

CITY OF SELMA

PERSONNEL RULES AND REGULATIONS



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CITY OF SELMA

PERSONNEL RULES

1. PURPOSE

In order to establish a uniform procedure for dealing with personnel matters, the personnel system set forth in these Rules and Regulations (hereinafter “Rules”) is hereby adopted. These Rules supersede any prior rules and regulations and may be changed only upon approval of the City Council.

Where an applicable memorandum of understanding between the City of Selma (hereinafter “City”) and a recognized employee organization contains provisions that are inconsistent with any of these Rules, the language contained in the Memorandum of Understanding shall govern.

The City Council authorizes the City Manager to implement administrative policies that shall be supplemental to these Rules.

Each employee shall be given a copy of these Rules and is responsible for reading and complying with these Rules.

These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by resolution of the City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as required by law.

In the event of an emergency, any part or all of these Rules may be suspended by order of the City Manager and such suspension shall remain in effect until the City Manager’s order is withdrawn.

1.1 Personnel Policy

In accepting employment with the City each employee agrees to be governed by and to comply with ordinances, these Rules, the Administrative Policy and Procedures Manual, the rules, regulations and directives of the department in which employed, and the memorandum of understanding in effect between the City and the appropriate employee organization.

1.2 Equal Employment Opportunity

It is the policy of the City of Selma to provide equal opportunity in employment for all persons to prohibit discrimination in employment. This policy of equal employment opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of employees to the extent permitted by law.

1.2.1 This Equal Employment Opportunity policy applies to all applicants, officers, volunteers, and employees without exception.

1.2.2 The City shall not discriminate against qualified employees or applicants for employment on the basis of actual or perceived race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. The City shall afford equal employment opportunity to all qualified applicants or employees with respect to

compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

- 1.2.3 Employees who believe they have experienced denial of equal employment opportunity or discrimination are encouraged to report this experience immediately to their supervisor or the Human Resources Director/Manager. The City shall promptly investigate the report under the Discrimination Complaints Procedure.

1.3 **Powers of the City Manager**

- 1.3.1 The City Manager is designated as the Personnel Officer within these guidelines. Whenever the term "Personnel Officer" is used in these Rules, it shall include the City Manager or any person designated by him/her to carry out any function required by these Rules. When any officer or employee other than the City Manager is assigned a duty or responsibility under these Rules, such assignment is subject to the direction and control of the City Manager and the City Manager shall have the right to perform such duty or responsibility or to assign it to any other officer or employee.
- 1.3.2 Subject to Chapter 2 of the City of Selma Municipal Code, the City Manager has the power and authority to:
 - 1.3.2.1 Establish, when not in conflict with these Rules, such other policies, procedures, rules and regulations necessary for the control and supervision of the affairs of the City;
 - 1.3.2.2 Appoint and remove all Department Heads, officers and employees of the City, except those officers appointed by the Council;
 - 1.3.2.3 Approve all proposed appointments and removals of subordinate employees by all officers and Department Heads;
 - 1.3.2.4 Transfer, promote, demote, reemploy, reinstate, discipline, layoff, reduce in salary, suspend, or dismiss City employees, except for those officers appointed by the City Council.
- 1.3.3. The Personnel Officer shall interpret, apply, administer and enforce the provisions of these Rules, any ordinances or resolutions relating to personnel matters, the employer-employee relations resolution, the memoranda of understanding, and any other pertinent regulations, directives and policies which relate to the City's personnel system.
- 1.3.4 The Personnel Officer may delegate to the Human Resources Director/Manager any of the powers and duties conferred upon him/her under these or other City rules, regulations, resolutions or ordinances. The Human Resources Director/Manager, or his/her designee, shall be responsible for administration of these Personnel Rules.

1.4 **Department Rules and Regulations**

Department Heads may develop, implement and revise as necessary any departmental policies, procedures, rules and regulations pertaining to unique operational requirements and their effect upon departmental personnel as are needed for the full performance of duties and responsibilities and which are not contrary to these Rules.

1.5 **Application of Personnel Rules**

The provisions of these Rules shall apply to all offices, positions and employees in the Competitive Service of the City, except the following positions and except as otherwise indicated within a specific provision of these Rules:

- 1.5.1 Elected officials;
- 1.5.2 Members of appointed boards, commissions and committees;
- 1.5.3 Persons engaged under contract to render professional, scientific, technical or expert services for a definite period of time;
- 1.5.4 Volunteer personnel who receive no regular compensation from the City;
- 1.5.5 Where a particular rule or article expressly states it does not apply to certain employees and/or positions, or applies only to certain employees and/or positions.

1.6 **Adoption of Personnel Rules**

The Personnel Rules shall be established by resolution adopted by the City Council.

1.7 **Amendment and Revision of Personnel Rules**

Proposed amendments to/or revisions of the Personnel Rules shall be submitted for approval to the City Council in writing by the City Manager.

1.8 **Conflict of Personnel Rules**

In the event that one or more provisions of these Rules contradict provisions included in memorandum of understanding currently in effect between the City and a formally recognized employee organization, the terms of the memorandum of understanding shall prevail. If there is a conflict between these Rules and a federal or state law, that law prevails. If there is a conflict between these Rules and an administrative regulation, these Rules prevail.

1.9 **Rights of Management**

The adoption of these Rules shall not be deemed a waiver or surrender of any management prerogative in relation to the organization or the necessity of any department or position.

1.10 **Violation of Personnel Rules**

Each employee is responsible to comply with these Rules and any amendments hereto. Violation of the provisions of these Rules shall be grounds for disciplinary action, up to and including dismissal. See Section 7 regarding Disciplinary Action.

2. DEFINITION OF TERMS

All words and terms used in these Rules and in any other resolution, ordinance, or administrative procedures dealing with personnel policies or procedures shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, however, the words and terms most commonly used are defined as follows:

2.1 **Actual hours worked**

All hours in which the employee actually performed work and does not include any paid or unpaid leave time, including but not limited to vacation and sick leave.

2.2 **Advancement**

A salary increase of one or more steps within the limits of the pay range established

for a class.

2.3 **Allocation**

The official assignment of an individual position to its appropriate class in accordance with the duties performed and the authority and responsibilities exercised.

2.4 **Applicant**

Any person who has made application for a position.

2.5 **Appointment**

Employment of a person in a position

2.6 **At Will Status**

The status of an employee who serves at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without cause. An “at will” employee has no right of appeal of discipline or termination.

2.7 **Base Salary**

The salary range and step established in the Compensation Plan, exclusive of any overtime, shift-differential, incentive or other excludable pay an employee may receive.

2.8 **Candidate**

Any person who has been accepted for participation in an examination.

2.9 **Certification**

The submittal to a Department Head of a listing of eligible candidates from an appropriate employment list, or names of those on a reinstatement or re-employment list.

2.10 **Certified Employee Organization**

An employee organization that has been certified by the City of Selma as representing the majority of the eligible employees in an appropriately designated employee representation unit and shall be considered to represent all the employees of that unit.

2.11 **Class or Classification**

A group of positions sufficiently and substantially similar in duties, authority, responsibilities, and minimum qualifications for employment to permit combining them under a single title and the application of common standards of selection and compensation.

2.12 **Class Series**

Two or more classification levels which have similar duties and responsibilities, but are distinguished from each other by degree of difficulty or level of responsibility.

2.13 **Classification Plan**

The designation by resolution of the City Council of a title for each classification together with the specifications for each classification as prepared and maintained by the Human Resources Director/Manager.

2.14 **Compensation**

The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to any employee because of said service in any position, but does not include any allowances authorized and incurred as incidents to employment.

2.15 **Compensatory time off**

Paid time off from work in lieu of overtime pay.

2.16 **Competitive Service**

All positions in the City service, except for the following positions, which are within the non-Competitive Service: Elective Offices, the City Manager, Deputy City Manager, City Attorney, and all Heads of Departments.

2.17 **Competitive Examination**

One or more selection procedures used to assess the relative qualifications of a group of applicants or candidates.

2.18 **Continuous Examination**

A competitive examination or a particular class which is designed to be either open or promotional, or both; and the examination consists of the same or comparable tests of fitness which may be administered periodically; and as a result of which names of eligible candidates may be added to an existing employment list for the duration of such list.

2.19 **Continuous Service**

Employment without interruption, and includes approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.

2.20 **Days**

Calendar days unless otherwise noted.

2.21 **Demotion**

The voluntary or involuntary movement of an employee from one class to another class having a lower maximum rate of pay.

2.22 **Department**

An organizational unit with responsibility for carrying out a function under the supervision of a Department Head.

2.23 **Department Head**

The head of an established office or department having supervision of such department and office.

2.24 **Dismissal**

The involuntary separation of an employee from the City service.

2.25 **Domestic Partner**

“Domestic partner” as defined in California Family Code Section 297.

2.26 **Elective Office**

All positions in the Exempt Service held by elected officials.

2.27 **Eligible Candidate**

A person who has earned a place on an employment list established by competitive examination.

2.28 **Employment Date**

For retirement, sick leave and other benefit purposes, the effective date of an employee's initial appointment to a full-time or permanent part-time position within the Competitive Service.

2.29 **Employment List**

A list of names of persons who may be considered for employment with the City under specific conditions. Such lists may be designated as either a re-employment, reinstatement, promotion, or open employment list.

2.30 **Employment Status**

The type of an employee's appointment, such as regular, probationary, or limited service.

2.31 **Examination**

The selection procedures used to measure the knowledge, skills and abilities of the persons applying for positions within the Competitive Service.

2.32 **Executive Management**

The group of employees comprised of the City Manager, Deputy City Manager and all Department Heads.

2.33 **FLSA**

The Fair Labor Standards Act.

2.34 **FLSA Exempt**

All employees who meet one or more of the duties test exemptions from overtime under the FLSA (e.g. executive, administrative, professional) and who are paid on a salary basis. FLSA exempt employees are not eligible for overtime compensation.

2.35 **FLSA Non-Exempt**

Employees who are eligible for FLSA overtime compensation.

2.36 **Grievance**

Defined in Section 13 of these Rules.

2.37 **Incumbent**

A person legally occupying a position in the City Service.

2.38 **Layoff**

The termination of an employee from City service for reasons of economy, efficiency, reorganization or other non-disciplinary reason.

2.39 **Limited Service**

Those types of positions which do not provide full-time employment throughout a fiscal year. The kinds of positions assigned to the Limited Service include temporary, part-time, student, and seasonal positions. Appointment to such positions are noncompetitive and incumbents do not acquire status in the class to which assigned by virtue of such employment. Limited service positions are "at

will” and may be terminated with or without cause and without right of appeal.

2.40 **Limited Term Position**

A position in the competitive or non-Competitive Service which is created for a limited term or for projects funded entirely.

2.41 **Open Examination**

A competitive examination for a particular class in which applications are invited from all qualified persons, regardless of whether or not they are employed by the City.

2.42 **Overtime Work**

All actual hours worked by a non-exempt employee in excess of forty (40) hours in the employee’s designated workweek, except as otherwise designated by an applicable MOU, as otherwise designated for employees on an approved flexible work schedule, or as designated under the FLSA.

2.43 **Part-Time Position**

A type of limited service position to which a person is employed in a regularly budgeted position who works less than full-time.

2.44 **Pay Range**

A series of base salary steps to which a class may be assigned.

2.45 **Permanent Appointment or Permanent Status**

The type of status granted an employee who has successfully completed an official probationary period for a particular class and in a regular position in the Competitive Service.

2.46 **Position**

A combination of duties and responsibilities assigned to a single employee and performed on either a full-time or a part-time basis. A position may be occupied or vacant.

2.47 **Probationary Appointment**

The initial appointment of an employee into a position that begins a probationary period.

2.48 **Probationary Period**

The final stage of the recruitment, examination and selection process where a new or promoted employee is required to demonstrate satisfactory or better performance of the position’s duties. During this period, the employee may be dismissed at any time without cause and without right of appeal or hearing.

2.49 **Promotional Appointment**

The advancement of an employee from a position in one classification to a position in another classification having a higher maximum salary range.

2.50 **Promotional Examination**

A competitive examination of a particular class, which is only available to current employees who meet the qualifications for the class or are otherwise permitted to take such an examination.

