



City of Trinidad

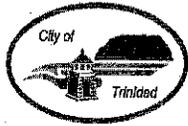
Posted: Friday, July 26, 2013

NOTICE AND CALL OF A SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a Second Monthly Meeting on
WEDNESDAY, JULY 31, 2013 at 7:00 PM
in the Town Hall at 409 Trinity Street

NO CLOSED SESSION SCHEDULED

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ITEMS FROM THE FLOOR
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- IV. CONSENT AGENDA
 1. Staff Activities Report July 2013
 2. Adopt the updated Employee Policies and Procedures Manual.
- V. DISCUSSION/ACTION AGENDA ITEMS
 1. Agreement between City and County for Enhanced Library Services.
 2. Consider adoption of Solid Waste Management Ordinance 2013-03, and give direction regarding sole source negotiation with franchise provider.
- VI. ADJOURNMENT



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 11 PAGES

1. Staff Activities Report July 2013



STAFF ACTIVITIES REPORT

Through July 2013

City Administration:

1. Library. The lease with the Coastal Land Trust for the property has been executed and the Memorandum of Understanding with the County of Humboldt has been executed. The new library is set for a "soft" opening on August 10, and a grand opening ceremony is set for Sunday, August 18. The budget adopted by the Council provides for a City contribution of \$1,152 which will be supplemented by the Friends of the Trinidad Library to enable the facility to be open for a few additional hours each Thursday. The Agreement between the City and County for such enhanced services is being considered at the July 31 council meeting.

2. ASBS Compliance Monitoring. The City submitted the Notice of Intent for the General Permit to Discharge Stormwater, along with the required Guidance Document for Compliance. The State Water Resources Control Board application fee is \$2,427. The City continues to seek alternatives to costly monitoring requirements imposed for the wet weather season by the State Water Resources Control Board.

3. On-Site Waste Water Treatment (OWTS) Ordinance. The first mailing to approximately 50 property owners on the western side of town requiring them to have their systems inspected and submit an application for an operating permit by August 30 was sent out in mid February, 2013. There have been a number of inquiries requesting clarification about exactly what people need to do, and most of the property owners have been amicable and cooperative.

4. Safety & Loss Control Grant Application. The City is pleased to have received notification of approval from the Public Agency Risk Sharing Authority (PARSAC), of a \$10,000 grant application for disability access improvements to town hall. Improvements were recently identified in a survey conducted as a result of an earlier PARSAC grant application.

LAW ENFORCEMENT ISSUES

A community meeting to discuss law enforcement issues in the greater Trinidad area was held mid May, and from that meeting County Sheriff Mike Downey suggested the formation of a smaller, more workable group (as opposed to the large numbers of participants at the community meeting). That smaller group has organized into a City of

Trinidad (COT) Watch group, and a number of meetings have been held in order for the participants to work together to increase awareness of suspicious activity, improve communication with neighbors, local businesses, city leadership and law enforcement. Minutes of the COT Watch group are attached to this report.

PLANNING ISSUES

1. General Plan. The Planning Commission continues to work on the complicated Housing Element, and good progress is being made toward making it understanding and useful to the public and meeting the State requirements to the extent practical. The Planner continues to work on the Cultural and Historic Element through informal consultation with the Tsurai Management Team. In addition, the Planner has started the required formal Tribal Consultation on the entire general plan, having met with representatives of both the Yurok and Trinidad Rancheria.

2. Accessory Dwelling Unit (ADU) LCP Amendment The City resubmitted all documentation to the California Coastal Commission (CCC) to request the separation of the two applications for the ADU and Vacation Dwelling Unit Amendments in order that questions/issues in one application not hold up the other application. The Planner has started compiling data to respond to the latest request for additional information from the CCC; however it will take a month or two to obtain, create and analyze that data.

3. Vacation Dwelling Unit (VDU) LCP Amendment. The City resubmitted all documentation to the CCC to request the separation of the two applications for the ADU and VDU Amendments in order that questions/issues in one application not hold up the other application. City staff recently met with Coastal Commission staff to discuss a couple of minor outstanding issues, and CCC staff seemed to be generally satisfied and plan to have the VDU amendment on the September CCC meeting which will take place in Eureka, together with a staff recommendation for approval, with minor amendments.

4. Civic Club Lighthouse Project. This project was conditionally approved by the Trinidad Planning Commission on August 15, 2012 and was subsequently appealed to the City Council. The Council met on September 26, 2012 and denied the appeal. A timely appeal of this decision was thereafter submitted to the California Coastal Commission (CCC), and the CCC continues to meet with the stakeholders to evaluate and consider possible options to arrive at resolution for this project.

5. Tsunami Signs. This matter was heard by the Planning Commission at their meeting in May, 2013, and the signs can now be installed with the exception of the pair at the top of the Axel Lindgren Memorial Trail, which requires various approvals in accordance with Policy 69 of the City's General Plan. Placement of signs within the harbor area need to be coordinated with the Rancheria.

6. CDP Appeal Process: This has become a rather complex issue for a seemingly simple amendment to allow the City to assess a fee for the filing of an appeal, as is the case with

many other entities, to help offset some of the associated costs and discourage the filing of frivolous appeals. The proposed language was not precisely consistent with the language of the Coastal Act, which caused California Coastal Commission staff some concern. City staff then met with them and agreed to alter the language to be consistent with the Coastal Act in order to keep the amendment classified as "minor." However, CCC staff then informed the City that the appeal period was also not consistent with the Coastal Act and would need to be changed as part of this amendment. Those changes brought up yet additional inconsistencies with other zoning ordinance sections, requiring yet additional amendments. The City has already expended an inordinate and unbudgeted amount of time on this project, and the Planner has therefore been directed to temporarily discontinue further efforts at this point in favor of concentrating her efforts on the General Plan process. At this point there is no ability to charge for the filing of appeals due to conflicting language between the adopted Local Coastal Plan and an adopted resolution; however, that appears to be a far less expensive option as opposed to amending each and every inconsistency in order to assess a minor fee.

7. Grant Application: At no initial cost to the City, Streamline Planning submitted a Climate Change Sea Level grant application requesting an appropriation of \$50,000. Awards are expected to be announced in Fall 2013 for the most competitive projects. There will be a second round of funding available next summer for those who did not make the first cut.

Status of Grant Funded Programs

1. Project Name: Turbidity Monitoring (SCADA upgrade)

Source of Funding: CA State Proposition (\$113,628)

Status: This project has been completed and the City has received final reimbursement during this reporting period. The project is now considered closed and will be removed from the activity report as of the next update.

2. Project Name: Water Plant Improvement Project Planning

Source of Funding: Safe Drinking Water Revolving Fund (\$193,100)

Status: The design of the water plant improvements has been completed, final plans have been submitted, and the City has received final reimbursement during this reporting period. The project is considered closed and will be removed from the activity report as of the next update.

