COMPRESSED GAS & CYLINDERS

□ Are cylinders with a water weight capacity over 30 pounds equipped with means for connecting a valve protector device, or with a collar or recess to protect the valve?
□ Are cylinders legibly marked to clearly identify the gas contained?
□ Are compressed gas cylinders stored in areas which are protected from external heat sources such as flame impingement, intense radiant heat, electric arcs, or high temperature lines?
□ Are cylinders located or stored in areas where they will not be damaged by passing or falling objects, or subject to tampering by unauthorized persons?
□ Are cylinders stored or transported in a manner to prevent them creating a hazard by tipping, falling or rolling?
□ Are cylinders containing liquefied fuel gas, stored or transported in a position so that the safety relief device is always in direct contact with the vapor space in the cylinder?
□ Are valve protectors always placed on cylinders when the cylinders are not in use or connected for use?
□ Are all valves closed off before a cylinder is moved, when the cylinder is empty, and at the completion of each job?
□ Are low pressure fuel-gas cylinders checked periodically for corrosion, general distortion, cracks, or any other defect that might indicate a weakness or render it unfit for

service?
□ Does the periodic check of low pressure fuel-gas cylinders include a close inspection of the cylinders' bottom?

HOIST & AUXILIARY EQUIPMENT

□ Is each overhead electric hoist equipped with a limit device to stop the hook travel at its highest and lowest point of safe travel?
□ Will each hoist automatically stop and hold any load up to 125 percent of its rated load, if its actuating force is removed?
□ Is the rated load of each hoist legibly marked and visible to the operator?
□ Are stops provided at the safe limits of travel for trolley hoist?
□ Are the controls of hoists plainly marked to indicate the direction of travel or motion?
□ Is each cage-controlled hoist equipped with an effective warning device?
□ Are close-fitting guards or other suitable devices installed on hoist to assure hoist ropes will be maintained in the sheave groves?
□ Are all hoist chains or ropes of sufficient length to handle the full range of movement for the application while still maintaining two full wraps on the drum at all times?
□ Are nip points or contact points between hoist ropes and sheaves which are permanently located within 7 feet of the floor, ground or working platform, guarded?
□ Is it prohibited to use chains or rope slings that are kinked or twisted?
□ Is it prohibited to use the hoist rope or chain wrapped around the load as a substitute, for a sling?
□ Is the operator instructed to avoid carrying loads over people?
□ Are only employees who have been trained in the proper use of hoists allowed to operate them?

INDUSTRIAL TRUCKS – FORKLIFTS

□ Are only trained personnel allowed to operate industrial trucks?
□ Is substantial overhead protective equipment provided on high lift rider equipment?
□ Are the required lift truck operating rules posted and enforced?
□ Is directional lighting provided on each industrial truck that operates in an area with less than 2 foot candles per square foot of general lighting?
□ Does each industrial truck have a warning horn, whistle, gong or other device which can be clearly heard above the normal noise in the areas where operated?
□ Are the brakes on each industrial truck capable of bringing the vehicle to a complete and safe stop when fully loaded?
□ Will the industrial truck's parking brake effectively prevent the vehicle from moving when unattended?
□ Are industrial trucks operating in areas where flammable gases or vapors, or combustible dust or ignitable fibers may be present in the atmosphere, approved for such locations?
□ Are motorized hand and hand/rider trucks so designed that the brakes are applied, and power to the drive motor shuts off when the operator releases his/her grip on the device that controls the travel?

□ Are industrial trucks with internal combustion engine operated in buildings or enclosed areas, carefully checked to ensure such operations do not cause harmful concentration of dangerous gases or fumes?

SPRAYING OPERATIONS

□ Is adequate ventilation assured before spray operations are started?
□ Is mechanical ventilation provided when spraying operation is done in enclosed areas?
□ When mechanical ventilation is provided during spraying operations, is it so arranged that it will not circulate the contaminated air?
□ Is the spray area free of hot surfaces?
□ Is the spray area at least 20 feet from flames, sparks, operating electrical motors and other ignition sources?
□ Are portable lamps used to illuminate spray areas suitable for use in a hazardous location?
□ Is approved respiratory equipment provided and used when appropriate during spraying operations?
□ Do solvents used for cleaning have a flash point of 100E F or more?
□ Are fire control sprinkler heads kept clean?
□ Are "NO SMOKING" signs posted in spray areas, paint rooms, paint booths, and paint storage areas?
□ Is the spray area kept clean of combustible residue?
□ Are spray booths constructed of metal, masonry, or other substantial noncombustible material?
□ Are spray booth floors and baffles noncombustible and easily cleaned?
□ Is infrared drying apparatus kept out of the spray area during spraying operations?
□ Is the spray booth completely ventilated before using the drying apparatus?
□ Is the electric drying apparatus properly grounded?
□ Are lighting fixtures for spray booths located outside of the booth and the interior lighted through sealed clear panels?
□ Are the electric motors for exhaust fans placed outside booths or ducts?
□ Are belts and pulleys inside the booth fully enclosed?
□ Do ducts have access doors to allow cleaning?
□ Do all drying spaces have adequate ventilation?

ENTERING CONFINED SPACES

□ Are confined spaces thoroughly emptied of any corrosive or hazardous substances, such as acids or caustics, before entry?
□ Before entry, are all lines to a confined space, containing inert, toxic, flammable, or corrosive materials valved off and blanked or disconnected and separated?
□ Is it required that all impellers, agitators, or other moving equipment inside confined spaces be locked-out if they present a hazard?
□ Is either natural or mechanical ventilation provided prior to confined space entry?
□ Before entry, are appropriate atmospheric tests performed to check for oxygen deficiency, toxic substance and explosive concentrations in the confined space before

entry?
□ Is adequate illumination provided for the work to be performed in the confined space?
□ Is the atmosphere inside the confined space frequently tested or continuously monitor during conduct of work?
□ Is there an assigned safety standby employee outside of the confined space, whose sole responsibility is to watch the work in progress, sound an alarm if necessary, and render assistance?
□ Is the standby employee or other employees prohibited from entering the confined space without lifelines and respiratory equipment if there is any questions as to the cause of an emergency?
□ In addition to the standby employee, is there at least one other trained rescuer in the vicinity?
□ Are all rescuers appropriately trained and using approved, recently inspected equipment?
□ Does all rescue equipment allow for lifting employees vertically from a top opening?
□ Are there trained personnel in First Aid and CPR immediately available?
□ Is there an effective communication system in place whenever respiratory equipment is used and the employee in the confined space is out of sight of the standby person?
□ Is approved respiratory equipment required if the atmosphere inside the confined space cannot be made acceptable?
□ Is all portable electrical equipment used inside confined spaces either grounded and insulated, or equipped with ground fault protection?
□ Before gas welding or burning is started in a confined space, are hoses checked for leaks, compressed gas bottles forbidden inside of the confined space, torches lighted only outside of the confined area and the confined area tested for an explosive atmosphere each time before a lighted torch is to be taken into the confined space?
□ If employees will be using oxygen-consuming equipment such as salamanders, torches, furnaces, in a confined space, is sufficient air provided to assure combustion without reducing the oxygen concentration of the atmosphere below 19.5 percent by volume?
□ Whenever combustion-type equipment is used in confined space, are provisions made to ensure the exhaust gases are vented outside of the enclosure?
□ Is each confined space checked for decaying vegetation or animal matter, which may produce methane?
□ Is the confined space checked for possible industrial waste, which could contain toxic properties?
□ If the confined space is below the ground and near areas where motor vehicles will be operating, is it possible for vehicle exhaust or carbon monoxide to enter the space?