2.51 **Provisional Appointment**

Appointment of a person possessing the minimum qualifications last established for a particular class other than eligibility by examination and who has been appointed to a position in that class in the absence of available eligible candidates.

2.52 **Provisional Employee**

An employee appointed to fill a position vacancy for a limited time period when no valid eligibility list exists for that position. Provisional employees are “at will,” and their appointment may be terminated at any time with or without cause and without right of appeal.

2.53 **Qualifying Family Member**

Qualifying family members are spouse, registered domestic partner, child, stepchild, parent, sibling, grandparent, grandchild, or parent-in-law.

2.54 **Reclassification**

The permanent reassignment of a position to another classification due to the material change of the job duties of a position.

2.55 **Recognized Employee Organization**

An employee organization that has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit.

2.56 **Re-employment**

The reappointment of a former employee (from a layoff re-employment list) who had a permanent appointment with the City at the time of layoff.

2.57 **Regular Employee**

The employment of a person in an authorized full-time position following successful completion of a probationary period in an authorized full-time position in the Competitive Service.

2.58 **Regular Position**

A full-time position in the Competitive Service which is established without any limitation as to time.

2.59 **Rehire**

The reappointment of a former employee who does not have re-employment or reinstatement rights at the time of returning to the payroll.

2.60 **Reinstatement**

The probationary appointment of an employee after the employee who resigned in good standing from a permanent regular position or the return of an employee from a non-disciplinary demotion to a position which the employee held not more than one year previously. In either case, reinstatement must occur not more than one (1) year from the date of separation. Such reinstatement may be done so without further competitive examination.

2.61 **Resignation**

The voluntary separation of an employee from City employment.

2.62 **Safety Sensitive**

A position or duty of a position that the City has designated as “safety sensitive” for purposes of implementing its Drug and Alcohol policy.

2.63 **Salary Basis**

Compensation 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 or as otherwise set forth in the FLSA.

2.64 **Salary Evaluation Date**

The date on which a probationary or regular employee’s performance is evaluated and the date upon which the employee is eligible, based on job performance for a prescribed period, for a merit salary increase within the established salary range.

2.65 **Seniority in City Service**

Seniority in City service is based on the employee’s number of continuous years in City measured from the employee’s original hire date. Seniority in classification is based on the number of continuous years of service in the present or higher classification.

2.66 **Seasonal Position**

A position of limited service status, which is recurrent and does not provide full time employment. Seasonal employees are “at will” and may be terminated at any time with or without cause and without right of appeal.

2.67 **Selection Procedure**

The process by which employment decisions are made, including but not limited to application screening, written tests, oral interviews, performance tests, background investigations, assessments of physical or mental condition, and probation periods.

2.68 **Separation**

The voluntary or involuntary termination of employment from City service. Separation may include death, dismissal, layoff, resignation, retirement, or work completion.

2.69 **Service Anniversary Date**

The original date of hire as a full-time employee for purposes of accruing benefits and determining years of service with the City.

2.70 **Step Advancement**

The merit-based increase of an employee’s salary to a higher salary level within the established salary range for the employee’s classification.

2.71 **Step Advancement Date**

The effective date of an employee’s merit-based salary increase.

2.72 **Student Position**

A type of limited service position to which an employee who is also a student pursuing a course of study may be employed part-time during an academic school year and full-time during school vacations and holidays. Employees holding such positions are “at will” and may be terminated at any time with or without cause

and without right of appeal.

2.73 **Suspension**

The temporary separation without pay of an employee from the Competitive Service for disciplinary purposes.

2.74 **Temporary Position**

A type of limited service position to which a person is appointed on a temporary basis and which is not an authorized regular position or a regular position for a limited period of time, either full-time or part time. Temporary employment that is limited to not more than 999 hours in any fiscal year. This time period includes all time spent in one or more positions.

2.75 **Termination**

Involuntary separation of an employee from City service.

2.76 **Transfer**

The reassignment of an employee from one position to another position in the same classification or another classification having the same maximum salary range, involving the performance of basically similar duties, and requiring substantially the same minimum qualifications.

2.77 **Vacancy**

A duly created position which is not occupied and for which monies have been appropriated.

2.78 **Y-Rated**

Employee's existing salary is frozen until adjustments to the employee's salary cause it to fall within a new salary range.

3. POSITION CLASSIFICATION

3.1 **Classification Plan**

The City Council, upon recommendation of the Personnel Officer, shall create and adjust classes of positions in the City service. These classes shall be known as the "Classification Plan."

3.1.2 *Implementation of the Classification Plan*

The Personnel Officer shall recommend a Classification Plan for all classifications in the Competitive Service that includes but is not limited to the following for each classification:

- The classification title;
- A description of typical duties and responsibilities;
- A statement of the desirable training, experience and other qualifications of applicants for the classification;
- Whether the classification or any of its duties are safety-sensitive.
- Whether the classification is FLSA exempt

The Personnel Officer shall ensure that all positions within the same classification are substantially similar with respect to duties, authority, decision-making, character of work, and schedules of compensation.

3.1.3 *Interpretation of Class Specifications*

The class specifications are descriptive, explanatory, and not restrictive. They are intended to indicate the kinds of positions allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar kind of level of responsibility. The specification for each class should be considered in its entirety and in relation to other classes in the Classification Plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired, and relation to other positions, as affording together a picture of the kind of employment the class is designed to embrace.

3.1.4 *Periodic Updates*

From time to time the Personnel Officer shall review the Classification Plan to ensure that it is accurate and make amendments to reclassify, add positions or classifications, or make other changes as necessary or appropriate.

3.1.5 *Adoption by City Council*

The Classification Plan shall become effective only upon adoption by resolution of the City Council. Upon adoption, the Classification Plan shall take immediate effect unless otherwise specified.

3.1.6 *Amendments*

The classification or position descriptions may be abolished or amended from time to time by City Council action when deemed in the best interest of the City service. In addition, new classification or position descriptions may be added to the City's Classification Plan. If new positions are added to the City services, such positions shall be allocated to an appropriate class by the Personnel Officer.

3.1.7 *Assignment of Classifications to Bargaining Units*

Assignment or reassignment of classifications to employee units of representation shall be at the sole discretion of the Personnel Officer and in accordance with the Employer-Employee Relations Rule.

3.2 **Positions**

In accordance with these Rules, any position may be assigned, reallocated or transferred to a different class by the Personnel Officer, in consultation with the affected Department Head, whenever there is a need of such action because of change in duties or responsibilities of the position. All positions shall be included in the same class if:

- 3.2.1 They are sufficiently similar in respect to duties and responsibilities so that the same descriptive title may be used; and
- 3.2.2 Substantially the same requirements as to education, experience, knowledge, and ability are required of incumbents; and
- 3.2.3 Substantially the same tests of capacities and fitness may be used in choosing qualified appointees; and
- 3.2.4 The same pay range or salary rate applies

3.3 **Emergency or Temporary Positions**

Whenever, in the judgment of the Personnel Officer, it is necessary for a department to employ a person or persons on an emergency or temporary basis in a type of position for which there is no classification provided in the Classification Plan, then the City Manager, in consultation with the Department Head(s), may authorize such positions and shall fix the amount of compensation, and may determine the minimum qualifications for such additional employees, and shall limit in advance the period of time the position may be allowed up to a maximum of 999 hours in a fiscal year.

3.4 **Classification Review**

Review of the classification of a position may occur in the following circumstances:

- One or more new positions are under consideration for possible establishment;
- Due to a change in organization or methods, a major change of the duties or responsibilities of an existing position is made which may require the reallocation of such position;
- A new class is created to which a position may more appropriately be allocated;
- Due to the abolishment or combination of an existing position or class, an amendment to the Classification Plan is required.

The procedure for classification review is as follows:

- 3.4.1 The Department Head shall report the significant facts relating to such possible changes in writing to the Personnel Officer.
- 3.4.2 The Personnel Officer, upon written request of an employee and his/her department head, may undertake an inquiry of the classification of any position.
- 3.4.3 Upon either of the above initiations, the Personnel Officer shall make a study of the assigned duties and responsibilities of any such position and the qualifications required, and of the relationships of such positions to other classes of positions in the Classification Plan.
- 3.4.4 Based on such investigation, the Personnel Officer shall then make a change in the allocation of the position; or reallocate the position to a more appropriate class in the existing Classification Plan; or determine a new class to which the position would be allocated, whichever the Personnel Officer deems is the appropriate action. Whenever a position is reclassified or reallocated, the existing position is to be deleted and a new position created in the class to which the position is to be assigned.

4. COMPENSATION PLAN

4.1 **Compensation Plan Establishment**

The City of Selma is committed to maintaining fiscal integrity and high standards of accountability to the public in the expenditure of funds provided by taxpayers. The City establishes its compensation system in accordance with the principles of public accountability.

The Personnel Officer shall prepare a Compensation Plan that includes the following:

- a. The salary ranges for all classifications in the Competitive Service,

- showing the minimum and maximum rates of pay;
- b. A designation of the position as full-time, part time or temporary;
- c. A designation of the position as paid on an hourly or salary basis.

These rules do not preclude the creation of separate management pay plans that, if adopted by the Council, must be administered in accordance with the procedures adopted for such plan(s) by the City Council.

On a periodic basis, the Personnel Officer may survey benchmark classifications. Survey results shall be considered as one of the pieces of information used as a guideline in establishing or modifying compensation for a particular position or classification.

The Personnel Officer shall also determine whether any modifications are necessary due to recruitment and retention issues, changes to positions or classifications, including changes to exempt or non-exempt status, resulting from his/her periodic review of the Classification Plan.

The City Manager shall submit any modifications to the Compensation Plan to the City Council for adoption.

4.2 **Compensation Plan Administration**

The authorized pay ranges for the respective classes of positions with such amendments as may be adopted by the City Council from time to time by resolution shall be applied as follows:

4.2.1 *Increases Within the Pay Range*

Normally, and as a general rule, upon progress and productivity, employees in the Competitive Service or those occupying an Appointive position shall be considered for a step advancement according to the following general plan:

4.2.1.1 *Steps.* The letters A, B, C, D, E, F, etc. respectively, denote the various salary steps in the pay range.

4.2.1.2 *Step A.* Step “A” shall typically be paid upon initial employment into a six (6) step pay range. If the employee possesses exceptional training or experience, that employee may start at a step B with the approval of the Department Head. Appointments at any step greater than B require prior authorization from the City Manager.

4.2.1.3 *Step Advances.* An employee shall be considered for salary advancement normally, as a general rule, according to the following general plan:

4.2.1.3.1 The letters A, B, C, D, E and F respectively, denote the various steps in the pay range.

4.2.1.3.2 Salary Step A shall be paid upon initial employment and for a period of twelve (12) months.

4.2.1.3.2.1 The supervisor may recommend an advancement to Salary Step B during the six-month evaluation based on completion of six (6) months of employment where the employee has demonstrated exceptional job progress

and steadily increasing productivity. Exceptional will be defined as “exceeds expectation”, “excellent”, or similar rating.

- 4.2.1.3.3 Salary Step B will be paid upon completion of one year of employment in Salary Range A where the employee has demonstrated satisfactory job progress and normally increasing productivity.
 - 4.2.1.3.3.1 If an employee advanced to Salary Range B at six months of employment, the employee will be eligible to advance to Salary Range C after eighteen (18) months of employment.
- 4.2.1.3.4 Salary Step C will be paid upon completion of one year of employment in Salary Range B where the employee has demonstrated satisfactory job progress and productivity to the satisfaction of his/her supervisors.
- 4.2.1.3.5 Salary Step D will be based upon completion of one year of employment in Salary Step C where the employee has demonstrated job progress and productivity to the satisfaction of his/her supervisors.
- 4.2.1.3.6 Salary Step E will be based upon completion of one year of employment in Salary Step D where the employee has demonstrated job progress and productivity to the satisfaction of his/her supervisors.
- 4.2.1.3.7 Salary Step F will be based upon completion of one year of employment in Salary Step E where the employee has demonstrated job progress and productivity, which are above the average expected for the class and upon approval of the City Manager.
- 4.2.1.3.8 If employed at other than Step “A” in a six (6) step pay range for the class, then consideration for advancement to the next salary step will take one year following the date of hire.

