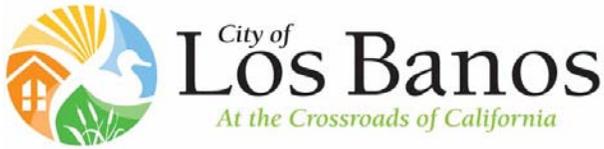




City of
Los Banos
At the Crossroads of California

Policy & Procedures Manual (Personnel Rules)



ESTABLISHMENT OF CITY PERSONNEL RULES

Adoption: Pursuant to **Resolution No. 5385**, the City Council of the City of Los Banos does hereby establish and adopt the Rules, Policies, and Procedures set forth in the City of Los Banos, Policy & Procedures Manual.

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**DIVISION 1
GENERAL**

SEC. 1001 INTRODUCTION

The purpose of these Rules is to provide a system for personnel selection and management for the City.

SEC. 1002 PERSONS GOVERNED BY THESE PERSONNEL RULES

All employees of the City of Los Banos who fall under the jurisdiction of the City Manager are governed by these Rules. Disciplinary action may be taken as a result of failure to comply with the provisions of these Rules.

SEC. 1003 PERSONS NOT GOVERNED BY THESE PERSONNEL RULES

The City Council and other elected officials, the City Manager, the City Attorney, volunteer, temporary, per diem, provisional or seasonal employees, employees whose positions are funded under a state or federal employment program, or other employees appointed by and serving directly under the jurisdiction of the City Council, are not governed by these Rules.

SEC. 1004 CONTROL OF PERSONS NOT GOVERNED BY THESE PERSONNEL RULES

While not governed by these specific Rules, those persons identified in Section 1003, are nonetheless considered to be employees of the City and are thus subject to all applicable City Policy or Procedure established by the City Council, City Manager, or Department Head for the purpose of exercising management control over their specific function or job classification.

SEC. 1005 ADMINISTRATION OF PERSONNEL SYSTEM

In accordance with the provisions of Los Banos Municipal Code (LBMC) Chapter 3, Article 1, the City Manager is responsible for administering the City Personnel System. The authority of the City Manager includes the power to appoint, re-assign, discipline, demote, discharge, promote, direct, order, supervise, and manage all City of Los Banos Employees under his/her jurisdiction. In keeping with sound management practices, the City Manager may delegate specific areas of his/her authority to City Department Heads or other specified individuals.

SEC. 1006 ESTABLISHMENT OF DEPARTMENT PERSONNEL RULES

In recognition of the unique concerns of individual Departments, the City Manager hereby delegates authority for establishment of Department Personnel Rules; provided such Rules

do not conflict with City Personnel Rules, City Ordinances, or State or Federal Law. After approval by the City Manager, Department Personnel Rules have the same force and effect as City Personnel Rules. City Manager approval is not required for establishment of operational policies and procedures. Except as specifically provided in these Rules, where a conflict exists between City Personnel Rules and Public Safety Department Rules, Public Safety Department Rules will prevail.

SEC. 1007 PERSONNEL POLICY STATEMENT

It is declared policy of the City of Los Banos that the City will not discriminate against any prospective or current employee because of race, color, ancestry, national origin, citizenship, religious creed, sex, gender, sexual identity, age, physical or mental disability, medical condition, marital status, sexual orientation, political opinion or affiliation, or any other basis protected by law.

The City of Los Banos will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline, and termination. Employees who believe they have experienced any form of employment discrimination should report this immediately, using the complaint procedure provided in Division 20 of these Personnel Rules.

The tenure of employees governed by these Personnel Rules shall be subject to compliance with these Rules, good behavior, satisfactory performance, necessity for work being performed, and availability of funds.

In order to facilitate reporting of workplace wrongdoing, the City provides several methods, outlined in this Manual. The City has also arranged with an independent third party to provide an Employee Hotline which allows for anonymous reporting of wrongdoing. City Employees may use the toll-free Employee Hotline twenty-four (24) hours a day, seven (7) days a week. Calls made to this line will not be traced. Instructions for using The Employee Hotline are further described in The Employee Hotline Acknowledgement Form (DIV-1-A) included in this division.

SEC. 1008 PROSPECTIVE EMPLOYEE DEFINED

Any person who submits a properly completed application for employment with the City of Los Banos, on the form approved by the City Manager, shall be considered a prospective employee.

SEC. 1009 EMPLOYMENT CATEGORIES DEFINED

City of Los Banos employees who are governed by Personnel Rules fall into one of the following Employment Categories:

- A. Regular Employees: Full-time Employees who are receiving compensation for serving in a permanent position budgeted for 1000 hours or more during a fiscal year.
- B. Part-time Employees: Temporary Employees (as defined in Section 1009(D) of these Rules) who receive compensation for serving in a position budgeted for less than 1000 hours during a fiscal year. Although the City may choose to hire the Temporary Employee for additional hours over and above the number of hours for which the position is budgeted, this will not change the Temporary Employee's categorization as a Part-time Employee, nor entitle the employee to benefits as described in Division 5 of these Personnel Rules except when such benefits are being provided by the City in accordance with the requirements of a Federal or State Law.
- C. Provisional (Contract) Employees: Temporary Employees who receive compensation for performing services specified in an employment contract or agreement reached between the Provisional Employee and the City Manager or his/her designee. Provisional Employees may, depending upon the terms of the contract or agreement, work full-time or part-time.
- D. Temporary Employees: a) do not hold regular status, b) do not serve a probationary period, c) can be dismissed at-will from City employment at any time without right of procedural due process, appeal, grievance or hearing, d) are not entitled to earn, accrue, or participate in any City employee benefit plans, or paid or unpaid leaves, except when such benefits are being provided by the City in accordance with the requirements of a Federal or State Law, and e) will not exceed 1000 hours per fiscal year.
- E. Exempt Employees: Employees who meet one or more of the duties test exemptions from overtime under the Fair Labor Standards Act (FLSA) (e.g. executive, administrative, professional, computer employee) and who are paid on a salary basis, meaning that he or she is compensated in a predetermined amount that is not reduced, regardless of the quality or quantity of work actually performed, except as required by the City's principles of public accountability for partial-day absences, is FLSA exempt. An FLSA-exempt employee is not entitled to overtime compensation.
- F. FLSA Non-Exempt (Overtime Eligible) Employees: Employees who are entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis are FLSA non-exempt, overtime-eligible employees. An employee assigned to an FLSA-exempt position on an acting or temporary basis only remains overtime-eligible.

SEC. 1010 EMPLOYMENT LEVELS IDENTIFIED

Employment Levels are determined by the degree of authority and responsibility vested in a specific employee in the areas of Personnel Management and Policy Development and Implementation. All City of Los Banos employees governed by these Personnel Rules fall into one of the following Employment Levels: Management, Supervisory or Staff.

- A. Management Employees: This level is divided into two (2) sub-levels; Managers and Middle Managers; a) Managers are those employees who are charged with overall responsibility for administration of the City, or a Department or a Division of the City. Within their assigned area of responsibility, Managers exercise broad authority over development and implementation of policy and the recruitment, assignment, and discipline of personnel; b) Middle Managers are those employees, who, acting under authority of Managers, assist with the administration of the City or a Department or Division of the City. Within their assigned area of responsibility, Middle Managers exercise significant influence and have limited authority over development and implementation of policy and their recruitment, assignment, and discipline of personnel.

- B. Supervisory Employees: These employees are charged with the responsibility of insuring that Management policies and directives are promptly and effectively carried out. In keeping with their job responsibilities, a primary function of Supervisory Employees is that of training, directing, and supervising the work of staff employees under their operational command. In general, Supervisory Employees have minimal responsibility for and involvement in the establishment of policies for the City or a Department or Division of the City. Further, their authority over personnel matters is generally limited to; a) assignment of work, b) critique of work, and c) recommending disciplinary action.

- C. Staff Employees: These employees are charged with the actual responsibility for carrying out Management policies and directives. In general, Staff Employees have very minimal responsibility and involvement in the establishment of policies of the City or a Department or Division of the City, or with the recruitment, assignment, or disciplining of personnel.

SEC. 1011 VIOLATION OF PERSONNEL RULES

Violation of City Personnel Rules shall constitute valid grounds for; a) rejection of a prospective employee or b) disciplinary action, up to and including discharge, against a current employee.

SEC. 1012 AMENDMENT OF CITY PERSONNEL RULES

Upon recommendation by the City Manager and approval by the City Council, City Personnel Rules may be deleted, amended or expanded.

SEC. 1013 INTERPRETATION OF PERSONNEL RULES

Except in those specific areas where an appeal to the City Council is permitted, the City Manager shall be the final authority with regard to interpretation of City Personnel Rules.

SEC. 1014 AUTHORITY FOR ENACTMENT OF ADDITIONAL RULES BY DEPARTMENT HEADS

Department Heads or City Division Heads have the right and responsibility to enact any procedures to deal with matters not specifically covered under the City Personnel Rules.

SEC. 1015 REQUIREMENT TO FOLLOW CHAIN OF COMMAND

All employees of the City of Los Banos shall have a duty to know their supervisor(s) and subordinate(s). All official communications, correspondence or requests, being forwarded to a higher command level within the City structure, shall be approved by, or submitted through, the initiating employee's immediate supervisor, except when specific authorization is granted to by-pass the supervisor as provided in other Divisions of these Rules.

Special Note: The primary purpose of this section is to provide for an efficient, clearly established command structure that cannot be improperly weakened or circumvented through inappropriate bypassing of supervisors by disgruntled employees. The section is not intended, nor shall it be considered to prohibit; a) the upward transmittal of routine correspondence, reports and other such information, b) informational decisions between employees at any level within the City structure, or c) the duty of an employee to answer questions or provide information concerning City business (with or without the knowledge of his/her immediate supervisor) when requested to do so by a higher command authority.

SEC. 1016 LABOR RELATIONS: POLICIES AND PROCEDURES

It is the expressed intent of the City to strengthen merit, and other methods of administering Employer-Employee relations through the establishment of lawful, uniform, and orderly methods of communications between employees, employee organizations, and the City. This area is addressed more extensively in City Council Resolution No. 5384; Employer-Employee Organization Relations.

SEC. 1017 PRIORITY OF COLLECTIVE BARGAINING AGREEMENTS

If a provision of these Rules conflicts with any provision of an applicable collective bargaining agreement entered into by the City and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling for employees in the affected bargaining unit.

SEC. 1018 NO CONTRACT CREATED

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

**CITY OF LOS BANOS
THE EMPLOYEE HOTLINE ACKNOWLEDGEMENT FORM
(FORM DIV-1-A)**

To help you report workplace wrongdoing easily and without fear, the City provides several methods, outlined in this Manual. The City has also arranged with an independent third party to provide an Employee Hotline which allows for anonymous reporting of wrongdoing. City Employees may use the toll-free Employee Hotline twenty-four (24) hours a day, seven (7) days a week. Calls made to this line will not be traced.

It is important, when leaving a message on the Employee Hotline that you provide enough information so that appropriate action can be taken. Tell what has happened, including dates, times and the full names of witnesses. Your report will be kept as confidential as possible and will be treated with the seriousness it deserves. Do not use the Employee Hotline for pranks, jokes or untrue claims.

Instructions for Using the Employee Hotline:

1. Prepare what you want to say.
2. Using a touch-tone phone, dial 1 (800) 813-5990.
Note: If you are calling from a City Centrex line, you must first dial nine (9) to get an outside line.
3. You will be required to give the City's name (and location, if applicable) but you may leave a message without giving your name or identifying yourself in any way.
4. All calls will be handled discreetly and a report will be forwarded, on a confidential basis, to a member of senior management in your organization.

Acknowledgement

The undersigned acknowledges that he or she has read (or has been read) and understands the information regarding the Employee Hotline including how to use the Employee Hotline.

(Print Name)

(Signature)

(Date)

DIVISION 2 CITY ORGANIZATION

SEC. 2001 PURPOSE

The purpose of this Division is to identify the organizational structure of the City.

SEC. 2002 CITY OF LOS BANOS

Incorporated May 8, 1907, Los Banos is a General Law City operating under a Council-Manager form of government.

SEC. 2003 LOS BANOS CITY COUNCIL

The five (5) member Los Banos City Council serves in a role similar to that of a Corporate Board of Directors. Their primary function is the establishment of ordinances and policies that insure lawful and efficient operation of the affairs of the City. City Council membership includes; a) one (1) Mayor, selected by majority vote of the City electorate for a two (2) year term of office, and b) four (4) Council Members, selected by majority vote of the City electorate for a four (4) year term of office. Council/Mayor elections are held on the first Tuesday, after the first Monday in November of even numbered calendar years. After each Council/Mayor election, one of the Council Members is selected, by majority vote of the Council, to serve as Mayor Pro-Tem. The primary duty of the Mayor Pro-Tem is to preside over Council Meetings and other City functions, in the absence of the Mayor.

SEC. 2004 LOS BANOS PLANNING COMMISSION

The seven (7) member Los Banos Planning Commission serves in an advisory role to the Los Banos City Council in planning and building related matters. Members are appointed to two (2) year terms of office by the Mayor, with approval of the City Council. The City Community & Economic Development Director, under the supervision of the City Manager, shall attend all meetings of the Los Banos Planning Commission and shall make such reports to the Commission as required.

SEC. 2005 LOS BANOS PARKS AND RECREATION COMMISSION

The five (5) member Los Banos Parks and Recreation Commission serves in an advisory role to the Los Banos City Council in all matters related to public recreation in the City of Los Banos and in the unincorporated area located within the boundaries of the Los Banos Unified School District. Four (4) members of the Commission are appointed to a two (2) year term of office by the Mayor, with approval of the City Council. One (1) of the members of the Commission is recommended to the Mayor by the Los Banos Unified School District Board of Education. The City Public Works Director/City Engineer, under the supervision of the City Manager, shall attend all meetings of the Los Banos Parks and Recreation Commission and shall make such reports to the Commission as required.

SEC. 2006 LOS BANOS AIRPORT ADVISORY COMMISSION

The five (5) member Los Banos Airport Advisory Commission serves in an advisory role to the Los Banos City Council in Airport related matters. Members are appointed to a two (2) year term of office by the Mayor, with approval of the City Council. The City Public Works Director/City Engineer, under the supervision of the City Manager, shall attend all meetings of the Los Banos Airport Advisory Commission and shall make such reports to the Commission as required.

SEC. 2007 LOS BANOS TREE COMMISSION

The five (5) member Los Banos Tree Commission serves in an advisory capacity to the Public Works Department and was formed as part of the City's commitment to being a Tree City, USA. The Commission makes recommendations on the planting and maintenance of trees. It also provides recommendations regarding the present and future needs of the City in connection with trees in public spaces, commercial locations, and residential areas. The City Public Works Director/City Engineer, under the supervision of the City Manager, shall attend all meetings of the Los Banos Tree Commission and shall make such reports to the Commission as required.

SEC. 2008 LOS BANOS TRAFFIC SAFETY COMMITTEE

This Committee has the duty of initiating or reviewing all proposals or requests for establishment, modification, elimination, or removal of all traffic control signs, signals, markings, speed zones, prohibited or restricted parking zones, or other such related matters, which fall under the lawful discretionary control of the City. Members include representatives from the Public Works Department, Community & Economic Development Department, Police Department, Fire Department and Planning Commission.

SEC. 2009 ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

The seven (7) member Los Banos Economic Development Advisory Committee (EDAC) assists the Los Banos Community & Economic Development Department in an advisory capacity. Members are appointed to a two (2) year term of office by the Mayor, with approval of the City Council. Four (4) of the members shall be at large members, One (1) of the members shall be the Executive Director of the Los Banos Chamber of Commerce as an ex officio member, and the remaining two (2) members shall be City Council Members recommended to the City Council by the Mayor. The City Community Development Director, under the supervision of the City Manager, shall attend all meetings of the Los Banos Economic Development Advisory Committee and shall make such reports to the commission as required.

SEC. 2010 CITY CLERK

It is the duty of the City Clerk to assist the City Manager with the administration of affairs of the City dealing with certain record keeping requirements. Specifically, the City Clerk is charged with the responsibility of recording, maintaining, and publishing records of City

Council actions. The City Clerk is also the Elections Official and Political Reform Filing Officer. The Los Banos City Clerk is selected by majority vote of the City electorate for a four (4) year term of office.

SEC. 2011 CITY TREASURER

It is the duty of the City Treasurer to assist the City Manager with administration of affairs of the City dealing with finance. Specifically, the City Treasurer is charged with the responsibility of receiving and safeguarding City funds, in accordance with City ordinances and operating policies. The Los Banos City Treasurer is selected by majority vote of the City electorate to a four (4) year term of office.

SEC. 2012 CITY ATTORNEY

It is the duty of the City Attorney to assist the City Manager with administration of affairs of the City dealing with legal issues. Specifically, the City Attorney acts as Counsel and legal advisor to the City Council, City Manager and other City staff, on all issues involving official City business. The City Attorney is appointed by and serves at the pleasure of the City Council.

SEC. 2013 CITY MANAGER

Under the direction and control of the City Council, the City Manager serves as the administrative head of the City. The City Manager is appointed by and serves at the pleasure of the City Council.

SEC. 2014 ASSISTANT CITY MANAGER

An Assistant City Manager may serve as an administrative assistant to the City Manager and in the absence of the City Manager. He/she may assume administrative control over City operations. The Assistant City Manager is appointed by the City Manager, subject to approval by the City Council.

SEC. 2015 HUMAN RESOURCES DEPARTMENT

The Human Resources Department is responsible for facilitating and maintaining employee/employer relations, labor relations, recruitment, training, and payroll processing and reporting. The Human Resources Director is the administrative head of the department. He/she is appointed by and reports to the City Manager.

SEC. 2016 FINANCE DEPARTMENT

The Finance Department is charged with advising/handling all financial matters of the City. The Finance Director is the administrative head of the department. He/she is appointed by and reports to the City Manager.

SEC. 2017 POLICE DEPARTMENT

The Police Chief is in operational command of the Police Department, Code Enforcement and the Animal Control Division. He/she is appointed by and reports to the City Manager.

SEC. 2018 FIRE DEPARTMENT

The Fire Chief serves in operational command of the Fire Department. His/her responsibilities include Fire Prevention and Fire Suppression. In the area of Fire Suppression he/she serves as Chief of the Volunteer Fire Department. He/she is appointed by and reports to the City Manager. The Fire Chief also serves as the Chief Building Official of the Building Department.

SEC. 2019 BUILDING DEPARTMENT

The Los Banos Building Department provides services to assure that the buildings constructed in the City of Los Banos are built to the standards of the current Building Standards as defined in the building codes and construction standards adopted by the City of Los Banos.

SEC. 2020 PUBLIC WORKS DEPARTMENT

The Public Works Department provides services in ten (10) main operational areas; streets, parks, recreation, solid waste, airport, water, wastewater, fleet management, storm drainage, and engineering. The Public Works Director/City Engineer is the administrative head of the Department. He/she is appointed by and reports to the City Manager.

SEC. 2021 COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

The Community & Economic Development Department is charged with advising/handling all issues related to Planning and Economic Development in Los Banos. The Community & Economic Development Director serves as administrative head of the Department. He/she is appointed by and reports to the City Manager.

SEC. 2022 INFORMATION TECHNOLOGY (IT) DEPARTMENT

The IT department supports and maintains the City's information technology hardware, software, and communications infrastructure for all City departments. In addition, IT maintains local Channel 96 programming, including City Council and School Board meetings, as well as the City's Web site. The IT Director is the administrative head of the department. He/she is appointed by and reports to the City Manager.

DIVISION 3
PERSONNEL RECRUITMENT/PROMOTION

SEC. 3001 INTRODUCTION

The purpose of this Division is to identify City policy with regard to personnel recruitment and promotion.

SEC. 3002 RECRUITMENT/PROMOTION GOALS

It is the expressed desire of the City to Recruit/Promote the most suitable and qualified candidate available for the job opening being filled.

SEC. 3003 RECRUITMENT FOR REGULAR, PART-TIME AND PROVISIONAL POSITIONS

Recruitment to fill Regular, Part-time and Provisional positions (entry level and promotional) shall be handled by one of the following methods:

- A. Open Recruitment: Applications shall be accepted from all qualified persons; including City Employees serving in other job classifications and Volunteer positions.
- B. Closed Recruitment: Applications are only accepted from qualified persons who are currently employed by the City in other job classifications, excluding Volunteers. Closed recruitment may be restricted to; a) persons then employed by the recruiting Department, b) Regular Employees only, or c) opened City-wide to all qualified Regular, Part-time or Provisional Employees.
- C. Reinstatement of Former Employees: At the discretion of the appointing authority, persons who resigned from the City in good standing may be reinstated to the job classification previously held without the requirement of competitive testing; provided that reinstatement occurs no later than two (2) years from the date of their resignation. When a former employee is re-employed, his/her seniority status with the City (for purposes of vacation, sick leave, etc.) shall be computed from the date of reinstatement. Additionally, such employee shall be paid at beginning step salary, unless specific approval to start at a higher step is granted by the City Manager or City Council.

Special Note: Former employees do not have a vested right to reinstatement. The decision to reinstate rests solely with the appointing authority.

- D. City Council Appointment: Recruitment and appointment to the following top management positions shall be handled in accordance with the guidelines established or approved by a simple majority of the Los Banos City Council; a) City Manager and b) Assistant City Manager. Competitive testing or recruitment may not

be required for the positions specified. Additionally, the same process may be used in recruitment and appointment to any newly established top management positions that may be created at some future date.

SEC. 3004 ADVERTISEMENT OF JOB OPENINGS

The recruiting authority is responsible for proper advertisement of job openings.

A. Open Recruitment Advertisement shall include:

1. A minimum of two (2) separate days of paid advertisement in a bona fide newspaper of local distribution;
2. Written notification of the opening to the local California Employment Development Department (EDD);
3. Posting of the job opening on the City Hall Bulletin Board located in the main lobby; and
4. Posting of the job opening on an informational bulletin board (open to all employees) in the building occupied by the recruiting authority.

B. Closed Recruitment Advertisement shall include:

1. Posting of the job flyer on an informational bulletin board (open to all employees) in the building occupied by the recruiting authority; and
2. Posting of a job flyer on the bulletin board located in the mailroom at City Hall.

SEC. 3005 RECRUITMENT EXAMINATION

All individuals interested in employment with the City of Los Banos may participate in a testing process to indicate basic general knowledge or specific skill levels related to particular job classifications. It shall be the responsibility of individual Department Heads to develop and implement written guidelines for recruitment/promotions within their organizations.

The recruitment/promotional examination or selection process to be used; shall: a) be designed to be fair and equal to all eligible candidates, b) meet requirements of current City Rules, Regulations, and Ordinances, State and Federal Laws, and c) be approved by the Human Resources Director in advance of testing.

SEC. 3006 DISQUALIFICATION OF JOB APPLICANTS

Job applications must be made on forms provided by the Human Resources Director or designee. All applications must be completed in full and signed by the person applying.

The Human Resources Department will not process any application which is not fully completed and signed.

The Human Resources Director or designee may reject an application, or after examination, may disqualify or remove the applicant's name from an eligible list. If the applicant:

- A. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
- B. Is physically or mentally unable to perform the essential functions of the job, with or without reasonable accommodation if disabled;
- C. Is a current user of illegal drugs;
- D. Has a conviction of a crime, either a felony or misdemeanor that relates to the position duties that the applicant would perform;
- E. Provides false or misleading statements of a material fact, or deception or fraud, in connection with the application, declarations or in securing eligibility or appointment;
- F. Fails to provide the City with all material and documentation requested in the job announcement by the specified due date;
- G. Fails to provide any supplemental material or documentation requested by the City; verbally or in written form by the specified due date;
- H. Fails to report for a scheduled interview or examination;
- I. Uses or attempt to use political pressure or bribery to secure an advantage in the examination or appointment;
- J. Inappropriately acquires information pertaining to examinations;
- K. Has a suspension or revocation of privilege to operate a motor vehicle in the State of California, if driving is job related; or
- L. Other material cause which in the judgment of the Human Resources Director or designee would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

Specific departments may have additional reasons for disqualification of an applicant. Defective applications may be returned to the applicant with notice to amend and re-file, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Human Resources Director or designee.

SEC. 3007 APPOINTMENT OF CANDIDATE(S)

The Appointing Authority may select any one of the qualified candidates who successfully completed the prescribed Testing/Review Process without regard to their numerical ranking. Such selection (for both entry level as well as promotional positions) must however comply with State and Federal Law, City Policy, and established selection procedure.

Special Note: In the event the appointing authority determines that none of the applicants who competed for the job opening are qualified or suitable he/she need not fill the position at this time. In these cases the original selection process shall be declared closed without appointment and a new selection process will be commenced.

SEC. 3008 SCORING AND QUALIFYING

Failure in one part of the examination, or the 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. A candidate's final score in a given examination will be the average of the scores on each competitive part of the examination on which the applicant qualified, weighted as shown in the examination announcement.

SEC. 3009 ESTABLISHMENT OF ELIGIBILITY LISTS

Candidates who successfully competed in a Review/Examination Process may, in accordance with established selection guidelines, be placed on an eligibility list.

Notwithstanding any other provision of these Rules, if there are less than two (2) names on an eligibility list, the Human Resources Director or designee may declare such list void and fill the position(s) by any method permitted by these Personnel Rules, including, but not limited to, undertaking new recruiting and testing procedures.

Eligibility lists will become effective upon the certification by the Human Resources Director or designee. Eligibility lists remain in effect for one (1) year, unless the Human Resources Director or designee abolishes the list, the list is exhausted or extended by the Human Resources Director or designee. The eligibility lists for classes for which there is continuous recruitment may remain in effect indefinitely. If this procedure is employed, the applicant may be considered (but not guaranteed) for employment without repeating the testing process, if a vacancy occurs in the job category previously tested. The Human Resources Director or designee may abolish or extend the list at any time prior to the expiration of the list if he/she determines that it is in the best interest of the City to do so.

SEC. 3010 NOTIFICATION OF TESTING RESULTS

All candidates who competed in an examination/selection process for employment with the City of Los Banos shall be given a written notice of the results. Such notice shall be limited

to advising the candidate he/she "passed" or "failed" a specific part or all of the process. Specific numerical scores or standing on eligibility lists need not be provided to candidates.

SEC. 3011 REMOVAL OF NAME

The name of any person appearing on an eligible list will be removed by the Human Resources Director or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the Human Resources Director or designee. It will be the responsibility of the eligible to keep the Human Resources Department informed of their current address and telephone number.

SEC. 3012 TYPE OF APPOINTMENTS

Vacancies may be filled by re-employment, promotion, transfer, demotion, appointment of hourly employees, or from the appropriate eligible list, if available. No specific list shall have priority over other lists. The Human Resources Director or designee will decide in what manner the vacancy is to be filled.

SEC. 3013 APPOINTMENTS

With limited exceptions, the Human Resources Director or designee will make all appointments. When a position is to be filled from a promotional or open eligible list, the Human Resources Director or designee will choose from the specified list one of the top candidates on the eligible list. If no person among the top candidates indicates a willingness to accept the appointment, the Human Resources Director or designee may make the appointment from among the remaining names on the eligible list, may request a new examination and establish a new eligible list, or may fill the position by any other method authorized by these Personnel Rules.

- A. Veterans will receive preference over identically qualified applicants.
- B. The person accepting appointment must report to the Human Resources Director or designee on the date designated by the Human Resources Director or designee; otherwise, the applicant will be deemed to have declined the appointment.

SEC. 3014 PROBATIONARY PERIOD AFTER APPOINTMENT TO CITY EMPLOYMENT

Regardless of job classification, all newly appointed employees shall serve a twelve (12) month probationary period of actual and continuous service. The probationary period is automatically extended by the length of any authorized leave(s) of absence of one work week or more.

The purpose of this probationary period is to provide the appointing authority with a reasonable period of time to properly evaluate the new employee's ability to effectively perform his/her assigned duties. The probationary period is part of the selection process.

Specifically the appointing authority will be closely evaluating a) the employee's ability to promptly learn and/or perform technical tasks required of the job, b) the employee's ability to work effectively and harmoniously with co-workers, superiors, and the public, and c) the employee's ability to properly respond to supervision.

At any time during this twelve (12) month probationary period, the employee's employment with the City of Los Banos may be terminated without cause the right of appeal, grievance or hearing. The City Manager or designee must approve the termination. The probationary employee shall be notified prior to the expiration of the probationary period that he or she has been rejected for regular appointment. Exception: Part-time, Provisional Employees, and Volunteers do not serve a probationary period. Part-time Employees and Volunteers serve at the pleasure of the appointing authority and may be terminated from employment without cause at any time. Provisional Employees are governed by the employment termination provisions outlined in their contract or agreement with the City.

No probationary employee will receive a regular appointment without a written recommendation from the Department Head. If the recommendation is not filed, the probationary employee shall be notified prior to the expiration of the probationary period that he or she has been rejected for regular appointment.

SEC. 3015 PROBATIONARY PERIOD AFTER PROMOTION

Whenever a Regular Employee receives a permanent promotion to a higher rank or position, he/she shall serve a probationary period of twelve (12) months, of actual and continuous service. Periods of time on paid or unpaid leave of one (1) work week or more shall automatically extend the probationary period by the number of days the employee is on leave. The purpose of this probationary period is to provide the appointing authority with a reasonable period of time in which to evaluate the ability of the employee to effectively perform the duties required of the new position. Specifically, the appointing authority will be closely evaluating; a) the employee's ability to promptly learn and/or perform the technical tasks required of the new position, b) the employee's ability to work effectively and harmoniously with co-workers, superiors, subordinates, and the public, c) the employee's ability to properly manage or supervise personnel under his/her command, and d) the employees ability to properly respond to supervision.

An employee does not acquire regular status in the promotional position until successful completion of this probationary period. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee will be entitled to return to the position held prior to promotion at the range and step previously held if the employee is not subject to termination for disciplinary reasons. The employee is not entitled to notice or a hearing if rejected during probation.

SEC. 3016 TEMPORARY APPOINTMENT TO HIGHER RANK OR POSITION

When a temporary vacancy occurs in a key job classification, due to the excused absence of the employee holding the position or as a result of the resignation, retirement or termination of the employee who had held the position, a Department Head, the City Manager or if the position is that of a Department Head, or the City Council if the position is that of the City Manager, may temporarily appoint a lower ranking employee to fill the position. Such appointment may be made at the sole discretion of the appointing authority without the necessity of competitive testing.

Employees who have served for a consecutive period of thirty (30) regular working shifts in an acting capacity at a higher rank, shall be entitled to receive the beginning step salary of the temporary rank being held for all future time spent in this capacity; commencing with the first day of the calendar month following completion of the thirty (30) consecutive calendar day period and continuing until the employee is officially returned to his/her permanent position.

DIVISION 4 SALARY

SEC. 4001 INTRODUCTION

The purpose of this Division is to establish general provisions relating to salary and compensation for employee classifications in the City.

SEC. 4002 GENERAL COMMENTS

- A. Merit/Performance Increases: Certain employee classifications provide for salary ranges of up to six (6) steps. Advancement from an employee's current salary to a higher step or portion thereof is based on overall job performance and is considered a Merit/Performance Increase. Employees are eligible for Merit/Performance Increases only under the following conditions: a) the employee has fulfilled the necessary time requirements for advancement to a higher salary step or portion thereof, and b) the employee's overall job performance is considered, by the reviewing authority, to be satisfactory or higher.

For purposes of Merit/Performance Increase effective dates, the rule will be as follows: If an employee is hired between the 1st and 16th of the month their anniversary date will be the 1st, and if hired between the 16th and end of the month their anniversary date will be the 16th. Merit/Performance Increases become effective immediately following the date of approval and retroactive to the employee's anniversary date (1st or 16th).

- B. Compensation for Unspecified Part Time Employees: Part-time employees shall be compensated at the hourly or monthly rate of the starting step of the job classification being filled; except for those part-time positions specifically addressed in this Division who shall be compensated in the manner specified.
- C. Supplemental Compensation: In addition to the base salary entitlement, certain employee classifications may also receive monthly or yearly compensation for educational or training accomplishments and/or while serving in a special assignment. The specific conditions and compensation amounts are set forth in Division 5 – Personnel Benefits of this Manual.
- D. Position Approved but Not Funded: When "0" appears under "Authorized", the position is approved but not funded. Such positions cannot be filled unless specific approval for funding is authorized by City Council.

**DIVISION 4
SALARY SCHEDULE**

(Approved June 17, 2020 / Effective June 16, 2020)

SEC. 4003 REGULAR (FULL TIME) EMPLOYEE CLASSIFICATIONS-MONTHLY SALARY

SECTION A - ADMINISTRATION

TOTAL POSITIONS AUTHORIZED (5)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
City Manager	(1)	13,932-17,833	*	*	*	*	*	*
Human Resources Director	(1)	8,074-10,309	*	*	*	*	*	*
Assistant City Clerk/HR Analyst	(1)	*	5,325	5,591	5,871	6,165	6,473	6,797
HR Technician I	(2)	*	3,572	3,751	3,939	4,136	4,343	4,560
<u>Admin Clerk</u>	(0)							
Admin Clerk II	*	*	3,179	3,338	3,505	3,680	3,864	4,057
Admin Clerk I	*	*	2,667	2,800	2,940	3,087	3,241	3,403

* Comment: Promotions to skill levels within the Admin Clerk job classifications are made by the Human Resources Director with concurrence of the City Manager.

SECTION B - FINANCE

TOTAL POSITIONS AUTHORIZED (9)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Finance Director	(1)	9,209-11,758						
Accounting & Budget Supervisor	(1)	*	6,406	6,726	7,062	7,415	7,786	8,175
<u>Accountant</u>	(2)							
Accountant II	*	*	5,325	5,591	5,871	6,165	6,473	6,797
Accountant I	*	*	4,340	4,557	4,785	5,024	5,275	5,539
<u>Accounting Technician</u>	(1)	*	3,642	3,824	4,015	4,216	4,427	4,648
<u>Accounting Clerk</u>	(4)							
Accounting Clerk II	*	*	3,179	3,338	3,505	3,680	3,864	4,057
Accounting Clerk I	*	*	2,667	2,800	2,940	3,087	3,241	3,403

* Comment: Promotions to skill levels within the Accountant and Accounting Clerk job classifications are made by the Finance Director with concurrence of the City Manager.

SECTION C - COMMUNITY & ECONOMIC DEVELOPMENT

TOTAL POSITIONS AUTHORIZED (3)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Community & Economic Development Director	(1)	8,074-10,309						
<u>Planner</u>	(1)							
Senior Planner	*	*	6,182	6,491	6,816	7,157	7,515	7,891
Associate Planner	*	*	5,325	5,591	5,871	6,165	6,473	6,797
Assistant Planner	*	*	4,340	4,557	4,785	5,024	5,275	5,539
<u>Planning Technician</u>	(1)	*	3,572	3,751	3,939	4,136	4,343	4,560

* Comment: Promotions to skill levels within the Planner job classifications are made by the Community & Economic Development Director with concurrence of the City Manager.

