

**CITY OF LA QUINTA
PERSONNEL POLICIES
AND PROCEDURES**

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SECTION 1: GENERAL PROVISIONS	<u>Error! Bookmark not defined.</u>	<u>6</u>
1.05 PURPOSE		6
1.10 APPLICATION AND EXCEPTIONS		6
1.15 VALIDITY OF POLICIES (SEVERABILITY)		7
1.20 VIOLATION OF POLICIES		7
1.25 DEFINITION OF TERMS		7
1.30 NO CONTRACT OF EMPLOYMENT CREATED		12
1.35 ADMINISTRATION OF THE PERSONNEL SYSTEM		12
1.40 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES		13
1.45 OUTSIDE EMPLOYMENT		13
1.50 POLITICAL ACTIVITIES		14
1.55 SAFETY AND HEALTH		15
1.60 VEHICLE AND SEATBELT POLICY		15
1.65 DRUG AND ALCOHOL FREE WORKPLACE:		16
1.70 DRUG AND ALCOHOL FREE WORKPLACE - PROHIBITED CONDUCT		18
1.75 DEPARTMENT OF TRANSPORTATION ALCOHOL AND DRUG ABUSE		18
1.80 <u>EQUAL EMPLOYMENT, HARASSMENT, HOSTILE WORK ENVIRONMENT AND ANTI-BULLYING POLICY</u> EQUAL EMPLOYMENT POLICY AND SEXUAL HARASSMENT		26
1.85 WORKPLACE VIOLENCE		28
1.90 SMOKING POLICY		29
1.95 DRESS CODE		29
1.96 USE OF ELECTRONIC EQUIPMENT AND SYSTEMS		29
1.97 FRAUD IN THE WORKPLACE POLICY		34
1.98 CELL PHONE USE POLICY		39
<u>1.99 COMPUTER LOAN PROGRAM</u>		<u>48</u>
SECTION 2: CLASSIFICATION AND SALARY PLAN		42
2.05 PREPARATION AND AMENDMENT OF CLASSIFICATION PLAN		42
2.10 ALLOCATED POSITIONS		42
2.15 NEW POSITIONS		42
2.20 CLASSIFICATION SPECIFICATIONS		42
2.25 PREPARATION AND ADOPTION OF SALARY PLAN		42
2.30 APPROPRIATE SALARY STEP		42
2.35 BENEFIT PLAN		43
SECTION 3: TYPES OF APPOINTMENTS		44
3.05 TYPES OF APPOINTMENTS		44
3.10 PROBATIONARY APPOINTMENTS		44
3.15 FULL-TIME APPOINTMENT		44

3.20 EMERGENCY APPOINTMENTS	44
3.25 INTERIM APPOINTMENTS	45
3.30 WORKING OUT OF CLASS	45
3.35 TRANSFER	47
3.40 PROMOTION	47
3.45 DEMOTION	48
3.50 RECLASSIFICATION	48
3.55 LAYOFFS/REDUCTION-IN-FORCE/RECALL	49
SECTION 4: RECRUITMENT AND SELECTION	53
4.05 EQUAL EMPLOYMENT GOALS AND POLICIES	53
4.10 PERSONNEL REQUESTS	53
4.15 JOB ANNOUNCEMENTS	53
4.20 PERSONNEL APPLICATIONS	53
4.25 DISQUALIFICATION OF APPLICATIONS	54
4.30 RECRUITMENT	54
4.35 EVALUATION OF APPLICATIONS	55
4.40 CANDIDATES' EXAMINATION INSPECTION	56
4.45 NEPOTISM POLICY	56
4.50 DRIVING SAFETY CHECK	58
4.55 ELIGIBILITY LISTS	58
4.60 FINAL DECISIONS OF SELECTION	59
4.65 PRE-EMPLOYMENT PHYSICAL	59
4.70 EMPLOYMENT ELIGIBILITY VERIFICATION	60
4.75 PROBATIONARY PERIOD	60
4.80 CRIMINAL CONDUCT - INELIGIBILITY FOR EMPLOYMENT	60
4.85 RESIGNATION	60
SECTION 5: COMPENSATION AND EVALUATION	61
5.05 SALARY AT APPOINTMENT	61
5.10 EMPLOYEE PERFORMANCE EVALUATION	61
5.15 PROGRESSION ON MERIT STEPS BASED ON SUCCESSFUL PERFORMANCE	62
5.20 SALARY ANNIVERSARY DATE	62
5.25 BILINGUAL COMPENSATION	63
SECTION 6: ATTENDANCE AND HOURS OF WORK	64
6.05 WORK WEEK AND OVERTIME	64
6.10 NO GUARANTEE OF HOURS	64
6.15 STAND-BY AND CALL-BACK POLICY	65
6.20 TIME SHEETS	65
6.25 ABANDONMENT OF EMPLOYMENT	65

6.30 LUNCH AND BREAK POLICY	65
SECTION 7: LEAVES	66
7.05 JURY DUTY AND WITNESS LEAVE	66
7.10 PREGNANCY DISABILITY LEAVE	66
7.15 MILITARY LEAVE	67
7.20 LEAVE OF ABSENCE WITHOUT PAY	69
7.25 FAMILY AND MEDICAL LEAVE	69
7.30 ON-THE-JOB-INJURIES AND WORKERS' COMPENSATION COVERAGE	76
7.31 <u>TRANSITIONAL (TEMPORARY) RETURN TO WORK STAY-AT-WORK PROGRAM</u>	78
7.35 DISABILITY LEAVE	82
SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES	84
8.05 GROUNDS FOR DISCIPLINARY ACTION	84
SECTION 9: DISCIPLINARY ACTIONS	87
9.05 DEFINITION OF DISCIPLINARY ACTION	87
9.10 INFORMAL DISCUSSION	87
9.15 FORMAL WARNING	87
9.20 WRITTEN REPRIMAND	87
9.25 DISCIPLINARY SUSPENSION	87
9.30 REDUCTION IN PAY	88
9.35 DEMOTION	88
9.40 DISCHARGE	88
9.45 DOCUMENTATION OF DISCIPLINARY ACTION	88
SECTION 10: DISCIPLINARY PROCEDURES	89
10.05 ADMINISTRATIVE REASSIGNMENT WITH PAY	89
10.10 DISCIPLINARY ACTION SUBJECT TO SKELLY PROCEDURE	89
10.15 APPEAL OF DEPARTMENT DIRECTOR'S DECISION	90
10.20 AMENDED NOTICE OF DISCIPLINARY ACTION	90
SECTION 11: APPEAL HEARING PROCESS	91
11.05 HEARING OFFICER	91
11.10 REQUEST FOR APPEAL	91
11.15 ANSWER	91
11.20 TIME FOR HEARING	91
11.25 NOTICE OF HEARING	91
11.30 PRE-HEARING MEETING	92
11.35 WITNESS LIST AND SUBPOENAS	92
11.40 NATURE OF HEARING	92
11.45 EXCLUSION OF WITNESSES	93

11.50 PROPOSED FINDINGS OF FACT	93
11.55 OFFICIAL/JUDICIAL NOTICE	93
11.60 ORDER OF PROOF AT HEARING	93
11.65 FINDINGS OF FACT & RECOMMENDATIONS TO THE CITY MANAGER	93
11.70 DISPOSITION OF APPEAL	93
11.75 BURDEN OF PROOF	94
11.80 WITHDRAWAL OF AN APPEAL	94
SECTION 12: GRIEVANCES	95
12.05 MATTERS SUBJECT TO GRIEVANCE PROCEDURES	95
12.10 MATTERS NOT SUBJECT TO GRIEVANCE PROCEDURES	95
12.15 FREEDOM FROM REPRISAL	96
12.20 RESOLUTION	96
12.25 WITHDRAWAL	96
12.30 RESUBMISSION	96
12.35 EMPLOYEE REPRESENTATION	96
12.40 OBEY NOW/GRIEVE LATER	96
12.45 INITIATION OF GRIEVANCE PROCEDURES	96
12.50 INFORMAL GRIEVANCE PROCEDURE	96
12.55 FORMAL GRIEVANCE PROCEDURE	97
SECTION 13: EMPLOYEE RECORDS AND FILES	98
13.05 PERSONNEL FILES	98
13.10 DOCUMENTS IN PERSONNEL FILES	98
13.15 DISCLOSURE OF INFORMATION	98
13.20 CHANGE IN STATUS	99
13.25 APPLICATION RETENTION	99
13.30 DESTRUCTION OF PERSONNEL RECORDS	99
SECTION 14: EMPLOYEE BENEFIT PLAN	100
14.05 HEALTH BENEFITS	100
14.10 HOLIDAYS	100
14.15 VACATION LEAVE	101
14.20 SICK LEAVE	105
14.21 KIN CARE LEAVE	108
14.25 BEREAVEMENT LEAVE	108
14.30 ADMINISTRATIVE LEAVE	108
14.35 OVERTIME COMPENSATION	110
SECTION 15: TRAINING AND TRAVEL	112
15.05 TRAINING	112
15.10 IN-HOUSE TRAINING	112

15.15 DEPARTMENT TRAINING	112
15.20 SEMINARS AND CONFERENCES	112
15.25 TUITION REIMBURSEMENT	112
15.30 TRAINING AND TRAVEL REIMBURSEMENT	113
15.31 TRAVEL AND EXPENSE POLICY	114

(Last Update July, 2012)

SECTION 1: GENERAL PROVISIONS

1.05 **PURPOSE:** The purpose of these Policies and Procedures is to establish systematic and uniform procedures for handling personnel matters.

1.10 **APPLICATION AND EXCEPTIONS:**

1.10.1 These Policies shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.25 of these Policies, with the exception of the following:

- A. Members of the City Council and other elected officials (except for Sections 2.35 and 14.05.)
- B. Members of commissions and advisory bodies appointed by the City Council or City Manager.
- C. Direct appointees of the City Council, including the City Manager and City Attorney. A regular employee who also holds the position of City Treasurer shall not be excluded from the Policies, unless the employee has entered into an employment agreement pursuant to sub-section “F” herein.
- D. Volunteer personnel who provide services to the City without receiving compensation (although such persons may receive reimbursement for actual expenses incurred in the service of the City).
- E. Outside and independent contractors, engaged to provide expert, professional, technical or other services.
- F. Regular employees who have entered into a written employment agreement with the City, unless otherwise specified in the employment agreement.

1.10.2 These Policies, with the exception of Sections 8 through 12 inclusive, shall apply to the following employees, who serve at the pleasure of their respective appointing authorities and are considered “at will” employees:

- A. Emergency employees, such as those hired to meet immediate needs of an emergency condition (i.e. fire, flood, or earthquake) which threatens life or property.
- B. Employees who are considered temporary or seasonal.
- C. Other non-career employees who are not specifically mentioned in Section 1.10.1 of these Personnel Policies.
- D. Probationary Employees.

1.15 VALIDITY OF POLICIES (SEVERABILITY): If any section, subsection, sentence, clause, phrase or portion of these Policies is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these Policies. The City Council of La Quinta hereby declares that it would have adopted these Policies and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

1.20 VIOLATION OF POLICIES: Violation of these Policies may be grounds of discharge or other disciplinary action, subject to the applicable appeals procedure provided herein.

1.25 DEFINITION OF TERMS: All words and terms used in these Policies and in any ordinance or any resolution dealing with Personnel Policies and Regulations shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, the following words and terms most commonly used are defined.

1.25.1 Appointing Authority: The Employee Relations Officer or designee who, in his or her official capacity, has the final authority to appoint a person to a position of employment.

1.25.2 Appointment: The designation of a person to fill a position of employment.

1.25.3 At-Will Employee: A temporary, probationary or contract employee who has a written contract specifying the duties and terms of employment without a definite ending date. At-will employees are not governed by the terms and conditions of Sections 8-12 of these Policies, unless specifically provided herein.

1.25.4 Banding: The first step in the job evaluation process involving Banding each decision-making duty according to the kind of decision required, into one of six (6) broad categories, as follows:

- Band A – Defined Decisions
- Band B – Operational Decisions
- Band C – Process Decisions
- Band D – Interpretive Decisions
- Band E – Programming Decisions
- Band F – Policy Making Decisions

1.25.~~54~~ Call - Back: When an employee is off-duty and is called back to work.

1.25.~~65~~ City: The City of La Quinta.

1.25.~~76~~ City Manager: The City's Chief Executive Officer.

1.25.~~87~~ Classification: A group of positions with similar jobs at a similar level of responsibility. This is described by a Classification Specification, sometimes referred to as a job description.~~grouping of job positions with the same or similar title, salary range, and benefit package.~~

1.25.98 Classification Plan: A listing of Classification Specifications ~~job duties and responsibilities~~ of City positions, as recommended by the Employee Relations Officer and adopted by the City Council.

1.25.10 Classification Specification: A general description of a class of work, typically including a general summary of the work, distinguishing characteristics of the class, essential duties of the class, the knowledge and skills required at entry to the class, and any licensing, educational or special physical requirements, sometimes referred to as a job description.

Classification Specifications are written summaries of work which provide a systematic method of grouping positions with similar essential functions. They should include:

- Description of the type and level of work;
- Description of the characteristics which distinguish this class from others which may be in the same occupation or at the same level of authority and responsibility; and
- Information which indicates standards for recruiting and selecting staff, determining appropriate pay, defining career growth opportunities, identifying performance expectations and complying with the Americans with Disabilities Act (ADA).

1.25.119 Compensatory Time: Time accrued at time and a half or taken off from work with pay, in lieu of paid overtime compensation.

1.25.120 Competitive Service: The employment system whereby City Employees are hired and promoted through a competitive process based upon objective standards of merit to assure fair consideration all aspects of employment/promotion.

1.25.134 Confidential Employee: An employee performing the duties of a position which is designated as confidential by the City Council or designee.

1.25.142 Contractual Employee: An employee hired and paid pursuant to the terms and conditions of a specified written contract between such employee and the City.

1.25.153 Days: Calendar days unless otherwise stated.

1.25.16 Decision Band Method (DBM): The job evaluation method chosen by the City for classifying positions, based on the premise that the value of a job depends on its decision-making requirements. Each position is assigned to a Band, Grade and Sub-grade, resulting in an alpha-numeric rating which determines the appropriate salary range for each position.

1.25.17 Decision Band Method (DBM) Ratings: DBM ratings are ratings assigned to all levels within each classification, first by Band, then Grade, and finally Sub-grade. This step-by-step refining process permits the City to assign a job clearly and to justify the differences between various jobs, taking into account factors such as skill, effort, responsibility and working conditions. The ratings are the basis upon which the Salary Structure is built.

1.25.184 Demotion: The voluntary or involuntary transfer of an employee from one classification to another classification with a lower salary grade or to a lower step in a classification grade or hierarchy of positions.

1.25.195 Department Director: One who functions directly under the authority of the City Manager, has direct responsibility for a particular department, and manages its staff, policies and budget.

1.25.2015-1 Dependent Care: The term “dependent” as it relates to dependent care in the City’s Sick Leave Policy (Section 14.20), is limited to the following: an employee’s child, parent, spouse or registered domestic partner.

1.25.2116 Disciplinary Action: The discharge, demotion, reduction of pay, suspension, placing on probation, or the issuance of a written reprimand or formal warning or any other action for punitive, corrective or disciplinary reasons.

1.25.2217 Disciplinary Suspension: A disciplinary action that temporarily relieves an employee from duty without pay.

1.25.2318 Dismissal: The discharge of an employee from City employment.

1.25.2419 Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the Employee Relations Officer.

1.25.250 Emergency Appointment: An appointment made to meet immediate requirements of an emergency condition, such as fire, flood or earthquake, which threatens life or property, where such employment is not anticipated to endure beyond the duration of such an emergency period.

1.25.261 Employee: An elected or appointed person occupying a position in the City employment, including City Council Members, providing personal services to the City or its residents. This excludes independent and outside contractors, commissioners, members of advisory boards, and volunteers, and temporary agency employees.

1.25.272 Employee Assistance Program: (EAP) A confidential assessment and referral service designed to assist employees in resolving personal problems.

1.25.283 Employee Relations Officer: City Manager or any individual designated by the City Manager, to administer the City’s personnel system which includes the duties of equal employment opportunity officer.

1.25.29 Exceptional Performance Award: Exceptional performance awards should be based solely on performance that exceeds defined standards or expectations for incumbents in the job class. Exceptional performance awards shall be granted as a monetary award.

1.25.3024 Executive Management: Department Directors and those who qualify for executive exemption under FLSA.

1.25.3125 Fair Labor Standards Act (FLSA): The Federal Law which guarantees employees certain minimum wages and time and one-half overtime standards.

1.25.~~3226~~ Fiscal Year: A twelve (12) month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

1.25.~~3327~~ Full-time Employee: An employee who is regularly scheduled and expected to work forty (40) hours or more during a ~~workweek~~work week (or those employees participating in the Alternate Work Week Schedule).

1.25.~~3428~~ General Non-Exempt Employee: An employee who is not exempt from the pay and overtime provisions of FLSA.

1.25.~~3529~~ Grading: The second step in the evaluation process designed to classify the jobs according to the difficulty and effort involved in the supervisory responsibilities, if any. Jobs that require the incumbent to supervise or monitor other jobs assigned to the same Band (except Band A jobs) are assigned to the higher (coordinating) of the two Grades within the Band to which his/her job has been assigned. Jobs that do not supervise or monitor other jobs at the same Band, but may supervise or monitor jobs at the next lower Band are assigned to the lower of the two grades (except Band A jobs).~~A number assigned to a position title which indicates the salary range for that position.~~

1.25.~~360~~ Grievance: A job-related complaint by an employee regarding the terms and conditions of employment which arise out of a specific fact, situation, or transaction, other than discipline, that results in an alleged violation of existing ordinances, rules, regulations or policies administered by the employee's Department Director concerning wages, hours, other terms and conditions of employment.

1.25.~~374~~ Hearing Officer: An outside, independent person qualified to conduct an appeal hearing on personnel-related matters, excluding grievances.

1.25.~~382~~ In-House Competitive Examination: A type of examination open only to City employees meeting the minimum qualifications for a particular classification.

1.25.~~393~~ Interim Employee: An employee who is appointed to a regular classification on an acting or temporary basis pending completion of the recruitment process, issuance of an eligibility list, and filling the classification.

1.25.~~40-34~~ Job Audit: A systematic analysis of the duties performed by an employee to determine whether the duties are appropriate for the classification.

1.25.~~4135~~ Leave of Absence Without Pay: A period of time during which an employee may take time off without receiving compensation or benefits, unless otherwise stated in Section 7.20 of these Policies.

1.25.~~4236~~ Merit Salary Increase: The increase of an employee's salary within the salary range established for the classification the employee occupies, resulting from ~~successful~~satisfactory job performance, which is based on the overall rating received on the annual performance- evaluation~~or merit~~.

1.25.4337 Misconduct: Any act or unsatisfactory conduct or job performance which may be subject to disciplinary action.

1.25.4438 Open Competitive Examination: A type of examination open to all persons meeting the minimum qualifications for a particular position.

1.25.4539 Overtime: The time which an employee is required or permitted to work beyond the number of hours prescribed for a full-time employee in that classification in excess of forty (40) in one work week. Overtime compensation, taken as paid time or as compensatory time, shall be authorized as provided in Section 6.05.

1.25.460 Part-time Employee: The City has two (2) types of part-time employees: regular part-time and seasonal or temporary.

A. Regular Part-Time Employee: An employee who works less than forty (40) scheduled hours per week on a permanent basis (excluding those regular full-time employees participating in the Alternate Work Week Schedule).

B. Temporary or Seasonal Employee: An employee, other than a contract employee whose position has specified beginning and ending dates of employment.

1.25.471 Permanent Disability: A medical disability which will indefinitely prevent the employee from performing the employee's job duties without creating unreasonable endangerment to health and safety or inefficiency of the employee or others.

1.25.482 Personnel Ordinance: Chapter 2.08.060 of the City's Municipal Code, authorizing the establishment of a personnel system for the City.

1.25.493 Position: A specific job assigned to a job classification.

1.25.5044 Probationary Employee: An employee who is serving a probationary period for the position and/or class in which the employee is currently employed. A probationary employee is subject to dismissal without recourse to any appeal procedures and without a showing of cause. A probationary employee has no property interest in continuing employment.

1.25.5145 Probationary Period (for initial hire or promotion): A working test period of not less than six (6) twelve (12) months (unless extended). The six month probation period is calculated as six months after the same day of the month as the date of hire or promotion, (i.e., if hired or promoted January 15, probation period expires July 15). To be considered an integral part of the examination process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.

1.25.5246 Professional/Administrative/Management Employee: An employee who qualifies for the executive (Professional/Administrative/Management) exemption under FLSA.

1.25.5347 Promotion: The advancement of an employee from one classification to another classification having a higher salary range.

1.25.5448 Reclassification: The reassignment from one classification title ~~or grade~~ to a different classification title ~~or grade~~ in accordance with an evaluation of the minimum qualifications, duties, and responsibilities of the position in question.

1.25.5549 Reduction-In-Force (RIF): A layoff in the work force.

1.25.560 Regular Employee: A full or part-time employee hired for an indefinite term into allocated position, who has successfully completed the employee's probationary period, and has been retained as provided in these Policies.

1.25.571 Relative: (or "immediate family member") used for determining eligibility for bereavement leave under Section 14.25 of these policies): A spouse, child, step-child, legal guardian, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, first cousin, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or any other person or individual related by blood or marriage.

1.25.582 Resignation: The voluntary separation by an employee from City employment, or abandonment of the job by employee.

1.25.593 Policies: These Personnel Policies, as they may be amended from time to time.

1.25.6054 Salary Plan or Schedule: An annual listing of the minimum through maximum salary grades of pay for all defined City classifications, as prepared by the Employee Relations Officer and adopted by the City Council.

1.25.6155 Salary Range: The range of pay an employee can earn while employed in a particular classification.

1.25.6256 Seniority: The length of an employee's continuous service with the City.

1.25.6357 Skelly Rights: The right of due process including: (1) notice of the proposed disciplinary action, (2) a copy of materials on which the proposed action is based, and (3) an opportunity to respond orally or in writing to an impartial reviewer prior to discipline being imposed.

1.25.6458 Staffing Plan: The classification titles, salary ratingsgrades and number of allocated positions in a department or division for a designated fiscal year, as determined by the Employee Relations Officer and adopted by City Council in the annual budget document.

1.25.6559 Stand-By Assignment: Employees occupying a position designated as being scheduled to be subject to being called back to work.

1.25.660 Standards of Conduct: Those Policies which are intended to govern the actions of City employees during their course of employment with the City with respect to the employee's conduct and job performance.

1.25.671 Step: The various increments of a salary range, from minimum to job ratem~~maximum~~, authorized for the subject classification.

1.25.68 Sub-grading: The final step in the job evaluation process that involves assessing the relative difficulty, complexity, and skills required of the job in comparison to the other jobs within the same Band and Grade. The following criteria are used to assist in determining the relative difficulty between the decision making requirements of jobs being evaluated:

- Time pressure
- Need for alertness
- Need for care and precision
- Essential skills and experience

1.25.692 Supervisor: An employee assigned responsibility for evaluation of permanently assigned employees and for organizing, assigning and reviewing their work.

1.25.7063 Termination: The separation of an employee from City service because of retirement, resignation, permanent disability, death or dismissal.

1.25.7164 Transfer: The change of an employee from one department or division to another department or division without changing the employee's salary grade and usually within the same classification.

1.25.7265 Weapons: Fire arms of any type; ~~k~~Knives with folding blades in excess of 3-1/2 inches; ~~s~~Sheath knives; ~~a~~Any knives prohibited by State Law; ~~p~~Personal defense chemical weapons such as (a) mace (tear gas) (b) oleoresin capsicum (pepper spray); ~~a~~Any martial arts weapons; ~~e~~Electric stun guns (tasers); clubs, bats or other impact weapon.

1.25.7366 Work~~_~~week: A regularly reoccurring period of seven (7) consecutive twenty-four (24) hour days beginning at 12:01 a.m. on Monday and concluding at 12:00 p.m. (Midnight) the following Sunday night (or as defined in the Alternate Work Week Schedule Policy for those employees participating in same). This shall not be construed to constitute a guarantee of hours of work per day or per work week or of days of work per work week.

1.25.7467 Y-rate of Pay: The Y-rate of pay shall exist when an employee's salary is frozen at the then current salary~~step~~ until such time as the commencing salary at the Y-rate, taken together with subsequent general salary increases, equals or exceeds the employee's salary at the Y-rate. The employee will not receive merit or performance-based salary increases. However, benefits and salary range will be adjusted annually in accordance with City's pay and benefit plan. This may occur in situations where an employee is reclassified, voluntarily demoted, or as otherwise stated in these Policies.

1.30 NO CONTRACT OF EMPLOYMENT CREATED: These Policies do not create any contract of employment, express or implied, or any rights in the nature of a contract. The goals, objectives and strategies set forth in this document are subject to budgetary limitations. Nothing contained herein is to be construed as a binding contract.

1.35 ADMINISTRATION OF THE PERSONNEL SYSTEM: The Employee Relations Officer shall administer the City personnel system and may delegate any of the powers and

duties related thereto to any other officer or employee of the City or may recommend that such powers and duties be performed under contract. The Employee Relations Officer shall:

1.35.1 Act as the appointing authority for all City employees except those officers and employees directly appointed by the City Council.

1.35.2 Administer all of the provisions of these Personnel Policies except as specifically reserved to the City Council.

1.35.3 Prepare and recommend to the City Council any appropriate Personnel Policies and revisions to such Policies.

1.35.4 Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.

1.35.5 Have the authority to discharge and discipline City employees in accordance with these Personnel Policies.

1.35.6 Provide for the publishing or posting of notices of examinations for position in the competitive service; the discretion to waive certain job stated qualifications for good cause when it is in the best interests of the City; the authority to receive applications therefore; the authority to conduct and grade examinations; the authority to establish a list of all persons eligible for appointment to the appropriate position in the competitive service; and the performance of any other duty which may be desirable or required for the effective implementation of these Policies.

1.40 CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES: Employees shall not take part in, or attempt in any manner to influence the consideration of any application, proceeding or other matter involving their own personal property, real estate, investment or other interest, or that of any relative or close personal acquaintance. In all such situations, the employee must disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such manner.

Employees shall not directly or indirectly solicit any gift or receive any gift whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form under circumstances which it could reasonably be inferred the gift was intended to influence them or could be expected to influence them in the performance of their official duties, or was intended as a reward for any official action on their part.

Gifts that will be shared with office staff, such as boxes of candy, flowers and food, may be viewed as exceptions provided they are of minimal value and do not exceed limits imposed by law for gifts to public employees. All financial disclosure laws and regulations must be complied with.

If an employee receives any gift as specified above, they shall be rejected firmly but as tactfully as possible so the good intentions of the giver are properly acknowledged.

1.45 OUTSIDE EMPLOYMENT: An employee shall not engage in any employment, enterprise, or outside activity which is in conflict with his duties, functions, responsibilities, or the department by which he or she is employed, nor shall the employee engage in any compensatory outside activity which will directly, or indirectly, contribute to the lessening of his or her effectiveness as an employee.

Authorization

- a. Any employee wishing to engage in an occupation or outside activity for compensation shall inform the Department Director of such desire, providing information as to the time required and the nature of such activity, and such other information as may be required; and the Department Director shall determine whether or not such activity is compatible with the employee's City employment.
- b. If the Department Director determines such activity is compatible, he or she may authorize the activity in writing using the "Outside Employment Form" and shall send a copy to the Employee Relations Officer or designee.
- c. Said authorization shall be valid only for the work and period prescribed therein.

Determination of Inconsistent Activities

In making a determination as to the consistency or inconsistency of outside activities, the Department Director shall consider, among other pertinent factors whether the activity:

- a. Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment;
- b. Involves receipt or acceptance by an employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his or her City employment or as part of his or her duties as a City employee;
- c. Involves the performance of an act in other than his or her capacity as a City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he or she is employed;
- d. Involves conditions or factors which would probably, directly or indirectly lessen the efficiency of the employee in his or her regular City employment or conditions in which there is a substantial danger of injury or illness to the employee.

Use of City Equipment Prohibited

- a. No City-owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item which is the property of the City shall be used by an employee while

said employee is engaged in any outside employment or activity for compensation, or otherwise, except upon prior written approval of the Employee Relations Officer.

- b. No employee shall allow any unauthorized person to rent, borrow, or use any of the items mentioned in (a) above, except upon prior written approval of the Employee Relations Officer.

Violations and Penalties

- a. Any violation of the provisions herein contained respecting outside employment or activity and use of City property shall constitute sufficient grounds for disciplinary action, up to and including dismissal.

1.50 POLITICAL ACTIVITIES: No employee shall engage in political activity during working hours (excluding break time) or on City premises where such activity would disrupt the workplace. 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 permitted by the City Manager, Federal or State law, Memorandum of Understanding, or City Council directive.

1.55 SAFETY AND HEALTH: Each employee shall comply with all applicable safety laws, Policies, and regulations, as follows: adhere to and follow the guidelines of the Safety Manual (a copy of which is available on the City's Human Resources Intranet on the H:Drive), all safety practices, use personal protective equipment as required and provided by the City, render every possible aid to safe operations, and report to the supervisor, department director or Safety Committee all unsafe conditions or practices.

Employees with questions about safety methods or practices should check with their supervisor.

1.60 VEHICLE AND SEATBELT POLICY: ~~City and Association agree that the individual employed by City as Building Inspectors in 1998 shall receive a car allowance equal to the then allowable IRS standard mileage rate paid for a total of 1000 miles per month, so long as he remains continuously employed in that position. In the event that the IRS changes the allowable standard mileage rate, the monthly allowance shall be adjusted up or down accordingly on the first day of the next month. The City reserves the right to adjust the miles per month upward or downward in the event inspections increase or decrease significantly in the future. Any individual hired as a replacement for the individual employed as Building Inspector in 1998 shall not receive a car allowance but will be eligible to use a City pool vehicle. If required to use a personal vehicle, an employee shall be reimbursed at the then current IRS rate.~~

All employees who are currently assigned a City vehicle for their job duties will continue to be provided access to a vehicle ~~for the current fiscal year~~. In addition, a vehicle pool will be available for use by employees to conduct City business. Pool vehicles will be made available on a first-come, first-served basis. The pool will be administered by the Finance Department. An employee must check with the Finance Department prior to using his/her own vehicle on City business. If there is no pool vehicle available, and the employee cannot wait for one to become available, the employee may use his/her personal vehicle and be reimbursed at the then current IRS rate. ~~Effective November 1, 2000,~~ Foremen will no longer take City vehicles home on a daily basis. Instead, Foremen are authorized to take a City vehicle home when on scheduled

standby. When on scheduled standby, Foremen shall be paid standby pay pursuant to Section 14.35.6.