All step advances shall be effective the first day of the pay period closest to the step advance date. Additional step advances will be on an annual basis thereafter until the attainment of Step F.

All step advances shall be based on satisfactory performance as shown from the evaluation by the employee’s Supervisor. Denial of step increases shall be based on documented performance evaluations.

Increases of more than one step for superior performance may be provided upon recommendation by the Department Head and approval of the City Manager.

- 4.2.1.4 *Step at Promotion.* When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step results in a salary increase of less

than 5 percent (5%), they shall receive a minimum 5 percent (5%) increase, provided that in no event shall the new salary be above Step F of the promoted class. The City Manager may authorize an appointment to a position at any higher salary step in the pay range in consultation with the Department Head.

4.2.1.5 *Special Salary Adjustments.* Notwithstanding anything in these Rules to the contrary, in order to correct gross inequities or to reward outstanding achievement and performance, the City Manager may, upon recommendation of the Department Head, adjust the salary step of an incumbent of a particular position to any step within the pay range for the class to which the position is allocated. If a special salary step adjustment is authorized, it shall coincide with the beginning date of a pay period.

4.2.1.6 *Calculation of Service Anniversary Dates and/or Step Advancement Dates.* Service Anniversary dates shall be established as of the effective date of employment into a regular full time position. Step Advancement Dates shall be established as of the effective date of the most recent step advancement, promotion, or reinstatement in the City service, or the effective date of a special salary adjustment as provided in Section 4.2.1.5 of these Rules. Service anniversary dates of those reemployed shall be established as provided by Section 8.2.2 of these Rules. All step advancements shall be effective the first day of the pay period closest to the step advance date.

4.2.1.7 *Applicable Salary Rates Following Pay Range Increases and Decreases.*

4.2.1.7.1 *Same Relative Step.* Where a pay range for a given class is revised upward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same relative step in the new pay range (Step B to Step B, Step C to Step C, etc.) and their next step advancement date shall not be changed.

4.2.1.7.2 *Retention of Salary and "Y" Rates.* When a pay range is adjusted downward, incumbents may, on approval of the City Manager, be assigned a "Y"-rate designation to hold the employee at the current salary rate, without increases, until such time as the salary range for the new classification is the same or exceeds the amount of the "Y"-rating. Any such "Y" rate shall be indicated by a capital "Y" following the salary each time it appears on personnel records or transactions. Said "Y" rate shall be canceled on vacancy of the position.

4.2.1.7.3 *Pay Range Change on Step Advancement Date.* In the event that a pay range change becomes effective on an employee's step advancement date, the employee shall first receive any within-range adjustment to which entitled and then receive the corresponding step adjustment.

4.2.1.7.4 *Pay Range Change on Date of Promotion.* In the event that a pay range change becomes effective on the date an employee is promoted to a higher class, the employee shall first receive any corresponding step adjustment to which entitled in the lower class, and then the next higher step promotional adjustment as provided in Section 8.5.1 of these Rules.

4.3 **Errors in Compensation**

Each employee shall review each of his/her paychecks to ensure the employee was paid correctly. If the employee believes an error or irregularity has occurred, the employee must immediately call it to the attention of his/her supervisor who shall in turn notify the Personnel Officer. The City shall document all errors in compensation and the affected employees shall sign an acknowledgement for any corrections made.

In the event of any underpayment of which the City becomes aware, the employee shall receive any amount due him/her on a future paycheck.

In the event an employee receives an overpayment by the City, the employee shall reimburse the City for the total overpayment and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred; otherwise, a reasonable alternative payback period can be established if the typical schedule presents an undue burden on the employee.

5. EMPLOYMENT

It is the policy of the City of Selma to recruit and select the most qualified individuals for positions in the City's service. Employment is open to qualified men and women regardless of citizenship, except that sworn personnel must comply with the provisions of Government Code Section 1031.5.

5.1 **Residence Requirements**

Employees shall not be required, as a condition of employment, to live within the Selma city limits.

5.2 **Age**

The maximum age limit for all employees shall be that set forth by the California Public Employees' Retirement System. A minimum age of 18 years shall apply to Fire Fighter classifications. A minimum age of 21 years shall apply for sworn police classifications.

5.3 **Recruitment**

Recruitment for qualified applicants will be conducted as necessary in order to ensure that the city will have available applications of interested qualified persons for possible employment. The notices of employment shall be publicized by posting announcements on all official bulletin boards, advertisements in newspapers and magazines, or given to reputable agencies offering the services which will bring response from qualified persons, and by such other methods as the Human Resources Office deems available. Special recruiting shall be conducted, if necessary, to ensure that all segments of the community are aware of the available employment opportunities. The City, however, shall not pay any fee

or service charge for any applicant who is referred to it by an employment agency. Job announcements shall be prepared and specify a title and pay of the class for which the city is recruiting, the nature of the work to be performed, preparation desirable for the performance of the work of the class, the manner of making application, and other pertinent information.

5.4 **Application**

All candidates for employment shall file an application on official city application forms. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references, and fingerprinting. All applications must be electronically signed by the person applying.

5.5 **Selection Process**

The technique used in the selection process shall be impartial and will relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capabilities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examination shall consist of selection techniques which test fairly those qualifications of candidates such as, but not necessarily limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, successful completion of prescribed training, or any combination of these or other tests. Each candidate in an examination shall be given written notice of the results thereof, and, if successful, his or her name will appear in final score order on the eligibility list. Selection for appointment shall be made by the appointing department head, with the concurrence of the City Manager, from the eligibility list. An eligibility list shall remain in effect until exhausted or six months, unless extended for a maximum of one year by the Personnel Officer. The appointment shall become effective when a selected applicant commences work.

5.6 **Ineligibility or Disqualification**

The Personnel Officer may reject any application or may withdraw any one from consideration whose appointment will be contrary to the best interests of the city. Reasons for disqualification may include, but shall not be limited to, the following deficiencies:

- a. Does not possess the minimum qualifications required by the position.
- b. Physical or mental disability such as to render the applicant unfit to perform the duties of the position to which appointment is sought.
- c. Addiction to the habitual excessive use of drugs or intoxicating liquor.
- d. The applicant has been convicted of a crime that may have an adverse impact on the applicant's ability to perform the job for which the applicant is applying;
- e. Request by an applicant that his/her name be withdrawn from consideration.
- f. Intentional deception or fraud in making the application.
- g. Failure to reply within a reasonable time, as specified by the Human Resources Office, to communications regarding availability of employment.
- h. Disqualification of unsuitability for employment as specified in any city or

pertinent departmental rules and regulations.

Whenever an application is rejected, notice of such rejection, with a statement of reasons shall be sent to the applicant by the Human Resources Office. Defective applications may be returned to the applicant with notice to amend the same.

5.7 **Categories of Appointment**

Employment in a municipal service is divided into the following categories:

- a. **Probationary Employee:** A newly hired employee during the initial period of employment. All newly hired City employee are on a probationary status which, unless provided otherwise in a bargaining
- b. **Regular Full-Time Employee:** An employee who has successfully completed the initial probationary period, is assigned to a position which is expected to continue for an indefinite duration, and works a shift schedule which totals no less than 2080 hours per year.
- c. **Part-Time Employee:** An employee who is regularly scheduled to work in a single position less than 40 hours per week. All Part-time Employee of the City are At-Will Employees.
- d. **Temporary Employee:** Volunteers and individuals employed through a contracted temporary employment agency with City of Selma placement shall be not entitled to any City of Selma benefits.

5.8 **Reappointment**

With the approval of the Personnel Officer, a regular employee or probationary employee who has completed at least six months of probationary service and who has resigned with a good record may be reinstated within one year of the effective date of resignation to a vacant position in the same or comparable class. Upon reappointment, the employee shall be subject to the probationary period prescribed for that class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on a specific recommendation of the Personnel Officer at time of reappointment.

5.9 **Continued Employment**

The continuation of employment of any employee of the City of Selma is entirely dependent upon satisfactory work performance of the employee and the necessity for the performance of the work and availability of funds.

5.10 **Employee Performance Reports**

A performance report of each regular employee shall be conducted at minimum of six months of employment, at the end of the employee's probationary period and annually thereafter. Additional performance reports may be conducted at the discretion of a direct superior with approval of the department head. The report shall be recorded on a "City of Selma Performance Evaluation" form by the department head or supervisor and forwarded to the Human Resources Office. A Performance Report must accompany any and all recommendations for merit increases.

5.11 **Transfer**

Employees may request a transfer from one department to another within municipal service. However, the employee to be transferred must meet the minimum requirements established for his/her new classification. Employees

requesting transfer shall notify the Human Resources Office of such request. The employee's name shall be placed on a transfer list in the requested classification by date and time of request. Transfers will only be approved when a vacancy exists for a budgeted position within the department to which the employee wishes to transfer to.

5.12 **Promotion**

It is the expressed policy of the City of Selma to encourage the advancement of personnel within the organization; promotional examinations for vacancies will be conducted, as the needs of the city require. Promotional opportunities (available to City employees) will be posted on official bulletin boards selected by the Human Resources Office for a period of no less than five (5) days.

5.13 **Demotion**

An employee may be demoted when his/her performance of required duties falls below standards; for reasons set forth in Section 7; when the need for a position no longer exists; or when the employee requests such demotion. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications. Written notice of a demotion for disciplinary reasons shall be given as provided in Section 7.4

5.14 **Suspension**

An employee may be suspended at any time for reasons set forth in Section 7, or for other just cause. Written notification of suspension shall be given as provided in Section 7.4.

5.15 **Salary Reduction**

An employee may have his/her salary reduced when his/her performance falls below standards, or for reasons set forth in Section 7. The reduced salary may be any step of the employee's current salary range.

5.16 **Reinstatement**

The City Manager may reinstate any suspended employee for good cause and, upon such reinstatement, compensate, in all or in part, such employee for lost time as deemed appropriate by the City Manager.

6. OUTSIDE EMPLOYMENT AND USE OF CITY PROPERTY

6.1 **Prohibited Activity**

Full-time employees are expected to devote full time to assigned duties as a City employee. An employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with City job duties, functions or responsibilities, nor shall an employee engage in any outside activity which will directly or indirectly contribute to the lessening of effectiveness as a City employee. No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly provided in these Employer-Employee Relations Rules, Memorandum of Understanding, or by law.

6.2 **Outside Employment**

Employees may not engage in any employment or activities that create a conflict of interest, is unethical, or otherwise interferes with their City employment.

A City employee shall not perform any work, service, or consultation for compensation outside of City employment where any part of his/her efforts will be subject to approval by any officer, employee, board, or commission of the City of Selma, unless approved in the manner prescribed by these Rules.

Employees occupying competitive services positions, who hold or wish to hold jobs outside their normal City employment must make a request to engage in outside employment and submit the request to the Personnel Officer or his/her designee. Department Heads who wish to engage in outside employment shall submit such requests to the Personnel Officer. Outside employment shall not be permitted if it conflicts in any manner with the employee's duties and responsibilities with the City or is prohibited by law.

In making a determination as to whether an activity creates a conflict or ethical question, the Personnel Officer shall consider, among other pertinent factors, whether the activity involves:

- a. Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act that the employee would be required or expected to render in the regular course of City employment;
- b. The performance of an act or work which may later be directly or indirectly subject to the control, inspection, review, audit or enforcement by such employee or other City employees;
- c. Conditions or factors which might, directly or indirectly, lessen the efficiency of the employee in regular City employment or conditions in which there is a substantial danger of injury or illness to the employee;
- d. The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager;
- e. The solicitation of future employment with a business or individual doing business with the City over which the employee has some control or influence in the course of performing official duties.

6.3 **Authorization of Outside Employment**

Notice of authorization of outside employment shall be in writing to the employee involved, with a copy placed in the employee's personnel file. Denial of authorization of outside employment determination may be subject to the Grievance Procedure as set forth in Section 9 of these Rules.

6.4 **Violations and Penalties**

Any violation of these provisions regarding outside employment shall constitute grounds for disciplinary action up to and including termination.