3. Project Name: Water Treatment Plant Construction Project

Source of Funding: Proposition 50 (\$2.5 million)

Status: The funds have been approved (100% grant reimbursement) and construction will begin following execution of the Funding Agreement, expected within the next two months.

4. Project Name: Luffenholtz Creek Sediment Reduction

Source of Funding: California Department of Public Health (\$1,670,720)

Status: The Funding Agreement is in place for this project to improve the City's water supply through work on Green Diamond property that includes a road re-route, replacement of culverts and several bridges, and other treatments. The project was awarded by the Council and construction began July 15, with most of the work to be completed during the current construction season. Portions of the main haul road on Green Diamond property are being re-routed away from Luffenholtz Creek.

5. Project Name: Trinidad Pier Reconstruction (ASBS Project)

Source of Funding: CA State Proposition 84 (\$2,500,000)

Status: The Trinidad Pier reconstruction is complete and post water quality monitoring is in process. The remaining tasks for this grant are to complete the post-construction water quality monitoring analysis and report, the revised waterfront operations plan and ongoing water pollution prevention education.

6. Project Name: Storm Water Management Improvement

Source of Funding: CA State Proposition 84 (\$2,500,000)

Status: The preliminary designs for improvements of the upper and lower areas of the stormwater system have been completed. The plans are being drafted, and input and comments are being accepted. Phase I construction for improvements in the upper area will begin spring 2013. Funding for Phase II of the project is still being sought.

7. Project Name: Trinidad to Humboldt Bay Coastal Watershed Program

Source of Funding: Department of Conservation Watershed Coordinator Grant (\$293,910)

Status: Watershed Coordinator activities include developing the city's stormwater program, participating in the North Coast Stormwater Coalition, assisting the Trinidad Bay Watershed Council, coordinating the development of a State of the Trinidad Bay Report, and supporting implementation of the Humboldt Bay Initiative Adaptive Management Plan.

8. Project Name: Azalea & Pacific

Source of Funding: State Transportation Improvement (\$423,000)

Status: This project includes rehabilitation of Azalea Way and Pacific Street to bring the roads up to current standards, provide better emergency vehicle access and improvement of the road drainage. Additionally, the project includes the replacement of the existing water line that serves the area, relocation of several water meters and the addition of a new fire hydrant. The project was awarded to GR Sundberg Inc., and construction commenced in early June and the project is now nearly complete.

Public Works Department

Activities during this reporting period include cutting grass, weeding the bulb outs and brushing trails during the growing season. Staff will soon be replacing steps on the Axel Lindgren Memorial Trail and tuning up the lower portion of the trail at the beach. Also on schedule is replacement of a suspected faulty "check valve" to hopefully optimize treatment at the water plant.

Most importantly, our newest Public Works Maintenance Worker, Paul Rosenblatt, welcomed his first child, son Axel Levi, born on the 4th of July, and weighing in at 8 lbs. 7 oz. and measuring in at 21 inches.

UPCOMING PRIORITIES:

- Continued efforts to close out budget year FY 2012-13 and prepare for audit
- Prepare for a twelve year (yes, 12! year) audit of Gas Tax Funds and Traffic Congestion Relief Funds and a five year audit of Proposition 1B Fund to be conducted in August.
- Correction of numerous erroneous allegations and incorrect information on public notification and issues regarding the drainage, water quality, environmental and road widening of Azalea & Pacific by an attorney on behalf of one of the local residents.
- Oversee development of and incorporation of a landscaping plan as part of the Azalea & Pacific project.
- Azalea & Pacific project under construction
- Continued involvement in multiple legal claims.
- Continued implementation of OWTS program

- Continue to work with law enforcement personnel on issues concerning the City.
- Negotiate solid waste franchise agreement, assuming Council supports sole source negotiation (or develop bid documents if otherwise).
- Gather information for Council staff report on cemetery operations.
- Celebrate the grand opening of the new library!

Humboldt County Sheriff's Office

Trinidad Activity

June 2103

Annoying Phone Calls	2
Alarm	5
Animal Control Details	1
Custody Dispute	5
Disturbance	1
Fireworks	2
Follow Up Details	2
Found Property	1
Missing Person	1
Patrol Checks (including foot patrol)	19
Pedestrian Checks	2
Petty Theft	2
Traffic Stop	1
Unwanted Subject	2
Vandalism	1

Please note these numbers indicate the type of call dispatched and do not reflect what the disposition was.

Fish Festival was fairly smooth. Parking and traffic control had some minor issues that will be addressed and planned for prior to next years event.

Been working with Citizens Of Trinidad Watch group. Having productive interactions and it's a real positive experince.

Five case reports were written in the month of June.

Present were Richard Johnson, Dick Kieselhorst, Marjie Kieselhorst, Jim Baker and Ann Pinske. Guests were Deputy Scott Hicks and State Park Ranger Maury Morningstar.

Discussion about ongoing issues at Hidden Creek Trailer Park. Deputy Hicks stated that two arrests were made and the individuals are now in custody. He informed Mr. Walsh and April.

State Park is day use only. There are two rangers covering the area from McKinleyville to the north end of Stone Lagoon, so staffing is an issue. Three rangers will be available next month. We should continue to report camping and other matters to either the office (677-3570) or to Maury (677-3132). Someone will try to rearrange schedule and check out the problems. Until October 1 there is staffing at the office number 8:00-10:00 p.m. A gate to the entrance of the park that can be locked at night has been discussed among the state park employees, but again staffing is the problem. The rangers try to patrol daily.

Travelers and transients have ways of marking campsites for others to find, and patrolling through the city, either by rangers or the sheriff, is a sign that our area will not tolerate illegal camping.

State Park property is unique in that signs do not have to be posted with rules and regulations before citations can be made. Anyone walking on State Park property is responsible for knowing the rules.

There is a large transient population year around due to our proximity to Highway 101 and the marijuana industry.

Discussion about putting the Neighborhood Watch item on the city council agenda as well as possible SCOP sign-ups.

SCOP will be discussed later. The vehicle is an issue, but if enough people express an interest in training, the sheriff may see the need for a vehicle in Trinidad, especially if the volunteers are willing to help with major events out of the immediate area, eg. Pony Express Days, Truckers Parade, etc. Personal vehicles may not be used in connection with SCOP.

The Rancheria has no active law enforcement to remove people. They would welcome volunteer help in whatever form we offer. Dave is head of security.

Next meeting was not scheduled. Jim Baker will see what he can do to get the SCOP and Neighborhood Watch issues on the city council agenda as a workshop and then schedule a COT meeting prior to the council meeting.

All efforts of this committee should include the "Greater Trinidad Area". (Area yet to be defined)

The committee will continue to meet on Thursdays from 6:00 – 7:30, intervals to be determined.