City shall make City pool vehicles available on a priority basis for those employees who are required to travel off paved roads on City business. If a pool vehicle is not available, and the employee must use his/her personal vehicle to travel off paved roads, the employee shall not be required to travel off paved roads if he/she reasonably believes that to do so would cause damage (other than normal wear and tear) to the vehicle. The employee shall inform his/her supervisor of such concerns, and the supervisor shall give alternate instructions.

Employees required to use their own vehicle for City business and who receive either a monthly allowance or mileage reimbursement therefore are required to provide proof of a valid California drivers' license and of vehicle insurance for both liability and property damage. The City requires a copy of the drivers' license at the time of hire and at the time of each required renewal. Human Resources maintains these records and is responsible for notifying employees when their license needs to be renewed.

An employee who loses his/her license or has his/her license restricted so as to prevent driving on City business is responsible for notifying the Employee Relations Officer immediately. The City has an agreement with the Department of Motor Vehicles (DMV) wherein the DMV notifies the City when an employee's license is restricted or revoked. If the DMV notifies the City prior to receiving notification by the employee, disciplinary action may result.

Proof of insurance must be shown at the time of hire and annually by those employees who drive their own vehicles on City business. Policy limits are determined by the employee, but must meet minimum state standards. If an employee has an automobile accident while on City business, the employee's insurance policy shall provide primary coverage for both liability and property damage. If there is no insurance policy in place, the employee shall be personally responsible. The car allowance or mileage reimbursement paid by the City is calculated to cover the cost of insurance purchased by the employee. No employee who has not been required to use his/her vehicle for City business shall be required to provide proof of insurance.

Employees must wear seatbelts at all times when in a vehicle on City business.

1.65 DRUG AND ALCOHOL FREE WORKPLACE: It is the intent of the City of La Quinta to maintain a workplace that is free of drugs and alcohol and to discourage drug and alcohol abuse by its employees. The City has a vital interest in maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency and service to the public. Employees who are under the influence of a drug or alcohol on the job compromise the City's interests, endanger their own health and safety and the health and safety of others, and can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, delays in the completion of jobs, and disruption of service to the public.

While on paid duty time or on City property, including in City vehicles or while operating City equipment, employees shall not consume or possess alcoholic beverages or consume or possess

controlled substances. Employees shall not work or be at work while under the influence of any controlled substance (as defined herein), without written authorization from a qualified physician and the employee's Supervisor.

The unlawful manufacture, distribution, dispensing, possession, or consumption of any controlled substance is prohibited on the job, in the City's workplace, or while subject to duty (i.e. standby).

For the purposes of this Section, the following shall be defined as:

- A. "Abuse of any legal drug" means the use of any legal drug, including prescription drugs, (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.
- B. "Controlled substance" denotes any substance which could potentially impair the employee's ability to effectively and safely perform the functions of his/her duties, including, but not limited to: alcohol, coca leaves, cocaine, marijuana, opium and opiates, amphetamines, methamphetamine, lysergic acid (L.S.D.), etc. As outlined below, certain prescription drugs and medications shall also be classified as controlled substances.
- C. "Conviction" is a finding of guilt (including a plea of no contest), an imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- D. "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information obtained from a reliable person with personal knowledge; an accident involving City property, where it appears the employee's conduct is at fault; physical altercation, verbal altercation, or unusual behavior.

Reasonable suspicion may also be based on an employee's possession of drugs, alcohol or paraphernalia in the work place or on City property.

The use of prescription drugs which would not alter an employee's work performance is acceptable, if prescribed in writing, by a qualified physician. Employees must notify their Supervisor before beginning work when taking drugs (prescription or non-prescription) which may interfere with the safe and effective performance of their duties. In the event there is a question regarding an employee's ability to perform assigned duties safely and effectively while using such drugs, a written clearance from a qualified physician shall be required before the employee is allowed to resume the employee's regular duties.

Having a Medical Marijuana Card and/or a cannabis prescription from a physician does not allow an employee to use or possess any cannabis products (marijuana, hash, or hash oil) on City property, while working as an employee, or while 'on call' and subject to return to work. The federal government still classifies cannabis as an illegal drug, even if California has

decriminalized its possession or use. Unlike .08 blood alcohol levels, as yet there is no 'acceptable level of driving impairment' when it comes to cannabis use and driving City equipment or vehicles. Employees are still subject to testing under the City's reasonable suspicion, post-accident, or 'safety sensitive employee' policies, and receiving discipline, suspension, or termination for a positive cannabis test.

Toward reaching this goal of a drug and alcohol free workplace, the City may conduct pre-employment drug or alcohol testing of applicants for City positions that require more than incidental driving or performance of other safety sensitive functions as part of their regular duties, as defined in the approved job descriptions. Pre-employment drug or alcohol tests shall apply only to non-City employees; City employees who apply for another City position shall not be subject to pre-employment drug or alcohol tests. Any applicant who tests positive, as outlined in the Drug Free Workplace Administrative Policies, Section 5, shall be disqualified from consideration for employment for a period of six (6) months.

The City also reserves the right to require that an existing employee undergo testing if the City determines that reasonable suspicion exists to believe that the employee is under the influence of any illegal drug or controlled substance, as defined in this Section. Reasonable suspicion shall, whenever possible, be evaluated based on personal observations by the Department Director or a Supervisor who is familiar with the employee's normal behavior. Information which is obtained from a reliable person with personal knowledge of the employee may also be utilized in appropriate circumstances.

In the event that an employee suspects that the employee's supervisor is under the influence of drugs or alcohol, the employee may submit a written or oral complaint which contains detailed information regarding the allegation of alcohol or substance abuse to the supervisor's superior.

Employees who (1) refuse to submit to a drug or alcohol test immediately when requested by authorized City or law enforcement personnel; (2) or refuse to submit to a limited search of personal properties if requested by authorized City personnel, based on reasonable suspicion or legitimate business need~~law enforcement personnel~~; or (3) are "convicted" of a "criminal drug statute" violation, shall be subject to the disciplinary procedures which are outlined in Section 10 of these Policies.

All City lockers, desks, cabinets, vehicles, computer files, ~~and computer diskettes~~ are the property of the City and are subject to search without the employee's consent by City management at any time with or without notice. Refusal to cooperate with a search may result in a disciplinary action, up to and including termination. Unless the Supervisors are directed otherwise by the Employee Relations Officer, employees will be given the opportunity to be present when the search is conducted.

If an employee voluntarily wishes to participate in a drug or alcohol rehabilitation program, and has not been found to have violated the City's Policies concerning drugs or alcohol, the City shall make every reasonable effort to assist in placing an employee with an available employee assistance program or service for purposes of rehabilitation, in-lieu of disciplinary action or criminal prosecution. If, in such cases, the employee refuses to attend and complete an employee

assistance program or service, the employee will be subject to the disciplinary procedures which are outlined in these Policies.

1.70 DRUG AND ALCOHOL FREE WORKPLACE - PROHIBITED CONDUCT:

In addition to prohibited acts already provided for, the following acts are prohibited and subject an employee to discipline in accordance with these Policies and procedures:

- (a) The use or possession of alcohol or impairing drugs, including illegal drugs and drugs without a prescription during working hours or while subject to duty, on breaks, during meal periods or at any time while on City property;
- (b) Reporting to work or being subject to duty while his or her ability to perform job duties is impaired due to on- or off-duty alcohol or drug use; or
- (c) Directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are subject to being called to duty.

1.75 DEPARTMENT OF TRANSPORTATION ALCOHOL AND DRUG ABUSE:

1.75.1 Purpose: This policy establishes guidelines in compliance with the Federal Omnibus Transportation Employee Testing Act of 1991 (Omnibus Act), the Department of Transportation Federal Highway Administration (FHWA) Regulations of 1994 (49 C.F.R. parts 40 and 382 et al.), and Section 34520(a) of the California Vehicle Code. Each of these measures requires that regular drug and alcohol testing be performed on employees in safety-sensitive positions who operate specified commercial vehicles.

The City of La Quinta's objectives in establishing this policy are to:

- A. protect the safety of the public at large;
- B. ensure the highest quality of public service possible;
- C. provide a safe working environment for City employees;
- D. promote efficiency and productivity; and
- E. encourage employees who are concerned about their drug and/or alcohol use to voluntarily seek assistance.

1.75.2 Policy:

A. Covered Employees: ~~Effective January 1, 1996, t~~The Department of Transportation drug and alcohol testing rules apply to City employees who operate the following:

- 1. a vehicle with gross combination weight of at least 26,001 pounds, inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds;
- 2. a vehicle of over 26,001 GVWR;
- 3. a vehicle placarded under Department of Transportation hazardous material regulations; and Department of Transportation hazardous material regulations; and
- 4. a vehicle designed to transport 16 or more passengers, including the driver.

B. Safety-Sensitive Functions: “On-duty” time for safety-sensitive functions commences at the time covered employees begin to work or are required to be in readiness for work until the time they are relieved of work responsibilities. “On-duty” time includes the following safety-sensitive functions:

1. driving the vehicle;
2. performing maintenance on the vehicle;
3. inspecting the vehicle;
4. loading or unloading the vehicle;
5. supervising or assisting the loading or unloading of a vehicle; and
6. waiting to load or unload the vehicle or to be dispatched.

C. Prohibited Acts: Covered employees shall not engage in any of the following behaviors while performing or waiting to perform a safety-sensitive function:

1. Drugs

- a. report to duty or remain on duty in a safety-sensitive capacity when using any drug;
- b. possess while on duty;
- c. consume at any time; and
- d. test positive.

Note: Prescription drugs may be allowed, as needed, pursuant to advance notification to the appropriate supervisor, along with the doctor’s recommendation regarding instructions and possible side effects as they relate to the employee’s job duties.

2. Alcohol

- a. report for duty or remain on duty in a safety-sensitive capacity while having a blood alcohol level of 0.02 or greater;
- b. use or possess alcohol while performing safety-sensitive functions;
- c. perform safety-sensitive functions within four hours after using alcohol; and
- d. use alcohol for 8 hours after an accident or until tested, whichever is first.

3. Drug and Alcohol

- a. refusal to submit to drug and/or alcohol testing as required by the Omnibus Act; is deemed as a positive test;
- b. report to duty or remain on duty to perform a safety-sensitive function after refusing to submit to drug and/or alcohol testing required under the regulations; and
- c. fail to advise the immediate supervisor when other employees have actual knowledge that an employee is in violation of these rules.

D. Drug Testing: Pursuant to FHWA regulations, urine specimens shall be screened for the following substances:

1. Amphetamines/Methamphetamine (i.e., Speed and Crystal);
2. Cocaine;
3. Opiates (i.e., Codeine, Heroin, and Morphine);
4. Phencyclidine (PCP); and
5. THC (Marijuana)

The testing is a two stage process. If the initial screening is positive for one or more of the above drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS ensures that over-the-counter medications are not reported as positive tests.

E. Alcohol Testing: The regulations require an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) for the testing of alcohol use. An alcohol testing form is completed by the employee and a certified breath alcohol technician (BAT) to ensure the results are properly recorded. Two breath tests are required to determine if the employee has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a negative test, and no further testing is required.

If the alcohol concentration is 0.02 or greater, a second or confirmation test shall be conducted. When a confirmation test is required, the EBT equipment shall print the screening and confirmation test numbers in sequential order. The device shall also print the result, date, and time of both tests, along with the name and serial number of the EBT equipment in order to ensure the reliability of the results. Any action taken will be based on the confirmation test result.

F. Types of Tests Required: The following tests are required for covered employees who perform safety sensitive functions:

1. Pre-employment Testing
Prior to hire or assignment to a position covered by this policy, the applicant or employee shall undergo testing for drugs. Failure to pass the test shall be deemed a basis upon which employment or assignment to a safety-sensitive position shall be denied.
2. Random Selection
Regulations require regular random testing of all employees covered by this policy. The ongoing testing will be conducted on an unannounced basis before, during, or immediately after the performance of safety-sensitive functions. Employees will have an equal chance of being selected. All eligible employees' names will be placed in a pool, from which names are drawn on a "reasonably random" basis. Once an employee's name is pulled for testing, his or her name will be returned to

the pool. Therefore, it is feasible for the same employee to be tested repeatedly while participating in a true random testing process.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method.

The regulations specifically require that random testing be performed as follows:

- a. Drugs - Fifty percent (50%) of the total number of covered employees shall be tested annually.
- b. Alcohol - Twenty-five (25%) percent of the total number of covered employees shall be tested annually.

3. Reasonable Suspicion

The City shall require a covered employee to be tested upon reasonable suspicion for the use of drugs or alcohol. Reasonable suspicion or cause means that a trained supervisor believes that the actions, appearance, speech, body odors, or conduct of an on-duty employee is indicative of the use of drugs or alcohol. Reasonable suspicion may be conducted before, during, or after an employee performs safety-sensitive functions.

The determination that a reasonable suspicion exists to require an employee to undergo a drug or alcohol test must be based on specific, objective, and contemporaneous facts concerning the behavior, appearance, speech, or body odors of the employee. The determination must also be based on the supervisor's direct observations of the behaviors and not on hearsay. The supervisor(s) witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

Where there is a reasonable suspicion that the employee is under the influence of drugs or alcohol, the supervisor shall arrange for the employee to be transported to the testing facility and then driven home. The employee shall not be permitted to transport him or herself.

4. Post-Accident

For purposes of this policy, an "accident" is defined as an incident involving a commercial vehicle in which one or more of the following occurs: loss of human life; bodily injury to persons; disabling damage to any of the vehicles involved; or issuance of a traffic citation to the City employee following any type of vehicle collision.

The following criteria apply when conducting drug and alcohol tests due to an accident:

- a. A breath alcohol test must be administered as soon as possible. If not within two hours following the accident, the employer/supervisor must prepare and maintain records stating why testing was not completed. At that time, every effort should be made to ensure that a breath alcohol test is performed within

eight hours following the accident. If testing has not occurred within eight hours, attempts to test should be discontinued, and the employer/supervisor must record why he was unable to administer the required test.

- b. A drug screening test must be initiated prior to the 32nd hour following an accident. If the test is not administered as required, the employer/supervisor must document the reasons testing was not performed.
- c. The employee must remain readily available for testing or he or she will be deemed to have refused the test (see Refusal to Consent). This rule does not require the delay of necessary medical attention for injured persons following the accident nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.
- d. An employee subject to post-accident testing may not use alcohol within eight hours following the accident or before an alcohol test, whichever comes first.
- e. Testing will not be conducted on any deceased employee.

5. Return-to-Duty

Testing shall be conducted on any covered employee who has violated the prohibited drug and alcohol standards and is accepted into a return-to-duty status. Prior to resuming his or her safety-sensitive functions, the employee must undergo a new drug and/or alcohol test.

The test results must be negative for the employee to return to work. If applicable, the employee shall be referred to a Substance Abuse Professional for further assessment.

6. Follow-up

Any covered employee identified by the Substance Abuse Professional as needing assistance will be subject to follow-up testing upon returning to duty. A minimum of six unannounced tests will be performed over the following twelve month period. Follow-up testing may be extended for up to 60 months following return-to-duty. The same criteria used for the return-to-duty testing will be used for any follow-up testing. Such testing shall not be subject to the random testing selection procedures. Moreover, follow-up testing may include tests for other substances beyond the employee's initial positive test of drug and/or alcohol use when the Substance Abuse Professional has reason to believe that additional testing is warranted. If follow-up testing is required, the employee assumes full responsibility for paying the follow-up testing expenses.

G. Employee Consent: Before a drug or alcohol test is administered, the covered employee will be asked to sign a consent form authorizing the test and permitting release of the test results to the appropriate City representative. The consent form shall provide a space to acknowledge that the employee being tested has been advised of the drug and alcohol testing policy.

H. Refusal to Consent: An employee that refuses to submit to drug or alcohol testing required by the City shall be prohibited from performing or continuing to perform safety-sensitive functions. An employee's refusal to submit to drug or alcohol testing required by the City for any reason may also result in disciplinary action, up to and including termination. Refusal to consent shall include, but is not limited to:

1. failure to provide adequate breath for alcohol testing, without valid medical explanation, after being notified of the requirement for breath testing;
2. failure to provide an adequate urine sample for testing, without a genuine inability to provide a specimen (as determined by medical evaluation), after being notified of the requirement for urine testing; and
3. engaging in conduct that clearly obstructs the testing process.

I. Consequences of Positive Test Results: If drug and/or alcohol test results are positive, the employee may be disciplined, up to and including termination. If the employee is not terminated, the employee's supervisor or other authorized manager shall:

1. Immediately remove any employee who has engaged in prohibited drug or alcohol use from his or her safety-sensitive functions.
2. If the alcohol concentration level is greater than 0.02, but less than 0.04, the employee may not return to his or her safety-sensitive function for a minimum of 24 hours and until another breath alcohol test is administered, and the result is less than a 0.02 concentration.
3. If the alcohol concentration level is greater than 0.04 or a drug screening test is positive for any of the prohibited controlled substances, the employee will be removed from his or her safety-sensitive position until:
 - a. he or she undergoes evaluation and, where necessary, rehabilitation;
 - b. a Substance Abuse Professional determines that the employee has successfully complied with any required rehabilitation; and
 - c. the employee undergoes a return-to-duty test with a result of a blood alcohol concentration of less than 0.02 if the employee initially tested positive for alcohol, and/or with a negative test result for controlled substances if the employee initially tested positive for controlled substances.

Any treatment or rehabilitation may be provided in accordance with City policy. The City is not required under these circumstances to provide rehabilitation, pay for treatment, or to reinstate the employee to safety-sensitive positions.

4. If the employee is permitted to return to work, he or she must have a negative test result on the return-to-duty test.

5. Perform unannounced follow-up testing on any employee returned to his or her safety sensitive duties.

6. Make arrangements for alternative transportation when test results are positive for drugs or an alcohol concentration of 0.02 or greater.

J. Substance Abuse Professional: The City will only provide an assessment by a Substance Abuse Professional. Under this policy, the City has no obligation to provide or pay for further treatment, as this is the responsibility of the employee. Some financial assistance may be available under the City's health insurance plan.

K. Testing Records: Records shall be maintained on test results, prevention programs, policies, training, drug use and alcohol misuse, refusals to submit to testing, employee evaluations, and annual summary of the City testing program. The retention period for the records is as follows:

1. Five-Year Retention Period

This pertains to the results of alcohol tests of 0.02 or higher, confirmed positive drug tests, documentation of any employee who has refused to submit to a required drug or alcohol test, employee assessments and referrals by the Substance Abuse Professionals, and each calendar year summary.

2. Two-Year Retention Period

This pertains to records documenting the collection process for the drug and alcohol tests and training of supervisors.

3. One-Year Retention Period

This pertains to any alcohol test results which are less than 0.02 and the documentation of any negative or canceled drug test.

All records are confidential; however, the regulations require that they be made available for inspection at the City of La Quinta within two business days following a request by an authorized person. The records are kept in a separate file and will not be made a part of the employee's personnel file. An exception to this is when disciplinary action results from the incident. When there is disciplinary action, disciplinary notices and related documents will be placed in the employee's personnel file.

The result of any testing done pursuant to this policy shall be used for employment purposes only and shall not be released for use in the criminal justice system, unless by court order.

L. Access to Records: The following agencies shall have access to all test results without the verbal or written consent of covered employees:

1. the City of La Quinta in proceedings initiated either by the City or the employee as a result of testing;

2. the Department of Transportation or any state or local official with regulatory authority over the City or any of its employees; and

3. the National Transportation Safety Board when conducting an investigation of an accident where drug and/or alcohol testing was performed.

M. Training: As part of the emphasis on education and safety, the Omnibus Act requires providing educational materials and two hours of training of supervisors and one hour of training for employees before testing can begin. The required topics include the following:

1. General Requirements

Covers the general requirements of the Omnibus Act and the City's responsibilities to comply with those requirements.

2. Key Person

Designates a key person at the City to answer employee questions regularly.

3. Drivers Covered

Identifies categories of employees who are subject to the regulations.

4. On-duty Time

Describes the period of time employees are to be in compliance.

5. Safety-Sensitive Functions

Identifies what job tasks are considered to be safety-sensitive.

6. Prohibited Conduct

Specifies information about prohibited employee conduct.

7. Occasions for Testing and Types of Testing

Lists circumstances under which employees will be tested for drugs and/or alcohol.

8. Procedures for Testing

Covers procedures that will be used to test for the presence of alcohol or drugs and to protect the privacy of employees, the integrity of the testing process, and the validity of the test results. Testing shall be conducted only by laboratories that are Department of Health and Human Services certified, and comply with all laboratory analysis procedures and quality control measures set forth in 49 C.F.R. part 40.

9. Refusal to Be Tested

Explains what constitutes a refusal to test.

10. Blood Alcohol Concentration

Depicts the various readings for alcohol concentration greater than 0.02.

11. Effects of Drugs and/or Alcohol Use

Describes the specific observations concerning the appearance, behavior, speech, or body odors of the employees.

12. Penalties and Referral

Lists the various consequences for employee found to have tested positive for prohibited drugs or within the prohibited blood alcohol level.

N. ~~Effective Date and~~ Notice to Employees: ~~The Personnel Policies, including this section, shall be effective August 11, 1997. Covered employees will receive a copy of the Personnel Policies policy prior to its effective date. Employees who are hired after the effective date shall be given a copy~~ at the time they commence employment with the City.

O. Compliance with Federal Law: At all times, the City will comply with the current applicable federal law concerning drug and alcohol testing. Issues or inconsistencies that are not addressed in this policy will be determined by referring to the law and official regulations outlining policies and procedures, etc. relative to the law and official regulations outlining policies and procedures, etc.

P. Employer Contact: The Employee Relations Officer has been designated to answer employee questions about this policy.

1.80 EQUAL EMPLOYMENT, POLICY AND SEXUAL HARASSMENT, HOSTILE WORK ENVIRONMENT AND ANTI-BULLYING POLICY: The City is an equal opportunity employer. Personnel actions will comply with all applicable laws prohibiting discrimination in employment, based on race, religious creed, color, national origin, ancestry, ~~gender, gender identification, physical handicap,~~ medical condition, marital status, sex, pregnancy, ~~or age, sexual orientation, domestic partnership status, military and veteran status, or mental or physical handicap.~~ Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the City, is not justifiably linked to successful job performance.

Policy Against Harassment: The City strictly prohibits harassment of employees in the workplace based on ~~race, religious creed, color, national origin, ancestry, gender, gender identification, medical condition, marital status, sex, pregnancy, age, sexual orientation, domestic partnership status, military and veteran status, or mental or physical handicap~~ ~~race, color, national origin, ancestry, religion, sex, sexual orientation, marital status, age, physical handicap, or medical condition.~~ Harassment includes all forms of offensive or unwelcome physical or verbal conduct that interferes with an employee's work or creates an offensive or hostile working environment. In addition to prohibiting all forms of discrimination and harassment, the City also prohibits any form of "intimidation or bullying" in the workplace or elsewhere, including offsite events, that reflects negatively on the employee or on the City.

Sexual Harassment: Sexual harassment of all types is specifically prohibited. Sexual harassment of employees in the workplace is illegal, unacceptable, and will NOT be tolerated.

Under state and federal law, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Harassment need not be motivated by a sexual desire, and the use of profane or vulgar language alone, even between members of the same sex, may be sexual harassment. It is illegal whenever (a) submission to such conduct is made a condition of employment, either expressly or implied, (b)

submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include unwelcome sexual propositions or marriage proposals; unwelcome hugging, kissing, or other offensive physical contact of a sexual nature; lewd gestures, remarks, or innuendos; profane or vulgar language, unwelcome discussions of sexual practices or anatomy; and sexually offensive posters, photographs, drawings, cartoons, jokes, stories, nicknames, or comments about appearance.

Anti-Bullying: Every employee, public official and other individuals, such as temporary agency workers, consultants, independent contractors and visitors, have the right to be treated with respect. Bullying is the use of verbal and/or physical aggression with the intention of intimidating or harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and/or creates an intimidating or threatening environment. Bullying occurs in many forms including, but not limited to, excluding, tormenting, taunting, making abusive comments, or using threatening gestures; pushing, shoving, punching, unwanted physical contact or any use of violence; graffiti; name-calling, sarcasm, spreading rumors, teasing, etc. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chat room misuse, mobile threats by text messaging or calls, or misuse of cameras and video equipment.

This policy applies to all Supervisors of the City, as well as to co-employees, elected and appointed officials, commissioners, customers, and other persons at the workplace whom the City knows or has reason to know are violating this policy. All City personnel are expected to avoid any conduct that could be construed as harassment or other prohibited behavior by any employee. Appropriate corrective action will be taken against all offenders, including discipline or discharge of Supervisors or employees who violate this policy.

Any employee who believes he or she has been unlawfully harassed should bring the matter to the attention of the employees' supervisor immediately, and provide a full and accurate report of the underlying facts. Where the employee's supervisor is the alleged harasser, the employee should bring the matter to the attention of the supervisor's superior. Employees are urged to report to the employee's supervisor, but this is not required if the employee feels uncomfortable in doing so, or if the employee believes the supervisor is the harasser. In all cases, employees are free to report such problems directly to the Employee Relations Officer. Upon notification of a harassment complaint, the Employee Relations Officer, or other person acting in that capacity, shall promptly conduct an investigation of the complaint and supervise and/or investigate the complaint. The investigation will generally include interviews with (1) the complainant; (2) the accused harasser; and (3) any other person the Employee Relations Officer, or person acting in that capacity, has reason to believe has relevant knowledge concerning the complaint. This may include victims of similar conduct.

All such reports will be kept confidential to the greatest extent possible, but some disclosure will be necessary to conduct a proper investigation. In each case, the employee reporting the problem

will receive a written reply, from the Employee Relations Officer, or other person acting in that capacity, on the results of the investigation and the action taken, if any. Any employee who is not satisfied with the reply may appeal to the City Manager and will receive a reply in writing.

No employee shall be subject to any form of retaliation for reporting any violation, or participating in any investigation under this policy provided that they have done so truthfully and in good faith. Employees who believe they have been retaliated against in violation of this policy may utilize the grievance procedure described below.

This policy also applies to unlawful harassment based on any of the other illegal criteria set forth in the City's Equal Employment Policy, including race, color, religion, national origin, age, sex, sexual orientation, disability, marital status, or physical or mental condition.

The California Fair Employment and Housing Act, (FEHA) (California Govt. Code Sections 12940 et seq.) prohibits unlawful sexual harassment, as well as other forms of discrimination based on race, color, national origin, religious creed, age, disability, marital status, and medical condition.

Employees may file complaints about sexual harassment or other illegal employment discrimination with the California Fair Employment and Housing Commission (1390 Market Street, Suite 410, San Francisco, CA 94102; Telephone: 415-557-2325), or with the California Department of Fair Employment and Housing (San Bernardino Office: 1845 S. Business Center Drive, #127, San Bernardino, CA 92408-3426; Telephone: 909-383-4711).

The Department of Fair Employment and Housing (DFEH) is authorized to accept and investigate complaints of employment discrimination, and to mediate settlements. The Fair Employment and Housing Commission (FEHC) has authority to issue accusations against employers, conduct formal hearings, and award reinstatement, back pay, damages, and other affirmative relief. The Fair Employment and Housing Act prohibits retaliation against employees because they have filed a complaint with the DFEH or FEHC, participated in an investigation, proceeding, or hearing with either agency, or opposed by practice made unlawful by the FEHA.

The City will NOT tolerate any unlawful harassment or discrimination in employment. Violation of this policy can result in immediate termination of employment.

A violation of this policy is subject to the formal grievance procedure in accordance with Section 12. If the allegation of sexual harassment implicates any person rendering a decision at any Step in the Grievance Procedure, the employee may omit that particular Step and proceed to the next Step of the Grievance Procedure.

Malicious Complaints: While the City of La Quinta vigorously defends its employees' right to work in an environment free of sexual harassment, it also recognizes that false accusations of sexual harassment can have serious consequences. Accordingly, any employee who is found, through the City's investigation, to have knowingly falsely accused another person of sexual harassment will be subject to appropriate disciplinary action, up to and including termination.

1.85 WORKPLACE VIOLENCE: The City of La Quinta does not tolerate any act or behavior which can be perceived as threatening, hostile, and/or violent. No employee shall make any threat, either physical or verbal, against a co-worker, supervisor or member of the public. No employee, ~~other than those required by their position,~~ shall bring a weapon (exclusive of personal defense chemical spray) other than those employees required by their position to do so, of any type to a City facility, including parking lots and public streets outside or immediately adjacent to a City building or place in a City vehicle or equipment. Violation of this “zero tolerance” policy will lead to discipline, up to and including termination. An employee may bring a personal defense chemical spray to a City facility including parking lots and public streets outside or immediately adjacent to a City building or place in a City vehicle or equipment if approved by their Department Director having demonstrated a legitimate need and having obtained any necessary certification.

All employees are required to report immediately to their Supervisor and Department Director any threats or incidents of violence. Supervisors and Department Directors are required to investigate incidents of violence or threats of violence to maintain department safety.

~~Effective January 1, 1995 T~~he Workplace Violence Safety Act ~~became law. The new statute adds,~~ Section 527.8 to the California Code of Civil Procedure, ~~and~~ allows employers to seek temporary restraining orders (TRO) and an injunction to protect employees who have been the subject of actual or threatened unlawful violence in the workplace.

1.90 SMOKING POLICY: Smoking is prohibited in all City facilities, all City vehicles and rolling stock.

1.95 DRESS CODE: All employees shall dress professionally and in a manner appropriate for the duties performed in their position. Department Directors, with the approval of the Employee Relations Officer, may allow certain Field positions to wear shorts depending on the duties performed and any safety considerations. Shorts may be limited to earth-tone colors, be mid-thigh length, hemmed, with a minimum of two pockets, a fly and worn with a belt. All field personnel must wear collared shirts that are tucked in and identify them as City personnel. For additional guidance on appropriate attire, see the City of La Quinta Customer Service Manual, Page 6, Dress Code Standards.

1.96 USE OF ELECTRONIC EQUIPMENT AND SYSTEMS: The following is a policy statement ~~, adopted February 22, 2000, and updated in 2009,~~ regarding the proper use of the City’s electronic equipment and systems. This policy should be read in conjunction with Section 1.98 Cell Phone Use Policy.

~~SECTION 1:~~ **Purpose.** This policy is created to establish policies that help ensure the City’s compliance with applicable law including, without limitation, the California Public Records Act; protect the public welfare; regulate public officials’ and employees’ use of electronic communications; identify the circumstances when electronic communications must be preserved; and facilitate City business practices. Nothing contained in this policy is intended to hinder City officials’, officers’, or employees’ use of electronic communications.