SEC. 4003 REGULAR (FULL TIME) EMPLOYEE CLASSIFICATIONS-MONTHLY SALARY-Continued

SECTION D - INFORMATION TECHNOLOGY

TOTAL POSITIONS AUTHORIZED (1)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Information Technology Technician	(1)	*	4,157	4,365	4,583	4,812	5,053	5,306

SECTION E - PUBLIC WORKS

TOTAL POSITIONS AUTHORIZED (58)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Public Works Director/City Engineer	(1)	12,441-15,887						
Assistant Public Works Director	(1)	*	8,244	8,656	9,089	9,543	10,020	10,521
Public Works Operations Manager	(1)	*	6,406	6,726	7,062	7,415	7,786	8,175
Parks & Rec Operations Manager	(1)	*	5,986	6,286	6,600	6,930	7,277	7,641
Supervisor	(1)	*	4,807	5,047	5,299	5,564	5,842	6,134
Water Quality Specialist	(1)	*	4,713	4,949	5,196	5,456	5,729	6,015
Fleet Maintenance Coordinator	(1)	*	4,601	4,831	5,073	5,327	5,593	5,873
Administrative Coordinator	(1)	*	4,511	4,737	4,974	5,223	5,484	5,758
Foreman	(4)	*	4,511	4,737	4,974	5,223	5,484	5,758
Administrative Assistant	(2)	*	3,687	3,872	4,066	4,269	4,482	4,706
Engineering Technician	(1)	*	3,642	3,824	4,015	4,216	4,427	4,648
Recreation Coordinator II	(1)	*	3,376	3,545	3,722	3,908	4,103	4,308
Recreation Coordinator I	(2)	*	2,667	2,800	2,940	3,087	3,241	3,403
<u>Admin Clerk</u>	(1)							
Admin Clerk II	*	*	3,179	3,338	3,505	3,680	3,864	4,057
Admin Clerk I	*	*	2,667	2,800	2,940	3,087	3,241	3,403
Inspector I	(1)	*	4,513	4,739	4,976	5,225	5,486	5,760
Maintenance Mechanic I	(1)	*	3,180	3,339	3,506	3,681	3,865	4,058
Custodian	(1)	*	2,546	2,673	2,807	2,947	3,094	3,249
<u>Environmental Control/Utilities Maintenance</u>	(13)							
Environmental Control Specialist III	*	*	4,149	4,356	4,574	4,803	5,043	5,295
Environmental Control Specialist II	*	*	3,639	3,821	4,012	4,213	4,424	4,645
Environmental Control Specialist I	*	*	3,465	3,638	3,820	4,011	4,212	4,423
Environmental Control Specialist Trainer	*	*	3,299	3,464	3,637	3,819	4,010	4,211
Utilities Maintenance III	*	*	3,901	4,096	4,301	4,516	4,742	4,979
Utilities Maintenance II	*	*	3,546	3,724	3,910	4,106	4,311	4,527
Utilities Maintenance I	*	*	3,180	3,339	3,506	3,681	3,865	4,058
<u>Maintenance</u>	(23)							
Maintenance Worker III	*	*	3,891	4,086	4,290	4,505	4,730	4,967
Maintenance Worker II	*	*	3,524	3,700	3,885	4,079	4,283	4,497
Maintenance Worker I	*	*	3,180	3,339	3,506	3,681	3,865	4,058

* Comment: Promotions to skill levels (Trainee/I/II/III) within the Environmental Control Specialist, Utilities Maintenance, Maintenance Worker and Admin Clerk job classifications are made by the Public Works Director/City Engineer with concurrence of the City Manager.

* Additionally, the Public Works Director/City Engineer with concurrence of the City Manager, may temporarily or permanently reassign certain employees in accordance with the following guidelines: 1) Supervisor level positions -- Employees serving in capacity of Supervisor may be reassigned to an equivalent pay grade within any of the Supervisor level positions; and 2) Maintenance -- Employees assigned to any one of these three broad employment classifications may be reassigned to an equivalent pay grade of one of the other two classifications.

SEC. 4003 REGULAR (FULL TIME) EMPLOYEE CLASSIFICATIONS-MONTHLY SALARY-Continued

SECTION F - FIRE & BUILDING
TOTAL POSITIONS AUTHORIZED (20)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Fire Chief	(1)	10,815-13,805						
Asst Fire Chief	(1)	*	8,166	8,574	9,003	9,453	9,926	10,422
Fire Captain	(3)	*	5,599	5,879	6,173	6,482	6,806	6,976
Fire Engineer	(6)	*	5,334	5,494	5,659	5,829	6,004	6,154
Fire Fighter	(7)	*	4,387	4,606	4,836	5,078	5,332	5,465
Administrative Coordinator	(1)	*	4,511	4,737	4,974	5,223	5,484	5,758
<u>Admin Clerk</u>	(1)							
Admin Clerk II	*	*	3,179	3,338	3,505	3,680	3,864	4,057
Admin Clerk I	*	*	2,667	2,800	2,940	3,087	3,241	3,403

* Comment: Promotions to skill levels within the Admin Clerk job classifications are made by the Fire Chief with concurrence of the City Manager.

SECTION G - POLICE
TOTAL POSITIONS AUTHORIZED (80)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Police Chief	(1)	11,809-15,073						
Police Commander	(2)	*	8,876	9,319	9,785	10,274	10,788	11,327
Police Sergeant	(8) ¹	*	6,883	7,228	7,589	7,968	8,366	8,575
Police Services Manager	(1)	*	6,177	6,486	6,810	7,151	7,509	7,884
Dispatch Supervisor	(1)	*	4,845	5,087	5,341	5,608	5,888	6,182
Code Enforcement Officer	(4)	*	4,076	4,279	4,493	4,718	4,954	5,202
Public Safety Dispatcher	(11)	*	3,726	3,912	4,108	4,313	4,529	4,755
Crime Analyst	(1)	*	3,575	3,754	3,942	4,139	4,346	4,563
Property Evidence Technician	(1)	*	3,142	3,299	3,464	3,637	3,819	4,010
Community Services Officer	(8)	*	2,736	2,872	3,016	3,167	3,325	3,491
Public Safety Custodian	(1)	*	2,472	2,596	2,726	2,862	3,005	3,155
Police Officer	(37) ¹	*	5,159	5,417	5,688	5,972	6,271	6,428
Police Trainee	*	*	3,091	3,246	3,408	3,578	3,757	3,945
<u>Admin Clerk</u>	(4)							
Admin Clerk II	*	*	3,179	3,338	3,505	3,680	3,864	4,057
Admin Clerk I	*	*	2,667	2,800	2,940	3,087	3,241	3,403

¹ The Police Trainee position may be filled in lieu of Police Officer positions. The total number of Police Officers and Police Trainees shall not exceed the total number authorized for Police Officer.

* Comment: Promotions to skill levels within the Admin Clerk job classifications are made by the Police Chief with

SEC. 4004 PART TIME & ELECTED EMPLOYEE CLASSIFICATIONS

Public Works Department -- Hourly Salary

<u>EMPLOYEE CLASSIFICATION</u>		<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Admin Clerk		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>
Recreation Assistant		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>

SEC. 4004 PART TIME & ELECTED EMPLOYEE CLASSIFICATIONS - Continued

Public Safety Department -- Hourly Salary

<u>EMPLOYEE CLASSIFICATION</u>		<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Maintenance Worker		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>
Police Officer		21.00	22.05	23.15	24.31	25.53	26.16
Code Enforcement Officer		18.00	18.90	19.85	20.84	21.88	22.43
Fire Fighter		15.11	15.87	16.66	17.49	18.37	18.83
Dispatcher		14.10	14.81	15.55	16.32	17.14	17.57
Admin Clerk		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>
Custodian		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>
Community Services Officer		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>

City Hall Division -- Hourly Salary

<u>EMPLOYEE CLASSIFICATION</u>		<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
Admin Clerk		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>
Custodian		13.00	13.65	14.33	15.05	15.80	16.20
	<u>1/1/2021</u>	<u>14.00</u>	<u>14.70</u>	<u>15.44</u>	<u>16.21</u>	<u>17.02</u>	<u>17.44</u>

Elected Officials -- Monthly Salary

Mayor	400.00 monthly
Council Members	300.00 monthly
City Clerk	100.00 monthly
City Treasurer	100.00 monthly

**DIVISION 5
PERSONNEL BENEFITS**

SEC. 5001 INTRODUCTION

The purpose of this Division is to identify the Employee Fringe Benefits Package as established by City Council Resolution.

SEC. 5002 FRINGE BENEFITS DEFINED

As used in this Division the term "Fringe Benefits" shall be construed to mean those specified rights, privileges, and payments provided by the City to an entitled employee as supplemental compensation above their base salary.

SEC. 5003 ENTITLED EMPLOYEES DEFINED

For the purposes of this Division, the term "Entitled Employee" refers to those persons who are employed in Regular (full-time) capacity with the City of Los Banos. Part-time, Provisional, and Volunteer Employees shall not be entitled to Fringe Benefit Compensation, except when such benefits are being provided by the City in accordance with: a) the requirements of a Federal or State Law, b) a written contractual agreement approved by the City, or c) a Memorandum of Understanding (MOU) between a specific employee or employee group and the City.

SEC. 5004 ESTABLISHMENT OF FRINGE BENEFITS

The Fringe Benefit Package for entitled employees is established by City Council Resolution for each fiscal year (July 1 – June 30) of the City.

SEC. 5005 BENEFITS PROVIDED TO ALL UNREPRESENTED REGULAR EMPLOYEES

A. Medical Insurance Benefits

The City will contract with the California Public Employees Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits. The City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees' Medical and Hospital Care Act (PEMHCA).

B. Cafeteria Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health

and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical, dental, vision, and life insurance benefits.

1. Employees hired before April 1, 2010, enrolled in City-offered CalPERS health insurance, and not represented by a City-recognized bargaining unit:

The City will provide on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance based on the employee's level of health care coverage as provided below:

- Employee Only: Up to \$984; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.
- Employee Plus One: Up to \$1,968; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.
- Employee Plus Family: Up to \$2,558; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.

2. Employees hired on or after April 1, 2010, enrolled in City-offered CalPERS health insurance, and not represented by a City-recognized bargaining unit:

The City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's level of health care calculated to cover the following:

- Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to \$984; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.
- Employee Plus One: Ninety percent (90%) of the premium for employee plus one coverage for the plan selected by the employee, up to \$1,771; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.

- Employee Plus Family: Eighty percent (80%) of the premium for employee plus family coverage for the plan selected by the employee, up to \$2,046; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a combined maximum of \$85 per month.
3. Employee enrollment in the City-provided life insurance plan and City-provided dental and vision plans is mandatory.
 4. Any increase to minimum monthly employer contribution under PEMHCA will result in a corresponding decrease in the employee's Cafeteria Plan Allowance.
 5. Employees who opt out of participating in the group medical plans sponsored by the City, and who provide proof of their medical coverage in a group plan, will receive a Cafeteria Plan Allowance of \$485 per month, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.
 6. Dental and Vision Insurance: The City will contribute to the employee's Cafeteria Plan Allowance (as indicated above in Cafeteria Plan Allowance description).
 7. Life Insurance: The City will pay the full premium cost for \$50,000 coverage in City approved Life Insurance for the entitled employee.

C. Retirement Program

1. Miscellaneous Employees: Regular employees, hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 2.7% @ 55 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 2.7% @ 55 Plan.

Regular employees, hired on or after January 1, 2011, will receive a CalPERS retirement benefit based on the 2% @ 60 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 2% @ 60 Plan.

Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2% at age 62 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

2. Public Safety Employees: Regular employees, hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 3% @ 50 formula as set

forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 50 Plan.

Regular employees, hired on or after January 1, 2011, will receive a CalPERS retirement benefit based on the 3% @ 55 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 55 Plan.

Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2.7% at age 57 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

D. Retiree Medical

1. The City will provide access to medical insurance coverage for those employees who retire from employment with the City and who constitute “annuitants” as defined by the PEMHCA.

The City’s maximum monthly contribution for each eligible annuitant will be equal to the minimum employer contribution required under the PEMHCA, referred to in Section IV(A). The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

2. Employees hired before October 1, 2002 and who, at the time of retirement, constitute an “annuitant” as defined by the PEMHCA, will receive the following:
 - a. From the date of retirement and until such time the retiree becomes eligible for Medicare, the City will contribute an amount equal to the health plan premium cost for the employee’s elected health care plan up to the amount of the premium for the Blue Shield Health Maintenance Organization (HMO) or if the Blue Shield HMO is not offered in the area, rates are based on the lowest available plan offered by CalPERS, less the City’s minimum monthly employer contribution under PEMHCA.
 - b. Upon attaining Medicare eligibility, the City will contribute an amount equal to the health plan premium cost for the elected health care plan up to the amount of the premium for the Blue Shield Health Maintenance Organization (HMO) or if the Blue Shield HMO is not offered in the area, rates are based on the lowest available plan offered by CalPERS, supplemental Medicare plan, offered by CalPERS, less the amount of the City’s minimum monthly employer contribution under PEMHCA.

- c. Employees will not be entitled to City payments, as specified above, during employment.
 3. Employees hired between October 1, 2002 and June 30, 2008 and who, at the time of retirement, constitute an “annuitant” as defined by the PEMHCA, will receive the following:
 - a. From the date of retirement and until such time that the retiree becomes eligible for Medicare, the City will contribute an amount to cover fifty percent (50%) of the Blue Shield Access HMO plan for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the Blue Shield Access HMO plan for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the Blue Shield Access HMO plan after twenty (20) years of service, less the amount of the City’s minimum monthly employer contribution under PEMHCA.
 - b. Upon attaining Medicare eligibility, the City’s contribution will equal the cost of fifty percent (50%) of the supplemental Medicare plan offered by CalPERS for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the supplemental Medicare plan offered by CalPERS for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the supplemental Medicare plan offered by CalPERS after twenty (20) years of service, less the amount of the City’s minimum monthly employer contribution under PEMHCA.
 - c. Employees will not be entitled to City payments, as specified above, during employment.
- E. Health Savings Plan (HSP): For Employees hired on or after July 1, 2008: The City of Los Banos has established a program to which the City and employees participate to save, on a tax deferred basis, money to help pay the cost of healthcare once an individual retires. The HSP may be used for expenses as provided under the terms of the Plan. Any tax consequences resulting from City contributions to the HSP are the sole responsibility of the employee. Participation is mandatory for all employees.
 1. Participation is mandatory for all employees.
 2. Starting after an employee has successfully completed his or her initial probationary period, the City will contribute \$50 per month to the employee’s HSP account. Likewise the employee will contribute \$50 per month to his or her HSP account.
 3. During an employee’s initial hire probationary period with the City, neither the employee nor the City will contribute to the employee’s HSP account. Upon successful completion of the initial hire probationary period, the City will contribute a lump sum of \$50 per month for each month served in the employee’s initial probationary period.

4. Upon cessation of employment with the City, the City will cease contributions to the individual's HSP account.

- F. Workers' Compensation Insurance: Workers' Compensation Insurance Benefits (Workers' Compensation) are provided in accordance with the requirements of State Law.

Special Note: California Labor Code Sections 4650, for Miscellaneous Employees; and 4850, for Public Safety Employees, specifically addresses entitlement for paid time off work when disabled due to job injury.

- G. Deferred Compensation: The City shall provide the opportunity for entitled employees to participate, at their own expense, in a Deferred Compensation Program.

- H. Group Continuation of Health and Life Insurance: Federal Legislation (P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act - COBRA) requires agencies with 20 or more employees to continue health care coverage for terminated employees and for widows, ex-spouses and dependents of employees for eighteen (18) to thirty-six (36) months for certain qualifying events. Such benefits are provided at the expense of the employee or entitled relative or dependent. This area is addressed more extensively in the CalPERS Group Continuation Plan.

- I. Tuition Reimbursement: Subject to administrative approval, the City shall reimburse entitled employees for education-related expenses in accordance with City of Los Banos Tuition Reimbursement Policy; Division 5-A.

- J. Sick Leave Benefits: Sick Leave, will be provided to all eligible employees in accordance with the guidelines set forth in the City of Los Banos Sick Leave Benefits Policy; Division 5-B.

- K. Vacation Leave Benefits: Vacation Leave will be provided to all eligible employees in accordance with the guidelines set forth in the City of Los Banos Vacation Leave Policy; Division 5-C.

- L. Holiday Leave Benefits: Holiday Leave will be provided to all eligible employees in accordance with the guidelines set forth in the City of Los Banos Holiday Leave Policy; Division 5-E.

- M. Catastrophic Leave: Catastrophic Leave Donations will be provided to all eligible employees in accordance with the guidelines set forth in the City of Los Banos Catastrophic Leave Donation Policy; Division 5-D.

- N. Education Incentive Pay: Educational Incentive Pay will be provided to all qualifying employees in accordance with the City of Los Banos Education Incentive Pay Policy for specific guidelines; Division 5-H.

- O. Bilingual Incentive Pay: Bilingual Incentive Pay will be provided to certain employees in accordance with the City of Los Banos Bilingual Incentive Pay Policy for specific guidelines; Division 5-L.
- P. Uniform Reporting: The City will report the monetary value of uniforms and uniform maintenance per California Code of Regulations Section 571 for those employees required to wear uniforms, except those CalPERS members who fall under the PEPRA. The uniform purchase and maintenance amount reported to CalPERS will be derived from the City's total calendar year cost for providing the employee's uniforms, not to exceed \$1,000.00 per fiscal year, per employee (effective retroactively to July 1, 2011).

SEC. 5006 BENEFITS PROVIDED TO ALL REGULAR EMPLOYEES: EXCEPT MANAGERS AND MIDDLE MANAGERS

- A. Compensatory Time Off: All eligible Regular Employees shall, at their choice, be permitted to accrue Compensatory Time Off (CTO) in lieu of receiving overtime pay for hours worked in excess of normal duty assignments. See City of Los Banos Compensatory Time Off Policy for specific guidelines governing this practice; Division 5-F.
- B. Overtime Compensation: All eligible Regular Employees shall be entitled to Overtime Compensation in accordance with the guidelines set forth in the City of Los Banos Overtime compensation Policy; Division 5-G.

SEC. 5007 BENEFITS PROVIDED TO POLICE DEPARTMENT EMPLOYEES ONLY

A. Lateral Transfer Incentive Pay

Effective September 18, 2002, the City Council established Lateral Transfer Incentive Pay not to exceed \$3,000.00. The Police Chief will have authority with concurrence of the City Manager to offer the pay incentive to lateral transfer police officer applicants. This offer may vary based on the previous experience of the applicant. This incentive pay could also be used to pay for a police academy loan or relocation costs.

The Police Chief shall provide written notification to the Human Resources Director and City Manager when a Police Officer is to receive the Lateral Transfer Incentive Pay.

B. Peace Officer Standards and Training (P.O.S.T.) Certificate Incentive Pay – Unrepresented Sworn Personnel

Employees who have been approved by the Chief of Police, and also including the Chief of Police, will be entitled to receive the following compensation when they have been awarded and hold the specified California Commission on Peace Officer Standards and Training Certificate as follows:

- 1) \$75 per month for a P.O.S.T. Intermediate Certificate, or
- 2) \$150 per month for a P.O.S.T. Advanced Certificate, or
- 3) \$200 per month for a P.O.S.T. Supervisory Certificate.

C. Peace Officer Standards and Training (P.O.S.T.) Certificate Incentive Pay – Unrepresented Non-Sworn Personnel

- 1) \$50 per month for a P.O.S.T. Basic Dispatch Certificate, or
- 2) \$100 per month for a P.O.S.T. Records Supervisor Certificate

SEC. 5008 BENEFITS PROVIDED FOR CERTAIN PARTICIPATING EMPLOYEES

State Disability Insurance: The City allows for participation in the State Disability Insurance (SDI) Program for those employee groups who desire such option. Payment of SDI premiums is the responsibility of participating employees. See City of Los Banos State Disability Income (SDI) Policy for specific employee groups currently involved in this program and clarification of the City's position with regard to their participation; Division 5-I.

SEC. 5009 BENEFITS PROVIDED TO CERTAIN PUBLIC WORKS EMPLOYEES

A. Certificate Pay/Water and Wastewater Division Employees

1. Public Works employees shall be entitled to receive the following compensation when they have been awarded and hold the specified certificate issued by the State of California, Department of Health Services Water/Wastewater Treatment; a) \$50.00 per month for Grade II, and b) \$25.00 per month for Grade I.
2. Public Works employees shall be entitled to receive the following compensation when they have been awarded and hold the specified certificate issued by the State of California, Department of Health Services Water Distribution; a) \$25.00 per month for Grade II, and b) \$50.00 per month for Grade III.
3. Employees holding these certificates may be simultaneously compensated for; a) Water Treatment and Water Distribution Certificates, or b) Wastewater Treatment and Water Distribution Certificates. Employees holding these certificates shall not be simultaneously compensated for Water Treatment and Wastewater Treatment certificates.
4. Compensation shall not exceed \$100.00 per month for any combination of certificates.
5. In order to continue to receive this benefit certified employees will be required to submit proof of re-certification to the City Manager as soon as it is issued.

B. Applicator Certificate & License Pay/Parks & Streets Division Employees

1. Public Works employees shall be entitled to receive the following compensation when they have been awarded and hold the specified certificates or license as issued by the State of California, Department of Pesticide Regulation; a) \$50.00 per month for Pesticide License, b) \$25.00 per month for a Qualified Applicator Certificate, and c) \$25.00 per month for each additional category endorsement, maximum three (3) categories will be allowed and/or compensated for.
2. Employees holding these certificates and/or licenses can be compensated for a) Qualified Applicator License or b) Qualified Applicator Certificate. In no case shall the employee be compensated for both. Category compensation shall be limited to the following categories, B-Landscape Maintenance, C-Right of Way, D-Plant Agriculture, F-Aquatic, K-Health Related.
3. Compensation shall not exceed \$100.00 per month for any combination of licenses/certificates.
4. In order to remain eligible for compensation, Certificated/Licensed employees shall be required to submit proof of certificate or license to the Human Resources Director and department head as soon as it is issued. In addition employees shall be required to maintain their licenses and/or certificates as required by the State of California Department of Pesticide Regulation in order to be eligible for continued compensation. Proof of current valid licenses or certificates shall be submitted annually.

C. Arborist Certificate Pay

Certain Public Works employees shall be entitled to receive the following compensation when they have been awarded and hold an Arborist Certificate issued by the International Society of Arboriculture; \$200.00 per month.

SEC. 5010 BENEFITS PROVIDED FOR CITY HALL EMPLOYEES

A. Notary Public Pay

1. Certain City Hall employees shall be entitled to receive the following compensation when they have been awarded and hold a Notary Public Certificate issued by the State of California, Department of Secretary of State; \$100.00 per month.
2. The number of persons will be limited to one (1) from each of the following departments at City Hall: Community Development, Finance, and two (2) from Administration.

3. Employees receiving the Notary Public Certificate Pay will be required to notarize documents when requested by the public or City staff during normal business hours.

B. Municipal Clerk Certification Pay

All City Hall employees shall be entitled to receive the following compensation when they have been awarded a Certified Municipal Clerk (CMC) or Master Municipal Clerk (MMC) Certificate and Designation from the International Institute of Municipal Clerks (IIMC); \$100.00 per month.

SEC. 5011 BENEFITS PROVIDED FOR MANAGEMENT AND MIDDLE MANAGEMENT EMPLOYEES ONLY

- A. Admin Leave for Management Employees: As designated in job description, Management employees who are not entitled to accrue compensatory time off or receive overtime pay for hours worked in excess of regular duty time, shall be entitled to ten (10) work days off, with full salary and benefits, during every fiscal year of employment in such positions.
- B. Admin Leave for Middle Management Employees: As designated in job description, Middle Management employees, who are not entitled to accrue compensatory time off or receive overtime pay for hours worked in excess of regular duty time, shall be entitled to five (5) work days off, with full salary and benefits, during every fiscal year of employment in such position. New Middle Management employee hired after the July 1st accrual date will be prorated accordingly. If Admin Leave is not taken during the Fiscal Year it was earned, it will not be carried over and the employee will lose his/her right to the unused days. Further, a Middle Management employee who leaves the City employment shall not be compensated for any unused Admin Leave to which he/she would otherwise have been entitled.
- C. Pro-ration: New Management and Middle Management employees hired after the July 1st accrual date will be prorated accordingly. If Admin Leave is not taken during the fiscal year it was earned, it will not be carried over and the employee will lose his/her right to the unused days. Further, a Management or Middle Management employee who leaves City employment shall not be compensated for any unused Admin Leave to which they would otherwise have been entitled.

SEC. 5012 BENEFITS PROVIDED FOR MAYOR AND CITY COUNCIL MEMBERS

A. Cell Phone Allowance

The Mayor and City Council Members shall be entitled to receive a monthly cell phone allowance in the amount of \$75.00. Proof of a current cell phone contract plan is to be provided to receive cell phone allowance.

SEC. 5013 BENEFITS PROVIDED TO QUALIFYING PART-TIME EMPLOYEES

Effective July 1, 2015, if a Part-time employee is qualifying and elects health insurance coverage while employed with the City, the City shall contribute the following amounts toward the premiums for the cost of CalPERS health coverage for the employee and eligible dependents: a) 30-39 hours worked per week – 50% of the Blue Shield Access (HMO) premium; minus the PEMHCA minimum employer contribution toward monthly health insurance premium; b) 0-29 hours worked per week – No contribution will be made toward a health insurance premium.

SEC. 5014 BENEFITS NOT COVERED IN THIS DIVISION STATEMENT

Any employee benefits not covered in this Division that are required to be offered under provision of State or Federal Law or in conformity with an existing labor agreement, shall be provided.

**DIVISION 5-A
TUITION REIMBURSEMENT POLICY**

SEC. 5001A PURPOSE

The purpose of this Division is to identify employee benefits and responsibilities with regard to the City's Tuition Reimbursement Policy.

SEC. 5002A OVERVIEW

Employees who successfully complete an approved class or course offered by an accredited college or university may be entitled to receive reimbursement for the actual cost of tuition, registration fees, parking fees, books and reasonable miscellaneous supplies (including calculators, but not including laptops, tablets, or other electronics), required for completion of the class or course, in accordance with the guidelines set forth in this policy.

SEC. 5003A ELIGIBILITY

To be eligible for tuition reimbursement under this policy, an employee must: a) be a regular, full-time employee; b) have completed a year of service with the City; and c) be on the payroll when the course is completed.

SEC. 5004A REQUESTS FOR TUITION REIMBURSEMENT

- A. Written requests for Tuition Reimbursement should be submitted to the employee's Department Head, or if the employee is a Department Head the City Manager, by no later than five (5) working days prior to the date the employee begins the class or course. Delays in submitting requests may result in denial of benefits.
- B. Such requests must be submitted on the Application for Tuition Reimbursement (DIV-5A-1) included in this division and must contain all pertinent information requested.

SEC. 5005A DEPARTMENT HEAD REVIEW

- A. Upon receipt of a request for Tuition Reimbursement, the Department Head, or if the request was submitted by a Department Head the City Manager, shall determine if the following requirements are satisfied:
 - 1. The request was submitted on the required form and all pertinent information was provided.

2. The class(es) or course(s) to be attended appear; a) to be requirements for completion of a degree (AA, AS, BA, BS, MA, or PHD) in a field of study related to the employees job classification, offered by the college or university being attended, or b) to be the type that would increase the employee's technical job knowledge, or enable him/her to compete for other job opportunities within the City structure, or would improve his/her overall benefit to the City.
3. The class(es) or course(s) to be attended are being offered by an accredited college or university that is located no more than seventy-five (75) road miles from the City of Los Banos.
4. Tuition Reimbursement at private colleges or universities may be funded by the City if the following criteria are met:
 - a. The course of study is of a technical nature and is necessary for the employee to perform his/her current job classification or his/her ability to seek a higher position within the City structure, this would include short-term certification programs; and
 - b. Upon approval by the City Manager prior to initial approval by the Department Head.

Employees choosing to attend a private college or university may, upon prior approval by the City Manager, be reimbursed a maximum cost of tuition that is equivalent of the cost to attend a public college or state university. It shall be the responsibility of the employee to obtain these costs and submit them with their initial request for reimbursement.

5. In recognition of current technology, courses available through the Internet may also be funded. Criteria relating to Internet courses are the same as that relating to private colleges and universities. The mileage restriction would not apply to this type of study.
- B. If all the proceeding conditions are met, the Department Head shall approve the employee's request and forward it to the City Manager.
 - C. In the event the Department Head determines the required conditions are not satisfied, the request shall be denied and the employee will have five (5) working days to file a written appeal for reconsideration with the City Manager. If the original request was made by a Department Head and denied by the City Manager no appeal process is provided. The City Manager's decision shall be final and binding.

SEC. 5006A CITY MANAGER REVIEW

- A. Upon receipt of a Tuition Reimbursement request that has been approved by a Department Head, the City Manager shall satisfy himself/herself that the request meets the required guidelines, and if so, issue final approval. In the event the City Manager determines that the Department Head erred, and the request does not meet proper guidelines for approval, he/she shall deny the request and return same to the Department Head who shall notify the employee of such denial. Denial of Tuition Reimbursement request by the City Manager shall be considered final and binding.
- B. Upon receipt of an appeal from an employee who was denied a request for Tuition Reimbursement by a Department Head, the City Manager shall review the facts of the situation and render a decision. The decision of the City Manager to deny or approve a Tuition Reimbursement request shall be considered final and binding.

SEC. 5007A PAYMENT OF TUITION REIMBURSEMENT

- A. Actual payment of Tuition Reimbursement shall be forthcoming only upon satisfactory completion of approved classes or courses and submittal by the employee of the following; a) a copy of the school official grade report of the classes or courses taken, b) a copy of the receipt received from the school for tuition payment, and c) a copy of the receipt received for purchase of required books, and/or miscellaneous supplies.
- B. Tuition will be reimbursed in accordance with this policy, upon successful completion of courses, up to \$3,000.00 per fiscal year per employee.
- C. For the purpose of the City, successful completion of a class or course means the employee received a grade of "C" or higher on his/her class record or in the case of credit-no credit classes or courses, the employee received credit on his/her class record. Tuition Reimbursement shall not be provided for classes or courses where the employee's class record reflects a letter grade of "D" or lower, No Credit, or Incomplete.

SEC. 5008A TRANSPORTATION COSTS

Transportation costs during off duty attendance at public colleges or universities are the responsibility of the employee. The City will not provide reimbursement for such cost nor will City vehicles be provided for such purpose.

SEC. 5009A RETROACTIVE PAYMENTS NOT PERMITTED

Employees who complete classes or courses that were not approved in advance by their Department Head and/or the City Manager shall not be entitled to Tuition Reimbursement.

**DIVISION 5-B
SICK LEAVE POLICY**

SEC. 5001B PURPOSE

The purpose of this Division is to identify employee benefits and responsibilities with regard to accrual, use, and compensation of Sick Leave.

SEC. 5002B SICK LEAVE DEFINED

The term Sick Leave refers to the fully compensated and duly authorized time off work taken by an entitled employee for, a) Personal Sick Leave - the employee is receiving medical attention or is suffering or recovering from an illness or injury that prevents him/her from performing assigned job duties, or b) Family Sick Leave - the employee's presence is required elsewhere because of demands created by the illness, injury or death of an immediate family member; "Immediate Family" consists of the following: Employee's spouse, domestic partner, child, child of a domestic partner, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or parent or child of a domestic partner. Additionally, Family Sick Leave may be used when attending funerals of close friends or extended family members.

SEC. 5003B ENTITLED EMPLOYEES

All Regular and Part-time employees are considered as entitled employees for the purpose of Sick Leave accrual. Volunteers do not earn Sick Leave.

SEC. 5004B SICK LEAVE ACCRUAL FOR REGULAR EMPLOYEES

All Regular Employees earn Sick Leave at the rate of one day (8 hours) for each calendar month of full-time service to the City. Regular Employees in less than full-time positions shall receive a prorated amount based on hours of employment. There is no maximum limit on the amount of Sick Leave that may be accrued. Employees are rendering service to the City; when working, while off on fully compensated leave of absence, while off on fully compensated Sick Leave, or while off on compensated job injury. Sick Leave granted by the City and used by an employee shall be deducted from the employee's accrued Sick Leave balance. Employees who are off work on un-paid leave of absence are not considered as rendering service to the City and therefore do not earn Sick Leave.

SEC. 5005B SICK LEAVE ACCRUAL FOR PART-TIME, PROVISIONAL, AND TEMPORARY EMPLOYEES

All Part-time, Provisional, and Temporary employees shall be provided with three (3) days or twenty-four (24) hours of accrued sick leave upon hire and thereafter on July 1st of each year. Accrued sick leave shall not accumulate higher than twenty-four (24) hours each fiscal year (July 1st – June 30th) and shall not carry over to the next fiscal year. Employees

are rendering service to the City while off on fully compensated Sick Leave Sick Leave granted by the City and used by an employee shall be deducted from the employee's accrued Sick Leave balance. Employees who are off work on un-paid leave of absence are not considered as rendering service to the City.

SEC. 5006B SICK LEAVE USE

- A. Personal Sick Leave: Employees are entitled to use up to their total accrued Sick Leave under the following circumstances; a) while suffering or recovering from a legitimate illness or injury that prevents them from performing assigned job duties, or b) when being examined or treated by a licensed physician, dentist, or other legitimate medical practitioner or while traveling to and from the location where the examination or treatment will be received.
- B. Family Sick Leave: Employees may use a maximum of half of their annual days of accrued Sick Leave) during any single calendar year as Family Sick Leave. Family Sick Leave may be used to attend funerals or transport or care for sick or injured immediate family members or parents. This use of Sick Leave does not extend the maximum period of leave to which an employee is entitled under Division 14 (Leaves of Absence) of these Rules.
- C. In the event that an employee or a member of the employee's immediate family recovers from any such sickness after being granted Sick Leave, and during the regularly scheduled hours of work, then such employee shall notify the appropriate immediate supervisor and be available to return to duty.
- D. In order to apply for Sick Leave use, an employee shall notify the appropriate immediate supervisor no later than fifteen (15) minutes before the time established as the beginning of the employee's work day, unless the City determines that the employee's duties require more restrictive reporting. Failure to do so without good reason shall result in that day of absence being treated as leave of absence without pay.
- E. If the employee is absent on Sick Leave for more than one (1) day, the employee will keep the immediate supervisor informed as to the date the employee expects to return to work.
- F. Sick Leave will not be granted to any employee absent from duty after separation from City service, or during a City authorized leave of absence without pay, or any other absence from duty not authorized by the City.
- G. Paid Sick Leave will not be granted to any employee to permit an extension of the employee's vacation.
- H. The City may require a physician's certification at any time regarding the sickness or injury of the employee or their immediate family member and the date of the employee's intended return to work.

- I. Employees will not be permitted to use vacation in lieu of Sick Leave unless approved by the Department Head.
- J. Supervisors shall 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.

SEC. 5007B JOB INJURIES - MISCELLANEOUS EMPLOYEES

Miscellaneous (non-public safety) employees who are injured in the course of their employment may, as permitted under Labor Code Section 4650, elect to use accrued Sick Leave in conjunction with Workers' Compensation Payments; provided that the total amount paid by Workers' Compensation and the City does not exceed the employees base monthly salary. Those employees who do not choose to use their accumulated Sick Leave in conjunction with Workers' Compensation payments or those employees who have no accrued Sick Leave will be paid at the rate currently set for Workers' Compensation payments.

Special Note: The first three (3) calendar days off after a job injury are not paid by Workers' Compensation unless you are an inpatient at the hospital or are off work for fourteen (14) days, and subsequent time off is normally paid at a reduced amount; approximately two thirds of an employees normal base salary.

SEC. 5008B JOB INJURIES - PUBLIC SAFETY EMPLOYEES

In accordance with Labor Code Section 4850, Public Safety Employees shall receive full pay and benefits during the time they are off on job injury. Salary and benefits begin immediately and continue up to one (1) year from the date of injury. Sick Leave is accumulated during the period of disability.

SEC. 5009B DUTY TO NOTIFY

Whenever an employee becomes aware that he/she needs to be off work on Sick Leave, he/she shall notify his/her supervisor (or if the supervisor is unavailable, any member of his/her department he/she can locate) of the anticipated date of his/her return to work. If an employee is aware prior to the beginning of his/her scheduled shift that he/she needs to be off work on Sick Leave, he/she must notify his/her supervisor no later than fifteen (15) minutes prior to the beginning of the scheduled shift.

SEC. 5010B ADMINISTRATIVE RIGHT TO REQUIRE DOCTORS EXCUSE

Whenever an employee takes off work for a reported illness or injury, Administration may require a Doctor's excuse prior to the employee being allowed to return to duty.

SEC. 5011B MALINGERING

Any employee who takes off or attempts to take off work on Sick Leave by falsifying the fact that he/she is sick, injured, or receiving medical attention or that a member of his/her immediate family is sick, injured, or has died, is guilty of malingering. For the purpose of this work rule, a) the fact that an employee is found to be at a social function, attending school, or performing other work (without approval from medical authorities), or b) it was learned that an immediate family member was not sick, injured, or did not die, is grounds to establish a case of malingering. Violation of this work rule may result in severe punitive action.

SEC. 5012B COMPENSATION FOR UNUSED SICK LEAVE

Employees Hired Prior to July 1, 1988:

Those employees who have accumulated sixty (60) days or more of unused Sick Leave at time of resignation or termination from the City of Los Banos are entitled to be paid a lump sum payment, at their then current rate of pay, for one fourth (1/4) of their total accumulated time. Example: Employees with eighty (80) days accumulated sick leave receive payment for twenty (20) days.

Special Note: Employees who have unused Sick Leave totaling fifty-nine (59) days or less, receive no compensation at time of resignation or termination. Those employees who have unused Sick Leave at time of retirement from the City of Los Banos are compensated under the following formula; a) employees with sixty (60) days or more unused Sick Leave may convert the entire amount to CalPERS (California Public Employees Retirement System) Service Credit or receive a lump sum payment from the City for one-fourth (1/4) their total accumulated Sick Leave and convert the remaining unused Sick Leave to CalPERS Service Credit.