ENVIRONMENTAL CONTROLS

□ Are all work areas properly illuminated?
□ Are employees instructed in proper first aid and other emergency procedures?
□ Are hazardous substances identified which may cause harm by inhalation, ingestion, skin absorption or contact?
□ Are employees aware of the hazards involved with the various chemicals they may be

exposed to in their work environment, such as ammonia, chlorine, epoxies, and caustics?
□ Is employee exposure to chemicals in the workplace kept within acceptable levels?
□ Can a less harmful method or product be used?
□ Is the work area's ventilation system appropriate for the work being performed?
□ Are spray painting operations done in spray rooms or booths equipped with an appropriate exhaust system?
□ Is employee exposure to welding fumes controlled by ventilation, use of respirators, exposure time, or other means?
□ Are welders and other workers nearby provided with flash shields during welding operations?
□ If forklifts and other vehicles are used in buildings or other enclosed areas, are the carbon monoxide levels kept below maximum acceptable concentration?
□ Has there been a determination that noise levels in the facilities are within acceptable levels?
□ Are steps being taken to use engineering controls to reduce excessive noise levels?
□ Are proper precautions being taken when handling asbestos and other fibrous materials?
□ Are caution labels and signs used to warn of asbestos?
□ Are wet methods used, when practicable, to prevent the emission of airborne asbestos fibers, silica dust and similar hazardous materials?
□ Is vacuuming with appropriate equipment used whenever possible rather than blowing or sweeping dust?
□ Are grinders, saws, and other machines that produce respirable dusts vented to an industrial collector or central exhaust system?
□ Are all local exhaust ventilation systems designed and operating properly such as airflow and volume necessary for the application? Are the ducts free of obstructions or the belts slipping?
□ Is personal protective equipment provided, used and maintained wherever required?
□ Are there written standard operating procedures for the selection and use of respirators where needed?
□ Are restrooms and washrooms kept clean and sanitary?
□ Is all water provided for drinking, washing, and cooking potable?
□ Are all outlets for water not suitable for drinking clearly identified?
□ Are employees' physical capacities assessed before being assigned to jobs requiring heavy work?
□ Are employees instructed in the proper manner of lifting heavy objects?
□ Where heat is a problem, have all fixed work areas been provided with spot cooling or air conditioning?
□ Are employees screened before assignment to areas of high heat to determine if their health condition might make them more susceptible to having an adverse reaction?
□ Are employees working on streets and roadways where they are exposed to the hazards of traffic, required to wear bright colored (traffic orange) warning vest?
□ Are exhaust stacks and air intakes located that contaminated air will not be recirculated within a building or other enclosed area?
□ Is equipment producing ultra-violet radiation properly shielded?

FLAMMABLE & COMBUSTIBLE MATERIALS

☐ Are combustible scrap, debris and waste materials (i.e. oily rags) stored in covered metal receptacles and removed from the worksite promptly?
☐ Is proper storage practiced to minimize the risk of fire including spontaneous combustion?
☐ Are approved containers and tanks used for the storage and handling of flammable and combustible liquids?
☐ Are all connections on drums and combustible liquid piping, vapor and liquid tight?
☐ Are all flammable liquids kept in closed containers when not in use (e.g. parts cleaning tanks, pans)?
☐ Are bulk drums of flammable liquids grounded and bonded to containers during dispensing?
☐ Do storage rooms for flammable and combustible liquids have explosion-proof lights?
☐ Do storage rooms for flammable and combustible liquids have mechanical or gravity ventilation?
☐ Is liquefied petroleum gas stored, handled, and used in accordance with safe practices and standards?
☐ Are liquefied petroleum storage tanks guarded to prevent damage from vehicles?
☐ Are all solvent wastes and flammable liquids kept in fire-resistant covered containers until they are removed from the worksite?
☐ Is vacuuming used whenever possible rather than blowing or sweeping combustible dust?
☐ Are fire separators placed between containers of combustibles or flammables, when stacked one upon another, to assure their support and stability?
☐ Are fuel gas cylinders and oxygen cylinders separated by distance, fire resistant barriers or other means while in storage?
☐ Are fire extinguishers selected and provided for the types of materials in areas where they are to be used?
☐ Class A: Ordinary combustible material fires.
☐ Class B: Flammable liquid, gas or grease fires.
☐ Class C: Energized-electrical equipment fires.
☐ If a Halon 1301 fire extinguisher is used, can employees evacuate within the specified time for that extinguisher?
☐ Are appropriate fire extinguishers mounted within 75 feet of outside areas containing flammable liquids, and within 10 feet of any inside storage area for such materials?
☐ Is the transfer/withdrawal of flammable or combustible liquids performed by trained personnel?
☐ Are fire extinguishers mounted so that employees do not have to travel more than 75 feet for a class "A" fire or 50 feet for a class "B" fire?
☐ Are employees trained in the use of fire extinguishers?
☐ Are extinguishers free from obstructions or blockage?
☐ Are all extinguishers serviced, maintained and tagged at intervals not to exceed one year?
☐ Are all extinguishers fully charged and in their designated places?
☐ Is a record maintained of required monthly checks of extinguishers?

□ Where sprinkler systems are permanently installed, are the nozzle heads directed or arranged so that water will not be sprayed into operating electrical switchboards and equipment?
□ Are "NO SMOKING" signs posted where appropriate in areas where flammable or combustible materials are used or stored?
□ Are "NO SMOKING" signs posted on liquefied petroleum gas tanks?
□ Are "NO SMOKING" rules enforced in areas involving storage and use of flammable materials?
□ Are safety cans used for dispensing flammable or combustible liquids at a point of use?
□ Are all spills of flammable or combustible liquids cleaned up promptly?
□ Are storage tanks adequately vented to prevent the development of excessive vacuum or pressure as a result of filling, emptying, or atmosphere temperature changes?
□ Are storage tanks equipped with emergency venting that will relieve excessive internal pressure caused by fire exposure?
□ Are spare portable or butane tanks, which are sued by industrial trucks stored in accord with regulations?

FIRE PROTECTION

□ Do you have a fire prevention plan?
□ Does your plan describe the type of fire protection equipment and/or systems?
□ Have you established practices and procedures to control potential fire hazards and ignition sources?
□ Are employees aware of the fire hazards of the material and processes to which they are exposed?
□ Is your local fire department well acquainted with your facilities, location and specific hazards?
□ If you have a fire alarm system, is it tested at least annually?
□ If you have a fire alarm system, is it certified as required?
□ If you have interior standpipes and valves, are they inspected regularly?
□ If you have outside private fire hydrants, are they flushed at least once a year and on a routine preventive maintenance schedule?
□ Are fire doors and shutters in good operating condition?
□ Are fire doors and shutters unobstructed and protected against obstructions, including their counterweights?
□ Are fire door and shutter fusible links in place?
□ Are automatic sprinkler system water control valves, air and water pressures checked weekly/periodically as required?
□ Is maintenance of automatic sprinkler system assigned to responsible persons or to a sprinkler contractor?
□ Are sprinkler heads protected by metal guards, when exposed to physical damage?
□ Is proper clearance maintained below sprinkler heads?
□ Are portable fire extinguishers provided in adequate number and type?
□ Are fire extinguishers mounted in readily accessible locations?
□ Are fire extinguishers recharged regularly and noted on the inspection tag?

☐ Are employees periodically instructed in the use of extinguishers and fire protection procedures?

HAZARDOUS CHEMICAL EXPOSURES

☐ Are employees trained in the safe handling practices of hazardous chemicals such as acids, caustics, and the like?
☐ Are employees aware of the potential hazards involving various chemicals stored or used in the workplace-- such as acids, bases, caustics, epoxies, and phenols?
☐ Is employee exposure to chemicals kept within acceptable levels?
☐ Are eye wash fountains and safety showers provided in areas where corrosive chemicals are handled?
☐ Are all containers, such as vats and storage tanks labeled as to their contents--e.g. "CAUSTICS"?
☐ Are all employees required to use personal protective clothing and equipment when handling chemicals (i.e. gloves, eye protection, and respirators)?
☐ Are flammable or toxic chemicals kept in closed containers when not in use?
☐ Are chemical piping systems clearly marked as to their content?
☐ Where corrosive liquids are frequently handled in open containers or drawn from storage vessels or pipelines, is adequate means readily available for neutralizing or disposing of spills or overflows properly and safely?
☐ Have standard operating procedures been established and are they being followed when cleaning up chemical spills?
☐ Where needed for emergency use, are respirators stored in a convenient, clean and sanitary location?
☐ Are respirators intended for emergency use adequate for the various uses for which they may be needed?
☐ Are employees prohibited from eating in areas where hazardous chemicals are present?
☐ Is personal protective equipment provided, used and maintained whenever necessary?
☐ Are there written standard operating procedures for the selection and use of respirators where needed?
☐ If you have a respirator protection program, are your employees instructed on the correct usage and limitations of the respirators?
☐ Are the respirators NIOSH approved for this particular application?
☐ Are they regularly inspected and cleaned sanitized and maintained?
☐ If hazardous substances are used in your processes, do you have a medical or biological monitoring system in operation?
☐ Are you familiar with the Threshold Limit Values or Permissible Exposure Limits of airborne contaminants and physical agents used in your workplace?
☐ Have control procedures been instituted for hazardous materials, where appropriate, such as respirators, ventilation systems, handling practices, and the like?
☐ Whenever possible, are hazardous substances handled in properly designed and exhausted booths or similar locations?
☐ Do you use general dilution or local exhaust ventilation systems to control dusts, vapors, gases, fumes, smoke, solvents or mists which may be generated in your workplace?