SECTION 2: Definitions. Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this policy:

- A. “*Archival form*” means either:
 - 1. Transcribing or printing electronic communications in a legible hard copy form; or
 - 2. Transmitting, converting, or recording an electronic communication into an electronic format by which the informational content of the electronic communication is permanently or indefinitely preserved and such information may be retrieved in readable or audible and comprehensible form. Examples of such storage include, without limitation, optical disk storage; microfiche; and digital photography that is incapable of deletion or alteration.
- B. “*Communications equipment and software*” means **City-owned** office equipment and software used for communicating including, without limitation, telephone (including voice mail), fax machine, copy machine, office automation equipment (computer terminals or personal computers, including laptops) and communications software applications such as electronic mail and Internet browsers.
- C. “*Electronic communication*” or “*communication*” means any communication to, from, between or among any City official(s) or employee(s) by using an electronic communication system for City business purposes when it is necessary that the informational content of such communication be preserved **in archival form** for future City use or reference.
- D. “*Information Technologies*” or “*IT*” means any system, device, hardware, software, or other equipment designed and used for transmitting or receiving communications by any form of electronic mail (e-mail or text messages) or voice mail system, or any network of interconnected computers, including, without limitation, the Internet and Worldwide Web, as used for such purposes.
- E. “*Users*” means City officers, employees (regular, extra-help and temporary) contractors, volunteers and other individuals provided access to IT.

SECTION 3: City’s Ownership. All City-provided electronic equipment, hardware, software, temporary or permanent files and related systems or devices are the property of the City of La Quinta. These include, but are not limited to, computers, **cell phones, Smartphones PDA’s or Blackberries** (collectively referred to as “Cell Phones”), network equipment, software, telephones, voice mail, text messages, documents, spreadsheets, calendar entries, the Internet, appointments, tasks and notes which are part of the City’s electronic systems or equipment.

SECTION 4: No Expectation of Privacy. Where there is a business reason to do so, supervisors have the authority to inspect the contents of any equipment, files, systems, calendars, e-mail, text messages or voice mail used by their subordinates as part of the regular job duties. “Business Reason” includes ensuring that employees are complying with this policy, particularly if there has been prior disciplinary action regarding failure to follow the policy. The City, however, will not act under this policy on a random basis or when there is no business reason.

A. Information Systems may extract information, files, documents, e-mails, text messages, voice mail, etc., including deleted items, when requested by management for a business-related reason. Therefore, employees who use electronic equipment and/or systems provided by the City of La Quinta cannot be guaranteed absolute privacy.

B. No unauthorized passwords or security system may be added to any City equipment or other systems.

C. Users should not regard any electronic communication as personal, private or confidential. The City may conduct reviews of the content of messages and files, and web sites visited on the Internet, when in the exercise of its business judgment, the City determines that it would be prudent to do so. The City may, without notice, inspect, repair and service all workplace computers; and for business reasons may review and disclose all information transmitted through Information Systems; and control access to Information Systems in accordance with Federal, State, and local regulations.

D. City may restrict access to any Internet source when it determines, in its sole discretion, that a source is unnecessary to facilitate City business. Restriction of a specified source does not imply approval of other non-restricted sources.

E. The City may restrict access to Information Systems without notice and without a user’s consent.

Be advised that under some circumstances, communications sent via e-mail or text message may be subject to disclosure under the Public Records Act, or in cooperation with law enforcement or as a result of litigation. If disclosure of e-mail or text messages (or any other data files) should be required (despite the designation of any message as “private” or “confidential”), the City shall not be liable for this disclosure in any way. In short, the City’s information system does not provide any guarantee of personal privacy protection, and employees should use the system with this limitation in mind.

SECTION 5: Use Regulation.

A. Electronic communications, including, without limitation, electronic mail, voicemail, fax machines, and mobile phones, have become common tools in City business. While using these technologically advanced communications, it is important to recognize that the City remains obligated, under some circumstances, to preserve communications under California law including, without limitation, the Public Records Act (Gov’t. Code §§ 6250-6276.48).

B. In addition, it is important to remember that these tools are provided by the City to facilitate public business. Although limited and incidental personal use of electronic communications may be understandable and acceptable, these communication devices remain public property and should be used primarily for public purposes. Users may use Information Systems for incidental personal use that does not interfere or conflict with City business or job performance during regular duty hours. Incidental means infrequent usage. Personal use of the City's Information Systems is at the users' own risk and may be accessed, reviewed, copied, deleted or disclosed by the City.

Acceptable business use is limited to the following:

1. Communication relating directly to achieving City or department goals and the user's personal work-related goals.
2. Communication relating to a user's individual professional development in the City.
3. Applying for or administering grants and contracts for City programs.
4. Use for advisory, standards, research, analysis, and professional society activities relating to the user's job duties and tasks.
5. Announcing and tracking new laws, procedures, policies, rules, services, programs, information, or activities affecting the City.
6. Any general or routine governmental administrative communications.

Users are encouraged to use generally accepted practices of etiquette while using electronic communications and Information Systems. The City's Information Services Analyst can provide users with such forms of etiquette.

SECTION 6: Prohibited Uses.

Prohibited uses of communication equipment and software include, but are not necessarily limited to, the following:

- A. Uses that violate any local, state, or federal law;
- B. Uses violating any part of an MOU or City Policy.
- C. Uses relating to a user's private commercial activities including, without limitation, advertising and consulting;
- D. Accessing and distributing computer games;

- E. Fundraising or public relations activities outside the scope of City business;
- F. Political activities;
- G. Religious activities;
- H. Unauthorized access to systems, software or data;
- I. Creating or propagating viruses;
- J. Disrupting services;
- K. Intentionally destroying or damaging equipment, software, or data;
- L. Use of non-business software, e.g. games and/or entertainment software;
- M. Threats;
- N. Harassment or bullying;
- O. Defamation;
- P. Slander; and
- Q. Access to, or communication of, material or graphic images which are pornographic, violent, offensive, threatening, disturbing, obscene or profane.

SECTION 7: Disclaimers.

Chat rooms and electronic discussion groups are specialized resources on the Internet for sharing information with other professionals. However, employees may not publish official positions or opinions of the City, or publish statements which could be construed as positions or opinions of the City, via the Internet, text or e-mail without prior authorization. All authorized participation in such forums must include the following disclaimer: “Views expressed by the author do not necessarily represent those of the City of La Quinta.” Failure to include the required disclaimer may result in revocation of access privileges and/or disciplinary action.

SECTION 8: Confidential Information.

Information Systems may not be used to communicate confidential City information to unauthorized individuals within or outside of the City. Confidential information includes any information whose release is restricted under local, state or federal law, any personnel information or records or any other information prohibited from release to unauthorized persons by the employee's supervisor, manager or department head. If an employee is unsure if City information or records are confidential, the employee is required to ask a supervisor before releasing such information to unauthorized individuals.

SECTION 9: Compliance with law.

Immediately upon receiving a public records request, subpoena, or court order which identifies an electronic communication, City officers and employees will use their best efforts, and use all reasonable means practicable, to preserve such electronic communications.

SECTION 10: Violations.

Violations of this policy will be reviewed on a case-by-case basis and may result in disciplinary action in accordance with the City's Personnel Policies (Sections 8, 9, 10 and 11). All unauthorized uses of the Internet may result in revocation of access privileges and/or disciplinary action. Misuse of City communications equipment and software is a violation of the City's Personnel Policies and will result in disciplinary action up to and including dismissal from employment.

1.97 FRAUD IN THE WORKPLACE POLICY.

Overview

- The City of La Quinta is committed to protecting its assets against the risk of loss or misuse. Accordingly it is the policy of the City to identify and promptly investigate any possibility of fraudulent or related dishonest activities against the City and, when appropriate, to pursue legal remedies available under the law.
- Fraud is defined as an intentional deception, misappropriation of resources or the manipulation of data to gain financial or other benefits. Fraud and other similar improprieties include, but are not limited to:
 - a) Claim for reimbursement of expenses that are not made for the exclusive benefit of the City.
 - b) Forgery or alteration of documents (checks, promissory notes, ~~timesheet~~time sheets, independent contractor agreements, purchase orders, etc.).

- c) Misappropriation of City assets (funds, securities, supplies, furniture, equipment, etc.).
 - d) Improprieties in the handling or reporting of money transactions.
 - e) Authorizing or receiving payment for goods not received or services not performed.
 - f) Misrepresentation of information on documents.
 - g) Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of City-owned software.
- This policy applies to Officers and Employees of the City.
 - It is the City's intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, and length of service or relationship with the City.
 - Each department of the City is responsible for instituting and maintaining a system of internal controls to provide reasonable assurance for the prevention and detection of fraud, misappropriation, and other irregularities. Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such misconduct.
 - Human Resources, in conjunction with the City Attorney, has the primary responsibility for the investigation of all activity as defined in this policy.
 - Throughout the investigation, Human Resources will inform the City Manager of pertinent investigative findings.
 - Employees will be granted whistle-blower protection when acting in accordance with this policy. When informed of a suspected impropriety, neither the City nor any person acting on behalf of the City shall:
 - a) Dismiss or threaten to dismiss the employee.
 - b) Discipline, suspend, or threaten to discipline or suspend the employee.
 - c) Impose any penalty upon the employee, or
 - d) Intimidate or coerce the employee.

Violations of the whistle-blower protection will result in discipline up to and including dismissal.

- Upon conclusion of the investigation, the results will be reported to the City Manager.
- The City Manager, following review of investigative results, will take appropriate action regarding employee misconduct. Disciplinary action can include termination, and referral of the case to the District Attorney's Office for possible prosecution.
- The City will pursue every reasonable effort, including court ordered restitution, to obtain recovery of City losses from the offender, or other appropriate sources.

Procedures

Mayor and City Council Responsibilities:

- If the Mayor or a City Council member has reason to suspect that a fraud has occurred, he/she shall immediately contact the City Manager (or contact the City Attorney if the City Manager is involved).
- The Mayor or a City Council member shall not attempt to investigate the suspected fraud or discuss the matter with anyone other than the City Manager.
- The alleged fraud or audit investigation shall not be discussed with the media by any person other than through the City Manager in consultation with the City Attorney and Human Resources.

Management Responsibilities:

- Management is responsible for being alert to, and reporting fraudulent or related dishonest activities in their areas of responsibility.
- Each manager should be familiar with the types of improprieties that might occur in his/her area and be alert for any indication that improper activity, misappropriation, or dishonest activity is or was in existence in his/her area.
- When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.
- If management determines a suspected activity may involve fraud or related dishonest activity, they should contact their immediate supervisor (or contact the City Attorney or Assistant City Manager if the City Manager is involved).
- Department directors should inform the City Manager (or contact the City Attorney or Assistant City Manager if the City Manager is involved).
- Management should not attempt to conduct individual investigations, interviews, or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions.

- Management should support the City’s responsibilities and cooperate fully with Human Resources, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
- Management must give full and unrestricted access to all necessary records and personnel. All City furniture and contents, including desks and computers, are open to inspection at any time. There is no assumption of privacy.
- In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, management should avoid the following:
 - a) Incorrect accusations.
 - b) Alerting suspected individuals that an investigation is underway.
 - c) Treating employees unfairly.
 - d) Making statements that could lead to claims of false accusations.
- In handling dishonest or fraudulent activities, management has the responsibility to:
 - a) Make no contact (unless requested) with the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to “what you did,” “the crime,” “the fraud,” or “the misappropriation.”
 - b) Avoid discussing the case, facts, suspicions, or allegations with anyone outside the City, unless specifically told to do so by the City Attorney.
 - c) Avoid discussing the case with anyone inside the City other than employees who have a need to know such as the City Manager, Human Resources, City Attorney or law enforcement personnel.
 - d) Direct all inquiries from the suspected individual, or his/her representative, to the City Manager or City Attorney. All inquiries by an attorney of the suspected individual should be directed to the City Attorney. All inquiries from the media should be directed to the City Manager.
 - e) Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the Assistant City Manager, in conformance with the City’s Personnel Policies and Procedures or the appropriate bargaining document.

Employee Responsibilities:

- A suspected fraudulent incident or practice observed by, or made known to, an employee must be reported to the employee’s supervisor.

- When the employee believes the supervisor may be involved in an inappropriate activity, the employee shall make the report directly to the next higher level of management and/or the City Manager (or contact the City Attorney or Assistant City Manager if the next higher level of management and/or the City Manager is involved).
- The reporting employees shall refrain from further investigations of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone, unless requested by the City Manager, Human Resources, City Attorney or law enforcement personnel.

Human Resources Responsibilities:

- Upon assignment by the City Manager, Human Resources will promptly investigate the fraud.
- Human Resources shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
- If evidence is uncovered showing possible dishonest or fraudulent activities, Human Resources will proceed as follows:
 - a) Discuss the findings with the appropriate management/supervisor and the Department Director.
 - b) Advise management, if the case involves staff members, to meet with the Assistant City Manager to determine if disciplinary actions should be taken.
 - c) Report to the external auditor such activities in order to assess the effect of the illegal activity on the City's financial statements.
 - d) Coordinate with the City's Risk Management insurer regarding notification to insurers and filing of insurance claims.
 - e) Take immediate action in consultation with the City Attorney to prevent the theft, alteration, or destruction of evidentiary records. Such action shall include, but is not limited to :
 - 1) Removing the records and placing them in a secure location, or limiting access to the location where the records currently exist.
 - 2) Preventing the individual suspected of committing the fraud from having access to the records.
- In consultation with the City Attorney, Human Resources may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.

- If Human Resources is contacted by the media regarding an alleged fraud or audit investigation, Human Resources will consult with the City Manager and the City Attorney, as appropriate, before responding to a media request for information or interview.
- At the conclusion of the investigation, Human Resources will document the results in a confidential memorandum report to the City Manager and the City Attorney. If the report concludes that the allegations are founded, the report will be forwarded to the La Quinta Police Department.
- Human Resources will be required to make recommendations to the appropriate department for assistance in the prevention of future similar occurrences.
- Upon completion of the investigation, including all legal and personnel actions, all records, documents, and other evidentiary material, obtained from the department under investigation will be returned by Human Resources to that department.

1.98 CELL PHONE USE POLICY.

Introduction.

The City recognizes that the use of personal cell phones has become prevalent in our society and that employees rely on cell phones as a means of communication with family and friends. As such, it is important for the City to clearly identify the parameters for use of personal cell phones in the workplace. In addition, the City's Cell Phone Policy addresses the parameters for using City-issued cell phones for those employees requiring a cell phone in order to perform the essential functions of their jobs.

1.98.1 Personal Cell Phone Use.

Employees are not prohibited from carrying personal cell phones while at work, but must comply with the following requirements.

1. Generally speaking, employees should neither send nor receive personal calls, text messages, or e-mails during work hours, ~~excluding not to include~~ break times and lunch periods. However, the City recognizes that at times it may be necessary for employees to contact or be contacted by family members. The City also recognizes that extraordinary circumstances may require an employee to conduct personal business using their personal cell phone during working hours. Abuse of this privilege shall be considered a violation of this policy.
2. Supervisors have the authority to restrict or prohibit use of personal cell phones at any time on-the-job when they believe such situations or use may create a distraction or safety hazard to the employee, co-workers, contractors, and/or the general public.

3. Calls to 911 or other emergency calls on personal cell phones during work hours are permitted under this policy.
4. The use and/or wearing of “Bluetooth” or “hands-free” personal cell phone devices is strictly prohibited during working hours, excluding not to include break times and lunch periods.
5. Except as discussed below, eEmployees are not allowed to talk, email or text on a personal or city-owned cell phone while driving any vehicle, including City vehicles, while engaged in City business. Use of a cell phone to make a call in other than a hands-free mode and texting or emailing in other than a hands-free mode while driving (including at a stop sign or stoplight) isare prohibited by State law (Vehicle Code Section 23123.5). Wherever possible, phone use should occur when the vehicle is pulled over off the road and safely stopped and the driver can devote full attention to the phone call.
6. If an employee needs to use a personal cell phone for City business, the employee can submit a request for payment for the minutes used, if those minutes take the employee over the set limit of minutes under the employee’s plan.
7. Many personal cell phones have camera features. The camera features may not be used in the workplace unless for City business. Camera phones can potentially violate the privacy of co-workers or be used to take pictures of confidential or sensitive documents.

I. Cell Phone Stipend

- a. The City of La Quinta recognizes that the performance of certain job responsibilities may be enhanced by or may require the use of a cellular (cell) phone or a Smartphone. The IRS considers these devices to be "listed property." As such, IRS statutes (Title 26 U.S.C. section 274(d)(4)) require detailed record keeping including (a) the amount of the expense, (b) the time and place of the call, and (c) the business purpose for the call. The IRS can declare that all undocumented use of a cell phone is personal and should be taxed as wages, even if the majority of the calls are for business purposes.
- b. In order to comply with IRS rules regarding the taxable nature of cell phone usage by employees, as of September 1, 2014, the City of La Quinta will issue a cell phone stipend for those employees who hold positions where the duties of that position require the use of a cell phone. The benefits of such an approach include:
 - i. A call log is not required;
 - ii. Monthly reporting is not required;
 - iii. A single phone may be used for both personal and business purposes; and
 - iv. The stipend will not be considered taxable income to the employee.

II. Policy

Employees who hold positions that include the need for a cell phone (see eligibility criteria

below) may receive a cell phone stipend to compensate for business-related costs incurred when using their individually-owned cell phones. The City will not own or provide cell phones for the use of individual employees except in limited situations (e.g. field services, code enforcement/animal control, on-call employees, select supervision, etc.).

III. Eligibility

- a. Employees whose job duties include the frequent need of a cell phone for City business may receive compensation, in the form of a monthly cell phone stipend, to cover business-related costs. An employee is eligible for a personal phone stipend if at least one of the following criteria is met:
 - i. The job function of the employee requires considerable time outside of his/her assigned office or work area and it is important to the City that s/he is accessible during those times;
 - ii. The job function of the employee requires him/her to be accessible outside of scheduled or normal working hours where time sensitive decisions/notifications are required;
 - iii. The job function of the employee requires him/her to have wireless data and internet access; and/or
 - iv. The employee is designated as a "first responder" to emergencies.
- b. An employee who only occasionally is contacted for business purposes is not eligible for a stipend; however, s/he may submit a record of these expenses for reimbursement.

IV. Stipend Plan

- a. If an employee meets the eligibility requirements for use of a personal cell phone for City business, as outlined above, a stipend may be requested in writing through his/her Department Director.
- b. Once approved, the stipend amount will be added to the employee's regular pay. In order to meet IRS guidelines, any amount added for cell phone equipment or for cell phone service will be identified as a non-taxable benefit.
- c. The stipend will be paid as a flat rate per month as outlined below. The City will pay only the agreed upon amount,
- d. The stipend allowance is neither permanent nor guaranteed. The City reserves the right to remove a participant from this plan and/or cancel the stipend for business reasons.
- e. The City requires employees to have both voice and data service on their phone, and the stipend is:
 - i. Voice and data - \$40 per month (prorated for a partial month)

- f. If an employee's job duties do not include the need for a cell phone, the employee is not eligible for a cell phone stipend.
 - i. Such employees may request reimbursement for the actual extra expenses of business cell phone calls on their personal cell phone.
 - ii. Reimbursement for per-minute "air time" charges is limited to the total overage charge shown on the invoice; expenses for minutes included in the plan will not be reimbursed.
 - iii. The individual should make personal payment to the provider, and then should submit a request for reimbursement.
 - iv. Reimbursement documentation should identify the business purpose.
- g. If an employee who is receiving a cell phone stipend is off work on an approved leave of absence for a period of thirty (30) consecutive days or more and is not required to use his/her cell phone for business purposes, that employee shall have the stipend suspended for the period of the absence and restored when the employee returns to work.

V. Equipment Purchase

- a. The City will not pay for the purchase or replacement of personal cell phones, activation fees or insurance.
- b. With the approval of the Department Director, an employee utilizing a City issued cell phone may purchase the device from the City for conversion to personal use, including the phone number. In order to maximize the monetary return to the City, the Information Technology Department will utilize Clover Wireless or an equivalent firm to determine the market value of the device.

VI. Oversight, Approval & Funding

- a. Department Directors are responsible for identifying employees in their department who hold positions that include the need for use of a personal cell phone for City business. Each department is strongly encouraged to review whether a cellular device is necessary, and to select alternative means of communication -e.g., land-lines, pagers, and mobile radios - when such alternatives would provide adequate and less costly service to the City.
- b. The Department Director is responsible for overseeing employee cell phone needs and assessing each employee's continued need of a personal cell phone for business purposes. The need for a cell phone stipend should be reviewed annually, to determine if existing cell phone stipends should be continued as-is, changed, or discontinued.
- c. The City Manager will have the final approval authority.

d. Stipends are funded by the department submitting the request.

VII. Employees Rights & Responsibilities

a. The employee is responsible for purchasing a cell phone and establishing a service contract with the cell phone service provider of his/her choice. The cell phone contract is in the name of the employee, who is solely responsible for all payments to the service provider.

b. Because the cell phone is owned personally by the employee the stipend provided is not considered taxable income and the employee may use the phone for both business and personal purposes, as needed. The employee may, at his or her own expense, add extra services or equipment features, as desired. If there are problems with service, the employee is expected to work directly with the carrier for resolution.

c. Support from the City's Information Technology (IT) Department is limited to connecting a personally-owned PDA/Smartphone to City-provided services, including email, calendar, and contacts.

d. An employee receiving a cell phone stipend must be able to show, if requested by his/her supervisor, a copy of the monthly access plan charges and business related documents confirming they continue to have a contract for the cell phone.

i. If the employee terminates the wireless contract at any point, s/he must notify his/her supervisor within 5 business days to terminate the stipend.

e. The City does not accept any liability for claims, charges or disputes between the service provider and the employee. Use of the phone in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination.

f. Any cell phone that has data capabilities must be secured based on current security standards including password protection and encryption. If a cell phone with data capabilities is stolen or missing, it must be reported to the employee's supervisor, the wireless device service provider, and to IT as soon as possible.

g. Employees are expected to delete all City data from the cell phone when their employment with the City is terminated, except when required to maintain that data in compliance with a litigation hold notice.

VIII. Cancellation

a. Any stipend agreement will be immediately cancelled if:

i. An employee receiving a cell phone stipend terminates employment with the City.

ii. The employee changes position within the City which no longer requires the

use of a cell phone for business reasons.

iii. There is misuse/misconduct with the phone.

iv. A decision by management (unrelated to employee misconduct) results in the need to end the program or there is a change in the employee's duties

v. The employee does not want to retain the current cell phone contract for personal purposes.

1.98.2 City-Owned Cell Phone Use.

1. Certain employees are issued City-owned cell phones or Smartphones, PDAs, Blackberrys, etc. (collectively referred to as “cell phones”) for City business. An employee who believes he/she should have a City-owned cell phone should fill out a request and submit to the Department Director, who has the authority to approve or disapprove the request. However, it is expected that any employee who is required to use a cell phone in the performance of his or her duties on almost a constant and ongoing basis shall be provided a cell phone by the City at the City’s expense.
2. ~~City-owned cell phones are to be used for City business. Personal calls are to be limited and should occur only rarely.~~ The City retains the right to: (1) review the bills for City-owned cell phones and (2) require payment from the employee for all personal calls in accordance with IRS regulations as they now exist, or as they may be amended in the future.
3. Employees issued a City-owned cell phone are responsible for properly caring for it.
4. Employees are not allowed to install personal or other non-approved software or applications on City-owned cell phones, or to disable any software installed by the City, including virus protection systems.

~~The City reserves the right to access, view and copy any employee’s City-owned cell phone data, correspondence, e-mails, text messages, log files, etc. created or stored on City-owned cell phones if necessary for legitimate business reasons or to determine if misuse has occurred. No user of a City-owned cell phone should have any expectation of privacy nor assume that such use will be anonymous.~~

5. All passwords or security codes must be protected and not given out to others. The City’s IT Department must be provided with all current passwords or security codes.

~~6. The following are prohibited uses of City-owned cell phones:~~

~~A. Using the phone for private gain or profit, or to solicit for political, religious, commercial, or other non-City business purposes.~~

~~B. Using or storing files containing obscene, offensive, racial, sexual, or hateful language or images; engaging in ridicule, transmitting threatening, racial, sexual, obscene or harassing materials; or engaging in any form of sexual harassment.~~

~~C. Using the phone for any activity which would be deemed criminal under applicable federal, state, or local law.~~

~~D. Users of City owned cell phones shall be courteous when speaking with members of the public or other City employees. No offensive or inappropriate language is permitted.~~

~~E. All employees using a City owned cell phone must abide by State laws regarding use of cell phones in vehicles. This means all cell phone use must be in a hands free mode, and no texting or emailing while driving. Wherever possible, phone use should occur when the vehicle is safely stopped and the driver can devote full attention to the phone call.~~

~~F. If a City owned cell phone has camera features, they may only be used for City business purposes.~~ **1.98.3 Subpoenas and Public Records Requests**

All City employees who use either a personal cell phone or a City-owned cell phone for City business should be aware that the content of emails, texts or phone calls dealing with City business may be subject to subpoena or a Public Records Act request related to City business.

1.98.4 Violations of This Policy.

Violations of the City's Cell Phone Policy may subject the employee to disciplinary action under the City's Personnel Policies. Any questions regarding this Policy should be directed to Human Resources.

1.99 COMPUTER LOAN PROGRAM:

All full-time employees who have completed probation are eligible for participation in the City's Computer Loan Program. This is strictly a volunteer program. Program parameters such as the maximum loan amount, interest rate and scope of the program, will be evaluated on an annual basis. The Computer Loan Program policy is attached as Exhibit A.

SECTION 2: CLASSIFICATION AND SALARY PLAN

2.01 PURPOSE: The purpose of the classification and salary plan is to support the recruitment, success, and retention of qualified and productive employees and to encourage and reward activities that promote the City's vision, mission and values as a highly performing organization.

The City desires to recruit and retain individuals who are customer service oriented, demonstrate initiative, are team players, and accept responsibility, authority and accountability for work performance. Once employed, the City believes that incentives are critical if the employees are to be successful in achieving the mission, goals and objectives of the City.

The City will offer appropriate developmental and advancement opportunities and recognize performance with incentives for employee success, retention and professional development. The City will administer this in an open, fair, and equitable fashion.

2.05 PREPARATION AND AMENDMENT OF CLASSIFICATION PLAN: The classification system defines the general scope and complexity of the work required and facilitates internal equity across all jobs within all departments of the City. The goal is to establish a classification structure with broadly defined classes that reflect meaningful and measurable differences in the level of work within each classification but maintains the flexibility necessary for employee growth and efficient management.

The Employee Relations Officer shall determine the duties and responsibilities of all City positions for inclusion in the Classification Plan. The Classification Plan shall be so developed and maintained to ensure to the fullest extent possible that all positions which are substantially similar with respect to duties, responsibilities, authority and character of work, are included within the same classification, and the same schedules of compensation shall apply to all positions in the same classification. Classification specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or related jobs requiring lesser skills. The Classification Plan shall be adopted by a resolution of the City Council. The Classification Plan may be amended or revised, as required, and adopted by a resolution of the City Council.

2.10 ALLOCATED POSITIONS: The Employee Relations Officer shall approve the appointment of employees to positions in the Classification Plan.

Only allocated positions which have been approved by City Council may be filled, provided that the following positions can be approved by the City Manager without prior City Council approval: 1) temporary; and 2) emergency.

2.15 NEW POSITIONS: When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a classification, unless otherwise provided by these Policies. The Employee Relations Officer shall amend the Classification Plan to establish and assign an appropriate classification and ratinggrade for the new position as approved by the City Council.

2.20 CLASSIFICATION SPECIFICATIONS: The purpose of Classification Specifications is to ensure that new hires are qualified and capable of performing the work required. Classification Specifications shall contain a job description, as well as knowledge, skills, abilities, education, experience, sample duties and other minimum qualifications for all Classifications listed in the Classification Plan. The Employee Relations Officer shall maintain a list of all City Council approved Classification Specifications. All Classification Specifications shall be open for inspection in Human Resources by an employee or the public under reasonable conditions during business hours subject to the availability of the Employee Relations Officer.

2.25 PREPARATION AND ADOPTION OF SALARY PLAN: The compensation system reflects both internal equity and external parity within the various labor markets in which the City must compete (both public and private sector). The system also rewards employees who perform at above-standard levels within their respective job class. The Employee Relations Officer shall prepare an annual Salary Plan that establishes the minimum through ~~maximum~~ salary-job rates of pay for all City classifications and shall submit the Salary Plan to the City Council for its approval. The Salary Plan shall be adopted by a resolution of the City Council. The Salary Plan shall be amended or revised by adoption of a resolution of the City Council.

2.30 APPROPRIATE SALARY: Employees occupying a City position shall be paid a salary or wage within the salary range established for that position's classification under the adopted Classification and Salary Plans.

2.35 BENEFIT PLAN: The City Council may, at its sole discretion, adopt a Benefit Plan that establishes the benefits for all City Employees. This Benefit Plan is described in the Employee Benefits Section of the City's Compensation and Leave Policies.

SECTION 3: TYPES OF APPOINTMENTS

3.05 TYPES OF APPOINTMENTS: Except for temporary vacancies, all vacancies shall be filled by recruitment, transfer, promotion, or demotion; temporary appointments may be made in accordance with these Policies.

3.10 PROBATIONARY APPOINTMENTS: Effective July 1, 2014, aAll initial appointments made to a vacant regular position, shall be considered probationary for six (6) twelve (12) months from the effective date of the appointment. Promotional appointments shall also be considered probationary for six (6) months from the effective date of the promotional appointment. As necessary, the probationary period for both initial and promotional appointments can be extended an additional six (6) months if the Department Director or designee determines that the probationary period shall be extended. The probationary employee shall be given notice in writing prior to the expiration of the original probationary period.

Initial probationary employees are eligible for use of ~~accrued~~ paid leave (sick leave, vacation and bereavement leave) after the first (3) months. A promotional probation does not impact an employee's eligibility for leave.

The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the employee's work to determine the employee's fitness for the position. A probationary employee must demonstrate satisfactory performance in order to achieve permanent status.

Periods of time on paid or unpaid leave exceeding thirty (30) days (consecutive or not) shall automatically extend the probationary period by that number of days the employee is on leave. If the probationary period is interrupted by military leave for a period which extends beyond half of the probationary period, then the employee shall serve a new probationary period upon return.

An employee on initial probationary status may be suspended without pay, demoted or dismissed by the City at any time, with or without cause, and without right of appeal. An initial probationary employee has no property interest in continuing employment.

3.15 FULL-TIME APPOINTMENT: Employees who successfully complete their probationary period and who regularly work a minimum of forty (40) hours per week (for definitions of the work week for employees on the 9/80 Alternate Work Week Schedule, please refer to the 9/80 Alternate Work Week Schedule Policy) shall become full-time regular employees and shall be entitled to all of the benefits provided herein.

3.20 EMERGENCY APPOINTMENTS: To meet immediate requirements of an emergency condition which threatens life or property, the Employee Relations Officer may create positions and employ such persons as temporary employees as may be needed for the duration of the emergency.

If not determined otherwise by an applicable provision or by an Emergency Operations Plan approved by the City Council, the creation of positions and employment of temporary positions shall occur as soon as possible, and shall be compensated at an appropriate hourly rate as approved by the Employee Relations Officer.