The "blanket guy" and other transients have been seen along Scenic Drive, from Salty's past the Casino, coming in and out of the woods. The danger of fire is a major concern.

Will the Land Trust allow volunteers to come on their land to clean out transient camping areas? There are personal safety issues when approaching these camps.

We can organize a local "clean up" day with volunteer groups of 4 or 5 accompanied by the Deputy, and locate their "nests", hauling off any debris, including sleeping bags, tarps, etc. When they become uncomfortable, they'll move on.

Meth addicts are even worse than heroin addicts; they are unpredictable, volatile and dangerous.

Transients are a major concern. Trimmers move here to work in the marijuana industry. Others come in from Hoopa and other local areas, making a circuit through Houda Point, Luffenholtz, Camel Rock and College Cove parking areas, breaking into vehicles.

The City pays the Sheriff's department \$250K and what do we get? We need to feel safe in our own home.

The Sheriff just makes excuses; because of "realignment", the bad guys get out of jail right away.

The purpose of this group: Stop burglaries, vehicle break-ins, make the community safer.

The entire community needs to be aware of law enforcement concerns. Members of this committee can speak to school parent groups, chamber of commerce and civic club. SCOP people are willing to speak to community groups about how citizens can protect themselves.

The owner of Hidden Creek needs to know that this is a community effort (not the City) to roust undesirables from his RV park. Tim Walsh was invited to this meeting, but was out of town. We should continue to include him in our communications.

In the 'old days' 3 or 4 patrol cars were parked all over the city. Their presence scared off transients.

Regarding SCOP, I'm willing to get up at 3:00 a.m. to patrol Trinidad, but not McKinleyville or any place else. Can we get a patrol car with lights, etc for use in Trinidad only?

We could use the fire department's "attack wagon" – it has powerful lights and seats 2 or 3 people. The fire department has two-way radios that could be used during random patrols.

How do we form our own SCOP unit? What does the Sheriff provide and what do we have to furnish? If we obtain our own dedicated patrol unit and radios, what else do we need? The "Greater Trinidad Area" needs to be defined.

It would be useful to talk with other small communities (Blue Lake, Rio Dell, Scotia) to learn how they are handling the increase in crime.

Perhaps the City can contact State Parks regarding their response to citizen calls reporting transient camps. Pressure on State Parks might improve their efforts to crack down on illegal camping.

Nandor reported there are currently only about 20 families on the Neighborhood Watch email list and it needs to be expanded.

This committee should coordinate efforts with State Parks and the Rancheria. Their representatives will be invited to the next meeting.

Action items:

- 1) Nandor – call other communities re their Neighborhood Watch or other programs
- 2) Ann – contact State Parks
- 3) Jim – talk with city council members; request use of VFD truck for random night patrols
- 4) Sandra – contact SCOP re necessary steps to form new unit
- 5) Dick – contact Rancheria

7:30 p.m.

Action Item #4: SCOP

Sheriff's office supports SCOP with Dispatch, radios, & marked cars (leased to Sheriff's office by public works). Volunteers provide their own uniforms. McKinleyville has 6 – 10 volunteers at any given time. Two volunteers per shift are required. How many people are available to participate? How dedicated are volunteers?

A Neighborhood Watch or Community Watch Patrol could use a personal car and cell phones. Handheld spotlights that plug into cigarette lighters are available. Unmarked cars might provide better "under cover" surveillance. SCOP is willing to provide mandatory training to everyone interested.

A flyer, summarizing the COT Watch group's goals, was distributed:

Work together to:

Increase awareness of suspicious activity, improve communication with neighbors, local businesses, city leadership & law enforcement.

Stop local crime & thieves.

Leadership Committee meetings are currently being conducted, working with law enforcement to share ideas to thwart crime.

Citizens were encouraged to visit the private Facebook page to post information, pictures & ideas about how to promote safety, raise awareness & protect our community.

Those interested should go to Facebook and send a friend request to Reid Kitchen in order to access the COT Watch page. All residents of the greater Trinidad area are welcome and invited to become involved in this community effort.

Currently one of the focus areas is Hidden Creek RV Park. There is an on-going investigation into the trailer fire on the property.

Four new Neighborhood Watch signs have replaced old rusted signs. Approximately 30 members will be invited to join COT Watch in an attempt to improve communication.

SCOP people have encouraged Trinidad to start their own patrol by starting small, using private vehicles equipped with hand held spot lights, but training is essential. Questions include who funds even minimal expenses i.e., fuel, radios, insurance.

Tim Walsh, Hidden Creek owner, provided telephone numbers to report any suspicious activity: Manager April Conner cell # 496-3921 or reservation # 677-3775. Mr. Walsh is working with his attorney to revise the rental agreement. Surveillance cameras have been installed and he has encouraged Deputy Hicks to drive through and park to observe daily activities.

A complaint was lodged stating that April's boyfriend continually repairs vehicles on the property, polluting the soil with oil and gasoline.

Health and building code violations are being investigated by County and City officials. Enclosed areas around trailers look suspicious, allowing renters to work out of view.

Questions to Mr. Walsh:

When trailers are abandoned, why do owners still come in and out?

Is Manager April part of the problem?

Is there a way to control guests?

Can you initiate a month-to-month lease?

How can we help to get rid of undesirables?

The next committee meeting will be Thursday, July 18th at 6:00 in the Civic Club room. State Park rangers and Deputy Hicks will attend and answer any questions.

Anyone with questions can call Reid Kitchen @ 834-1312

Reminder: Call 445-7251 regarding any suspicious behavior or 911 if it is an emergency situation.



CONSENT AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 73 PAGES

2. Adopt the updated Employee Policies and Procedures Manual.

CONSENT AGENDA

Date: July 31, 2013

Item: Employee Policies and Procedures Manual

Background: The City last updated its Employee Policies and Procedures Manual in January of 2009, and since then a number of inconsistencies have been identified, and the Council has additionally adopted a number of revisions such as the vacation leave policy and a two-tier dependent health care cost share. A re-write/update of the Manual is therefore appropriate.

As consistency and clarification of this Manual will minimize liability exposure due to possible inappropriate application of the rules and regulations, the project is eligible and has been funded through a grant program administered by the City's insurance provider. A similar project is being conducted for the City of Ferndale by the local law firm of Mitchell, Brisso, Delany and Vrieze, and the same firm has been used by Trinidad to allow for a coordinated and hopefully more cost effective approach. In February of this year, your Council approved an agreement for the re-write and a supplemental budget in the amount of \$3,500. There is no cost to the city other than staff time.