☐ Is ventilation equipment provided for removal of contaminants from such operations as production grinding, buffing, spray painting, and/or vapor decreasing, and is it operating properly?
☐ Do employees complain about dizziness, headaches, nausea, irritation, or other factors of discomfort when they use solvents or other chemicals?
☐ Is there a dermatitis problem--do employees complain about skin dryness, irritation, or sensitization?
☐ Have you considered the use of an industrial hygienist or environmental health specialist to evaluate your operation?
☐ If internal combustion engines are used, is carbon monoxide kept within acceptable levels?
☐ Is vacuuming used, rather than blowing or sweeping dusts whenever possible for clean up?
☐ Are materials, which give off toxic asphyxiant, suffocating or anesthetic fumes, stored in remote or isolated locations when not in use?

HAZARDOUS SUBSTANCES COMMUNICATION

☐ Is there a list of hazardous substances used in your workplace?
☐ Is there a written hazard communication program dealing with Material Safety Data Sheets (MSDS) labeling, and employee training?
☐ Who is responsible for MSDSs, container labeling, employee training?
☐ Is each container for a hazardous substance (i.e. vats, bottles, storage tanks,) labeled with product identity and a hazard warning (communication of the specific health hazards and physical hazards)?
☐ Is there a Material Safety Data Sheet readily available for each hazardous substance used?
☐ How will you inform other employers whose employees share the same work area where the hazardous substances are used?
☐ Is there an employee training program for hazardous substances?
☐ Does this program include:
☐ An explanation of what an MSDS is and how to use and obtain one?
☐ MSDS contents for each hazardous substance or class of substances?
☐ Explanation of "Right to Know"?
☐ Identification of where employees can see the employer's written hazard communication program and where hazardous substances are present in their work area?
☐ The physical and health hazards of substances in the work area, how to detect their presence, and specific protective measures to be used?
☐ Details of the hazard communication program, including how to use the labeling system and MSDSs?
☐ How employees will be informed of hazards of non-routine tasks, and hazards of unlabeled pipes?

ELECTRICAL

☐ Are your workplace electricians familiar with the Cal/OSHA Electrical Safety Orders?
☐ Do you specify compliance with Cal/OSHA for all contract electrical work?
☐ Are all employees required to report as soon as practicable any obvious hazard to life or property observed in connection with electrical equipment or lines?
☐ Are employees instructed to make preliminary inspections and/or appropriate tests to determine what conditions exist before starting work on electrical equipment or lines?
☐ When electrical equipment or lines are to be serviced, maintained or adjusted, are necessary switches opened, locked-out and tagged whenever possible?
☐ Are portable electrical tools and equipment grounded or of the double insulated type?
☐ Are electrical appliances such as vacuum cleaners, polishers, vending machines grounded?
☐ Do extension cords being used have a grounding conductor?
☐ Are multiple plug adapters prohibited?
☐ Are ground-fault circuit interrupters installed on each temporary 15 or 20 ampere, 120 volt AC circuit at locations where construction, demolition, modifications, alterations or excavations are being performed?
☐ Are all temporary circuits protected by suitable disconnecting switches or plug connectors at the junction with permanent wiring?
☐ Is exposed wiring and cords with frayed or deteriorated insulation repaired or replaced promptly?
☐ Are flexible cords and cables free of splices or taps?
☐ Are clamps or other securing means provided on flexible cords or cables at plugs, receptacles, tools, and equipment and is the cord jacket securely held in place?
☐ Are all cord, cable and raceway connections intact and secure?
☐ In wet or damp locations, are electrical tools and equipment appropriate for the use or location or otherwise protected?
☐ Is the location of electrical power lines and cables (overhead, underground, under floor, other side of walls) determined before digging, drilling or similar work is begun?
☐ Are metal measuring tapes, ropes, handlines or similar devices with metallic thread woven into the fabric prohibited where they could come in contact with energized parts of equipment or circuit conductors?
☐ Is the use of metal ladders prohibited in area where the ladder or the person using the ladder could come in contact with energized parts of equipment, fixtures or circuit conductors?
☐ Are all disconnecting switches and circuit breakers labeled to indicate their use or equipment served?
☐ Are disconnecting means always opened before fuses are replaced?
☐ Do all interior wiring systems include provisions for grounding metal parts of electrical raceways, equipment and enclosures?
☐ Are all electrical raceways and enclosures securely fastened in place?
☐ Are all energized parts of electrical circuits and equipment guarded against accidental contact by approved cabinets or enclosures?
☐ Is sufficient access and working space provided and maintained about all electrical equipment to permit ready and safe operations and maintenance?

☐ Are all unused openings (including conduit knockouts) in electrical enclosures and fittings closed with appropriate covers, plugs or plates?
☐ Are electrical enclosures such as switches, receptacles, junction boxes, etc., provided with tight-fitting covers or plates?
☐ Are disconnecting switches for electrical motors in excess of two horsepower, capable of opening the circuit when the motor is in a stalled condition, without exploding? (Switches must be horsepower rated equal to or in excess of the motor hp rating).
☐ Is low voltage protection provided in the control device of motors driving machines or equipment, which could cause probably injury from inadvertent starting?
☐ Is each motor disconnecting switch or circuit breaker located within sight of the motor control device?
☐ Is each motor located within sight of its controller or the controller disconnecting means capable of being locked in the open position or is a separate disconnecting means installed in the circuit within sight of the motor?
☐ Is the controller for each motor in excess of two horsepower, rated in horsepower equal to or in excess of the rating of the motor is serves?
☐ Are employees who regularly work on or around energized electrical equipment or lines instructed in the cardiopulmonary resuscitation (CPR) methods?
☐ Are employees prohibited from working alone on energized lines or equipment over 600 volts?

NOISE

☐ Are there areas in the workplace where continuous noise levels exceed 85 dBA? (To determine maximum allowable levels for intermittent or impact noise, see Title 8, Section 5097.)
☐ Are noise levels being measured using a sound level meter or an octave band analyzer and records being kept?
☐ Have you tried isolating noisy machinery from the rest of your operation?
☐ Have engineering controls been used to reduce excessive noise levels?
☐ Where engineering controls are determined not feasible, are administrative controls (i.e. worker rotation) being used to minimize individual employee exposure to noise?
☐ Is there an ongoing preventive health program to educate employees in safe levels of noise and exposure, effects of noise on their health, and use of personal protection?
☐ Is the training repeated annually for employees exposed to continuous noise above 85 dBA?
☐ Have work areas where noise levels make voice communication between employees difficult been identified and posted?
☐ Is approved hearing protective equipment (noise attenuating devices) available to every employee working in areas where continuous noise levels exceed 85 dBA?
☐ If you use ear protectors, are employees properly fitted and instructed in their use and care?
☐ Are employees exposed to continuous noise above 85 dBA given periodic audiometric testing to ensure that you have an effective hearing protection system?

FUELING

□ Is it prohibited to fuel an internal combustion engine with a flammable liquid while the engine is running?
□ Are fueling operations done in such a manner that likelihood of spillage will be minimal?
□ When spillage occurs during fueling operations, is the spilled fuel cleaned up completely, evaporated, or other measures taken to control vapors before restarting the engine?
□ Are fuel tank caps replaced and secured before starting the engine?
□ In fueling operations is there always metal contact between the container and fuel tank?
□ Are fueling hoses of a type designed to handle the specific type of fuel?
□ Is it prohibited to handle or transfer gasoline in open containers?
□ Are open lights, open flames, or sparking or arcing equipment prohibited near fueling or transfer of fuel operations?
□ Is smoking prohibited in the vicinity of fueling operations?
□ Are fueling operations prohibited in building or other enclosed areas that are not specifically ventilated for this purpose?
□ Where fueling or transfer of fuel is done through a gravity flow system, are the nozzles of the self-closing type?