3.25 INTERIM APPOINTMENTS: If deemed to be in the best interests of the City, the Employee Relations Officer may authorize and approve an interim appointment in order to fill either a temporary (i.e. a maternity or military leave) or regular (i.e. an employee's resignation or termination) vacancy. If the position being filled on an interim basis would normally require City Council approval (i.e. City Manager), the City Council shall authorize the interim appointment.

An interim appointment may be authorized for a period not to exceed six (6) months from the date of that appointment. The Employee Relations Officer may authorize an additional (6) months extension for an interim appointment. All interim employees must meet the minimum qualifications of the vacant position.

A regular employee may be assigned to another interim classification which is equal to or higher than the employee's regular classification. During the interim appointment period, the employee will be assigned the title of the interim classification, ~~at a salary in a step~~ that is at least five percent (5%) higher than the current salary of the employee's regular classification, for the duration of the interim appointment if the interim classification is a higher grade. A regular employee assigned to an interim classification which is not represented by the La Quinta City Employees' Association will have their membership suspended during the term of the interim appointment.

While serving in an interim capacity, a regular employee shall receive any benefits of the interim classification which are over and above the employee's regular benefits. If an employee receiving overtime benefits is assigned to an interim classification which does not receive overtime benefits, the employee shall not receive overtime pay for the duration of the interim period. The employee shall receive the prorated Administrative Leave benefits of the interim classification. A regular employee, in an interim classification, shall continue to accrue seniority in their regular classification and shall be eligible to receive merit increases in the regular position.

An interim employee who is not currently a City employee shall be compensated as outlined in a written employment contract.

If an interim employee is appointed to the position which the employee has been filling on an interim basis, any time worked in the interim position may be applied towards fulfilling the required probationary period.

Interim appointments shall not be construed to create or imply any right in any employee to be permanently appointed to the job classification position that the employee is filling on an interim basis. At the expiration of any interim appointment, the employee shall return to the employee's regular job classification and shall also return to the rate of pay which corresponds to the regular classification as if the employee never left the classification.

This section shall not be construed to prohibit the employment by contract of a person or entity to provide services to the City of an interim, indefinite, or other basis.

3.30 "WORKING OUT OF CLASS": When an employee is assigned to significant duties and responsibilities of an authorized job classification with a higher salary range on a full-time basis

for more than twenty-five (25) consecutive working days (which includes each “Regular Day Off” for employees participating in the Alternate Work Week Schedule) or more than fifty (50) working days in a twelve (12) month period, a temporary salary adjustment shall be made to a higher salary range and appropriate step therein until the employee ceases to perform such out-of-class work. It is the City’s intent to avoid working an employee on an out-of-class assignment for a prolonged period.

An employee who believes that he/she has worked out-of-class for more than twenty-five (25) consecutive working days or more than fifty (50) working days in a twelve (12) month period may submit a written request for an out-of-class pay adjustment to the Department Director within ten (10) working days after the employee has allegedly qualified for the out-of-class pay adjustment. The Department Director shall review the request and forward a recommendation thereon to the Employee Relations Officer within five (5) working days after completing a job audit. The Employee Relations Officer shall render a decision thereon within five (5) working days after receipt of the Department Director’s recommendation.

If the Employee Relations Officer determines that the employee has been working out-of-class for more than twenty-five (25) consecutive working days, the employee will be paid out-of-class pay effective on the 26th day and for each successive day the employee works out-of-class.

If the Employee Relations Officer determines that the employee has been working out-of-class for more than fifty (50) working days within any twelve (12) month period, the employee will be paid out-of-class pay effective on the 51st day and for each successive day during the twelve (12) month period in which the employee works out-of-class.

In determining the appropriate ~~salary~~^{step} for purposes of calculating out-of-class pay, the employee shall be compensated at the ~~salary~~^{Step} in the appropriate salary range which ~~comes nearest to but not less than is at least~~ five (5%) percent higher than the ~~Step~~^{salary} the employee held in the previous salary range. If the employee is subsequently appointed to the higher-level position, the employee may apply time accumulated while working out-of-class towards fulfilling any required probationary period. If and when the employee returns to the employee’s former position, the employee shall also return to the lower base pay.

A regular employee working out-of-class shall continue to accrue seniority in his/her regular classification and shall be eligible to receive ~~salary~~^{merit} increases in the regular position.

Nothing herein shall be construed as limiting management’s authority to assign City employees temporarily to different or additional work duties and responsibilities for the purpose of responding to emergencies. Temporary assignment, while responding to an emergency, will be for no more than three (3) months duration, but may be extended for an additional three (3) months with Employee Relations Officer approval.

Nothing herein shall prevent an employee from receiving an interim promotion to fill a position temporarily as a result of a vacancy, leave of absence, or industrial injury. Such an employee shall be compensated in accordance with Section 3.15.

3.35 TRANSFER: An employee may transfer from their present position to a vacant position, in the same classification, within the same department or to another department. For purposes of

this Section, a comparable classification is defined as one with the same salary range which involves the performance of similar duties that require substantially the same general qualification. A transferred employee shall retain their rate of pay and their anniversary date for purposes of ~~leave accruals~~~~merit pay increases~~.

No employee shall be transferred to a position for which the employee does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay. An employee who transfers to a lower ~~grade~~ position may be Y-rated. The employee who desires to transfer must request the transfer, in writing, through the Employee Relations Officer.

The Employee Relations Officer is under no obligation to notify employees of each potential transfer opportunity. Once the transfer request is received by the Employee Relations Officer, the Employee Relations Officer shall inform the Department Director of the request. The transfer must be approved, in writing, by the Employee Relations Officer.

Unless otherwise provided for in these Policies, an employee must be employed with the City for at least ~~six~~~~twelve~~ (~~6~~~~12~~) months, or until the employee has completed their probationary period, before applying for a transfer. An employee may be requested to defer their transfer until their current position has been filled, but typically, two-week notice will be given to the employee's current department.

A request for transfer to a vacant position may be initiated by an employee or the employee's Department Director. The Employee Relations Officer may order a transfer for the purposes of economy, efficiency, or for reasons related to the best interests of the City. Such a determination by the Employee Relations Officer shall not require the consent of the employee or the Department Director.

3.40 PROMOTION: When it has been determined by the City that a vacant position will be filled by promotional appointment, the Employee Relations Officer shall authorize a competitive promotional examination in order to fill the position, as set forth in these policies.

When an employee is appointed to a promotional position, that employee shall be paid ~~the at the~~ ~~step salary~~ in the higher salary range which is at least ~~a~~ five percent (5%) ~~higher~~~~increase than~~ ~~over~~ the salary he/she received in the lower ~~range~~~~step~~, in accordance with the provisions of Section 5.15. Any employee who is promoted within City service shall be required to complete a six-month probationary period in the new position successfully. If the employee's former position is still vacant, the department director may recommend that the employee be reinstated to the former position. This reinstatement must be approved by the Employee Relations Officer. If the employee's former position is not vacant, the employee may be appointed to a position of the same classification in a different department with the recommendation of the Department Director and approval by the Employee Relations Officer. If no vacancy exists, the employee will be laid off from City employment.

In the event a Level I position is eliminated and replaced with a Level II position, the City agrees to first consider employees in the Level I position, and to make every reasonable effort to promote an existing employee to the new Level II position. However, if after due consideration

of existing employees, the City determines that no employee is qualified for promotion, the City retains the right to conduct outside recruitment.

3.45 DEMOTION: An employee may be demoted because the employee's ability to perform the required duties of their position falls below standard, for disciplinary purposes, or for any other reasons as outlined in these Policies. No employee shall be demoted to a position for which the employee does not possess the minimum qualifications. The position which has been made vacant by demotion shall then become subject to the provisions of these Policies which govern appointments.

An employee shall not be required to serve a probationary period in the position to which the employee is demoted unless the employee has not completed the probationary period in the higher position. In such cases, the employee shall be required to complete their unfinished probationary period in the lower position. ~~The employee shall retain the salary anniversary date the employee had in the higher position.~~

3.45.1 Involuntary Demotion: An involuntarily demoted employee, who is placed in a position at a lower salary ~~grade~~ than the position the employee formerly occupied, shall be placed ~~at~~ the ~~Step of the lower~~ salary ~~grade~~ which is closest to, but lower than, the employees' salary rate in the employee's former position. A demotion which is effected for disciplinary reasons, pursuant to Section 9.35, shall be subject to the disciplinary appeals process.

3.45.2 Voluntary Demotion: A voluntary demotion to a lower post and lower salary ~~grade~~ may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the Employee Relations Officer, employee's present Department Director, and the Department Director under whom the employee will serve, if applicable.

The voluntarily demoted employee shall be placed in the ~~Step of the lower~~ salary ~~grade~~ which is closest to, but lower than, the employee's salary rate in the employee's former position. In lieu of a reduction in salary, the Employee Relations Officer may approve a Y-rated salary for a voluntarily demoted employee.

3.50 RECLASSIFICATION: The Classification Specifications will be reviewed by the Department Director and Human Resources on an annual basis periodically to ensure they meet current needs. The Employee Relations Officer will facilitate the review process. Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the Employee Relations Officer to a more appropriate classification, whether new or existing. The Employee Relations Officer must approve all new classifications. The City Manager is responsible for reclassifications to all Department Director and executive positions. Regardless of the circumstances, the Employee Relations Officer may require a competitive examination, and no incumbent shall have a right to be appointed to a reclassified position. No person shall be appointed or employed to fill a reclassified post unless the said reclassified position has been incorporated in the Classification Plan and approved by City Council, as provided by these Policies.

The employee or Department Director may submit a request for a job audit to the Employee Relations Officer who shall determine if the reclassification is justified and provide a recommendation to the City Manager for approval.

The Employee Relations Officer will respond to department requests for individual reclassification, and will assist with the revision of Classification Specifications and development of new Classification Specifications within the broad class concept, as necessary to meet the ongoing operational requirements of the City.

Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The Employee Relations Officer may conduct objective, noncompetitive examinations to establish qualifications for the position.

The salary of an employee in a position that is reclassified shall be determined as follows:

3.50.1 Classification with Same Salary Range: If the position is reclassified to a Classification with the same salary range as the previous Classification, and if the incumbent is appointed to the reclassified post, the salary rate ~~and the salary anniversary date~~ of the employee shall not change. The provision shall also apply to the change of Classification title, provided there is no change in the basic duties of the Classification.

3.50.2 Classification with Higher Salary Range: If the position is reclassified to a Classification with a higher salary range than the previous Classification, and if the incumbent is appointed to the reclassified position, the employee shall be compensated at the salaryStep in the new salary range which comes nearest to, but is not lower than, the salaryStep the employee held in the previous salary range. ~~The incumbent's salary anniversary date shall not change.~~

Employees who are reclassified will not receive any adjustment in their base compensation unless the salary range for the Classification into which they are reclassified has a minimum salary that exceeds the employee's current salary.

3.50.3 Classification with Lower Salary Range: If the position is reclassified to a Classification with a lower salary range than the previous Classification, and if the incumbent is appointed to the reclassified position, the Employee Relations Officer may approve a Y-rate salary for the employee if the employee is at or above the job rate~~top~~ of the salary range.
~~Step.~~

Otherwise, the employee's new salary at the lower salary range~~grade~~ shall be placed at a salary rate Step which yields a salary closest to, but not less than, the current salary. ~~The incumbent's salary anniversary date shall not change.~~ Benefits may be Y-rated, as specifically approved by the Employee Relations Officer.

The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the Employee Relations Officer and the new Classification is adopted by City Council, if necessary.

3.50.4 Reclassification to Position with Higher-Level Qualifications: Incumbents who do not meet the minimum qualifications of the new Classification to which they are assigned, will be grandfathered in but will be required to acquire the applicable knowledge and/or skills within a reasonable time period as determined by the Department Director so that they qualify for the job. Where practical and feasible, the City will work with the employee to identify and obtain the requisite training and/or skills.

3.55 LAYOFFS/REDUCTION-IN-FORCE/RECALL: Subject to City Council approval, the Employee Relations Officer may lay off permanent and probationary workers at any time based upon: 1) lack of work; 2) budgetary reasons; 3) elimination of programs; or 4) elimination of services. At least two (2) weeks written notice shall be given to any employee who is to be laid off. If less than two weeks' notice is provided, the employee will be paid for the difference between the date of layoff and two weeks.

At the sole discretion of the Employee Relations Officer, a demotion or transfer to another department or Classification may be made to prevent a layoff, provided the employee is qualified by education and/or experience and is capable of performing the duties of the Classification. The Department Directors, in consultation with the Employee Relations Officer, and as approved by the City Manager, will affect the layoffs.

Reduction in Force (RIF): When it becomes necessary to reduce the work force in the City, the Employee Relations Officer shall designate the ~~job~~-Classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, part-time, seasonal, or probationary employees in the same ~~job~~-Classification as ones proposed to be reduced within the City shall be laid off first. Although the Employee Relations Officer may elect to do so, he/she is not required to allow laid off employees to "bump" employees in other Classifications unless the employee has previously successfully held a position in another Classification, in which case the laid off employee would be considered for layoff, if any, from the previously held Classification, along with others in that Classification, in accordance with the "Order of Layoff" set forth below.

Probationary promotional employees who are laid off shall, if applicable, be returned to their former Classification. Employees who accept lower positions or transfers in lieu of layoff shall be placed at a salary range and step which yields a salary closest to existing salary at the time of the giving of notice of layoff.

Order of Layoff: The order of layoff of regular employees shall be made in accordance with a system which favors retention of the more meritorious employees, based upon evaluation of the following factors in the listed order of importance:

- A. The two most recent performance evaluation records as finalized and/or filed in Human Resources, except when an employee has less than two years of service with the City. In that case, only one performance evaluation will be used.
- B. Documents of disciplinary actions during the preceding twenty-four (24) months.
- C. Seniority (length of service in a career position)

- a. in the City; and
- b. in the Classification; and
- c. in the department.

Order of Layoff Protocol:

- Comparisons will be based on the Overall Performance Rating for each employee;
- Plus/minus symbols added to any letter rating will be ignored;
- Letter rating order (i.e., better in 2012 than 2011) will carry no significance or weight; and
- If two employees are rated by different supervisors in different departments (i.e., an Office Assistant in City Clerk's Office vs. an Office Assistant in Community Services), their evaluations will be deemed equivalent (unless one of the two has received an overall rating of Below Expectations, Needs Improvement or Unsatisfactory) for purposes of determining layoffs, and any disciplinary action in their file will then become the primary determinant, followed by seniority, if necessary.

Other exceptional circumstances to deviate from this policy may include the desirability of maintaining a department or work unit with adequate staffing to perform required service, and maintaining employees in the Classification, department or section who have demonstrated the ability to perform work available.

Seniority: Seniority is determined from the day of official appointment to a City department as a regular employee, provided that any regular employee who, as a result of promotion, transfer or voluntary demotion, is appointed to a regular position in another department shall, for purposes of layoff, carry seniority previously acquired over to the new department.

Seniority shall continue to accrue during periods of vacation, sick leave, layoff not exceeding two (2) years, any authorized leave of absence of less than three (3) months, or any call to military service for the duration of the call to duty. Seniority shall not accrue during any other break in continuous service, unless required by law.

Other Policies: Any employee who receives an involuntary transfer (except for disciplinary transfers) shall have automatic "bumping rights" to the Classification said employee was involuntarily transferred from for up to six (6) months from the effective date of the involuntary transfer in the event of layoff.

Recall List: The name of every regular employee who is laid off, transferred or demoted to a Classification in the same department for longer than one pay period due to a Reduction-in-Force shall be placed on the Recall List maintained by the Employee Relations Officer. Vacancies to be filled within a department shall be offered, first in order of performance, to individuals named on the Recall List who, at the time of the Reduction-in-Force, held a position in the same job classification within the department as the vacancy to be filled.

Individual names may be removed from the Recall List by the Employee Relations Officer for any of the following reasons:

- A. The expiration of two (2) years from the date of placement on the list.
- B. Reemployment with the City in a regular full-time position in a department other than that from which the employee was laid off.
- C. Failure to respond within fourteen (14) calendar days of mailing of a certified letter regarding availability for employment.
- D. Failure to report to work within fourteen (14) calendar days of mailing of a certified letter containing a notice of reinstatement to a position, absent mitigating circumstances.
- E. Request in writing to the Employee Relations Officer to be removed from the list.

Status on Reemployment: A regular employee who has been laid off or terminates in lieu of reassignment and is reemployed in a regular position within two (2) years from the date of his/her layoff or termination shall be entitled to:

- A. Buy-back and therefore restoration of all sick and vacation leave credited to the employee's account on the date of layoff or termination and at the same rate as it was sold originally. This restoration must be requested in writing within thirty (30) days of returning to work, and must be fully paid back within six (6) months of the return to work.
- B. Restoration of seniority accrued prior to and during layoff.
- C. Credit for all service prior to payoff for the purpose of determining the rate of accrual of vacation leave.
- D. Placement in the salary range as if the employee had been on a leave of absence without pay if he/she is reinstated to the same ~~job~~ Celassification in the same department from which he/she was laid off or terminated.

Continuation of Benefits: Those who are laid off shall have their medical insurance benefits continued to the end of the second month following the date of their layoff in the event that they are not covered by another medical plan at that time.

SECTION 4: RECRUITMENT AND SELECTION

4.05 EQUAL EMPLOYMENT GOALS AND POLICIES: In adopting these Policies, it is the goal of the City to employ the most qualified individuals and to achieve excellence in meeting the needs of the community.

Employment and promotion in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon race, religious creed, color, national origin, ancestry, gender, gender identification, medical condition, marital status, sex, pregnancy, age, sexual orientation, domestic partnership status, military and veteran status, or mental or physical handicap ~~religion, age, sex, sexual orientation, marital status, race, color, national origin, ancestry, medical condition, political affiliation, and mental or physical disability~~, unless physical ability is a bona fide occupational qualification.

Although not expressed in the Classification Specifications or job announcements, all persons applying for or holding any position in the City shall be required to meet the following general qualifications including, but not limited to: integrity, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, and physical and mental ability to perform the essential functions of the job with or without reasonable accommodation.

Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's License, which must remain valid at all times, and is expected to drive the motor vehicle safely.

The foregoing general qualifications shall be deemed part of the minimum qualifications of each Classification Specification or job announcement and need not be specifically set forth therein.

4.10 PERSONNEL REQUESTS: To initiate the filling of an authorized vacant position, the responsible Department Director shall submit to the Employee Relations Officer a written request containing at least the following information:

4.10.1 The Classification (job) title;

4.10.2 The justification for the position, including its budgeted salary, and

4.10.3 The duties, responsibilities and qualifications of the position in accordance with the Classification Plan.

Each request shall be reviewed by the Employee Relations Officer and approved by the City Manager.

4.15 JOB ANNOUNCEMENTS: Job announcements providing information about the position, its title and pay, its major responsibilities and duties, minimum and other qualifications, where and when to apply, and the last day on which applications will be accepted shall be prepared and distributed by Human Resources. All positions to be filled will be publicized by posting announcements on the City's official websitebulletin boards and in such other places deemed advisable by the Employee Relations Officer.

4.20 PERSONNEL APPLICATIONS: Applications for employment, transfer, or promotion with the City shall be made on forms provided by Human Resources. All information required by the application shall be provided and the applicant shall certify as to the truth thereof. Resumes and other supplementary information may be submitted and attached to the application for consideration, but may not be used as a substitute for the application. All applications must be signed and dated by the applicant. Only original applications will be accepted, no facsimile copies will be accepted.

4.25 DISQUALIFICATION OF APPLICATIONS: The Employee Relations Officer or designee shall reject an application, or after examination, shall disqualify or remove the applicant's name from an eligible list, if the applicant:

- A. Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility or appointment;
- B. Is found to lack any of the requirements, certifications, or qualifications for the position involved;
- C. Is physically or mentally unable to perform the essential functions of the job, with or without reasonable accommodation;
- D. Is a current user of illegal drugs;
- E. Is a relative of an employee, and is subject to the Nepotism Policy;
- F. Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
- G. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- H. Directly or indirectly obtained information regarding examinations;
- I. Failed to submit the employment application correctly or within the prescribed time limits;
- J. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
- K. For any material cause which in the judgment of the Employee Relations Officer or designee would render the applicant unfit for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

Any of the above cited grounds for disqualification, may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City.

4.30 RECRUITMENT: It shall be the City's policy to recruit and hire the best qualified persons available regardless of race, religious creed, color, national origin, ancestry, gender, gender identification, medical condition, marital status, sex, pregnancy, age, sexual orientation, domestic partnership status, military and veteran status, or mental or physical handicap ~~religion, age, sex, sexual orientation, marital status, race, color, national origin, ancestry, medical condition, political affiliation, and mental or physical handicap~~, unless physical ability is a bona fide occupational qualification.

While recognizing the need for introduction of persons from outside City employment at all levels, the policy of the City is to transfer or promote persons employed by the City when their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources.

The Employee Relations Officer shall determine whether the recruitment shall be open or promotional, on the basis of ensuring an adequate number of candidates with appropriate skills to constitute a competitive process. The decision of the Employee Relations Officer to conduct an open or promotional recruitment shall be final.

Except as specifically provided otherwise in these Policies, selection for a position in City employment shall be by one of the following types of examinations:

- A. Open Competitive: Examinations which are open to all persons who possess the indicated minimum qualifications as set forth in the job announcement. Applicants for open competitive examinations may, but are not required to be, employees of the City.
- B. In-House Competitive: Examinations which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.

Any variations to these procedures shall be reviewed by the Employee Relations Officer and approved in writing by the City Manager.

4.35 EVALUATION OF APPLICATIONS: Each application shall be reviewed to determine if the applicant satisfies minimum educational experience, type and years of job related experience, certificates or licenses and any other requirements.

Selection techniques shall be impartial and relate to those areas which will adequately and fairly indicate the relative capacity of the applicants to perform the duties and responsibilities of the position to which they seek appointment.

The selection procedure may consist of personal interviews, performance tests, evaluation of work performed, work samples, assessment centers, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The Employee Relations Officer may, at his/her discretion, include as a part of the examination process, tests which determine whether applications meet minimum qualifications.

In all examinations, the minimum grade or standing for which eligibility may be earned may be based upon all factors in the examination, including educational requirements, experience and other qualifying elements as shown in the application of the candidate of other verified information. Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

4.40 CANDIDATES' EXAMINATION INSPECTION: By appointment with the Employee Relations Officer, an applicant shall have the right to review his/her own written test, interview scores or other test results within ten (10) working days after announcement of the recruitment results. However, no applicant shall be allowed to examine the test key as part of his/her examination inspection. The names of all interviewers shall be kept confidential.

Any error in rating or grading shall be corrected if it is called to the attention of the Employee Relations Officer at the time the applicant reviews his/her examination. Any applicant whose corrected score meets or exceeds the examination's established passing score will be placed on the applicable eligibility list for the position, if one exists. Any correction shall not invalidate an appointment or offer of employment that has been made previously.

4.45 NEPOTISM POLICY: Except as specified below, an applicant for employment by the City who has a relative employed by the City may not be denied the right to apply for employment and compete in the examination process. Following the examination, if the applicant is successfully certified as eligible for employment, the applicant may be denied employment if the Employee Relations Officer and the City Manager determine that such employment would create a prohibited relationship. A prohibited relationship may result under the following circumstances:

1. One employee would have a supervisor-subordinate relationship with another member of his/her immediate family (as defined in Section 1.25.574).
2. Two members of the same immediate family would be under the jurisdiction of the same immediate supervisor.
3. One employee would have access to confidential or financial information concerning another member of his/her immediate family.
4. One employee would have the power or authority to make recommendations or decisions about another member of his/her immediate family which could or would have a financial or other impact upon the employee's relative.
5. One employee would have the authority to discipline a member of his/her immediate family.

The City Manager reserves the right to identify additional circumstances in which a prohibited relationship may occur.

Any immediate family member of the City Manager, Finance Director or Employee Relations Officer will not be considered for employment in any capacity by the City. For the purposes of

this paragraph, immediate family member is defined as: grandparent, parent, spouse, child, aunt, uncle, or first cousin by marriage, adoption or blood.

When the eligible candidate is refused appointment by virtue of this section, the name of the candidate shall remain on the eligibility list for openings in the same classification as otherwise provided in these policies, where no prohibited relationship may occur.

In no case may an employee participate directly or indirectly in the recruitment or selection process for a position for which the employee's relative has filed an employment application.

Where two relatives are working in the same department, division or office at the time these policies are adopted, or if an event occurs in which a familial relationship is established between two employees who work in the same division or office (i.e., if a marriage results in a spousal or in-law relationship), the relationship shall not be deemed as "prohibited relationship" unless the employees' mutual employment creates a legal conflict of interest.

As stated above, if a familial relationship exists or is established, the employees may continue in their positions so long as the conditions of a prohibited relationship are not met. If, in the determination of the Department Director, such a prohibited relationship does or would exist, the Department Director shall submit the reasons for his/her determination to the Employee Relations Officer for review.

The Employee Relations Officer shall have one (1) week to investigate the Department Director's findings and determine if a prohibited relationship does exist.

If the Employee Relations Officer's review confirms the existence of a prohibited relationship, he/she shall submit his/her findings to the City Manager who will make the final determination as to the existence of a prohibited relationship and inform the Employee Relations Officer. At this time, the Employee Relations Officer and Department Director shall promptly inform the employees of the City's intention to transfer one of the employees to a vacant position of comparable pay and duties in another City division or office, provided that the transferee is qualified therefore and that no offer of employment to fill the vacant position has been made to any other eligible candidate.

If a position of comparable pay and duties is not open but one in a lower classification is vacant, either of the employees may elect to voluntarily demote to the lower position, provided that the vacant position is in another department, division or office; that the employee is qualified to fill the position; and that the position has not been offered to another candidate. Any voluntary demotion which occurs as a result of this section shall be in accordance with the provisions set forth in Section 3.45.2. In the event that a transfer or voluntary demotion is not feasible within the time limit set herein, the affected employees shall decide which of them will resign from City employment.

If a transfer or voluntary demotion is not feasible and neither employee has submitted a letter of resignation within three weeks following determination that a prohibited relationship exists, the Employee Relations Officer and Department Director, with approval of the City Manager, shall determine which of the employees shall be terminated in good standing.

Regardless of which procedure is utilized (transfer, voluntary demotion, resignation, or termination in good standing) it shall become effective one month after the City Manager has concurred with the Employee Relations Officer's determination that a prohibited relationship has been established. This one-month limit may be extended up to an additional two months with written approval of the Employee Relations Officer, provided that personal or organizational considerations mandate such an extension.

Except as hereinafter provided, an employee who has been terminated in good standing because of the operation of this section may be reinstated to the position which he/she held at the time of termination, or to a position of equal seniority, status and pay. In order to be eligible for reinstatement, he/she must be reinstated to a position in a department, division or office where a prohibited relationship would not be established (or reestablished); the position must be open; and the employee must meet the qualifications for the position. This right of reinstatement shall be effective only through the 90-day period immediately following the effective date of termination, and the terminated employee shall have the same right to reinstatement as employees who have voluntarily resigned in good standing, up to an additional nine months.

The decision of the City Manager, based upon his/her review and recommendations of the Department Director and Employee Relations Office to transfer, voluntarily demote, resign, or terminate an employee in good standing (pursuant to this section), is not subject to any appeal or grievance procedure.

4.50 DRIVING SAFETY CHECK: A verifiable and acceptable driving record shall be required of each final candidate for employment whose position requires the employee to drive a City vehicle, or personal vehicle on City business, as an essential function of the job. The Employee Relations Officer shall have the right to conduct periodic, random verification of driving records of employees.

Driving a City vehicle without possessing a valid driver's license is not permitted and may result in disciplinary action up to and including termination. Employees shall notify their Supervisors immediately if their license is expired, suspended, or revoked.

4.55 ELIGIBILITY LISTS: Lists of applicants to be considered for job openings in a particular classification may be established for open competitive or promotional competitive positions. An eligibility list shall be a list of persons who have taken an open competitive or promotional competitive examination for an advertised City position and have qualified for said classification. Each such list shall bear an expiration date. The hiring department may appoint any candidate on the eligibility list, regardless of ranking, provided all candidates with higher rankings have been interviewed.

Eligibility lists shall remain in effect for six (6) months or until exhausted, whichever occurs first. In addition, a Department Director can request from the Employee Relations Officer that a supplemental list be prepared at any time that an eligibility list is in effect if all candidates on the initial eligibility list have been interviewed and the Department Director does not feel that there is an appropriate match. An eligibility list may be terminated at any time when less than three (3) eligible candidates remain.

The Employee Relations Officer, upon either the Employee Relations Officer's determination or the recommendation of the Department Director, may remove a name from an eligibility list for any of the following reasons:

- A. If the eligible person accepts an appointment with the City to a regular position of the same or higher classification. Acceptance of a temporary appointment at any level will not in itself be cause for removal from an eligibility list. An eligible person may refuse an appointment to a particular position and request to remain on the eligibility list.
- B. If the eligible person requests in writing removal from the list.
- C. If the eligible person fails to respond within fourteen (14) calendar days to a notification or letter which has been mailed to the person's last address on file with the City.
- D. If the eligible person is unable to accept any offered position.
- E. If a person on a promotional eligibility list resigns from City employment.
- F. If other circumstances, such as conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.

Placement on an eligibility list does not guarantee employment with the City of La Quinta.

If a vacancy exists in a classification for which there is no appropriate eligibility list, the Employee Relations Officer may prepare a list from one or more existing related lists by selecting names of eligible applicants from eligibility lists for classifications which are assigned to the same or higher pay range and which have minimum qualifications similar to those of the classifications in which the vacancy exists.

4.60 FINAL DECISIONS OF SELECTION: The Department Director or designee shall recommend a final candidate for appointment to a vacant position to the Employee Relations Officer. All appointments shall be subject to Employee Relations Officer's review and City Manager's final approval before becoming effective. If the selected candidate accepts the appointment and reports for duty within the agreed upon time, the applicant shall be deemed appointed to the position.

If the selected candidate does not report to duty within the agreed upon time, the candidate shall be deemed to have declined the appointment. By mutual agreement of the Department Director, the Employee Relations Officer and the candidate, the date of the appointment may be changed.

4.65 PRE-EMPLOYMENT PHYSICAL: Each person accepting employment with the City shall be required at the City's option to successfully complete a pre-employment physical at a City designated medical facility at City cost before an appointment to such employment becomes effective.

This Section shall also apply to changes of employment within the City when the new position places substantially more physical demands upon the employee. The results of the examination shall be kept confidential in a separate file and shall be viewed only to assess whether the employee has the ability to perform the essential functions of the job, with or without reasonable accommodation.

4.70 EMPLOYMENT ELIGIBILITY VERIFICATION: At the time of employment, all persons employed by the City of La Quinta shall be citizens of the United States or legal residents for purposes of employment.

4.75 PROBATIONARY PERIOD: The first ~~six (6) twelve (12)~~ months, or any duly extended period, of all initial or promotional appointments in a regular position shall be deemed a probationary period. ~~The first six (6) months, or any duly extended period, of all promotional employment appointments shall be deemed a probationary period.~~ The probationary period shall commence upon the effective date of the appointment.