Mr. Russell Gans of the firm of Mitchell, et al has now completed the proposed rewrite, which is attached for Council consideration and adoption. The primary changes from the current to the updated version are as follows:

- Clarification of definitions to correspond to actual practice;
- Clarification of classification and salary plans to correspond to actual practice;
- Clarification of merit salary increases to correspond to actual practice;
- Add policy for flex holiday(s) as per current practice;
- Incorporation of vacation leave policy adopted by Council in August 2012;
- Incorporation of two-tier system for payment of employee dependent health care insurance as adopted by Council in December 2012;
- Incorporation of pro-rated leave credits for regular, part-time employees working at least 20 hours per week.

The Manual makes reference to a listing of minimum through maximum salary grades of pay for all defined City classifications as prepared by the City Manager and adopted by the City. The current classifications and their corresponding salaries consistent with the recently adopted budget is attached.

Proposed Action:

1. Consider Adopting the Updated Employee Policies and Procedures Manual
2. Adopt the Salary Plan corresponding to the adopted budget.

Attachments:

Proposed Employee Policies and Procedures Manual

Salary Plan

City of Trinidad Classifications and Salaries Schedule FY 2013-14

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
City Manager *	By Contract							
City Clerk	\$ 19.58	\$ 20.07	\$ 20.57	\$ 21.09	\$ 21.61	\$ 22.15	\$ 22.71	\$ 23.27
Public Works/Water Director	\$ 19.10	\$ 19.58	\$ 20.07	\$ 20.57	\$ 21.08	\$ 21.61	\$ 22.15	\$ 22.70
Maintenance Operator (PR)	\$ 15.16	\$ 15.54	\$ 15.93	\$ 16.33	\$ 16.73	\$ 17.15	\$ 17.58	\$ 18.02
Maintenance Operator (RD)	\$ 15.16	\$ 15.54	\$ 15.93	\$ 16.33	\$ 16.73	\$ 17.15	\$ 17.58	\$ 18.02
Part-Time Records Manager	\$ 13.07	\$ 13.39	\$ 13.73	\$ 14.07	\$ 14.42	\$ 14.78	\$ 15.15	\$ 15.53
Grant Administrator	\$ 19.31	\$ 19.79	\$ 20.29	\$ 20.79	\$ 21.31	\$ 21.85	\$ 22.39	\$ 22.95

Note 1: Rates are shown hourly based on 2,080 hours/year.

Note 2: Salaried employees designated by *

Note 3: The City Manager is the only position "Exempt" from overtime provisions.

Note 4: Each step is 2.5% higher than the previous step.

Note 5: The bold squares indicate the employee's placement in the schedule as of July 1, 2013

Reflects changes as of July 1, 2013

Proposed Action:

1. Consider Adopting the Updated Employee Policies and Procedures Manual
2. Adopt the Salary Plan corresponding to the adopted budget.

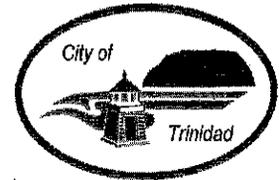
Attachments:

Proposed Employee Policies and Procedures Manual

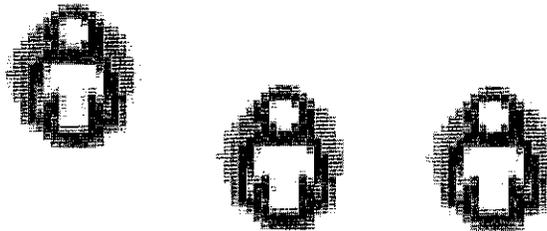
Salary Plan

CITY OF TRINIDAD
Julie Fulkerson, Mayor
Karen Suiker, City Manager
Gabriel Adams, City Clerk

TRINIDAD CITY HALL
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-0223



EMPLOYEE
POLICIES AND
PROCEDURES
MANUAL



May 1, 2013

City of Trinidad

EMPLOYEE POLICIES AND PROCEDURES MANUAL

Revised May, 2013

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1: GENERAL PROVISIONS	1
SECTION 2: CLASSIFICATION AND SALARY PLAN	16
SECTION 3: TYPES OF APPOINTMENT	17
SECTION 4: RECRUITMENT AND SELECTION	24
SECTION 5: PERFORMANCE EVALUATION AND SALARY ADJUSTMENTS	33
SECTION 6: ATTENDANCE AND HOURS OF WORK	37
SECTION 7: LEAVES	40
SECTION 8: CONDUCT/DISCIPLINARY GUIDELINES	49
SECTION 9: DISCIPLINARY ACTIONS AND APPEAL PROCESS	54
SECTION 10: GRIEVANCES	58
SECTION 11: EMPLOYEE RECORDS AND FILES	60
SECTION 12: EMPLOYEE BENEFITS	63
SECTION 13: STAND-BY AND CALL-OUT	66
SECTION 14: TRAINING	67

SECTION 1: GENERAL PROVISIONS

1.A AUTHORITY

The City of Trinidad (the "City") is authorized pursuant to the City's powers under the California Government Code to adopt rules for the administration of the City's personnel system.

1.B OBJECTIVES

The objectives of these Employee Policies and Procedures Manual are to facilitate efficient and effective services to meet public needs, to attract to municipal service the most competent personnel available, to insure that appointment and promotion of employees will be based on merit, to provide a reasonable degree of security to qualified employees, as well as provide for an equitable and uniform system of personnel management in municipal service.

These Rules and Regulations shall set forth in detail procedures which ensure fair and equitable treatment for those who compete for original employment and promotion within City employment and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City.

1.C INTERPRETATION

Within the limits of administrative feasibility, the City Manager shall be responsible for the interpretation of these Rules in cases where the proper application of a rule or any portion thereof is not clearly ascertainable. When such interpretation is required, the result shall be in harmony with the objectives set forth above.

1.D DEFINITION OF TERMS

All words and terms used in these Rules and in any ordinance or any resolution dealing with Employee Policies and Procedures Manual shall be defined as follows. For the purpose of convenience, the following words and terms most commonly used are defined.

Appointing Authority: The City Manager or designee who, in his or her individual capacity, has the final authority to appoint a person to a position of employment. In the case of the City Manager, the City Council shall be the Appointing Authority.

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

"At-Will" Employment: "At-will" employees serve at the will and pleasure of the City Manager or the City Council and may be terminated at any time, with or without cause, and without any right to any type of appeal or hearing.

City Council: The City's elected governing body.

City Manager: The City's Chief Executive Officer.

Classification: A certain group of job positions with the same title, salary range, and benefit package.

Classification Plan: A listing of all City positions including the grade, title, and benefit category contained in the annual fiscal year budget, as determined by the City Manager and adopted by the City.

Compensatory Time: Time accrued or taken off from work with pay, in lieu of paid overtime compensation.

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

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

Days: Calendar days unless otherwise stated.

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

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.

Disciplinary Suspension: A disciplinary action that temporarily separates an employee from City service without pay.