IDENTIFICATION OF PIPING SYSTEMS

□ When nonpotable water is piped through a facility, are outlets or taps posted to alert employees that it is unsafe and not to be used for drinking, washing or other personal use?
□ When hazardous substances are transported through above ground piping, is each pipeline identified at points where confusion could introduce hazards to employees?
□ When pipelines are identified by color painting, are all visible parts of the line so identified?
□ When pipelines are identified by color painted bands or tapes, are the bands or tapes located at reasonable intervals and at each outlet, valve or connection?
□ When pipelines are identified by color, is the color code posted at all locations where confusion could introduce hazards to employees?
□ When the contents of pipelines are identified by name or name abbreviation, is the information readily visible on the pipe near each valve or outlet?
□ When pipelines carrying hazardous substances are identified by tags, are the tags constructed of durable materials, the message carried clearly ad permanently distinguishable and are tags installed at each valve or outlet?
□ When pipelines are heated by electricity, steam or other external source, are suitable warning signs or tags placed at unions, valves, or other serviceable parts of the system?

MATERIAL HANDLING

☐ Is there safe clearance for equipment through aisles and doorways?
☐ Are aisleways designated, permanently marked, and kept clear to allow unhindered passage?
☐ Are motorized vehicles and mechanized equipment inspected daily or prior to use?
☐ Are vehicles shut off and brakes set prior to loading or unloading?
☐ Are containers or combustibles or flammables, when stacked while being moved, always separated by dunnage sufficient to provide stability?
☐ Are dock boards (bridge plates) used when loading or unloading operations are taking place between vehicles and docks?
☐ Are trucks and trailers secured from movement during loading and unloading operations?
☐ Are dock plates and loading ramps constructed and maintained with sufficient strength to support imposed loading?
☐ Are hand trucks maintained in safe operating condition?
☐ Are chutes equipped with sideboards of sufficient height to prevent the materials being handled from falling off?
☐ Are chutes and gravity roller sections firmly placed or secured to prevent displacement?
☐ At the delivery end of rollers or chutes, are provisions made to brake the movement of the handled materials.
☐ Are pallets usually inspected before being loaded or moved?
☐ Are hooks with safety latches or other arrangements used when hoisting materials so that slings or load attachments won't accidentally slip off the hoist hooks?
☐ Are securing chains, ropes, chockers or slings adequate for the job to be performed?
☐ When hoisting material or equipment, are provisions made to assure no one will be passing under the suspended loads?
☐ Are Material Safety Data Sheets available to employees handling hazardous substances?

TRANSPORTING EMPLOYEES & MATERIALS

☐ Do employees who operate vehicles on public thoroughfares have valid operator's licenses?
☐ When seven or more employees are regularly transported in a van, bus or truck, is the operator's license appropriate for the class of vehicle being driven?
☐ Is each van, bus or truck used regularly to transport employees, equipped with an adequate number of seats?
☐ When employees are transported by truck, are provision provided to prevent their falling from the vehicle?
☐ Are vehicles used to transport employees, equipped with lamps, brakes, horns, mirrors, windshields and turn signals in good repair?
☐ Are transport vehicles provided with handrails, steps, stirrups or similar devices, so placed and arranged that employees can safely mount or dismount?
☐ Are employee transport vehicles equipped at all times with at least two reflective type

flares?
□ Is a full charged fire extinguisher, in good condition, with at least 4 B:C rating maintained in each employee transport vehicle?
□ When cutting tools with sharp edges are carried in passenger compartments of employee transport vehicles, are they placed in closed boxes or containers which are secured in place?
□ Are employees prohibited from riding on top of any load, which can shift, topple, or otherwise become unstable?

CONTROL OF HARMFUL SUBSTANCES BY VENTILATION

□ Is the volume and velocity of air in each exhaust system sufficient to gather the dusts, fumes, mists, vapors or gases to be controlled, and to convey them to a suitable point of disposal?
□ Are exhaust inlets, ducts and plenums designed, constructed, and supported to prevent collapse or failure of any part of the system?
□ Are clean-out ports or doors provided at intervals not to exceed 12 feet in all horizontal runs of exhaust ducts?
□ Where two or more different type of operations are being controlled through the same exhaust system, will the combination of substances being controlled, constitute a fire, explosion or chemical reaction hazard in the duct?
□ Is adequate makeup air provided to areas where exhaust systems are operating?
□ Is the intake for makeup air located so that only clean, fresh air, which is free of contaminates, will enter the work environment?
□ Where two or more ventilation systems are serving a work area, is their operation such that one will not offset the functions of the other?

SANITIZING EQUIPMENT & CLOTHING

□ Is personal protective clothing or equipment, that employees are required to wear or use, of a type capable of being easily cleaned and disinfected?
□ Are employees prohibited from interchanging personal protective clothing or equipment, unless it has been properly cleaned?
□ Are machines and equipment, which processes, handle or apply materials that could be injurious to employees, cleaned and/or decontaminated before being overhauled or placed in storage?
□ Are employees prohibited from smoking or eating in any area where contaminates are present that could be injurious if ingested?
□ When employees are required to change from street clothing into protective clothing, is a clean change room with separate storage facility for street and protective clothing provided?
□ Are employees required to shower and wash their hair as soon as possible after a known contact has occurred with a carcinogen?
□ When equipment, materials, or other items are taken into or removed from a carcinogen regulated area, is it done in a manner that will not contaminate non-regulated areas or the external environment?

TIRE INFLATION

□ Where tires are mounted and/or inflated on drop center wheels is a safe practice procedure posted and enforced?
□ Where tires are mounted and/or inflated on wheels with split rims and/or retainer rings is a safe practice procedure posted and enforced?
□ Does each tire inflation hose have a clip-on chuck with at least 24 inches of hose between the chuck and an inline hand valve and gauge?
□ Does the tire inflation control valve automatically shut off the airflow when the valve is released?
□ Is a tire restraining device such as a cage, rack or other effective means used while inflating tires mounted on split rims, or rims using retainer rings?
□ Are employees strictly forbidden from taking a position directly over or in front of a tire while it's being inflated?

EMERGENCY ACTION PLAN

□ Are you required to have an emergency action plan?
□ Does the emergency action plan comply with requirements of T8CCR 3220(a)?
□ Have emergency escape procedures and routes been developed and communicated to all employers?
□ Do employees, who remain to operate critical plant operations before they evacuate, know the proper procedures?
□ Is the employee alarm system that provides a warning for emergency action recognizable and perceptible above ambient conditions?
□ Are alarm systems properly maintained and tested regularly?
□ Is the emergency action plan reviewed and revised periodically?
□ Do employees now their responsibilities:
□ For reporting emergencies?
□ During an emergency?
□ For conducting rescue and medical duties?

INFECTION CONTROL

□ Are employees potentially exposed to infectious agents in body fluids?
□ Have occasions of potential occupational exposure been identified and documented?
□ Has a training and information program been provided for employees exposed to or potentially exposed to blood and/or body fluids?
□ Have infection control procedures been instituted where appropriate, such as ventilation, universal precautions, workplace practices, and personal protective equipment?
□ Are employees aware of specific workplace practices to follow when appropriate? (Hand washing, handling sharp instruments, handling of laundry, disposal of contaminated materials, reusable equipment.)
□ Is personal protective equipment provided to employees, and in all appropriate

locations?
☐ Is the necessary equipment (i.e. mouthpieces, resuscitation bags, and other ventilation devices) provided for administering mouth-to-mouth resuscitation on potentially infected patients?
☐ Are facilities/equipment to comply with workplace practices available, such as hand-washing sinks, biohazard tags and labels, needle containers, detergents/disinfectants to clean up spills?
☐ Are all equipment and environmental and working surfaces cleaned and disinfected after contact with blood or potentially infectious materials?
☐ Is infectious waste placed in closable, leak proof containers, bags or puncture-resistant holders with proper labels?
☐ Has medical surveillance including HBV evaluation, antibody testing and vaccination been made available to potentially exposed employees?
☐ Training on universal precautions?
☐ Training on personal protective equipment?
☐ Training on workplace practices, which should include blood drawing, room cleaning, laundry handling, clean up of blood spills?
☐ Training on needle stick exposure/management?
☐ Hepatitis B vaccinations?

ERGONOMICS

☐ Can the work be performed without eyestrain or glare to the employees?
☐ Does the task require prolonged raising of the arms?
☐ Do the neck and shoulders have to be stooped to view the task?
☐ Are there pressure points on any parts of the body (wrists, forearms, back of thighs)?
☐ Can the work be done using the larger muscles of the body?
☐ Can the work be done without twisting or overly bending the lower back?
☐ Are there sufficient rest breaks, in addition to the regular rest breaks, to relieve stress from repetitive-motion tasks?
☐ Are tools, instruments and machinery shaped, positioned and handled so that tasks can be performed comfortably?
☐ Are all pieces of furniture adjusted, positioned and arranged to minimize strain on all parts of the body?