During the probationary period for an initial appointment, an employee may be terminated without the right of appeal, hearing, or resort to any grievance procedure. The probationary period (of either an initial or probationary appointment) may be extended up to an additional six (6) months, at the discretion of the Employee Relations Officer. The decision to extend the length of an employee's probationary period must be made prior to the expiration of the original probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete the employee's promotional probationary period satisfactorily may be reinstated to the position in the same Classification from which the employee was promoted, depending upon availability of the position, unless discharged from the City service as provided in these Personnel Policies.

4.80 CRIMINAL CONDUCT - INELIGIBILITY FOR EMPLOYMENT: Except as otherwise hereinafter provided, no person convicted of a misdemeanor involving moral turpitude or a felony shall be eligible for employment in the service of the City; however, the Employee Relations Officer may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

Only the City Manager, City Attorney, and the Employee Relations Officer are authorized to have access to the "State Summary Criminal History Information" as provided for in Section 11105 of the Penal code of the State of California.

4.85 RESIGNATION: Employees who desire to terminate their service with the City should submit a written resignation to the Department Director at least two (2) weeks prior to the effective date of the resignation. The resignation becomes effective when received or confirmed in writing by the City. The resignation may be revoked upon mutual consent of the employee, Department Director and the Employee Relations Officer up to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City.

SECTION 5: COMPENSATION AND EVALUATION

5.05 SALARY AT APPOINTMENT: Except as otherwise stated in this Section, all new employees shall be appointed at the minimum salary~~first Step~~ of the salary range to which their class is assigned.

When the proposed employee's education, training and experience are deemed superior and justify a salary in excess of the minimum~~first Step~~, the Department Director may recommend to the City Manager offering employment in excess of the minimum salary~~Step A~~. City Manager approval must be obtained prior to making an offer of employment. All final appointments are subject to the City Manager's approval, regardless of the salary~~Step~~ at which the employee is appointed.

The hiring range will be from the range minimum to the job rate, based on qualifications and dependent on market conditions. Appointment above the job rate, but not to exceed the merit maximum, will be allowed subject to the approval of the City Manager. The Department Director shall submit an exception request to the City Manager. The exception request shall include a pay rate recommendation from the Employee Relations Officer.

5.06 MARKET PREMIUM PAY: When a market comparison rate for a specific job or class exceeds the defined job rate by at least 15%, a market premium may be applied to the specific job/class and paid to all employees in the job/class who meet the specific requirements for the premium (e.g. one engineering specialty within the broader class of engineer). The market premium, if applicable, shall be subject to review by the Employee Relations Officer, no less frequently than every two years, and shall be adjusted as appropriate based on the market review. At such time as the market differential becomes 10% or less, the market premium will be eliminated.

5.07 RECRUITMENT AND/OR RETENTION INCENTIVES: When necessary and appropriate, the City may use recruitment and/or retention incentives in order to compete for skills that may be in limited supply and are necessary to recruit or retain an individual for a position defined as a critical need by the City Manager. The amount of the recruitment and/or retention incentive shall be based on data obtained from survey results.

5.10 EMPLOYEE PERFORMANCE EVALUATION: ~~Over a multi-year period, Salary~~ advancements will be based on successful performance in the job class as determined through a job related performance appraisal system that can be used to guide compensation decisions, either in part or in whole. The Employee Relations Officer shall select a job evaluation methodology that is appropriate for use with broad classifications. Regular reports on forms prescribed by the Employee Relations Officer shall be made as to the efficiency, competency, and ~~and merit~~ conduct of all employees appointed by the City Manager. Performance evaluations are required to be given ~~at~~ after six (6) months ~~twelve (12) months~~ at the completion of an initial probationary appointment, or ~~after six (6) months at the completion of a~~ promotional probationary appointment, and annually thereafter in accordance with the City's annual evaluation schedule for all employees in place at the time.

PROPOSED COMPENSATION SCHEDULE FOR NEW HIRES/PROMOTIONS*

<u>Month Hired or Promoted</u>	<u>Month of 6-month Probationary Evaluation</u>	<u>Month of 6-month Performance Pay Award Eligibility</u>	<u>Months After Evaluation Before Eligible for Performance Pay</u>
<u>January</u>	<u>July</u>	<u>October</u>	<u>3 months</u>
<u>February</u>	<u>August</u>	<u>October</u>	<u>2 months</u>
<u>March</u>	<u>September</u>	<u>October</u>	<u>1 month</u>
<u>April</u>	<u>October</u>	<u>October (same year)</u>	<u>0 months</u>
<u>May</u>	<u>November</u>	<u>October (following year)</u>	<u>11 months</u>
<u>June</u>	<u>December</u>	<u>October</u>	<u>10 months</u>
<u>July</u>	<u>January</u>	<u>October</u>	<u>9 months</u>
<u>August</u>	<u>February</u>	<u>October</u>	<u>8 months</u>
<u>September</u>	<u>March</u>	<u>October</u>	<u>7 months</u>
<u>October</u>	<u>April</u>	<u>October</u>	<u>6 months</u>
<u>November</u>	<u>May</u>	<u>October</u>	<u>5 months</u>
<u>December</u>	<u>June</u>	<u>October</u>	<u>4 months</u>

*Probationary period calculations done in accordance with Section 1.25.51.

As outlined in Section 4.75, any decision to extend an employee's probationary period must be made prior to the expiration of the original probationary period.

Any evaluation which warrants a ~~salary~~^{merit} increase but is not completed by the designated review date shall be retroactively paid back to that review date. In addition to those occasions referenced by this Section, a Supervisor may render a performance evaluation at any time when performance issues arise, whether positive or negative, when there is a change in assignment and/or when there is a change in supervisor or management.

During the performance evaluation meeting, the employee and Supervisor shall review and discuss the employee's significant accomplishments, training, problem or improvement areas, and future development and objectives. After reviewing the Classification Specification, job description, duties, and any established performance standards for that position, an evaluation shall be made by the Supervisor as to whether the employee's performance meets City standards.

An explanation must accompany any unacceptable or conditional judgment. The employee shall have an opportunity to review the employee's performance evaluation ~~report~~ and agree or disagree with it.

Based upon the Performance Evaluation ~~Report~~, the Supervisor may make appropriate recommendations to the Employee Relations Officer regarding a possible ~~salarymerit~~ increase, promotion, or other action. City Manager approval is required for all such actions.

The Employee Relations Officer reserves the right to review any performance evaluation prior to review with the employee.

The employee shall have the right to attach a written response to the corresponding performance evaluation in his/her personnel file. This response must be made within ten (10) working days of receiving the evaluation.

No other administrative reply or appeal shall be allowed.

The employee and Supervisor must sign and date the ~~evaluationreport~~. If the employee refuses to sign the ~~evaluationreport~~, the Supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Evaluation ~~Report~~. Copies of the ~~evaluationreport~~ shall be distributed to the employee, the Department Director and Employee Relations Officer.

Performance evaluations shall not be subject to the grievance process. (See Section 12.10.2).

5.15 PROGRESSION BASED ON SUCCESSFUL PERFORMANCE: Employees should receive salary increases for successful performance until they reach the job rate. Employees who perform at less than standard or successful should not receive any in-range adjustment. Employees who have reached the job rate and whose performance exceeds the standard for the job class shall be eligible for exceptional performance awards. Exceptional performance awards may or may not be added to base pay, at the discretion of management and based on budgetary constraints.

5.15.1 Regular Full-time and Regular Part-time Employees shall earn ~~Merit Step~~ increases based on meeting ~~or exceeding~~ satisfactory performance of duties in the overall rating, as follows:

A. Normal Progression: Employees who are hired below the job rate and who receive an overall successful performance rating following completion of an initial employment period of not less than six (6) months, become eligible for enrollment in the performance pay system.

From the date of employment until the successful conclusion of the probationary period, no ~~salaryMerit Step~~ increase shall be granted. At the end of a successful probationary period, the employee ~~becomes may become~~ eligible for enrollment in the performance pay system, a Merit Step increase provided that the employee's overall performance makes the employee eligible for consideration for such. Thereafter, consideration of possible eligibility for Merit Step increases which shall occur annually during the City's evaluation period for all employees. at twelve (12) month intervals, provided the employee's performance meets the required criteria set forth herein, until such time as the employee reaches the top salary step available for the employee's position. Employees must achieve at least an overall "successfulmeets job standards" rating to

be deemed to be eligible for consideration of a ~~salaryMerit Step~~ increase. An employee who ~~receives an overall “successful” ratingmerely meets job standards~~ is not, thereby, guaranteed a ~~salaryMerit Step~~ increase ~~once they reach the job rate~~. An employee who receives an overall performance ~~rating of “needs improvement” mark less than “meets job standards”~~ shall not be eligible for consideration of a ~~salaryMerit Step~~ increase. Nothing in this Section shall preclude the City from adopting new evaluation procedures and forms.

B. Promotional Progression: From the date of promotion until the successful conclusion of the probationary period, no ~~salaryMerit Step~~ increase may be granted. When an employee is promoted to a classification with greater salary range, his/her salary increases to an appropriate ~~salaryStep~~ within the ~~rangegrade~~ of the new job classification. An employee who is promoted shall be compensated at the ~~salaryStep~~ in the new salary range which ~~is at least~~ ~~comes nearest to~~ ~~but not less than~~ five (5%) per cent higher than the ~~salary Step~~ the employee held in the previous salary range.

All promoted employees who successfully pass their probationary periods are eligible for ~~enrollment in the performance pay system which shall occur annually during the City’s evaluation period for all employees a Merit Step increase to the next Step in the salary range of their new classificationannually~~, again provided they satisfy the eligibility criteria set forth herein, ~~and annually, thereafter, from the date of the promotional review until the employee’s salary reaches the last Step within the grade.~~

C. Exceptional Performance Awards: ~~Exceptional performance awards should be based solely on performance that exceeds defined standards or expectations for incumbents in the job class. Exceptional performance awards shall be granted to those employees whose above standard performance is on-going and their long-term performance indicates that such above standard performance is the norm.~~

5.20 BILINGUAL COMPENSATION:

5.205.1 Bilingual Pay: Each full-time employee who has qualified for bilingual compensation under Section 5.205.2 shall receive additional compensation of \$.25 per hour. If a Department Director determines that an employee spends more than 50% of his/her work time performing bilingual duties the amount of additional compensation shall be \$.50 per hour. Upon verification of the employee’s qualification by the Employee Relations Officer ~~(E.R.O.)~~, the employee shall receive bilingual compensation to commence as of the next pay period.

5.205.2 Eligibility: The ~~E.R.O.~~Employee Relations Officer will designate at least one full-time employee to perform bilingual services for the public to all City departments. Selection of the designated employee(s) will be based upon: 1) bilingual ability as determined by scores on a recognized standardized test selected by the ~~E.R.O.~~Employee Relations Officer and administrated through a testing process determined by the ~~E.R.O.~~Employee Relations Officer; and 2) accessibility to the public. The designated employee(s) shall provide ~~both verbal and~~ ~~written~~ translation services to the public in addition to their normal work duties.

Additional employee(s) will receive bilingual compensation if, as part of their job function and duties, they provide verbal bilingual translation for the public within their department on a

regular basis. A Department Director who determines that an employee is providing bilingual translation services on a regular basis will certify the same to the E.R.O. Employee Relations Officer who shall then schedule the employee to take a standardized test.

5.205.3 Retesting: Each employee who is authorized to receive bilingual compensation shall be ~~retested~~ at the time of authorization and must every other year in the month of July, beginning in July 2000, and must successfully pass the ~~retest~~ to ~~continue~~ receiving the additional compensation.

5.205.4 Discontinuing Compensation: If the bilingual skill is no longer needed or the employee is no longer required to use it ~~or ceases to possess it~~, the Department Director shall terminate the bilingual compensation by written notice to the E.R.O. Employee Relations Officer. The E.R.O. Employee Relations Officer may also terminate the bilingual compensation if he/she makes a like determination, and shall notify the Department Director. In either case, the Department Director shall notify the employee.

An employee not receiving bilingual compensation shall not be required to perform bilingual services.

SECTION 6: ATTENDANCE AND HOURS OF WORK

6.05 WORK WEEK AND OVERTIME: The work week for City employees not on the 9/80 Alternate Work Week Schedule shall begin at 12:01 A.M. on Monday, and end at 12:00 P.M. (midnight) on Sunday. The basic work week for full-time employees shall be forty (40) hours, rendered in units of eight (8) hours per day (or as defined in the 9/80 Alternate Work Week Schedule Policy). The City may assign a different work week when it is deemed to be beneficial to the City. Except in cases of emergencies, the City will provide a two-week advance notice of schedule changes.

For any illness or emergency absence from work, the employee must notify his/her supervisor within the first half-hour of normal reporting time unless extraordinary circumstances prevent such notification. Each Department Director is responsible for establishing a specific department call-in policy and procedure, and for insuring that each employee is advised of the policy and procedure.

General non-exempt positions: For general non-exempt positions which do not meet one of the FLSA exemption categories, overtime shall consist of time actually worked in excess of forty (40) hours in a work week. Floating holidays, sick leave, vacation or compensatory time will not be included as time worked for purposes of calculating FLSA overtime. Legal holidays, for which City offices are closed, will be recognized as time worked for purposes of calculating overtime. If state law should change to mandate that public employees be paid overtime after eight hours work in one day, the City agrees to amend Section 6.05 to reflect such change.

Overtime for general non-exempt employees shall be compensated in one of the following two ways:

- A. As paid time at one and one-half the regular rate of pay; or
- B. As compensatory time accrued at one and one-half the regular rate of pay.

Prior to authorization of overtime, the employee and his/her supervisor shall agree as to how the employee shall be compensated (paid time or compensatory time). If the employee and supervisor cannot agree on the method of compensation, the supervisor may ask another employee to perform the overtime work. If the supervisor requires that a particular employee perform the overtime, but they are unable to agree on the method of compensation, the employee shall be given his/her choice of compensation (paid time or compensatory time).

Compensatory time is vested time, and must be used or paid upon termination of employment.

6.10 NO GUARANTEE OF HOURS: Nothing contained in these Policies shall be construed to constitute a guarantee of minimum hours of work per day or per work week or of days of work per work week, provided that when reasonably possible at least fourteen (14) calendar days advance notice shall be given to each employee whose work hours are to be reduced. When economic conditions dictate, management may direct a reduction of hours, a furlough, or a reduction-in-force.

6.15 STAND-BY AND CALL-BACK POLICY: Policies relating to stand-by and call-back duty shall be established by the Employee Relations Officer. (For more information on stand-by and callback requirements and compensation; reference Section 14.35).

6.20 TIME SHEETS: All City employees must complete electronic time sheets showing hours worked and leave taken. Time sheets must be approved and signed by the individual employee, the employee's Supervisor and Department Director. Time sheets will be reviewed and audited by the Finance Department.

Notice of any correction(s) to the time sheet will be sent to the employee and the Department Director. Such corrections will be deemed final unless questioned by the employee within thirty (30) days after notice of correction has been given to the employee. Unresolved matters may be taken to the Employee Relations Officer for review and recommendation. Final determination shall be made by the Employee Relations Officer.

6.25 ABANDONMENT OF EMPLOYMENT: An employee who is absent, without authorized leave, for three (3) or more consecutive work days is deemed to have resigned his/her employment with the City. If the Department Director, with the concurrence of the Employee Relations Officer, determines that extenuating circumstances exist, the resignation may be rescinded, in which case, the absence may be covered by leave, with or without pay, if so approved by the Employee Relations Officer.

6.30 LUNCH AND BREAK POLICY: Employees may take one break in the morning (before 11:00 a.m.) and one in the afternoon (after 2:00 p.m.). Break periods shall not exceed fifteen (15) minutes.

Non-compensated lunch periods shall be at least thirty (30) minutes, but no more than sixty (60) minutes per day. Employees are expected to conform their lunch hours in accordance with department schedules. As department schedules may not permit all employees to take lunch between 12:00 noon and 1:00 p.m., the Department Director may authorize staggered lunch periods throughout the late morning and early afternoon.

Break and lunch periods may be taken only in the time period for which they are designated and may not be accrued. Extenuating circumstances, as determined by the immediate Supervisor, may establish cause for variation from the scheduling of break and lunch periods.

Management employees are expected to conform generally to the established standard for General Employees. Although flexibility is provided for salaried employees to exercise judgment in maintaining their work schedule, this schedule should not be to the detriment of work production.

SECTION 7: LEAVES

7.05 JURY DUTY AND WITNESS LEAVE: No employee shall be dismissed or in any manner discriminated against for taking time off from work to serve as a juror or witness when required by law provided such an employee complies with the provisions of this Section. An employee called to serve as a juror or witness shall notify the employee's Supervisor at least one (1) week prior to the commencement of such service, unless extenuating circumstances exist.

Any employee of the City called as a juror or witness shall be entitled to be absent from the employee's duties with the City as long as required by the court system or other tribunal. The employee may be required by their Department Director to obtain a jury calendar or assignment sheet weekly during such service. The jury calendar or assignment sheet shall be signed by the jury clerk or commissioner and delivered to the employee's Supervisor at the end of each week to verify jury duty or witness service.

An employee required to serve on jury duty shall be entitled to the employee's regular rate of pay, provided the employee deposits any fees for service, excluding mileage, with the City. A temporary, seasonal, or emergency employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain the employee's jury fees.

Any employee required to be absent from work on behalf of the City by proper subpoena issued by a court or other legally empowered agency, shall be entitled to be absent from work at the employee's regular rate of pay, provided that any fees, except mileage, are deposited with the City. An employee required to be present as a witness in any other matter shall not be entitled to be paid during such absence.

An employee who is released by the court from jury duty on any regularly scheduled work day shall contact his or her Supervisor to find out whether he or she is required to return to work. An employee who is scheduled for stand-by duty while serving on jury duty shall be rescheduled for stand-by duty after the conclusion of jury duty, unless the employee agrees to serve both.

7.10 PREGNANCY DISABILITY LEAVE: Pursuant to Government Code Section 12945, a pregnant employee shall be entitled to a leave of absence without pay for up to four (4) months so long as the employee's attending physicians certifies that she is physically unable to work due to pregnancy or pregnancy-related conditions. At the commencement of a pregnancy leave of absence, employees have the option of using accrued sick leave, vacation, compensatory time-off, or administrative leave allowances, as well as disability pay, and thus, continuing to receive pay. City pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies except as modified herein. The use of accrued time-off shall not extend the length of the leave.

When an employee is on pregnancy disability leave, the City shall continue its share of payment for insurance benefit premiums (i.e., health, life, AD&D, vision, disability, dental) for the employee and her dependents. The City's continuation of payment of PERS retirement contributions is dependent upon the disability plan in effect at the time the disability leave is requested. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a pregnancy leave of absence unless the employee is continuing to receive their full customary pay

by utilizing accrued sick leave, vacation, compensatory time-off or administrative leave allowances. If an employee elects to receive pay for less than their full customary pay, all employee benefits (other than the insurance benefits listed above) will be pro-rated. Employees on pregnancy disability leave may also be eligible for benefits under the State Disability Insurance Plan (SDI) or the City's Long-Term Disability Program. Employees must file a claim in order to receive these benefits. Forms are available from Human Resources.

If an employee takes a pregnancy disability leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy leave. Any extensions of the probationary period which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

A request for pregnancy disability leave of absence should be submitted by the employee as soon as feasible after the employee learns of her disability. The employee must provide a written statement from her physician indicating the date the physician believes the leave of absence should begin and the estimated date of birth and the estimated date the employee will return to work.

The City may require a pregnant employee who wishes to continue working to provide a physician's statement approving the continuance of her current work duties.

Before returning to work following a pregnancy disability leave of absence, the employee shall submit a physician's verification stating the employee's ability to return to work. Unless the leave is otherwise extended, the employee shall be required to return to work full-time.

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid-off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities. Failure to return to work after the authorized four month leave period causes the employee to have no reinstatement rights. Additionally, an employee who fails to return to work may be required to reimburse the City for the City's contribution for health benefits during the pregnancy disability leave.

7.15 MILITARY LEAVE: Military Reserve Leave shall be granted under the provisions of State and Federal law, which in pertinent part at the present time, defines "military duty" ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed one hundred eighty (180) calendar days in a fiscal year, including time involved in going to and returning from the duty, but not for inactive duty (for training) such as scheduled reserve drill periods.

For the purposes of this Section, "active military training" shall be defined as a period of training (i.e. encampment, naval cruises, special exercises, or like activities) which normally occurs once a year over a two-week interval. "Inactive duty for training" and "scheduled reserve drill periods" shall be defined as the weekend period of training which are scheduled once a month. Such weekend drills do not conflict with normal working hours within the City.

Employees must submit a copy of military orders to their Department Director and the Employee Relations Officer prior to the beginning of the military leave period and as soon as the employee knows of the need to request such leave, except where military necessity dictates.

Regular and probationary employees shall receive their full regular pay during the first thirty (30) calendar days of "military leave" in any one fiscal year. After the first thirty (30) days of military leave in a fiscal year, employees may take a leave of absence without pay or they may utilize their vacation, administrative leave, or compensatory time-off in order to fulfill their military duties.

Regular and probationary employees on a military leave of absence shall receive the same vacation, sick leave and holiday privileges and the same rights and privileges to promotions, continuance in office, employment, reappointment to office, or re-employment that they would have enjoyed had they not been absent therefrom.

Contributions to retirement, life insurance and medical and dental plans shall be suspended after the first thirty (30) consecutive calendar days of military leave until the employee is reinstated. However, upon approval of a leave of absence without pay, the employee may elect to continue benefits coverage at his/her own expense, with the exception of retirement.

~~Except for probationary employees, an employee's salary anniversary date shall be extended if his/her military leave of absence is in excess of thirty (30) days per fiscal year. If an employee's military leave of absence exceeds thirty (30) days per fiscal year, his/her salary anniversary date shall be extended the same length of time as his/her leave of absence, minus the first thirty (30) days (i.e. if the employee's military leave of absence is forty five (45) days, the employee's salary anniversary date shall be extended fifteen (15) days).~~

If an employee is required to perform military reserve duties while on probation, his/her probationary period shall be extended the same length of time as the military leave. Such extensions of ~~salary anniversary dates and~~ probationary periods which arise as a result of this policy shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

The City shall reinstate those employees returning from a military leave of one hundred eighty (180) days or less to the position they occupied prior to taking a military leave of absence or to a position of comparable seniority, status and pay, if such position exists, upon presentation of a certificate of satisfactory completion of service and if such employees are qualified to return to their former positions.

If no such comparable position exists, the employee shall have the same rights and privileges that he/she would have had if he/she had occupied the position when it ceased to exist and had not taken a temporary military leave of absence.

Any employee who, in time of war or national emergency as proclaimed by the President or Congress, is ordered by the military to active duty, shall have a right, if released, separated, or discharged under conditions other than dishonorable, to return to his/her former classification within six (6) months after termination of his/her active service with the armed forces, but not

later than six (6) months after the end of the war or national emergency. (Reference Government Codes § 395, 146 and 395.05.)

Exceptions to this policy will occur whenever necessary to comply with applicable laws.

7.20 LEAVE OF ABSENCE WITHOUT PAY: Any regular or probationary employee who is absent from work and not on leave of absence with pay shall be considered on leave of absence without pay.

Leave of absence without pay shall be approved in advance and in writing. Any employee requesting a leave of absence without pay shall utilize all of his/her accrued compensatory time off, administrative leave, vacation time, and sick leave, if appropriate, prior to the start of the leave without pay. Determination of the granting of leave of absence without pay is not grievable. An employee who does not receive prior written approval for leave of absence without pay may be disciplined for such period of absence.

Department Directors may grant an employee leave of absence without pay for not to exceed forty (40) consecutive hours. Such leaves shall be reported in writing to the Employee Relations Officers.

A leave of absence without pay in excess of forty (40) hours must be recommended by the Department Director and approved by the Employee Relations Officer. No single leave of absence without pay may exceed three months without approval of the Department Director, Employee Relations Officer and City Manager.

Any leave of absence without pay of eight (8) hours or more shall result in a pro rata accrual of vacation, sick leave or holiday credits. A leave of absence without pay of forty (40) hours or more shall also result in a pro rata reduction of employer-paid health benefit payments, and shall extend the employee's probationary period (if applicable) for the same length of time as the leave. After thirty (30) consecutive working days (which includes each "Regular Day Off" for employees participating in the Alternate Work Week Schedule) on a leave of absence without pay, contributions to retirement, life insurance, medical, dental, or other designated benefit plans shall be suspended until the employee is reinstated.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated in the classification held at the time the leave was granted. Failure on the part of the employee to report to work promptly at the expiration of the leave shall result in the employee being deemed to have resigned from employment.

7.25 FAMILY AND MEDICAL LEAVE:

7.25.1 Statement of Policy

To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by State and Federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of

1993 (as revised in January, 2009) (“FMLA”), and the regulations of the California Family Rights Act (“CFRA”). Unless otherwise provided by this article, “Leave” under this article shall mean leave pursuant to the FMLA and CFRA. Employees may use any accrued leave for the purposes of FMLA leaves, or the time off may be taken as leave without pay.

7.25.2 Definitions

A. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

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

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

C. “Parent” means the biological parent of an employee or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

D. “Covered Servicemember” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or in outpatient status; or is on the temporary disability retired list.

E. “Spouse” means a husband, ~~or~~ wife, or registered domestic partner as defined or recognized under California State law for purposes of marriage.

F. “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom), or
2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

- a. A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three (3) consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - i) Treatment of two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by, a health care provider within thirty (30) days from the first day of incapacity, absent extenuating circumstances, and the first medical visit must take place within seven (7) days of the first day of incapacity; or
 - ii) Treatment by a health care provider within seven (7) days of the first day of incapacity on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- b. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i) Requires periodic visits (visiting a health care provider at least twice a year for the same condition) for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or

family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

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

G. “Health Care Provider” means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition.
3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
4. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
6. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

H. “Qualifying Exigencies” may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

7.25.3 Reasons for Leave

Leave is only permitted for the following reasons:

- A. Incapacity due to pregnancy, prenatal medical care or birth of a child by an employee;

- B. To care for the employee's child after birth, or placement for adoption or foster care;
- C. To care for the employee's spouse, registered domestic partner, son or daughter, or parent, who has a serious health condition; or
- D. For a serious health condition that makes the employee unable to perform the employee's job; or
- E. To care for a covered servicemember during a single 12-month period.

7.25.4 Employees Eligible for Leave

An employee is eligible for leave if the employee:

- A. Has been employed for at least 12 months; all prior service counts, regardless of any breaks in service; and
- B. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

7.25.5 Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of contingency operations may use their 12-week leave entitlement to address certain qualifying exigencies.

7.25.6 Amount of Leave

Eligible employees are entitled to a total of 12 ~~workweek~~work weeks of leave during any 12-month period (with the exception of special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period).

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

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

- B. Spouses Both Employed By The City: In any case in which a husband and wife, or registered domestic partners, both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be

limited to 12 ~~workweek~~work weeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.

7.25.7 Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

7.25.8 Employee Benefits While on Leave

For the duration of the Family and Medical Leave, the City of La Quinta will maintain its current payment for the employee's health coverage (medical, dental, prescription, and vision) under its group health plan. The City may recover its costs for these benefits if the employee fails to return to work after the conclusion of the leave.

7.25.9. Employee Notice of Leave

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

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

7.25.10 Reinstatement Upon Return from Leave

- A. Right To Reinstatement: Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement,

benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

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

- B. Employee's Obligation To Periodically Report On His/Her Condition: Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
- C. Fitness For Duty Certification: As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
- D. Reinstatement Of "Key Employees": The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

7.25.11 Required Forms

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

- A. "Request For Family or Medical Leave Form" prepared by the City to be eligible for leave.
- B. Certification of health care provider for employee's serious health condition; certification of health care provider for family member's serious health condition; certification of qualifying exigency for military family leave; or certification for serious injury or illness of covered servicemember for military family leave.
- C. Authorization for payroll deductions for benefit plan coverage continuation; and
- D. Fitness for duty to return from leave form.

7.25.12 Leave for School-Related Activities for a Child: An employee may be eligible for leave to attend school-related activities of a child in accordance with Labor Code Section 230.8.

7.30 ON-THE-JOB-INJURIES AND WORKERS' COMPENSATION COVERAGE: All injuries and illnesses arising out of and in the course of employment with the City, including first aid injuries, shall be reported immediately to the appropriate Supervisor. The Supervisor shall immediately notify Human Resources of the accident. Human Resources shall be responsible for completing an "Employer's Report of Occupational Injury or Illness" within five (5) days of knowledge of occupational injury or illness which results in lost time beyond the day of the incident. Human Resources shall give the injured employee a Workers' Compensation Claim Form ("DWC-1") within one working day of employer knowledge. The only exception to providing a Claim Form is with respect to "first aid claims."

Under California state law, any employee sustaining an injury or illness arising out of and in the course of employment may be entitled to:

7.30.1 All reasonable and necessary medical care for a work-related injury or illness;

7.30.2 "Temporary disability" payments in lieu of lost wages, commencing three (3) days after the first full day of lost time.

If an occupational injury or illness is severe and requires immediate medical attention, first aid should be rendered and medical treatment should be obtained at the closest City-designated medical treatment facility. For severe accidents occurring outside the City limits, medical treatment should be obtained at the closest medical facility. Use of paramedic services is automatically authorized if the injury is life threatening.

In the case of an occupational injury which requires medical attention within the first twenty-four (24) hours or develops symptoms after the first twenty-four (24) hours following the injury, the employee shall immediately notify the employee's Supervisor and the employee's Supervisor shall notify the Employee Relations Officer. If the employee has not submitted a properly completed "Employee Notification of Personal Physician" form to the Employee Relations Officer for treatment of job-related injuries prior to the date of injury, all medical treatment shall be provided through the City's designated medical service providers for the first thirty (30) days after the date of the injury.

If the employee has submitted a properly completed "Employee Notification of Personal Physician" form to the Employee Relations Officer for treatment of job-related injuries, an appointment may be scheduled with the employee-designated medical service provider. The employee may also elect to treat with the City's designated medical service provider.

If the employee's claim is delayed by the City's Workers' Compensation Program claims administrator to determine whether it is work-related according to the laws of the State of California, the employee is entitled to medical treatment during the pendency of the investigation, up to a maximum of \$10,000.

A regular employee who is unable to perform regular or modified duties because of an injury or illness arising out of and in the course and scope of the employee's duties shall suffer no loss in City pay or accrued sick leave for absence from work because of such disability. City pay is in lieu of "temporary disability benefits."

Such workers' compensation salary continuation shall commence with the first full day of lost time after the employee has been placed on temporary disability for a work-related injury or illness, and the employee is not able to return to work, either on regular or modified duty, and shall conclude with:

(a) the employee's return to work in a regular or modified capacity for the City or any other employer; or

(b) termination of such temporary disability by the medical provider; or

(c) upon reaching a maximum medical improvement, as determined by competent medical evidence; or

(d) upon the completion of twenty-six (26) weeks on-the-job injury leave, whichever comes first.