Disability: A physical or mental impairment that limits an employees ability to engage in a major life activity, as defined by State and Federal law.

Dismissal: The discharge of an employee by the City from City employment.

Eligibility List: A list of all persons eligible for appointment to a particular classification after final testing/interviews as determined by the City Manager. The City Manager, in his/her

discretion, may dispense with the creation of an Eligibility List for any particular classification(s) or position.

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.

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

Employee Policies and Procedures Manual: This document, as adopted or amended by the City Council from time to time, and may also be referred to as the "Rules" or the "Personnel Policies."

Exempt Employee: An employee who is exempt from the standard provisions of overtime under FLSA and is typically considered as being in a management position and eligible for a certain benefits package.

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

Fiscal Year: A 12-month period from July 1 to June 30 in which the City plans, budgets, appropriates, and expends its funds.

Flexible Work Schedule: A City Manager-approved variation from the standard daily work hour schedule of 8:00 a.m. to 5:00 p.m.

Full-time Employee: An employee who is regularly scheduled and expected to work 40 hours or more during a workweek.

Furlough: A Management-dictated, mandatory, reduced working period implemented to save City funds during difficult economic times.

Grade: A number assigned to a position title which indicates the salary range for that position.

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

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 these Rules.

Merit Salary Increase: The increase of an employee's salary within the salary range established for the classification the employee occupies, which is based on performance or merit, not solely on longevity.

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

Modified Work Schedule: Any work pattern schedule other than a usual 8 to 5 schedule as approved by the City Manager.

Non-Exempt Employee: An employee who is not exempt from the pay and overtime provisions of FLSA and who qualifies for a certain benefits package.

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

Overtime: The time which an employee is required or permitted to work beyond 40 hours per week. Overtime compensation, taken as paid time or as compensatory time, shall be authorized as provided in Section 6.A.

Part-time Employee: An employee who works less than 32 hours per week on a year round basis.

Position: A specific job assigned to a job classification.

Probationary Employee: An employee who is serving his or her probationary period.

Probationary Period: A working test period which is part of the selection process, during which an employee is required to demonstrate his or her fitness for the position to which assigned. Newly hired probationary employees are subject to at-will employment.

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

Reassignment: The change to the employee's job description without changing the employee's salary grade and usually within the same classification

Reclassification: The reassignment from one classification description, grade or status to a different classification description, grade or status in accordance with a re-evaluation of the

minimum qualifications, duties, and responsibilities of the position in question. Simple title changes are not reclassifications.

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

Resignation: The voluntary separation by an employee from City employment.

Rules: These personnel rules, as they may be amended from time to time.

Salary Anniversary Date:

1. New Hires: The employee's salary anniversary date shall be six months after the conclusion of the employee's probationary period, and annually thereafter.
2. Promotional: The employee's salary anniversary date shall be the date on which the employee's promotional probationary period concludes, and annually thereafter.
3. Leave of Absence Without Pay: Except as specifically provided in these Rules, any non-probationary employee who takes an authorized leave of absence without pay shall have his or her salary anniversary date extended the same amount of time as his or her period of leave.

Salary Plan: An annual listing of the minimum through maximum salary grades of pay for all defined City classifications, as prepared by the City Manager and adopted by the City.

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

Seniority: The length of an employee's continuous service in a regular City position.

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

Supervisor: The individual directly responsible for the supervision of an employee, including the preparation of performance evaluations. The City Council is the supervisor for the City Manager. As of the May 1, 2013 publication date of this Manual, the only City employees with supervisory authority are the Director of Public Works, who supervises Public Works Department employees, and the City Manager, who supervises the Director of Public Works and all other City employees.

Temporary Employee: An employee hired on a temporary basis, which may be either full-time or part-time in hours worked.

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

Workweek: In accordance with the payroll period, the regularly reoccurring period of 7 consecutive 24 hour days beginning at 12:01 a.m. on Tuesday and concluding at 12:00 p.m. (midnight) on the following Monday.

1.E ADMINISTRATION OF THE EMPLOYEE POLICIES AND PROCEDURES MANUAL

The City Manager shall administer the Employee Policies and Procedures Manual 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 as provided in Section 1.F of these Rules. The City Manager shall:

1. Act as the appointing authority for all City employees except those officers and employees directly appointed by the Council.
2. Administer all of the provisions of these Personnel Rules except as specifically reserved to the Council.
3. Prepare and recommend to the Council any appropriate Personnel Rules and revisions to such Rules.
4. Prepare or cause to be prepared, and revise as appropriate, a position classification schedule, including class specifications.
5. Have the authority to discipline City employees in accordance with these Personnel Rules.
6. Provide for the publishing or posting of notices for applications for positions in the competitive service; the flexibility to waive certain job stated qualifications for good cause when it is in the best interests of the City; the receiving of applications therefore; the establishment of 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 Rules.
7. Appoint employees on a temporary basis without competitive application.
8. Determine standardized daily work hours and schedules and approve variations to the standard schedule.

1.F CONTRACTS FOR SPECIAL SERVICES

The City Manager may contract for the performance of technical services in connection with the establishment or operation of the personnel system. In addition, the City Manager may determine the circumstances under which it is in the best interests of the City to contract for such services, and to enter into contracts for such services with Council approval.

The contract may be with any qualified person or public or private agency for the performance of any or all of the following:

1. The preparation of personnel rules and subsequent revisions and amendments.
2. The preparation of a position classification plan, and subsequent revisions and amendments.
3. The preparation, conduct, and grading of qualifying tests.
4. The conduct of employee training programs.
5. Special and technical services of advisory or informational character on matters relating to personnel administration.
6. Professional services.

1.G APPLICATION AND EXCEPTIONS

These rules shall apply to all offices, positions, and employments in the service of the City, as defined in Section 1.D of these rules, with the exception of the following:

1. Members of the Council and other elected officials.
2. Members of commissions, boards, and committees appointed by the Council or City Manager.
3. Volunteer personnel and others 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), including volunteer firefighters.
4. Outside and independent contractors, engaged to provide expert, professional, technical, or other services.

These Rules, with the exception of Sections 8 - 10 inclusive, shall apply to the following employees who serve at the will and pleasure of their respective appointing authorities and are considered "at will" employees:

1. Employees who are considered temporary.
2. Other non-regular employees who are not specifically mentioned in Section 1.H of these Employee Policies and Procedures Manual.
3. Volunteers and Interns.
4. Employees who are designated "at-will" under an employment agreement.

1.H VALIDITY OF RULES (SEVERABILITY)

If any section, subsection, sentence, clause, phrase or portion of these rules 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 rules. The Council hereby declares that it would have adopted these rules 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.I VIOLATION OF RULES

Violation of these Rules may be grounds for disciplinary action, subject to the applicable appeals procedure provided herein.