VENTILATION FOR INDOOR AIR QUALITY

☐ Does your HVAC system provide at least the quantity of outdoor air required by the State Building Standards Code, Title 24, Part 2 at the time the building was constructed?
☐ Is the HVAC system inspected at least annually, and problems corrected?
☐ Are inspection records retained for at least 5 years?

CRANE CHECKLIST

□ Are the cranes visually inspected for defective components prior to the beginning of any work shift?
□ Are all electrically operated cranes effectively grounded?
□ Is a crane preventive maintenance program established?
□ Is the load chart clearly visible to the operator?
□ Are operating controls clearly identified?
□ Is a fire extinguisher provided at the operator's station?
□ Is the rated capacity visibly marked on each crane?
□ Is an audible warning device mounted on each crane?
□ Is sufficient illumination provided for the operator to perform the work safely?
□ Are cranes of such design, that the boom could fall over backward, equipped with boomstops?
□ Does each crane have a certificate indicating that required testing and examinations have been performed?
□ Are crane inspection and maintenance records maintained and available for inspection

EXHIBIT B
CITY OF WASCO
OSHA FORM 301 (SEE ATTACHED)

EXHIBIT C
CITY OF WASCO
IDENTIFIED HAZARDS AND CORRECTION RECORD

Date of Inspection: _____ Person Conducting Inspection: _____

Unsafe Condition or Work Practice	Location	Priority	Person Assigned	Corrective Action Taken (Date)

EXHIBIT "D"

DRUG AND ALCOHOL FREE WORKPLACE POLICY

DRUG AND ALCOHOL FREE WORKPLACE ENVIRONMENT POLICY

The City of Wasco is concerned about employees being impaired for the performance of duty or under the influence of alcohol, drugs and/or controlled substances at work, and the use of such substances in the work environment. The City takes the position that any measurable amount of drugs or alcohol in an employee's system while on City time is counter-productive to the goals and mission of the City. The City is also concerned about the possession, distribution, purchase or sale of illegal drugs and controlled substances in the workplace.

These activities may adversely affect work performance, efficiency, safety and health. In addition, they constitute a potential risk to the welfare and safety of others, property loss or damage, and a negative image for the City.

The City's policy is designed to promote a drug-free workplace and to comply with appropriate state and federal law. In recognition of the public service responsibilities entrusted to City employees, and because drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy on drug and alcohol testing is hereby adopted by the City.

The Policy consists of Chapters "A" and "B." Chapter "A" is applicable to all employees. Chapter "B" is applicable to employees who operate commercial motor vehicles as defined by the Federal Motor Carrier Safety Administration ("FMCSA").

CHAPTER "A"

ALL EMPLOYEES
DRUG AND ALCOHOL FREE WORKPLACE POLICY

1. POLICY PURPOSE

The purpose of this policy is to establish rules and procedures regarding the use of drugs and/or alcohol as it pertains to employment and the procedures to be used to test for drug and/or alcohol use in the following three (3) circumstances: 1) pre-employment testing of external applicants for City jobs; 2) reasonable suspicion testing of current employees; and 3) post-accident testing of current employees.

The City provides reasonable accommodation as required by law to those employees whose drug or alcohol problem classifies them as disabled. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance deficiencies, danger to the health and safety of others and themselves, and/or violations of federal, state or City laws and/or policies.

2. VIOLATION OF POLICY

All persons covered by this Policy should be aware that violations of the Policy may result in discipline, up to and including termination, or in not being hired.

3. INDIVIDUALS COVERED

This Policy applies to external applicants for City jobs and to all employees. A copy of this Policy will be given to all employees. Notices of this Policy will be posted on departmental bulletin boards and copies are available from Human Resources.

4. CONFIDENTIALITY

Any information about an employee's use of prescription or non-prescription medication, the results of any pre-employment or reasonable suspicion drug and/or alcohol testing, and/or an employee's past or present participation in rehabilitation or treatment for substance abuse shall be considered confidential personnel information. The information received in enforcing this policy shall be disclosed only as necessary for: 1) disciplinary actions and appeals; 2) interactive process meetings and reasonable accommodation efforts; or 3) resolving legal issues. Any reports or test results generated pursuant to this policy shall be stored in a confidential file, accessible only by those authorized to receive the information, and separate and distinct from the employee's personnel file.

5. DEFINITIONS

Alcohol- The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol contained in any beverage, mixture, mouthwash, candy, food preparation or medication, including methyl or isopropyl alcohol.

Chain of Custody- Procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen at the certified laboratory.

City Equipment- All property and equipment, machinery and vehicles owned, leased, rented or used by the City.

Collection Site- A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen to be analyzed.

Designated Employer Representative ("DER")- An employee's Department Head or designee.

Drug- Any controlled substance that is not legally obtainable under state or federal law, or a prescription drug obtained or used without benefit of a prescription by a licensed physician.

Medical Review Officer ("MRO")- A licensed physician (medical doctor or doctor of osteopathy) responsible for reviewing laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant biomedical information.

Positive Test Result- A verified presence of the identified drug or its metabolite in a person's system at or above the levels allowed by this policy in a confirmation test as determined by appropriate testing of breath, urine or blood specimen and which is determined by the MRO to be the result of the use of drugs and/or alcohol.

Substance Abuse Professional ("SAP")- A licensed physician, social worker, psychologist, Employee Assistance Program ("EAP") or certified National Association of Alcohol and Drug Abuse counselor ("NAADAC") with knowledge of and clinical experience in diagnosis and treatment of alcohol and controlled substance disorders. A SAP determines whether an employee is fit for duty following an employee's refusal to test or failed alcohol or drug test, refers employees for a return to duty test and schedules unannounced follow up testing for a period of up to 36 months from the date the employee tested positive.

Testing Laboratory- A Substance Abuse and Mental Health Services Administration ("SAMHSA") certified testing laboratory.

6. RESTRICTIONS ON THE USE OF ALCOHOL

City employees shall not use, be under the influence, or possess any alcohol under any of the following circumstances: while on City property, while performing their duties (whether or not on City property) or at any time when use of alcohol would impair, to any extent, the employee's ability to perform his/her duties or to operate any City equipment.

7. PROHIBITION AGAINST THE USE OF DRUGS

No employee shall possess, use, sell, transfer, manufacture, purchase or transport drugs or attempt to do so or report to work with drugs in his/her system. No employee shall possess, use, sell, transfer, manufacture, purchase or transport prescription drugs, or attempt to do so, or report to work with prescription drugs in his/her system, unless the prescription drug has been lawfully prescribed to the employee.

8. CRIMINAL DRUG STATUTE CONVICTIONS

To fulfill its obligations under the Federal Drug-Free Workplace Act of 1988, the City requires any employee who is convicted of any criminal drug statute, for a violation occurring in the workplace, to provide written notice of the conviction to the City Manager no later than five (5) days after the conviction. The City is also required, and will fulfill its obligations to educate employees on the harmful effects of using and abusing drugs and/or alcohol. As required by law, the City will notify federal contracting agencies within ten (10) days after receiving notice that an employee, directly engaged in performance of work on a federal contract, has been convicted of a criminal drug statute violation resulting from conduct occurring in the workplace. Whenever the City has reason to believe that Federal, State or local drug laws are being violated, the City may refer the matter to the appropriate law enforcement agencies for investigation and possible criminal prosecution. Independent contractors, or employees of independent contractors, working on City projects are required by law or contract to notify the City of a drug and/or alcohol related conviction or positive test for drugs and/or alcohol. Said individuals will not be permitted to work on City projects.

9. MEDICATION REPORTING REQUIREMENTS

Employees shall, in the case of prescription drugs, ask the prescribing physician and/or, in the case of medication available over-the-counter, review product packaging, to determine whether the use of a prescription drug or over-the-counter medication may impair his/her ability to perform his/her normal job duties or to safely operate City equipment. Any employee taking any over-the-counter medication or prescription drug marked "do not drive," "do not operate heavy equipment" or similarly labeled, shall inform the appropriate supervisor of the use of the medication or drug prior to reporting for duty.

In the case of prescription drugs, the supervisor shall determine whether the employee may work, and whether that work shall be full or light duty, based on the written opinion of the employee's medical provider that the use of the medication may impair the employee's

ability to perform specific duties. The supervisor may, upon a determination that the employee is unable to safely perform his/her normal duties, or that a modified work assignment is not available, direct the employee not to work and to return home on leave if appropriate. If the employee's personal medical provider provides a written opinion that the use of the drug or medication will not impair the employee's ability to perform his/her normal duties, the supervisor will allow the employee to perform those duties. Notices or communications required by this section shall be confidential and disclosed only to the supervisor and the other employees specifically authorized to receive information pursuant to this policy.