Employees with injuries or illnesses that persist beyond twenty-six (26) weeks may be eligible for Workers' Compensation temporary or permanent disability payments as defined by State law. The portion of workers' compensation salary continuation that represents payment for lost time at the statutory "Temporary Disability" rate is non-taxable.

While the City is not required by law to provide the following benefit, a regular employee shall not be required to use accrued sick leave for medical treatment, including doctor's appointments and/or physical therapy appointments, related to an active, accepted Workers' Compensation claim for injury or illness arising out of and in the course and scope of the employee's duties. Such leave shall be denoted as "Workers' Compensation Leave" on the employee's timesheet and shall be paid from the City's Workers' Compensation salary continuation fund. Appointments should be scheduled for the lunch hour or before or after work whenever possible to minimize the impact on the City's operations.

City policy allows for regular employees unable to perform their regular or modified duties by reason of an injury or illness arising out of and in the course of their employment to integrate their accrued benefits once worker's compensation salary continuation has ceased in order to receive a sum which, when added to the amount of temporary disability payment, will result in a payment equal to such an employee's regular "take-home" compensation. City paid medical benefits will continue until the workers' compensation salary continuation has ceased (26 weeks).

Except for probationary employees, an employee's anniversary date shall be extended if the employee's Workers' Compensation-related injury or illness is in excess of thirty (30) days per fiscal year. If an employee's Workers' Compensation-related injury or illness exceeds thirty (30) days per fiscal year, the employee's anniversary date shall be extended the same length of time as the injury or illness, minus the first thirty (30) days (i.e. if the employee's injury or illness is forty-five (45) days, the employee's anniversary date shall be extended fifteen (15) days). If an employee experiences a Workers' Compensation-related injury or illness while on probation, the employee's probationary period shall be extended the same length of time as the injury or illness. Such extensions of anniversary dates and probationary periods which arise as a result of this policy shall not be a negative reflection on any employee, but rather as a way to more accurately monitor employee performance.

Workers' Compensation Leave and benefits, as appropriate under State law, shall be granted to an employee upon acceptance of the claim by the claims administrator, and with physician's certification of "temporary disability" status, and the employee's inability to perform regular or modified duties. A claim denied by the claims administrator, a written statement from the treating physician indicating that the employee's condition is permanent and stationary or has reached maximum medical improvement, or separation from City service shall terminate an employee's eligibility for Workers' Compensation Leave and any applicable benefits from the City for that particular injury or illness. The employee may be eligible for other benefits under workers' compensation law.

The City maintains its right to require that an employee provide regular physician's certification of work status, and see a City-designated physician on a periodic basis to determine the employee's disability status. If an employee is given work restrictions by the physician, the City will initiate an accommodation review to determine if the employee is able to return to work with or without reasonable accommodation.

The City also maintains its right to require an employee to return to work on a "limited duty" status, provided that the employee has received authorization from the City-designated physician as well as from the Employee Relations Officer and the Department Director. Such "limited duty" status must be of a temporary nature, does not have to be in the same position or department, and is subject to Employee Relations Officer approval.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the Employee Relations Officer.

7.31 ~~TRANSITIONAL (TEMPORARY) RETURN STAY-AT-TO~~ WORK PROGRAM.

7.31.1 PURPOSE

The City of La Quinta is committed to providing a work environment that is free from discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting discrimination and harassment of injured employees.

The purpose of the Transitional Return to ~~Stay-at~~ Work (TRTWSAW) Program is to return all injured employees, who are temporarily precluded from performing their normal duties, to work in a TRTW assignment, if available.

~~facilitate the continued productivity of employees injured on the job during their recovery. If an employee is unable to perform his/her usual and customary duties, the City reserves the right to assign the employee to suitable SAW duties, subject to qualifications (skills, knowledge and ability), job classification, work restrictions or other applicable factors. SAW assignments are temporary, and dependent on the City's ability to continue to provide SAW duties and the employee's ability to perform the SAW duties.~~

7.31.2 RESPONSIBILITY

The Human Resources/~~Risk General Services~~ Manager will act as the ~~SAW-TRTW~~

~~c~~Coordinator. This individual will function as the liaison with the ~~City's~~ workers' compensation claims administrator if the claim is industrial. ~~The SAW Coordinator will work with the employee and his/her supervisor to define the scope, duties and duration of the temporary assignment. The SAW Coordinator will monitor the employee's work restrictions, and advise the employee and his/her supervisor when SAW duties can be modified or the employee can resume his/her usual and customary duties.~~

~~EMPLOYEE responsibilities:~~

~~Employees off work are to contact the SAW Coordinator promptly following a change in work restrictions or medical condition as determined by his/her treating physician. Failure to contact the SAW Coordinator may result in disciplinary action.~~

~~SAW COORDINATOR responsibility:~~

~~The SAW Coordinator must immediately notify the workers' compensation claims administrator that the employee is not working.~~

7.31.3 PROCEDURES

A. Identifying SAW-TRTW Assignments:

1. Periodically, the ~~SAW-TRTW c~~Coordinator ~~will may~~ request that all ~~departments or some departments~~ complete the "TRTW Modified Duty Work Assignment" form (Exhibit BA). This form assists the ~~SAW-TRTW c~~Coordinator in identifying beforehand possible SAW-TRTW assignments ~~that are within the work restrictions~~.

B. Employee Placed On SAW-TRTW By A Treating Physician:

1. If the employee has work restrictions, the work restrictions will be listed on the "Notice of Physician's Recommendations" (Exhibit C) by the treating physician. An employee placed on work restrictions by their treating physician is required to supply the SAW Coordinator with a work release noting the restrictions following every doctor's appointment. The City may request additional clarification on the employee's capabilities as required to evaluate suitable accommodation.

2. If the employee's department is able to accommodate the restrictions, the employee's supervisor will notify the TRTW coordinator, and the coordinator will send a TRTW agreement letter to the employee. The employee and his/her supervisor will meet to discuss the SAW duties. The supervisor will notify the SAW Coordinator of the meeting, and the SAW Coordinator will prepare the appropriate documentation of the offer of SAW duties in the form of an agreement letter for "Offer of Modified or Alternate Work."

3. The employee's supervisor will ensure that the employee is complying with and working within ~~understands~~ the work restrictions ~~and is complying with and working within the work restrictions~~ imposed by the treating physician.

4. The City of La Quinta will interact with the employee to discuss their ability to continue performing modified duty at or near 90 days following commencement of modified duty. The City of La Quinta has established a maximum time frame of ninety (90) calendar days for employee participation in a SAW program.

~~5. The City Manager or his/her designee can approve a one-time extension of that time frame for up to 90 additional calendar days where circumstances warrant.~~

C. Employee's Department Unable To Accommodate The Restrictions:

1. If the employee's department is unable to accommodate the restrictions, the department will notify the SAW-TRTW cCoordinator immediately, ~~and specify the reasons why accommodation is not possible.~~

2. The TRTSAW cCoordinator will:

i. Check file for previously submitted SAW-TRTW assignment forms ~~(if any).~~

ii. Contact other departments for possible SAW-TRTW assignments based upon the employee's restrictions.

iii. Instruct the employee where to report if an assignment in another department is located. (May be delegated to the employee's supervisor.)

D. Unavailable Transitional Assignments:

1. If no TRTSAW duty assignment is available, or the employee will be put off work.

2. Employees off work are to contact the TRTW coordinator on a weekly basis for the availability of TRTW assignments.

3. Failure to contact the TRTW coordinator may result in disciplinary action.

~~4. cannot be accommodated, then the employee is covered by the conditions of the workers' compensation leave policy, until released to return to work without restrictions, released to work with restrictions that can be accommodated, or the employee has reached maximum medical improvement or permanent and stationary status.~~

E. Intermittent Assignment:

1. If an employee completes a TRTSAW duty assignment and there is no additional TRTSAW duty assignment available, then the employee will be put off work. ~~is covered by the conditions of the workers' compensation leave policy, until released to return to work without restrictions, released to work with restrictions that can be accommodated, or the employee has reached maximum medical improvement or permanent and stationary status.~~

2. If the injury is industrial, the TRTW coordinator must immediately notify the workers' compensation claims administrator that the employee is not working.

F. Time sheet Procedures:

1. TRTSAW duty shall be denoted as "Regular" time on the employee's time sheet with an additional explanation that the employee is on a TRTW assignment.

REFERENCES

Americans with Disability Act of 1990 (Public Law 101-336)

Americans with Disabilities Act Amendments Act of 2008 (Public Law 110-325)

Fair Employment and Housing Act

7.35 DISABILITY LEAVE: Full time and part time (in excess of 30 hours per week) employees may be eligible for disability leave from the City for non-industrial illness or injury of a significant nature which would not be covered by the terms of Section 14.20, Sick Leave or Section 7.25, Family and Medical Leave; although these leaves may run concurrently with disability. Disability leave requires that the employee's attending physician certify that the employee is physically unable to work and indicate the estimated length of leave necessary. During said disability leave, the employee has the option of using accrued sick leave, vacation, compensatory time-off or administrative leave allowances, as well as disability pay, and thus, continuing to receive full pay. City pay will cease when all accrued allowances have been used and the employee will receive only disability pay.

When an employee is on disability leave, the City shall continue its share of payment for insurance benefit premiums (i.e., health, life, AD&D, disability, vision and dental) for the employee and dependents. The City's continuation of payment of PERS retirement contributions is dependent upon the disability plan in effect at the time the disability leave is requested. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a disability leave unless the employee is continuing to receive their full customary pay by utilizing accrued sick leave, vacation, compensatory time-off or administrative leave allowances. If an employee elects to receive pay for less than their full customary pay, employee benefits (other than the insurance benefits listed above) shall be pro-rated.

If an employee's disability leave exceeds twelve (12) work weeks and the employee is not on paid status by virtue of continuing to utilize at least half (50%) of the hours needed per pay period to receive a full paycheck through the use of their accrued sick leave, vacation, compensatory time-off or administrative leave allowances, or leave donated under the Vacation Leave Transfer Policy referred to in Section 14.15.5 of these Personnel Policies, participation in the group health insurance plan shall terminate unless the employee elects to retain said coverage at the employee's expense. If the employee uses less than 50% of the hours needed per pay period to receive a full paycheck, their participation in the group health insurance plan shall terminate unless the employee elects to retain said coverage at the employee's expense. This coverage shall be available under the same requirements and restrictions of the COBRA Continuation as provided by the City's health insurance carrier.

If an employee takes a disability leave while on probation, the probationary period shall be extended the same length of time as the disability leave. Any extension of the probationary period shall not be perceived as casting aspersions on any employee, but rather as a way to more accurately monitor employee performance.

Before returning to work following a disability leave of absence, the employee shall submit a verification from their attending physician stating that the employee is able to return to work. Unless the leave is otherwise extended, the employee shall be required to return to work full-time.

Upon expiration of the approved leave, the employee shall be reinstated to their former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid-off. The comparable position is one having

similar terms of pay, location, job content and promotional opportunities. Failure to return to work after the authorized leave causes the employee to have no reinstatement rights.

The City will hold a position available for an employee on disability leave for up to twelve (12) ~~workweek~~work weeks. Beyond that length of time, the City may, at its sole discretion, elect to permanently replace the employee.

The actual terms and benefits of the City's disability leave are governed by the disability insurance program in effect at the time the disability leave is requested. Benefits are subject to change at any time by the City. Employees should inquire about disability leave through the office of the Employee Relations Officer.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.05 GROUND FOR DISCIPLINARY ACTION: Employee misconduct shall be cause for disciplinary action. In addition to any actionable or other cause allowed by statute, ordinance or law, the following nonexclusive listings shall constitute cause for disciplinary action (any one of which may be sufficient basis to take disciplinary action up to and including termination):

8.05.1 Falsifying any information supplied to the City including, but not limited to, information supplied on application forms, employment records, or any other City records, reports, or document prepared by the employee.

8.05.2 Incompetency.

8.05.3 Inefficiency.

8.05.4 Neglect of duty.

8.05.5 Insubordination; failure to follow instructions.

8.05.6 Dishonesty.

8.05.7 Selling, providing, consumption of, being under the influence, possession of alcoholic beverages or ~~consuming-illegal~~ controlled substances or abuse of prescription medication while on duty or in such close time proximity thereof as to cause any detrimental effect upon the employee or upon other employees (See Section 1.65 regarding medical marijuana).

8.05.8 The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Department Director or designee may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section. The Department Director or designee may suspend or dismiss said employee when the time for appeal has elapsed or the judgment of the conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code of the State of California allowing such person to withdraw his plea of guilty and enter a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation or indictment.

8.05.9 Absence without leave.

8.05.10 Immoral conduct.

8.05.11 Discourteous treatment of the public or other employees.

8.05.12 Political activity precluded by state or federal law.

- 8.05.13 Misuse or unauthorized use of City property.
- 8.05.14 Violation of a City or departmental rule, policy, procedure, or these Policies.
- 8.05.15 Failure to possess or keep in effect any license, certificate, or other similar requirement necessary for the employee to perform the duties of the job position or required by such job classification.
- 8.05.16 Unlawful discrimination, including harassment or bullying, on the basis of race, religious creed, color, national origin, ancestry, gender, gender identification, medical condition, marital status, sex, pregnancy, age, sexual orientation, domestic partnership status, military and veteran status, or mental or physical handicap~~race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age~~ against the public or other employee while acting in the capacity of a City employee.
- 8.05.17 Willful failure of good conduct tending to injure the public service.
- 8.05.18 Excessive absences, unexcused absence(s), or tardiness.
- 8.05.19 Misuse of sick leave.
- 8.05.20 Failure to report for health examination after due notice.
- 8.05.21 Two or more consecutive unsatisfactory performance evaluations.
- 8.05.22 Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment.
- 8.05.23 Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the City, the employee's department or division.
- 8.05.24 Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of City property.
- 8.05.25 Mental or physical impairment which render the employee unable to perform the essential functions of the job without reasonable accommodation, or without presenting a direct threat to the health and safety of self or others.
- 8.05.26 Outside employment not specifically authorized by the appointing authority.
- 8.05.27 Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties.
- 8.05.28 The refusal of any officer or employee of the City to testify under oath before any Grand Jury having jurisdiction over any then pending cause of inquiry in which the investigation of government bribery or misconduct in agency office is involved shall constitute of itself sufficient ground for the immediate discharge of such officer or employee.

8.05.29 Willful violation of any of the provisions of the ordinances, resolutions or any Policies, regulations or policies which may be prescribed by the City.

8.05.30 Working overtime without authorization.

8.05.31 Any other failure of good behavior which is of such nature that it causes discredit to the City or his or her employment.

SECTION 9: DISCIPLINARY ACTIONS

9.05 DEFINITION OF DISCIPLINARY ACTION: “Disciplinary Action” means action taken by the Department Director or designee for disciplinary reasons, pursuant to these Policies. Nothing in these Policies requires imposition of disciplinary action in any particular order of severity or pursuant to the number of prior disciplinary actions. Such disciplinary actions include:

- A. informal discussion;
- B. a formal warning;
- C. a written reprimand;
- D. disciplinary suspension;
- E. reduction in pay;
- F. demotion; or
- G. dismissal.

9.10 INFORMAL DISCUSSION: An informal discussion is designed to clarify standards, policies, ~~and~~ procedures ~~or Policies~~ and/or regulations so that problems are resolved early and thus, the need to utilize more severe disciplinary action may be avoided. (Not appealable)

9.15 FORMAL WARNING: A formal warning shall be given in response to minor misconduct. The warning should be prompt, constructive, and every effort shall be made for the formal warning to be given in private. The Supervisor should include in the formal warning a review of appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior. The formal warning shall be written (nNot appealable) and will be placed in the employee’s central personnel file located in Human Resources.

9.20 WRITTEN REPRIMAND: A written communication to the employee that the same or related offense has been committed. The written reprimand shall be given by the Department Director or designated authority when a formal warning has not succeeded in stopping the misconduct, or when the misconduct is considered so serious as to warrant more than a formal warning. Misconduct includes failure to meet City performance standards.

The Department Director should first counsel the employee about the misconduct, as if giving a formal warning. At the end of the discussion, if no extenuating circumstances are discovered, the Department Director will inform the employee that a letter of reprimand will follow and will be placed in the employee’s central personnel file located in Human Resources.

The written reprimand should include a full, accurate and factual statement of the reason for the reprimand including the date and time of the event which is the cause of the reprimand, if applicable, appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior. (Not appealable)

9.25 DISCIPLINARY SUSPENSION: Temporary removal of an employee from his or her duties without pay for misconduct. Disciplinary suspensions without pay deprive an employee of pay for any period up to sixty (60) working days and are given when serious misconduct or repetition of past problems for which the employee has been reprimanded require a strong

management response. The nature of the offense, its severity and the circumstances dictate the length of suspension. Recurrence of the same or similar offenses can result in a second or third disciplinary suspension of progressively increased duration or in a dismissal. A disciplinary suspension is given an employee when formal warnings or written reprimands have not been effective, or when the misconduct warrants more than a reprimand. Employees may be suspended on the spot when there is a clear threat to the safety of other employees or the public.

9.30 REDUCTION IN PAY: Reduction in pay shall be a decrease in salary to a lower step within the salary grade for disciplinary purposes. The decrease may be permanent or for a fixed period of time. Denial of a merit increase or a reclassification downward is not discipline and does not entitle an employee to notice or right of appeal.

9.35 DEMOTION: The Department Director may demote an employee for disciplinary reasons or because the employee's ability to perform the required duties falls below standards for that position, provided that the employee has been given a reasonable time to improve. Upon request of the employee, and with the consent of the Department Director, demotion may be made to a vacant position. No employee shall be demoted to a position unless he/she possesses the minimum qualifications for such a position. The Employee Relations Officer must approve all demotions.

9.40 DISCHARGE: Discharge, dismissal or involuntary separation of an employee from City employment may be imposed when other disciplinary measures have failed, or when an act of misconduct is deemed appropriate. A regular employee may be discharged for violation of these Policies.

9.45 DOCUMENTATION OF DISCIPLINARY ACTION: All documented disciplinary actions will be placed in the employee's² personnel file.

A formal warning or written reprimand should be documented in the format prescribed by the Employee Relations Officer. The employee shall receive a copy of the documented formal warning or written reprimand, and a copy shall be placed in the employee's personnel file in Human Resources. If the employee chooses to respond, that reply will also be placed in the employee's personnel file and be attached to the Supervisor's record of formal warning or written reprimand. The employee has ten (10) days from the date of receipt of the disciplinary action to respond in writing.

If the action taken is a disciplinary probation, a disciplinary suspension, a reduction in pay, a demotion, or a dismissal, documentation shall be in accordance with Section 10. A copy of all such disciplinary documents shall be placed in the employee's central personnel file located in Human Resources. The employee shall acknowledge receipt, in writing, of a copy of such disciplinary documents. If the employee refuses to acknowledge receipt, in writing, that fact should be noted in writing.

SECTION 10: DISCIPLINARY PROCEDURES

10.05 ADMINISTRATIVE REASSIGNMENT WITH PAY: Pending investigation of an accusation against an employee, the Employee Relations Officer may approve the temporary administrative reassignment of an employee with or without pay, pending the undertaking or completion of an investigation or opportunity to respond as may be required to determine if any disciplinary action shall be taken.

10.10 DISCIPLINARY ACTION SUBJECT TO SKELLY PROCEDURE: Prior to a disciplinary suspension, a reduction in pay, a demotion, or a disciplinary discharge, the procedure set forth in this Section shall be complied with.

10.10.1 Written Notice: The employee's Supervisor shall give the employee a written notice of the proposed disciplinary action at least five (5) working days prior to the effective date. The written notice shall be personally delivered to the employee or sent by certified mail to the employee's last known address.

The notice generally will include the following information:

- A. A description of the proposed action to be taken and its proposed effective date or dates;
- B. The specific grounds and particular facts upon which the action is proposed to be taken;
- C. The employee's right to receive a copy of the written materials alleged to support the proposed actions; and
- D. A statement advising the employee of the right to respond, orally or in writing within five (5) working days after receipt of the written notice.
- E. That failure to respond by the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

10.10.2 Employee Review and Response: The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based. Within five (5) working days after receipt of the written notice, the employee shall have the right to respond to the Department Director, orally or in writing, concerning the proposed action.

Failure to respond within the time specified shall result in the employee's waiver of the employee's pre-disciplinary right to respond. By mutual agreement, the specified time period may be extended.

10.10.3 Employee Rights and Restrictions:

- A. **Right to Representation.** The employee has the right to a representative throughout the pre-disciplinary process, at the employee's own cost. That representative is chosen by the employee and may be an attorney, an outside representative, or another

City employee. If a City employee is selected as the representative, that employee's Department Director must be notified in order to obtain permission to be absent from assigned duties necessary to make representation. Such permission shall not be unreasonably withheld.

- B. Right to Investigate. The employee and the employee's representative wishing to enter a work area for the purpose of investigating the notice of proposed discipline must first obtain permission to do so from the work area Supervisor. Any investigation shall be conducted on non-working time unless the Department Director has granted prior approval to use City time. Permission in either case shall not be unreasonably withheld, giving consideration to the work of the department and occupational safety.

10.10.4 Department Director Decision: The Department Director or designated authority shall, within five (5) working days, unless the Department Director or designee decides a longer period is needed, provide a written decision to the employee after reviewing the employee's response, if any.

The decision shall be personally delivered to the employee or sent by certified mail to the employee's response and shall be dated and signed by the Department Director. If disciplinary action is to be taken, the written response shall include a statement informing the employee of the right to appeal and the time period within which the appeal must be made.

10.15 APPEAL OF DEPARTMENT DIRECTOR'S DECISION: An appeal of a Department Director's decision shall be made within five (5) working days of receiving the decision. An appeal shall be accompanied by a copy of the written notice of disciplinary action served on the employee, the Department Director's written decision, a brief statement of the facts and reasons for the appeal and a brief statement of the relief requested.

If, within the five (5) day appeal period, the employee involved does not file an appeal, unless good cause for the failure is shown, the action of the Department Director or designated authority shall be final, and not subject to any further appeal or right to appeal. If an employee withdraws the appeal, the employee waives the right to further review. Upon approval of the City Manager, the Employee Relations Officer may act on his behalf on such matters.

10.20 AMENDED NOTICE OF DISCIPLINARY ACTION: At any time before a disciplinary action becomes final, the Department Director or designated authority may amend the proposed disciplinary action and provide a supplemental notice of proposed disciplinary action.

A decision not to impose any disciplinary action may be accompanied by a directive from the Department Director to delete all references to the pending action from the employee's personnel file(s). Failure by the Department to make further investigations or to provide an additional written answer shall not affect the ability of the City to impose disciplinary action.

If the amended or supplemental notice of proposed disciplinary action presents new causes or allegations, the employee shall be provided further written notices provided in Section 10.10.1 and shall be afforded the opportunity to prepare a response in accordance with Section 10.10.2.

SECTION 11: APPEAL HEARING PROCESS

11.05 HEARING OFFICER: The Hearing Officer is designated to hear appeals on Personnel related matters, with the exception of grievances. The Hearing Officer shall be an outside independent person (not employed by the City) who is qualified to hear such appeals. The selection of the Hearing Officer shall be a joint decision between the employee and the City. The costs of the Hearing Officer shall be borne by the City.

11.10 REQUEST FOR APPEAL: Every appeal to the Hearing Officer must be filed within five (5) working days in writing with the Employee Relations Officer. Failure to file a timely appeal shall be deemed a waiver of the right of appeal. The appeal shall state the facts upon which it is based, the action requested by the Hearing Officer and it shall be signed and dated by the appellant. The statement of facts in the appeal shall provide in sufficient detail the necessary facts and identify all persons or departments concerned in order that the Hearing Officer may understand the nature of the proceeding and appeal. The appellant's Department Director shall be considered the only respondent unless the written appeal identifies other respondents. The Employee Relations Officer shall serve a copy of the appeal on the respondent.

The appellant or respondent may, at any time prior to the hearing, file a written statement setting forth in detail all facts essential and necessary to support its position. The parties are encouraged to include with and set forth in the statement all exhibits essential and necessary to support its position and which it intends to offer into evidence.

11.15 ANSWER: The respondent is not required to file an answer to the appeal. If an answer is filed prior to the hearing, a copy thereof shall be sent to the appellant by the Employee Relations Officer. If no answer is filed, every relevant and material allegation of the appeal is in issue; but in any case, irrelevant and immaterial issues may be excluded by the Hearing Officer.

11.20 TIME FOR HEARING: Within five (5) days after receipt of an appeal in writing, the Employee Relations Officer shall notify in writing the appellant and respondent of the date, time and place of said appeal hearing. Every hearing on an appeal shall commence within thirty (30) days after notice by the Employee Relations Officer to the appellant and respondent of the date, time and place of said appeal hearing unless:

11.20.1 The time is extended by mutual consent of the appellant and respondent;

11.20.2 A Hearing Officer cannot be selected within that time, in which case such hearing shall be scheduled by the Hearing Officer as soon as practicable;

11.20.3 The Employee Relations Officer or the Hearing Officer has granted an extension of time within which to commence the hearing.

11.25 NOTICE OF HEARING: Written notice of the time and place of hearing of appeal shall be served by the Employee Relations Officer on the appellant and the respondent within five (5) working days of receipt of the notice of appeal. This notice may be delivered personally or by certified mail to the employee's last known address. A respondent or appellant may seek a continuance of the hearing date by making a written request to the Employee Relations Officer stating the grounds for such a request and the requested date for the hearing. The Employee

Relations Officer shall have the authority to determine whether to grant a continuance and to set the hearing date.

11.30 PRE-HEARING MEETING: The Hearing Officer has the authority to require an appellant and respondent to meet prior to the commencement of a hearing for the purpose of using a good faith effort to prepare a joint written statement of the claims and defenses and disputed and undisputed facts and to submit separate written statements where concurrence on such items could not be achieved. Parties are encouraged to voluntarily meet for this purpose and submit such statements.

11.35 WITNESS LIST AND SUBPOENAS: The respondent and appellant shall submit in writing to the Employee Relations Officer, at least three (3) working days prior to the start of the hearing, the name(s) of any witnesses expected to be called during the hearing. The Employee Relations Officer shall provide each party the names of witnesses so submitted in advance of the hearing. A respondent or appellant may request approval from the Hearing Officer for the issuance of subpoenas to compel the person(s) to testify at a hearing or the production of documents to be brought to a hearing by submitting a written request to the Employee Relations Officer.

Such a request must state with particularity the person(s) or documents sought to be compelled, and the relevancy of that person(s) or that document(s) or both to the matters to be tried in the hearing. The Hearing Officer or the Employee Relations Officer, is so delegated, shall cause subpoenas to be issued when the Hearing Officer or the Employee Relations Officer, whichever applies, deems appropriate.

11.40 NATURE OF HEARING: Each hearing shall be closed unless the appellant requests an open hearing. Any party may be self-represented, have legal counsel or another representative of choice. The hearing shall be conducted by the Hearing Officer pursuant to these Policies. The Hearing Officer shall have the authority to: open and adjourn the hearing, rule on evidentiary questions, call, question, and cross-examine witnesses, call for and introduce documentary evidence for the purpose of adequately understanding the facts and issues of the hearing, otherwise control the conduct of the hearing, and meet in closed session with legal counsel to deliberate and prepare findings.

The hearing shall be informal and technical Policies of evidence shall not apply to the proceedings. Any relevant evidence will be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which may make improper admission of such evidence over the objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but will not be sufficient in itself to support a finding unless it would be admissible over objection to the same extent that it is now or hereafter may be recognized in civil actions. Irrelevant, immaterial, unduly repetitious evidence or evidence protected by the Policies of privilege recognized by law may be excluded. All testimony at the hearing shall be recorded manually or by mechanical device or by use of a Certified Short Hand Reporter (CSR). In the event a CSR is used, appellant and respondent shall split costs. All testimony shall be given under oath. Stipulations of fact may be introduced into evidence with respect to any issue. Each respondent and appellant shall have the right to appear,

to speak, to call, to examine, and to cross-examine witnesses including those called by the Hearing Officer and to introduce documentary and other evidence. If the appellant does not testify in the appellant's own behalf, the appellant may be called and examined as if under cross examination.

11.45 EXCLUSION OF WITNESSES: Upon the motion of any appellant, respondent or upon its own motion the Hearing Officer may exclude from the hearing room any witnesses not at the time under examination; but an appellant or respondent to the proceedings or their representatives in the case shall not be excluded.

11.50 PROPOSED FINDINGS OF FACT: Both appellant and respondent shall have the right to file proposed findings of facts or a brief or both with the Hearing Officer on or before the date the hearing is closed. Any party who submits proposed findings of facts, a brief, or both, must serve such document immediately upon all other parties to the hearing.

11.55 OFFICIAL/JUDICIAL NOTICE: In reaching a decision, the Hearing Officer may take official notice of any matter which may be judicially noticed by the courts of this State. Parties present at the hearing will be informed of the matters to be noticed and those matters will be noted in or appended to the record. Any party will be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, with the specific manner to be determined by the Hearing Officer.

11.60 ORDER OF PROOF AT HEARING: The order of proof in the hearing will be as follows:

- A. The respondent will present evidence in support of the disciplinary action.
- B. The appellant or the appellant's representative will produce such evidence as the appellant may wish to offer in the appellant's defense.
- C. Any party may then offer rebuttal evidence, with the respondent having the right of last rebuttal.

11.65 FINDINGS OF FACT AND RECOMMENDATIONS TO THE CITY MANAGER: The Hearing Officer shall make and certify written findings of fact and recommendations to the City Manager no later than thirty (30) working days after completing the Hearing.

11.70 DISPOSITION OF APPEAL: Within ten (10) working days of receipt of the Hearing Officer's findings of fact and recommendation, the City Manager shall adopt, reject or modify in whole or in part the recommendation of the Hearing Officer, and shall so notify the employee, respondent and the Hearing Officer. The City Manager's decision will be final and binding. The City Manager shall not be involved in the disciplinary process at any point (other than simply being made aware that disciplinary action is proposed, or in the event that the discipline involves a department director) until receiving the Hearing Officer's findings of fact and recommendation, and shall make his/her decision based upon an independent review of the record from the appeal hearing and the Hearing Officer's findings of fact and recommendations. The City Manager shall modify or reject the Hearing Officer's recommended decision only for

just cause, supported by substantial evidence in the record, as set forth in the City Manager's written final decision.

11.75 BURDEN OF PROOF: The Respondent carries the ultimate burden of proof of which is a preponderance of the evidence.

11.80 WITHDRAWAL OF AN APPEAL: The appellant may submit a written request to withdraw the appeal at any time before a final and binding decision is made.