1.J CONFLICTS OF INTEREST AND ACCEPTANCE OF GIFTS AND OTHER GRATUITIES

City employees should serve the needs and respond to the wishes of all citizens equally without regard to their personal gain. City employees should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of other persons. Therefore, it is the policy of the City that all City employees shall avoid situations which might be interpreted as involving or creating a conflict of interest between the employee's duties and responsibilities as a public employee, and the employee's personal and private interest.

Employees should not take part in 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 should disclose the nature of the relationship to his or her immediate supervisor and request to be relieved of any responsibility or involvement in such matter.

The acceptance of gifts, favors, or any other form of compensation or gratuity may be viewed as influencing or compromising or attempting to influence or compromise the judgment of an employee. To prevent such a conflict, employees shall discourage any offer of a gift, favor or any form of compensation or gratuity. Gifts that can and will be shared with office staff, such as boxes of candy, flowers, and food, may be viewed as exceptions. Being hosted by a City contractor or potential City contractor is not a conflict of interest, provided that all financial disclosure laws and regulations are complied with.

Employees who receive or are offered an unanticipated gift, favor or gratuity, should consult the City Manager to determine an appropriateness of acceptance.

City employees shall not solicit or accept donations for City sponsored events unless waived for specific events by express written authorization of the City Manager.

1.K INCOMPATIBLE EMPLOYEE ACTIVITIES

During an employee's work day, the employee is expected to devote his or her full time, attention and efforts to the performance of his or her assigned duties as a City employee. At no time shall any outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity, or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his or her ability to perform the duties, functions, or responsibilities of his or her position as a City employee, nor shall he or she engage in any outside activity which may directly or indirectly contribute to the lessening of his or her effectiveness as a City employee. Employees who undertake outside employment shall notify their immediate supervisors in writing of the nature, duties, and hours of that employment before undertaking such employment, including military service in the Reserves or Guard.

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 Council directive.

1.L POLITICAL ACTIVITIES

No restrictions shall be placed on the political activities of any employee of the City other than the following:

1. No person who holds, or who is seeking election or appointment to, any office or employment with the City shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position within the City upon consideration or condition that the vote or political influence or action of such a person or another shall be given or used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration (Government Code 3204).
2. No employee shall directly or indirectly solicit political funds or contributions from other employees of the City. Employees, however, are not prohibited from communicating through the mail or by other means, outside of the hours of

employment, requests for political funds or contributions to a significant segment of the public which may include officers or employees of the City (Government Code 3205).

3. No employee shall participate in any political activities while in uniform (Government Code 3206).
4. No employee shall engage in political activity during working hours or on City premises (Government Code 3207).
5. No employee shall engage, during his or her working hours, in the solicitation or receipt of political funds or contributions to promote the passage or defeat of any ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of the employees of the City; nor shall entry be permitted on City premises during working hours for such purposes (Government Code 3209).

1.M SAFETY AND HEALTH

Each employee shall comply with all applicable safety laws, rules, and regulations. All employees shall follow safety practices, use personal protective equipment as required, render every possible aid to safe operations, and report to proper authority all unsafe conditions or practices.

1.N DRUG AND ALCOHOL USE POLICY

1. Objective of Policy.

It is the intent of the City to maintain a workplace that is free of drugs and alcohol to provide a safe, efficient, and productive workplace. Employees who are under the influence of a drug or alcohol on the job compromise the City's interests and endanger their own health and safety as well as the health and safety of others.

Substance abuse in the workplace can also cause a number of other work-related problems, including absenteeism and tardiness, unsatisfactory job performance, increased workloads for co-employees, behavior that is disruptive to other employees, and products or services that are of inferior quality.

To further its interests in avoiding accidents, to promote and maintain safe and efficient working conditions for all employees, and to protect its business, property, equipment and operations, the City has established this policy regarding the use of alcohol and drugs. As a condition of continued employment with the City, each employee must abide by this policy. The City Manager has been designated to administer this policy, monitor the program and make reports as required by law.

Applicable Definitions—For purposes of this policy, the following definitions will apply:

- a. “Illegal drugs or other controlled substances” mean any drug or substance that is not legally obtainable, is legally obtainable but has not been legally obtained, or has been legally obtained but is being sold or distributed unlawfully.
- b. “Legal drug” means any drug including prescription or over-the-counter drugs that have been legally obtained and that are not unlawfully sold or distributed.
- c. “Abuse of any legal drug” means the use of any legal drug for any purpose other than the purposes for which it was prescribed or manufactured, or in a quantity, frequency, or manner that is inconsistent with the instructions or recommendations of the prescribing physician or manufacturer.
- 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 provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other relevant circumstances.
- e. “Possession” means that an employee has the substance on his/her person or otherwise under his/her control.

2. Prohibited Conduct.

The prohibitions set forth in this section apply whenever the interests of the City may be adversely affected, including any time an employee is:

- a. On City premises;
- b. Conducting or performing City business, regardless of the physical location;
- c. Operating or responsible for the operation, custody or care of City equipment or other property; or
- d. Responsible for the safety of others in connection with, or while performing, CITY-related business.

i. Alcohol.

The following acts are prohibited and will subject an employee to discipline up to and including discharge:

- (1) The unauthorized use, possession, purchase, sale, manufacture, distribution, or dispensation of alcohol; or

- (2) Being under the influence of alcohol or otherwise impaired as a result of being under the influence of alcohol

- ii. Illegal Drugs.

The following acts are prohibited and will subject an employee to discipline up to and including discharge:

- (1) The use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of any illegal drug or other controlled substance; or
- (2) Being under the influence of any illegal drug or other controlled substance or otherwise impaired as a result thereof.

- iii. Legal Drugs.

- (1) The abuse of any legal drug;
- (2) The purchase, sale, manufacture, distribution, transportation, dispensation or possession of any legal prescription drug in a manner inconsistent with law; or
- (3) Working while impaired by the use of a legal drug whenever such impairment might:
 - (ai) Endanger the safety of the employee or some other person;
 - (aii) Pose a risk of significant damage to City property; or
 - (aiii) Substantially interfere with the employee's job performance or the efficient operation of City business or equipment.

4. Drug-Free Awareness

- a. Management Awareness.

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an employee to work in an impaired condition or to otherwise engage in conduct that violates this policy. When any supervisor has reasonable suspicion to believe that an employee or employees are working in violation of this policy, prompt action is required. If the employee in question performs in a designated safety-sensitive position, such action may include drug testing in accordance with the procedures outlined in this Manual.

- b. Criminal Convictions.

Employees must notify the City of any conviction under a criminal drug statute for a

violation occurring in the workplace or during any City-related activity or event. Employees must notify the City within five days after any such conviction. When required by federal law, the City will notify any federal agency with which it has a contract of any employee who has been convicted under a criminal drug statute for a violation occurring in the workplace as required by law.

c. Legal Drugs.