10. INDICATIONS FOR ALCOHOL AND DRUG TESTING

A. Certain External Job Applicants – The City has a special need to require certain job applicants to take a drug and alcohol test after a conditional job offer has been given. Those applying for jobs classified by City as safety-sensitive positions (i.e., including, but not limited to those jobs where individuals perform work that involves a danger to the public, or those applicants seeking jobs which can directly influence children) must take and pass a mandatory drug and alcohol test as soon as practical following their acceptance of an offer of employment that is conditioned upon passing a pre-employment physical and drug/alcohol test.

Those external job applicants, described above, who:

- refuse to submit to testing, or attempt to tamper with or adulterate a test sample, will be considered to have refused to participate in the testing process and will be disqualified in the hiring process.

- test positive for drugs and/or alcohol or unauthorized prescription drug use shall be disqualified in the hiring process.

B. Employees – The City may require an employee to submit to a drug and/or alcohol screen test under the following circumstances:

1. Following a work-related accident, incident or mishap that resulted in death, or injury requiring medical treatment away from the scene of the accident, or property damage, where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor. See Exhibit C.

2. When a supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations that the employee may be under the influence of drugs and/or alcohol. See Exhibit C.

3. When a supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee either possesses, uses, sells, transfers, manufactures, purchases or illegally

transports alcohol, drugs and/or drug related paraphernalia or attempts to do so. See Exhibit C.

4. Follow-up testing for employees who have returned to work following a positive test and their participation in a drug and/or alcohol rehabilitation program.

5. When an on-duty employee is contacted by a law enforcement officer who has reasonable suspicion to believe the employee is under the influence of alcohol or drugs or the employee has been involved in an on-duty vehicle-related incident and the officer suspects the employee is under the influence of drugs and/or alcohol.

11. DRUG AND ALCOHOL TESTING

A. Administration

A Department Head or his/her designee is the Designated Employer Representative ("DER") and shall be responsible for overseeing implementation of this policy and the testing procedures in Exhibit C. The DER will be responsible for reviewing all disciplinary actions resulting from violations of this policy to ensure that the action proposed or taken is consistent with this policy.

B. Procedures

1. Mandatory Reporting – Any employee who has reason to believe that another employee may be in violation of this policy shall immediately notify his/her immediate supervisor. The supervisor should take whatever immediate action is deemed prudent to ensure the safety of the public and employees. Should the supervisor have reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee may be under the influence of drugs and/or alcohol, the employee should be immediately removed from the workplace and placed upon administrative leave with pay until such time as testing results confirm or refute the presence of drugs and/or alcohol. The supervisor shall use the Reasonable Suspicion Evaluation Form (Exhibit A) to assist in making this determination.

2. Acknowledgement - No drug and/or alcohol test may be administered, sample obtained, or drug and/or alcohol test be conducted on any sample in the pre-employment context without the written acknowledgment of the applicant being tested. See Exhibit B. Refusal of any applicant or employee to submit to testing, or attempt to adulterate or evade the testing process, will be viewed as insubordination and will subject the person to disqualification from employment or disciplinary action, up to and

including discharge. The City will pay the cost of all drug and/or alcohol tests required by this policy.

3. Collection, Integrity and Identification

   a. After the applicant or employee has been advised about the reason for the test by the supervisor, the applicant or employee will be properly identified and Collection Site personnel will explain the mechanics of the collection process.

   b. Procedures for urine collection will allow for individual privacy unless there is reason to believe the individual may alter or substitute the specimen to be provided. Samples will be tested for temperature and subject to other validation procedures as appropriate.

4. Chain of Custody

   a. Procedures for the storage and transportation of test specimens shall conform to the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services as amended from time to time.

   b. The test laboratory shall maintain custody of the specimens.

5. Testing Methods – All tests will be screened using an immunoassay technique and for alcohol an Evidential Breath Testing (EBT) device. All presumptive positive drug tests will be confirmed using gas chromatography/mass spectrometry (GC/MS) and all presumptive positive alcohol tests will be confirmed with a second EBT performed within 15-30 minutes after the first EBT test is completed. Tests will seek only information about the presence of drugs and/or alcohol in an individual's system and will not test for any medical condition.

6. Notification – Any employee who tests positive will be notified by the MRO and will be given an opportunity to provide the MRO any reasons he/she may have that would explain the positive drug and/or alcohol test, other than the presence of alcohol or the illegal use of drugs. Test results will only be disclosed to the extent expressly authorized by this policy.

7. Split Sample Testing – An employee who has been subjected to drug and/or alcohol screening may request a split sample test be conducted at a certified laboratory chosen by the employee. All costs associated with an employee's decision to pursue split sample testing will be the full responsibility of the employee. The employee must adhere to the

following procedures to maintain strict Chain of Custody of the sample and validity of the split sample test results:

i. To request a split sample test to be conducted, the employee must submit such a request in writing.

ii. The request will be forwarded to the testing laboratory used by the City facility. They will release the split sample to the certified lab chosen by the employee provided they have received the properly executed Chain of Custody release form.

iii. The laboratory selected by the employee must be a certified laboratory per state regulations and authority and be able to conduct GC/MS method of testing for validation of testing results. Any method of testing performed on the split sample that is not the GC/MS method will be considered invalid.

iv. The split sample test results will not be released to City without the employee's written consent.

12. REHABILITATION

A. Voluntary Disclosure – Any employee with a drug and/or alcohol problem may voluntarily disclose the problem to the DER who shall refer the employee to the Employee Assistance Program (EAP). An employee requesting this assistance may, at the supervisor's discretion, be transferred, given work restrictions, or placed on leave while receiving treatment and until the employee is drug and/or alcohol free. An employee's voluntary disclosure of a substance or alcohol abuse problem will not terminate any investigation, criminal or administrative, initiated prior to the disclosure.

Each employee is responsible for seeking assistance before the employee's drug and/or alcohol problem leads to a violation of this Policy, or before the employee is asked to submit to a reasonable suspicion drug and/or alcohol test.

B. Leave Time – Employees must use available sick time, vacation accrual, CTO or request a leave of absence without pay if time off from work is necessary for any treatment or rehabilitation program. The costs of long-term rehabilitation or treatment services, whether or not covered by the employee's medical plan, are the ultimate responsibility of the employee.

EXHIBIT A
DRUG AND ALCOHOL TESTING POLICY
REASONABLE SUSPICION EVALUATION FORM

Employee Name:_____

Observation Date and Time:_____

Location of
Employee:_____

Location of
Supervisor(s):_____

Others present during activities or
observations:_____

Incident(s) observed which give cause for reasonable
suspicion:_____

(Factors that may be considered in combination with those listed in 1 – 6 below include: takes needless risks, accident(s), disregard for others safety, unusual/distinct pattern of absenteeism/tardiness, increased high/low periods of productivity, lapses of concentration or judgment, etc.)

1. Presence of alcohol, alcohol containers, drugs, and/or drug paraphernalia (specify):

_____

2. Appearance:

___Flushed ___Inappropriate ___Disheveled
___Bloodshot/Glassy Eyes ___Tremors ___Profuse Sweating
___Dilated/Constricted Pupils ___ Inappropriate Wearing of Sunglasses
___Dry-mouth Symptoms ___Runny Nose/Sores __Smell of Alcohol
___Puncture Marks ___Other:

3. Behavior/Speech:

___Incoherent ___Slurred ___Unconscious
___Confused ___Slowed ___Hostile/Confrontational
___Agitated ___Sleeping on the job
___Other:

4. Awareness:

___Confused ___Mood Swings ___Euphoric
___Lethargic ___Paranoid ___Disoriented

___Lack of Coordination
___Other:

5. Motor Skills/Balance:
___Unsteady ___Swaying ___Falling
___Staggering ___Stumbling ___Reaching for Support
___Arms Raised for Balance
___Other:

6. Other observed Actions or Behaviors:

_____
_____
_____
_____

Supervisor's Comments:

_____
_____
_____
_____

Supervisor's Name:_____

Signature:_____Date:_____

Witness(es) Name:_____

Signature:_____Date:_____

EXHIBIT B

DRUG AND ALCOHOL POLICY

ACKNOWLEDGEMENT OF SUBMISSION TO DRUG AND/OR ALCOHOL TESTING BY THE CITY OF WASCO

I, _____[PRINT NAME], understand and acknowledge that I have reviewed a copy of the City of Wasco's Drug and Alcohol Testing Policy ("Policy"). I hereby acknowledge that I am required to submit to drug and/or alcohol testing pursuant to the Policy.