Example: Employees who have unused Sick Leave totaling one hundred sixty (160) days could elect to be paid a lump sum payment from the City for forty (40) days, at current pay rate, and apply one hundred twenty (120) days to CalPERS Service Credit or they could choose to apply the total one hundred sixty (160) days to CalPERS Service Credit, or 2) employees with fifty-nine (59) unused Sick Leave days or less at time of retirement may convert those days to CalPERS Service Credit. No lump sum payment from the City is permitted for unused Sick Leave of fifty-nine (59) days or less.

Employees Hired On or After July 1, 1988:

Employees hired on or after July 1, 1988, do not have the option of lump sum Sick Leave pay off at time of retirement. Unused Sick Leave shall be converted into CalPERS Service Credit.

Special Note: Unused Sick Leave is converted to retirement credit in accordance with CalPERS Operating Practices in effect at time of retirement.

SEC. 5013B EXCESSIVE USE OF SICK LEAVE/ABUSE OF SICK LEAVE

An employee shall be subject to disciplinary action for abuse of Sick Leave for claiming an entitlement to Sick Leave when the employee does not meet the requirements of Sick Leave as defined in Section 5002B.

SEC. 5014B RETURN TO WORK

A. Regular employees unable to perform the essential functions of their position, with or without reasonable accommodation, as a result of a physical or psychological illness or injury shall:

1. Be terminated from employment. Employees who are separated pursuant to this section shall be accorded procedural due process (i.e., notice and an opportunity to respond to the separation) in accordance with the appeal procedures for disciplinary actions outlined in these Rules and Procedures, or
2. If disabled, be retired under CalPERS, or
3. Be offered the opportunity to resign from the position and be placed on a rehire list for a period not to exceed one (1) year. Any employee returning to work pursuant to this section shall provide to the Human Resources Director verification from a medical practitioner of his/her ability to return to work and perform the essential functions of his/her position, with or without accommodation.

If during the period in which the employee is on the rehire list, the employee is able to resume the duties of his/her previous position and there is a vacant position in the employee's classification, the employee will be entitled to return to that position with all the rights, benefits, and responsibilities of a regular employee. However, an employee on a rehire list shall not accrue seniority. Thus, the employee will return to work with the same amount of seniority held prior to being placed on the rehire list. Placement on the rehire list does not preclude an employee from applying for a disability retirement.

B. Sworn Public Safety Officers: Sworn employees are entitled to regular pay for an amount of time for temporary disability caused by an injury or disease arising out of or during the course of employment pursuant to state law. As such, these employees will receive their full entitlement to temporary disability benefits at the time they are offered the rehire list option described in this section, unless they are determined to be permanent and stationary, in which case, the employee or the City may file an application for disability retirement.

C. Medical Leaves of Absence: Employees on family and medical care leave, pregnancy disability leave or other statutory leaves will not be terminated or offered the rehire list option in lieu of separation during such leave if separation during such leave would be precluded by law.

- D. Whenever an employee has been given a permanent and stationary rating by the Industrial Accident Commission of the State of California, return to the job must be based on the same medical information that the employee used in order to obtain the award. It is the policy of the City that an employee return to duties he/she can perform safely without undue risk to other employees. It is, likewise, the policy of the City that if the employee cannot do so and if he/she is unable or unwilling to accept some other vacant position which the employee is psychologically and physically and otherwise qualified to perform, his/her employment will be terminated.

The medical criteria presented to the Industrial Accident Commission by the employee and his/her doctor shall be obtained and utilized by the City and interpreted in terms of specific job restrictions and limitations. The Department Head, or his/her designee, shall then interpret and apply such job restrictions and limitations to the specific physical and/or psychological requirements of the employee's position and make a recommendation to the Administrative Services Director or designee. A determination shall be made by the Human Resources Director or designee in consultation with the Department Head as to whether or not the employee shall:

- Return to the job.
- Transfer to some other vacant position for which he/she is qualified based upon ability and experience.
- Separate from the City's employment.

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

**DIVISION 5-C
VACATION LEAVE POLICY**

SEC. 5001C PURPOSE

The purpose of this Division is to identify employee rights and responsibilities with regard to accrual, use, and compensation of Vacation Leave.

SEC. 5002C VACATION LEAVE DEFINED

The term Vacation Leave refers to the fully compensated duly authorized time off work taken by an entitled employee for the pursuit of his/her personal business or pleasure which could not be properly enjoyed or adequately attended to during the shorter time periods offered by normal days off and/or holidays.

SEC. 5003C ENTITLED EMPLOYEES

All Regular Employees as defined in Division 1, Section 1009 of these Rules, except Firefighters, who are receiving full salary and benefits from the City are considered as entitled employees for the purpose of vacation accrual. Firefighter vacation accrual is specifically addressed in the Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Fire Fighter's Association. Part-time and Provisional employees and Volunteers do not earn Vacation Leave. All Regular Employees as defined in Division 1, Section 1009 of these Rules are considered entitled for purpose of vacation leave accrual.

SEC. 5004C VACATION LEAVE ACCRUAL

All Regular Employees earn Vacation Leave, beginning with the date of hire, in accordance with the following guidelines:

- A. Regular Employees with five (5) full years of service or less earn 6.67 hours Vacation Leave for each full calendar month of employment. Vacation Leave accrual for periods shorter than one calendar month are pro-rated on the basis of actual service time during that partial month. The following is an example of the time period that constitutes five (5) full years of service or less: The employee was hired on January 1, 1980. He/she will complete five (5) full years of service on December 31, 1985. During this entire period of time, he/she accrues vacation at the rate of 6.67 hours per calendar month, equivalent to ten (10) days per year.
- B. Regular Employees who have completed from five (5) to fifteen (15) full years of service earn 10.00 hours Vacation Leave for each full calendar month of employment. Vacation Leave accrual for periods shorter than one (1) calendar month are pro-rated on the basis of actual service time. The following is an example of the time period that constitutes from five (5) to fifteen (15) full years of service: The employee was hired on January 1, 1980. He/she completed five (5) full years of service on

December 31, 1985. Beginning January 1, 1986, he/she earns Vacation Leave at the rate of 10.00 hours per calendar month, equivalent to fifteen (15) days per year. This rate of Vacation Leave accrual continues until December 31, 1995.

- C. Regular Employees who have completed over fifteen (15) full of years of service earn 13.36 hours Vacation Leave for each calendar month of employment. Vacation Leave accrual for periods shorter than one (1) calendar month are pro-rated on the basis of actual service time. The following is an example of the time period that constitutes over fifteen (15) full years of service: The employee was hired on January 1, 1980. He/she would complete fifteen (15) full years of service on December 31, 1995. Beginning January 1, 1996, the employee would have completed over fifteen (15) full years service and thus Vacation Leave is earned at the rate of 13.36 hours per calendar month, equivalent to twenty (20) days per year.

SEC. 5005C MAXIMUM VACATION LEAVE ACCRUAL ALLOWED

- A. At the discretion of the Regular Employee, Vacation Leave may be accumulated and saved in accordance with the following guidelines:
 - 1. Employees who have less than five (5) full years of service may save a maximum of one hundred sixty (160) hours;
 - 2. Employees who have from five (5) to fifteen (15) full years of service may save a maximum of two hundred forty (240) hours;
 - 3. Employees who have in excess of fifteen (15) full years of service may save a maximum of three hundred twenty (320) hours.
- B. Employees are limited to the maximum accrual of vacation as defined, based on years of service.
- C. Should any employee exceed the maximum accrual of vacation, accrual will cease until vacation accrual reduces to below the maximum amount allowed. At no time will any City employee be entitled to accrue more vacation leave than that provided for in this Section. It shall be the responsibility of the employee to assure that they utilize credited vacation leave within the limitations set forth herein.

PLEASE NOTE that the current vacation balance, the current pay period vacation usage, and vacation accrual are all shown on the employee's pay check stub and are the responsibility of the employee to track for compliance with this provision.

SEC. 5006C USE OF VACATION LEAVE

Vacation Leave shall be taken in accordance with the policies and procedures of the employee's Department, or in the case of Department Heads, when approved by the City Manager, or in the case of the City Manager, when approved by the City Council. While

the staffing needs of the City shall be paramount, the employee's right and need for Vacation Leave shall be given every reasonable consideration.

SEC. 5007C COMPENSATION FOR UNUSED VACATION TIME

Eligible employees shall, at time of resignation, discharge, or retirement, be compensated for all accrued, unused vacation hours at the current regular rate of pay.

**DIVISION 5-D
CATASTROPHIC LEAVE DONATION POLICY**

SEC. 5001D PURPOSE

To identify employee rights and responsibilities with regard to Catastrophic Leave Donation.

SEC. 5002D ENTITLED EMPLOYEES

All Regular Employees who are receiving full salary and benefits from the City are considered as entitled employees for the purpose of vacation accrual. Part-time and Provisional employees and Volunteers do not earn Vacation Leave. All Regular Employees as defined in Division 1, Section 1009 of these Rules are considered entitled for purpose of catastrophic leave donations.

SEC. 5003D CATASTROPHIC LEAVE DONATION DEFINED

The term Catastrophic Leave Donation refers to the Vacation or Compensatory Time Off (CTO) that has been accrued by one employee and may be donated/transferred to another employee as Catastrophic Leave in accordance with the following guidelines:

- A. Upon approval of the need for Catastrophic Leave Donation by the Human Resources Director and provided the requesting employee's leave request so directs, Human Resources will, upon the approval of the employee on the leave request form, send a donation request letter to all departments for posting on employee bulletin boards, or publication in employee newsletters. No confidential medical information will be contained in the donation request. All departments will be supplied with donation forms to give to employees who wish to donate leave.
- B. Request for approval to donate Catastrophic Leave shall be submitted to the donating employees Division Head/Department Head/City Manager on the prescribed form; included in this division.
- C. Catastrophic Leave Donations must be approved in advance of use by the donating and receiving employees' Division Head, Department Head, or the City Manager.
- D. Employees shall have the absolute right to refuse to donate Catastrophic Leave. Employees seeking Catastrophic Leave donations do not have a right to demand or require such time be donated.
- E. An employee shall be permitted to receive a maximum of thirty (30) days, two hundred forty (240) hours of donated Catastrophic Leave during any single calendar year, January 1st to December 31st.

- F. Catastrophic Leave donations shall be made in minimum increments of eight (8) hours.
- G. When Catastrophic Leave is donated by one employee to another employee the donating employee shall have given up his/her right to such time. Specifically, neither the City nor the employee receiving the donation of Catastrophic Leave shall be obligated or required to reimburse or otherwise compensate the donating employee for the time donated.
- H. Donations to known terminally ill employees will be posted in amounts not to exceed two pay periods worth of time unless the donor requests that the donation be effective immediately. Any time donated to the employee that was not yet processed will have the donation form returned to the donor.

SEC. 5004D CATASTROPHIC LEAVE USE

Catastrophic Leave may be applied for and used in accordance with the following guidelines:

- A. Catastrophic Leave Donations are available to all regular employees who have completed one (1) year of probation, have applied and been approved for Catastrophic Leave and have exhausted all paid leave or anticipate exhausting all paid leave within the next two pay periods.
- B. An employee is eligible for Catastrophic Leave when he or she is unable to work due to a bona fide and verifiable long term illness or injury of the employee that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available.
- C. When donated Catastrophic Leave is being used by an employee, he/she shall be compensated at his/her normal rate of pay as if he/she was being compensated for that sick leave he/she actually accrued. Specifically, the pay scale of the donating employee (whether higher or lower than the employee receiving the donation) shall not be considered in computing salary compensation for the employee who received the Catastrophic Leave Donation.
- D. An employee on donated leave will not accrue sick leave, vacation or any other type of leave.
- E. The City's Catastrophic Leave Donation Plan will comply with all applicable Internal Revenue Service (IRS) codes. The leave will be taxable to the recipient and appropriate withholding will be made by the City. There is no tax liability to the donor.
- F. The donating employee will maintain a minimum of forty (40) hours of vacation after the donation has been made.

**REQUEST TO DONATE/TRANSFER
ACCRUED CATASTROPHIC LEAVE
(FORM DIV-5D-1)**

SECTION A - Donating Employee

I hereby request approval to donate/transfer a total of _____ hours of my Vacation / Compensatory Time Off (CTO) (circle one) to:

Name: _____ Title: _____ Dept.: _____

I recognize and accept that if my request is approved and the Vacation/CTO is transferred I will have voluntarily given up all rights to be reimbursed or otherwise compensated for the time donated by either the City or the employee receiving the donation.

Type/Print Name	Title	Department
Signature	Date	

SECTION B - Administrative Approval

A. Division/Department Head - Donating Employee () Approved () Denied

Signature	Date
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Briefly state reason for approval or denial: _____

B. Division/Department Head - Receiving Employee () Approved () Denied

Signature	Date
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Briefly state reason for approval or denial: _____

C. City Manager () Approved () Denied _____

Signature

Briefly state reason for approval or denial: _____

Original – Donating Employee's Personnel File
Copy – Payroll / Personnel File of Employee Receiving Donation

**DIVISION 5-E
HOLIDAY LEAVE POLICY**

SEC. 5001E PURPOSE

The purpose of this Division is to identify City policy with regard to Holiday Leave for eligible employees.

SEC. 5002E HOLIDAY LEAVE DEFINED

The term Holiday Leave refers to the fully compensated, duly authorized time off work taken by an Eligible Employee on, or as compensation for, an approved City Holiday.

SEC. 5003E ELIGIBLE CITY EMPLOYEES DEFINED

All Regular Employees of the City of Los Banos shall be entitled to Holiday Leave Benefits in accordance with the guidelines set forth in this policy. Part-time and Provisional Employees and Volunteers are not entitled to Holiday Leave Benefits. All Regular Employees as defined in Division 1, Section 1009 of these Rules are considered entitled for purpose of holiday leave. A Regular Employee must have been in paid status by the City on the day preceding and the day following a holiday to qualify for holiday pay. For the purpose of this paragraph, an employee who is absent on authorized vacation with pay or on accrued sick leave shall be deemed to be employed at such time.

SEC. 5004E APPROVED CITY HOLIDAYS: REGULAR

A. Traditional Work Assignments (Monday - Friday)

The following is a list of approved City Holidays for Regular Employees assigned to a traditional Monday - Friday Work Week:

1. New Years Day - January 1st
2. Martin Luther King Day, Third Monday of January
3. Lincoln's Birthday - February 12th
4. Washington's Birthday - Third Monday of February
5. Memorial Day - Last Monday of May
6. Independence Day - July 4th
7. Labor Day - First Monday of September
8. Veteran's Day - November 11th
9. Thanksgiving Day - Fourth Thursday of November
10. Day after Thanksgiving - Fourth Friday of November
11. Christmas Day - December 25th

Special Note: a) Approved Holidays that fall on Saturday shall be observed the preceding Friday and approved Holidays that fall on Sunday shall be observed on the

following Monday; and b) Unless otherwise designated, City Holidays are considered to be eight (8) hours for purposes of time off.

Police and Fire Department employees assigned to a regular five-day eight (8) hour work schedule are entitled to receive time off on holidays listed in section 5004E, subsection A, of this policy, and compensation for holiday duty as specified in section 5006E of this policy. Police and Fire Department employees assigned to a regular five-day work schedule are not entitled to receive in lieu holidays credited to employees assigned to shift work.

SEC. 5005E APPROVED CITY HOLIDAYS: SPECIAL

In addition to the Regular approved City Holidays set forth in Section 5004E, subsection A of this Policy, the Mayor of the City of Los Banos may, by Proclamation, establish any day or part thereof as a Special City Holiday. All Regular Employees, except members of the Police and Fire Departments who are assigned to twenty-four (24) hour shift work, shall be entitled to time off for such Special Holiday periods.

SEC. 5006E COMPENSATION FOR HOLIDAY DUTY

- A. All Regular Employees (except Management, Middle Management, and all represented members of the Los Banos Police and Fire Department) who are required to work on an approved Regular or Special Holiday, shall be entitled to overtime compensation for the actual hours worked.
- B. Police and Fire Department Employees (except Management, Middle Management, and unrepresented employees) assigned to a traditional work week (Monday – Friday) who are required to work on an approved Regular or Special Holiday, shall be assigned an in lieu of holiday; equivalent to the total hours of the Regular or Special Holiday that they worked. When possible, in lieu of holidays shall be assigned in conjunction with the employees scheduled days off; exception, officers assigned to schools might be assigned off on school holidays.
- C. Police and Fire Department Employees (except Management, Middle Management, and unrepresented employees) who are required to work on their scheduled in lieu of Holiday shall be entitled to overtime compensation for the actual hours worked.

**DIVISION 5-F
COMPENSATORY TIME OFF (CTO) POLICY**

SEC. 5001F PURPOSE

The purpose of this Division is to identify employee benefits and responsibilities with regard to the accrual and use of Compensatory Time.

SEC. 5002F COMPENSATORY TIME DEFINED

The term Compensatory Time refers to paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for hours of employment for which overtime compensation is required by the Fair Labor Standards Act (FLSA) or Employee-Employer Memorandum of Understanding (MOU).

SEC. 5003F COMPENSATORY TIME ACCRUAL

- A. Eligible Regular Employees who are required to work in excess of the maximum number of regular hours, as specified by FLSA or MOU, may elect to be compensated for their overtime work through either:
1. Salary - paid at the rate of one and one half times the employee's FLSA regular rate of pay for FLSA overtime or one and one half times the employee's hourly wage for non-FLSA overtime required by an applicable MOU, or
 2. Compensatory Time Off - accrued at the rate of one and one half hours for each hour worked over forty (40) hours of actual work in the employee's work week or in accordance with an applicable MOU.
- B. For the purpose of this policy; an eligible Regular Employee is a non-exempt employee who is employed full-time in a position normally funded for 1000 hours or more during a fiscal year, who had (personally or through his/her authorized representative) reached an agreement with the City to elect (at their choice) CTO in lieu of salary.

Special Note: The decision to elect to receive CTO rather than paid overtime is left totally at the discretion of the employee.

- C. Management and Mid-Management employees are not entitled to Compensatory Time accrual and are not allowed to maintain Compensatory Time.

SEC. 5004F MAXIMUM COMPENSATORY TIME ACCRUAL ALLOWED

- A. Unrepresented Miscellaneous Employees: Eligible Employees may (at their discretion) accumulate a maximum of sixty (60) hours of Compensatory Time in lieu of being paid overtime. This means that an employee who works forty (40) hours

Compensatory Time has accumulated (at time and one half rate) the maximum of sixty (60) hours. All overtime worked in excess of the allowable Compensatory Time accumulation will automatically be paid as salary.

Note: Represented Employees should refer to applicable MOU for maximum CTO accrual allowed.

SEC. 5005F USE OF COMPENSATORY TIME

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 the supervisor no later than five (5) days prior to the date requested. If the employee does not provide five (5) days' notice, or if the department cannot accommodate the time off, the City will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.

SEC. 5006F COMPENSATION FOR UNUSED COMPENSATORY TIME

Eligible employees shall, at time of resignation, discharge, or retirement, be compensated for all accrued, unused compensatory hours at the current FLSA regular rate of pay, or the average regular rate for the prior three years, whichever is higher.

**DIVISION 5-G
OVERTIME COMPENSATION POLICY**

SEC. 5001G PURPOSE

The purpose of this Division is to identify City policy with regard to Overtime Compensation for eligible employees.

SEC. 5002G OVERTIME DEFINED

Unless otherwise stated in a Memorandum of Understanding (MOU) or this policy, “overtime” is all hours an overtime-eligible employee actually works over forty (40) hours in his or her work week, or beyond the number of hours in the applicable work period (e.g. 7k work period). Overtime is compensated at 1.5 times the Fair Labor Standards Act (FLSA) rate of pay.

SEC. 5003G REQUIREMENT TO ACCEPT OVERTIME ASSIGNMENTS

When duly notified (the request is communicated to and acknowledged by the employee), employees are required to accept mandatory overtime assignments. When making such assignments, supervisors are expected to give proper consideration to the desires of the employee, but the needs of the City shall be given priority.

SEC. 5004G OVERTIME RIGHTS

All Eligible Employees of the City of Los Banos, shall be entitled to receive Compensation (in accordance with the guidelines set forth in this policy) for all Overtime worked, except; occasional, unscheduled time of less than eight (8) minutes that occurs immediately before or immediately after an employees tour of duty.

SEC. 5005G ELIGIBLE EMPLOYEES DEFINED

All FLSA non-exempt Regular and Part-time City Employees shall be eligible for Overtime Compensation. Further, Provisional Employees, who are not considered exempt from overtime requirements under provisions of the FLSA, shall have the same overtime entitlements as those Regular or Part-time employees who are performing similar jobs.

SEC. 5006G ESTABLISHED WORK WEEK FOR ALL CITY EMPLOYEES, EXCEPT;
LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS

The established Work Week for all City employees (except Law Enforcement Officers and Fire Fighters) is, 7:00 a.m. Monday to 6:59 a.m. Monday of each consecutive week.

SEC. 5007G ESTABLISHED WORK PERIOD FOR LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS

As permitted under the FLSA 7K Exemption, the established Work Period for Law Enforcement Officers is a twenty-eight (28) Day Cycle; date established July 1, 1985. The established Work Period for Fire Fighters is a twenty-four (24) Day Cycle; date established March 17, 2010.

SEC. 5008G ESTABLISHED WORK DAY FOR ALL CITY EMPLOYEES, INCLUDING LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS

The established Work Day for all City employees is, that twenty-four (24) hour period of time, from 7:00 a.m. on one calendar day, to 6:59 a.m. on the following calendar day.

SEC. 5009G OVERTIME GUIDELINES FOR ALL ELIGIBLE EMPLOYEES, EXCEPT LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS

As required by Federal Labor Law, the City shall provide Overtime Compensation for all time worked in excess of forty (40) hours during the established Work Week or in accordance with overtime provisions of the applicable MOU.

SEC. 5010G OVERTIME GUIDELINES FOR ELIGIBLE LAW ENFORCEMENT OFFICERS

The City will provide Overtime Compensation for all time worked in excess of the employee's regularly assigned work shift, for any time worked in excess of forty (40) hours in a week, and for time worked in excess of one hundred seventy one (171) hours, during the established twenty-eight (28) day work period.

SEC. 5011G OVERTIME GUIDELINES FOR ELIGIBLE FIRE FIGHTERS

Federal Labor Law requires payment of Overtime Compensation for all time worked in excess of one hundred eighty-two (182) hours during an established twenty-four (24) Day Work Period. In keeping with Federal Labor Law requirements, the City shall provide Overtime Compensation for all time worked in excess of One hundred eighty two (182) hours during an established twenty-four (24) Day Work Period to those Fire Fighters who are assigned to shifts (work periods) longer than eight (8) consecutive hours. Such employees are normally assigned to forty-eight (48) hour shifts.

SEC. 5012G CALL BACK TIME: NON-EXEMPT EMPLOYEES

Employees who are required to report to work during their assigned off duty hours shall be entitled to receive a minimum of three (3) hours Call Out even though the actual time worked was less than three (3) hours; except in the following instances:

- A. In the event the off duty time being worked extends into or begins immediately following the employees assigned shift, he/she shall be entitled to compensation for only the actual off duty hours worked.
- B. In the event the off duty time being worked is in response to a special assignment mutually agreed upon between the employee and the City, the employee shall be entitled to compensation for only the actual hours worked.
- C. Employees shall be entitled to receive the three (3) hour Call Back Pay only One (1) time during any twenty-four (24) hour period. A twenty-four (24) hour period, for the purpose of this benefit, shall be considered as 0001 hours 2400 hours. Essentially, an employee could be called out several times during a given twenty-four (24) hour period and would receive three (3) hours compensation if the total hours worked were three (3) or less. Conversely, if the total hours worked exceeds three (3), the employee would be compensated for the actual hours worked.

Special Note: The expressed purpose of Call Back Pay is to compensate employees who have their normal off duty hours disrupted due to unscheduled call backs, court appearances, and other such job demands. In the event of a disagreement over entitlement to three (3) hour Call Back Pay, the stated intent of this benefit will be the guiding factor in resolving disputes.

SEC. 5013G OVERTIME APPROVAL REQUIRED

Employees are required to obtain the prior approval of their supervisor before working Overtime, except; when the Overtime is being worked in response to an emergency or in accordance with an established operating practice of the City or a Division or Department of the City, approval may be forthcoming after the fact. Working Overtime without advance approval may be grounds for discipline.

SEC. 5014G SUBMITTAL OF REQUEST FOR PAYMENT OF OVERTIME

All requests for payment of Overtime shall be submitted in writing, at the time and on the form, prescribed by the City or the employee's Division or Department Head. Failure to submit a properly completed request by the time and date specified as the due date may result in delay in payment and disciplinary action.

SEC. 5015G REVIEW AND APPROVAL OF OVERTIME PAY REQUESTS

Prior to actual payment, all Overtime requests shall be reviewed and approved by the employee's supervisor and Division or Department Head. Whenever such review establishes that the Overtime worked by an employee was inappropriate or improper, the Supervisor and/or Division or Department Head shall take necessary corrective action.

Special Note: Any Overtime, which was worked in violation of a direct order or an established policy or practice of the City or the employee's Division or Department, may be

denied and the employee may be subject to disciplinary action. Such action may only be taken with approval of the employee's Division Head, Department Head, or City Manager.

SEC. 5016G COMPENSATORY TIME OFF (CTO) IN LIEU OF OVERTIME PERMITTED

As provided under the guidelines set forth in the City of Los Banos Compensatory Time Off Policy; Division 5-F, eligible employees may elect to receive CTO in lieu of salary.

SEC. 5017G VOLUNTEER TIME NOT COMPENSATED AS OVERTIME

In accordance with the guidelines set forth in Division 6 – Fair Labor Standards Act, Section 6010, employees may under certain circumstances voluntarily donate their time. Such bona fide volunteer time is not considered and will not be compensated as Overtime. Employees are prohibited from volunteering, for the City, to perform the same or similar services which they perform as an employee of the City.

SEC. 5018G ASSIGNMENT OF DUTY HOURS

An employee's actual duty hours (daily work times) are assigned and may be adjusted whenever deemed necessary by the City Manager, or the employee's Division Head or Department Head.

DIVISION 5-H EDUCATION INCENTIVE PAY POLICY

SEC. 5001H PURPOSE

The purpose of this Division is to identify employee rights and responsibilities with regard to their entitlement to Education Incentive Pay.

SEC. 5002H EDUCATION INCENTIVE PAY DEFINED

The term Education Incentive Pay refers to the continuous monthly bonus paid to eligible employees who have been awarded a Degree (A.A., A.S., B.A., B.S., M.A. or M.S.) from an accredited College or University.

SEC. 5003H ELIGIBLE EMPLOYEES DEFINED

For the purpose of this policy, all unrepresented regular employees of the City of Los Banos who have been awarded a Degree (A.A., A.S., B.A., B.S., M.A. or M.S.) from an accredited College or University are considered Eligible Employees.

SEC. 5004H SPECIFIC PAYMENT ENTITLEMENT

Education Incentive Pay bonuses shall be provided in accordance with the following guidelines:

- A. All unrepresented regular job classifications shall be compensated as designated in this subsection; a) \$100 per month for an A.A. or A.S. Degree; b) \$175 per month for a B.A. or B.S. Degree, or c) \$225 per month for a M.A. or M.S. Degree.

Special Note: Monthly Education Incentive Pay bonus is in addition to regular monthly salary.

SEC. 5005H PROCEDURE FOR OBTAINING ENTITLEMENT

Employees who have been awarded a degree (A.A., A.S., B.A., B.S., M.A. or M.S.) from an accredited College or University must present two (2) copies of the degree to their Department Head or in the event the employee is the Department Head, the City Manager. One copy of the degree will be placed in the employee's Department Personnel File; one copy of the degree will be forwarded to the City's Human Resources Director, along with a memo from the Department Head or in the event the employee is the Department Head, the City Manager, requesting the appropriate salary adjustment be made; and one copy of the degree will be placed in the employee's Master Personnel File. The Educational Incentive Pay Increase shall become effective on the first pay period following the date the proof of degree was received by the Department Head or if the employee was the Department Head, the City Manager.

**DIVISION 5-I
STATE DISABILITY INSURANCE (SDI) /
PAID FAMILY LEAVE (PFL) POLICY**

SEC. 5001I PURPOSE

The purpose of this Division is to clarify the City's policy with regard to employee participation in the State Disability Insurance (SDI) or Paid Family Leave (PFL) Programs.

SEC. 5002I STATE DISABILITY INSURANCE (SDI) / PAID FAMILY LEAVE (PFL):
PURPOSE

The purpose of SDI is to provide eligible employees with partial wage replacement benefits while they are unable to work due to a qualifying non-industrial illness or injury, or pregnancy-related condition. Specific rules governing actual benefit rights and responsibilities are set forth in SDI program guidelines and are administered by the State Employment Development Department (EDD).

The purpose of PFL is to provide eligible employees with partial wage replacement benefits while they are off work to bond with a newborn baby, adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner. Specific rules governing actual benefit rights and responsibilities are set forth in PFL program guidelines and are administered by the State Employment Development Department.

SEC. 5003I ELIGIBLE EMPLOYEES DEFINED

All employees who are members of, or represented by, one of the following named employee groups (and all other employees who pay SDI premiums through the City) are considered as eligible employees for the purpose of SDI benefits; a) the Los Banos Police Officers Association, b) the Los Banos Police Dispatchers/Community Services Officers Association, c) the Los Banos Fire Fighter's Association, and d) all non-represented miscellaneous employees.

Special Note: Management and Middle-management employees and members or persons represented by the Los Banos Police Sergeant's Association do not pay premiums and are not entitled to SDI / PFL benefits.

SEC. 5004I GENERAL STATEMENT

SDI and PFL are personal wage replacement programs, purchased at the sole expense of the participating employee. It is the responsibility of those participating employees to know and exercise their rights under the SDI and PFL programs.

It is the employee's responsibility to file any SDI or PFL claims with the State of California. The City is not involved in the application or benefit payment processes, other than the integration of leave with SDI or PFL payments.

IN ACCORDANCE WITH CALIFORNIA UNEMPLOYMENT INSURANCE CODE SECTION 2656, IT IS UNLAWFUL FOR AN EMPLOYEE TO DRAW AND RETAIN SDI OR PFL PAYMENTS WHICH, WHEN COMBINED WITH WAGES OR OTHER BENEFITS, EXCEED REGULAR PAY.

DRAWING A COMBINATION OF SDI / PFL PAYMENTS AND WAGES / PAID LEAVE IN EXCESS OF REGULAR PAY IS A VIOLATION OF CITY POLICY, AND MAY RESULT IN DISCIPLINE.

SEC. 5005I FILING FOR SDI / PFL BENEFITS

Applications for SDI / PFL benefits may be obtained through the City's Human Resources Department or on the State EDD's website. When filing for SDI / PFL benefits, employees will be asked to select one of the options outlined in Section 5006I of this policy. Failure to promptly and accurately complete and file SDI / PFL forms may result in delay or loss of benefits.

SEC. 5006I CURRENT SDI / PFL OPTIONS

- A. When an employee applies for SDI / PFL benefits, he/she may elect to be compensated, upon approval and payment of benefits, in accordance with one of the following options: a) the employee may supplement SDI / PFL payments with the use of accumulated, paid leave (i.e., Sick Leave, CTO, or Vacation Leave) up to the amount of the employee's regular pay, or b) the employee may receive SDI / PFL payments only, not supplemented by the use of accumulated paid leave.
1. The employee must inform the City's Human Resources Department of his/her choice of options upon application for benefits. Failure to promptly complete the necessary paperwork may result in delays of payment and a possible loss of SDI / PFL benefits.
 2. When the employee chooses SDI / PFL payment only (with no payment being made by the City) or when the employee has exhausted all of his/her accumulated paid leave, the employee shall no longer be entitled to accumulate sick leave, CTO, and Vacation Leave. This is consistent with the City's policy that employees do not accumulate paid leave when in unpaid leave status.

SEC. 5007I ADVISORY STATEMENTS

The City has no direct control over administration and operation of the SDI / PFL program, thus rules and guidelines may be changed or modified without the City's knowledge or consent. In view of this fact, employees are advised that it is their personal responsibility

to know and exercise their rights under SDI / PFL. Any questions regarding SDI / PFL benefits should be directed to the City's Human Resources Department or to the California EDD.

**DIVISION 5-J
NON-JOB RELATED TEMPORARY LIGHT DUTY POLICY**

SEC. 5001J PURPOSE

The purpose of this Division is to establish a policy to allow eligible employees to perform "light duty" assignments on a temporary basis while recuperating from non-job related illnesses or injuries.

For reasonable accommodation of injuries and illnesses that qualify as disabilities under the Americans with Disabilities Act (ADA) or California Fair Employment and Housing Act (FEHA), employees should refer to Division 17 of these Rules.

SEC. 5002J GENERAL STATEMENT

Eligible employees who are temporarily unable to perform their normal job assignments while recuperating from a non-job related illness or injury, may at the request of the employee and at the discretion of the City, be assigned to a light duty job for a period not to exceed one hundred twenty-four (124) calendar days; including regular days off, sick days, holidays, compensated time off, vacation days, etc.

SEC. 5003J ELIGIBLE EMPLOYEES DEFINED

Any full-time regular employees who is temporarily under the care of a medical doctor while recuperating from a bona fide non-job related illness or injury is considered an eligible employees for the purpose of this policy.

SEC. 5004J REQUEST FOR LIGHT DUTY ASSIGNMENTS

Requests for "Light Duty Assignments" must be initiated by the employee. Such requests shall be made on the form, Non-job Related Light Duty Assignment Request (5-J-1) included in this division. The Light Duty Request form must be completed by the employee and must contain the signed approval of the physician having responsibility for care of the employee during his/her recuperation period. The completed Light Duty Request must be submitted to the employee's Division or Department Head.

SEC. 5005J REVIEW OF LIGHT DUTY ASSIGNMENT REQUESTS

Upon receipt of a properly completed Light Duty Assignment Request, Division or Department Heads shall take one of the following actions:

- A. If there is a bona fide temporary light duty assignment available within the employees division or department, the employee shall be temporarily assigned to light duty.
- B. If there is no bona fide temporary light duty assignment available within the employees division or department, the request will be forwarded to the City

Manager's Office. The City Manager will, upon receipt of the request, determine if a temporary light duty assignment is available in some other division or department of the City. If there is an available light duty position with another division or department the City Manager may temporarily assign the employee to that position. In the event there is no suitable light duty assignment available within the City structure, the employee's request for light duty will be rejected by the City Manager.

SEC. 5006J DURATION OF LIGHT DUTY

The maximum length of any light duty assignment shall be no longer than one hundred twenty-four (124) days within any consecutive twenty-four (24) month period. This time limitation shall apply regardless of whether the employee is able to return to full duty or not. Further light duty assignments shall not be granted for recuperation periods of seven (7) calendar days or less.

For reasonable accommodation of injuries and illnesses that qualify as disabilities under the Americans with Disabilities Act (ADA) or California Fair Employment and Housing Act (FEHA), refer to Division 17 of these Rules.

SEC. 5007J ACCEPTING DUTIES OF OTHER JOB CLASSIFICATIONS

The decision to request or accept a "light duty" job assignment while recuperating from a non-job related illness or injury is that of the individual employee. Such employee may choose to use accrued Vacation, Sick Leave, or CTO in accordance with City policy rather than such light duty assignment. In the event an employee does opt for a light duty assignment and his/her request is granted, he/she may be assigned to work outside his/her normal job classification and duties. During such temporary assignment, the employee will however continue to receive his/her normal salary and benefits.

SEC. 5008J DENIAL OF LIGHT DUTY ASSIGNMENT

Should an employee refuse to accept a light duty assignment which involves work outside the employee's normal job classification, the employee shall be deemed as having declined a light duty assignment and no further such assignments will be offered except as required under Division 17 of these Rules relating to reasonable accommodation of qualifying disabilities.

**NON-JOB RELATED
LIGHT DUTY ASSIGNMENT REQUEST
(FORM 5-J-1)**
(page 1 of 2)

Employee Name: _____ Title: _____ Dept.: _____

Section A - Employee Request:

Due to my temporary inability to perform my normal duty assignment while recuperating from my current non-job related illness/injury, I hereby request a "Light Duty Assignment" for the period beginning _____ and ending _____.