7. DISCIPLINARY ACTION

7.1 **Authority to Discipline**

Employees who hold non-probationary appointments, and are not at will, shall not

be disciplined without good cause. At-will and probationary employees are subject to dismissal without cause. For purposes of this section, disciplinary action shall be defined to include one or more of the following: oral reprimands, written reprimands, suspensions, demotions, reductions in pay and dismissal. Oral reprimands may be initiated at the supervisor/division manager level. Disciplinary action more serious than a written reprimand must be initiated at the Department Head level in consultation with the Personnel Officer. The Personnel Officer shall be notified of any contemplated disciplinary action prior to the time it is taken. If in emergency situations or other instances when prior notification is not practicable, the Personnel Officer may be notified as soon as possible subsequent to the time the action is taken.

7.2 **Grounds for Disciplinary Action**

Good cause for disciplinary action exists not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform his or her duties, causes other employees not to be able to perform their duties, or involves any improper use of the employee's position for personal advantage or the advantage of others. Good cause may include non-disciplinary reasons such as, the employee's unwillingness or inability, due to mental or physical disability, to perform the duties of the position for an indefinite period. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- 7.2.1 Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;
- 7.2.2 Breaches of confidentiality, applicable to confidential employees;
- 7.2.3 Failure to comply with the established chain of command or with established protocol, as determined by the City Manager, as it relates to communications with City Council members or other elected officials
- 7.2.4 Furnishing knowingly false information in the course of the employee's duties and responsibilities;
- 7.2.5 Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- 7.2.6 Violation of safety rules;
- 7.2.7 Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, ordinances or resolutions;
- 7.2.8 Inattention to duty;
- 7.2.9 Tardiness or overstaying lunch periods;
- 7.2.10 Being under the influence of an intoxicating beverage or non-prescription drug or prescription drugs not authorized by the employee's physician, while on duty or on City property;
- 7.2.11 Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
- 7.2.12 Any violation of the City's Discrimination or Harassment Policies;

- 7.2.13 Unauthorized soliciting on City property;
- 7.2.14 Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- 7.2.15 Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to perform his/her job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of nolo contendere);
- 7.2.16 Discourteous or offensive treatment of the public or other employees;
- 7.2.17 Falsifying any City document or record;
- 7.2.18 Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;
- 7.2.19 Fighting, assault and/or battery;
- 7.2.20 Working overtime without authorization;
- 7.2.21 Theft or sabotage of City property;
- 7.2.22 Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
- 7.2.23 Accepting bribes or kickbacks;
- 7.2.24 Gambling on the job;
- 7.2.25 Engaging in outside employment which conflicts with an employee's responsibilities;
- 7.2.26 Intimidation or interference with the rights of any employee;
- 7.2.27 Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
- 7.2.28 Abusive or intemperate language toward or in the presence of others in the work place;
- 7.2.29 Failure to obtain and/or maintain minimum qualifications for a position, including licenses or certificates;
- 7.2.30 Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

7.3 **Types of Discipline**

Any authorized supervisory employee may propose disciplinary action for cause against an employee under their supervision in accordance with the procedures outlined in these Rules. In general, the City shall adhere to the principles of progressive discipline.

- 7.3.1 *Oral Reprimand* - Verbally notifies the employee that his/her performance or behavior must be improved. Supervisors generally give oral warnings when counseling has failed to produce the desired changes. The warning

defines the areas in which improvement is required, sets up goals leading to this improvement, and informs the employee that failure to improve will result in more serious action. Although the supervisor makes a note of the content of the warning or sends a confirming memo to the employee, no record is placed in the employee's permanent personnel file unless subsequent action is necessary. Oral reprimands are not subject to the disciplinary appeal procedure set forth in these Rules (except as provided by law for police officers and firefighters).

- 7.3.2 *Written Reprimand* - Official notification to the employee that there is cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if said cause is not corrected. Written reprimands should be given in consultation with the Personnel Officer. Written reprimands shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any hearing. Written reprimands are not subject to the disciplinary appeal procedure set forth in these Rules (except as provided by law for police officers and firefighters).
- 7.3.3 *Performance Improvement Plan* – Official document that aims to help employees who are not meeting job performance goals by covering specific areas of performance, identifies skills or training gaps and sets clear expectations for future conduct.
- 7.3.4 *Suspension without pay* - Shall be a temporary separation from City service. Certain suspensions are subject to the disciplinary appeal procedure set forth in these Rules.
- 7.3.5 *Reduction in Step within range as a disciplinary measure* - Is the withdrawal of step advancements granted for merit, efficiency, and length of service. Reduction in pay shall become effective on the effective date of the disciplinary action. Reduction may be made on permanent or temporary basis. Certain reductions of pay are subject to the disciplinary appeal procedure set forth in these Rules.
- 7.3.6 *Demotion without consent* - Shall be a reduction in classification to a classification having a lower maximum salary with reduction in salary as provided in Section 8.2 of these Rules. Demotion without consent may be made to the classification having the lowest maximum salary in the classification series or a classification series comparable to that within which the employee's position is located. Demotion may be made on a permanent or temporary basis. Demotions are subject to the disciplinary appeal procedure set forth in these Rules.
- 7.3.7 *Dismissal* - The termination of an employee from the City service. Dismissals are subject to the disciplinary appeal procedure set forth in these Rules.

7.4 **Procedures for Disciplinary Action**

In the absence of a process in a Memoranda of Understanding, the following provisions shall govern employees:

Written Notice/Pre-Discipline Meeting/Final Action

The City shall issue a written Notice of Discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which

the discipline is based. The City shall provide the employee an opportunity to respond to the disciplinary action, either orally or in writing, within 10 calendar days of such written notice of discipline. If the employee chooses to respond orally, the Personnel Officer shall designate a City official who shall convene a meeting to hear the employee's response. If the employee chooses to respond in writing, the written response shall be logged in the employee's personnel file. No further appeal shall be permitted. In the case of a written reprimand, the employee may respond by submitting a written rebuttal to be logged in the employee's personnel file, but no oral response or appeal is permitted.

For discipline that is greater in severity than a suspension of five (5) working days, (or the equivalent reduction in pay) the City shall issue a Notice of Intent to Impose Discipline, describing the intended discipline, the basis for the discipline and attaching any documents upon which the discipline is based. The notice shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

For discipline that is greater in severity than a suspension of five (5) working days, (or the equivalent reduction in pay) the Human Resources Director/Manager shall designate a City official who is disinterested in the matter who shall convene a meeting to review the employee's response before imposing discipline. The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not be cause for requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the City.

At some reasonable time, but no longer than thirty (30) calendar days, after the employee has been provided an opportunity to respond to the charges, the City shall issue a final notice of discipline. The notice shall notify the employee of his/her right of appeal.

8. DISCIPLINARY APPEAL PROCESS

8.1 Employee's Right to Representation During Appeal Process

At any step in the disciplinary appeal procedure, the employee concerned may choose to represent himself/herself or may be represented by that certified employee organization which has been recognized by the City for that representation unit to which the employee's classification is assigned, or by legal counsel. The employee concerned shall be personally present at all stages of the disciplinary appeal process unless that employee specifically waives the right in writing.

8.2 Appeal Process (for discipline greater than 5 days suspension or equivalent reduction in pay)

For discipline that is greater in severity than a suspension of five (5) working days (or equivalent reduction in pay), employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final.

- 8.2.1 *Hearing Officer Selection* - The appeal shall be heard by an independent hearing officer. The hearing officer shall be selected from among a list of names not to exceed ten (10) names provided by the California State Mediation and Conciliation Service, or from a similar body mutually agreed to between the parties. After a toss of a coin to decide which party shall strike first, the representative of the City and the employee (or the employee's representative) shall alternately strike one name from the list until one name remains and such person shall act as the hearing officer. This procedure shall be followed until there is an available arbitrator.
- 8.2.2 *Costs* - The costs of the hearing officer shall be borne by the City unless the employee's union has brought the appeal on the employee's behalf, in which case the City and the union will share the costs of the hearing officer equally. Either party may request that the hearing be transcribed, and the requesting party shall bear the expense of the transcript and court reporter's fees. If both parties jointly request the transcript, both parties will share equally in the expense of the transcript and court reporter's fees.
- 8.2.3 *Hearing Officer Authority* - The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and make findings of fact and conclusions about the discipline. Within forty-five days (45) of the close of the hearing, the hearing officer shall serve a recommended decision on the City Manager and the employee. The hearing officer's decision must contain detailed findings of fact relating to the disciplinary charges. The decision may include a recommendation regarding outcome, but the final decision regarding discipline rests with the City Manager. After consideration of the hearing officer's recommended decision, the City Manager shall issue a final decision in writing. The City Manager's decision may be reviewed by administrative writ of mandamus within the time frames established by California law.
- 8.2.4 *Waiver of Steps or Time Limits*. Notwithstanding any provision in this section, any time limit or stage of procedure specified in this section may be waived upon consent of all parties involved.

9. GRIEVANCE PROCEDURE FOR NON-DISCIPLINARY MATTERS

In the absence of an applicable Memorandum of Understanding, this grievance procedure shall apply. This procedure is intended to ensure that every reasonable effort will be made to resolve problems as near as possible to the point of origin.

9.1 Definition of "Grievance"

Subject to the exclusions listed in this Rule, a grievance is defined as any dispute involving the interpretation, application, or alleged violation of 1) the specific express terms of a current Memorandum of Understanding (MOU), between the City and a recognized employee organization, or 2) a specific express term of these Rules.

9.2 Eligibility to File a Grievance

Only full-time employees in regular non-probationary appointments who are adversely affected by an act or omission of the City are eligible to file a grievance.

9.3 Exclusion from the Grievance Procedure

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

- 9.3.1 Requests for changes in wages, hours, or working conditions;
- 9.3.2 The content of employee evaluations or performance reviews, except those that result in a loss of benefits to the employee;
- 9.3.3 Challenges to reclassification, layoff, transfer, denial of reinstatement;
- 9.3.4 Challenges to examinations or appointment to positions;
- 9.3.5 Challenges to this grievance procedure.
- 9.3.6 Disciplinary Actions

9.4 **Group Grievances**

In the event more than one employee is directly involved with an issue, they may, at any step in the grievance procedure, name one of their members to carry the grievance through the procedure as a group grievance and be represented by that employee organization which has been recognized by the City for that representation unit to which their classification(s) is/are assigned. In a group grievance, that named employee directly concerned shall be personally present at all stages.

9.5 **Procedure**

It is the City’s intent to deal with and settle complaints and grievances informally and at the nearest practical organizational level and as promptly and fairly as possible.

Whenever feasible, complaints and grievances will be handled during the regularly scheduled working hours of the parties involved.

The grievance procedure shall consist of the following steps:

9.5.1 *Informal Grievance Procedure*

A grievance must be filed within thirty (30) calendar days of the act(s) or omission(s) giving rise to the grievance. Failure to file the grievance within this time period shall result in denial of the grievance as null and void. Within thirty (30) working days of the act(s) or omission(s) giving rise to the grievance, the grievant must discuss the grievance with his/her immediate supervisor, who shall investigate and attempt to resolve the matter. The supervisor shall give the grievant an oral or written reply within ten (10) working days after the discussion. If the grievant is not satisfied with the reply, he/she may proceed to the Formal Grievance Procedure.

9.5.2 *Formal Grievance Procedure*

9.5.2.1 *Level 1 Review*

Any grievance not resolved by the Informal Grievance Procedure, may be submitted in writing by the grievant to his/her supervisor along with a copy to the Human Resources Director/Manager, no later than ten (10) working days after the date of the supervisor’s written reply. A grievance may be submitted directly to the Personnel Officer or, if the grievance started at a level above the supervisor or Department Head, the grievance may be submitted at the higher level. The written grievance must contain the following information:

1. Name of grievant and job title;

2. Department/Section in which grievant works;
3. The specific act or omission that gave rise to the alleged violation, misinterpretation, or misapplication and the date or dates of the alleged act or omission;
4. The specific provision(s) of the Memorandum of Understanding, City Policy or Personnel Rules alleged to have been violated, misinterpreted, or misapplied;
5. A list of the documents, witnesses or other evidence that support the grievance;
6. Desired solution or remedy;
7. Name of the grievant's representative, if any;
8. Signature of the grievant or representative and date signed.