I understand and acknowledge that information regarding the test results will be released to the City of Wasco and that such information may be used as grounds for disciplinary action, up to and including discharge.

I further understand and acknowledge that:

1. The City of Wasco will pay the cost of all drug and/or alcohol tests required or requested by the City;

2. I may request in writing a copy of the results of any such test;

3. I may request that a split sample test be sent to a certified testing laboratory of my choice, consistent with the procedures outlined in the City's Drug and Alcohol Testing Policy, and that I will bear all of the costs associated with the split sample testing;

4. By signing this form, I hereby acknowledge that the split sample test results will be released to the City; and

5. I have the right to refuse to submit to such testing; however, refusal by me to submit to or cooperate at any stage of the testing shall be considered equivalent to a confirmed "positive" test for purposes of disqualification from employment and/or disciplinary action, up to and including discharge from my employment with the City.

6. I may also be required to execute forms at the Collection Site.

With full understanding and knowledge of the foregoing, I hereby acknowledge my obligation to submit to drug and/or alcohol testing conducted by the clinic and/or testing laboratory selected by the City of Wasco.

I have read the above acknowledgement and certify that I have signed this document with full knowledge and understanding of its contents.

Signature:_____

Date:_____

City and
State:_____

Witness Signature_____ Date_____

EXHIBIT C

DRUG AND ALCOHOL POLICY
REASONABLE SUSPICION AND POST ACCIDENT TESTING PROCEDURES

A. Testing Procedures

1. Reasonable suspicion testing will be conducted when a supervisor has a reasonable suspicion that an employee is under the influence of drugs and/or alcohol. Reasonable suspicion must be based on specific, contemporaneous, documented observations concerning the physical symptoms or behaviors of being under the influence of drugs and/or alcohol. If conditions permit, a supervisor may request the assistance of another supervisor to observe the actions or behavior of the employee. Examples of indicators of probable drug and/or alcohol abuse sufficient to lead a supervisor to suspect that an employee is under the influence of drugs and/or alcohol, include, but are not limited to, those on the attached Reasonable Suspicion Evaluation Form (Exhibit A). The supervisor may allow the employee to consult with a representative prior to the test.

2. The Reasonable Suspicion Evaluation Form and other documentation establishing reasonable suspicion shall be prepared and signed by the supervisor prior to testing. The Department Head should be notified as soon as possible.

3. Employees shall be alcohol tested within two (2) hours following the determination made by a supervisor, or otherwise the employer shall document the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the determination, the employer shall cease attempts to administer a test and shall record the reasons for not administering the test.

4. Employees shall be drug tested within thirty-two (32) hours following the determination made by a supervisor or otherwise the employer shall document the reasons the test was not promptly administered. If a test is not administered within thirty-two (32) hours following the determination, the employer shall cease attempts to administer a test and shall record the reasons for not administering the test.

5. The potentially affected employee will not be allowed to proceed alone to or from the Collection Site. In addition to the safety concerns for the employee, the supervisor accompanying the employee also assures that there is no opportunity en route to the Collection Site for the employee to do or ingest anything that could affect the test result or to acquire "clean" urine from another person.

B. **Post Accident Testing**

Follows the same testing procedures as the reasonable suspicion testing procedures stated in section A, above.

C. **Return to Duty Testing**

1. Before an employee returns to duty after a positive test, the employee shall undergo an evaluation of fitness for duty by the SAP.

2. Return to duty testing, under the direction of the MRO, will be completed after the SAP states the employee is fit to return to work. The employee will then submit to a return to duty test and receive a verified negative test result for drug and/or alcohol use from the MRO before being notified to return to work by the City.

D. **Follow-Up Testing**

1. Following a determination by a SAP that an employee is in need of assistance in resolving problems associated with drug and/or alcohol use, the employee shall be subject to unannounced follow-up testing as directed by the SAP of at least a minimum of six (6) tests in the first year following the employee's return to duty, and thereafter as determined necessary by the SAP. The SAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary and is supported by the City.

2. Follow-up alcohol testing may also include testing for controlled substance use as directed and determined by the SAP.

3. The time period for "follow-up" testing for drug and/or alcohol use will be determined by the SAP, never to exceed three (3) years.

4. Follow-up testing may be on a daily, weekly, monthly or longer basis at the discretion of the SAP.

E. **Refusal to Submit to Testing**

The following will be construed by the City as refusal to submit to testing:

1. Not providing the City with written consent to take the test;

2. The applicant or employee does not supply enough quantity of the laboratory-required sample for alcohol or drug testing without valid medical explanation;

3. Tampering with a specimen or the collection process;

4. Tardiness reporting to the Collection Site without valid explanation; and

5. Leaving an accident scene without justifiable cause before tests are conducted.

Any refusal to test will be considered a violation subject to disqualification from employment and discipline up to and including termination.

CHAPTER "B"

DRUG AND ALCOHOL TESTING POLICY PURSUANT TO DEPARTMENT OF TRANSPORTATION REGULATIONS

1. PURPOSE

The City of Wasco recognizes that the use of alcohol, drugs, and controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy, and productive work environment for all employees and the public, it is the City's objective to have a workforce that is free from the influence of substance abuse.

This policy also is intended to comply with all applicable federal regulations governing workplace anti-drug programs and safety-sensitive employees. The federal Drug-Free Workplace Act of 1988 and similarly, the California Drug-Free Workplace Act of 1990 require the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the federal Department of Transportation ("DOT"). Also, the Federal Highway Administration ("FHWA") (whose alcohol and drug testing rules are now enforced by the Federal Motor Carrier Safety Administration ("FMSCA") of the DOT has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevent performance of safety-sensitive functions where there is a positive test result. The DOT also has set standards for the collection and testing of urine and breath specimens.

Any questions regarding rights and obligations under this policy shall be referred to the employee's Department Head.

2. PERSONNEL AFFECTED

The prohibition against substance abuse in the workplace applies to all City employees who perform safety-sensitive duties when they are on City property, when performing any City-related business, or when driving a motor vehicle on private roads and serious injury results. If you are a safety-sensitive employee covered by this policy, you must familiarize yourself with this policy's provisions because compliance with this policy is a condition of your employment.

A safety-sensitive employee is an employee who meets any of the criteria below and as designated by the City in its sole discretion:

A. One in any position that the respective City department has designated as requiring the use of a Class "A" or Class "B" commercial driver's license.

B. One who performs safety-sensitive functions, the performance of which may affect the public safety, including:

1. Driving a commercial motor vehicle;
2. Spending time in a commercial motor vehicle;
3. Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded;
4. Repairing, obtaining assistance, inspecting, maintaining, or attending to a commercial motor vehicle;
5. Use of a firearm for security purposes; or
6. Use of heavy equipment.

A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function, including off-site lunch periods and breaks.

3. POLICY

A. Prohibited Substances

1. Alcohol

This policy addresses the use of alcoholic beverages or substances, including any medication or food containing alcohol such that it is present in the body at a level in excess of that stated in the guidelines by the Department of Transportation, as amended, and currently set at a breath-alcohol concentration of .02 liters. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

2. Drugs or Controlled Substances

This policy addresses any substance which, in the opinion of competent medical professionals, causes or may cause significant impairment of job performance or which causes or may cause behavior that is a threat to the safety of the affected employee or others. All substances listed in any federal, state or local controlled substance acts or regulations, including, but not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine, and those substances listed in Schedules I through V of section 202 of the federal Controlled Substances Act are covered by this policy.

3. Prescription Drugs

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. An employee must advise his/her supervisor of the use or influence of any prescription drug prior to beginning work when taking the medication or drug could interfere with the safe and

effective performance of duties, or the operation of a City vehicle or heavy machinery such that the employee poses a direct threat to the health and safety of himself/herself or others.

An employee's failure to provide this notice in a timely manner may 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.