I recognize that if such Light Duty Assignment is granted I may be assigned to perform duties that are outside my current job classification and I may be temporarily assigned to another department or division. I further acknowledge the City Policy governing Non-Job Related Illness and Injury Light Duty Assignments as contained in City Policy & Procedures Manual Division 5-J.

Signature Date

Section B - Physicians Comments:

I hereby certify that the above named employee is currently under my care while recuperating from (Describe illness or injury) _____

_____ and that during his/her period of recuperation beginning _____ and ending _____, he/she should be permitted to work in a light duty capacity only. I further understand that the City of Los Banos views the following as a Light Duty Assignment; the employee assigned to Light Duty is expected to perform clerical type work (answer telephones, type, file, operate computer or other business machines, sit or stand inside an office) for a period of eight (8) hours per day. Light duty assignments will not be granted for periods in excess of One hundred twenty-four (124) calendar days.

Typed Name of Physician Physician Address Phone No.

Signature of Physician Date

**DIVISION 5-K
WORKERS' COMPENSATION REPORTING POLICY**

SEC. 5001K PURPOSE

The purpose of this Division is to ensure compliance with reporting requirements for Workers' Compensation Claims.

SEC. 5002K EMPLOYEE RESPONSIBILITY

Employees shall report any job related injury, illness, or lost time or medical treatment due to a job related injury or illness, to their immediate supervisor at the earliest time practical after such injury, illness, lost time, or medical treatment becomes known to the employee. Failure to report in a timely manner could result in delay or loss of benefits.

SEC. 5003K SUPERVISORS RESPONSIBILITY

Immediately, or as soon as practical, after being notified of a job related illness, injury, lost time, or medical treatment due to a job related illness or injury, the employee's supervisor shall;

- A. Immediately direct the employee to call Allied Managed Care, Inc. (AMC Connect) at (844) 691-4111 and obtain a reference number during the call. If the injured employee is unable to call, the Supervisor may call and report the incident on the employee's behalf. The Nurse will gather information over the phone and help the employee access appropriate medical treatment.
- B. In all cases, the "employer" section of the "Workers' Compensation Claim Form" (DWC-1) shall be completed and the "Notice of Potential Eligibility" given to the employee by the Supervisor no later than twenty-four (24) hours after the job related injury, illness, lost time, or medical treatment due to job related injury or illness becomes known to the Supervisor.
 - 1. If the employee wishes to seek treatment (file a workers' compensation claim), the employee must complete the "Employee" section of the DWC 1 Form. If the employee is unable to complete the "Employee" section of the form, the Supervisor may complete the section on the employee's behalf (if possible with assistance of the employee).
 - 2. If the employee does not wish to seek treatment, but later decides to seek treatment (file a workers' compensation claim), the original DWC-1 Form shall be completed by the employee and returned to the Supervisor.

- C. The Supervisor shall; a) provide the employee with the DWC-1 form even if the employee chooses not to file a workers' compensation claim and does not complete the form, and b) forward the original DWC-1 form to the Human Resources Department.
- D. In those cases where there is insufficient information to complete the "Employer" section of the form, the Supervisor or Department shall give the partially completed Employee's Temporary Receipt to the employee at the time of the reported injury and forward the original completed form to the Human Resources Department after the employer's section is completed.
- E. In those cases where the job related injury, illness, lost time, or medical treatment due to a job related illness or injury is reported by telephone or through a third party, the "Employer" portion of the DWC 1 form shall be completed as thoroughly as possible and every reasonable effort shall be made to ensure that the original form is delivered to the employee within twenty-four (24) hours after notification of the injury. A copy of the DWC 1 form should be forwarded to the Human Resources Division and should be noted when/how the form was delivered to the employee. When the required twenty-four (24) hour delivery period cannot be met, the Supervisor or Department shall complete a memo explaining the reasons why delivery could not be made (within the required time period) and submit same to the Human Resources Division.
- F. In addition to the DWC 1 Form, the Supervisor shall forward to the Human Resources Department a completed Supervisor's Report of Injury.
- G. The Supervisor shall not complete the employee section of the DWC-1 form on the employee's behalf, unless the employee is incapacitated and unable to complete the form.

SEC. 5004K CITY RESPONSIBILITY

- A. In those cases where no claim for medical treatment or lost time from work is made by the employee filing the Workers' Compensation Claim Form, the Human Resources Department shall forward the Employee Claim Form marked "First Aid Only" to the City's Workers' Compensation Claims Administrator within five (5) calendar days of the employee reporting the injury to the employer.
- B. In those cases where medical treatment is received or time off work does occur, the Human Resources Department shall complete the State of California Employers Report of Occupational Injury or Illness and forward same (along with other appropriate forms) to the City's Workers' Compensation Claims Administrator within five (5) calendar days of the employee reporting the injury to the employer.

SEC. 5005K CONCLUDING COMMENTS (IMPORTANT)

In order to ensure expeditious and appropriate handling of job related injuries and illnesses, it is absolutely essential that employees report all such occurrences in a timely manner. Any questions regarding this matter should be directed to the employee's Supervisor or the Human Resources Department.

**DIVISION 5-L
BILINGUAL INCENTIVE PAY**

SEC. 5001L PURPOSE

The purpose of this Division is to identify special pay to provide compensation for employees who provide bilingual services on behalf of the City. Furthermore, in order to better serve the needs of its citizens and to provide more efficient and effective customer service; the City of Los Banos recognizes the positive advantages of having City employees who are able to communicate in Spanish.

SEC. 5002L BILINGUAL INCENTIVE PAY DEFINED

The term Bilingual Incentive Pay refers to the continuous monthly bonus paid to eligible employees who are expected to handle basic, simple, general City service inquiries.

SEC. 5003L ELIGIBLE EMPLOYEES DEFINED

For the purpose of this policy, all regular full-time employees of the City of Los Banos who have passed the comprehensive testing coordinated by the Human Resources Director and are subject to a work assignment which requires substantial bilingual skills may be eligible for bilingual incentive pay. An employee who agrees to participate in this program recognizes that they may be required to provide the communication skill service on an “as needed basis” for the City as a whole and not just their department.

The Department Head and Human Resources Director retain full discretion to designate or conclude bilingual assignments. The City retains its management right to assign designees to perform bilingual services for other City departments.

SEC. 5004L SPECIFIC PAYMENT ENTITLEMENT

When a Department Head, with the approval of the Human Resources Director, designates an assignment as requiring substantial bilingual skills, an employee in the designated assignment, who has first demonstrated proficiency in the required language that is acceptable to the Department Head and Human Resources Director, shall be eligible to receive a pay premium as follows:

- A. \$50 per month – Basic Verbal Skills; or \$100 per month – Comprehensive Verbal Skills; or \$150 per month – Verbal, Written Presentation Skills.
- B. Monthly Bilingual Incentive Pay bonus is in addition to regular monthly salary.

SEC. 5005L PROCEDURE FOR OBTAINING ENTITLEMENT

In order to qualify for Bilingual Incentive Pay, employees will be required to use their bilingual skills and pass comprehensive tests given by the City.

The Bilingual Incentive Pay increase shall become effective on the first pay period following the date the proof of proficiency was received by the Department Head or if the employee was the Department Head, the City Manager.

**DIVISION 6
FAIR LABOR STANDARDS ACT**

SEC. 6001 INTRODUCTION

The purpose of this Division is to identify City policy with regard to establishment of specific employment categories and implementation of various work rules, which are governed totally or in part by provisions of the Fair Labor Standards Act (FLSA).

SEC. 6002 FAIR LABOR STANDARDS ACT DEFINED

The FLSA sets minimum pay, overtime pay, equal pay, record keeping, and child labor standards for those employees covered by the Act. Adopted by the U.S. Congress in 1938, the FLSA initially applied only to private sector employees. On February 19, 1985, the U.S. Supreme Court ruled, in Garcia vs. San Antonio Transit Authority, that the FLSA also covered Public Employees.

SEC. 6003 POSITION STATEMENT

It is the expressed intent of the City of Los Banos to comply with the legal requirements imposed by the FLSA. In keeping with this goal, the City declares that; a) If any part of this or other Divisions of the City of Los Banos Policy & Procedures Manual are in conflict with requirements of the FLSA, the FLSA shall be the dominate authority, and b) Any requirements not specifically covered in this or other Divisions of the City of Los Banos Policy & Procedures Manual shall be handled in accordance with the applicable provisions of the FLSA.

SEC. 6004 NON-COVERED EMPLOYEES (No Overtime Entitlement)

The following City employees are not covered by any part of the FLSA: a) elected officials; b) bonafide volunteers; c) City Boards and Commissions; d) Independent contractors; e) Legal advisors; f) Prisoners; g) Certain trainees.

SEC. 6005 EXEMPT EMPLOYEES (No Overtime Entitlement)

City employees, as defined in Division 1, Section 1009 are considered exempt from the minimum wage and overtime requirements of the FLSA.

A. Absences During the Workday

All City employees, including FLSA-exempt employees, are required to be at work during their specified work hours. Exempt employees are not entitled to time off based on hours worked in excess of their scheduled work hours during a previous day.

Exempt employees shall be required to use accrued leave to cover an absence from work, where the absences is greater than two (2) hours or greater than a full workday.

The use by an employee of sick or vacation leave to cover an absence of less than a full workday is not considered to be a deduction of pay for FLSA purposes.

The City may also reduce an exempt employee's pay for absences for personal reasons or because of illness or injury of less than one (1) work day when the employee does not use accrued leave because:

1. The employees sought permission, which was denied, or did not seek permission;
2. The employee has exhausted all accrued leave; or
3. The employee chooses to use leave without pay.

SEC. 6006 NON-EXEMPT EMPLOYEES (Overtime Entitlement)

All City employees as defined in Division 1, Section 1009 are considered to be covered by all applicable provisions of the FLSA, including minimum wage and overtime requirements.

SEC. 6007 ESTABLISHED WORK PERIOD FOR LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS

As permitted under the FLSA 7K Exemption, the established Work Period for Law Enforcement Officers is a twenty-eight (28) Day Cycle; date established July 1, 1985. The established Work Period for Fire Fighters is a twenty-four (24) Day Cycle; date established March 17, 2010.

SEC. 6008 ESTABLISHED WORK WEEK FOR ALL CITY EMPLOYEES (Except Police Officers and Fire Fighters)

The established workweek for all City employees, except Police Officers and Fire Fighters, is 7:00 a.m. Monday, to 6:59 a.m. Monday, of each consecutive week.

SEC. 6009 COMPENSATORY TIME OFF IN LIEU OF OVERTIME PERMITTED

In accordance with FLSA guidelines, Non-exempt employees may, at their discretion, be compensated for overtime through accumulation of Compensatory Time (at the rate of one and one half-hours for each hour worked) in lieu of receiving pay. Refer to the City of Los Banos Compensatory Time Off Policy for specific guidelines.

SEC. 6010 MUTUALLY AGREED UPON TIME TRADES

As permitted by FLSA guidelines, employees may, in accordance with the guidelines established by their Department or Division Head, engage in mutually agreed upon work time trades. The City will not maintain any records on such trades nor will it bear any responsibilities for payment of time worked if agreements reached between employees are not honored.

SEC. 6011 NON-COMPENSATED WORK TIME PROHIBITED

Non-exempt employees are strictly prohibited from volunteering or donating their time to the City by performing any work or function that is the same or similar to their regularly assigned duties.

Special Note: Any questions regarding this area should be directed to the Human Resources Director. Employees found in violation of this section shall be subject to disciplinary action.

SEC. 6012 VOLUNTEER TIME PERMITTED

Non-exempt employees are permitted to volunteer their time to the City provided the task or job they are performing is substantially different than their normal assigned duties, and they are volunteering outside of their normal working hours.

Special Notes: a) In order to be permitted under FLSA guidelines any donated time (under this section) must be done totally at the choice of the employee, and b) In order to insure that donated or volunteer time would qualify under this section, employees must obtain approval for such activities from Department or Division Heads.

SEC. 6013 ON CALL TIME

The term "On Call Time" refers to that period of time when an employee who is actually off duty is required to; a) be immediately available for contact by telephone, pager, or radio, and b) be able to report to his/her assigned duty station no later than thirty (30) minutes after being notified to do so. Employees who are On Call may engage in any type of personal activity they choose, except use of alcohol or drugs.

Special Note: As permitted under provisions of the Fair Labor Standards Act, no Overtime Compensation is provided for On Call Time.

SEC. 6014 TIME SHEETS REQUIRED

Employees are responsible for legible, accurate, and timely completion of their Time Sheets, regular and overtime. Failure to properly complete these required documents within the time frame specified by the City or Department of the City may subject the employee to disciplinary action.

SEC. 6015 PROHIBITED SALARY DEDUCTIONS

A. Prohibited Deductions

Notwithstanding any other provision in these Policies, the City will not impose a disciplinary suspension (one day or more) on any FLSA-exempt employee unless:

1. The discipline is for a violation of a workplace conduct rule; and

2. The discipline is imposed in good faith.

FLSA-exempt employees will not be reduced in pay or demoted on a temporary basis except for the violation of a safety rule of major significance.

B. Complaint Procedure

An FLSA-exempt employee who believes his or her salary has been subject to a prohibited deduction should notify the Human Resources Director who will investigate the matter as necessary.

SEC. 6016 OUT-OF-CLASS PAY

An employee who is temporarily directed by his or her supervisor in writing to serve in a regular higher position will be compensated at a higher rate of pay in accordance with the following:

A. To be eligible for the additional compensation, the employee must first accumulate thirty (30) regular working shifts of assignment in the higher class within any twelve (12) month period. The days of out-of-class assignment need not be consecutive. Once this qualification is satisfied, no additional re-qualification will be required.

If the City is aware at the beginning of the out-of-class assignment that the assignment will exceed thirty (30) regular working shifts then the pay will begin on the first shift of the assignment.

B. Temporary assignments out-of-class shall be recorded only in full-shift units. An employee working out-of-class for less than one full shift will not be credited with working out-of-class service time.

C. To qualify for out-of-class pay, an employee must be assuming substantially the full range of duties and responsibilities of the higher-level position. Out-of-class pay is not authorized, for example, if the organization of a work unit is such that each unit employee carries on his normal duties during the temporary absence of a supervisor, without a need for the direction which the supervisor would provide on a longer-term basis.

D. Time worked in a higher class shall not earn credits toward the completion of probationary requirements in the higher class.

An employee who has qualified under these provisions shall be compensated at the minimum rate established for the higher class for each completed work shift served in the higher class. In the event of overlapping salary ranges, a one-step differential shall be paid for out-of-class assignments. The higher rate of pay shall be used in computing overtime when authorized overtime is served in a non-exempt, out-of-class work assignment. The overtime rate shall be the rate established by the overtime regulations that apply to the higher class.

**DIVISION 7
EMPLOYEE CLASSIFICATION**

SEC. 7001 INTRODUCTION

The purpose of this Division is to identify City policy with regard to the establishment of Employee Job Classifications.

SEC. 7002 EMPLOYEE JOB CLASSIFICATION DEFINED

The term "Employee Job Classification" refers to the specific job title given to an employee or groups of employees to denote the type of work performed.

SEC. 7003 ESTABLISHMENT, ABOLISHMENT, OR MODIFICATION OF JOB CLASSIFICATION

The City Manager, with approval of the City Council, shall have sole authority to establish, abolish, or modify an Employee Job Classification whenever such action is deemed to be in the best interest of the City.

SEC. 7004 ASSIGNMENT TO SPECIFIC JOB CLASSIFICATIONS

Employees who perform substantially similar work, with respect to duties, difficulty, and responsibility, shall be included within the same Employee Job Classification. This approach shall be applied to both existing and newly created positions.

The City Manager or his/her designated representative has sole authority over assignment of employees to specific Job Classifications.

SEC. 7005 JOB DESCRIPTIONS REQUIRED

The City shall develop and maintain a written Job Description for every Regular, Part-time, Provisional, or permanently established Volunteer employee classification that falls under the direct command of the City Manager, Department Heads, or Division Heads. Such Job Descriptions shall include; a) position title, b) Department employed, c) employment category, d) employment level, e) title of employee's supervisor(s), f) title of employees supervised, g) description of duties, h) minimum qualifications, and i) selection process.

SEC. 7006 WORKING OUTSIDE JOB CLASSIFICATION

Employees shall not be required to perform duties not compatible with those prescribed for their specific Job Classification, except; a) when deemed necessary to deal with an emergency or crisis situation occurring within or outside the City, b) when temporarily assigned to an Acting Capacity at a higher rank or position, or c) when the employee voluntarily performs duties in a Job Classification different from his/her own.

Special Note: While the description of duties contained in employee Job Descriptions provide a basic understanding of required duties, this should not be considered as all inclusive. Although not specifically mentioned, any operation, task, or function that is significantly similar to the duties set forth in a Job Description and in conformance with industry standards shall be considered compatible with such Job Classification.

SEC. 7007 VOLUNTARY AND INVOLUNTARY TRANSFERS

A regular employee may initiate a request to transfer to another job classification in the same or lower classification for which the employee is qualified in the opinion of the City Manager or designee by submitting a letter to the Human Resources Department requesting a transfer. 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. If more than one employee applies for transfer to the same position, selection is within the sole discretion of the City Manager or designee.

Employees with less than one (1) year of service, less than satisfactory performance evaluations and a disciplinary suspension, reduction in pay or equivalent disciplinary action within the last year are not eligible for a voluntary transfer.

The City may involuntarily transfer an employee at any time for reasons of efficiency, supervision, safety or morale. 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, will receive five (5) working days notice. If the transfer requires the employee to move equipment from one location to another, the employee will receive seven (7) working days notice.

If an employee disputes the involuntary transfer, the employee may appeal in accordance with his or her rights under the Peace Officer Bill of Rights (POBR) or the Firefighter Bill of Rights (FBOR). An employee may, within two (2) days of the Notice of Transfer, file a written appeal with the Human Resources Director or designee setting forth the reasons therefore. Any appeal filed must be based upon the alleged violation of the requirements for transfer and/or procedure followed. The City Manager or designee's decision shall be final.

SEC. 7008 RESIGNATIONS

A resignation becomes final when accepted by the appointing authority. Once a resignation has been accepted by the appointing authority, it cannot be withdrawn.

SEC. 7009 JOB ABANDONMENT

An employee is deemed to have resigned if the employee is absent for five (5) consecutive work days without prior authorization and without notification during the period of the absence. Only regular employees will receive notice of intent to terminate, an opportunity

to respond, and final notice of termination for job abandonment. 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 any right to evidentiary appeal for separation due to job abandonment.

SEC. 7010 LAYOFF

- A. Statement of Intent: Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.
- B. Notification: Employees to be laid off will be given, whenever possible, at least forty-five (45) calendar days' prior notice. An employee who has any questions regarding the layoff decision or process should make an appointment with the Director of Human Resources.
- C. Order of Layoff: Employees will be laid off in the inverse order of their seniority in their classification in the department in accordance with California Government Code Section 45100. Seniority is determined based upon date of hire in the classification and higher classifications in the department. Part-time employees in a classification shall be laid off before full-time employees in the same classification.

Where seniority in a job classification is equal between two (2) or more affected employees, the employees' hiring list ranking, if available shall serve as the determining factor. If the employees' hiring lists are not available, employees will be laid off in the inverse order of their seniority in the department. If time in the department is equal between two (2) or more affected employees, employees will be laid off in the inverse order of total time in service to the City. For firefighters, time spent as volunteers in the reserve shall be included in calculating an employee's total time in City service.

If total time in service to the City is equal between two (2) or more affected employees, the employees' performance evaluations shall serve as the determining factor.

- D. Bumping: Within seven (7) calendar days from the date layoff notices are issued, an employee who would otherwise be laid off may elect to displace an employee in a classification carrying the same or lower maximum rate of pay; provided, however, that the displacing employee must have held regular status in such classification and have greater total service time than the employee being displaced in that classification.

A probationary or regular employee displaced in accordance with this paragraph shall, in turn, be provided the same notice and "bumping" privilege as set forth in this paragraph.

- E. Demotion In Lieu of Layoff: Upon request of the employee, and with approval of the appointing authority, an employee who has not held status in a lower classification may be allowed to demote to a vacant authorized position if he/she meets all the requirements of the lower position as determined by the appointing authority. All employees who are demoted under this paragraph will be paid at the rate of pay for the lower position and will serve a new, six (6) month probationary period.
- F. Transfer In Lieu Of Layoff: The appointing authority may transfer an employee to a vacant authorized position if the employee is qualified and technically capable of performing the duties as determined by the appointing authority. Employees who are transferred will be paid at the rate of the position. Any employee who does not accept a transfer within twelve (12) working days after a Notice of Transfer is given, will have automatically forfeited the ability to transfer.
- G. Re-employment Rights for Laid-off Employees: Employees who have been laid off shall be automatically placed on a re-employment list for three (3) years from their date of separation for the classification from which they were laid off. Probationary employees who are reinstated from the reemployment list after layoff shall be credited for prior service performed toward completion of their probationary period.

SEC. 7011 RE-EMPLOYMENT

The names of regular employees who have been laid off or who have exhausted all leave time and are medically unable to return to work shall be placed on a re-employment list in the order of their seniority within their classification from highest to lowest. Such names shall remain thereon for a period of three (3) years unless such persons are sooner re-employed. As a vacancy within the classification becomes available, the name appearing at the top of the list shall be selected to fill the vacancy. 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 appeal.

Employees who are demoted as a result of a layoff will have their names placed on a classification re-employment list, in order of their classification seniority. Vacant positions within a classification series will first be offered to employees on this list.

SEC. 7012 REINSTATEMENT

A regular employee who is reinstated from the reemployment list following layoff will have his/her sick leave balance at the time of layoff restored. For the purpose of all other benefits, including accrual of leaves, the time between layoff and re-employment will be considered a break in service, and re-employment will be as if the employee was newly hired. A regular employee who is laid off and re-employed from the re-employment list, or who is demoted in lieu of layoff will receive a seniority date based on time served in the classification for which re-employed, and any higher classification.

A regular employee who has resigned, or has otherwise been separated (other than by layoff) while in good standing, may be considered for reinstatement, upon recommendation

of the Department Head and approval of the City Manager, to a position in the former employee's classification for a period of two (2) years after resignation or separation. The employee shall be reinstated to the salary range and step held at the time of resignation or separation and shall receive a new anniversary date which shall be the first date of employment upon reinstatement. The employee will serve a new probationary period.

**DIVISION 8
RULES OF CONDUCT**

SEC. 8001 INTRODUCTION

The purpose of this Division is to identify specific employee rights and responsibilities, which may not have been thoroughly addressed in other parts of the City Personnel Rules.

SEC. 8002 COMPETENCY REQUIRED

Employees are expected to discharge their duties in a decisive, impartial, and efficient manner. Employees who are unable or unwilling to properly perform their assigned duties shall be considered as incompetent, and incompetence shall be considered as sufficient grounds for termination of employment.

SEC. 8003 OBEDIENCE TO LAWFUL ORDER

Employees shall promptly and willingly obey any lawful order, verbal or written, issued by a superior. Refusal or failure to promptly obey a lawful order shall be considered as insubordination, an act punishable by severe disciplinary action.

SEC. 8004 UNLAWFUL, UNJUST, OR IMPROPER ORDERS PROHIBITED

Employees are prohibited from issuing any order or giving any direction, which is in conflict with existing law or City policy or practice.

SEC. 8005 REFUSAL TO OBEY AN UNLAWFUL ORDER: REQUIRED

Employees have both the right and duty to refuse to obey an order that is in conflict with existing law. To knowingly comply with such an order would in fact make the employee a willing criminal accomplice of the superior issuing the unlawful order. Caution - Employees are expected to exercise a high degree of reasonableness and good judgment in this area. If an employee refuses to obey an order he/she believes to be unlawful and subsequent review of the incident establishes that the employee was incorrect and the order was in fact both lawful and proper, the employee's refusal may be viewed as an act of insubordination.

SEC. 8006 CONFLICT OF ORDERS

In the event an employee is given an order that conflicts with a previous order or established policy of the City or his/her Department, he/she shall respectfully call attention to that discrepancy. If, after being advised of this conflict, the superior issuing the order chooses not to amend his/her directions, the employee receiving the order shall obey the most recent order and responsibility for the employee's actions shall rest with the superior issuing the most recent order.

SEC. 8007 REPORTING UNJUST OR IMPROPER ORDERS

Orders that are in conflict with the policies and practices of the City are considered as unjust and/or improper. Employees who believe they have been given an unjust or improper order, shall first obey the order to the best of their ability and then proceed to file a written grievance with the supervisor of the superior who issued the unjust or improper order.

SEC. 8008 CIRCULATING RUMORS PROHIBITED

Employees are prohibited from circulating gossip, rumors, or scandal, about other City employees, employees of other governmental agencies, or members of the public.

SEC. 8009 SUBVERSIVE ACTS AGAINST THE CITY

Employees are prohibited from performing any act or making any oral or written statement, which tends to disrupt or interfere with the lawful operation of the City or his/her Department.

SEC. 8010 DIVULGING CONFIDENTIAL INFORMATION

Employees are prohibited from divulging confidential information concerning; the operation of the City or their Department, other City employees, or members of the public; except in accordance with existing laws and established City policies and practices.

SEC. 8011 PUNCTUALITY REQUIRED

Employees shall be punctual in reporting to their assigned duty station. 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 or her supervisor for any foreseeable absence or deviation from regular working hours.

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 or duration of any late arrival or absence. If the employee's immediate supervisor is not available, the employee must notify the Department Head or another supervisor. 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.

SEC. 8012 ABSENCE WITHOUT PROPER LEAVE PROHIBITED

Employees shall not be absent from duty without prior approval; except when unable to report for work due to serious illness or injury to the employee or an immediate family member.

Special Note: When an unexpected illness or injury does result in an unexcused absence, the employee is responsible for notifying his/her supervisor no later than fifteen (15) minutes prior to the beginning of the scheduled shift. The employee will be expected to provide proof that the serious illness or injury did in fact occur to him/her or an immediate family member.

SEC. 8013 EXCESSIVE TARDINESS / ABSENTEEISM PROHIBITED

Excessive tardiness occurs when an employee is late arriving to work or returning from breaks more than three (3) times during any thirty (30) day period.

Excessive absenteeism occurs when the number of unprotected absences (absences other than leaves authorized by State or Federal law) becomes disruptive to the employee's job unit and/or negatively impacts an employee's job performance. Excessive absenteeism also includes pattern absences. When an employee's absences routinely fall on particular days of the week, like Mondays or Fridays, or contiguously with holidays or vacations, these absences are considered pattern absences.

Excessive tardiness or absenteeism will 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.

If it appears that an employee is abusing sick leave or is using sick leave excessively, the employee will be counseled that continued use of sick leave may result in a requirement to furnish a medical certificate for each such subsequent absence for sick leave regardless of duration.

SEC. 8014 TRUTHFULNESS REQUIRED

Employees shall be truthful in all their official dealings; a) deliberate lies, b) withholding of pertinent information, or c) misrepresentation of a material fact (verbal or written) is considered a grave breach of policy and will subject the employee to severe disciplinary action. Employees are prohibited from providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment.

SEC. 8015 PURCHASE, POSSESSION, OR CONSUMPTION OF ALCOHOL WHILE ON-DUTY

Employees shall not purchase, possess, or consume alcoholic beverages while on-duty, except when such purchase, possession, or consumption is being carried out in the line of duty.

SEC. 8016 INTOXICATION WHILE ON-DUTY PROHIBITED

Employees are prohibited from being intoxicated or under the influence of alcohol while on duty. For the purpose of this section an employee is considered to be on duty while

engaged in his/her normal work assignment, while operating any type of City equipment or machinery, while operating any City vehicle, or while engaged in any official City function.

SEC. 8017 PURCHASE, POSSESSION, OR USE OF LEGAL OR ILLEGAL DRUGS OR NARCOTICS

Employees are strictly prohibited from purchasing, possessing, or using illegal drugs or narcotics while on duty; exception, the purchase or possession of illegal drugs or narcotics by law enforcement officers or their agents in the line of duty is permitted. Further, employees are prohibited from reporting to duty or remaining on duty, while under the influence of any legal (prescribed or over the counter) drug or narcotic. For the purpose of this section an employee is considered to be on duty while engaged in his/her normal work assignment, while operating City equipment or machinery, while operating any City vehicle, or while engaged in any official City function.

SEC. 8018 OFFICIAL RECORDS

Employees are prohibited from removing, concealing, destroying, falsifying or tampering with official records of the City or their Department; except in accordance with provisions of existing law or established policies and practices of the City or their Department.

SEC. 8019 COURTESY AND PATIENCE REQUIRED

When dealing with members of the public, co-workers, subordinates, or superiors, employees shall be courteous and patient. Employees shall avoid answering questions in an abrupt manner and shall not use profane, indecent, sarcastic, or insulting language.

SEC. 8020 PUBLIC COMMENTS ON CONTROVERSIAL TOPICS PROHIBITED

While on duty, employees shall refrain from expressing personal opinions on non-job related, controversial topics (race, religion, or politics, etc.) that may lead to disputes with fellow employees or members of the public who hold different views.

SEC. 8021 SAFEGUARDING PROPERTY REQUIRED

Employees shall exercise reasonable care in safeguarding any property under their control or supervision.

SEC. 8022 DUTY TO REPORT ON DUTY ACCIDENTS OR INCIDENTS

Employees shall immediately report all on duty accidents, which result in injury to themselves or others or damage to City property or equipment, or the property or equipment of others. Further, employees have a similar duty to report off duty accidents involving City property or equipment. Additionally, employees shall immediately report all on duty or off duty incidents that directly or indirectly impact the City or the employee's work status with the City. Examples of such incidents are; a) on duty citations or arrests,

b) off duty convictions for certain driving offenses or other criminal charges, and c) on duty or off duty shootings by police officers, etc.

SEC. 8023 REQUIREMENT TO PROVIDE TELEPHONE NUMBER AND ADDRESS

Employees have a duty to provide the Human Resources Department with their current telephone number and home address. A "Change of Information to Payroll/Personnel Records" form must be filed within fourteen (14) days of the change and may be obtained through the Human Resources Department.

SEC. 8024 ESTABLISHMENT OF RESPONSE TIME AND REQUIREMENT FOR TELEPHONE

Due to the need for immediate contact and prompt response to emergency situations, individual Departments (Police, Fire, Public Works, and other such emergency responders) may require specific individuals or classes of employees to reside within a specific response time area and to maintain an operating telephone. Employees whose immediate response to emergency situations is not considered as being essential are required to maintain an operating telephone but may reside wherever they choose.

SEC. 8025 SOLICITING OR ACCEPTING REWARDS

Employees shall not solicit or accept any gift, gratuity, or reward for services rendered in the line of duty except those monetary considerations and rewards provided by the City. Nothing in this section is meant to prohibit; a) the acceptance of donations of money or services to the City or an operation of the City, when approved by a Division Head, Department Head, or the City Manager, or b) the personal acceptance by an employee of an occasional, unsolicited, token of recognition such as flowers, candy, or other items (except cash, bonds, etc.) valued at twenty-five dollars (\$25) or less, when such acceptance is approved by the employee's Division Head, Department Head, or the City Manager.

Special Note: Employees should be extremely cautious in this area; frequent gifts from the same source or from various sources are not acceptable. Further, the operating policies of various Departments of the City, such as the Police or Fire Departments, may be more restrictive in this area than the City Policy.

SEC. 8026 SOLICITING OR ACCEPTING SPECIAL PRIVILEGES

Employees shall not solicit or accept special favors or privileges that are being offered or provided by members of the public solely as a result of the employee's connection with the City.

SEC. 8027 SOLICITING OR CONDUCTING PRIVATE BUSINESS ON DUTY

Employees are prohibited from soliciting or conducting private business while on duty.

SEC. 8028 GIVING TESTIMONIALS

While on duty or acting under color of office, employees are prohibited from offering testimonials or advertising support to private or public persons or organizations, except with prior approval of their Department Head.

SEC. 8029 POLITICAL ACTIVITIES

While on duty, employees are prohibited from engaging in political activities. This includes: a) Employees and officers from engaging in political activities during work hours; b) Political campaigning in City buildings or on premises adjacent to City buildings; and c) An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

EXAMPLES OF PROHIBITED CONDUCT

- A. Participation in political activities of any kind while in uniform;
- B. Participation in political activities during working hours;
- C. Participation in political activities on City worksites;
- D. Placing or distributing political communications on City property;
- E. Using City equipment to make political communications;
- F. Soliciting a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
- G. Favoring or discriminating against any employee because of political opinions or affiliations;
- H. Interfering with any election; or
- I. Attempting to trade job benefits for votes.

EXAMPLES OF PERMITTED CONDUCT

- A. Expressing opinions on all political subjects or candidates;
- B. Becoming a candidate for any local, state, or national election;
- C. Contributing to political campaigns;
- D. Joining and participating in the activities of political organizations;
- E. 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;
- F. 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
- G. 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.

SEC. 8030 OUTSIDE EMPLOYMENT

Employees shall not engage in any outside employment activity, either directly or indirectly, which is in violation of law, or which interferes with or detracts from his/her job performance with the City, or which is incompatible or in conflict with his/her duties with the City. In order to insure that outside employment meets acceptable City standards, employees should confer with their Division or Department Head prior to accepting outside employment.

SEC. 8031 OPERATION OF VEHICLES

Employees shall operate all City vehicles safely and lawfully.

SEC. 8032 UNAUTHORIZED USE OF EQUIPMENT

City owned or controlled equipment, including but not limited to physical property, tools, equipment, City communication systems, or intellectual property, is restricted to official use only; except, with approval of the Department Head or City Manager, certain equipment may be loaned to individuals or groups when such action is deemed to be appropriate.

SEC. 8033 UNAUTHORIZED USE OF CITY VEHICLES

City owned or controlled vehicles are restricted to official use only. Additionally, employees are prohibited from allowing persons, other than City employees, to ride in City vehicles; except in response to duty or as authorized by Department policy.

SEC. 8034 UNAUTHORIZED USE OF CITY FACILITIES

Employees are prohibited from using City property (except public areas such as parks) for personal, social, or other unofficial reasons; except with the prior approval of the City Manager or Department Head in charge of the facility. Employees are prohibited from damaging City Property or from wasting City supplies through negligence or misconduct.

SEC. 8035 MISAPPROPRIATION OF PROPERTY

Employees are prohibited from unlawfully taking for personal use or otherwise misappropriating City property or equipment.

SEC. 8036 DUTY TO OBEY LAWS

Whether on or off duty, employees have a duty and responsibility to obey all laws. In addition to criminal prosecution, personnel who violate this work rule are subject to disciplinary action by the City.

SEC. 8037 ENTRY INTO A PRIVATE RESIDENCE

This section shall not apply to Police Officers or Fire personnel in the performance of their duties.

City employees shall identify themselves as a City employee to the general public during the course of work related to the City.

At no time shall a City employee enter into a place of residence without the owner or his/her designee being present.

At no time shall a City employee, during the course of business, enter into a place of residence when only a minor is present. If a minor answers the door, employee shall request an adult. If no adult is present, City employee shall leave the residence. Contact shall be made with the proper adult owner.

Special Note: Employee may leave business card requesting owner to call said employee.

Exception: Time of Emergency – In a time of emergency, said employee shall request a fellow worker or police officer to accompany him/her into the residence and said entry shall be documented.

SEC. 8038 CONVICTIONS FOR FELONIES OR SERIOUS MISDEMEANORS

Employees who are convicted of any felony or a serious misdemeanor (such as theft, child abuse, Driving Under the Influence resulting in loss of driving privileges or exclusion from the City's liability insurance package, fraud, or offenses that illustrate a lack of emotional control or a lack of trust) may be subject to disciplinary action up to and including termination of employment. "Conviction" shall be construed to be a determination of guilt of the accused by a court, including a plea of guilty or nolo contendere, regardless of sentence, grant of probation, or otherwise.

Employees are expected to report to his/her supervisor any contact with criminal authorities (such as police) which may affect employment with the City.

SEC. 8039 DUTY TO REPORT VIOLATORS

Employees have a duty and responsibility to immediately notify the superior of any fellow employee they observe in violation of law or policy.