Within ten (10) working days thereafter, the supervisor shall schedule a meeting with the grievant to work at resolving the grievance. The supervisor shall give the grievant a written reply within ten (10) working days after the meeting and shall file a copy with the Personnel Officer. If the grievant is not satisfied with the response, he/she may proceed to Level 2.

13.5.2.2. *Level 2 - Department Head Review*

Any grievance not resolved at Level 1 may be submitted to the Department Head no later than ten (10) working days after the date of the supervisor's written reply. The grievant shall provide the Department Head with a copy of the Level 1 response. Within ten (10) working days thereafter, the Department Head shall schedule a meeting with the grievant to work at resolving the grievance. The Department Head shall give the grievant a written reply within ten (10) working days after the meeting and shall file a copy with the Personnel Officer. If the grievant is not satisfied with the response, he/she may proceed to Level 3.

13.5.2.3. *Level 3 – City Manager Review*

Any grievance not resolved at Level 2 may be submitted to the City Manager no later than ten (10) working days after the date of the Department Head's written reply. The grievant shall provide the City Manager with a copy of the Level 1 and Level 2 responses. Within ten (10) working days after receipt of the grievance and the Level 1 and Level 2 responses, the City Manager or his/her designee, at his/her discretion, may conduct an informal hearing involving the parties to the dispute. The City Manager's decision shall be final and binding.

9.6 **Representation**

The grievant is entitled to representation of his/her choice at any point in the grievance procedure. If the representative is a fellow employee, that employee shall receive time off from his/her work assignment for the time of the grievance meeting or hearing plus reasonable travel time. The grievant must inform the Personnel Officer whether he/she will be represented at any meeting regarding the

grievance, along with the identity of the representative, at least forty-eight (48) hours prior to the grievance meeting.

9.7 **Waiver of Steps or Time Limits**

Notwithstanding any provision in this section, any time limit or level of procedure specified in this section may be waived upon consent of all parties involved.

9.8 **Waiver of Grievance**

Failure by the grievant to appeal his/her grievance to the next level within the specified time limits of this rule shall constitute a waiver of the right to pursue the grievance further, unless the City has granted an extension of time to a definite date. Failure by the City to respond to the grievance within any of the specified time lines shall entitle the grievant to appeal to the next level of review.

Additionally, failure on the part of an employee or his representative to appear for any scheduled meeting without notification may, in the City's discretion, result in the City's denial of the grievance.

9.9 **No Interruption of Work**

During the determination of a grievance herein, the employees involved in pursuing the grievance are required to continue their normal work schedule, unless the Personnel Officer directs otherwise.

9.10 **No Retaliation**

Employees shall not be penalized or retaliated against in any way for using the grievance procedures, or testifying as a witness in a grievance proceeding.

10. LAYOFF, DISPLACEMENT AND REEMPLOYMENT

10.1 **Notice**

Should the City Manager determine that reductions in force are necessary due to lack of work, reorganization or for budgetary/fiscal reasons, layoffs may be directed. In the event of layoffs, the City shall provide affected employees with as much notice as possible.

10.2 **Layoff Order Determination**

In determining the order of layoffs, the following rules shall be followed:

No permanent employee shall be laid-off while there are temporary employees serving in the same or allied class or position in the City service unless that employee has been offered the temporary work. Layoffs shall be made in accordance with California Government code §45100 and the criteria set forth below:

- (a) Layoffs shall be by job classification, according to reverse order of seniority, as defined by total City service. Total City service means as a regular full-time employee.
- (b) The employee to be laid-off may displace the least senior employee in a lateral or lower classification in which he/she previously held permanent status, provided the displaced employee has less total City service.
- (c) An employee may demote or transfer to a vacant position in a classification for which he/she possesses the necessary skills, as determined by the

minimum qualifications and job specifications for the position.

- (d) The name of each laid-off employee shall be entered, in order of seniority, on a Reemployment List for twenty-four (24) months.
- (e) A former employee appointed from a Reemployment List may have restored rights accrued prior to being laid-off, such as sick leave, vacation accrual and credit for years of service. However, such recalled employees shall not be eligible for benefits, such as, but not limited too, vacation and compensation time for which he/she received compensation at the time of, or subsequent to, the date he/she was laid-off.

10.3 **Bumping**

“Bumping” means the displacement of an employee from his/her position by an employee in a higher classification who formerly held the same position and has received notice of layoff.

The laid-off employee must be able to perform the essential job functions of the former position and possess the minimum qualifications of the position as specified by the current job classification specification.

The City shall notify laid-off employees in writing of the position and classification into which he/she may bump, if any. Following such notification, the employee must notify the Personnel Officer in writing of his/her intent to exercise the bumping rights within seven (7) calendar days of the date of the written notice. Failure to provide such notification shall be deemed a waiver of bumping rights by the employee.

Where there is more than one employee in a position available for bumping, the determination of which employee will be bumped, if any, will be based on seniority.

Any displaced employee shall be considered as laid-off for the same reason as the person who displaced them and shall in the same manner be eligible to displace another employee based on the criteria specified above.

10.4 **Layoff List Preparation Procedure**

When a Competitive Service position within a classification is abolished, the following general procedure shall be followed:

10.4.1 Limited Service employees will be released before an employee in the same classification with probationary or permanent status.

10.4.2 The Personnel Officer shall prepare a layoff list of all those Competitive Service employees (including those who are on Leave of Absence) and vacancies within the classification in which a reduction in the number of positions is to occur.

10.5 **Separations**

All employees who separate from City service, that is, whose employment with the City terminates through separation for cause, layoff, resignation, or retirement must:

10.5.1 Return all City property to the Human Resources Office or the immediate supervisor prior to receiving the final paycheck.

10.5.2 Clear any existing financial obligations with the City.

10.5.3 If applicable, file a Form 700 with the City Clerk.

In addition, employees who resign or retire shall adhere to the following procedures before they will be deemed to have separated in good standing:

10.5.4 Submit a written notification stating the intent to resign or retire and the proposed effective date to their immediate supervisor.

14.5.4 Provide a minimum notice of two weeks. The City encourages employees who become aware of their pending separation from the City to let the Personnel Officer know as far in advance as possible.

10.6 **Reemployment from Lay-off**

Employees who were laid-off may be reinstated within twenty-four (24) months to their former position, if vacant, or to a vacant position in the same classification, without being subject to the application requirement.

11. WORK WEEK AND ATTENDANCE

Department Heads shall assign daily hours of work (or shifts) for employees within departments, as required to meet operational requirements, or the employees' applicable Memorandum of Understanding. The Department Head may change an employee's work period, week, or hours at any time to meet the requirements of the City. Changes shall be made in accordance with applicable Memorandum of Understanding.

Any foreseeable absence or deviation from regular working hours desired by an employee shall be cleared in advance through the employee's supervisor, and such absences shall be noted on the employee's time sheet.

11.1 **Work Week**

Unless otherwise designated by the Department Head, the work week for City employees on a 5/8 schedule (eight hours a day for five days) shall be from Saturday through Friday; for City employees on a 9/80 schedule (nine hours Monday through Thursday, eight hours alternate Friday, and alternate Fridays closed) shall also be Saturday through Friday. These designated work weeks may be changed only as a result of major changes in operations, payroll procedures or as otherwise necessary in order to deliver services as efficiently and economically as possible. The work week for a 4/10 schedule and a 12 hour schedule will be designated by the Department Head.

11.2 **Attendance**

Employees are expected to report to work as scheduled, on time, and prepared to start work. Employees are also expected to remain at work for their entire work schedule, except when required to leave on authorized City business or some other authorized leave. All departments shall keep daily attendance records of employees, which shall be reported on the employee's timesheet.

Employees who anticipate an absence from all or a portion of their regular work schedule and wish to request a form of accrued leave time or unpaid leave time should follow the procedures provided in these Rules or Memoranda of Understanding for the particular type of leave that they are requesting.

Employees who are unexpectedly unable to report for work as scheduled on any particular day must call their immediate supervisor no later than their scheduled time to begin work for that day, or as otherwise required by the Department. If the

employee’s immediate supervisor is not available, then the employee must notify the Department Head or his/her designee. Employees shall inform their supervisor of the expected duration of any late arrival or absence. Employees who call later than their scheduled time to begin work for their assigned shift shall be deemed to have an unauthorized tardy or absence in violation of this attendance policy. Abuse or misrepresentation of any form of accrued, paid, or unpaid leave time will be grounds for discipline.

Failure on the part of an employee, who is absent without notification or authorization, to return to duty within twenty-four (24) hours after a notice to return to duty has been delivered to their last known telephone number and/or address will constitute an automatic resignation effective as of the last day an employee worked. If, within ten (10) days of said notice, the employee can show good cause for the failure to return to duty, the Personnel Officer may reverse the resignation. In the event that an employee’s absence is deemed an “automatic resignation” in accordance with this Rule, the employee shall have the same right to appeal afforded to employees who are terminated for cause under these Rules. However, an employee’s absence without notification or authorization for twenty-four (24) hours or more shall be deemed just cause for termination.

11.3 Meals and Rest Periods

Employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated, with the exception of safety personnel such as police officers and firefighters. During the meal period, the employee shall be relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless the employee obtains express prior approval from his/her supervisor.

Employees shall have a ten (10) minute rest period for each half of their shift, as scheduled by the supervisor. The rest period may be interrupted or cancelled if necessary to complete time-sensitive work and shall be compensated time. The rest periods shall not be combined or used to shorten the workday.

11.4 Timekeeping

All employees must sign and accurately record all hours worked and any leave taken on their timesheets. Employees must immediately report any errors on a timesheet that has already been submitted to their supervisor.

12. VACATION AND HOLIDAYS

12.1 Vacation Accrual

Unless otherwise specified in a Memorandum of Understanding or Council approved resolution, each full-time employee shall accrue vacation at the following rate for continuous service performed in pay status as follows:

Full-Time Employees

Years of Service	Days of Vacation Per Year	Bi-Weekly Accrual	Maximum Accrual
0 – 5 years	12	3.69 hours	192 hours
6 – 10 years	18	5.53 hours	288 hours
11 – 15 years	21	6.46 hours	336 hours
16+ years	24	7.38 hours	384 hours

12.2 **Use of Vacation**

An employee may take vacation leave at any time, subject to approval by the employee's Department Head or his/her designee. Approvals shall be based upon workload, staffing coverage, seniority, timing of the request, and any other work-related factors appropriate for consideration by the Department Head.

12.3 **Effect of Sick Leave On Vacation Leave**

In the event an employee becomes ill during a vacation period, such time shall not be charged as vacation leave if the following conditions are met:

16.3.1. *Employee Sick Leave Requirements.* The employee complies with the same notice requirements as required when the employee is not on leave, including notice to the employee's supervisor no later than the start of the employee's regular work shift. If the employee becomes ill after the start of the work shift, then the employee must promptly provide notice on the same day the illness begins. Sick leave shall only be granted for those days on which notice is given; and

16.3.2 *Return to work requirements.* The employee, upon return to work, submits a doctor's certificate for each day the employee was absent from work.

12.4 **Compensation for City Work During Vacation Prohibited**

No person shall be permitted to work for compensation for the City in any capacity, except compensation for mandated court appearance, call back or special duty assignments, during paid vacation time. Exceptions may be made for Reserve Firefighters.

12.5 **Restricted Use At Resignation**

Vacation leave and floating hours shall not be used within an employee's final fourteen (14) calendar days of employment after submission of the employee's notice of resignation or retirement,. Vacation leave shall not be used to extend an employee's final day of employment unless approved by the City Manager.

12.6 **Vacation Pay-Out Upon Termination**

A regular or probationary employee whose employment with the City terminates shall be paid for that part of his/her vacation accumulation that remains unused at the time of termination. Payment for unused vacation shall be made at the rate of pay in effect for such employees at time of termination.