B. **Prohibited Conduct**

The City prohibits the following acts:

1. Being under the influence of or in possession of alcohol, drugs, or controlled substances when reporting for work;
2. Ingesting, injecting, or otherwise using alcohol, drugs, or controlled substances while performing job duties, except in accordance with above Section A.3 regarding prescription drugs where applicable;
3. Being under the influence of alcohol, drugs, or any controlled substances while subject to being called to duty, including stand-by time;
4. Performing a safety-sensitive function within four (4) hours of using alcohol or while using alcohol;
5. Directly or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks or while on City premises;
6. Use of City property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances;
7. Absence or tardiness as a result of having been under the influence of alcohol, drugs or controlled substances during non-work time; and
8. Refusing to submit immediately to any alcohol, drug, or controlled substance test required by this policy when directed by the City. Refusal includes but is not limited to:

    a. A refusal to provide a urine sample for a drug test;
    b. An inability to provide a urine sample without a valid medical explanation;
    c. A refusal to complete and sign a testing authorization form;
    d. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
    e. Tampering with or attempting to adulterate or substitute a urine specimen;
    f. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
    g. Obstructing the collection procedure or testing process in any way; or

h. Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager was not obtained.

9. Consuming alcohol, drugs, or controlled substances during the eight (8) hours immediately following an accident in which the employee was involved, or until the employee undergoes a post-accident alcohol or drug test, whichever comes first.
10. Refusal to submit to a search of personal properties when directed by the City upon reasonable suspicion.

C. Notifying the City of Any Criminal Drug Statute Conviction

In accordance with the Drug-Free Workplace Act of 1988, an employee must immediately notify the City of any criminal drug statute conviction based on a violation that occurred in the workplace no later than five (5) days after such conviction. Any employee who fails to provide this notice will be subject to discipline up to and including termination.

D. Consequences for Violation of This Policy

1. Discipline

Any violation of this policy may result in discipline up to and including termination. Discipline may be imposed regardless of whether or not an employee is convicted of any crime related to any violation of this policy. Any violation of this policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

2. Removal from Work Site

Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances shall be immediately prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

3. Removal of Safety-Sensitive Functions

An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 will be removed from his/her safety-sensitive position for at least 24 hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be removed from his/her safety-sensitive position for a period to be determined by the Department Head.

If an employee tests positive for drugs or controlled substances, the employee may not perform safety-sensitive functions until satisfying the following requirements:

a. The employee must be retested and receive a verified negative result; and

b. When referred to a Substance Abuse Professional ("SAP"), the employee must complete any course of rehabilitation and submit to a return to duty test, as developed with the assistance of the SAP. Unless otherwise required by an applicable Memorandum of Understanding or the City's health insurance policy, the City is not required to pay for this type of treatment.

A SAP is a licensed physician, psychologist, social worker, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol, drug, and controlled substance abuse disorders.

4. Termination for Inability to Perform Essential Functions

After the City has complied with any legal obligation to reasonably accommodate an employee's protected disability, it may terminate an employee who is unable to perform the essential functions of the job.

E. Alcohol and Drug Testing

1. Pre-employment Testing

Prior to the start of employment, the City may require all applicants to submit to a test for alcohol and illegal drug use as a condition of employment. Any applicant who refuses to provide consent for this test or who receives a verified positive result will be disqualified from City employment.

a. Requirement for Records Check

As required by DOT regulations, an applicant to a safety-sensitive position will be asked to provide, by written consent, alcohol and drug testing records from prior employers regulated by the DOT for the two (2) year period prior to the date of application. These records shall include any alcohol test results of .04 or higher alcohol concentration, refusals to be tested, verified positive drug tests and documentation of the successful completion of return to duty requirements.

b. Requirements for Direct Inquiry

The applicant also must provide information regarding whether he/she has tested positive or has refused to test on any pre-employment drug or alcohol test for any safety-sensitive job applied for but not obtained during the prior two (2) years, as required by DOT regulations.

2. Reasonable Suspicion Testing and Search

If a supervisor reasonably suspects that an employee is under the influence of alcohol, drugs, or controlled substances while performing job duties or operating City equipment,

upon prior approval by the Department Head, the supervisor may require the employee to submit to an alcohol and/or drug test. An employee's refusal to submit to such a test is cause for discipline up to and including termination.

Moreover, the City reserves the authority to search, without employee consent, all areas of City property which the City maintains control or joint control with the employee.

Examples of indicators which can form a reasonable suspicion that an employee is under the influence of alcohol, drugs, or controlled substances include but are not limited to direct observation of the following:

a. Slurred speech;
b. Glassy or bloodshot eyes;
c. Odor of alcohol;
d. Unsteady walking and movement;
e. An accident involving City property or a City employee or client;
f. A near-accident or other safety violation;
g. Physical or verbal altercation;
h. Possession of alcohol, drugs, controlled substances, or drug paraphernalia;
i. Sleeping on the job;
j. Pattern of abnormal or erratic behavior;
k. Information either provided by reliable and credible sources or independently corroborated;
l. Conviction for a drug-related offense; and
m. Tampering with a previous drug test.

3. Post-Accident Testing

Unless the City determines that the employee's performance was not a contributing factor, any employee involved in a reportable accident may be subject to an alcohol test within two (2) hours following the accident and to a drug test within thirty-two (32) hours following the accident. Not only may the operator of the vehicle be tested, but so may any other employee whose performance may have contributed to the accident, such as the employee who maintains the vehicle or worksite where the accident occurred.

An accident is considered reportable if it occurs while in a City commercial motor vehicle on City property or when operating a commercial motor vehicle on a public road in commerce and involves any of the following: 1) while performing safety-sensitive functions with respect to the vehicle, the accident involved a fatality; or 2) the issuance of a citation by law enforcement to the employee for a moving traffic violation arising from the accident and: a) bodily injury demanding immediate medical treatment away from the scene of the accident; or b) vehicular damage so that the vehicle must be towed away from the scene of the accident even after simple repairs on the scene. The operator of the vehicle must immediately report this accident to the appropriate authorities, as well as the City, so that the relevant drug/alcohol tests may be conducted.

4. Transfers to Safety-Sensitive Positions

a. Requirement for Records Check

As required by DOT regulations, employees who transfer to a safety-sensitive position will be asked to provide, by written consent, alcohol and drug testing records for the two (2) year period prior to the date of application. These records shall include any alcohol test results of .04 or higher alcohol concentration, refusals to be tested, verified positive drug tests and documentation of the successful completion of return-to-duty requirements.

b. Requirements for Direct Inquiry

Transferred employees also must provide information regarding whether they have tested positive or refused to test on any pre-employment drug or alcohol test for any safety-sensitive job applied for but not obtained during the prior two (2) years as required by DOT regulations.

5. Random Testing

Safety-sensitive employees will be subject to random alcohol and drug testing as required by DOT guidelines. Depending on the random selection, some employees may be tested more than once in a year, while others are not tested at all. Testing will take place just prior to the employee performing a safety-sensitive function, while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.

a. Alcohol Test

Unless otherwise amended by DOT guidelines, the City will randomly test at least ten percent (10%) of the total number of safety-sensitive employees per year for alcohol.

b. Drug Test

Unless otherwise amended by DOT guidelines, the City will randomly test at least fifty percent (50%) of the total number of safety-sensitive employees per year for drugs.

6. Return-to-Duty Testing

An employee who has violated this policy may be subject to a return to duty test, and up to six (6) unannounced drug/alcohol tests during the first twelve (12) months back to a safety-sensitive position. The results must indicate an alcohol concentration of less than .02, or in the case of a drug test, must indicate a verified negative result. This testing is separate from any random testing obligation.

F. Testing Procedures

Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under DOT guidelines.

G. Recordkeeping and Confidentiality

The City is obligated to maintain records of the administration, including violations, of this policy for a period of five (5) years.

Any laboratory reports and test results shall not appear in an employee's general personnel folder but will be contained in a separate confidential medical folder that will be securely kept. The report or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur under the following situations:

1. When the information is compelled by law or by judicial or administrative process;
2. When the information has been placed at issue in a formal dispute between the employer and employee;
3. When the information is to be used in administering an employee benefit plan;
4. When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or
5. When requested by the DOT or any state or local officials with regulatory authority over the City or any of its safety-sensitive employees.

H. Rehabilitation

The City encourages employees to use City-sponsored employee assistance programs voluntarily to assist them in resolving any alcohol, drug, or controlled substance abuse problems. Employees should contact their supervisor or Department Head for additional information. The City is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

While the City will be supportive of those who seek help voluntarily, the City will be firm in identifying and disciplining those who continue to be substance abusers and who do not seek help or continue substance abuse even while enrolled in counseling or rehabilitation programs. Therefore, the City may require employees to use employee assistance programs, and in addition to mandatory referrals to a SAP where applicable.