SEC. 8040 HARASSMENT, DISCRIMINATION AND RETALIATION PROHIBITED

The City does not tolerate harassment, discrimination or retaliation as described in Division 20 of this Manual, of any of our employees, customers, vendors or suppliers. Any form of harassment, discrimination or retaliation which violates federal, state or local law, including, but not limited to that based on a protected class, including an individual's race, religion, color, sex, gender, sexual orientation, sexual identity, national origin, ancestry,

citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition (cancer related or HIV/AIDS related), physical or mental disability, or any other basis protected by law is a violation of this policy and will be treated as a disciplinary matter.

SEC. 8041 FALSE ACCUSATIONS OF HARASSMENT OR DISCRIMINATION

Any employee who falsely and maliciously accuses another employee of sexual harassment, or ethnic, racial, or religious discrimination is in violation of this section and will be subject to severe disciplinary action.

SEC. 8042 ATTENDANCE AT MANDATORY MEETINGS

Employees who have received notification of mandatory meetings, training sessions, etc., shall report promptly at the time and place designated.

SEC. 8043 REQUIREMENT TO ACCEPT OVERTIME ASSIGNMENTS

When duly notified (the request is communicated to and acknowledged by the employee), employees are required to accept mandatory overtime assignments. When making such assignments, supervisors are expected to give proper consideration to the desires of the employee, but the needs of the City shall be given priority.

SEC. 8044 CONDUCT UNBECOMING AN EMPLOYEE

Employees who commit any act not otherwise specified, that is contrary to good judgment or reasonable or acceptable behavior and is likely to adversely affect the operation of the City or the employee's Department, or is likely to affect the ability of the employee to properly perform his/her assigned duties, are in violation of this section and thus subject to disciplinary action.

SEC. 8045 PERSONAL APPEARANCE AND BEHAVIOR

This policy is directed toward conduct which may project image problems for the City. While a specific dress policy has not been adopted, employees are urged to use their good judgment to dress appropriately for a municipality and the job he or she is performing. At all times, employees are expected to present a neat, well-groomed appearance and a courteous disposition. These qualities go further than any other factor in making a favorable impression on the public and fellow workers.

Unprofessional behavior in the workplace, such as sexually related conversations, inappropriate touching (i.e., kissing, hugging, massaging, sitting on laps) of another employee and any other behavior of a sexual nature is prohibited. Employees who fail to observe these standards will be subject to disciplinary action up to and including termination.

Employees are asked to avoid extremes in dress and behavior. Flashy, skimpy or revealing outfits and other non-business-like clothing are unacceptable. All employees must dress in an appropriate professional manner. All clothing must be neat, clean, in good repair and appropriate to the work setting, particularly if the employee deals with the public. Good personal hygiene is required. Hair must be neat, clean and well groomed. Beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion. Jewelry is acceptable except in areas where it constitutes a health or safety hazard. Employees who report to work in unacceptable attire may be requested to leave work and return in acceptable attire. Such time off from work will generally be without pay.

Employees are expected to project a professional appearance while at work. Therefore, failure to follow the tattoo regulations contained in this section shall be grounds for discipline. No tattoos are allowed anywhere on the head, face or neck. Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related. No visible tattoos shall be larger than four (4) by six (6) inches. Any non-conforming tattoos will be covered with clothing or a bandage while at work or removed. If an employee has a question about how the tattoo policy is applicable to them, the matter should be immediately raised with their supervisor or department head for consideration and determination.

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. Therefore, failure to follow the body piercing regulations contained in this section shall be grounds for discipline. 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 employees may wear no more than two (2) sets of reasonably-sized earrings in each lobe. Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer. 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.

Employees provided with uniforms must wear them at all times when on duty. Footwear must be appropriate for the work environment and functions being performed. Employees who are provided with uniforms should keep them in a neat and clean condition. Employees are required to return their uniforms in a timely manner upon termination of their employment.

SEC. 8046 USE OF CITY COMMUNICATION SYSTEMS

All communications transmitted via the City's Electronic Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the City's discretion. The City monitors communications transmitted via the City's Electronic Communications Resources in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the agency's ability or right to access electronic communications.

In addition, the California Public Records Act requires the City to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine they are public records that are subject to disclosure.

The City may also be required to produce information transmitted or stored Electronic Communications Resources pursuant to a court order, subpoena, or statute.

City employees may use City telephones and e-mail for personal use provided that the use: a) Is kept to a minimum and limited to break times or non work hours; b) Does not have any impact upon other City employees or operations; c) Allows the employee to more efficiently perform City work; d) Does not result in additional cost to the City for services.

The City strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Offensive, harassing or discriminatory content in voice mail or e-mail messages will not be tolerated.

Except on an irregular and de minimus basis, no time spent in any activity on the City's Electronic Communications Resources for the benefit of the City may be done outside of employee scheduled work hours without advance approval from the employee's immediate supervisor. Emergencies may arise that call for an exception to this rule. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the employee's supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working overtime.

Employees should be aware that even when a message has been deleted, it still might be possible to retrieve it from a backup system. Therefore, employees should not rely on the deletion of messages to assume a message has remained private.

Employees should notify their immediate supervisor or the Human Resources Director upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action up to and including termination.

SEC. 8047 PROHIBITED CONFLICTS OF INTERESTS WITH REGARD TO ADMINISTERING FEDERAL FUNDS

This policy refers to those conflicts of interest provisions under Federal law that are applicable to all employees, officers and agents of the City of Los Banos who administer Federal funds for purposes such as, but not limited to, procurement and HOME program activities.

In addition to State, Local and other applicable laws, rules and regulations regarding conflicts of interests, the following regulations shall apply:

- A. No employee, officer or agent of the grantee (recipient) or subgrantee (subrecipient) shall participate in selection, or in the award or administration of a contract supported

by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements (pursuant to Title 24, section 85.36(b)(3) of the Federal Code of Regulations).

- B. No employee, agent, consultant, officer, or elected official or appointed official of the grantee (recipient) or subgrantee (subrecipient), which are receiving, exercising or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have a family or business ties, during the tenure or for one year thereafter, unless, HUD has granted a specific exception in writing to this requirement of this provision (pursuant to Title 24, section 92.356 of the Federal Code of Regulations).
- C. For further selection of an independent administrative subcontractor, the City must use a Request for Proposal/Request for Qualifications (RFP/RFQ) method for the competitive procurement selection process.

SEC. 8048 UNAUTHORIZED USE OF DISABILITY LEAVE

Employees are prohibited from using disability leave in a manner not authorized or provided for pursuant to the disability leave policy or other policies of the City.

SEC. 8049 COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) AND CITY SAFETY POLICIES

Employees will comply with OSHA Safety Standards and City safety policies.

SEC. 8050 TIME RECORDS

Employees are prohibited from altering, falsifying, and tampering with time records, or recording time on another employee's time record.

SEC. 8051 OVERTIME

Employees are prohibited from working overtime without prior authorization.

DIVISION 9 PERFORMANCE EVALUATIONS

SEC. 9001 INTRODUCTION

The purpose of this Division is to identify City policy with regard to Employee Performance Evaluations.

SEC. 9002 PERFORMANCE EVALUATION DEFINED

A Performance Evaluation is a written assessment of an employee's job skills, work habits, job knowledge, and attitude affecting performance, as viewed by his/her supervisor(s). The primary purposes of Performance Evaluations is; a) to identify and correct deficiencies affecting job performance, b) to identify and encourage continuation of proper or exemplary job performance, and c) aide the Division Head, Department Head, or City Manager in determining if an employee; 1) requires additional training or special supervision, 2) is qualified to receive a merit raise, 3) is suitable for promotion or assignment to a more demanding position, 4) is in need of corrective action, or 5) should be terminated from employment with the City.

SEC. 9003 ANNUAL PERFORMANCE EVALUATIONS REQUIRED ON REGULAR EMPLOYEES

An annual performance evaluation shall be completed on all Regular Employees. Such evaluation shall be completed on the prescribed form as set forth by the City Manager. Evaluations are to be completed by the employee's supervisor by no later than the employee's hiring anniversary date or if applicable, promotion date. Additionally, employees who are serving a probationary period (new hires and promotions) shall be evaluated every two (2) months for the duration of their probation; beginning two (2) months from the date the employee was hired or promoted.

SEC. 9004 SUPERVISORY RESPONSIBILITY FOR EMPLOYEE GUIDANCE

Supervisors are authorized to evaluate a subordinate's performance as often as the supervisor deems appropriate.

When a supervisor observes that an employee's performance is unsatisfactory he/she shall immediately notify the employee of this fact and recommend steps to correct the deficiencies.

SEC. 9005 PERFORMANCE EVALUATIONS NOT REQUIRED FOR CERTAIN POSITIONS

Performance Evaluations are not required for Part-time, Provisional, and Volunteer positions.

SEC. 9006 SPECIAL PERFORMANCE EVALUATIONS PERMITTED

Whenever he/she deems appropriate, a Division Head, Department Head, or the City Manager may prepare or direct the preparation of a Special Performance Evaluation on any Regular, Part-time, Provisional employee, or Volunteer under his/her command.

SEC. 9007 RATER'S RESPONSIBILITY IN PREPARING PERFORMANCE REPORTS

When preparing Performance Evaluations the Rater is expected to be accurate, fair, and impartial. Although it is recognized that such evaluations are subjective to a great degree and thus reflect the Rater's views of appropriate job performance, they are nonetheless required to be based upon facts and not emotions. Raters must be able to offer reasonable justification for any rating given. Employees who are personally liked by the Rater should not be given unjustifiable high ratings nor should employees who are not favored by the Rater be given unjustifiable low ratings. Appropriate performance should be identified so that the employee knows he/she is doing well and the employees who are deficient in their performance must be informed so that corrective measures may be taken.

SEC. 9008 REVIEW OF PERFORMANCE EVALUATION WITH EMPLOYEE

The Rater shall discuss the Performance Evaluation with the employee being evaluated. At the time of this review the employee being evaluated shall be given the opportunity to ask questions and make comments, in a respectful manner, with regard to the rating. At the conclusion of the review meeting the employee shall sign the Performance Evaluation and be given a copy of same. The purpose of the employee signing the evaluation is to confirm that the contents were discussed with him/her. His/her signature does not mean that he/she agrees with the evaluation.

SEC. 9009 EMPLOYEE RIGHT TO REVIEW PERFORMANCE EVALUATION WITH ADMINISTRATION

When an employee has received what he/she believes is a biased, inaccurate, or unfair Performance Evaluation from a Supervisor he/she has a right to discuss such report with his/her Department Head or in the case of Police or Fire Department employees and City Hall employees, the Division Head.

Special Notes: a) If the evaluation was prepared by a Department Head the administrative review would be with the City Manager, and b) If the evaluation was prepared by the City Manager the administrative review would be with the City Council.

SEC. 9010 DECISION OF ADMINISTRATIVE REVIEW

If, after discussing the Performance Evaluation with the employee evaluated and the Rater, the Administrative Review Officer finds the employee's claim to be justified, he/she shall affix a written report of such findings to the original Performance Evaluation. Further, he/she shall take whatever corrective action deemed appropriate to insure that future such problems are averted.

If, after discussing the Performance Evaluation with the employee evaluated and the Rater, the Administrative Review Officer finds no reasonable justification for the employee's claim, he/she shall affix a written report of such findings to the original Performance Evaluation and the matter shall be considered closed.

SEC. 9011 UNSATISFACTORY JOB PERFORMANCE

An employee may be subject to disciplinary action for unsatisfactory job performance.

SEC. 9012 MAINTENANCE OF PERFORMANCE EVALUATIONS

Original Performance Evaluations shall be maintained in the employee's Master Personnel File and copies may be maintained in the Personnel File maintained by the employee's Department.

DIVISION 10 DISCIPLINARY ACTIONS

SEC. 10001 INTRODUCTION

The purpose of this Division is to identify the practices and procedures to be employed by the City in the handling of disciplinary actions. This policy does not apply to employees covered by a Memorandum of Understanding (MOU) disciplinary policy to the extent that it is in conflict. Division 10 prevails over Public Safety Department Rules where a conflict exists.

SEC. 10002 AUTHORITY TO DISCIPLINE

The City Manager is vested with disciplinary authority over all employees under his/her command. In the absence of the City Manager, disciplinary authority passes to the Acting City Manager as designated by the City Manager.

SEC. 10003 DELEGATION OF AUTHORITY TO DISCIPLINE

In order to provide for a more expedient and efficient personnel system, the City Manager's authority to discipline is conveyed to City Department Heads in accordance with the following guidelines: a) Department Heads are vested with disciplinary authority over all personnel under their command, b) All disciplinary reviews and actions shall be handled in compliance with applicable Federal, State, and City laws, and procedures outlined in City Personnel Rules, and c) as provided in this division, disciplinary actions (except an oral or written reprimand) taken against an employee by a Department Head may be subject to appeal, by the involved employee, to the City Manager.

SEC. 10004 ADMINISTRATIVE LEAVE

A Department Head, subject to concurrence from the Human Resources Director, may place an employee on an administrative leave with pay pending a potential disciplinary action. Administrative leave with pay is authorized: a) when the department head believes that the employee's continued presence at the work site could have detrimental consequences for City operations, or b) pending investigation into charges of misconduct. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with these procedures.

SEC. 10005 DUTY TO COMPLY WITH PERSONNEL RULES

Every employee of the City has a duty to know, understand, and comply with all Rules, Regulations, and Procedures, established by the City Council, City Manager, or his/her Department Head. "Employee" includes; a) Temporary employees, b) Provisional or Seasonal employees, c) Probationary employees, d) any person who serves pursuant to a contract, and e) any person who is designated "at-will" in any City Policy, document, acknowledgement, resolution or ordinance. Notwithstanding any provision in this policy,

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 or her FLSA overtime-exempt status.

SEC. 10006 VIOLATION OF PERSONNEL RULES

Employees found in violation of established Personnel Rules are subject to one or more of the following disciplinary actions: a) verbal reprimand b) written admonishment or reprimand, c) un-paid suspension from duty, d) permanent or temporary reduction in pay grade, e) permanent or temporary demotion in rank or position, or f) termination of employment.

A. Verbal Reprimand

A verbal reprimand will be memorialized in writing and retained in the employee's supervisor's file. A verbal reprimand may not be appealed under this policy.

B. Written Admonishment or Reprimand

A Department Head may reprimand an employee by furnishing him/her with a written statement of the specific reasons for reprimand. A copy of the reprimand will be retained in the employee's personnel file. The employee has the right to write a written rebuttal within thirty (30) days of receipt of the reprimand, which will be attached to the reprimand in the employee's personnel file.

A written reprimand may not be appealed, with the exception of employees covered under the Public Safety Officers' Procedural Bill of Rights or the Firefighters Procedural Bill of Rights (FBOR) who have thirty (30) days to file a response and request the opportunity for administrative appeal as described in this Division.

C. Suspension

A Department Head may suspend a for-cause employee from his or her position with cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. An employee subject to suspension will receive prior written notice and appeal as provided herein. FLSA-exempt employees are not subject to suspension except in work day or work week increments or for violations of major safety rules.

D. Demotion

A Department Head may demote an employee from his or 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 demotion shall be entitled to the prior written notice and appeal as provided herein.

E. Reduction in Pay

A Department Head may reduce an employee's pay for-cause. A reduction in pay for disciplinary purposes may take one of two forms; a) a decrease in salary to a lower step within the salary range, or b) 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. A for-cause employee subject to a reduction in pay shall be entitled to prior written notice and appeal as provided herein. FLSA-exempt employees are not subject to reduction in pay.

F. Discharge

A Department Head may discharge an employee from his or her position for-cause. Documents related to discharge shall become a part of an employee's personnel file when the discipline becomes final. A discharged, for-cause employee is entitled to prior written notice and appeal based upon the terms described herein.

SEC. 10007 SKELLY PROCESS – PRE-DISCIPLINARY PROCEDURE FOR SUSPENSION, DEMOTION, REDUCTION IN PAY, OR DISCHARGE

This pre-disciplinary procedure applies to for-cause employees who are subjected to disciplinary suspension, demotion, reduction in pay, or discharge.

The following categories of persons can be terminated at-will and have no rights to any of the pre or post-disciplinary processes or procedures in this Policy: (1) part-time employees, (2) temporary, provisional or seasonal 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. Only for-cause employees have the right to the conference and appeal processes outlined in this Section.

A. Notice of Intent to Discipline

The employee will be provided a written notice of intent to discipline which contains the following:

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 charges are 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 Department Head regarding the charges within five (5) calendar days from the date of the Notice, either by requesting an informal conference, or by providing a written response, or both;
6. Notice of the employee's right to have a representative of his or her choice at the informal conference, should he or 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.

B. Employee's Response and the Skelly Conference

1. If the employee requests an informal conference to respond orally to the charge(s), the conference must be scheduled at least seven (7) calendar days after the date of the Notice. The conference will be an informal meeting with the Department Head, at which the employee has an opportunity to rebut the charges against him or her and present any mitigating circumstances. The Department Head will consider the employee's presentation before any final disciplinary action.
2. The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his or 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.

C. Final Notice of Discipline

Within five (5) calendar days of receipt of the employee's timely written response or within five (5) calendar days of the informal conference, the Department Head will; a) dismiss the notice of intent and take no disciplinary action against the employee, b) modify the intended disciplinary action, or c) impose the intended disciplinary action. In any event, the Department Head shall prepare and provide the employee with a notice that contains the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline. For employees covered by the Firefighters Bill of Rights (FBOR), the effective date of the discipline will not be effective sooner than forty-eight (48) hours of the issuance of the final notice of discipline;
2. The specific charges upon which the discipline is based;
3. A summary of the facts upon which the charges are based;
4. A copy of all written materials, reports, or documents upon which the discipline is based; and
5. A statement of the nature of the employee's right to appeal.

SEC. 10008 EVIDENTIARY APPEAL TO THE CITY MANAGER

This post-disciplinary appeal procedure provided in Section 10008 applies to for-cause employees, except those covered by the FBOR, who are subjected to disciplinary suspension, demotion, reduction in pay, or discharge.

A. Request for Appeal Hearing

A regular, for-cause employee may appeal from a final notice of discipline in the form of suspension, demotion, reduction in pay, or termination by delivering a written answer to the charges and a request for appeal to the Director of Human Resources or designee, who shall forward the appeal to the City Manager. The written answer

and request for appeal must be received no later than ten (10) calendar days from the date of the Department Head's decision.

B. Date and Time of the Appeal Hearing

The City Manager will set a date for an appeal hearing within a reasonable time after receipt of a timely written answer and request for appeal. An employee who, having filed a timely written answer and request for appeal, has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned his or her appeal. In such a case, the City Manager may dismiss the appeal.

C. Identification of Issues, Witnesses and Evidence

No later than ten (10) days prior to the appeal hearing, each party will provide each other and the City Manager a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The City will use numbers to identify its evidence; the employee shall use alphabet letters. Neither party will be permitted to call any witness during the hearing who has not been identified pursuant to this section, nor use any exhibit not provided pursuant to this section, unless that party can show that they could not have reasonably anticipated the need for the witness or exhibit. The City Manager will state at the beginning of the hearing his or her decision as to the precise issue(s) to be decided.

D. Conduct of the Appeal Hearing

1. Subpoenas

The City Clerk 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. City employees who are subpoenaed to testify during working hours will be released with pay for the time they actually testify, and the time spent waiting at the hearing to be called as a witness. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually testify.

2. Continuances

The City Manager may continue a scheduled hearing only upon good cause shown.

3. Record of the Proceedings

All disciplinary hearings may, at the discretion of the parties, be either recorded by a court reporter or tape recorded. Any party who requests a transcript of the proceedings must pay for his/ her/ its own copy of a transcript.

4. The City Manager's Authority During the Hearing

The City Manager has the authority to control the conduct of the hearing and to affirm, modify, or revoke the discipline.

5. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the City Manager decides is the most conducive to determining the truth.

6. Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

7. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made before submission of the case.

8. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

9. Irrelevant and unduly repetitious evidence may be excluded.

10. The City Manager shall determine relevancy, weight and credibility of testimony and evidence.

11. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party.

12. All witnesses shall be sworn in for the record prior to testifying at the hearing. The City Manager or the court reporter shall request each witness to raise his or her right hand and respond to the following: "Do you swear that the testimony that you are about to give at this hearing is the truth, the whole truth, and nothing but the truth?"

E. Burden of Proof at the Hearing

The City has the burden of proof by a preponderance of the evidence.

F. Right to Due Process

The employee shall have the following due process rights during the hearing:

1. The right to be represented by legal counsel or another chosen representative, at his or her own expense;
2. The right to call and examine witnesses on his or her behalf;
3. The right to introduce evidence;
4. The right to cross-examine opposing witnesses on any matter relevant to the issues;
5. The right to impeach any witness regardless of which party first called him or her to testify; and
6. The right to rebut evidence against him or her.

G. Hearing to be Closed to the Public

The hearing will be closed to the public.

H. Presentation of the Case

The parties will address their remarks, evidence, and objections, to the City Manager. All parties and their counsel or representatives shall not disparage the intelligence, morals, or ethics of their adversaries or of the City Manager. The City Manager may terminate argument at any time and issue a ruling regarding an objection or any other matter. The City Manager may alter the order of witnesses, limit redundant or irrelevant testimony, or directly question the witness. The hearing shall proceed in the following order unless the City Manager 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 or her evidence;
5. The City, followed by the employee, may offer rebuttal evidence;
6. Closing arguments of no more than twenty (20) minutes shall 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.

I. Written Briefs by the Parties

The City Manager or the parties may request the submission of written briefs. The City Manager will determine whether to allow written briefs, the deadline for submitting briefs, and the page limit for briefs.

SEC. 10009 WRITTEN FINDINGS AND DECISION

The City Manager shall render a statement of written findings and decision within sixty (60) days after the hearing has been completed and the briefs, if any, have been submitted. The City Manager's decision is final.

SEC. 10010 PROOF OF SERVICE OF THE WRITTEN FINDINGS AND DECISION

The City Manager shall send its final statement of written findings and decision, along with a proof of service of mailing, to each of the parties and to each of the parties' representatives. Copies shall also be distributed to the Human Resources Director.

SEC. 10011 STATUTE OF LIMITATIONS

The City Manager's written findings and decision is final. There is no process for reconsideration. Pursuant to Code of Civil Procedure Section 1094.6, the parties have ninety (90) days from the date of the proof of service of mailing of the written findings and decision to appeal the decision to the Superior Court in and for the County of Merced.

SEC. 10012 CITY COUNCIL APPEAL HEARINGS: SPECIAL CONDITIONS

When the City Manager is the Disciplinary Authority, the City Council shall hear the appeal. When the City Council serves as an Appeals Board the Appeals Hearing shall be conducted as a Closed Personnel Session. A quorum of the City Council shall be sufficient to constitute a Hearing Board. The Hearing shall be conducted in accordance with the same guidelines specified for Disciplinary Review Hearings. Within sixty (60) calendar days after the conclusion of the meeting the City Council shall provide the employee with their written decision of findings which may be that the proposed discipline was a) overturned, b) modified, or c) stands as originally imposed.

SEC. 10013 PROCEDURE FOR DISCIPLINARY APPEALS FOR FIRE EMPLOYEES

This appeal procedure applies to disciplinary actions involving suspension, demotion, reduction in pay, or discharge for employees covered by the Firefighters' Procedural Bill of Rights (FBOR) (as defined by Government Code Section 3251).

A. Right to Appeal:

Employees covered by the FBOR requesting to appeal disciplinary actions taken pursuant to Section 10007, will have the following administrative appeal rights, which the City and Association stipulate to as being in accordance with Chapter 5, Section 11500 of the California Government Code and otherwise satisfying the administrative appeal right established under Section 3250 of the California Government Code:

1. Appeal Procedure:

- a. A formal appeal procedure will be available for for-cause employees for a disciplinary action involving discharge, demotion, reduction in pay, or suspension. The conduct of the appeal hearing will be as follows:
 - 1) The formal appeal will be presided over by an administrative law judge on staff of the State Office of Administrative Hearings, hereafter referred to as the "ALJ". The ALJ will preside at the appeal hearing, rule on the admission and exclusion of evidence and determine and rule on all matters of law both procedural and substantive. In conducting the appeal hearing the ALJ will follow the provisions set forth in Section 11513 of the California Government Code.
 - 2) The appeal proceedings will be reported by a stenographic reporter. However, upon the consent of all the parties, the proceedings may be reported electronically. Within thirty (30) days after the case is submitted to him or her, the ALJ will prepare a proposed written decision to be submitted to the City Manager. Within sixty (60) days of receipt by the City Manager of the ALJ's proposed decision, the City Manager may take any of the following actions:
 - a) Adopt the proposed decision in its entirety.
 - b) Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.
 - c) Make technical or other minor changes in the proposed decision and adopt it as the decision. Action by the City Manager under this paragraph is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.
 - d) Reject the proposed decision and refer the case to the same ALJ if reasonably available, otherwise to another ALJ, to take additional evidence. If the case is referred to the ALJ pursuant to this subparagraph, he or she will prepare a revised proposed decision based on the additional evidence and the transcript and other papers that are part of the record of the prior appeal hearing. A copy of the revised proposed decision will be furnished decision will be served to each party and his or her attorney.
 - e) Reject the proposed decision, and decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By

stipulation of the parties the City Manager may decide the case upon the record without including the transcript.

- 3) The City Manager's decision will be reduced to writing and will be final and binding on the parties. The City Manager's written decision will be served on the parties in accordance with Code of Civil Procedure Section 1094.6 and the decision will be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

2. Alternative Dispute Resolution:

- a. Following issuance of the notice of disciplinary action the employee subject to discipline, the employee's association and the City, by mutual agreement, may request mediation to attempt to resolve any disputes over the proposed discipline.
- b. The parties may mutually agree to pursue mediation any time following issuance of the notice of proposed discipline and up to the time the discipline is scheduled to go to appeal.
- c. In the event the discipline is not resolved through mediation neither evidence nor concessions agreed to or offered during such proceedings will be admissible at any subsequent administrative or judicial proceeding concerning the discipline. However, evidence otherwise admissible outside of the mediation is not inadmissible or protected from disclosure solely by reason of its introduction or use in such proceedings.

SEC. 10014 APPEAL PROCEDURE FOR PUNITIVE ACTION OTHER THAN SUSPENSION, REDUCTION IN PAY, DEMOTION OR TERMINATION

This procedure will apply to public safety officers (as defined by Government Code Section 3301) and fire employees (as defined by Government Code Section 3251) as to written reprimands, disciplinary transfers, or non-voluntary, non-disciplinary transfers resulting in a loss of compensation (e.g., non-disciplinary transfer out of premium pay assignment). At no time will an employee be required to waive his/her legally provided appeal rights.

A. Appeal to the Department Head or His/Her Designee

1. An employee who receives notice of a punitive action covered by this section will be entitled to appeal the action to the Chief prior to the effective date of the punitive action. The appeal is an opportunity for the employee to present written material and arguments why a punitive action should not occur or offer alternatives to the action.
 - a. Notice of Appeal: Within ten (10) calendar days of receipt by an employee of notification of a punitive action, the employee will notify the Chief in writing that he/she intends to appeal the punitive action. The notice of

appeal will specify the action being appealed and the substantive and procedural grounds for the appeal.

Nothing in this section will limit the right of the Department to institute disciplinary action, notwithstanding that an appeal may be pending.

- b. Hearing Officer: The Chief or his/her designee will act as the hearing officer. If the Chief cannot serve as the hearing officer because of actual bias, prejudice or interest as defined by Government Code §11425.40, then the City Manager or his/her designee will serve as the hearing officer. The Chief will have five (5) calendar days from receipt of the request to schedule an appeal hearing. The hearing will take place within thirty (30) calendar days of the date the employee was notified about the punitive action.
2. Burden of Proof: The City will bear the burden of proof at the hearing.
 - a. If the action being appealed does not involve allegations of misconduct (i.e., allegations that the employee has violated one or more federal, state, or local laws, and/or City or Department regulations, procedures, or rules) the limited purpose of the hearing will be to provide the employee the opportunity to establish a record of the circumstances surrounding the action. The Department's burden will be satisfied if the Department establishes that the action was reasonable, even though reasonable persons might disagree about whether the action was the best one under the circumstances.
 - b. If the punitive action involves charges of misconduct, (i.e., allegations that the employee has violated one or more laws, regulations, procedures, or rules), the Department will have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge of misconduct and the burden of persuasion that the punitive action was reasonable under the circumstances.
 3. Conduct of Hearing:
 - a. The formal rules of evidence do not apply, although the Chief will have discretion to exclude evidence which is incompetent, not relevant or cumulative, or the presentation of which will otherwise consume undue time.
 - b. The parties may present arguments through documents and statements.
 - c. If the punitive action being appealed is a written reprimand, the parties will not be entitled to confront and cross-examine witnesses.

- d. Following the presentation of written material and statements, the involved parties may submit closing arguments orally or in writing for consideration by the hearing officer.
 - e. Representation: The employee may be represented by an association representative or attorney of his or her choice.
4. Decision:
- a. After the hearing, a decision will be submitted in writing within five (5) calendar days.
 - b. If, after the hearing, a decision is rendered which imposes the punitive action, the action will not be effective sooner than forty-eight (48) hours of issuance of the final notice of discipline.
 - c. If the decision involves a public safety officer, the Chief's decision will be final.
 - d. If the decision involves a firefighter, it will be served by first class mail, postage pre-paid, upon the firefighter as well as his/her attorney or representative, will be accompanied by an affidavit or certificate of mailing, and will advise the firefighter that the time within which judicial review of the decision may be sought is governed by Code of Civil Procedure § 1094.6.

SEC. 10015 RESPONSE TO ADVERSE COMMENTS

A public safety officer or fire employee will have thirty (30) days within which to file a written response to any adverse comment entered into his or her personnel file, which does not constitute a punitive action as described above. The written response will be attached to the adverse comment.

**DIVISION 11
EMPLOYEE GRIEVANCE**

SEC. 11001 INTRODUCTION

The purpose of this Division is to identify City policy and practices with regard to the handling of Employee Grievances.

SEC. 11002 GRIEVANCE DEFINED

Subject to the exclusions listed in this Policy, a grievance is defined as any dispute that: a) is job-related, b) is wholly or partially within the province of the City to rectify or remedy, c) concerns terms and conditions of employment, d) involves the interpretation, application, or alleged violation of these Policies or a current Memorandum of Understanding (MOU) between the City and a recognized employee organization representing City employees, and e) 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”:

- A. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meeting and conferring process or matter within the scope of representation;
- B. Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling;
- C. Challenges to a reclassification, layoff, transfer, denial of reinstatement, or denial of a step or merit increase;
- D. Challenges to any disciplinary action;
- E. Challenges to examinations or appointment to positions;
- F. Management of the City generally;
- G. Determination of the nature, necessity or organization of any service or activity conducted by the City, including the decisions to expand or reduce services or the workforce, and/or to impose layoffs;
- H. Methods of financing;
- I. Determination of and/or change in facilities, equipment, methods, technology, means or size of the work force;
- J. Determination of or change in the location, number of locations, relocations and types of operations, processes or materials to be used in carrying out City functions;
- K. Determination of work assignments and schedules;
- L. Determination of productivity or performance programs and standards;
- M. Determination of standards, policies, and procedures for selection, training, and promotion of employees; and
- N. Establishment, implementation, and modification of Department organizations, supervisory assignments, chains of command, and reporting responsibilities.

SEC. 11003 PURPOSE OF EMPLOYEE GRIEVANCE POLICY

The expressed purpose of the Employee Grievance Policy is to provide for fair and prompt, review and resolution, of those issues and problems affecting labor relations.

SEC. 11004 EMPLOYEE RIGHT TO FILE GRIEVANCE

A grievant is a regular employee who is personally affected by an act or omission provided that the act or omission comes within the definition of "grievance" as described herein.

SEC. 11005 EMPLOYEE ASSOCIATION RIGHT TO FILE GRIEVANCE

An employee association may file a grievance concerning the interpretation, application, or alleged violation of the MOU.

SEC. 11006 INTIMIDATION OR HARASSMENT PROHIBITED

Employees, who have filed or expressed the intent to file an Employee Grievance, shall not be subjected to intimidation, harassment, retaliation or any other type of unfair treatment.

Special Note: This section is not meant to preclude the right of other employees (subordinates, co-workers, or superiors) who are involved or affected by the Grievance, to express their views of the situation, even though such views may be contrary to those held by the employee initiating the Grievance. Any comments or discussions with regard to a proposed or actual Employee Grievance shall, however, be handled in a reasonable and proper manner with due consideration and respect shown toward all involved parties.

SEC. 11007 FALSE OR PURPOSELY DISRUPTIVE EMPLOYEE GRIEVANCE PROHIBITED

While every employee of the City of Los Banos is protected against acts of intimidation, harassment, retaliation or other types of unfair treatment when he/she has filed an Employee Grievance, such employee is however subject to disciplinary action if it is determined that the Grievance was based upon information that the initiating employee knows to be false or deliberately misleading, or that the purpose of the Grievance was to deliberately disrupt or interfere with the proper and legal operation or performance of another employee, the City, or a City Department.

Special Note: This section is meant to preclude the filing of frivolous or malicious Employee Grievances only. If an employee files a Grievance based upon his/her good faith belief as to its validity and justification, he/she has not violated this section even if the basis of the Grievance is later found to be false or improper.

SEC. 11008 STEP 1: INFORMAL RESOLUTION OF EMPLOYEE GRIEVANCE

Within fourteen (14) calendar days of the occurrence of the act(s), or the employee organization becoming aware of the act(s), that constitute the grievance, an employee shall discuss the grievance with his/her immediate supervisor, who will investigate and attempt to resolve the matter. The supervisor will give the employee an oral reply within fourteen (14) calendar days after the discussion. If the employee is not satisfied with the reply, he or she may proceed to Step 2.

Special Note: If the concern involves a violation of law and the immediate superior is suspected as being involved, review should be with the next higher level of command not believed to be involved in the suspected illegal act.

SEC. 11009 STEP 2: FILING A FORMAL EMPLOYEE GRIEVANCE

Any grievance not resolved at Step 1 may be submitted in writing to the immediate supervisor no later than fourteen (14) calendar days after the date of the supervisor's oral reply.

- A. Formal Employee Grievances shall be submitted on the prescribed form (Employee Grievance Report (Form DIV-11-1) – included in this division) to the employee's Department Head.

Additionally, employees may report a grievance or incident of workplace wrongdoing by calling the Employee Protection Line® as described in Division 1, Section 1007 of this Manual.

- B. Upon receipt of the Employee Grievance Report, the Reviewing Official shall conduct a thorough review of the circumstances giving rise to the Grievance, including a meeting with the employee who initiated the Grievance. At the time of such meeting, which shall be scheduled no later than seven (7) calendar days from the date the Department Head received the Employee Grievance Report, the employee may bring with him/her one (1) advisor of his/her choice to assist in presentation of his/her concerns. Electronic or mechanical recording of the hearing is permitted by any participant.

Within ten (10) calendar days after the date of the Grievance Hearing the employee initiating the Grievance shall be provided with a written response (Finding on Employee Grievance (Form DIV-11-2) – included in this division) which sets forth the Department Head's findings on the Grievance and specifies what, if any, action will be taken to correct the problem. Exception: In those situations where additional review is required, the employee shall be given written notice of this fact within the normal ten (10) day response time and follow-up notices of delay by the conclusion of each subsequent ten (10) day period thereafter until such time as the Findings are completed.

SEC. 11010 STEP 3: CITY MANAGER APPEAL

If an employee is dissatisfied with the initial Finding on Employee Grievance, he/she may appeal the decision to the City Manager.

- A. To exercise their right to appeal an initial Finding on Employee Grievance, employees must file a written request with the City Manager by no later than five (5) calendar days from the date they received the Step 2 Findings on Employee Grievance. The request for Appeal shall include: copies of the original Employee Grievance Report, Findings on Employee Grievance, and a cover letter setting forth the specific reasons the employee disagrees with the decision reached with regard to his/her Grievance. Failure to submit the required material within the specified time period shall be considered as a waiver of the employee's right to Appeal.
- B. Upon receipt of a Grievance Appeal, the City Manager shall conduct a thorough review of circumstances giving rise to the Grievance, including a meeting with the employee initiating the Grievance within no later than ten (10) calendar days from the date the City Manager received the employee's Grievance Appeal.
- C. The decision of the City Manager will be final and binding. The City Manager'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 has 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.

SEC. 11011 SETTLEMENT OF GRIEVANCE

Any grievance shall be deemed settled when it is not appealed to the next step within the specified time limit, unless an extension of time to a definite date has been mutually agreed upon in writing. Any grievance that the grievant fails to timely move to the next step shall be deemed resolved on the basis of the last disposition.