Unless otherwise provided by State Law, when termination is caused by the death of the employee, said pay for unused vacation shall be paid to the beneficiary the employee has designated. Such designation shall be in writing, signed by the employee and filed with the Human Resources Office. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

12.7 **Holidays**

12.7.1 *Authorized Holidays.* Every full-time probationary and regular employee shall be entitled to the following paid holidays each calendar year and such other days as may be designated by action of the City Council:

1. January 1 (New Year's Day)
2. The third Monday in January (Martin Luther King Jr. Birthday)

3. The third Monday in February (Presidents' Day)
4. The last Monday in May (Memorial Day)
5. June 19 (Juneteenth)
6. July 4 (Independence Day)
7. The first Monday in September (Labor Day)
8. November 11 (Veteran's Day)
9. The fourth Thursday in November (Thanksgiving Day)
10. The day after Thanksgiving Day
11. December 24 (Christmas Eve)
12. December 25 (Christmas Day)
13. December 31 (New Year's Eve)
14. The employee's date of birth
15. Two (2) days in lieu of September 9 (Admission Day) and the second Monday in October (Columbus Day), subject to the same rules and regulations as annual vacation leave and shall be credited to the employee as of July 1 for the current calendar year. Any new or reappointed employee whose appointment begins after July 1 of any year shall not be credited for the two (2) in-lieu holidays until the following July 1. Any regular employee who is on a non-pay status July 1 shall be credited with the two (2) in-lieu holidays immediately upon returning to a pay status.

Unless otherwise noted, or as specified in an approved and adopted Memorandum of Understanding (MOU), holidays are compensated at the rate of eight (8) hours.

If any of the foregoing holidays fall on Saturday, the preceding Friday shall be observed as a holiday. If any of the foregoing holidays fall on a Sunday, the Monday following shall be observed as a holiday. If any of the foregoing holidays fall on an employee's normal day off, except Saturday or Sunday, they shall be credited to vacation.

12.7.2 *Holidays Falling During Vacation.* When a day designated and observed by the City as a holiday occurs on a day on which an employee is taking vacation, such employee shall not be charged as using vacation for that day. The employee's compensation for that day shall be holiday pay and he/she shall not be paid or charged for vacation, except for the additional hour(s) for those employees on a 9/80, 4/10, or other schedule.

12.7.3 *Employee absent from work immediately preceding a holiday.* Employees who are absent from work on the work day immediately preceding a holiday due to unpaid leave of any form shall not receive reimbursement for the missed holiday.

13. SICK LEAVE

Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as authorized in Section 13.5. The employee requesting sick leave shall notify his/her supervisor or Department Head prior to the start of the employee's regular work shift. Sick leave with pay shall not be allowed unless the employee has met and complied with the provisions of these Rules and Regulations and his/her Department Head has approved such payment. Accrued and unused sick leave shall not be paid out when the employee separates from City employment.

13.1 Eligibility

Regular, Probationary and Part-Time employees shall be eligible for sick leave

with pay.

13.2 **Accrual**

13.2.1 *Sick Leave Accrual for Non-Twenty-Four (24) Hour Shift Personnel*

. Sick leave shall be accrued at a rate of 3.69 hours on a biweekly basis, 26 times per year. This is equivalent to eight (8) hours per calendar month.

No Sick Leave shall accrue when an employee is on unpaid leave. Part-Time/Hourly employees shall be credited with twenty-four (24) hours of paid sick leave at the beginning of each fiscal year. An employee may not use paid sick leave hours before they are available.

13.2.2 *Sick Leave Accrual for Twenty-Four (24) Hour Shift Personnel*

Sick leave shall be accrued at a rate of 11.08 hours on a biweekly basis, 26 times per. This is equivalent to twenty-four (24) hours per calendar month.

13.3 **Accumulation**

Accrued sick leave may be accumulated without limit.

13.4 **Prohibited Activity**

Any employee who is absent from work on a leave as provided in Section 13 or who is absent after requesting such leave shall not engage in work or other activities at any time which would be in conflict with the inability to report for work and to perform the duties assigned.

13.5 **Use**

13.5.2 *Sick Leave.* Sick leave may be requested and used as approved by the Department Head or Personnel Officer. Pay for approved sick leave shall be authorized until the employee's accumulated sick leave hours have been exhausted and at such time the employee shall receive no further pay for sick leave. An employee shall be granted time off chargeable to sick leave for a visit to a doctor or dentist.

13.5.3 *Use of Sick Leave for Family Member.* In cases of illness of a family member, employees are entitled to use up to one-half of the employee's sick leave entitlement for the year or in accordance with respective MOU to attend to the illness of a child, spouse, domestic partner, parent, grandparent, grandchild or sibling, in accordance with state law. Additional family sick leave usage for special circumstances may be granted on a case-by-case basis at the discretion of the Department Head with the concurrence of the Personnel Officer.

13.5.4 *Use of Sick Leave toward Retirement.* An employee may not use sick leave to extend a retirement (either disability or service retirement) or separation date, unless specifically provided for in an applicable Memorandum of Understanding, or as required by law.

13.6 **Holidays within Sick Leave**

When a recognized city holiday falls within an employee's verified use of sick leave for which he/she normally would have been excused from work, that day shall not be charged as a day of sick leave.

13.7 **Deduction of Sick Leave**

Sick leave shall be deducted at the rate of one hour sick leave for each hour absent.

13.8 Verification of Sick Leave Usage

The City reserves the following rights with regard to control and verification of appropriate sick leave usage:

13.8.1 The City may require that any employee who uses more than two (2) consecutive days of leave to provide a physician's certification of the employee's illness.

13.8.2 The City may formally place an employee on "sick leave restriction" whereupon, for a period of time, the employee may subsequently be required to provide a physician's certification of illness for each incidence of sick leave usage, regardless of the amount of time off work.

In determining whether or not to place an employee on "sick leave restriction," the City agrees to consider not only gross usage and so-called "patterns of usage," but also extended illness, major medical problems and incidents of family sick leave.

13.9 Workers' Compensation

13.9.1 Police and Fire Department Sworn Personnel

13.9.1.1 An employee of the Police or Fire Department who is entitled to the benefits of Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by workers compensation with verified medical documentation, shall be allowed up to one (1) year's leave of absence, as required by said section. The employee shall continue to receive his/her regular paycheck as long as he/she remains on pay status; provided, however, that such employee assigns to the city any and all workers compensation payments received by the employee.

13.9.1.2 An employee of the Police or Fire Department who is entitled to the benefits of Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by workers compensation, will continue to accrue sick leave, vacation and holiday benefits as though he/she were not on leave of absence.

13.9.1.3 An employee of the Police or Fire Department who is absent from work by reason of an injury or illness covered by workers' compensation (beyond Labor Code Section 4850), shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays.

13.9.1.4 Whenever such disability of an employee continues for a period beyond one (1) year, the leave of absence may continue until the expiration of his/her accrued sick leave, vacation and previously accrued compensatory time off for overtime and paid days in lieu of holidays, calculated to the nearest one-half (½) day, with compensation at the employee's regular rate of pay.

13.9.1.5 When it appears the employee cannot return to work by the expiration of such allowances, disability retirement shall be requested by the City to become effective at the expiration of

these allowances unless the employee applies for or consents to his/her retirement as of an earlier date, at which time he/she may be compensated for his/her accrued benefits at his/her regular rate of pay.

- 13.9.1.6 No employee of the Police or Fire Department shall be paid any disability indemnity under workers compensation concurrently with wages or salary payments by the city amounting to more than his/her regular rate of pay at any time during his/her leave of absence.

13.9.2 All Other City Employees

An employee, other than Police or Fire Department sworn personnel (entitled to the benefits of Labor Code Section 4850), who is absent from work due to an injury or illness covered by workers compensation shall continue in pay status under the following provisions:

- 13.9.2.1 The employee shall continue to receive his/her regular paycheck as long as he/she remains on pay status; provided, however, that such employee assigns to the city any and all workers' compensation payments received by the employee.
- 13.9.2.2 The employee's accumulated sick leave shall be reduced in an amount corresponding to the percent of the employee's salary being paid by the city.
- 13.9.2.3 Such an employee will continue in pay status and receive his/her regular rate of pay until his/her accumulated sick leave, compensatory time and vacation days have been depleted to the nearest one-half (½) day.
- 13.9.2.4 During the time the employee is in pay status while absent from work by reason of injury or illness covered by workers compensation, he/she shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays.
- 13.9.2.5 Any employee other than Police and Fire Department personnel, who depletes his/her accumulated sick leave, compensatory time, holidays and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by workers compensation shall be removed from pay status and be covered under provisions of Section 13.12.

13.10 Coordination of Benefits

If an employee is on sick leave and is receiving State Disability Insurance (SDI) or temporary Disability payments (including Workers' Compensation payments), the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. To exercise this option, the employee shall tender his/her SDI payments or temporary disability payments to the City and the City shall then continue to issue paychecks and deduct the value of the difference between those payments and the employee's regular pay from the employee's sick leave accruals.

Part-time and temporary employees are covered by and shall receive the benefits provided by the Workers' Compensation Insurance Plan of the City but shall not

be eligible for any other benefits in this section.

13.11 Depletion of Sick Leave, Compensatory Time and Vacation Benefits

Upon depletion of accumulated sick leave, compensatory time and vacation for any injury or illness and upon the recommendation of the employee's department head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, he/she must request medical leave which shall be subject to approval of the City Manager. If further leave is granted, the employee must notify the city of his/her intent to return to work every thirty (30) days. If further leave is not granted, the employee's service with the city shall be considered terminated. (See also Section 14.11 – Family and Medical Leave (FMLA/CFRA))

13.12 Catastrophic Leave Program

An employee may be eligible to receive donations of paid vacation leave to be included in the employee's sick leave balance if she/he or a qualifying family member has suffered a catastrophic illness or injury which prevents the employee from being able to work. Catastrophic illness or injury is defined as a critical medical condition that is considered to be terminal, a long-term major physical impairment or disability. This program will be administered in accordance with the City's Catastrophic Leave Policy.

14 OTHER LEAVES OF ABSENCE

14.1 Leave of Absence of Without Pay

Leave of absence without pay may be granted in cases of emergency where such absence would not be contrary to the best interests of the city. Such leave is not a right but a privilege. Employees on authorized leave of absence without pay may not extend such leave without the expressed approval of the City Manager. No vacation or sick leave benefits shall be used for illness occurring during such leave.

14.1.1 Approval of Department Head

Leave of absence without pay for one (1) week or less may be granted by the Department Head, depending on the merits of the case. Such leave shall be reported to the Human Resources Office.

14.1.2 Approval of City Manager

Leave of absence without pay in excess of one (1) week's duration may be granted by the City Manager on the merits of the case, but such leave shall not exceed twelve (12) months' duration.

14.2 Absence without Leave

Absence without leave shall be considered to be without pay and reduction in the employee's pay shall be made accordingly. Absence without leave for more than three (3) consecutive days may result in termination of employment.

14.3 Leave of Absence: Death Outside of Immediate Family

Leave without pay may be granted a regular employee by his/her department head in the event of death of family members other than a qualifying family member, , such leave to be granted in accordance with Section 14.1.

14.4 Employee's Time Off To Vote

Time off with pay to vote at any general, special, direct primary or Presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee desires such time off shall be given in accordance with the provisions of said code.

14.5 Jury Duty: Leave of Absence

Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided the employee remits to the city all fees received for such duties, other than mileage or subsistence allowance, within thirty (30) days from the termination of his/her jury duty.

14.6 Subpoenas: Leave of Absence

Regular employees who are subpoenaed to appear as witnesses in a court trial may be granted a leave of absence with pay from their assigned duties until released. The employee shall remit all fees received for such appearances to the city within thirty (30) days from the termination of his/her service. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee

14.7 Leave for Attendance at Industrial Accident Commission Hearing or Related Physical Examination

Employees who have been injured in the course and scope of their employment with the city and who are required, as a result of such injury, to be absent from duty to take physical examinations required by the city's workers compensation insurer or the Industrial Accident Commission shall be granted leave with pay for such absences only if the employee is in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absence shall be filed in advance with the department head.

14.8 Management Leave

The City Manager may grant management leave to designated employees.

Management leave cannot be accumulated from one fiscal year to the next. Management leave will be credited each July and must be used by the last full pay period the following June. Leave may not be used in July until it is credited to the leave bank and registers on the paycheck. New managers shall receive prorated management leave based upon the number of pay periods remaining in that fiscal year. Management leave has no cash value if not used. Managers leaving city service shall only be entitled to partial year pro-ration based upon the number of pay periods worked in the fiscal year. Managers using more than the prorated management leave will be required to reimburse the city out of the final check. NOTE: If a contract is in place, a contract supersedes this section.