SECTION 12: GRIEVANCES

12.05 MATTERS SUBJECT TO GRIEVANCE PROCEDURES: A “grievance” is a job-related complaint by an employee regarding the terms and conditions of employment which arise out of a specific fact, situation, or transaction, other than discipline, that results in an alleged violation of existing ordinances, rules, regulations, or policies administered by the employee’s Department Director or designated authority concerning wages, hours, other terms and conditions of employment. The solution of any such grievance must be wholly or partially within the province of the City to rectify.

12.10 MATTERS NOT SUBJECT TO GRIEVANCE PROCEDURES: The following matters are not subject to the grievance procedure:

12.10.1 Employee discipline (as defined in Section 10.10).

12.10.2 Employee performance evaluations, including denial of a ~~salary~~ step increase, performance pay increase, and other merit or performance pay issues.

12.10.3 Management of the City generally and issues of City or Department policy.

12.10.4 Necessity and organization of any service or activity conducted by the City including the expansion or reduction of services or work force.

12.10.5 Determination of the nature, manner, means, technology and extent of services to be provided to the public.

12.10.6 Types of equipment or technology to be used.

12.10.7 Determination of and/or change in facilities, methods, technology, means and size of the work force by which City operations are to be conducted.

12.10.8 Determination of and change in the location, number of locations, relocations and types of operations, processes and materials to be used in carrying out City functions.

12.10.9 Work assignments and schedules in accordance with requirements as determined by the City.

12.10.10 Establishment, implementation and modification of productivity and performance programs and standards.

12.10.11 Reductions in force or layoffs for lack of work or other non-disciplinary reasons.

12.10.12 Establishment and approved modifications of ~~job~~ Classification Specifications.

12.10.13 Determination of standards, policies and procedures for selection, training and promotion of employees.

12.10.14 Establishment, implementation and modification of Departmental organization, supervisory assignments, chains of command and reporting responsibilities.

12.10.15 Levels of compensation, pay and benefits based upon budgetary and fiscal considerations.

12.15 FREEDOM FROM REPRISAL: No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with his/her immediate Supervisor, or for filing a grievance petition.

12.20 RESOLUTION: Any grievance petitions resolved at any step of the grievance procedure shall be considered conclusive. Any grievance shall be considered resolved if it is not brought forward by the grievant through the grievance steps in the time frame prescribed.

12.25 WITHDRAWAL: Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

12.30 RESUBMISSION: Upon consent of the person hearing the grievance petition and the grievant, a petition may be resubmitted to a lower step in the grievance procedure for reconsideration.

12.35 EMPLOYEE REPRESENTATION: If requested, an employee may have representation in the preparation and presentation of the grievance at any step in the formal grievance procedure, except that no Supervisor or Department Director shall be represented by an employee whom the employee may supervise, and no employee shall be represented by a Supervisor or Department Director.

The employee(s) and one employee representative are entitled to be released from work for a reasonable period of time in order to present the grievance.

12.40 OBEY NOW/GRIEVE LATER: If an employee is given a legitimate order that he/she wishes to grieve, the employee must first complete the assignment and file a grievance later unless the assignment endangers the health or safety of the employee or others, or if the requested assignment violates the employee's constitutional rights.

12.45 INITIATION OF GRIEVANCE PROCEDURE: An employee must initiate the grievance procedure (formal or informal) within fifteen (15) working days of the occurrence of the event giving rise to the grievance or within fifteen (15) working days after the grievant should, with reasonable diligence, have had knowledge of such occurrence, whichever is later.

12.50 INFORMAL GRIEVANCE PROCEDURE: Every effort should be made to resolve a grievance through discussion between the employee and the employee's immediate Supervisor, unless extenuating circumstances exist.

If the employee is not satisfied with the decision reached through the informal discussion, or if extenuating circumstances exist, the employee shall have the right to file a formal grievance in accordance with Section 12.55.

12.55 FORMAL GRIEVANCE PROCEDURE:

Step I: If the employee is not in agreement with the decision rendered in the informal grievance procedure, he/she shall have the right to present a formal grievance to the Department Director within fifteen (15) working days after the occurrence of the incident causing the grievance, if applicable. Otherwise, the right to file a grievance petition shall be waived.

All grievances shall be submitted in the format prescribed by the Employee Relations Officer, and no grievance petition shall be accepted until the form is complete. The written grievance shall contain a clear, concise statement of the grievance and the facts upon which it is based; rule, regulation or policy allegedly violated; and the specific remedies sought.

The Department Director will render a written decision within five (5) working days after receipt of the written grievance.

Step II: If the grievance is not satisfactorily resolved in Step I, the employee shall have the right to submit the written grievance to the Employee Relations Officer within five (5) working days after the Department Director’s decision is received by the employee.

The Employee Relations Officer will render a written decision within five (5) working days after receipt of the written grievance.

Step III: If the grievance has not been satisfactorily resolved at Step II, the employee may appeal within five (5) working days, and the City and Association shall mutually select a mediator from the State Mediation and Conciliation Service to consider the grievance. The mediator may consider written documents and/or oral statements, and shall render a written advisory decision to the City Manager within ten (10) days.

The City Manager may accept or reject the advisory decision of the mediator, and will render a written final decision within five (5) days of receiving the mediator’s advisory decision. The decision of the City Manager shall be final and conclusive.

If mutually agreeable, a meeting may be conducted involving all affected parties at any step in the grievance procedure prior to the rendering of a decision.

GRIEVANCE PROCEDURES			
STEP	CONTACT	FILE	DECISION
Informal	Supervisor	N/A	Immediate
Step I Formal	Department Director	15 working days from Informal Decision	5 working days from filing
Step II Formal	Employee Relations Officer	5 working days from Step I Decision	5 working days from filing
Step III Formal	State Mediator/City Manager	5 working days from Step II Decision	5 working days from receipt of Mediator’s advisory decision

SECTION 13: EMPLOYEE RECORDS AND FILES

13.05 PERSONNEL FILES:

13.05.1 Central Personnel Files: The Employee Relations Officer shall maintain a central personnel file for each City employee indicating the employee's name, title of position, the department assigned, salary, changes in employment status, performance evaluations, disciplinary documents, and such other information as may be considered pertinent by the Employee Relations Officer. Copies of documents concerning disciplinary actions taken by the Supervisor or Department Director must be placed in the employee's central personnel file. There will be no disclosures of this information to third parties except as authorized by State or Federal law or as duly authorized in writing by the employee.

Personnel files shall be kept in locked, fire-proof files located in or near the Human Resources/General Services Manager's office.

13.05.2 Payroll Files: The Human Resources/~~Risk~~~~General Services~~ Manager shall maintain a file for each City employee showing the name, title of position, the department assigned, salary, changes in employment status, W-4 forms, payroll deductions and such other information as may be considered pertinent by the Finance Director.

There will be no disclosures of this information to third parties except as authorized by State or Federal law, or as duly authorized in writing by the employee to third parties.

Nothing herein shall prohibit the City from keeping or placing documents in an observation folder for the purpose of investigating alleged criminal conduct. For the purpose of this Section, an observation folder shall not be considered a personnel file, and an employee or the employee's designated representative shall not have access to observation folders nor receive copies of documents placed in such folder.

Unless required for a criminal investigation, an observation folder on an employee shall remain open for a maximum of six (6) months. If disciplinary action by the City is warranted or if the employee is found guilty of criminal activity, documents in the observation folder shall be placed in the employee's personnel file.

13.10 DOCUMENTS IN PERSONNEL FILES: Upon request of the employee, an employee may place documents in the employee's respective personnel files that commend his/her job performance with the City or demonstrates educational attainment.

Disciplinary documents shall be placed in personnel files in accordance with Section 9.55. An employee shall be provided a copy of any documents placed in the employee's personnel file(s) and may review their file on request, within the time constraints and work schedule of the Employee Relations Officer. A witness shall be present at all times when an employee is reviewing their personnel file.

13.15 DISCLOSURE OF INFORMATION: To the maximum extent possible, no direct information contained in the personnel files shall be disclosed concerning any current or former City employee, without the employee's consent, other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, departmental assignment and

the nature of separation, resignation, or termination to any person other than the Employee Relations Officer, City Attorney, Special Legal Counsel, the employee's Department Director, or their designated representatives. An employee or former employee may authorize access to or the disclosure of information from their file only when written permission is provided to the Employee Relations Officer.

Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

13.20 CHANGE IN STATUS: It is the employee's responsibility to notify the Employee Relations Officer of any changes in the employee's address, phone number, marital status, dependent status, name change, training certificates, emergency contact, driving status/record, criminal convictions, or other pertinent information.

13.25 APPLICATION RETENTION: Applications submitted by candidates for City employment become the property of the City and will be retained for the life of the eligibility list for the position.

13.30 DESTRUCTION OF PERSONNEL RECORDS: Personnel records, shall be destroyed five years after the date of resignation or termination, in accordance with any provision of the City's system for destruction of public records and then in accordance with other applicable laws.

SECTION 14: EMPLOYEE BENEFIT PLAN

In order to establish an equitable system of working hours, compensation, and benefits, the City Council will, from time to time, establish a Benefits Plan, which will define separate benefit categories for compensation, benefits, and accrual rates, depending upon the nature of the position. An Employee, other than a City Council Member, must work a minimum of thirty (30) hours per week to be eligible for the health benefit plan offered by the City. An Employee who works between thirty (30) and forty (40) hours per week (other than employees participating in the Alternate Work Week Schedule) will receive 75% of the contribution the City pays for a full-time Employee and/or dependent(s).

14.05 HEALTH, DENTAL, VISION AND LIFE INSURANCE BENEFITS:

- A. Benefits for City Employees shall be provided as outlined in the City’s Health Benefit Plan. Further information on these benefits may be obtained by contacting Human Resources. Regular Employees working less than thirty (30) hours per week and temporary Employees are not eligible for any health benefits. The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City.
- B. At-will Employees shall be provided benefits as outlined in the contract negotiated for each position.

14.10 HOLIDAYS: Days which are designated as paid holidays by the City Council shall be legal holidays for City employees unless otherwise specified. Each holiday shall be considered eight (8) hours. A holiday falling on Sunday will be observed the following Monday. A holiday falling on Saturday will be observed the previous Friday.

14.10.1 Regular full-time employees are entitled to the following ten (10) paid holidays each year:

New Year’s Day	January 1
Dr. Martin Luther King, Jr. Day	3rd Monday in January
Presidents’ Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veterans’ Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
<u>*Christmas Eve Day</u>	<u>December 24</u>
Christmas Day	December 25
<u>*New Year’s Eve Day</u>	<u>December 31</u>

~~All employees shall receive ½ day off for both~~ *Christmas Eve (December 24) and New Year’s Eve (December 31) in the event those days fall on a weekday are

considered paid holidays, and all employees shall receive eight (8) hours of holiday pay for each.

In the event an employee is required to work on a holiday, he/she shall be entitled to: (1) a minimum of four (4) hours straight time (either paid or in compensatory time); (2) eight (8) hours Holiday Pay; and (3) if the minimum four hours takes the employee over forty (40) hours for the work week, he/she shall be paid at time and one-half for all hours worked over 40.

In the event of a conflict between any provision of this section and Section 14.35.5 (Call-back), the affected employee shall be given the greatest benefit provided under the two sections.

Floating holidays:

Regular full-time employees are also entitled to sixteen (16) hours of floating holidays each calendar year, to be selected by the employee provided the employee's supervisor deems the selected day(s) compatible with work schedules. All floating holiday hours must be taken within the calendar year in which they are earned.

In the event of the employee's failure for any reason to take such floating holiday hours during any calendar year or prior to his/her termination of employment with the City, he/she shall be entitled to compensation for the floating holiday hours not used.

Probationary employees may use their floating holiday hours if necessary.

14.10.2 Regular Part-time Employees who work at least thirty (30) hours per week, shall receive holiday compensation on a pro rata basis for the twelve (12) holidays listed above. Holiday compensation for these employees shall be calculated by the number of hours worked as a percentage of a forty (40) hour ~~workweek~~work week.

14.10.3 Temporary and Seasonal Employees will not be given paid holidays, but will be given leave without pay on holidays which preclude their working.

14.10.4 In-Lieu Holiday: Any non-exempt employee whose regular work schedule requires the employee to work on an approved holiday will be awarded another floating holiday. Such employees who work less than eight (8) hours on a holiday will receive a floating holiday equaling the actual time worked. Said floating holiday must be taken during the same pay period as the holiday observed by the rest of the work force.

14.15 VACATION LEAVE:

14.15.1 Vacation Earned: Full-time employees shall be provided with vacation earnings based on the following schedule:

<u>Years of full time service</u>	<u>Annual number of hours eligible to earn</u>
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Beginning year	0 - 1	80 hours
Beginning year	2	88 hours
Beginning year	3	96 hours
Beginning year	4	104 hours
Beginning year	5	112 hours
Beginning year	6	120 hours
Beginning year	7	128 hours
Beginning year	8	136 hours
Beginning year	9	144 hours
Beginning year	10	152 hours
Beginning year	11 and after	160 hours

No vacation days may be accrued or used during an employee’s first three (3) months of service. At the end of three (3) months, vacation in an amount which would have been earned during the first three (3) months period will be credited to the employee’s leave account in a lump sum and is available for use.

14.15.2 Limitations:

- A. Vacation is earned annually and is computed on the basis of number of months, or major portion of a month, actually worked within a calendar year.
- B. Additional hours of vacation are earned on the anniversary date of the regular employee.
- C. No vacation shall be credited for time during which a regular employee is absent from duty without pay in excess of thirty (30) days.
- D. All vacations shall be requested in writing in advance, and taken at such time as approved by the Department Director. The Department Director shall either approve or deny a vacation request within three (3) work days after receiving the request. Failure to obtain prior written approval may result in loss of pay for unapproved time off.
- E. Each accrued vacation day shall be considered eight (8) hours.
- F. Vacation leave may be taken in any increment of minutes, approved by management.
- G. Illness during a vacation period shall not be considered as sick leave.
- H. Employees absent due to sick leave or other approved leave of absence shall continue to accrue vacation leave unless such absence exceeds thirty (30) consecutive days, in which case there shall be no accrual of vacation leave during the period of absence.

14.15.3 Regular Part-time Employees who work at least thirty (30) hours per week shall receive vacation benefits on a pro rata basis, calculated by the number of hours worked as a

percentage of a forty (40) hour work week. Employees in this category may accrue up to 160 hours of vacation leave.

14.15.4 Vacation Buy-Back:

A. Mandatory Buy-Back

Vacation hours may be accumulated and carried over to succeeding calendar years up to a maximum accrual of 320 hours. Accrued vacation hours which exceed 320 hours as of the last pay period of November of each year shall be paid at the employee's regular rate of pay as time worked and shall be issued as a separate check in December.

B. Optional

In addition to the above, employees with a minimum of 80 hours of accrued vacation time as of the last pay period in November in any calendar year, may receive pay at the employee's regular rate of pay, for a portion or the entire amount over 80 hours, provided that the employee's vacation bank has been reduced by at least 40 hours of vacation in the prior year between December 1 and November 30. Any employee desiring to exercise this option must make a written request to the Finance Director no later than November 15 in the calendar year for which vacation buy back is sought. The buy-back pay will be issued as a separate check in December.

C. Regular Part-Time Employees

Regular Part-Time employees with a minimum of 60 hours of accrued vacation time as of the last pay period in November in any calendar year, may receive pay at the employee's regular rate of pay, for a portion or the entire amount over 60 hours, provided that the employee's vacation bank has been reduced by at least 30 hours of vacation time in the prior year between December 1 and November 30. Regular, part-time employees wishing to exercise this option must make a written request to the Finance Director no later than November 15 in the calendar year for which vacation buy-back is sought. The buy-back pay will be issued as a separate check in December.

14.15.5 Vacation Leave Transfer Policy (VLTP):

The conditions for participation in the Vacation Leave Transfer Policy (VLTP) are as follows:

A. If a full-time permanent City employee has been granted leave under the Family and Medical Leave Act of 1993, which is for a period of up to twelve (12) weeks, and the employee has exhausted all earned leave credits – sick, vacation, administrative, compensatory (comp) time, and holiday credits, due to injury or illness of himself/herself or an immediate family member, the employee can request approval to take part in the VLTP, wherein fellow employees can donate vacation leave or comp time to enable employees in these situations to continue to receive their regular pay. An employee is eligible to participate in the VLTP when he/she has been employed at least 12 months, completed their probationary period, and worked for at least 1,250 hours during the 12-month period immediately preceding the request for VLTP.

B. To participate in the VLTP, a request must be submitted specifically on the VLTP Request Form to the department head and then to the Employee Relations Officer (ERO) for

approval of donated vacation leave or comp time from fellow employees. Any appeal or a denial of a request to participate in the VLTP will be resolved by the City Manager. The decision of the City Manager shall be final, not grievable and not subject to further appeal.

C. The ERO shall manage all aspects of the VLTP.

D. If a request for donated vacation leave or comp time is approved by the ERO, a notice will be posted informing City employees of the particular employee in need of donation assistance through the VLTP.

E. Any employee wishing to contribute vacation leave or comp time must sign an authorization form specifying the employee to which the donation will be made and acknowledging that the donation is irrevocable.

F. The application rate of an employee's vacation leave or comp time donation will be on an hour-for-hour basis with no adjustment for dollar value.

G. All donations will be voluntary and confidential.

H. Except for the notice and memorandum notifying employees of a specific employee's sick leave need, no City employee may solicit donations from any other employee. (General discussion of voluntary donation versus solicitation at La Quinta City Employees' Association meetings is exempted.)

I. No supervisor shall make work-place decisions based on any employee's participation or non-participation in the VLTP.

J. The City Finance Department (Finance) will set up a trust account for all approved employee vacation leave or compensatory time donation request in the requesting employee's name, into which each donating employee's vacation leave or comp time will be noted, and used as needed.

K. Employees on VLTP shall be paid at regularly scheduled City pay periods from the trust account Finance establishes. The amount of payment shall be the total monetary amount of vacation leave or compensatory time donated up to a maximum of 100% of employee's regular pay, less: (1) any disability benefit offered through the City, Worker's Compensation Benefit, or Medicare amounts the employee is receiving during the pay period, and (2) regular taxes.

L. Per the Federal Family Medical Leave Act (FMLA), group health insurance coverage and other negotiated benefits must be provided to all employees while on the VLTP, as long as the employee's total FMLA and VLTP time does not exceed twelve (12) working weeks. Thereafter, if the employee is not on paid status by virtue of continuing to utilize at least half (50%) of the hours needed per pay period to receive a full paycheck through the use of their accrued sick leave, vacation, compensatory time-off, administrative leave allowances, or leave donated under this Section 14.15.5, the employee will be required to personally fund this benefit if the employee wishes to retain it. If the employee uses less than 50% of the hours needed per pay period to receive a full paycheck through the use of their accruals, the employee will be

required to personally fund their medical premium payments if the employee wishes to retain group health insurance coverage.

M. Attendance and Payroll records of employees on VLTP shall denote a “DL,” standing for Donated Leave, for time paid to employee while on this program.

N. No sick leave, vacation leave, holiday credits, administrative leave, compensatory time, deferred compensation, PERS or any other applicable benefits shall accrue to receiving employee for any hours provided by donee through the VLTP.

O. Vacation leave donations or compensatory time shall in no way affect or modify the receiving employee’s employment status with the City, nor shall it affect or modify the application of applicable City policies, rules and ordinances.

P. Employees on VLTP who remain on an authorized unpaid leave of absence after FMLA is exhausted may continue to receive assigned donated vacation leave and compensatory time from other regular City employees until the employee returns to work, is terminated, or meets the maximum hours under Section U, below.

Q. Availability of donated vacation leave or compensatory time shall in no way delay or prevent the City from taking action to medically separate or disability-retire an employee.

R. Donated but unused vacation and compensatory time shall “expire” once the requesting employee returns to work on a full-time basis.

S. The recipient employees must be unable to work in any capacity as a result of a serious injury or illness to the employee or a member of their immediate family in order to be eligible to receive donations under the VLTP.

T. The total amount of hours donated to any individual shall not exceed two hundred forty (240) hours in any calendar year.

U. Only the recipient employees for whom the VLTP has been established may receive donated hours from said plan. Such donated hours will be added to the employee’s sick leave balance, as needed.

V. The plan will be administered so that hours will be used only as needed and in the order donated.

14.20 SICK LEAVE: Sick Leave shall be allowed only in case of necessity and actual sickness or disability of the employee and employee’s dependents (as “dependent” is defined in Section 1.25.~~1520.1~~ of these Personnel Policies). Sick Leave is not an earned right to time off from work. If an employee is to be absent from work due to illness or other allowable reason, the employee must notify the Supervisor by telephone within the first half hour of normal reporting time, or earlier if possible.

An employee's preventative medical and dental appointments (within reason) and dependent care ("dependent" is defined in Section 1.25.~~2015.1~~ of these Personnel Policies) are acceptable uses of sick leave. The City's policy for Sick Leave accrual and "buy-back" is as follows:

14.20.1 Use of Sick Leave: Sick Leave shall be used for illness, off-duty, non-work connected injury, physical examination, including eye examinations, dentist appointments, or other commonly accepted health related matters.

14.20.2 Eligibility: All full-time regular employees are eligible for Sick Leave after completing three (3) months of service. At which time sick leave, in an amount which would have been earned during the first three (3) months period, will be credited to the employee's Leave Account in a lump sum and is available for use.

14.20.3 Number of Hours Sick Leave Allowed: The employees shall be credited with eight (8) hours per month of work, or major fraction thereof.

14.20.4 Excessive Absenteeism or Tardiness: An employee may be disciplined for excessive absenteeism or tardiness (excused or not) which affects the employee's ability to perform assigned duties; interferes with the efficient or effective operation of City programs, or establishes a pattern of abuse or neglect. Each situation of excessive absenteeism or tardiness shall be evaluated on a case-by-case basis (exceptions may include FMLA leave or other approved leaves of absence).

Discipline under this Section shall be subject to the progressive discipline guidelines outlined in Personnel Policy Section 9.05.

14.20.5 Definitions:

a. Sick Leave: absence for health related matters of the employee or dependents of the employee (as defined in Section 1.25.~~2015.1~~ of these Personnel Policies).

b. Improper Use of Sick Leave: Evidence substantiating any improper use of sick leave, use of such leave for anything other than a bona fide reason, or any violation of the rules herein shall be considered grounds for disciplinary action, up to and including termination.

c. Misuse of Sick Leave: Use of sick leave for that which it was not intended or provided.

d. Pattern Abuse: Consistent periods of sick leave usage, for example:

i. Before and/or after weekends.

ii. Any one specific day.

iii. Half days.

iv. Continued pattern of maintaining zero or near zero sick leave balances.

- v. Excessive absenteeism – use of more sick leave than accrued or granted.

14.20.6 Sick Leave Pay Back:

- A. City agrees to provide Sick Leave pay back upon employee’s termination, as follows:

2 through 4 years service	25%
5 through 9 years service	50%
10 years service and up	75%
- B. A maximum Sick Leave accrual of four hundred eighty (480) hours shall be established. If the maximum accrual of Sick Leave has been reached as of the last pay period in November in any calendar year employee shall be reimbursed for the number of Sick Leave days that would have been accrued and unused above the maximum, according to the formula used for Sick Leave pay back upon employee termination, as above. Employees have the option to be reimbursed for accrued and unused sick leave above 240 hours up to 480 hours once every year. The sick time pay back will be issued as a separate check in December.
- C. City agrees to provide short-term disability insurance coverage. The actual terms and benefits of the City’s Disability Leave are governed by the disability insurance program in effect at the time the disability leave is requested.

14.20.7 Filing Statement of Cause: An employee who is absent because of illness may be required to file a written statement describing the illness or reason for absence, which then must be approved by the Employee Relations Officer. If an absence because of illness or disability extends beyond three (3) consecutive work days, the employee may be required to file a statement from the employee’s physician.

14.20.8 Effect of Absence on Sick Leave: Absence due to Sick Leave or other approved Leave of Absence will not affect computations for sick leave unless such absences exceed one (1) month, in which case that month, or more, shall be excluded from computation.

14.20.9 Temporary and Seasonal Employees shall not accrue paid sick leave, but may take leave without pay as approved by their Supervisors.

14.20.10 Regular Part-Time Employees who work at least thirty (30) hours per week shall accrue paid sick leave, pro-rated calculated by the number of hours worked as a percentage of a forty (40) hour ~~workweek~~work week. Employees in this category may accrue up to three hundred sixty (360) hours of sick leave. Sick leave pay back shall be calculated pursuant to Section 14.20.6.

14.21 KIN CARE LEAVE

(a) An employee may use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, to attend to an illness of a child, parent, spouse, or domestic partner of the employee. All conditions and restrictions placed by the City upon the use by an employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, spouse, or domestic partner. This section does not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government Code or under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.), regardless of whether the employee receives sick leave compensation during that leave.

(b) As used in this section:

(1) "Child" means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis.

(2) "Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

(3) "Sick leave" means accrued increments of compensated leave provided by the City to an employee for use by the employee during an absence from the employment for any of the following reasons:

(A) The employee is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the employee.

(B) The absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the employee.

(C) The absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination. "Sick leave" does not include any benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974 (Public Law 93-406, as amended) and does not include any insurance benefit, workers' compensation benefit, unemployment compensation disability benefit, or benefit not payable from the employer's general assets.

14.25 BEREAVEMENT LEAVE: Employees shall be allowed twenty-four (24) hours Bereavement Leave in the event of death of an immediate family member as defined in Section 1.25.5457. Regular, part time employees who work at least thirty (30) hours per week shall be allowed eighteen (18) hours of Bereavement Leave. There is no annual restriction on the number of bereavement leaves required by an employee. Initial probationary employees are not eligible for bereavement leave until after the first three (3) months.

14.30 ADMINISTRATIVE LEAVE: The following designated employees will receive Administrative Leave days. The probationary status of such employees will not preclude the accrual and/or utilization of administrative leave.

14.30.1 Executive Management: The following positions shall receive eighty (80) hours ~~(10 days)~~ of Administrative Leave per calendar year:

~~Building & Safety Director~~
City Clerk
City Manager
~~Community Development Planning~~ Director
Finance Director/Treasurer
~~Deputy City Manager~~~~Community Services Director~~
Public Works Director/City Engineer

If any of the above positions have a written employment contract with the City, administrative leave will be negotiated on a case by case basis, and the eighty (80) hours ~~(ten days)~~ shall not apply.

14.30.2 Professional/Administrative/Management Employees: The following FLSA exempt positions shall receive forty (40) hours ~~(5 days)~~ of Administrative Leave per calendar year:

Accounting Manager
~~Assistant Civil Engineer~~
Associate Engineer
~~Associate Planner~~
~~Business Analyst~~
~~Community Safety Manager~~
~~Economic Development/Housing Manager~~
Golf, & Parks ~~& Facilities~~ ~~Landsc~~ Manager
Maintenance Manager
Management Analyst ~~(2)~~
Management Assistant ~~(2)~~
~~Marketing/Economic Development Manager~~
Human Resources/~~Risk~~~~General Services~~ Manager
Planning Manager
Principal Planner ~~(2)~~
Principal Engineer ~~(2)~~
~~Construction Manager~~/~~Public Works~~ Inspection Supervisor

14.30.3 Accrual and Use: Upon hire, employees are credited a prorated amount of Administrative Leave upon appointment. The prorated amount of Administrative Leave to be accrued for the calendar year may be used at any time during the year subject to the Supervisor's approval. Administrative Leave is available for use by probationary employees, at the discretion of the Department Director.

If an employee terminates, the employee will only be paid for the prorated Administrative Leave earned to the date of termination. If the employee who terminates has not earned enough prorated Administrative Leave to cover Administrative Leave used prior to termination, the remaining balance due shall be subtracted from any Vacation or Sick Leave buy out, or earned salary that the employee may be due upon termination.

Administrative Leave should not be accrued beyond calendar year end and is encouraged to be taken. It should be utilized within the calendar year it is earned. The Employee Relations Officer may allow carry-over accrual when circumstances warrant.

14.35 OVERTIME COMPENSATION: Overtime compensation shall be provided to City employees as follows:

14.35.1 Executive Management, Middle Management and Professional/Administrative. Management Employees are salaried employees and shall not receive overtime compensation.

14.35.2 General Non-exempt and Part-time Employees may receive overtime compensation in the form of paid time or compensatory time off, at a pay rate of time and one-half, for all hours worked in excess of forty (40) in one work week. For purposes of calculating overtime, floating holidays, sick leave, compensatory time used, and vacation will not be counted toward the 40-hour work week. All overtime must be approved by the Department Director prior to any accumulation of hours.

Cash payment of overtime shall be limited to fiscal budgetary restrictions, and employees are encouraged to receive overtime compensation as compensatory time off in lieu of cash payment. Employees in these categories may accrue compensatory time up to a maximum of forty (40) hours. The Employee Relations Officer may allow accrual beyond the maximum if circumstances warrant. All compensatory time shall be requested three (3) days in advance, and shall be granted by the Department Director unless the time off will adversely impact the organization and/or work load.

14.35.3 Maximum Accrual: An employee who has accumulated the maximum amount of compensatory time shall not work overtime on a compensatory time basis until the accumulation has been reduced to less than the maximum accumulation allowed under these Rules. This in no way limits or caps paid overtime.

14.35.4 All overtime worked in less than one (1) hour increments in a work shift shall be compensated for in the following manner:

<u>Time Worked</u>	<u>Overtime Compensation</u>
0- 15 minutes	1/4 hour x 1.5
16-30 minutes	1/2 hour x 1.5
31-44 minutes	3/4 hour x 1.5
45-60 minutes	1 hour x 1.5

14.35.5 Call Back: When an off duty employee is called back to work, the employee shall receive a minimum of two (2) hours pay or two (2) hours compensatory time, at the Department Director's discretion. If the call back assignment exceeds the two (2) hour minimum, the

employee shall be compensated at time and one-half, either with pay or compensatory time. Time worked does not include travel time to the work site.

14.35.6 Standby: Employees occupying a position designated by the Department Director and approved by the Employee Relations Officer as appropriate for standby pay are required to be subject to call by telephone or other approved methods. Standby assignments shall be scheduled in advance by the appropriate Department Director, and shall be automatically forfeited if the employee is unavailable or unfit when called for duty. Employees working standby assignments shall be paid twenty-five dollars (\$25.00) per work day, and sixty dollars (\$60.00) per holiday. Employees out on an excused leave of absence (i.e., sick leave, vacation leave, use of comp time off, administrative leave, etc.) are not eligible for standby pay on days for which they are not available to report to duty.

In addition to the standby pay, an employee called for standby work shall be compensated at time and one-half, either with pay or compensatory time at the employee's discretion, from the time the employee enters the City limits until he/she leaves the City limits. All employees placed on standby must be able to reach the City limits within thirty (30) minutes under normal driving conditions.

SECTION 15: TRAINING AND TRAVEL

15.05 TRAINING: The City recognizes the importance of employee development and training in an effort to improve the capabilities and effectiveness of City personnel. Training shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of the Department Directors or Supervisors, but shall be shared with employees in a total organizational effort.