SEC. 11012 REPRESENTATION

An employee may have a representative present at all stages of the grievance procedure, except that no one may be represented by an employee he or she supervises, and no employee may be represented by his or her supervisor or Department Head. If the employee's representative is a fellow employee, that employee will receive time off from his or 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 City Manager whether he or she shall be represented at the grievance meeting and shall identify the representative.

SEC. 11013 WITHDRAWAL

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 Director.

SEC. 11014 RESUBMISSION

Upon 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.

SEC. 11015 MISCELLANEOUS

If an employee is given an order that he or 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.

SEC. 11016 DELEGATION

The City Manager may delegate non-involved Department Heads or other management-level employees to act on his or her behalf in these processes. The findings and recommendations they render will be advisory to the City Manager, whose ultimate decision will be final and binding.

**EMPLOYEE GRIEVANCE REPORT
(FORM DIV-11-1)**

Initiated By: _____ Rank/Title: _____ Department: _____

Names and Departments of Witnesses or Others Involved (if applicable)

Name: _____ Title: _____ Department: _____

Statement of
Grievance: _____

Specific Remedy Sought: _____

Name of Reviewing Official: _____ Title: _____ Date: _____

Signature of Employee: _____ Date: _____

(Administration Receipt of Grievance)

Grievance Received By: _____ Date: _____ Time: _____

FINDING ON EMPLOYEE GRIEVANCE
 FINDING ON APPEAL OF EMPLOYEE GRIEVANCE
(FORM DIV-11-2)

Name of Grievant: _____ Rank/Title: _____ Department: _____

Date and Time of Hearing: D: _____ T: _____ Date of Response: _____

Decision of Findings: _____

Corrective Action Taken: Yes No (State Reason(s): _____

(Check One)

If you disagree with this decision you may appeal to _____
(Name/Official)
_____ by no later than 5:00 pm on _____.
(Title) (Date)

Failure to file an appeal by the date and time specified shall be considered as a waiver of your rights.

The decision rendered with regard to your Grievance is considered as Final and Binding. You have no further Appeal Rights within the City Structure.

Signature of Reviewing Official Title Date

Grievant Signature Title Date
(Employee Acknowledgement of Receipt)

DIVISION 12 PERSONNEL RECORDS

SEC. 12001 INTRODUCTION

The purpose of this Division is to identify City policy with regard to the maintenance of Personnel Records.

SEC. 12002 MAINTENANCE OF MASTER PERSONNEL FILES

The Human Resources Director shall maintain a Master Personnel File on every employee of the City of Los Banos. Such file shall contain all information pertinent to an employee's recruitment, work status, and or resignation, retirement, or discharge. Personnel files are the property of the City and access to the information they contain is restricted.

SEC. 12003 MAINTENANCE OF DEPARTMENT PERSONNEL FILES

In order to insure effective management control and provide for prompt performance reviews, Department Heads may maintain Personnel Files on those employees under their command. Such files may include all documentation contained in the Master Personnel File as well as that material maintained for Departmental information only, which is not necessarily included in the employee's Master Personnel File.

SEC. 12004 PERSONNEL REPORTS TO CITY MANAGER REQUIRED

The City Manager or his/her designee shall be provided, at the earliest reasonable time, with a complete copy of all documentation involving; appointments, performance evaluations, promotions, resignations, retirements, uncompensated leave of absences, or disciplinary actions resulting in suspensions with loss of wages, demotions in permanent rank or salary range, or termination of employment. A complete copy of such documentation shall be included in the involved employee's Master Personnel File.

SEC. 12005 ADMINISTRATIVE ACCESS TO PERSONNEL RECORDS

The following persons have unrestricted access to both the Master Personnel Files and Departmental Personnel Files; a) the Human Resources Director, the City Manager or his/her designee, the Assistant City Manager or his/her designee, and the City Attorney or his/her designee. The following persons have unrestricted access to the Master Personnel Files and Departmental Personnel files of those employees under their command; a) Department Heads or their designees, and b) Division Heads or their designees.

SEC. 12006 CITY COUNCIL ACCESS TO PERSONNEL RECORDS

The Los Banos City Council shall be entitled to access employee Personnel Files only in accordance with the following guidelines; a) while the Council is in session and a majority vote to review a specific Personnel File(s) has been passed, or b) when the Council or a

designated group of Council Members are serving as an employee review or hearing board and specific Personnel Files are considered to be pertinent to the review or hearing by the majority of the Council, or Hearing Board, or the City Manager.

SEC. 12007 EMPLOYEE ACCESS TO PERSONNEL RECORDS

- A. Inspection of File. An employee may inspect his or her own personnel file, to the extent defined in California Labor Code section 1198.5, at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact the Human Resources Director to arrange an appointment. The review must be done in the presence of the Human Resources Director or his/her designee.
- B. Copies. On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. An employee who wishes to receive such a copy should contact the Human Resources Department.

Special Note: Personnel Files shall be reviewed by employees at the location designated by the Management Official in charge of the files. Under no circumstances may the file be removed from the review location specified nor shall the employee remove, alter, or destroy any documentation contained therein.

SEC. 12008 RELEASE OF INFORMATION CONTAINED IN PERSONNEL FILES

Information contained in Personnel Files shall be considered and treated as highly confidential. Further, the release of such information, to other than those persons specifically designated as receivers, shall be done only in response to the requirements of existing law, a court order, or a written request of an employee or past employee to release such information.

A. Public Information

Upon request, the City will release to the public information about its employees as required by the Public Records Act. The City will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of privacy.

B. Response to Subpoena

In response to a subpoena for personnel records, the Human Resources Director or Custodian of Records (which will usually be the Department Head or his/her designee) should adhere to the following process; a) Accept a properly prepared and served subpoena for records, b) Confirm that the subpoena is accompanied by a waiver to release information signed by the (ex) employee or the (ex) employee's attorney or by a proof of service record indicating that the (ex) employee has been notified of the subpoena for records, c) Personally prepare and collect the documents requested, d) Hold the records until the actual due date, e) Prepare a bill for actual time and materials spent, f) Produce the records and bill as required on the due date.

If the Custodian of Records must appear in court additional cost factors should be figured in. In such circumstances, a deposit may be required.

The (ex) employee may challenge the subpoena in court. The holding period gives the (ex) employee a chance to notify the City of the appeal to the release of records. If that occurs, a legal opinion as to the release should be sought. If the City is notified of a motion to deny the release of records the City will not produce the records without an order from the court or an agreement signed by all parties.

The aforementioned process will generally not apply to personnel records that do not identify a particular employee or in some cases involving industrial relations or workers' compensation proceedings.

Pitchess motions for law enforcement records should be reviewed by legal counsel. Employees who are unsure how to proceed with any subpoena should consult with the City Manager and/or City Attorney.

C. Reference Checks

All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Human Resources Director for authorization. Information will be released only if the employee signs an AUTHORIZATION FOR RELEASE OF EMPLOYMENT INFORMATION (Form DIV-12-1) attached to this Rule, except that without such authorization, the following limited information will be provided: dates of employment, and salary upon departure. Department Heads and Supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Human Resources Director on a case-by-case basis.

SEC. 12009 DESTRUCTION OF RECORDS

Personnel Files of present or past employees shall not be deliberately altered, damaged, destroyed or discarded, except in accordance with the provisions of existing law (governing record destruction) and upon receipt of written approval of the City Attorney.

SEC. 12010 NOTIFYING CITY OF CHANGES IN PERSONAL INFORMATION

Within fourteen (14) days of the occurrence, each employee is responsible to notify the Human Resources Department and Department Head of any changes in relevant personal information, including:

- Mailing address
- Telephone number
- Persons to contact in emergency
- Number and names of dependents

SEC. 12011 MEDICAL INFORMATION

A. Separate Confidential Files

All medical and psychological information about an employee or applicant is kept separately and is treated as confidential, in accordance with the Americans with Disabilities Act (42 U.S.C. section 12112(d)(3)(b)) and the California Confidentiality of Medical Information Act (Cal. Civil Code section 56 et seq.), and any other applicable state or federal law.

B. Information in Medical Files

The City will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act. To enable the City to obtain certain medical information, the employee or applicant may need to sign an AUTHORIZATION FOR RELEASE OF EMPLOYEE MEDICAL INFORMATION (Form DIV-12-2).

C. Access to Medical Information

Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical Information Act) unless the employee signs an AUTHORIZATION FOR RELEASE OF EMPLOYEE MEDICAL INFORMATION (Form DIV-12-2) attached to this Rule. 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.

SEC. 12012 EMPLOYEE RIGHT TO REVIEW ADVERSE COMMENTS

No adverse comment or negative investigative finding shall be entered into an employees personnel file before the employee has been given the opportunity to review and sign the adverse material. If the employee refuses to sign an adverse comment or investigative finding, this fact will be noted on the document and then entered into the employees personnel file.

SEC. 12013 EMPLOYEE RIGHT TO RESPOND TO ADVERSE COMMENT

Employees shall have the right to file a written response to any adverse comment placed into their personnel file; provided that the written response is filed no longer than thirty (30)

calendar days from the date the employee was given the opportunity to review the adverse comment and informed that it was being placed into his/her personnel file.

When an employee response to an adverse comment is received within the thirty (30) calendar day period specified, the response shall be attached to and become a part of the adverse comment documentation.

**AUTHORIZATION FOR RELEASE
OF EMPLOYMENT INFORMATION
(FORM DIV-12-1)**

To: _____

I respectfully request and authorize you to furnish _____ any and all information that you may have concerning me, my work record, school record, my reputation, my financial and credit status. Please include any and all medical, physical and mental records or reports including all information of a confidential or privileged nature, and Photostats of same if requested.

I hereby release the City of Los Banos, its organization or others from any liability or damage, which may result from furnishing the information requested above.

Applicant's Signature

Date

Applicant's Street Address

City, State, Zip Code

State of California	}ss
County of Merced	
On _____	before me, _____
personally appeared _____	
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.	
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.	
WITNESS my hand and official seal.	
L.S.	_____ Signature of Notary Public

City of Los Banos
520 J Street, Los Banos, California 93635
Phone: (209) 827-7000 Fax: (209) 827-7010

**AUTHORIZATION FOR RELEASE
OF EMPLOYEE MEDICAL INFORMATION
(FORM DIV-12-2)**

I, _____, (full name of employee) hereby authorize the City of Los Banos to release to _____ (individual or organization authorized to receive the medical information), the following medical information from my personal medical records:

(Describe generally the information desired to be released).

I give my permission for this medical information to be used for the following purpose:

but I do not give permission for any other use or re-disclosure of this information.

(Note: Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to: 1) specify a particular expiration date for this letter (if less than one (1) year); 2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

Print full name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature

**DIVISION 13
BUSINESS AND TRAVEL EXPENSES**

SEC. 13001 INTRODUCTION

The purpose of this Division is to identify policy with regard to City funding of certain expenses incurred by employees who are engaged in official business or travel.

SEC. 13002 POLICY STATEMENT

It shall be the policy of the City of Los Banos to provide funding for the actual and reasonable costs incurred by employees and official guests who are required or authorized to participate in business functions and activities that are initiated or approved by the City.

SEC. 13003 OFFICIAL GUEST DEFINED

The term "Official Guest" shall mean a person, other than an employee of the City, who was invited to participate in a City function or activity by a Division Head, Department Head, the City Manager, or City Council, after a determination was made by the inviting authority that participation of the guest was appropriate and beneficial to the interest of the City.

SEC. 13004 PRIOR APPROVAL OF EXPENDITURES REQUIRED

Business and Travel expenditures must be approved in advance by a Division Head, Department Head, the City Manager, or City Council. Failure to receive prior approval may result in denial of reimbursement. Exception: In the case of an unforeseen situation where expenditures were found to be necessary and proper, approval may be forthcoming after the fact.

SEC. 13005 TYPES OF EXPENSES COVERED

The typical type(s) of expenses that are allowable, in accordance with the guidelines set forth in this Division, are; meals, refreshments, lodging, transportation, admission, membership, registration, and miscellaneous costs and fees.

SEC. 13006 FUNDING ARRANGEMENTS

As determined appropriate by a Division Head, Department Head, the City Manager, or City Council, business and travel expenses may be funded; a) by advance funding to the employee b) by direct payment to the vendor of services or supplies, or c) reimbursement to the employee or official guest after expenses are incurred. Normally, higher type costs, such as lodging and commercial travel, are paid directly to the vendor. Conversely, lesser costs, such as one-day type lunches and short distance private vehicle travel, are funded by reimbursement.

SEC. 13007 PERSONAL VEHICLE USE

Whenever an employee is permitted or required to use his/her private vehicle for official City business, he/she shall be entitled to advance funding in the amount equivalent to current Internal Revenue Service (IRS) standards for travel to and from approved destination by the most direct route.

- A. Employees shall not use private vehicles for official City business unless they have received prior approval of a Division Head, Department Head, the City Manager, or City Council.
- B. In order to receive approval for use of a private vehicle for official City business an employee must present a copy of the current insurance coverage on the vehicle to the approving authority. The insurance coverage shall meet the minimum requirements set forth in State Law.
- C. When an employee who has been granted permission to use his/her private vehicle on official City business and is involved in an accident (regardless of the severity) he/she shall immediately file a report with the police agency having jurisdiction over the accident scene. Additionally, he/she shall file a report with his/her supervisor immediately upon return to duty.

Special Note: In the case of accidents involving personal vehicles, the City shall consider the employee's personal auto insurance as the primary insurance and the City's coverage as secondary.

- D. The City shall not consider itself liable to any degree when an employee; a) uses his/her private vehicle for official City business without proper approval, b) when an employee uses his/her personal vehicle without proper insurance, or c) when an employee operates his/her private vehicle while under the influence of alcohol or drugs or in reckless disregard for the safety of himself/herself or others.

SEC. 13008 COMMERCIAL TRAVEL

Whenever travel by commercial carrier is authorized the City shall fund the lowest available fare, normally identified as coach or second class. Employees and official guests may at their own expense, upgrade to first class by paying the difference between the coach or second class fare and first class. Receipts are required even if the vendor is paid direct by City warrant.

SEC. 13009 LODGING ACCOMMODATIONS

Whenever an overnight stay is necessary the City shall fund the actual cost of the room for employees and official guests. Room accommodations shall be selected or approved by a Division Head, Department Head, the City Manager, or City Council, to assure that they are reasonably priced for the type of function being attended in the geographical area

where they are located. Receipts are required even if the vendor is paid direct by City warrant.

SEC. 13010 MEALS

Meals are normally provided or funded by the City whenever an employee or official guest are; a) participating in an approved business activity during an established meal period; b) participating in an approved business activity that is combined with the service of a meal; or c) traveling out of town on approved business during an established meal period.

- A. Meal Period – Established Meal Periods are: Breakfast, 6:00 a.m. - 8:00 a.m.; Lunch, 12:00 p.m. - 2:00 p.m.; and Dinner, 5:00 p.m. - 8:00 p.m.
- B. Funding Limits – Except when higher amounts are approved by Division Heads, Department Heads, the City Manager, or City Council, funding for meals (per person) is limited to: Breakfast - \$8.00; Lunch - \$12.00; and Dinner - \$23.00.

SEC. 13011 ADMISSION, MEMBERSHIP, AND REGISTRATION FEES

The City shall fund the actual cost of admission, membership or registration fees for employees and official guests who are participating in an approved City function or activity. Receipts are required even if the vendor is paid direct by City warrant.

SEC. 13012 MISCELLANEOUS FEES AND EXPENSES

The City shall fund the actual cost of miscellaneous fees and expenses such as parking fees, toll fees, training materials, supplies, refreshments, and gasoline purchases for employees and official guests who are participating in an approved City function or activity. Receipts or certification of expenditures are required.

SEC. 13013 BUSINESS AND TRAVEL EXPENSE CLAIMS

Business and Travel Expense Claims shall be completed for all expenditures of City funds during business and travel. The claim form, which also serves as a certification of expenditures, shall be signed by the employee receiving the funding and approved by the employee's Division Head, Department Head, or City Manager. See Business and Travel Expense Claims and Certification of Expenditures Form included in this Division. Employees will be required to provide receipts to account for all reimbursements for business and travel expenses.

**BUSINESS AND TRAVEL EXPENSE CLAIMS
AND CERTIFICATION OF EXPENDITURES
(FORM DIV-13-1)**

Employee: _____ Department: _____
 Purpose: _____ Account(s): _____
 Location: _____
 Travel Dates: _____

EXPENDITURES	FUNDS TO BE EXPENDED	REIMBURSEMENT AMOUNT REQUESTED	ACTUAL FUNDS REIMBURSED
Transportation (mileage)			
Commercial Transportation			
Lodging			
Meals			
Admission, & Registration Fees			
Miscellaneous			
TOTAL			

APPROVAL OF BUSINESS AND/OR TRAVEL EXPENSES

Signature of Division/Dept Head/City Manager: _____ Date: _____

EMPLOYEE ACKNOWLEDGMENT

I hereby acknowledge that I was advanced funds in the above amount for City Business and/or Travel Expenses during the specified travel dates above (Receipts for these expenditures are not required).

Signature of Employee: _____ Date: _____

*******FINANCE USE ONLY (Direct Payments by City Warrant)*******

Warrant Payable To:	Date Issued	Amount	Warrant No.

Finance Official: _____ Date: _____

**DIVISION 14
LEAVES OF ABSENCE**

SEC. 14001 INTRODUCTION

The purpose of this Division is to identify City and employee rights and responsibilities with regard to the specific types of Leaves of Absence recognized by the City.

SEC. 14002 FAMILY 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 of the 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 article, "Leave" under this article shall mean leave pursuant to the FMLA and CFRA.

B. DEFINITIONS

1. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. "Single 12-month period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
3. "Child" means a child under the age of 18 years of age, or 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 stepchild, legal ward, or a child of a person standing in *loco parentis*.

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 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" means an individual as defined in Family Code section 297 et seq.
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:
 - 1) A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - a) 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
 - b) Treatment by a health care provider on at least one occasion which must take place within seven (7) 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.
 - 2) 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.)

- 3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - a) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse;
 - b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c) 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.
- 4) 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.
- 5) 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 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 treats or supervises 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 State law;

- d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 - e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 - f. Any health care provider from whom the City 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 support of a contingency operation for members of the Reserve components, the National Guard, and certain retired members of the Regular Armed Forces and retired Reserve while serving on active duty status during a war or national emergency declared by the President or Congress.
10. "Contingency Operation" means a military operation that is: a) designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or b) that results in the call to order to, or retention on, active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
11. "Covered Servicemember" means a current member of the Armed Forces, including a member of the National Guard or Reserves, 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 or illness incurred in the line of duty on active duty.
12. "Outpatient Status" means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: a) a military medical treatment facility as an outpatient; or b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
13. "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 or her nearest blood relative for purposes of military caregiver leave under the FMLA.

14. "Serious Injury or Illness" means an injury or illness incurred by a covered servicemember in the line of duty on active 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; or
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" 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 the National Guard or Reserves in support of a contingency operation (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 (this leave can run up to twenty-six (26) weeks of unpaid leave during a single 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 1,250 hours during the 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 26 weeks to care for a covered servicemember) of leave during any 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 year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks.

However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse, domestic partner 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 or Domestic Partners Both Employed by the City

In any case in which a husband and wife or domestic partners are both employed by the City and 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 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 or domestic partners are both employed by the City and 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 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 (includes dental & vision) insurance to the same extent that coverage is provided while the employee is on the job. However, employees will not continue to be covered under the City's other non-health benefit plans.

Life Insurance - When an employee receives any salary payment for work performed (the term "work performed" includes payment entitlement during days off, on compensatory time, sick leave, and vacation leave) during a calendar month, his/her Life Insurance coverage is paid by the City for the duration of that month.

In the event the employee's scheduled return to work day extends beyond the last day of the month in which his/her Uncompensated Leave of Absence begins, he/she may continue Life Insurance coverage (for the duration of the Uncompensated Leave of Absence) by paying the monthly premiums at his or her own expense. Such payments must be received by the City's Human Resources Department on or before the first day of each calendar month. If an employee fails to pay Life Insurance premiums by the due date, coverage is temporarily discontinued.

Life Insurance coverage is resumed for the employee on the date of his/her return to work. Example: No. 1; the employee receives salary payment for work performed on July 1st, and then goes on Uncompensated Leave of Absence through July 31st. Life Insurance coverage extends through the entire month of July, and No. 2; the employee receives salary payment for work performed on July 1st, and then goes on Uncompensated Leave of Absence through August 3rd. If the employee did not pay his/her premium on August 1st, his/her Life Insurance is temporarily terminated effective August 1st and is not resumed until August 4th, when he/she returns to work.

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.

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, compensatory time, or family 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, domestic partner or child 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 compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act (FLSA); 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 that is FMLA/CFRA qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers who are on leave pursuant to Labor Code Section 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, spouse or domestic partner 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 or 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 service member's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, the City 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 City 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 that may require employees to request immediate leave, employees are required to give as much notice as possible

of their need for 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 leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

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. However, 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 City, the employee will be reinstated within two 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 or 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) 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” (Form DIV-14-1) prepared by the City to be eligible for leave. **NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST THAT 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.

SEC. 14003 JURY DUTY AND COURT APPEARANCES

A. Jury Duty

Regular City employees who are required to serve as members of the County Grand Jury, the Federal or State Grand Jury, or any Federal or State criminal jury or civil jury, shall be entitled to receive full salary and benefits during the time spent in such capacity; provided that such employee conveys to the City’s Human Resources Department any jury fees or other compensation paid to him/her for participation as a jury member. Exception: Any fees paid to the employee for travel expenses or mileage shall be retained by the employee unless transportation was provided by the City.

B. Subpoena

An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he or she witnessed or investigated in the course of his or her City job duties will do so without loss of compensation. The time spent will be considered work time.

C. Exception for Employee-Initiated or Non-City Related Lawsuits

An employee subpoenaed to appear in court in a matter unrelated to his or her City job duties or because of civil or administrative proceedings that he or she initiated

does 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.

SEC. 14004 BEREAVEMENT LEAVE

A. Amount of Leave

Pursuant to this policy, an employee is entitled to use sick leave not to exceed five (5) days per calendar year.

B. Eligibility for Leave

An employee is eligible to take bereavement leave in the event of the death of a member of his or her immediate family. "Immediate Family" consists of the following: Employee's spouse, domestic partner, child, child of a domestic partner, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or parent or child of a domestic partner.

SEC. 14005 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 Department Head, 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 may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

SEC. 14006 ADMINISTRATIVE LEAVE

A Department Head, subject to concurrence from the Human Resources Director, may place an employee on an administrative leave with pay pending a potential disciplinary action. Administrative leave with pay is authorized: a) when the department head believes that the employee's continued presence at the work site could have detrimental consequences for City operations, or b) pending investigation into charges of misconduct. If the charges against the employee are substantiated by the investigation, appropriate disciplinary action may be taken in accordance with these procedures.

SEC. 14007 PREGNANCY 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 & Certification Requirements

1. Except in an emergency, requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or Department Head 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 planned leaves must be confirmed in writing and have an agreed-upon specific date of return, with the written confirmation submitted to the Department Head prior to being taken. Requests for an extension of leave must be submitted in writing to the Department Head 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. The maximum pregnancy disability leave is four (4) months.

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; a) the employee is eligible for concurrent family medical leave; and b) the employee has not already exhausted this 12-week group health insurance coverage benefit in the current family medical 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 (Consolidated Omnibus Budget Reconciliation Act) guidelines by making monthly premium payments to the City.
3. 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.
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 potential reasonable accommodations.
4. An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

SEC. 14008 TIME OFF TO VOTE

If an employee does not have sufficient time outside of working hours to vote at 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 for this time off by the employee's supervisor is required.

SEC. 14009 PERSONAL LEAVE WITHOUT PAY

Employees may be permitted to be off work on uncompensated leave of absence, for the purpose of attending to personal business, for up to a maximum continuous period of sixty (60) calendar days, provided: a) the employee has first exhausted his/her accrued vacation leave and compensatory time off, b) the employee has submitted a written request (on the prescribed form – included in this division) for approval of the Uncompensated Leave of Absence, and c) the employee's Department Head, or if the employee is a Department Head the City Manager, or if the employee is the City Manager the City Council, determines that the time off requested can be granted without creation of an unnecessary burden to the operation of the employee's Department or the City.

The City Manager may, at the request of the employee, extend personal leave without pay for up to a maximum period of ninety (90) days beyond the allowable time frame. In arriving at his/her determination to approve or deny an extension of an Uncompensated Leave of Absence, the City Manager shall give priority consideration to the needs of the City over the needs and desires of the employee.

Request for leave of absence without pay shall state specifically the reason for the request, the date when the employee desires to begin the leave, and the date of return.

Failure of the employee to return to his or her employment upon the termination of any authorized leave of absence will, except under extraordinary circumstances, constitute the employee's separation from City service.

Vacation credits, sick leave credits, increases in salary, and 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. Furthermore, the City is not required to maintain contributions toward group insurance or retirement coverage. 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.

Note: The decision to approve or deny a request for an Uncompensated Personal Leave of Absence shall be considered solely a discretionary right of the employee's Department Head, or if the employee is a Department Head, the City Manager, or if the employee is the City Manager, the City Council.

SEC. 14010 SCHOOL RELATED LEAVE

Any City employee who is a parent, guardian or grandparent having custody of one or more children in kindergarten or grades 1 through 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. Such employee must provide reasonable advance notice of the planned absence. The employee may be required to use vacation and/or compensating time off 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 City at the same work site, only the first parent requesting shall be entitled to leave under this provision.

SEC. 14011 TIME OFF FOR VICTIMS OF VIOLENT CRIMES OR DOMESTIC ABUSE

- A. 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.
- B. An affected employee must give the City reasonable notice that he or 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 accrued time off.

SEC. 14012 UNCOMPENSATED LEAVE OF ABSENCE

During an approved uncompensated leave of absence, an employee will not be eligible to receive any type of special pay, except as required by law. Special pay includes, but is not limited to, Education Incentive Pay, Bilingual Incentive Pay, Investigator Pay, Officer in Charge Pay, Field Training Pay or other types of special pay provided in Division 5 of these Rules, other City policy or in any Memorandum of Understanding between the City and a recognized employee organization.

SEC. 14013 TERMINATION OF EMPLOYMENT FOR FAILURE TO RETURN TO DUTY AS SCHEDULED

Failure of the employee to return to work, on or before the date following the specified ending date of the approved Uncompensated Leave of Absence shall constitute grounds for immediate termination of the employee's employment with the City of Los Banos.

**EMPLOYEE REQUEST for
FAMILY OR MEDICAL LEAVE
(FORM DIV-14-1)**

Employee Name: _____ Title: _____ Department: _____

Leave Period Being Requested: Starting Date: _____ Ending Date: _____ Return Date: _____

Section A – Employee Request

Type of Leave of Absence Being Requested () Initial Request () Extension of:

() Family Leave () Medical Leave

Enter a brief statement of reason the Leave of Absence is required:

Employee Signature: _____ Date: _____

Section B – Management Review

() Your request for Leave of Absence is denied.

() Your request for Leave of Absence is approved for the period of: Beginning Date: _____
Ending Date: _____. You are scheduled to return to work at _____ on _____.

Comments: _____

Signature of Approving Authority: _____ Title: _____ Date: _____

Section C – Employee Acknowledgement

() I hereby acknowledge that my request for Leave of Absence was denied.

() I hereby acknowledge that my request for Leave of Absence was approved for the period of:
Beginning Date: _____ to Ending Date: _____, and I understand that I am scheduled to return
to work at _____ on _____. I further understand that during this time I am off work on
Leave of Absence, my employee rights and benefits are affected in accordance with the guidelines set
forth in Division 14 of the City of Los Banos Policy & Procedures Manual, and I am specifically aware
that should I fail to return to work on the dates scheduled, my employment with the City of Los Banos
will be terminated.

Signature of Employee: _____ Date: _____

Original – Employee Personnel File, **Copy** – Employee

**EMPLOYEE REQUEST for
UNCOMPENSATED LEAVE OF ABSENCE
(FORM DIV-14-2)**

Employee Name: _____ Title: _____ Department: _____

Leave Period Being Requested: Starting Date: _____ Ending Date: _____ Return Date: _____

Section A – Employee Request

Type of Uncompensated Leave of Absence Being Requested () Initial Request () Extension of:

- () Uncompensated Maternity Leave () Uncompensated Job Injury Leave
- () Uncompensated Medical Leave () Uncompensated Personal Leave
- () Uncompensated Family Leave

1. If you are asking for an Uncompensated Job Injury Leave, are you requesting that the City continue to provide you with Health, Life, Dental, & Vision Insurance? Mark One: ()Yes ()No
2. If you are asking for an Uncompensated Leave of Absence that requires a medical certificate, please attach.

Enter a brief statement of reason the Uncompensated Leave of Absence is required: _____

Employee Signature: _____ Date: _____

Section B – Management Review

- () Your request for Uncompensated Leave of Absence is denied.
- () Your request for Uncompensated Leave of Absence is approved for the period of: Beginning Date: _____ Ending Date: _____. You are scheduled to return to work at _____ on _____.
- () Your request for continued City payment of Health, Life, and City Dental and Vision Insurance has been approved for Uncompensated Job Injury Leave only.

Comments: _____

Signature of Approving Authority: _____ Title: _____ Date: _____

Section C – Employee Acknowledgement

- () I hereby acknowledge that my request for Uncompensated Leave of Absence was denied.
- () I hereby acknowledge that my request for Uncompensated Leave of Absence was approved for the period of: Start _____ to End _____, and I understand that I am scheduled to return to work at _____ on _____. I further understand that during this time I am off work on Uncompensated Leave of Absence, my employee rights and benefits are affected in accordance with the guidelines set forth in Division 14 of the City of Los Banos Policy & Procedures Manual, and I am specifically aware that should I fail to return to work on the dates scheduled, my employment with the City of Los Banos will be terminated.

Signature of Employee: _____ Date: _____

Original – Employee Personnel File, **Copy** – Employee

**DIVISION 15
MILITARY SERVICE**

SEC. 15001 PURPOSE

The purpose of this Division is to identify employer and employee rights and responsibilities with regards to an employee's voluntary or involuntary participation in one of the following branches of Federal or State Military Service; a) United States Army, Navy, Air Force, Marines, or Coast Guard, b) United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, or Coast Guard Reserve, or c) California National Guard, State Military Reserve, California Cadet Corps, or Naval Militia.

Military leave shall be granted, in accordance with Section 395 of the California Military and Veterans Code and the Uniformed Services Reemployment Rights Act, 38 U.S.C. section 4301 et seq.

SEC. 15002 MILITARY LEAVE DEFINED

Military leave shall be defined as the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and a period for which the person is absent from a position of employment for the purpose of an examination to determine the fitness of a person to perform any such duty.

SEC. 15003 TEMPORARY MILITARY LEAVE DEFINED

Temporary military leave shall be defined as leave of absence from public employment to engage in ordered military duty for a period which by the order is not to exceed 180 calendar days, including travel time, for purposes of active military training, encampment, naval cruises, special exercises or like activity as a member of the reserve corps or force of the armed forces of the United States, or the National Guard, or the Naval Militia.

SEC. 15004 EMPLOYEE RIGHT TO PARTICIPATE IN MILITARY SERVICE

Every employee of the City has the right to participate as a member of a branch of Federal or State Military Service identified in Section 15001.

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 Department Head, 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 may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

**DIVISION 16
INJURY PREVENTION PROGRAM
(CALIFORNIA LABOR CODE SECTION 6401.7)**

SEC. 16001 PURPOSE

The purpose of this Division is to provide a safe working environment for all employees including volunteers as well as full-time paid personnel.

SEC. 16002 RESPONSIBLE FOR IMPLEMENTATION

The City Manager will be responsible for overseeing the Injury Prevention Program. The chairperson of the City's Safety Committee is responsible for implementing this plan.

SEC. 16003 METHODS OF IDENTIFYING AND EVALUATING WORK PLACE HAZARDS

Each Department or Division Head will be responsible for maintaining their work sites in a safe condition. In addition an annual inspection of City owned facilities will be conducted by an Inspection Team. The Inspection Team will consist of at least two (2) City employees selected by the Safety Committee.

SEC. 16004 METHODS OF MITIGATING WORK PLACE HAZARDS

All hazards identified in the work place should be corrected as soon as possible. If during the annual safety inspection hazards are identified, a written memo will be forwarded to the Department Head and the City Manager. It shall be the Department Head's responsibility to correct the hazards as soon as possible.

In the event the hazard cannot be corrected within sixty (60) days the Department Head shall forward a written memo to the Safety Committee and City Manager explaining when the correction will be completed.

SEC.16005 HEAT ILLNESS PREVENTION (CA Code of Regulations Title 8, Sec. 3395)

Purpose and scope. This section applies to the control of risk of occurrence of heat illness to personnel in all outdoor places of employment and places in which heat can be a factor.

A. Definitions

1. Acclimatization – The temporary adaptation of the body to work in the heat that occurs gradually when a person is exposed to it.

2. Heat Illness – A serious medical condition resulting from the body’s inability to cope with a particular heat load, and includes heat cramps, heat exhaustion, heat syncope and heat stroke.
 3. Environmental Risk Factors for Heat Illness – Working conditions that create the possibility that heat illness could occur, including air temperature, relative humidity, radiant heat from the sun and other sources, conductive heat sources such as the ground, air movement, workload severity and duration, protective clothing and personal protective equipment worn by employees.
 4. Personal Risk Factors for Heat Illness – Factors such as employee’s age, degree of acclimatization, health, water consumption, alcohol consumption, caffeine consumption, and use of prescription medications that affect the body’s water retention or other physiological responses to heat.
 5. Preventative Recovery Period – A period of time to recover from heat in order to prevent heat illness.
 6. Shade – The blockage of direct sunlight. Canopies, umbrellas, and other temporary structures or devices may be used to provide shade.
 7. Hot Weather Season – Time of year when daily temperatures can easily reach 95 degrees Fahrenheit and above. (Usually from June 1st to September 30th, however can begin or end later)
- B. Provision of Water – Employees shall be provided potable drinking water in sufficient quantity at the beginning of their work shift to provide one quart per employee per hour for drinking for their entire shift. Employees may begin their shift with smaller quantities of water if there are effective procedures for replenishment during the shift as needed to allow employees to drink one quart or more per hour. The frequent drinking of water, as described in Section 16005(E)(c), shall be encouraged.
- C. Access to Shade – Employees suffering from heat illness or believing a preventative recovery period is needed, shall be provided access to an area with shade that is either open to the air or provided with ventilation or cooling for a period of no less than five (5) minutes. Such access to shade shall be permitted at all times. *Shade is not adequate when heat in the area of the shade defeats the purpose of the shade, which is to allow the body to cool.* For example, a car sitting in the sun does not provide acceptable shade to a person inside it, unless the car is running with air conditioning.
- D. Training
1. Employee Training. Training in the following topics shall be provided to all employees:
 - a. The environmental and personal risk factors for heat illness;

- b. The City's procedures for complying with the requirements of this standard;
 - c. The importance of frequent consumption of small quantities of water, up to four (4) cups per hour under extreme conditions of work and heat;
 - d. The importance of acclimatization;
 - e. The different types of heat illness and the common signs and symptoms of heat illness;
 - f. The importance of immediately reporting to the City, directly or through the employee's supervisor, signs or symptoms of heat illness in themselves, or in co-workers;
 - g. The City's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary;
 - h. Procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider;
 - i. How to provide clear and precise directions to the work site.
2. Supervisor Training. Prior to assignment to supervision of employees working in the heat, training on the following topics shall be provided:
- a. The information required to be provided by Section 16005(E)(1) above;
 - b. The procedures the supervisor is to follow to implement the applicable provisions in this section;
 - c. The procedures the supervisor is to follow when an employee exhibits symptoms consistent with possible heat illness, including emergency response procedures.

SEC. 16006 EMPLOYER/EMPLOYEE COMMUNICATIONS

- A. It is the responsibility of each Department or Division Head to conduct regular training sessions that deal directly with employee safety. Some of the times these training sessions should be conducted are:
1. When an employee is first hired;
 2. When an employee is given a new job assignment;
 3. When new substances, processes, procedures, or equipment are introduced to the work place;
 4. When notification is received of a new or previously unrecognized hazard;
 5. During the Hot Weather Season as described in Section 16005 (Heat Illness Prevention).
- B. Records of all safety training should be maintained in the Department training file.
1. It is every employee's responsibility to report any hazardous condition to their supervisor or to the Safety Committee as soon as it is discovered.
 2. Under no circumstances will any type of reprisal be taken against an employee for reporting an actual or perceived hazardous condition.