14.9 Status of Employee on Authorized Leave of Absence Without Pay

14.9.1 *Break in Service.* Authorized leave of absence without pay shall not be construed as a break in service, and rights accrued at the time the leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, holidays, health benefits, and retirement benefits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the period of absence unless otherwise expressly provided for in a Council-approved action. Employees in such status may

be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay.

14.9.2 *Employee Return to Work.* An employee returning after an authorized leave of absence without pay shall retain the same status and shall be placed at the same salary step in the pay range currently in effect for the class as the employee received when the authorized leave of absence without pay commenced. Time spent on such leave without pay shall not count toward service within the pay range and the employee's salary anniversary date shall be set forward a period of time equal to the employee's total absence as adjusted to the beginning of the closest pay period.

14.9.3 *Return from Authorized Leave of Absence without Pay for Military Duty.* Notwithstanding provisions of Section 14.8, 14.11 and 14.12 of these Rules, the applicable sections of the Federal and State military leave laws shall apply in determining benefits for those employees returning from an authorized leave of absence without pay for military duty.

14.10 Administrative Leave

The City, in its discretion, may place an employee on administrative leave with or without pay. Employees on such leave shall be available and are subject to the City's instructions during their normal working hours.

14.11 Bereavement Leave

The City shall allow an employee to be absent from work with pay for a maximum of five (5) for a death which occurs within the State of California. If the death occurs outside the State of California, additional time may be allowed. Bereavement leave is allowable in the case of death of a qualifying family member as defined in Section 2.53 of the Personnel Rules and Regulations.

14.12 Family and Medical Leave (FMLA/CFRA)

In accordance with federal and state laws and regulations, the City shall provide family and medical leave, which is unpaid leave, to eligible employees. "Family and Medical Leave" under this Rule refers to leave pursuant to the Family and Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act ("CFRA"). Employees with any questions or requests for information about family and medical leave should consult the Human Resources Office and the City's FMLA/CFRA Policy.

14.13 Military Leave

14.13.1 *Military Leave With Pay.* Shall be granted in accordance with Federal and State law. An employee entitled to military leave shall give his/her Department Head an opportunity, within the limits of military regulations, to determine when such leave shall be taken. Prior to taking such leave, an employee shall present a copy of his/her military orders to the Department Head. The Department Head shall promptly advise the Human Resources Director/Manager of such military orders. The employee's work schedule may be temporarily changed by the Department Head to accommodate the leave and department workloads, in accordance with applicable law. Benefits shall continue to accrue to the employee to the extent required by law. Employees on military leave

shall be granted promotional opportunities and reinstatement after return from military leave in accordance with applicable law. The City offers employees on military leave the option to continue health benefits.

14.13.2 *Leave Accrual.* As required by law, the City will continue leave accruals during paid military leave and make contributions under retirement plans.

14.14 Military Spouse Leave

In accordance with California Military & Veterans Code section 395.10, eligible spouses and domestic partners of active members of the military are entitled to up to ten (10) days of unpaid leave when their spouse or domestic partner, who is in active military service, is on qualified leave.

14.15 Paid Family Leave (PFL)

Employees who are covered by State Disability Insurance (SDI) are eligible for Paid Family Leave (PFL) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department.

14.16 Pregnancy Disability Leave (PDL)

Any employee who is disabled because of pregnancy, childbirth, or a related medical condition may be entitled to pregnancy disability leave (PDL). The rules for PDL are contained in the City's Pregnancy Disability Leave Policy

15 TUITION REIMBURSEMENT

Employees are encouraged (but not required) to further their education by taking accredited courses which satisfy any of the following criteria: are related to the employee's present position with the City; related to the employee's potential development with the City; part of a program leading to a degree related to the employee's present position or potential for development; or required to obtain a high school diploma.

An employee who participates in an educational program may be reimbursed for courses taken on the employee's own time and at his/her expense in accordance with their respective Memorandum of Understanding.

16 EMPLOYER - EMPLOYEE RELATIONS

The purpose of this section is to implement the Meyers Miliias Brown Act, Government Code Sections 3500 et seq., ("MMBA") by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

16.2 Definitions

For purposes of this section, the following terms shall have the meanings indicated:

16.2.1 *Appropriate Unit.* A unit established pursuant to Section 16.9.

16.2.2 *City.* The City of Selma, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City or any duly authorized management employee as herein defined.

16.2.3 *Confidential Employee.* An employee who is privy to decisions of City management affecting employer-employee relations.

16.2.4 *Consult or Consultation in Good Faith.* To communicate orally or in

writing for the purpose of presenting and obtaining views or advising of intended actions.

- 16.2.5 *Employee*. Any person regularly employed by the City except those persons appointed directly by the City Council, elected by popular vote or temporary or contract employees.
- 16.2.6 *Employee Organization*. Any organization which includes employees of the City and which has as one of its primary purposes representing such employees in their employment relations with the City.
- 16.2.7 *Employer-Employee Relations*. The relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.
- 16.2.8 *Impasse*. a) a deadlock in the discussions between an employee organization and the City over any matters which they are required to meet and confer in good faith, or over the scope of such subject matter; or b) any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Section 16.5.
- 16.2.9 *Majority Representative*. An employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of employees in an appropriate unit.
- 16.2.10 *Management Employee*. Any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the City Manager and Department Heads. Any employee having authority to exercise independent judgment to hire, transfer, suspend, lay-off, recall, promote, dismiss, assign, reward, or discipline other employees. The exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- 16.2.11 *Mediation or Conciliation*. The efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.
- 16.2.12 *Meet and Confer in Good Faith*. (Sometimes referred to herein as “meet and confer” or “meeting and conferring”). Performance by duly authorized City representatives and duly authorized representatives of an employee organization (recognized as the majority representative) of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: A) reach agreement on those matters within the authority of such representatives and B) reach agreement on what will be recommended to the City Council on those matters within the decision making authority of the City Council. This does not require either party to agree to a proposal or to make a concession.
- 16.2.13 *Municipal Employee Relations Officer*. The City’s principal representative in all matters of employer-employee relations designated pursuant to

Section 16.2, or his/her duly authorized representative.

16.2.14 *Peace Officer.* As defined in Section 830, California Penal Code.

16.2.15 *Professional Employee.* Employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, engineers, planners architects, and various types of physical, chemical, and biological scientists.

16.2.16 *Recognized Employee Organizations.* An employee organization which has been acknowledged by the Municipal Employee Relations Officer as an employee organization that represents employees of the City. The rights accompanying recognition are either:

16.1.16.1 *Formal Recognition.* The right to meet and confer in good faith as the majority representative in an appropriate unit; or

16.1.16.2 *Informal Recognition.* The right to consultation in good faith by all recognized employee organizations.

16.1.16.3 *Scope of Representation.* All matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. City Rights (Section 16.4) are excluded from the scope of representation.

16.2 Designation of Municipal Employee Relations Officer

16.2.1 The City Manager or his/her designee shall be the City's Municipal Employee Relations Officer and shall be the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment.

The Municipal Employee Relations Officer is authorized to delegate these duties and responsibilities.

16.3 Employee Rights

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City (except as provided for in California Government Code 3502.5 - Agency Shop). No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of his/her exercise of these rights.

16.4 City Rights

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve

its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

16.5 Meet and Confer in Good Faith - Scope

- 16.5.1 The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit.
- 16.5.2 The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law nor shall it be required to meet and confer in good faith on Employee or City Rights as defined in Sections 16.3 and 16.4. Proposed amendments to this Rule are excluded from the scope of meeting and conferring.

16.6 Incorporation into a Memorandum of Understanding

When the meeting and conferring process is concluded between the City and a formally recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized City and majority representatives.

As to those matters within the authority of the City Council, the Memorandum of Understanding shall be submitted to the City Council for approval.

16.7 Compliance with Federal and State Laws

The City Council may adopt such Rules and Regulations necessary or convenient to implement the provisions of this Rule and the MMBA.

Nothing in this Section shall be construed to deny any person or employee the rights granted by Federal and State laws and City Code provisions.

The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Section.

The provisions of this Section are not intended to conflict with the provisions of the MMBA.

16.8 Advance Notice

Reasonable written notice shall be given to each recognized employee organization affected of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by any board or commission of the City, and each shall be given the opportunity to meet with the Municipal Employee Relations Officer.

In cases of emergency when the City or any board or commission of the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City or the board or commission of the City shall provide such

notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

16.9 Petition for Recognition

There are two levels of employee organization recognition - formal and informal. The recognition requirements of each are set forth below.

16.9.1 *Formal Recognition – The Right to Meet and Confer in Good Faith as Majority Representative:* An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (1) Name and address of the employee organization.
- (2) Names and titles of its officers.
- (3) Names of employee organization representatives who are authorized to speak on behalf of its members.
- (4) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- (5) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state or international organization.
- (6) Certified copies of the employee organization's constitution and by-laws.
- (7) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- (8) A statement that the employee organization recognizes that the provisions of Section 923 of the California Labor Code are not applicable to City employees.
- (9) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, disability or medical condition, age, or sexual orientation.
- (10) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- (11) Authorization cards demonstrating support for the petition, signed by 30% or more of the employees within the bargaining unit, that are dated no later than six (6) months earlier than the date of the petition, and which appear authentic to the party reviewing them who may be the Municipal Employee Relations Officer or a mutually agreed upon disinterested third party.
- (12) A request that the Municipal Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

16.9.2 *Informal Recognition – The Right to Consult in Good Faith:* An employee organization that seeks recognition for purposes of consultation in good

faith shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (1) All of the information enumerated in 16.9.1 of this Section.
- (2) A statement that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.
- (3) A request that the Municipal Employee Relations Officer recognize the employee organization for the purpose of consultation in good faith.

16.10 The Petition

The petition, including all accompanying documents, shall be verified, under oath, by the Executive Officer and Secretary of the organization that the statements are true.

All changes in such information shall be filed forthwith in like manner.

16.11 Municipal Employee Relations Officer

The Municipal Employee Relations Officer shall grant recognition, in writing, to all employees organizations who have complied with either Section 21.9.1 or 21.9.2 for purposes of consultation in good faith for its members. Employee organizations seeking formal recognition as majority representative must, in addition, establish to the satisfaction of the Municipal Employee Relations Officer that it represents a majority of the employees in the manner prescribed in Section 16.9. No employee may be represented by more than one recognized employee organization for the purposes of this Resolution.

16.12 Response to Petition

Within 30 days after receiving a petition, the Municipal Employee Relations Officer shall determine whether the petition contains the necessary elements demonstrating the requisite showing of interest. If the petition is defective in some respect, the Municipal Employee Relations Officer may reject and return it, with a brief explanation. Alternatively, the Municipal Employee Relations Officer may retain the petition, and permit the petitioner to alleviate the deficiencies promptly.

16.13 Notice

After the Municipal Employee Relations Officer determines that a petition meets the requirements under this Rule, the Officer shall provide notice that a petition has been filed to all employees in the bargaining unit at issue, all recognized employee organizations, and the City Council.

16.14 Elections

Unless otherwise provided by State Law, elections shall be conducted in accordance with the provisions herein.

16.15 Certification

The Municipal Employee Relations Officer shall provide notice of the election outcome to all affected employee organizations and the Council. For certification

petitions, the Council shall certify the prevailing organization, if any, as the exclusive bargaining representative for the bargaining unit(s) at issue.

16.16 Election Procedures

The following procedures are applicable to elections, except as specified herein.

16.16.1 *Third-party Election.* Elections will be conducted by a third party as designated by the Municipal Employee Relations Officer. The Municipal Employee Relations Officer may take reasonable measures, not in conflict with this Rule or applicable law, to ensure the integrity of elections.

16.16.2 *Municipal Employee Relations Officer Discretion.* The Municipal Employee Relations Officer has the discretion to refer the election matter at issue to a neutral agency such as the State Mediation and Conciliation Services (SMCS), or the Public Employee Relations Board (PERB), for handling.

16.16.3 *Supported Petition.* In order for an election to be held, petitions to certify or decertify a recognized bargaining representative, or to rescind an agency shop provision, must be accompanied by cards showing that the petition at issue is supported by thirty percent (30%) or more of the bargaining unit employees.