15.10 IN-HOUSE TRAINING: Employees who have training, knowledge or expertise in a subject area, or have recently attended a seminar or conference in a given subject matter, may be asked to share this information with other employees. Such in-house training may be informal or formal, depending upon the nature of the training, and can include any variety of topics.

15.15 DEPARTMENT TRAINING: City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department Director and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

15.20 SEMINARS AND CONFERENCES: Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

15.20.1 Employees must submit their request on forms prescribed by the Finance Department and follow all applicable procedures.

15.20.2 Budgeted funds must exist for all such training and any travel. All travel that requires travel authorization must have City Manager and/or City Council approval.

15.20.3 Employees must comply with the City's Administrative Travel and Expense Policy and provide necessary receipt documentation.

15.20.4 Employees who have recently achieved such training must be willing to provide "in-house" training to other employees, if requested.

15.25 TUITION REIMBURSEMENT: Subject to Department Director and Employee Relations Officer (or designee) approval, employees may attend and be reimbursed for part or all of the costs of educational and other training courses which provide a benefit to the City. During the budget process, money will be included annually for educational reimbursement.

Any educational or training course that is a requirement for continuation of employment or is an identified part of a job evaluation shall be paid for by the City. All employees with prior approval by the Employee Relations Officer may be reimbursed for costs of books, tuition and lab fees for classes or instruction, provided such classes or instruction are related to the employee's assigned duties with the City.

Reimbursement will be made only after an employee has satisfactorily completed the class or workshop with the grade of "C" or better or equivalent completion and that evidence of same has been submitted and approved by the Employee Relations Officer. The general rule is that an employee must be employed at the time he/she starts and completes the class or workshop in

order to be reimbursed. If an employee has followed the foregoing requirements for reimbursement and, through no fault of his/her own, is laid off before completion of the approved class or workshop, the employee will continue to be eligible for reimbursement even though he/she is no longer employed by the City. No employee will be eligible for reimbursement for any class or workshop started after the employee has been given a written notice of layoff, notice of termination for failing to pass the probationary period, or notice of intent to terminate employment for cause.

In general, training time during working hours shall be considered part of the job. Unless the City directs an employee to attend a specific training course and the course is not available during work hours, training after hours shall be considered voluntary and no additional pay, overtime, or compensatory time shall be given by the City unless advance special written approval is granted. Study time shall be considered completely voluntary.

There is no mileage reimbursement for travel to and from educational classes. Required forms must be completed and necessary documentation (receipts and grades) must be provided in order to receive reimbursement. Final and conclusive determinations of the reimbursement amount shall be made by the Employee Relations Officer after review of the request and recommendations by the Department Director and the Employee Relations Officer.

No one employee may receive more than 10% of the total annual budgeted money available for tuition reimbursement.

15.30 TRAINING AND TRAVEL REIMBURSEMENT: In accordance with the Fair Labor Standards Act (F.L.S.A.), employees who are not exempt shall receive training and travel reimbursement as provided in this Section.

Time spent in attending lectures, meetings, training programs and similar activities during work time shall be counted as time worked only if authorized in advance and in writing by the employee's Department Director. No such authorization shall be given unless the lecture, meeting, program, or other activity is directly related to improving the employee's ability to perform his/her job.

Time spent in attending lectures, meetings, training programs and similar activities shall not be counted as time worked where such attendance is outside of the employee's regular working hours, except in situations where the employee is directed by the employee's Department Director to attend such lecture, meeting, training program or similar activity. Leisure and meal times are not considered time worked unless they are part of the seminar.

Time spent by an employee traveling between the employee's residence and the regular work place is not work time and shall not be treated as hours worked. When an employee is assigned by the employee's Department Director to travel outside of the City, times spent traveling between the employee's home and assigned destination shall be treated as time worked only to the extent that it exceeds the amount of time normally taken by the employee to travel between the employee's residence and regular work place.

When an employee is assigned to travel outside the City, return the same day, and the employees has utilized public transportation, the time spent traveling between the employee's home and the

location of the public carrier (i.e. air-port, bus station, train station) shall not be treated as time worked. However, time spent traveling to a final destination via public carrier is considered time worked.

Employees shall receive mileage and travel reimbursement in accordance with provisions outlined in the City's Administrative Travel and Expense Policy.

15.31 TRAVEL AND EXPENSE POLICY:

PURPOSE:

To establish uniform guidelines for City Council members, members of City legislative bodies, and City employees to follow with regard to travel and expense reporting that arises in the course of conducting City business.

BACKGROUND:

The City recognizes that attendance at meetings and conferences serves a vital forum for the exchange of ideas in all areas of municipal administration, presenting and receiving information, and advocating legislation of benefit to the City. The governing factor in authorizing attendance at these functions is the tangible benefit accruing to the City because of such attendance in relation to the overall expense to the City.

In the course of serving the City, City Council members routinely incur substantial job related expenses, including increased cellular phone use charges; and City Council members, members of City legislative bodies, and City employees incur other incidental costs relating to meals, parking, entertainment, phone and related miscellaneous charges.

To that end, City Council members, members of City legislative bodies, and City employees are occasionally required to expend City funds. This is accomplished either by requesting City funds in advance, using City issued credit cards, or by spending one's own funds and requesting reimbursement from the City.

Government Code Sections 36514.5, 53232.2 and 53232.3 authorizes reimbursement for actual and necessary expenses incurred in the performance of official duties. The following policies are intended to cover what should be reasonable expenses of business meetings and travel and the reporting thereof and may not be all-inclusive. The reasonableness of any unforeseen situations will be decided upon by the City Manager for employee expenditures and by the City Council for elected and appointed officials' expenditures.

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POLICY:

1. AUTHORIZED EXPENSES

City funds, equipment, supplies (including letterhead) and employee time must only be used for authorized City business. The following types of expenses generally constitute authorized expenses, provided that other requirements of the policy are met:

- A. Communicating with representatives of regional, state and national government on City-adopted policy positions;
- B. Attending educational seminars designed to improve officials' skill and information levels;
- C. Participating in regional, state, and national organizations whose activities affect the City's interest;
- D. Recognizing service to the City (for example, thanking a longtime official or employee with a retirement gift or celebration of nominal value or cost);
- E. Attending City events;
- F. Implementing a City-approved strategy for attracting or retaining business to the City of La Quinta, this will typically involve at least one staff member;
- G. City Council stipends for cellular use, as provided by City Municipal Code Section 2.04.050, based on increased cellular phone use charges.

2. RESPONSIBILITY

All persons subject to this policy have the responsibility to determine the reasonableness of travel costs, as justified by the nature of travel. The intent is to account for actual and necessary reimbursable expenses while each City Council member, member of a City legislative body or employee accomplishes City goals as reasonably as possible. This policy is not intended to address every issue, exception or contingency that may arise in the course of City travel or attendance at meetings. Accordingly, the basic standard that should prevail is to use good judgment in the use and stewardship of City funds. Any deviations from this policy should be approved by the City Council.

The City Manager shall administer and be the approving authority for the expenditure of travel and expense funds in accordance with appropriations made by the City Council in the annual adopted budget for all City employees and City legislative bodies, with the exception of the appropriations made for City Council members travel.

Personal and City travel must not be commingled in such a manner as to increase allowable expense or otherwise affect adversely the interest of the City.

3. TRAVEL AUTHORIZATION

Official travel by persons covered by this policy requires prior written authorization by the appropriate approving authority. The City form, "Travel Request and/or Advance," shall be used to document authorization, and may be obtained in the Finance Department.

Travel trips of one-day or less shall not require a pre-approved “Travel Request and/or Advance” if no advance is requested, but the second part of the form covering conference update reporting must be completed, if applicable, upon return.

Out-of-state travel, round trips over 300 miles, or trips involving overnight stay must be approved by the City Council. If time does not permit City Council approval, the City Manager may authorize the travel request. The City Manager shall notify the City Council of the authorized travel and the circumstances which prevented City Council review/approval. Upon return, the “Conference Update Report” section of the “Travel Request” form must be completed.

4. TRAVEL EXPENSES

Persons covered by this policy may provide their own funding and file claims for reimbursement, or may apply for an advance of public funds by utilizing the “Travel Request and/or Advance” form. All requests for advance of travel funds are to be submitted through the approving authority to the Finance Department at least five (5) working days before the intended date of departure. All advances must be properly accounted for based on actual and necessary expense incurred, upon termination of travel for which the advance was made. Advance payments do not constitute approval to spend the entire amount advanced. Only actual and necessary expenses, as further limited by the specific provisions of this policy, will be paid from City funds.

5. ADVANCE RESERVATIONS—CANCELLATION

Persons covered by this policy are encouraged to make reservations for any meeting, convention, or dinner for which the City would bear the cost, which he or she is planning to attend, in sufficient time to allow for lower airfare or reservations costs to be obtained.

Cancellations that result in expenditure of City funds will be reviewed on a case-by-case basis by the City Manager to determine whether the employee may be held responsible for the cost. The full City Council will make that determination for any canceled public official travel.

6. TRANSPORTATION

Individuals requesting official travel should attempt to travel by the means most economical to the City consistent with scheduling needs and cargo space. In selecting a particular method of transportation, consideration shall be given for the total cost to the City which will result; including overtime, lost work, and actual transportation costs. In the event that a more expensive transportation form is used, the cost borne by the City will be limited to the cost of the most economical, direct, efficient and reasonable transportation form unless otherwise approved by the City Council. Government and group rates must be used when available.

A. Automobile Travel

Transportation by car may be done either with a personal vehicle or City vehicle. For persons other than those receiving a monthly auto allowance, if a personal vehicle is used, net mileage will be reimbursed at the current Internal Revenue Service Rates (see www.irs.gov). Net mileage equals roundtrip mileage minus any commute miles. Before initiating overnight travel,

those employees not receiving a monthly mileage allowance should contact the Finance Department for the availability of a pooled vehicle.

Those persons using their own vehicle and receiving a monthly auto allowance will be reimbursed only for the net mileage in excess of 60 miles. In any case, mileage will not be reimbursed for portions of the trip made for non-business related matters.

When the use of public air carrier transportation is approved, private automobile use to and from the airport shall be reimbursed for all allowable miles at the current Internal Revenue Service Rates (see www.irs.gov) or commercial auto rental will be allowed if necessary and alternative personal or public transportation is unavailable or unreasonable.

B. Air Travel and Automobile Rental

(1) Coach Class Air Travel. Reimbursement shall be made for coach air travel if the cost of such air travel is competitive with other passenger airlines' coach fares.

(2) Rail Travel. Reimbursement shall be made for coach rail travel if the cost of such rail travel is competitive with other coach rail travel fares.

(3) Taxi Service. Charges for taxi service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. Portions of taxi charges that are related to excessive tips (i.e., in excess of 15%) will not be reimbursed.

(4) Shuttle Service. Charges for shuttle service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

(5) Bus Fare. Charges for bus service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

(6) Vehicle Rental. Charges for vehicle rental are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of City funds.

(7) Out of Pocket Expenses Related to Use of City Owned Vehicles. Reimbursement for fuel and other out-of-pocket expenses incurred as a result of the use of a City owned vehicle is permissible provided that use of the City owned vehicle is the most economical, practicable and efficient mode of transportation available under the circumstances.

(8) Chartered Travel. Use of chartered travel shall be reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.

(9) Airport parking may be used during travel on official City business and is reimbursable with receipts.

7. LODGING

Lodging expenses will be reimbursed or paid when travel on official City business reasonably requires an overnight stay. Lodging shall be obtained at the most economical rate available for safe, clean, convenient, and quality accommodations. Factors such as proximity to destination and prevailing rates should be considered for reasonableness. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate or government rate is not available, lodging rates that do not exceed the median retail price for lodging for that area listed on websites similar to www.priceline.com or www.travelocity.com or an equivalent service shall be considered reasonable and hence reimbursable.

A. Advance Booking and Time Period

An employee is expected to make reservations well in advance whenever possible and to take other actions to ensure that lodging is secured at moderate rates. Lodging shall be limited to the maximum number of nights required to conduct the assigned City business. If a person subject to this policy chooses to arrive earlier or stay later than the length of City business, the additional lodging and other expenses related to this decision are the individual's personal expenses and will not be reimbursed or paid by the City.

B. Family Member Accompaniment

There is no objection to a spouse and/or other family member(s) accompanying a person subject to this policy on a City business trip, if their presence does not detract from the performance of City duties. The attendance at the meetings and conferences by such family members of City employees and officials is to be considered the sole expense of the individual employee and/or official, and all differences in costs brought about by the attendance and/or accompanying travel of a family member shall not be borne, paid or reimbursed by the City.

8. MEALS

Meals, except for those included in the cost of the registration, are allowable at actual costs including reasonable tips and room service charges not to exceed \$75 per day. Expense claims for meals including people other than the claimant shall include the following information:

1. Date expense incurred
2. Parties participating
3. Purpose of the meeting

Itemized meal receipts are required.

9. OTHER ALLOWABLE EXPENSES

The following expenses shall be permissible, subject to other provisions of this policy to the extent that they are actual and necessary:

- A. Incidental transportation expenses, such as ferry fares; bridge, toll road and vehicle parking fees;
- B. Telephone and facsimile charges for official business;
- C. Personal telephone calls are allowable, not to exceed \$25 per day;
- D. Reasonable fees and tips paid to waiters, porters, baggage handlers, bellhops, hotel maids, and other service personnel; and
- E. Business related entertainment functions that are attended to promote City related business objectives are allowable, as long as detail is provided stating who attended and what subjects were discussed.

10. NON-ALLOWABLE EXPENSES

Personal expenses are not allowable. These may include, but are not limited to:

- A. Barber and/or beauty shop charges
- B. Fines for traffic violations
- C. Private automobile repairs
- D. Expenses of any persons accompanying the person subject to this policy on the trip (except as noted in Section 8(E))
- E. Personal telephone calls (except as allowed in Section 8(c))
- F. Purchase of personal items
- G. Fitness/Health Facilities or Massages
- H. Political contributions
- I. Alcohol

Expenses that are not otherwise listed or identified in this policy shall require prior approval at a public hearing of the City Council pursuant to Government Code section 53232.2(f).

11. SETTLEMENT OF EXPENSES

All covered persons are responsible for the accurate preparation of their claims, and the responsibility of omission or commission cannot be shifted to another individual. A “Travel Expense Report” (obtainable in the Finance Department) substantiated by receipts which verifies the claimed expenditures as being an actual expense, must be submitted to the City Manager within ten (10) days of the expense being incurred or the end of the trip, whichever is later. Inability to provide such documentation in a timely fashion may result in the expense being borne by the individual. All expenses are subject to verification that they comply with this policy.

Pursuant to state law, Travel Expense Reports are public records.

If a person subject to this policy has drawn expense money in advance, a settlement must be made based on actual expenses that are substantiated by receipts. If actual expenses exceed the advance, upon approval by the City Manager, said expenses will be reimbursed to the traveler by the Finance Department. If actual expenses do not exceed the expense advance received, said traveler shall return all unused portions of the expense advance to the Finance Department.

To be reimbursed for expenditures, an employee or official must sign and submit a "Travel Expense Report" form or, if applicable, the "Conference Update Report" section of the "Travel Request" form. No reimbursement shall be made until the "Travel Expense Report" form or, if applicable, the "Update Report" section of the "Travel Request" form has been properly executed and approved by the City Manager, with the exception of City Council members.

Elected and appointed officials' travel expenditures will be reimbursed if they are within budgetary constraints, all proper forms have been completed and signed, and receipts are attached.

The decision of the City Manager shall be final in all cases where conflicts of opinions on reimbursement or allowable expenses exist. For City Council members and appointed officials, the decision of the Council shall be final.

REPORTS BY CITY COUNCIL, BOARD OR COMMISSION

In accordance with state law, Council members and members of Boards and Commissions shall provide a brief report in either verbal or written form, on meetings attended at City expense at the next meeting of the City Council.

PROCEDURES:

There are two forms to be utilized for travel and expense reporting. The first form is the "Request for Travel and/or Advance" form. This form is comprised of two basic parts: Part 1 covers the authorization for travel and/or an advance, and Part 2 provides follow-up information on the event attended. The second form is the "Travel Expense Report" which is needed in order to create the proper audit trail necessary for recording the expenditure of City funds.

1. "Request for Travel and/or Advance" form:

Out of state travel, trips in excess of 300 miles, or trips that involve overnight stay must be approved by the City Council.

Trips or conferences that do not fall into the above category may be approved by the appropriate department head, or by the City Manager in the case of department head or non-elected officials' requests. The City Manager authorizes his own travel or conferences when they do not fall into the City Council approval category mentioned-in the first paragraph.

Part 1 of this form, "Authorization," must be completed prior to the trip or conference. Requests for cash advances are included in this part of the form. If no advances are requested and City Council approval is not needed, this part of the form may be filled out upon completion of the trip or conference if the appropriate verbal authorization has been granted.

All approved advance requests are to be submitted to Finance at least five (5) working days before being needed. A second copy of this form will remain with Finance as payment backup documentation. The traveler will retain the original until Part 2 is completed and submitted with the Expense Report. Advances and all other expenses must be reconciled and approved on the "Travel Expense Report" and submitted to Finance within five (5) working days after completion of the trip or conference.

Part 2 of this form, "Conference Update Report", is to be completed with a short narrative highlighting the subject of the conference and its relevance to City operations. This section must be completed when any conference expenses are incurred in the time period required by this policy.

The original "Request for Travel and/or Advance" form must be attached to the "Travel Expense Report" when that form is submitted.

2. "Travel Expense Report" form:

The "Travel / Expense Report" (referred to as the "expense report") is required to track all travel and expenditures of the City. A proper audit trail, which includes supporting receipts, is necessary to comply with travel and expenses reporting requirements.

The expense report which must be filled out is designed to be a logically grouped over-view of the total expenditures incurred while traveling. Detail and supporting documentation, including receipts and the "Request for Travel and/or Advance" form, must be attached as backup to this expense report. There is some space provided on the form itself for detailed explanation of any circumstances or situations that may need to be addressed.

Meal and business entertainment receipts must identify names of who attended and what business matters were discussed. Itemized hotel bills are needed rather than, or in addition to, lump sum receipts. Monthly credit card bills are not to be used in lieu of the actual charge receipts. Receipts must be submitted for all expenses. In the event that receipts are not available, a written explanation of the circumstances as to why this is the case must be provided, as well as the reason for the incurred expense.

The expense report is divided into three columns to cover whatever spending situations may occur.

Column 1 is to contain allowable business expenses that the claimant has paid for personally, whether by personal credit card, check or cash. Cash advances become personal cash as soon as they are received from the City. Therefore, column 1 should be used when spending cash even if it was received from a City advance. The advance in such cases will also be listed in column 3 as a non-business expense of the City. When columns 1 and 3 are netted together, the refund amount will be determined.

The Expense Report should also be used for all mileage reimbursement claims whether conference related or not. Column 1 of the form shall be completed with appropriate detail.

Column 2 is to contain all City paid expenses. These will primarily be City credit card expenses but may also include any checks or cash that were paid directly to the provider and were not received by the as an advance. Such checks or cash paid directly may not always be readily determined, but the claimant needs to include these amounts to reflect the total cost to the City.

Totals from columns 1 and 2 should be added and the result placed in the “Total Trip Expense” box.

Column 3 is to contain the amounts which were paid by the City on either check, cash, or credit card for items which are not reimbursable expenses. All efforts should be made not to use City funds for unallowable expenditures.

Any advances that the claimant receives, whether check or cash, must be picked up in this column. Advances are considered non-business expenditures by the City and are the property of the recipient. Allowable expenditures that occur in such cases are listed separately in column 1.

The total from column 1 is subtracted from the total of column 3 and the balance is due the City. If that result is a negative balance, it is a balance due the claimant.

The claimant must sign the expense report certifying its correctness. Council member reports need only Council member signature. All other reports require City Manager and the appropriate department head signature approval.

All expense reports will be kept in a segregated payable file whether money is due the claimant or not. Finance will verify credit card receipts with the expense report and then attach the receipts to the credit card billing as backup documentation. Any credit card billing received without receipts is not a reimbursable expense. Any personal charges incurred, or advances not reconciled, are considered a receivable to the City and may be deducted from any checks issued by the City to that individual after the five (5) day report filing deadline has expired.

Because these items are public records, staff is instructed to redact private financial information (i.e., credit card numbers or account numbers) to protect the privacy of those submitting receipts.

COMPLIANCE WITH STATE LAW / VIOLATIONS

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other applicable laws. Use of public resources or falsifying expense reports in violation of this policy may result in any of the following:

1. Loss of reimbursement privileges;
2. A demand for restitution to the City;
3. The City’s reporting the expenses as income to the person to state and federal taxing authorities;
4. Civil penalties of up to \$1,000 per day and three times the value of the resources used;
5. Prosecution for the misuse of public resources.

CITY OF LA QUINTA
Computer Loan Program
Criteria

The following criteria apply to the Computer Loan Program for the City of La Quinta, California:

ELIGIBILITY

All full-time employees who have completed probation are eligible. This is strictly a volunteer program and the employee will use their own time and expense in order to participate. Also, program parameters such as the maximum loan amount, interest rate and scope of the program, will be evaluated on an annual basis.

SCOPE

The City has adopted a Windows 7 operating system. ~~All computers and other hardware must be compatible with the Windows operating system to be eligible.~~

The following items are eligible for inclusion in the loan amount~~ed~~:

Desktop c~~o~~omputers, laptops, tablets, printers, monitor, scanner, backup devices, hard drive, CD/DVD ROM drives, surge protector, wireless routers, speakers, battery backup, upgrading current equipment, including memory, CPU motherboard components and warranty costs for up to a one-year period. Software that is commonly used at the City is eligible. Normal installation costs, protection plans and sales tax are also included.

The following items are not included:

Software (not included as loaded software in the computer purchase unless commonly used at the City) and Internet software and service charges.

The City Manager may approve items not included within the scope of this section.

FREQUENCY

Two drawings will be held each fiscal year on July 31 and January 31. An employee may apply for participation in the program at any time by contacting Human Resources and submitting an application form. After an employee has participated in the program, the employee will not be eligible again until all loans are repaid in full and for the next twenty four (24) months after the date of their previous drawing.

AMOUNT OF LOAN

A maximum of \$1,750 will be reimbursed to the City within 2 years. In the event that an employee is eligible to receive the entire \$1,750 and spends less, the remaining amount cannot be carried over to the next year. For example, if an employee receives approval to spend up to \$1,750 and only requires \$1,000, the remaining amount of \$750 cannot be loaned in future years. Loans are awarded based on the availability of funds.

INTEREST RATE

The interest rate is five percent (5%) per year simple interest payable in 26 or 52 equal installments from the nearest payroll date of the loan. A \$1,750 loan would be repaid in accordance with Attachment No. 1. Early payoff of loans will be for the outstanding principal at the next payroll date after notification.

SELECTION PROCESS

Eligible employees must submit an Intent to Participate form— in order to be considered for the loan. Each loan request will be processed upon submission, by July 31st and January 31st of each year, subject to approval and available funds.

Employees will be classified ~~grouped~~ into two groups~~classes~~ - New Participants and Repeat Participants. ~~A separate drawing will be held for each class.~~ New participants have priority over repeat participants. Repeat participants are not eligible for a new loan ~~drawing~~ until all new participant requests have been approved and ~~24 months from their previous drawing have passed and all loans are repaid.~~ Any participant who has defaulted on a previous loan is ineligible for future loans.

The Human Resources/Risk~~General Services~~ Manager will track ~~conduct a duly witnessed random blind drawing to~~ the receipt of loan requests to determine the selection order of eligible employees. ~~The first name drawn will be the first in the selection process and will continue~~ Funding of the approved loan requests will continue until available funded slots are filled. ~~A list of each employee participating in the program and the order selected will be compiled and will be available on request. Employees have sixty days to complete their purchase from the date of being notified of their eligibility~~ ~~the drawing or when they become eligible, if later.~~

Each year the City will determine the amount that may be loaned for the Computer Program. No carryover of unused funds to the next fiscal year is allowed.

As an example, 16 employees apply for the program but only 15 employees apply by July 31st. Only 15 employees are eligible for the drawing. The 16th employee may apply at the January 31 drawing. If the City determines that it can fund

~~\$17,500 or (10 x \$1,750) 5 employees will initially not be eligible for the program. A random drawing is held and 10 numbers are ranked from 1 - 10. The 10 employees purchase their equipment and they do not spend their entire allocation leaving \$3,500. The remaining \$3,500 would be assigned to employees 1 and 2 at the January drawing.~~

EMPLOYEE RESPONSIBILITIES

~~The employee is responsible for application to the Computer Loan Program by July 31st and January 31st of each fiscal year.~~

~~The employee is responsible for purchasing the equipment within sixty days of award, handling vendor complaints, and maintaining service of the equipment. The computer equipment will be purchased by the employee in the employee's name. The City's only role is to provide loans for the purchase and the collection of the loan.~~

~~The City loan is for the purchase of computer equipment and eligible software with payment by the City for its portion made payable to the computer vendor and not to the employee. The City will give the check payable to the vendor to the employee. If the employee purchase is for more than the City loan amount, the employee is responsible for the difference. The City will not be responsible for any difference nor will it cosign for any loans. In addition, no City purchase order may be used for any purchase nor may any employee verbally or in writing represent that the City is purchasing equipment for its use. If the purchase price is greater than \$1,750, the employee must make arrangements with a vendor to accommodate this method of payment.~~

~~Prior to any payments being made, the employee must submit a sales quote for the items being selected to the Human Resources/General Services Manager. After being reviewed for eligibility, the employee will be notified of any items not qualifying under the Program. After the sales quote has been reviewed and modifications made, a check to the computer vendor will be produced. The vendor check will be given directly to the employee. The employee will then produce a final invoice to the Finance Director evidencing the transaction. The City will not make a loan if the previously described steps have not been complied with. For instance, the City will not reimburse an employee after a purchase has been made by the employee.~~

REPAYMENT

~~The employee will sign a slip authorizing withholding of the principal and interest amount from future paychecks and authorizing the City to withhold any remaining principal and interest still due and owing from their final paycheck, in the event the employee leaves City service before the loan is repaid. If the loan amount exceeds the final paycheck after all other withholdings are made, the employee will~~

pay the remaining principal amount due with personal funds within one week of leaving City service. It is the employee's responsibility to make payment. If such payment is not made within seven days, the employee is deemed to have defaulted on the loan. The City will commence actions it deems necessary to collect on the remaining loan. Interest will continue to accrue after default until repaid in full. Interest may accrue past the two-year term of the loan if still in default at the end of the second year.

The City may turn the defaulted loan over to a collection agency, Small Claims Court, City legal resources or other measures necessary for collection. The City will attempt to recover any costs expended on collecting the loan from the employee.

VENDOR SELECTION

The City has not specified one particular vendor nor does it recommend a particular vendor. The employee is responsible for selecting a vendor and negotiating the price, warranty and other terms of the purchase. The City will only pay for up to one year of warranty costs if the employee has an interest in this area. Those items are listed in the Scope Section of this Policy.

The employee is responsible for any mailing and service charges not covered by any warranties.

USE OF COMPUTERS

The City does not restrict the use of this equipment to its employees. The City encourages employees to use the computers. Employees may not claim hours worked at home. The City's only criterion is that the computers remain in the employee's residence during the term of the loan and be Windows 7 compatible.

If the equipment is returned or sold before the end of the loan, the outstanding principal and any accrued interest will continue to be due and owing to the City, and payroll deductions will continue until such time as the loan is repaid in full. Returning merchandise purchased under this computer loan policy is strictly prohibited. to the next payroll date are due and payable. If the loan amount exceeds the paycheck, the repayment process described previously will be followed.

EARLY DUE DATE OF LOAN

The loan is for a one- or two-year period unless the employee leaves City employment, following events occur in which case the principal and interest is due from the final paycheck. on the next payday:

- Sale of the Computer

- ~~Moving the computer from the residence~~
- ~~Return of equipment to the vendor~~

ATTACHMENT

The attached form will be used to document the transaction.

CITY OF LA QUINTA COMPUTER LOAN PROGRAM

EMPLOYEE NAME _____

(Please print)

DATE: _____

SUPPORTING DOCUMENTATION:

SALES QUOTE \$ _____

(Please attach all documentation)

AMOUNT OF AUTHORIZED LOAN \$ _____

I have received and read the Computer Loan Policy of the City of La Quinta and hereby authorize the City to withhold the following amount from my paycheck for the number of pay periods indicated in the following table:

Number of Pay Periods: (Please circle one) 26 (\$ _____);

_____ or

52 (\$ _____)

In the event I leave City service before the loan is repaid, I hereby authorize the City to withhold any remaining principal and interest still due and owing from my final paycheck, and to pursue other collection remedies in accordance with the provisions of the Computer Loan Policy.

Employee Signature _____

Date: _____

Finance Director Signature _____

Date: _____

PLEASE RETURN TO THE HUMAN RESOURCES/GEN. SERVICES MANAGER

CITY OF LA QUINTA

TRANSITIONAL RETURN TO WORK~~MODIFIED DUTY WORK~~ ASSIGNMENT

Goal: To reduce costs associated with lost-time ~~occupational~~ injuries.

Method: Return injured -employees ~~with occupational injuries~~ who are temporarily precluded from performing the essential functions of their normal and customary duties back to work in a transitional assignment.

TRANSITIONAL RETURN TO WORK~~MODIFIED DUTY~~ ASSIGNMENTS

Area: _____
(Generic Description)

Time Period: (from _____ to _____)

Department _____ **Section** _____

Contact _____ **Phone No.** _____

A) Duties: _____

B) Location: _____

C) Scheduled Hours: _____

D) Supervisor: _____

E) Physical Requirements of tasks: _____

F) Skills Required: _____

Please return to the Human Resources/~~Risk~~General Services Manager

CITY OF LA QUINTA
Notice of Physician's Recommendation

Date: _____

Employee Name: _____

Date of Injury: _____

RETURN FROM ILLNESS OR LEAVE

MEDICAL CLEARANCE FOR EMPLOYMENT IS (CHECK BELOW)

RETURN TO WORK DATE: _____

NEXT APPOINTMENT: _____

TIME: _____

- Released to return to full duty: (Employee may report for normal work assignment).
- Released to return to modified duty (Employee may report for conditional work assignment) on _____ with the following restrictions :
 1. Keep wound or dressing dry and/or clean
 2. No pushing, pulling, lifting (circle applicable) in excess of _____ pounds
 3. Limited standing walking sitting stooping bending squatting
Duration _____ Other limitation _____
 4. Limited use of right left
 hand wrist shoulder arm
Duration _____ Other limitation _____
 5. Limited overhead work
 6. Limited climbing stairs uneven surfaces other _____
Duration _____ Other limitation _____
 7. Other restrictions or limitations _____
 8. Anticipated duration of modified work described above is _____ day(s) or _____ week(s)
 9. All releases to modified duty include the restriction of no sports activity.
- Total temporary disability until _____ (Employee unable to return to normal & regular duties.)

Other restrictions: _____