SEC. 16007 EMPLOYEE COMPLIANCE

All employees are required to comply with safe and healthy work practices. Any employee found in violation of any safety rules or regulations may be subject to disciplinary action.

**DIVISION 17
AMERICANS WITH DISABILITIES ACT (ADA)**

SEC. 17001 INTRODUCTION

The purpose of this Division is to ensure that persons with disabilities are afforded reasonable opportunities to work for and enjoy the services of the City.

SEC. 17002 POLICY STATEMENT

The City of Los Banos provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. The City of Los Banos does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities.

The City Manager, 520 "J" Street, Los Banos, California 93635, has been designated as the ADA Coordinator and he/she will coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice Regulations.

Information concerning the provisions of the Americans with Disabilities Act, and the rights provided there-under are available from the ADA Coordinator.

SEC. 17003 REASONABLE ACCOMMODATIONS

Job applicants, employees or citizens who require reasonable accommodation due to a disability are encouraged to request such accommodations.

SEC. 17004 ACCOMMODATION REVIEW

The following procedure should be followed to request accommodation:

A. Request for Accommodation

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Department Head or ADA Coordinator. When a job applicant, employee or citizen requests an accommodation to overcome a disability, that request will be investigated by the ADA Coordinator.

B. Medical Documentation

Following receipt of the request, the ADA Coordinator may require medical documentation establishing the existence of a disability and the nature and extent of the individual's functional limitation arising from the disability.

C. Fitness for Duty Examination

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

D. Interactive Process

After receipt of medical documentation and the results of a fitness for duty examination, if required, the ADA Coordinator will arrange to meet with the employee. The purpose of the meeting is to work in good faith to fully discuss feasible potential reasonable accommodations. The employee may, if he or she wishes, be accompanied by a representative of his or her choice.

E. Case-by-Case Determination

The City has sole discretion to determine 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 applicant, employee or others. The City will inform the employee of its decision as to reasonable accommodations in writing.

DIVISION 18
DRUG AND ALCOHOL FREE WORKPLACE POLICY

SEC. 18001 **PURPOSE AND GOAL**

The City is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. The City recognizes that alcohol abuse and drug use pose a significant threat to these goals and has established a drug-free workplace program that balances respect for individuals with the need to maintain an alcohol and drug-free environment.

- This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and the performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.
- The City encourages employees to voluntarily seek help with drug and alcohol problems.
- This policy is intended to comply with all applicable federal and state laws and regulations governing drug-free workplaces and drug and alcohol problems.
- As a condition of employment, the City requires that all employees adhere to a strict policy regarding the use and possession of drugs and alcohol.

SEC. 18002 **POLICY STATEMENT**

It is a violation of the City's drug-free workplace policy to manufacture, use, possess, distribute, trade, and/or offer for sale alcohol, illegal drugs or intoxicants. The drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the City. Therefore, this policy applies during all working hours, lunch hours and whenever conducting business or representing the City, while on paid standby, on or off City property including vehicles. Any individual who conducts business for the City, is applying for a position with the City, or is conducting business on the City's property is covered by the drug-free workplace policy. The policy includes, but is not limited to City executive management, managers, supervisors, full-time employees, part-time employees, off-site employees, contractors, volunteers, interns, and applicants.

Drug and alcohol consumption on and/or off the job can adversely affect job performance and employee/public safety. The City respects the privacy of its employees and contractors unless involvement with drugs and/or alcohol off the job adversely affects job performance and employee/public safety.

Violations of this Policy may result in discipline, up to and including termination, or not being hired by the City.

Every employee shall be asked to sign a statement certifying that he/she has received a copy of this policy and understands its contents. Any questions regarding rights and obligations under this Policy will be referred to the employee's supervisor or the Human Resources Director.

SEC. 18003 DEFINITIONS

- A. "Alcohol" shall mean the intoxicating agent in beverage alcohol, ethyl alcohol or low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. "Chain of Custody" shall mean 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.
- C. "City Equipment" shall mean all property and equipment, machinery, and vehicles owned, leased, retained or used by the City.
- D. "Collection Site" shall mean all property and equipment, machinery, and vehicles owned, leased, rented or used by the City.
- E. "Drug or Drugs" shall mean any controlled substance that is not legally obtainable under State or Federal law, or a prescription drug obtained or used without benefit of a valid prescription by a licensed physician.
- F. "Medical Review Officer (MRO)" shall mean a licensed physician with knowledge of drug abuse disorders as well as appropriate training to interpret and evaluate an employee's positive test results together with an employee's medical history and any other biomedical information. MRO reviews all negative and positive test results and interviews individuals who tested positive to verify the laboratory report before the employer is notified. The City shall select a MRO who is a licensed physician.
- G. "Prescription Drug" shall mean any substance that can lawfully be obtained or possessed pursuant to a valid prescription by a licensed physician.
- H. "Positive Test" shall mean to have the presence of a drug or a drug metabolite and/or alcohol in a person's system that is equal to or greater than the levels allowed by this Policy in the 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.
- I. "Testing Laboratory" shall mean a Substance Abuse and Mental Health Services Administration (SAMHSA) certified testing laboratory.
- J. "Substance Abuse Professional (SAP)" shall mean a license physician, social worker, psychologist, Employee Assistance Program (EAP) or certified National Association of Alcohol and Drug Abuse Counselors (NAADAC) with knowledge of and clinical experience in diagnosis and treatment of alcohol and controlled substance disorders. 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 thirty-six (36) months from the date the employee tested positive.

SEC. 18004 COMPLIANCE BY EMPLOYEES

All City employees shall agree to abide by the provisions of this policy as a condition of employment. Employees are required to comply with the following:

- A. Employees may not use, be under the influence, or possess 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 or her duties or to operate any City equipment.
- B. Employees shall not possess, use, sell, transfer, manufacture, purchase or transport any controlled substance or illegal drug or attempt to do so. Employees shall not report to work with any controlled substance or illegal drugs in their system, except for any prescription drug that has been lawfully prescribed to the employee.
- C. An employee must advise his/her supervisor of the use or influence of any prescription drug or over the counter medication 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. In the event that there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.
- D. Employees who are convicted of a criminal drug violation in the workplace must notify the City in writing within five (5) calendar days of the conviction. In those instances where employees, who are employed under Federal contract or grant, are convicted of criminal drug statute violations occurring in the workplace, the City shall notify the federal contracting agency within ten (10) days after receiving notice from such employees or otherwise receiving actual notice of such convictions. The City will take appropriate action within thirty (30) days of notification.
- E. Every covered employee who performs a safety sensitive function is required to submit to pre-employment, post-accident, random, reasonable suspicion, return-to-duty or follow-up drug and alcohol testing as described in this Policy. The City shall not permit any employee who refuses to submit to such tests to perform or continue to perform any safety-sensitive functions.
- F. Employees are required to submit to drug and/or alcohol testing as described in this Policy. Any employee (safety sensitive or non-safety sensitive) who refuses to comply with a request for testing, who fails to remain readily available for post-accident testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, shall be removed from duty immediately. Refusal can include an inability

to provide a specimen or breath alcohol sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

- G. Employees are required to report to work under conditions that will allow them to perform the duties of their position safely and effectively. Absences or tardies as a result of having been under the influence of alcohol, drugs, or controlled substances during non-work time are prohibited.

SEC. 18005 SAFETY SENSITIVE EMPLOYEES

A. Designation under Federal Law

The U.S. Department of Transportation (DOT) has published 49 Code of Federal Regulations (CFR) Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Federal Transit Administration (FTA). The DOT adopted 49 CFR Part 40 (Revised), which outlines procedures for transportation workplace drug and alcohol testing programs. This Policy incorporates these federal requirements for employees assigned to perform safety—sensitive functions, as well as certain other provisions.

The DOT mandates urine drug testing and breathalyzer alcohol testing for employees performing safety-sensitive functions. The DOT regulations prevent the performance of safety-sensitive functions when there is a positive test result or test refusal. Safety-sensitive functions include:

- a. Maintenance personnel, who perform various repairs to revenue vehicles (including repairs, overhaul and rebuilding).
- b. Employees with a commercial driver's license who will operate a revenue service, or non-revenue service DOT funded transit vehicle (includes the operation of the Lifts or anyone who assists passengers to assure they are secured in the vehicles).
- c. Drivers operating a revenue service vehicle, including when not in revenue service.
- d. Dispatch personnel and supervisors who control the movement of any revenue service vehicle.

Federal Contractors and grantees must certify that they will provide drug-free workplaces as a pre-condition to receiving a contract or grant from any Federal agency. Failure to comply with the requirements of the Drug-Free Workplace Act may result in the following sanctions:

- a. Suspension of payments under the grant;
- b. Termination of the grant; or
- c. Debarment from any grant award from any Federal agency for a period up to five (5) years.

Such penalties may be applied to contractors/grantees who have made false certifications of compliance with the Act.

B. Designation under City Policy

For the purpose of this policy, the City has determined that the following positions are safety sensitive and subject to random testing in addition to the other testing in this policy:

1. Those required to test by State or Federal mandates (examples: commercial and transit driver license holders).
2. City Manager
3. Human Resources Director
4. Finance Director
5. Community & Economic Development Director
6. Information Technology Director
7. Information Technology Technician
8. Public Works Director/City Engineer
9. Assistant Public Works Director
10. Public Works Operations Manager
11. Parks & Recreation Operations Manager
12. Public Works Officer Manager
13. Public Works Supervisor
14. Water Quality Specialist
15. Fleet Maintenance Coordinator
16. Public Works Foreman
17. Public Works Inspector I
18. Recreation Coordinator II
19. Maintenance Mechanic I
20. Sweeper Operator I
21. Environmental Control Specialist III
22. Environmental Control Specialist II
23. Environmental Control Specialist I
24. Environmental Control Specialist Trainee
25. Utilities Maintenance Worker III
26. Utilities Maintenance Worker II
27. Utilities Maintenance Worker I
28. Maintenance Worker III
29. Maintenance Worker II
30. Maintenance Worker I
31. Maintenance Worker Trainee

32. Fire Chief
33. Assistant Fire Chief
34. Fire Captain
35. Fire Engineer
36. Fire Fighter
37. Police Chief
38. Police Commander
39. Police Services Manager
40. Police Sergeant
41. Dispatch Supervisor
42. Code Enforcement Officer
43. Dispatcher
44. Community Services Officer
45. Public Safety Custodian
46. Police Officer
47. Police Trainee
48. Maintenance Worker III (part-time)
49. Maintenance Worker II (part-time)
50. Maintenance Worker I (part-time)
51. Recreation Assistant (part-time)
52. Recreation Clerk (part-time)
53. Garage Aid (part-time)
54. Police Officer (part-time)
55. Community Services Officer (part-time)
56. Dispatcher (part-time)
57. Fire Fighter (part-time)
58. Assistant Volunteer Fire Chief
59. Any other position that may be added by the City Manager after notice to involved employees.

SEC. 18006 INDICATIONS FOR ALCOHOL AND DRUG TESTING

A. Pre-Employment Testing

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 the City as safety-sensitive positions, as sworn employees, or in positions 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.

The City will not hire any external job applicant who refuses to submit to testing, attempts to tamper with or adulterate a test sample, or tests positive for drugs and/or alcohol or unauthorized prescription drug use. In addition, no applicant will be considered for employment for the certain positions described above, for one (1) year from the job applicant's refusal to participate in the testing process, tampering or attempt to tamper with the testing process, or positive test result.

Testing for temporary hires will be evaluated on an individual basis by classification.

B. Pre-Employment Verification for Safety Sensitive Employees

For any position that performs safety sensitive functions, the City is required to verify previous violations of DOT drug and alcohol regulations within the last two (2) years of employment with a DOT regulated agency or employer.

The employee's supervisor, in coordination with Human Resources Director, must obtain and review the information listed below from any DOT-regulated employer for which the employee performed safety-sensitive functions in the previous two (2) years from the date of application. The information must be obtained and reviewed prior to the first time an employee performs safety-sensitive functions. If not feasible, the information should be obtained no later than thirty (30) days after the first time an employee performs safety sensitive functions. The information obtained must include:

1. Information of the employee's alcohol test in which a breath alcohol concentration of 0.04 or greater was indicated.
2. Information of the employee's controlled substance test in which a positive result was indicated.
3. Any refusal to submit to a required alcohol or controlled substance test (including verified adulterated or substituted drug test results);
4. Other violations of DOT agency drug and alcohol testing regulations.

Applicants will be asked whether they have tested positive, or refused to test on a pre-employment drug or alcohol test while trying to obtain safety sensitive transportation work from an employer covered by a DOT agency during the past two (2) years. If an applicant admits that he or she had a positive test or refusal to test or if the City receives information from a prior employer that an employee violated any DOT drug and alcohol testing regulation, the applicant will not be eligible for a position with the City unless the applicant can demonstrate that he or she has complied with any return to duty testing requirements, as established by the DOT regulations. Job offers made by the City are contingent upon the successful completion of a drug and/or alcohol screening.

C. Testing of 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.

2. When a trained 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.
3. When a trained 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.
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 Police 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.
6. As part of any random drug testing program administered in accordance with DOT regulations governing drug and alcohol testing of safety sensitive employees. Depending on the random selection, some safety sensitive employees may be tested more than once in a year, while others are not test 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.

SEC. 18007 DRUG AND ALCOHOL TESTING

A. Reasonable Suspicion Testing

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, the supervisor will request the assistance of another Supervisor to observe the actions or behavior of the employee. Examples of performance 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 (DIV-18-1), included in this division. The supervisor will allow, upon request, 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 witness(es) and the supervisor prior to testing. The Human Resources Director should be notified as soon as possible.

3. Employee 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 document the reasons for not administering the test.
4. Employee shall be drug tested within thirty-two (32) hours following the determination made by a supervisor. 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 document 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

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 the work-site where the accident occurred.

The same testing procedures described in section above regarding documentation of any attempts to administer the test and regarding transportation to and from the Collection Site shall also be applicable to any Post-Accident testing.

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: a) while performing safety-sensitive functions with respect to the vehicle, the accident involved a fatality; or b) 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.

C. Return to Duty Testing

If the City, in its sole discretion, decides to allow a safety-sensitive employee to return to work with the City following a violation of any DOT drug and alcohol testing

regulation, the employee must comply with the following return to duty testing procedures before returning to work.

1. The employee shall undergo an evaluation of fitness for duty by the SAP.
2. The employee must complete Return to Duty testing, under the direction of the MRO, after the SAP states the employee is fit to return to work.
3. 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 eligible to return to work by the City.

D. Follow-Up Testing

1. Following completion of any return to duty testing procedures described in Section VII.C above and in conjunction with 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 subject to a reasonable minimum of one (1) year, and 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 are definitions of refusal:

1. Not providing the City a 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 sufficient or valid medical explanation;
3. Tampering with a specimen or collection process;
4. Tardiness to reporting Collection Site after time allocated for applicant or employee to report without valid explanation;
5. Leaving the accident scene without justifiable cause before tests are conducted (testing for drugs and/or alcohol after an accident is presumed);

6. Any refusal to test will be considered a violation subject to disqualification for employment and discipline up to and including termination.

SEC. 18008 SEARCHES

For the purpose of enforcing this policy and maintaining an alcohol, drug and controlled-substance free work place, the City reserves the right to search all work areas and property to which the City maintains full or joint control with the employee, including, but not limited to, City vehicles, desks, lockers, file cabinets and bookshelves. Such searches may be conducted when the City has reasonable grounds to conclude that there has been a violation of this policy.

The employee shall be given notice prior to such a search in such a manner that the employee is provided knowledge of the intended search, but not the opportunity to remove items and materials present in the area to be searched. The employee may be present during the search, but the employee's presence is not required for the search to occur. If the employee wishes to be present during the search, the employee cannot be denied the opportunity to be present, provided however, that the City will determine the time of the search with or without the employee's concurrence.

Any search will be conducted in accordance with the Firefighters Bill of Rights (FBOR) where applicable.

SEC. 18009 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 or 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, full duty 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 or her normal duties, or that a modified work assignment is not available, direct the employee not to work and to return home on paid leave or industrial 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 any other employees specifically authorized to receive information pursuant to this Policy.

SEC. 18010 GENERAL ADMINISTRATION AND PROCEDURES

A. Administration

1. The Human Resources Director or his or her designee is the Designated Employer Representative (“DER”) and shall be responsible for overseeing implementation of this Policy and the testing procedures described herein. The Human Resources Director 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 and the Manual.
2. The DER shall be responsible for the following:
 - a. Communications directly with the MRO and/or SAP and SAMHSA regarding any drug and/or alcohol tests;
 - b. Overseeing testing programs; and
 - c. Providing training to supervisors and employees.

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 or 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 (DIV-18-1), included in this division, 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 Form DIV-18-2 included in this division) 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. The City will test for cannabinoids (marijuana), cocaine, amphetamines, opiates, barbiturates, benzodiazepines, and phencyclidine (PCP) as well as alcohol. 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 or 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. If the employee provides an explanation acceptable to the MRO that the positive drug or alcohol test result is due to factors other than the presence of drugs and/or alcohol in the test specimen, the positive test result will be disregarded and reported to City as negative. Otherwise, the MRO will report the positive test result to the DPM or Human Resources Director. 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:

- a. To request a split sample test to be conducted, the employee must submit his or her written request on the required Chain of Custody release form provided by the City's testing laboratory to the DER.
- b. 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.
- c. 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.
- d. The split sample test results will not be released to the City without the employee's written consent.

SEC. I8011 CONFIDENTIALITY AND RECORDKEEPING

The City is obligated to maintain records of the administration, including violations, of this Policy for a period of five (5) years. Through the consortium pool, an annual report summarizing this information will be issued.

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 under the control of the Human Resources Director. 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:

- A. When the information is compelled by law or by judicial or administrative process;
- B. When the information has been placed at issue in a formal dispute between the employer and employee;
- C. When the information is to be used in administering an employee benefit plan;
- D. When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure; or
- E. When requested by the Department of Transportation or any state or local officials with regulatory authority over the City or any of its safety-sensitive employees.

SEC. I8012 OPPORTUNITIES FOR REHABILITATION

The City is committed to providing reasonable opportunities of rehabilitation to those employees with a drug or alcohol problem in accordance with the provisions of federal and/or state law.

An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable cause, random or post-accident testing or has not refused a drug or alcohol test or is not involved in disciplinary proceedings, may voluntarily refer her or himself to the Human Resources Director, who will refer the individual to a Substance Abuse Professional (SAP) at the expense of the employee. The SAP will evaluate the employee and make specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits.

Employees will be allowed to take accumulated vacation time or may be eligible for unpaid time off to participate in any rehabilitation program at the employee's expense. In addition, the City's voluntary Employee Assistance Program (EAP) is available to assist employees who seek help for alcohol or drug problems. Employees are encouraged to contact the EAP directly.

Supervisors or managers may refer an employee to the EAP for reasonable suspicion of drug abuse. Supervisors are encouraged to refer employees to the EAP for intervention. EAP services are confidential and supervisory referred employees are requested to sign a release of information for attendance purposes if sessions are scheduled during working hours. Supervisors or managers should work with Human Resources to coordinate employee referrals to the EAP.

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 as part of a last chance agreement, and in addition to mandatory referrals to a Substance Abuse Professional where applicable and permissible by law.

SEC. I8013 CONSEQUENCES FOR VIOLATION OF THIS POLICY

A. 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.

B. 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.

C. Removal from Safety Sensitive Function

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 twenty-four (24) hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be removed from his or her safety-sensitive position for a period to be determined by the Human Resources Director.

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 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. Subject to any provisions in a collective bargaining agreement providing otherwise, the City is not required to pay for this type of treatment.

D. Separation for Inability to Perform Essential Job Functions

After the City has complied with any legal obligation to reasonably accommodate an employee's protected disability, the City may separate an employee who is unable to perform the essential functions of the job in accordance with applicable legal procedures.

**DRUG AND ALCOHOL TESTING POLICY
REASONABLE SUSPICION EVALUATION FORM
(FORM DIV-18-1)**

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:

- | | | |
|---|--|---|
| <input type="checkbox"/> Flushed | <input type="checkbox"/> Inappropriate | <input type="checkbox"/> Disheveled |
| <input type="checkbox"/> Bloodshot/Glassy Eyes | <input type="checkbox"/> Tremors | <input type="checkbox"/> Smell of Alcohol |
| <input type="checkbox"/> Dilated/Constricted Pupils | <input type="checkbox"/> Inappropriate Wearing of Sunglasses | |
| <input type="checkbox"/> Dry-mouth Symptoms | <input type="checkbox"/> Runny Nose/Sores | |
| <input type="checkbox"/> Puncture Marks | <input type="checkbox"/> Profuse Sweating | |

Other: _____

3. Behavior/Speech:

- | | | |
|---------------------------------------|--|--|
| <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred | <input type="checkbox"/> Unconscious |
| <input type="checkbox"/> Confused | <input type="checkbox"/> Slowed | <input type="checkbox"/> Hostile/Confrontation |
| <input type="checkbox"/> Agitated | <input type="checkbox"/> Sleeping on the job | |
| <input type="checkbox"/> Other: _____ | | |

4. Awareness:

- | | | |
|---|--------------------------------------|--------------------------------------|
| <input type="checkbox"/> Confused | <input type="checkbox"/> Mood Swings | <input type="checkbox"/> Euphoric |
| <input type="checkbox"/> Lethargic | <input type="checkbox"/> Paranoid | <input type="checkbox"/> Disoriented |
| <input type="checkbox"/> Lack of Coordination | | |
| <input type="checkbox"/> Other: _____ | | |

5. Motor Skills/Balance:

- | | | |
|--|------------------------------------|---|
| <input type="checkbox"/> Unsteady | <input type="checkbox"/> Swaying | <input type="checkbox"/> Falling |
| <input type="checkbox"/> Staggering | <input type="checkbox"/> Stumbling | <input type="checkbox"/> Reaching for Support |
| <input type="checkbox"/> Arms Raised for Balance | | |
| <input type="checkbox"/> Other: _____ | | |

6. Other observed Actions or Behaviors:

Supervisor's Comments:

Supervisors Name: _____

Signature: _____ Date: _____

Witness(es) Name: _____

Signature: _____ Date: _____

**DRUG AND ALCOHOL POLICY
ACKNOWLEDGEMENT OF SUBMISSION TO DRUG AND/OR ALCOHOL TESTING BY
THE CITY OF LOS BANOS
(FORM DIV-18-2)**

I understand and acknowledge that I have reviewed a copy of the City of Los Banos Drug and Alcohol 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 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 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 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 of Testing Laboratory.

With full understanding and knowledge of the foregoing, I hereby acknowledge my obligation to submit to drug and/or alcohol testing conducted by the clinics and/or Testing Laboratory selected by the City.

I have read the above acknowledgement and certify that I have signed this document with full knowledge and understanding of its contents.

Signature of Employee

Print Full Name of Employee

Date

**DIVISION 19
BLOODBORNE PATHOGENS**

SEC. 19001 PURPOSE

The purpose of this Division is to establish, implement and maintain an Exposure Control Plan as required by the bloodborne pathogens regulation set forth in California Code of Regulations, Title 8 (8 CCR), Section 5193. This Policy describes the general requirements of the City of Los Banos' Bloodborne Pathogen Policy and provides the Exposure Control Plan and information on which job classifications are eligible for a Hepatitis B vaccination.

SEC. 19002 AUTHORITY

Title 29 Code of Federal Regulations, Section 1910.1030 and California Code of Regulations, Title 8, Section 5193.

SEC. 19003 DEFINITIONS

- A. "Blood"— means human blood, human blood components, and products made from human blood.
- B. "Bloodborne Pathogens"— means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, Hepatitis B virus (HBV), Hepatitis C virus (HCV) and Human Immunodeficiency Virus (HIV).
- C. "Body fluids"- include ALL body fluids and tissue that may potentially harbor contagious microorganisms. Blood and body fluids include but are not limited to the following:

Amniotic fluid	Blood	Body tissues
Breast milk	Cerebrospinal fluid	Feces
Nasal secretions	Non-intact skin	Pericardial fluid
Peritoneal fluid	Pleural fluid	Semen
Sputum	Synovial fluid	Urine
Vaginal secretions	Vomit	Wound drainage

(Any substance with visible evidence of blood)

- D. "Contaminated"— means the presence, or the reasonably anticipated presence, of blood or other potentially infectious materials on a surface or an item.
- E. "Decontamination"— means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface of the item is rendered safe for handling, use, or disposal.

- F. "Occupational Exposure"– means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.
- G. "Other Potentially Infectious Materials" – means (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids such as emergency response; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) Cell, tissue, or organ cultures from humans or experimental animals that likely contain or are infected with HIV, HBV, or HCV.
- H. "Parenteral Contact"– means piercing mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts and abrasions.
- I. "Sharp"– means any object used or encountered that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including but not limited to, needle devices, lancets, scalpels, and broken glass.
- J. "Sharps Injury" – means any injury caused by a sharp, including, but not limited to, cuts, abrasions, or needlesticks.
- K. "Sharps Injury Log" – means a written or electronic record satisfying the requirements set forth in Section 19011.2 and attached as Form DIV-19-2.
- L. "Source Individual" – means any individual, living or dead, whose blood or other potentially infectious material may be a source of occupational exposure to the employee.
- M. "Universal Precautions" – is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other bloodborne pathogens.
- N. "Work Practice Controls" – means controls that reduce the likelihood of exposure by defining the manner in which a task is performed.

SEC. 19004 PROGRAM ADMINISTRATION

A. RESPONSIBILITIES

1. Department Heads shall:

- a. Ensure that the Bloodborne Pathogen Policy is implemented. The Department Head has the authority to delegate any or all portions of this

Policy to subordinates, but the Department Head will be held responsible for compliance.

- b. Coordinate the evaluation of the effectiveness of the Exposure Control Plan annually. This evaluation shall include obtaining input from those front-line employees that are likely to be exposed to bloodborne pathogens.
2. Supervisors shall:
- a. Implement the Bloodborne Pathogen Policy.
 - b. Immediately report all exposure events to the Administrative Services Director.
 - c. Provide personal protective equipment to employees occupationally exposed to bloodborne pathogens.
 - d. Investigate all exposure events to bloodborne pathogens.
 - e. Maintain the Sharps Injury Log. The Sharps Injury Log must be kept five (5) years from the date the exposure incident occurred. Records of training required by Section 5193 are required to be retained for three (3) years from the date of training. Medical records must be kept for the duration of employment plus thirty (30) years.
3. Employees shall:
- a. Immediately report all incidents of bloodborne pathogen exposure.
 - b. Utilize all personal protective equipment issued for protection against bloodborne pathogens.
 - c. Comply with safety directive set forth below.
 - d. Attend trainings as assigned.

B. ORGANIZATION

The Exposure Control Plan contains the following elements:

- 1. Exposure determination.
- 2. Schedule and method of implementation.
 - a. Methods of compliance.
 - b. Hepatitis B vaccination and post-exposure follow-up.

- c. Communication of hazards to employees.
- d. Recordkeeping.
- 3. Provisions for the initial reporting of exposure incidents
- 4. Effective procedures for:
 - a. Evaluating the circumstances surrounding exposure incidents.
 - b. Work practice controls.
 - c. Procedure for gathering information required by the Sharps Injury Log.

SEC. 19005 EXPOSURE DETERMINATION

The City of Los Banos has identified categories of employees who have occupational exposure to bloodborne pathogens. Category I classifications are those classifications in which employees, as a result of their employment, may have day-to-day exposure with blood or other potentially infectious materials. Category II classifications are those classifications in which employees, as a result of their employment, have the possibility of coming into contact with blood or other potentially infectious materials.

Category I

Fire Fighter
Fire Engineer
Fire Captain
Fire Chief
Public Safety Custodian
Police Community Services Officer
Police Property Evidence Technician
Police Dispatcher
Police Officer
Police Sergeant
Police Commander
Police Chief
Police Services Manager
Wastewater Treatment Plant Personnel

Category II

Public Works Foreman
Equipment Operator
Maintenance Worker
Maintenance Supervisor
Animal Control Officer

SEC. 19006 SCHEDULE OF IMPLEMENTATION

A. THE SCHEDULE OF IMPLEMENTATION IS AS FOLLOWS:

- 1. Hepatitis B vaccinations were implemented beginning in 2001.

2. Update of program is to be implemented by the Administrative Services Director, and annually thereafter.

SEC. 19007 METHODS OF COMPLIANCE

A. UNIVERSAL PRECAUTIONS

All employees shall utilize universal precautions.

1. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Universal Precautions is an approach whereby all human blood and certain human body fluids as well as instruments, environmental surfaces, materials, and other articles with the potential to be contaminated with blood or other potentially infectious materials shall be treated as if they are infectious. By making this assumption, employees will stringently avoid all contact with blood and other potentially infectious materials by following standard safety precautions, use of proper safety controls, and wearing the appropriate personal protective equipment.
2. Employees covered by the bloodborne pathogens standard will receive an explanation of this Exposure Control Plan during their initial training session. It will also be reviewed in their annual training. All employees can review this plan at any time by contacting the Director of Administrative Services. If requested, the City of Los Banos will provide an employee with a copy of the Exposure Control Plan free of charge and within fifteen (15) days of the request.
3. Engineering controls and work practice controls will be used to prevent or minimize employee exposure to bloodborne pathogens. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.
4. Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.
5. The City of Los Banos shall provide hand-washing facilities, which are readily accessible to employees.
6. When the provision of hand-washing facilities ~~is~~ are not feasible, the City of Los Banos shall provide either an appropriate antiseptic hand cleaner in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleaners or towelettes are used, hands shall be washed with soap and running water as soon as feasible.
7. Employees shall wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

8. Employees shall wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.
9. Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed unless no alternative is feasible and then such recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.
10. Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. Containers shall be puncture resistant, labeled in accordance with this plan, and leak proof on the sides and bottom.
11. Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
12. Food and drink shall not be kept in refrigerators, freezers, shelves, and cabinets or on countertops or bench tops where blood or other potentially infectious materials are present.
13. All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generating droplets of these substances.
14. Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.
15. The worksite shall be maintained in a clean and sanitary condition. Each department shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area. Additional housekeeping measures will be implemented:
 - a. All equipment and working surfaces will be decontaminated immediately after contact with blood or other potentially infectious materials.
 - b. Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.
 - c. Employees must wear latex gloves during the clean up of contaminated surfaces.

- d. Material that is contaminated and wet (i.e. paper towels, gloves, bandages, gauze, etc.) should be disposed of in a biohazard bag.
- e. Departments may set up collection points within their facility for disposal of material.
- f. Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the work shift if they may become contaminated during the shift.
- g. Broken glassware, which may be contaminated, shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dustpan, tongs, or forceps.
- h. Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.
- i. During use, containers for contaminated sharps shall be easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found; maintained upright throughout use; and replaced routinely and not be allowed to overflow.
- j. When moving containers of contaminated sharps from the area of use, the containers shall be:
 - 1) Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport or shipping;
 - 2) If leakage is possible, placed in a secondary container that is closable, constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping, and labeled and color-coded according to this plan.
 - 3) Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner, which would expose employees to the risk of percutaneous injury.
 - 4) All bins, pails, cans, and similar receptacles intended for reuse, which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials, will be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately upon visible contamination.

- 5) Regulated Waste Regulated Waste is liquid or semi liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potential infectious materials. The following containerization procedures are mandatory under the Bloodborne Pathogen Standard, 8 CCR §5193 and seek to reduce the likelihood of exposure.
- 6) All regulated waste from the facilities shall be handled, stored, treated, and disposed of in accord with the Medical Waste Management Act, Division 104, Part 14 of the California Health and Safety Code, section 117600 through 118360, and all other applicable regulations.
- 7) Specimens of blood or other potentially infectious materials shall be placed in rigid, puncture-resistant containers which prevent leakage during collection, handling, processing, storage, transport, or shipping.
- 8) Any container carrying specimens of blood or other potentially infectious materials must be closed prior to being stored, transported, or shipped.

Containers for storage, transport, or shipping of blood or other potentially infectious material will be labeled with the "Biohazard" label and shall be easily accessible to employees and located as close as feasible to the immediate area where the sharps are used or can be reasonably anticipated to be found.

Containers carrying either blood or other potentially infectious material shall be replaced as needed to prevent overfilling.

- 9) If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be: a) labeled and color-coded in accordance with this plan; and b) closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

B. PERSONAL PROTECTIVE EQUIPMENT

Personal Protective Equipment is specialized clothing or equipment worn by an employee for protection against a hazard. General Work clothes not intended to function as protection against a hazard are not considered to be personal protective equipment.

1. When there is occupational exposure, the City of Los Banos shall provide, at no cost to the employee, appropriate personal protective equipment such as, gloves, gowns, laboratory coats, face shields or masks and eye protection, mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered “appropriate” only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee’s work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.
2. Employees shall use appropriate personal protective equipment unless under rare and extraordinary circumstances, it was the employee’s professional judgment that in the specific instance its use would have prevented the delivery of public safety services or would have posed an increased hazard to the safety of the employee. When an employee makes this judgment, the circumstances will be investigated and documented on the Incident Investigation form in order to determine whether changes can be instituted to prevent such occurrences in the future.
3. The City of Los Banos shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.
4. The City of Los Banos shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.
5. If a garment is penetrated by blood or other potentially infectious materials, the garment shall be removed immediately or as soon as feasible.
6. All personal protective equipment shall be removed prior to leaving the work area.
7. When personal protective equipment is removed, it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.
8. Gloves shall be worn when it can be reasonably anticipated that the employee may have had contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures and when handling or touching contaminated items or surfaces.
 - a. Disposal (single use) gloves such as surgical or examination gloves shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

- b. Disposal (single use) gloves shall not be washed or decontaminated for re-use.
 - c. Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.
9. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.
10. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.
11. Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated.

C. LAUNDRY

- 1. The City of Los Banos shall clean, launder, and dispose of personal protective equipment at no cost to the employee.
- 2. The following laundering requirements must be met:
 - a. Contaminated laundry shall be handled as little as possible with a minimum of agitation.
 - b. Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.
 - c. Employees handling and/or sorting contaminated laundry are required to wear protective gloves and other appropriate personal protective equipment as identified by their supervisor.
 - d. Contaminated laundry shall be placed and transported in bags or containers labeled and color-coded in accordance with this plan. Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

- e. When a facility ships contaminated laundry off-site to a second facility which does not utilize Universal Precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled and color-coded in accordance with this plan.

SEC. 19008 HEPATITIS A AND B VACCINATION AND POST-EXPOSURE EVALUATION AND FOLLOW-UP

A. GENERAL

1. The City of Los Banos shall make available the Hepatitis A and B vaccines and vaccination series to all employees who have occupational exposure (refer to Category I and Category II classifications), and post-exposure evaluation and follow-up to all employees who have had an exposure incident.
2. All Hepatitis A and B vaccines and vaccination series, post-exposure evaluation and follow-up, shall be made available; a) at no cost to the employee; b) at a reasonable time and place, during work hours; c) performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and d) within ten (10) days of initial assignment, unless otherwise specified in this policy.
3. All laboratory tests shall be conducted by an accredited laboratory at no cost to the employee.
4. The City of Los Banos will provide training to employee on Hepatitis A and B vaccinations, addressing safety, benefits, efficacy, methods of administration, and availability.

B. HEPATITIS A AND B VACCINATION

1. The Hepatitis A and B vaccinations shall be made available to all employees who have occupational exposure unless the employee has previously received the complete Hepatitis A and B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.
2. If the employee initially declines the Hepatitis A and/or B vaccinations but at a later date, while still employed by the City of Los Banos in a position listed in Section 19005 as having occupational exposure in either Category I or Category II, decides to accept the vaccination, the City of Los Banos shall make available the Hepatitis A and B vaccinations at that time.
3. Employees in Category I and Category II that decline to accept the Hepatitis A or B vaccination offered by the employer shall sign a declination form (DIV-19-1) included in this division.

4. If a routine booster dose(s) of Hepatitis A or B vaccine is recommended by the U.S. Public Health Service at a future date, such booster shall be made available in accordance with this policy.

C. POST-EXPOSURE EVALUATION AND FOLLOW UP

1. Reporting of Exposure Incident

- a. The steps outlined below in Section 2(a) must be followed immediately after an exposure incident.
- b. No adverse action is taken against an exposed employee if he/she refuses to submit to the procedures outlined herein, as the procedures are designed for the benefit of the employee.
- c. All testing and diagnoses of both the employee and the source individual must be kept confidential in accordance with federal, state, and local regulations.