16.16.4 *Challenges.* Challenges to certification petitions may be initiated by other employee organizations. If the challenging organization meets these requirements, the organization will also be included in the election. The requirements are:

16.16.4.1 *Challenging Organization:* The challenging organization provides the information contained in this Rule.

16.16.4.2 *Percent of Signed Cards.* The challenging organization produces cards demonstrating that at least ten percent (10%) of employees in the bargaining unit subject to the petition support the challenge.

16.16.4.3 *Time Period.* The challenge must be initiated within 30 days after the Municipal Employee Relations Officer gives notice of a petition for certification.

16.16.5 *Authenticity.* The authenticity of cards and signatures shall be verified by a neutral party designated by the Municipal Employee Relations Officer.

16.16.6 *Secret Ballot.* Elections will be conducted by secret ballot. Over fifty percent 50% of the employees in the bargaining unit must participate in the election in order for the election to be certified. Elections will be determined by majority vote of those employees casting votes.

16.16.6.1 *No Representation Choice.* Ballots shall contain the choice of “no representation”.

16.16.6.2 *No Majority Result.* If no representative receives a majority of the votes, the Municipal Employee Relations Officer shall conduct a runoff election between the two (2) choices receiving the most votes.

16.16.7 *Costs.* Except for initial elections regarding certification of an exclusive

bargaining representative, costs of elections shall be borne equally among the City Council and the employee organizations appearing on the ballot, to the extent permitted by law.

- 16.16.8 *Decertification election.* Elections concerning the proposed decertification of an exclusive bargaining representative may be held no sooner than twelve (12) months following the date the Council certified and recognized the bargaining representative as the exclusive bargaining representative for the employee organization(s) at issue. A decertification petition alleging that the incumbent recognized employee organization no longer represents a majority of employees in an established unit may be filed with the Municipal Employee Relations Officer only during the thirty (30) day period commencing one-hundred and twenty (120) days prior to the termination date of an MOU then having been in effect less than three (3) years. For MOUs in effect three (3) years or longer, decertification petitions may be filed during the month of January in every year the MOU is in effect.
- 16.16.9 *Rescinding Agency Shop.* No more than one vote to rescind an agency shop agreement may be taken during the life of a MOU that provides for agency shop.
- 16.16.10 *Granting Recognition.* Notwithstanding the procedures in this Rule, the Council shall grant exclusive recognition to an employee organization based on a signed petition, authorization cards, or union membership cards showing that a majority of the employees in an employee organization determined appropriate by the Municipal Employee Relations Officer desire the representation, unless another labor organization has previously been lawfully recognized as exclusive or majority representative of all or part of the same unit. Exclusive representation shall be determined by a neutral third party selected by the Municipal Employee Relations Officer and the employee organization who shall review the signed petition, authorization cards, or union membership cards to verify the exclusive or majority status of the employee organization. In the event the parties cannot agree on a neutral third party, the parties shall utilize the services of the SMCS. In the event the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second labor organization has the support of at least 30% of the employees in the unit in which recognition is sought, the neutral third party shall order an election to establish which labor organization, if any, has majority status.

16.17 Bargaining Unit Modifications

Bargaining unit modifications may be initiated by the Municipal Employee Relations Officer, by a group of employees, or by a recognized employee representative.

Modifications to existing bargaining units must be supported by some legitimate reason.

- 16.17.1 *Municipal Employee Relations Officer Initiated Unit Modification.* The Municipal Employee Relations Officer may initiate a modification of its unit structure, including the creation of new units, or the reallocation of classifications from one bargaining unit to another bargaining unit. The

Municipal Employee Relations Officer shall provide notice to all affected employee organizations, and to each employee who may be affected by the proposed change. Before implementing any modification or reallocation, the Municipal Employee Relations Officer shall provide the opportunity to meet and confer (or consult), to the extent required by law, with affected, recognized employee representatives.

- 16.17.2 *Employee and Union Initiated Modifications.* An employee, group of employees, or a recognized employee organization may request that a unit be modified, or that one or more classifications be reallocated to a new or existing bargaining unit. The Municipal Employee Relations Officer shall provide notice to all affected employee organizations upon receipt of such a request. The request must be accompanied by authorization cards, dated no later than 6 months earlier than the request, showing that at least 40% of the employees in the new proposed unit, or 30% of the employees in the classification(s) proposed to be reallocated to another bargaining unit, support the request.

16.18 Denying the Request

The Municipal Employee Relations Officer may exercise discretion to deny the request in the event the criteria listed in section 16.9 of this Rule indicates to the Municipal Employee Relations Officer that the modification or reallocation is inappropriate. The Municipal Employee Relations Officer shall provide written notice of the rejection to all recognized employee representatives promptly after such determination.

- 16.18.1 *Consistent Modifications.* If the Municipal Employee Relations Officer determines that the modification or reallocation is consistent with the criteria listed, the Municipal Employee Relations Officer shall further process the request. If the Municipal Employee Relations Officer determines that a new unit or reallocation is appropriate, the Municipal Employee Relations Officer shall provide notice to all recognized employee representatives. If no protest is filed within 30 days, the Municipal Employee Relations Officer shall promptly reassign affected classifications to the new unit, or reallocate the classifications to an existing bargaining unit. In the event of an assignment to a newly created bargaining unit, the Municipal Employee Relations Officer shall also notify the employees of their rights under this Rule, including the right to select a representative of their choice for the purpose of meeting and conferring regarding wages, hours and working conditions under the MMBA.
- 16.18.2 *Protests.* Within 30 days of notice regarding the Municipal Employee Relations Officer's determination to modify a bargaining unit, or reallocate classifications, an affected recognized employee representative may submit a protest to the Municipal Employee Relations Officer's office.

The protest must include the following in order to be considered.

- 16.18.2.1.1 *Data.* The name, address, e-mail address, and telephone number of the protesting representative.

- 16.18.2.2 *Facts.* The facts and arguments supporting the protest.

16.18.2.3 *Resolution.* The proposed resolution.

16.18.3 *Response.* Upon receipt of a protest, the Municipal Employee Relations Officer shall meet and confer to the extent required by law. If there is no resolution, the dispute shall be submitted to the SMCS for mediation. If the SMCS is unable to achieve a resolution, the matter shall be referred to the Municipal Employee Relations Officer for final written decision and notice to all affected parties. After issuing a decision, the Municipal Employee Relations Officer may reassign or reallocate the classifications at issue.

16.19 Timing

Unless required by law, unit modifications or reallocations may not be initiated sooner than 12 months following the date of City Council adoptions of any memorandum of understanding which covers the classifications proposed to be reallocated or moved from the bargaining unit.

16.20 Unit Disputes Involving Professional Employees

In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the SMCS for mediation or for recommendation for resolving the dispute. Professional employees, for the purposes of this section, mean employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.

16.21 Rights and Responsibilities

16.21.1 *Meet and Confer.* An exclusive bargaining representative shall have the right to meet and confer in good faith with authorized City representatives regarding wages, hours, and working conditions within the scope of representation. If an agreement is reached, the parties shall jointly prepare a written MOU, which shall not be binding, and present it to the Council. If the Council adopts the written MOU, it shall become binding on the parties. The City is under no obligation to meet and confer with an employee organization unless it has been certified as a recognized employee representative.

16.21.2 *Current Information.* Recognized employee representatives have the responsibility to inform the Municipal Employee Relations Officer, in writing, of any changes in the information specified in section 21.9 of this Rule, and the Council may rely on its information on file for purposes of notice under this resolution and the MMBA.

16.21.3 *Release Time.* During the period of meet and confer regarding a memoranda of understanding, recognized employee representatives shall be entitled to a reasonable number of representatives who may receive paid release time during the period when formal negotiations are occurring at the table. The precise number shall be subject to the parties' discussions and the Municipal Employee Relations Officer's approval at the outset of negotiations. Employee representatives shall cooperate with the Municipal Employee Relations Officer on a reasonable schedule, and the

employees released for negotiations shall notify their supervisors, obtain their consent (which shall not be unreasonably withheld) and ensure that the dates scheduled for negotiations do not adversely affect City operations. Paid release time may not be authorized for activities such as soliciting membership, internal union elections, campaigning for office or other political activity, organizing efforts, or for any other purpose not authorized by this Rule or an MOU.

16.21.4 *City Resources.* Use of City resources, and use of City Council facilities, including without limitation; stationery, computers, mail, e-mail, copy machines, and fax machines, for Union business is prohibited.

16.21.5 *Dues and Other Authorized Payroll Deductions.* Recognized employee representatives may sponsor payroll deduction programs for membership dues, charitable causes, and benefit premiums and contributions. In order to participate, each affected employee must submit a written authorization on a form prescribed by the Municipal Employee Relations Officer.

Deductions shall comply with City administrative procedures.

16.21.6 *Appeals.* An employee or labor organization aggrieved by any adverse action taken pursuant to this Employee-Employer Relations Rule may submit an appeal to the Municipal Employee Relations Officer. The Municipal Employee Relations Officer may adopt reasonable procedures, after appropriate meet and consult, to resolve such appeals. To be considered, an appeal must be filed within 30 days of when the aggrieved party knew or should have known of the alleged violation. Failure to file an appeal within the 30 day time limit shall constitute a waiver of any challenge to the action at issue. Appeals must contain specific allegations that the employer violated a specific provision of this Rule or applied the Rule in a manner that violates an applicable law. Appeals must be submitted and appeal procedures exhausted before resorting to any other forum, so that the underlying facts may be gathered, an appropriate record may be created, and the Municipal Employee Relations Officer is provided a reasonable opportunity to correct or remedy complaints. No other grievance or appeal process may be used to address issues covered by this Rule.

16.22 Impasse Resolution Procedures

16.22.1 *Impasse Meeting.* If impasse is reached during negotiations concerning an MOU, either party may declare an impasse by submitting a written letter formally declaring an impasse. The declaration of impasse must contain all of the following elements:

16.22.1.1 *Tentative Agreements.* A list of all tentative agreements, if any.

16.22.1.2 *Disputed Issues.* A list of all disputed issues.

16.22.1.3 *Last and Final Offer.* For each disputed issue, the declarant's last and final offer. The party against whom the impasse is declared shall submit a formal response within 7-working days of notice of impasse, and shall meet within 7-working days thereafter.

16.22.2 *Mediation.* Upon and after impasse, either party may request that the

dispute be submitted to mediation, and the other party must participate in good faith upon request, or submit a letter within 7-working days of the request specifically declining to participate in mediation. The costs of mediation shall be borne equally. Mediation shall be conducted by a mediator supplied by the SMCS, or by some other mutually agreed upon mediator. Mediation shall be confidential. The mediator shall not make public recommendations or issue any decision concerning the issues. If no agreement is reached after an opportunity for mediation, the matter may be referred to the City Council for final determination.

16.22.3 *Miscellaneous.* The impasse resolution section shall not apply to economic disputes involving employees governed by different impasse resolution procedures imposed by lawful statute. This impasse resolution section shall only cover bargaining impasses regarding comprehensive memoranda of understanding (MOUs), and it does not cover day-to-day issues subject to meet and confer/meet and consult; or Council actions that may be subject to meet and confer/meet and consult requirements.

16.23 Agency Shop

If made, agency shop arrangements must accord with all requirements of California Government Code section 3502.5.

16.24 Miscellaneous Provisions

16.24.1 *Savings and Separability.* This Rule is intended to comply with all applicable state and federal laws, and it should be interpreted and applied to harmonize with all such law, reserving the broadest legal measure of authority to the Council. In the event a court of competent jurisdiction determines that some provision is inconsistent with applicable and binding law, then that provision shall be severed and all remaining portions of the Rule shall continue in full force and effect. Upon request by the Municipal Employee Relations Officer, a recognized bargaining representative will meet and consult promptly in an effort to resolve any amendments that are necessary or advisable in light of changes to existing law, or interpretations of the law that impact this Rule.

17 MISCELLANEOUS

These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department manager which are not in conflict with these Rules.

Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions that would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.

These Rules do not create a “contract” of employment between the City and any employee. Public employment is statutory, not contractual.

If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect. The City shall comply with changes in state and federal law, and shall amend these Rules as necessary for consistency. The term “City” as used in these rules refers to the City of Selma. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in his/her discretion.