2. Employee Responsibilities

- a. Immediately after exposure the employee shall, as appropriate.
 - 1) Wash hands or affected body site (skin, mucous membrane, etc.) profusely with soap and water,
 - 2) Cause the contaminated area to be cleaned and decontaminated,
 - 3) Notify supervisor who must as soon as possible notify the Department Head.

3. City of Los Banos' Responsibilities

The Department Head will immediately report the exposure incident to the Administrative Services Director.

Following a report of an exposure incident, the City of Los Banos shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, at no cost to the employee. An exposure incident is a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

The medical evaluation and follow up shall include the following elements:

- a. Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred; using the Infectious Disease Exposure Reporting form;
- b. Identification and documentation of the source individual, unless the City can establish that identification is infeasible or prohibited by state or local law;
 - 1) The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV, HCV and HIV infectivity. If consent is not obtained, the City shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented;
 - 2) When the source individual is already known to be infected with HBV, HCV or HIV, testing for the source individual's known HBV, HCV or HIV status need not be repeated;
 - 3) Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.
- c. Collection and testing of blood for HBV, HCV and HIV serological status;
 - 1) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.
 - 2) If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety (90) days. If, within ninety (90) days of the exposure incident, the employee elects to have the baseline sample tested, this testing shall be done as soon as feasible.
 - 3) Additional collection and testing shall be made available as recommended by the U.S. Public Health Service.
- d. Post-exposure treatment, when medically indicated, will be provided, including, counseling, and evaluation of reported illnesses.
- e. An Employee's Claim for Workers' Compensation Benefits shall be provided to the employee within twenty-four (24) hours of notification. The employee will only complete said form and return it to their supervisor if they choose to file a claim.

Special Note: If an employee does not want to return the form, this fact should be documented in a memo format and forwarded to the Administrative Services Director.

- 1) The supervisor shall complete the Incident Investigation form and note any exposure to needle sticks or sharps on the Sharps Injury Log and return to the Administrative Services Director within twenty-four (24) hours.
- 2) The supervisor will investigate the incident documenting the route(s) of exposure (eyes, skin, etc.), with the assistance of the Administrative Services Director, and implement corrective actions to prevent recurrence.

4. Information Provided to the Healthcare Professional

- a. The City of Los Banos shall provide the healthcare professional responsible for the employee's Hepatitis B vaccination a copy of the Bloodborne Pathogen Regulation, CCR §5193.
- b. The City shall provide the healthcare professional evaluating an employee after an exposure incident the following information:
 - 1) A copy of this policy.
 - 2) Description of the exposed employee's duties as they relate to the exposure incident.
 - 3) Documentation of the route(s) of exposure and circumstances under which exposure occurred.
 - 4) Results of the source individual's blood testing, if available; and
 - 5) All medical records relevant to the appropriate treatment of the employee including vaccination status, which are the City of Los Banos' responsibility to maintain.

5. Healthcare Professional's Written Opinion

The City of Los Banos shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within fifteen (15) days of the completion of the evaluation.

- a. The healthcare professional's written opinion for Hepatitis B vaccination shall be limited to whether Hepatitis B vaccination is indicated for an employee and if the employee has received such vaccination.

- b. The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:
 - 1) That the employee has been informed of the results of the evaluation; and
 - 2) That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.
- c. All other findings or diagnoses shall remain confidential and shall not be included in the written report.

SEC. 19009 COMMUNICATION OF HAZARDS TO EMPLOYEES

A. WARNING LABELS

- 1. Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material, and other containers used to store, transport or ship blood or other potentially infectious materials except as provided in this section.
- 2. These labels shall be fluorescent orange or orange-red or predominantly so, with lettering or symbols in a contrasting color.
- 3. Required labels shall either be an integral part of the container or shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.
- 4. Bags used to contain regulated waste shall be color-coded red and shall be labeled in accordance with this section. Labels on red bags or red containers do not need to be color-coded.
- 5. Individual containers of blood or other potentially infectious materials that are placed in a labeled container, identifying their contents, during storage, transport, shipment or disposal are exempted from the labeling requirement.
- 6. Labels required for contaminated equipment shall be in accordance with this section and shall also state which portions of the equipment remain contaminated.
- 7. Regulated waste that has been decontaminated need not be labeled and color-coded.

8. The following symbol will be used as the official “biohazard” label:



9. The area supervisor is responsible for ensuring that warning labels are affixed or red bags are used as required if regulated waste or contaminated equipment is brought into the facility. Employees are to notify their immediate supervisor if they discover regulated waste containers, refrigerators containing blood or other potentially infectious materials, contaminated equipment, without proper labels.

B. INFORMATION AND TRAINING

1. All employees (including part-time and temporary employees) with occupational exposure will participate in a training program that is provided, at no cost to the employee, during work hours. Training will be provided at the time of initial assignment to tasks where occupational exposure may take place and annually thereafter. The training program will contain the following:
- a. A copy and an explanation of the Cal/OSHA Bloodborne Pathogen Standard found in 8 CCR §5193;
 - b. A general explanation of the epidemiology, symptoms, and modes of transmission of bloodborne diseases;
 - c. An explanation of the City of Los Banos’ Exposure Control Plan and the means by which the employee can obtain a copy of the written plan;
 - d. An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;
 - e. An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, administrative or work practices controls, and personal protective equipment;
 - f. An explanation for the basis for selection of personal protective equipment;
 - g. Information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment;
 - h. Information on the Hepatitis B vaccine, including information on its efficacy, safety, method of administration, and the benefits of being vaccinated and

that the vaccine will be offered free of charge to employees whose jobs have been determined to have occupational exposure;

- i. An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available, and the procedure for recording the incident on the Sharps Injury Log;
 - j. Information on post-exposure evaluation and follow-up that the City of Los Banos is required to provide for the employee following an exposure incident;
 - k. An explanation of the signs and labels and/or color coding required; and
 - l. An opportunity for interactive questions and answers with the trainer.
2. The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program.
 3. Training records will include the following information:
 - a. The dates of the training sessions;
 - b. The contents or a summary of the training sessions;
 - c. The names and qualifications of persons conducting the training; and
 - d. The names and job titles of all employees attending the training sessions.

SEC. 19010 RECORD KEEPING

A. MEDICAL RECORDS

1. Medical records are maintained for each employee with occupational exposure in accordance with 29 CFR 1910.1020, "Access to Employee Exposure and Medical Records." Accurate records shall be maintained for each employee with occupational exposure for the duration of employment plus thirty (30) years. Medical records shall include the following:
 - a. Name and social security number of the employee;
 - b. A copy of the employee's Hepatitis B vaccination status including the dates of all the Hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination;
 - c. A copy of all results of examinations, medical testing, and follow-up procedures;

- d. The City of Los Banos' copy of the healthcare professional's written opinion;
- e. A copy of the information provided to the exposed employee and the health care provider.
- f. The City of Los Banos shall ensure that the employee's medical records are kept confidential and are not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by law.

B. TRAINING RECORDS

Training Records shall be maintained for three (3) years from the date on which the training occurred.

C. AVAILABILITY

The City of Los Banos shall make all training records required by this policy available upon request to employees, employee representatives, and OSHA or State inspectors for examination and copying.

D. OSHA RECORDKEEPING

An exposure incident is evaluated to determine if the case meets OSHA's Recordkeeping Requirements (29 CFR §1904). This determination and the recording activities are the responsibility of the Director of Administrative Services.

SEC. 19011 PROCEDURES

A. EVALUATION EXPOSURE INCIDENTS

- 1. The Administrative Services Director will review the circumstances of all exposure incidents to determine:
 - a. Engineering controls in use at the time;
 - b. Work practices followed;
 - c. A description of the device being used (including type and brand);
 - d. Protective equipment or clothing that was used at the time of the exposure incident (e.g. glove, eye shields, et cetera);
 - e. Location of the incident;
 - f. Procedure being performed when the incident occurred;

- g. Employee's training.
- 2. The Director of Administrative Services will record all percutaneous injuries from contaminated sharps in a Sharps Injury Log.

B. SHARPS INJURY LOGS

- 1. The Sharps Injury Log (Form DIV-19-2) shall be maintained by the Administrative Services Director for a period of five (5) years from the date the exposure incident occurred.
- 2. Each exposure incident shall be recorded on the Sharps Injury Log within fourteen (14) working days of the date the incident is reported to the employer.
- 3. The following information shall be included on the log:
 - a. Date and time of the exposure incident;
 - b. Department or work area where the exposure incident occurred;
 - c. Job title of the exposed employee;
 - d. Type and brand of sharp involved in the incident;
 - e. Procedure that the exposed employee was performing at the time of the incident,
 - f. How incident occurred;
 - g. Body part involved in the exposure incident;
 - h. And the employee's opinion about whether any engineering, administrative, or work practice control could have prevented the injury.

C. REVIEW AND UPDATE OF EXPOSURE CONTROL PLAN

As needed, the Department Directors will convene a committee, to include front-line workers, to review the prior year's Sharps Injury Log and the Exposure Control Plan, and will ensure that any appropriate workplace and policy changes are made on an annual basis.

**HEPATITIS A and/or B VACCINE DECLINATION
(FORM DIV-19-1)
(Mandatory)**

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring Hepatitis A or B virus (HBV) infection. I have been given the opportunity to be vaccinated with Hepatitis A and B vaccine, at no charge to myself. However, I decline Hepatitis A and/or B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis A or B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with Hepatitis A or B, I can receive the vaccination series at no charge to me.

Signed: _____

Date: _____

SHARPS INJURY LOG (FORM DIV-19-2)

Name of Exposed Employee: _____ Department/Division: _____

Job Title: _____ Date of Exposure Incident: _____

Time of Exposure Incident: _____

Report Completed By: _____ Phone number/extension: _____

Identify sharp involved: (if known) Type: _____ Brand: _____ Model: _____

Body part affected (check all that apply):

- Finger
- Face/head
- Torso
- Leg
- Hand
- Arm
- Other _____

Description of the exposure incident: _____

Exposed Employee: In your opinion, could the injury have been prevented through engineering, administrative, or work practice controls? _____

Employee's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

DIVISION 20
HARASSMENT/DISCRIMINATION/RETALIATION PREVENTION

SEC. 20001 PURPOSE

The purpose of this Division is 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 and discrimination on the basis of any of the following protected classifications: 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, 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 the protection from retaliation on any of the above identified protected classifications against an employee for his or her 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.

SEC. 20002 APPLICABILITY

This policy prohibits City officials, employees, volunteers and contractors from harassing or discriminating against applicants, officers, officials, employees, volunteers and contractors because: a) of an individual's protected classification, b) of the perception that an individual has a protected classification, or c) the individual associates with a person who has or is perceived to have a protected classification.

SEC. 20003 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, up to and including termination in accordance with Division 10 – Disciplinary Actions, 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 Director.

SEC. 20004 NOTIFICATION OF POLICY

The City will provide this policy to new employees when they commence working, to all current employees, and to appointed and elected officials. Notices, which contain the basic policy and legal requirements, will be posted in places readily accessible to the public, job applicants and existing employees. Guidelines and forms for this policy will be

reviewed periodically, and updated and modified as needed. Periodic training will be provided to City employees.

SEC. 20005 DEFINITIONS

A. Protected Classifications

This policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual).

B. Discrimination

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

C. 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:

1. Verbal Harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.
2. Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification.
3. Physical harassment, such as assault, touching, impeding or blocking movement, grabbing, patting, propositioning, leering, making express or implied job related threats in return for submission to physical acts, mimicking, taunting, or any physical interference with normal work or movement.
4. Sexual harassment, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:

- a. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
- b. 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.
- c. 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 relationships 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.
- d. By definition, sexual harassment is not within the course and scope of an individual's employment with the City.

SEC. 20006 RETALIATION

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

Well intentioned attempts to insulate or protect a complainant by changing his or her work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Human Resources Director.

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

SEC. 20007 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 Human Resources Director. 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.

SEC. 20008 REPORTING HARASSMENT, DISCRIMINATION OR RETALIATION

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

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

A. Object to the Conduct

Sometimes an individual is unaware that his/her conduct is offensive. In these situations the offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately. A person who believes he/she is being harassed is encouraged to use this process when possible.

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 B below or go directly to the formal reporting process.

B. 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, City management employee or the Employee Hotline. The individual may also seek the advice, assistance or consultation of a supervisor, department head, or any City management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Human Resources Director. The Human Resources Director will determine what level of investigation and response is necessary.

C. Written Process

An individual who believes this policy has been violated and does not feel comfortable using the process outlined above may call the Employee Hotline or may provide a written complaint to the Human Resources Director, or to a supervisor, department head or any management employee who in turn must direct the complaint to the Human Resources Department. Individuals are encouraged to use the Confidential Complaint Form (DIV-20-1) for this purpose.

D. Option to Report to Outside Administrative Agencies

Applicants, employees, officers, volunteers, officials and contractors have the option to report harassment, discrimination, or retaliation to the United States Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the phone book as well as on posters located on City bulletin boards.

SEC. 20009 WITNESS AND COMPLAINT FORMS

- A. Confidential Complaint Form (Complaint Form): This form is to be used by an individual who alleges that he/she is a victim of violation(s) of this policy and wishes to initiate a complaint (Form DIV-20-1). The individual completing the Complaint Form should forward it to the Human Resources Director.
- B. Witness Statement Form (Witness Form): This form is to be used by any individual who witnesses or has knowledge of possible violation(s) of this policy and wishes to report it (Form DIV-20-2). The individual completing the Witness Form should forward it to the Human Resources Director.

SEC. 20010 INITIATING A COMPLAINT

All complaints should be filed as soon as possible after the alleged incident or after a supervisor has knowledge of possible violation(s) of this policy.

SEC. 20011 CITY'S RESPONSE TO COMPLAINT OF HARASSMENT, DISCRIMINATION OR RETALIATION

A. Investigation

Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Human Resources Director will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Human Resources Director may coordinate the investigation with the complainant's department head and may hire an outside investigator if the City deems 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 Human Resources Director. The Human Resources Director will report the status of investigations to the City Manager as appropriate.

The Human Resources Director, in concurrence with the City Manager, may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. Generally, no interim action should be taken to change the complaining individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview and that retaliation against those who report alleged harassment or who participate in the investigation is prohibited.

The City takes a proactive approach to potential policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

B. Remedial and Disciplinary Action

If the investigation determines that the alleged conduct occurred and that the conduct violated this policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this policy, or who otherwise fails to take appropriate action to enforce this policy. Any official or contractor found to have violated this policy will be subject to appropriate sanctions.

C. Closure

At the conclusion of the investigation, the Human Resources Director shall notify the complainant in general terms of the outcome of the investigation.

SEC. 20012 RESPONSIBILITIES OF EMPLOYEES, MANAGEMENT AND SUPERVISORY EMPLOYEE

A. 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:

1. 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.

2. Let fellow employees know when you consider behavior offensive. The City hires people from a wide variety of cultural and ethnic backgrounds, and an individual may not realize behavior he or she thinks is proper could be seen by others as offensive.
3. Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
4. If an employee witnesses harassment, he or she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he or she can demand that the harasser cease the behavior.
5. Maintain confidentiality as required by this policy.
6. Fully cooperate with the City's investigation of complaints made under this policy.

B. Managers and Supervisors

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

1. Implementing this policy by taking all complaints seriously and modeling behavior that is consistent with this policy. Direct all complaints to the Human Resources Director.
2. Take positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.
3. No Department Head, supervisor or other employee may retaliate through any action of intimidation, restraint, coercion or discrimination.
4. Monitoring the work environment and taking appropriate action to stop potential policy violations.
5. Following up with those who have complained to ensure the behavior complained of has ceased.
6. Informing complainants of their option to contact the EEOC or DFEH regarding a potential policy violation.

SEC. 20013 DOCUMENTATION AND RECORD-KEEPING

The Human Resources Director shall maintain a complaint file containing copies of witness forms, complaint forms and investigation files. The information contained in this file is confidential and privileged, subject to disclosure only under appropriate legal measures. Department Heads may review investigation files concerning their departments only with

the prior approval of the City Manager. In cases of substantiated claims resulting in discipline, the personnel file of the disciplined employee will contain appropriate documentation relating to the disciplinary actions taken. In cases of unsubstantiated and inconclusive claims not resulting in discipline, the investigation file will be maintained for two (2) years.

SEC. 20014 RIGHT OF REPRESENTATION

Employees participating in an investigation who have a reasonable belief that they may be disciplined as a result of the investigation have a right to be represented in the interview upon request.

SEC. 20015 STATE AND FEDERAL AGENCIES

This policy is intended to allow the City of Los Banos to resolve complaints internally. It is meant to supplement state and federal laws or regulations. State and Federal complaints shall be processed through the procedures established by the Department of Fair Employment and Housing and Equal Employment Opportunity Commission (EEOC).

SEC. 20016 MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this policy at least once every two (2) years. The Human Resources Department will schedule training sessions each year to ensure that employees are able to schedule the mandatory training. Attendance at the training will be documented.

SUGGESTED INTERVIEW QUESTIONS
HARASSMENT, DISCRIMINATION AND RETALIATION CASES
CONFIDENTIAL
(FORM DIV-20-4)

Questions similar to these should be asked to gain a full understanding of the nature of the complaint:

1. What is the conduct being complained about?
2. Where did the conduct occur?
3. When did the conduct occur?
4. Who participated in the conduct?
5. Was the conduct unwanted?
6. What did you do or say to demonstrate the conduct was unwanted?
7. Did anyone witness the conduct?
8. Did you tell anyone about the conduct?
9. Did anyone observe you after the incident?
10. Did the conduct interfere with job performance?
11. Did the conduct create an intimidating or hostile work environment?
12. Did you lose any pay or benefit as a result?

**DIVISION 21
MANAGEMENT RIGHTS**

SEC. 21001 MANAGEMENT RIGHTS

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 Associations recognize the exclusive right of the City to establish and maintain departmental rules and procedures for the administration of its departments.

SEC. 21002 RIGHT TO SCHEDULE WORK

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.

SEC. 21003 RIGHT TO REQUIRE PERFORMANCE OF JOB DUTIES

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.

SEC. 21004 RIGHT TO DISCIPLINE AND LAY OFF

The appointing authority reserves the right to discipline or discharge employees subject to Civil Service procedures. The City reserves the right to lay off personnel of the City at any time.

SEC. 21005 RIGHT TO ASSIGN WORK AND ESTABLISH METHOD OF WORK

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

SEC. 21006 RIGHT TO TRANSFER

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.

SEC. 21007 RIGHT TO REORGANIZE

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

SEC. 21008 RIGHT TO CONTRACT OUT

The City has the right to contract for matters relating to municipal operations, including contracting out bargaining unit work. The right of contracting or subcontracting is vested exclusively with the City.

SEC. 21009 RIGHTS NOT SUBJECT TO MEET AND CONFER OR APPEAL

The inherent and expressed 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 herein.

DIVISION 22 WORKPLACE SECURITY

SEC. 22001 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 will lead to criminal prosecution, and/or disciplinary action, up to and including termination.

SEC. 22002 PROHIBITED BEHAVIOR

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

SEC. 22003 DEFINITIONS

- A. "Workplace Violence" is any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:
 - 1. Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
 - 2. The destruction of, or threat of destruction of City property or another employee's property.
 - 3. Harassing or threatening phone calls.
 - 4. Surveillance.
 - 5. Stalking.

6. 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 Human Resources Director.
7. Any conduct relating to violence or threats of violence that adversely affects the City's legitimate business interests.
8. 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.

SEC. 22004 INCIDENT REPORTING PROCEDURES

- A. Employees must immediately report workplace violence to their supervisor or department head. The supervisor or Department Head will report the matter to the Human Resources Director.
- B. The Human Resources Director will document the incident, including the 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.
- C. The Human Resources Director will take appropriate steps to provide security, such as:
 1. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 2. Asking any threatening or potentially violent person to leave the site; or
 3. Immediately contacting an appropriate law enforcement agency.

SEC. 22005 INVESTIGATION

The Human Resources Director will see that reported violations of this policy are investigated as necessary.

SEC. 22006 MANAGEMENT RESPONSIBILITY

Each Department Head has authority to enforce this policy by:

- A. Training supervisors and subordinates about their responsibilities under this policy;
- B. Assuring that reports of workplace violence are documented accurately and timely;
- C. Notifying the Human Resources Director and/or law enforcement authorities of any incidents;
- D. Making all reasonable efforts to maintain a safe and secure workplace; and
- E. Maintaining records and follow up actions as to workplace violence reports.

SEC. 22007 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.

DIVISION 23 FITNESS FOR DUTY

SEC. 23001 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.

SEC. 23002 CURRENT EMPLOYEE EXAMINATIONS

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

SEC. 23003 ROLE OF HEALTH CARE PROVIDER

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

SEC. 23004 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.

SEC. 23005 MEDICAL INFORMATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER

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

SEC. 23006 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 Human Resources Director will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Human Resources Director will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

SEC. 23007 DETERMINATION

After the discussions, the Human Resources Director 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 Human Resources Director will inform the employee of his or her determination. The Human Resources Director will use his or her discretion based upon the particular facts of each case.

DIVISION 24
ELECTRONIC COMMUNICATIONS RESOURCES POLICY

SEC. 24001 PURPOSE AND SCOPE OF POLICY

This policy governs all Electronic Communications Resources including, but not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, Blackberry devices, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, and documentation that supports electronic communications services (“Electronic Communications Resources”).

SEC. 24002 USE OF ELECTRONIC COMMUNICATIONS

The City’s email system is an official communication tool for agency business. An official email address is established and assigned by the City to each employee as required for business purposes. All City communications sent via email will be sent to this address. City employees must use the official agency email, instead of their private email address (such as yahoo, hotmail, etc.) when communicating agency business via email.

Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and City’s policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the City.

Employees are expected to use common sense and good judgment to avoid any communication which is disrespectful, offensive or illegal. It is important to realize that the message content sent from a City account reflects upon the City (positively or negatively) to those who receive the message. The City, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this policy.

SEC. 24003 DISCIPLINE

City owned or controlled equipment is restricted to official use only. Employees may be subject to disciplinary action for using the Electronic Communications Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules and policies.

In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the Electronic Communications Resources may create criminal and civil liability for themselves and the City by using outside or third party

systems in an offensive, defamatory or illegal manner. In such event, employees may be subject to disciplinary action up to and including termination.

SEC. 24004 NO EXPECTATION OF PRIVACY

All communications transmitted via the City's Electronic Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the City's discretion. The City monitors communications transmitted via the City's Electronic Communications Resources in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the agency's ability or right to access electronic communications.

In addition, the California Public Records Act requires the City to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine they are public records that are subject to disclosure.

The City may also be required to produce information transmitted or stored Electronic Communications Resources pursuant to a court order, subpoena, or statute.

SEC. 24005 INCIDENTAL PERSONAL USE

Electronic Communication Resources are provided by the City to facilitate the performance of City work. Incidental personal use is secondary, and should not interfere with the City's operation of Electronic Communications Resources or the user's employment or other obligations to the City.

Employees engaging in incidental use of the City's Electronic Communications should clearly indicate that the use is personal. Users must not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the City unless appropriately authorized to do so.

An employee is responsible for any loss or damage caused by his or her personal use of City's Electronic Communications Resources.

SEC. 24006 RESTRICTIONS

The information sources accessible via the Internet are constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the City reserves the right to restrict access to any data source at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the City's Electronic Communications Resources:

- A. Exposing others, either intentionally or carelessly, to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
- B. 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 (cancer or HIV/AIDS related), genetic characteristics, and physical or mental disability (whether perceived or actual);
- C. Communicating confidential City information to unauthorized individuals within or outside of the City.
- D. Sending messages or information in conflict with applicable law or City policies, rules or procedures.
- E. Attempting to access unauthorized data or break into any City or non-City system.
- F. Engaging in theft or the unauthorized copying of electronic files or data.
- G. Performing acts that waste electronic resources or that monopolize resources to the exclusion of others. These acts include, but are not limited to: sending mass mailings or chain letters and creating unnecessary network traffic.
- H. Intentionally misrepresenting one's identity for improper or illegal acts.
- I. Engaging in unlawful activities;
- J. Engaging in commercial activity or activity for personal financial gain, not under the auspices of the City;
- K. Engaging in recreational use of the agency's Electronic Communications Resources that interferes with the ability of the employee or other users to conduct City work. This includes but is not limited to downloading or uploading software, games, or shareware. Employees are also prohibited from downloading and using instant messaging software (IM).

SEC. 24007 OVERTIME – PRIOR APPROVAL REQUIRED

The Fair Labor Standards Act (FLSA) requires that the City pay each employee who is entitled to receive FLSA overtime for all hours worked. This provision does not apply to employees who are exempt from FLSA overtime because of the executive, administrative, or professional nature of their job duties.

- A. Except on an irregular and de minimus basis, no time spent in any activity on the City's Electronic Communications Resources for the benefit of the City may be done

outside of employee scheduled work hours without advance approval from the employee's immediate supervisor. Emergencies may arise that call for an exception to this rule. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the employee's supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working overtime.

- B. All time spent outside of the employee's scheduled hours on the City's Electronic Communications Resources for the benefit of the City must be reported on official City forms so that the City may pay the employee for that work. Employees may never choose to work and not request compensation. All legitimate overtime will be compensated.
- C. Employees are required to record all work time on official City records and to work overtime with approval. Failure to follow the City's overtime approval procedures will result in being paid for all legitimate work time, and being subject to disciplinary action, up to and including termination for violating the overtime approval procedures.

**AUTHORIZATION FOR RELEASE OF INFORMATION BY ELECTRONIC
COMMUNICATIONS SERVICE PROVIDER AND WAIVER OF LIABILITY
(FORM DIV-24-1)**

I, understand and acknowledge that the City of Los Banos ("City") provides me with access to Electronic Communications Resources to facilitate the performance of City work. I may use these resources for incidental personal purposes provided that such use does not burden the City with incremental costs or interfere with the City's operations and my employment or other obligations to the City.

However, the City's Electronic Communications Resources are the property of the City and are not confidential. I have no expectation of privacy when using the City's Electronic Communications Resources and acknowledge that the City has the right to retrieve all electronic communications and data contained in and transmitted through the City's network and through outside providers of wireless or electronic communications services.

Accordingly, I hereby authorize any Electronic Communications Service to release to the City any information the City may request relating to electronic communications and/or any other form of instant or delayed messaging sent and/or received by me on any Electronic Communications Resource maintained by the City that delivers or receives electronic communications including, but not limited to, cellular telephones, pagers, personal digital assistants, smartphones, Blackberry devices, computers/laptops, telecommunications devices, video and audio equipment, voicemail, wireless networks and data systems. "Electronic Communication Service" means any service which provides to users thereof the ability to send or receive wire or electronic communications.

I hereby release, discharge and hold harmless the City and the person, firm, company, corporation or other third party to whom this Authorization is directed, including their agents, representatives and employees, from any and all liability of every nature and kind arising out of their providing the information, records and other matters authorized above pursuant to this Authorization.

A photocopy of this Authorization and Release shall be accepted with the same validity as the original.

Signature of Employee

Print Full Name of Employee

Date

**DIVISION 25
ELECTRONIC TRACKING TECHNOLOGY POLICY AND
ACKNOWLEDGEMENT**

SEC. 25001 PURPOSE

This policy governs City of Los Banos (“City”) use of Electronic Tracking Technology in vehicles or equipment it owns or leases.

Employees of the City may, in the course of employment, be required to drive and/or ride in an agency-owned or leased vehicle equipped with Electronic Tracking Technology, or to use equipment such as cellular telephones with such capabilities.

SEC. 25002 DEFINITIONS

Electronic Tracking Technology means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. Electronic Tracking Technology may include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used for the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the City vehicle and/or to capture safety systems-related data for retrieval after a collision or similar incident has occurred.

SEC. 25003 CITY USE OF ELECTRONIC TRACKING TECHNOLOGY

The City may use Electronic Tracking Technology in City-owned or leased vehicles.

The City may use Electronic Tracking Technology at its sole discretion, and in the ordinary course of business for business-related purposes, including, but not limited to, monitoring the location, election and velocity of its vehicles; measuring productivity; locating stolen vehicles; providing aid to vehicles that break down; increasing employee safety; managing agency resources effectively; or ensuring that employees are following their routes or assignments.

The City may utilize Electronic Tracking Technology to initiate a disciplinary investigation or discipline employees pertaining to the misuse or abuse of their vehicles, inappropriate use of time or other misconduct.

The California Public Records Act may require that the City disclose specified public records, including Electronic Tracking Technology records. Additionally, the City may be required to produce information obtained from Electronic Tracking Technology pursuant to a court order, subpoena, or statute.

SEC. 25004 EMPLOYEE RESPONSIBILITIES

Employees are prohibited from altering or attempting to alter or disable Electronic Tracking Technology in City vehicles.

ACKNOWLEDGMENT

I acknowledge that I have received and read a copy of this policy. Pursuant to this policy, I acknowledge that the City may monitor me as a driver and/or passenger in City-owned or leased vehicles via Electronic Tracking Technology, and that I do not have an expectation of privacy in the information that results from such monitoring. I further understand that information obtained from such tracking may be used to support disciplinary action against me.

This document will be retained in my personnel file for future reference.

Signature of Employee

Print Full Name of Employee

Date

DIVISION 26
NEPOTISM AND FRATERNIZATION POLICY

SEC. 26001 PURPOSE

The purpose of this policy is to establish the nepotism and fraternization policy for the City of Los Banos ("City").

This policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace.

SEC. 26002 DEFINITIONS

The following definitions apply to each section of this Policy.

- A. A "romantic and/or sexual relationship" exists when two City employees become personally involved with each other to the point that there is dating, exchange of personal affection, sexual or physical intimacy and/or cohabitation.
- B. The term "dating" includes but is not limited to one or more social meetings under circumstances that may lead to exchange of personal affection, and sexual or physical intimacy.
- C. "A social meeting" occurs when co-employees gather for purposes not related to work for the City.
- D. "Cohabitation" applies to those employees who live together, share room and board or sire children, without being married to one another.
- E. A "significant other" means a relationship between an employee of the City and another individual as defined herein in (a), (b), (c) and/or (d) and elsewhere in the policy.

SEC. 26003 FRATERNIZATION

- A. Romantic Relationships Between Supervisors and Subordinate Employees Are Prohibited.

Public trust, safety and City morale require that employees avoid the appearance of a conflict between their professional responsibilities and any involvement that they may have in a romantic or sexual relationship with other City employees. In order to promote efficient operation of the City and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, morale, and possible claims of sexual harassment and/or gender based discrimination, romantic and/or sexual relations between supervisors and subordinate employees are prohibited.

B. Romantic Relationships Between Co-Employees In The Same Department Are Prohibited

Public trust, safety and City morale require that employees avoid relations, which may negatively impact the efficient operation of the City. In order to promote efficient operation of the City and to avoid formation of cliques and factions, claims of sexual harassment and gender based discrimination, and the blurring of professional and personal responsibilities and relationships in the workplace, romantic and/or sexual relationships between co-employees in the same Department are prohibited.

C. Enforcement

The City reserves the right to investigate situations in the workplace to determine whether a romantic and/or sexual relationship exists and therefore presents a possible violation of this Policy. If the City determines that a proscribed relationship (as defined by this policy) exists, remedial and/or disciplinary measures, including but not limited to a transfer, reassignment, or dismissal, shall be utilized to mitigate issues that arise relevant to the enforcement of this policy.

1. The City retains the right to refuse to place employees engaged in relationships prohibited by this policy in the same department where it has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.
2. In order to implement such policies, and where the above circumstances exist and mandate that employees shall not work in a prohibited relationship, the City will attempt to transfer one party to the proscribed relationship to a similar classified position in another City Department, should such a position exist, be available, and should the employee possess the skills and qualifications necessary to perform the essential duties of the position.

Although the wishes of the involved parties as to which will be transferred will be given consideration by the City, the controlling factor in determining who is to be transferred shall be the positive operation and efficiency of the City. If any such transfer results in a reduction in salary or compensation, applicable and legally required due process procedures shall be applied.

3. In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which an employee in a proscribed relationship can be transferred, that employee may continue to be employed within the same City department subject to approval by the Department Director and the City Manager or his/her designee.

However, any such continuing employment is predicated upon both subject employees not reporting to the same immediate supervisor; not being supervised by each other; not working the same shift at the same work site; or, otherwise becoming involved in a work environment having the potential for adverse impact on supervision, safety, security or morale.

4. If continuing employment of employees engaged in proscribed relationships prohibited by this Policy cannot be accommodated consistent with the City's interest in promotion of safety, security, morale and efficiency, then the City retains sole discretion to separate one of the parties from City employ. Absent resignation by one affected employee, the less senior, in terms of overall City service, of the involved employees shall be subject to separation. In the event of separation, applicable and governing due process procedures shall be applied.

The provisions of this fraternization policy are not applicable to individuals employed by the City on or before June 15, 2016 in their current state of marriage or non-marriage.

As such, a change in marital status/cohabitation, etc. of any current employee, will result in the applicability of this policy. Furthermore, those employees are subject to any and all employment-related actions by the City, which are permissible pursuant to existing City policies and procedures to address conduct which is negatively impacting the work environment.

SEC. 26004 NEPOTISM

It is an express finding of the City that the situation specified in this Section, the employment of relatives as that term is defined herein, is contrary to appropriate City goals of safety and efficiency. The purpose of this section is to define those specific circumstances and to delineate the manner in which such employment issues will be addressed.

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

An employee is defined as any person who receives a City payroll check for services, full or part time, rendered to the City.

Relatives of employees shall not be employed in the same department of such a relative at any time by the City as further proscribed below.

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

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

- A supervisor-subordinate relationship
- The employees having job duties, which authorize performance of shared duties on the same or related work assignment
- Both employees being under the jurisdiction of the same immediate supervisor
- An adverse impact on supervision, safety, security and/or morale

SEC. 26005 EFFECT OF POST-EMPLOYMENT MARRIAGE OR CREATION OF OTHER "RELATIVE" STATUS OF CITY EMPLOYEES

A. Principles.

In determining rules and regulations governing the employment of City employees who become related, as defined herein, after commencement of City employment, the City is guided by the principles enunciated in the California Fair Employment and Housing Act, which prohibits discrimination on the grounds of marital status. However, the Act and the Regulations authorize restrictions upon married City employees (or upon people deemed related as a result of marriage [i.e., in-laws]) for business reasons of supervision, safety, security or morale.

The City may refuse to place one spouse or other relative under the direct supervision of another spouse or other relative, and may refuse to place both spouses or other relatives in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples or other relatives than for other persons. (2 Cal.Admin. Code, Section 7292.5; Government Code Section 12940(a)(3)).

B. Definitions.

With the above principles being recognized, the City determines that "marital status" is defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for purpose of this policy.

Further, a "spouse" is defined as a partner in marriage.

C. Restrictions.

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

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

D. Required Action.

In order to implement these policies, and where the above circumstances exist and mandate that two spouses or other relatives shall not work in a prohibited relationship, the Human Resources Department will attempt to do any of the following:

1. Attempt to redefine the job responsibilities of the related employees within the Department to minimize the conflict;
2. If the redefinition of job status is not feasible, will attempt to transfer one spouse or other relative to a similar classified position in another City department; or
 - a. Although the wishes of the involved parties as to which spouse or other relative is to be transferred will be given consideration by the City, the controlling factor in determining who is to be transferred shall be operation an efficient of the City.
 - b. If any such transfer results in a reduction in salary or compensation, the transfer shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.
3. In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which a spouse or other relative can be transferred, the City may request the voluntary resignation of one of the employees.

If one of the employees does not voluntarily resign, the employee with the least employment experience/service with the City may be discharged by the City Manager.

4. Married or other related employees may continue to be employed within the same City department subject to approval by the Department Director and the City Manager or his/her designee. However, any such continuing employment is predicated upon both spouses or other similarly situated relative as defined in this Policy not reporting to the same immediate supervisor, not being supervised by each other, not working the same shift at the same work site; or, otherwise becoming involved at a work environment having the potential for adverse impact on supervision, safety, security or morale.

It is the duty of all involved employees that are in a situation prohibited under this policy to immediately notify their supervisor either in person or through the chain of command that a situation exists in which the involved employee may be in violation of this policy. The City reserves the right to reasonably investigate the situation and determine whether the employee has violated this policy.