The City recognizes that employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or in accordance with the manufacturer's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to City property, or substantially interfere with the employee's job performance. If an employee is so impaired by the appropriate use of legal drugs, he/she may not report to work. To accommodate the absence, the employee may use accrued sick leave or vacation time. The employee may also contact the City Manager to determine whether or not he/she qualifies for an unpaid leave of absence. Nothing in this policy is intended to permit the use of accrued sick leave or vacation time to accommodate absences due to the abuse of legal drugs.

Further, nothing in this policy is intended to diminish the City's commitment to employ and reasonably accommodate qualified disabled individuals. The City will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability.

d. Normal Use of Over-The-Counter Drugs.

Nothing in this policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, provided that such activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this policy.

5. Off-The-Job Activity.

Unless an employee is in a designated safety-sensitive position, this policy is not intended to regulate off-the-job conduct, provided the employee's off-the-job use of alcohol or drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this policy. If an employee is in a designated safety-sensitive position, he or she will be subject to drug testing as described below in this policy.

6. Authorized Use of Alcohol.

The City may have events or social functions where alcohol for consumption may be available by others. The City does not support the consumption of alcohol at these events. Further the consumption of alcohol is at the employee's own risk. However, under no circumstances are employees to become impaired at such events or to be transported to or from such events by third parties who are impaired.

7. Confidentiality.

Disclosures made by employees to designated supervisors and/or the City Manager concerning their use of legal drugs will be treated confidentially and will not be revealed to other employees unless there is an important work-related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to designated supervisors concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

8. Counseling/Employee Assistance.

Employees, who suspect they may have alcohol or drug problems, even if in the preliminary stages, are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Finance Director, who will determine whether the City can accommodate the employee by providing unpaid leave for the time necessary to complete participation in the program. Employees should be aware that participation in a rehabilitation program would not necessarily shield them from discipline for a violation of this policy, especially if discipline is imposed for a violation occurring before the employee seeks assistance.

9. Drug Testing.

a. Testing of Applicants for Employment.

As part of the City's employment screening process, any applicant for a City position, to whom a conditional offer of employment has been made, must pass a pre-employment drug and alcohol test under the procedures described below. The offer of employment is contingent on a negative test result.

b. Testing of Employees in Designated Safety-Sensitive Positions

i. Annual Testing.

Employees in safety-sensitive positions may be required to submit to annual drug testing, under the procedures described below. The Finance Director will schedule the testing. Safety sensitive positions include the following:

- Any employee who operates a City vehicle on a regular routine basis as part of their normal work activities.
- Any employee who has a Class A or B driver's license as required by the City.
- Any employee who operates City heavy equipment. (i.e. Backhoe, dump

truck)

- Any employee certified to wear Self Contained Breathing Apparatus (SCBA).
- Department Directors and Supervisors

If an employee refuses to cooperate with the administration of a drug test, the refusal will be handled in the same manner as a positive test result.

1.O EQUAL EMPLOYMENT POLICY

It is the policy of the City to offer equal opportunity in all matters of employment. Employment with the City is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification unless sex or physical ability is a bona fide occupational qualification.

All employees are to be treated with respect and dignity. The City prohibits any harassment of employees in the workplace. Activities and occurrences which may constitute harassment, whether written or oral, include, but are not limited to disparaging comments on the basis of one's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification. Such harassment activities, which may have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, are prohibited and should be reported immediately to the City Manager.

The City shall not unlawfully discriminate against a qualified individual with a disability in job applications, hiring, advancement, compensation, training, discharge, and other terms, conditions, or privileges of employment. A disabled person is one who has a mental or physical impairment that limits a major life activity, who has a record of an impairment, or who is regarded as having an impairment. A qualified individual with a disability is a person, who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Violation of this policy will result in appropriate disciplinary action pursuant to Section 8 of these Rules.

1.P HARASSMENT POLICY

Policy Statement.

The City strictly prohibits unlawful harassment. This includes harassment on the basis of race, religion, color, creed, national origin, ancestry, marital status, sex, age, medical condition,

physical handicap, disability, sexual orientation, gender identification, or any other protected class under applicable law.

Application.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training.

This policy applies to all officers and employees of the City, including, but not limited to, full- and part-time employees, temporary employees, and persons working under contract for the City.

Harassment Defined.

Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual's sex and/or membership in one of the above-described protected classifications, and:

1. Submission to the offensive conduct is an explicit or implicit term or condition of employment;
2. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or
3. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
4. Examples of what may constitute prohibited harassment include, but are not limited to, the following:
 - (a) Kidding or joking about sex or membership in one of the protected classifications;
 - (b) Hugs, pats, and similar physical contact;
 - (c) Assault, impeding or blocking movement, or any physical interference with normal work or movement;
 - (d) Cartoons, posters, and other materials referring to sex or membership in one of the protected classifications;
 - (e) Threats intended to induce sexual favors;
 - (f) Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
 - (g) Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;
 - (h) Prolonged staring or leering at a person;

- (i) Similar conduct directed at an individual on the basis of a protected classification.
Procedure.

Internal Reporting Procedure:

1. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors, or others should immediately notify his or her supervisor or, in the alternative, the City Manager, depending on which individual the employee feels most comfortable in contacting.
2. Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

External Reporting Procedure:

1. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors, or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH"). The phone number for DFEH is located in the phone book under government agencies.

Investigation.

Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy. The City Manager is the person designated by the City to investigate complaints of harassment. The City Manager may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the City Manager, an investigator shall be the City Council or appointed by the Council.

Charges filed with the DFEH are investigated by the DFEH.

Internal Documentation Procedure.

When an allegation of harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the complainant, the alleged harasser, and the City

Manager.

Based on the report and any other relevant information, the City Manager shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the City Manager.

Confidentiality.

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

Remedies.

Disciplinary Action:

1. If the City Manager determines that the complaint of harassment is founded, the City Manager shall take immediate and appropriate disciplinary action consistent with the requirements of law and Section 8 of these rules. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.
2. Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the City.

In the event a complaint is filed with the DFEH, and the DFEH finds that the complaint has merit, the DFEH will attempt to negotiate a settlement between the parties. If not settled, the DFEH may issue a determination on the merits of the case.

1. Where a case is not settled and the DFEH finds a violation to exist, it can prosecute the charging party's case before the Fair Employment and Housing Commission ("FEHC"). Legal remedies available through DFEH and FEHC for a successful claim by an applicant, employee, or former employee include possible reinstatement to a former job; award of a job applied for; back pay; front pay; attorneys' fees; and under appropriate circumstances, actual damages and/or administrative fines.
2. In the alternative, DFEH may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

Retaliation.

Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, DFEH, or FEHC is strictly prohibited and may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

Employee Obligation.

Employees are not only encouraged to report instances of harassment, they are obligated to report instances of harassment.

Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:

1. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and
2. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.
3. Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.

1.Q SMOKING POLICY

Smoking is prohibited on all City property, including in all City facilities and vehicles..

SECTION 2: CLASSIFICATION AND SALARY PLAN

2.A PREPARATION/ADOPTION/AMENDMENT OF CLASSIFICATION PLAN

The City Manager shall determine the duties and responsibilities of all City positions, and the City Manager shall have the discretion to add or detract from these duties and responsibilities as the City Manager deems necessary to accommodate the needs of the City. The listing of duties shall not preclude the assignment of other related kinds of tasks or related jobs.

2.B ALLOCATED POSITIONS

The City Manager shall approve the appointment of employees to positions in the Classification Plan.

2.C NEW POSITIONS

When a new position is created, the City Manager may amend the Classification Plan to establish and assign an appropriate classification and grade for the new position as approved by the Council.

2.D BENEFIT PLAN

The Council shall maintain an Employee Benefits Plan that establishes the benefits for all City employees. This Benefit Plan is described in Section 12, "Employee Benefits."

SECTION 3: TYPES OF APPOINTMENTS

3.A TYPES OF APPOINTMENTS

Except for temporary vacancies, all vacancies shall be filled by transfer, promotion, demotion, or from candidates on an appropriate eligibility list, if one is available. In the absence of eligible candidates in one of the above categories, temporary appointments may be made in accordance with these Rules.

3.B TEMPORARY APPOINTMENTS

If deemed to be in the best interests of the City, the City Manager may authorize and approve a temporary appointment to fill either a temporary (i.e., a maternity or military leave) or permanent (i.e., an employee's separation) vacancy. This appointment may be accomplished through a temporary agency or by the City itself. If the position being filled on a temporary basis would normally require Council approval (i.e., City Manager), the Council shall authorize the temporary appointment.

A temporary appointment may be authorized for a period not to exceed six months from the date of that appointment. The City Manager, or the Council where appropriate, may authorize an additional six month extension for a temporary appointment. All temporary employees must meet the minimum qualifications of the vacant position. These persons may be hired without competitive examination, but have no right to a regular position without competitive examination.

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

3.C TRANSFER

When possible, an employee may transfer from his or her present position to a vacant position, in the same classification, within the City. 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 qualifications. A transferred employee

shall retain his or her rate of pay and his or her anniversary date for purposes of merit pay increases. No employee shall be transferred to a position for which he or she does not possess the minimum qualifications. A transfer shall not be used to effect a promotion, demotion, advancement or reduction in pay.

Unless otherwise provided for in these Rules, an employee must be employed with the City for at least six months, or until the employee has completed his or her probationary period, before applying for a transfer. An employee may be requested to defer his or her transfer until his or her current position has been filled, but typically, two-weeks notice will be given to the employee's current department.

3.D PROMOTION

When it has been determined that a vacant position will be filled by promotional appointment, the City Manager shall authorize a competitive promotional examination in order to fill the position, as stated in these Rules.

When an employee is appointed to a promotional position, that employee shall be paid an amount that is within the salary range for the promotional position which is at least a five percent increase over the salary he or she received in the lower position, in accordance with the provisions in Section 5.C. Any employee who is promoted within City service shall be required to complete a probationary period successfully in the new position.

3.E DEMOTION

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

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

1. **Involuntary Demotion:** An involuntarily demoted employee, who is placed in a position at a lower salary grade than the position he or she formerly occupied, shall be paid a salary within the lower salary grade which is lower than the employee's salary rate in his or her former position, as determined by the City Manager in his or her sole discretion. A demotion which is effected for

disciplinary reasons, pursuant to Section 9.G, shall be subject to the disciplinary appeals process.

2. Voluntary Demotion: A voluntary demotion to a lower position and lower salary grade may be requested by an employee for any reason. Such a voluntary demotion shall require the approval of the City Manager.

The voluntarily demoted employee shall be paid a salary within the lower salary grade which is lower than the employee's salary rate in his or her former position, as determined by the City Manager in his or her sole discretion.

3.F RECLASSIFICATION

Existing positions, where the duties have changed materially so as to necessitate reclassification, shall be reclassified by the City Manager to a more appropriate classification, whether new or existing, with the exception of reclassification from training or internship positions. Except for training or internship positions that are reclassified, the selection of a candidate to fill a reclassified position must be made competitively, unless the incumbent from the reclassified position has been performing the duties for more than one year or unless specifically waived by the City Manager. Such determination must be approved by the City Manager. Regardless of the circumstances, the City Manager 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 position unless the said reclassified position has been incorporated in the Classification Plan as provided by these Rules. A simple title change is not a reclassification and requires only City Manager approval.

The employee may submit a request for a job audit to the City Manager who shall determine if the reclassification is justified. The City Manager has the authority to reclassify any employee whose reclassification is justified so long as the position is listed in the existing Classification Plan. If the position is not listed, the Council must approve the reclassification. Since there is no money budgeted for that specific reclassification grade increase (normally 5%), the department shall fund for the City Manager-approved reclassification from its general personnel account for the balance of the current fiscal year. The Council shall place and fund the reclassified position in the following year's personnel budget. Reclassifications are normally done with the adoption of the fiscal year budget, but may be done at other times.

Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions, promotions, or unit modifications. The City Manager may conduct objective, non-competitive examinations to establish qualifications for the position.

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

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 position, 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.
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, he or she shall be compensated at an amount within the new salary range which is not less than five (5) percent higher than the Employee's previous salary. The incumbent's salary anniversary date shall not change.
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 City Manager may approve an adjustment for the employee if the employee is at the top of the salary range of the previous classification. Otherwise the employee's new salary at the lower grade shall be placed at an amount that is not less than the current salary. The incumbent's salary anniversary date shall not change. Normally, benefits will not be adjusted, unless specifically approved by the City Manager.

The effective date of reclassification shall coincide with the first working day of a pay period after the reclassification is approved by the City Manager. Any completely new classification, one not listed in the Classification Plan, must be adopted by the Council before it is approved.

3.G LAYOFFS/REDUCTION-IN-FORCE/RECALL

The City Manager may lay off permanent full-time or part-time employees or employees under a probationary period at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the work force. This Section does not apply to temporary employees whose employment with the City may be ended at any time by written action of the City Manager. At least four weeks notice or severance pay shall be given to any employee who is to be laid off. At the City Manager's discretion, a demotion or transfer 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.

Reduction in Force. When it becomes necessary to reduce the work force in the City, the City Manager shall designate the job classification, division, department, or other organizational unit in order to effect a reduction in the work force. Contract, temporary, or initial probationary employees in the same job classification as ones proposed to be

reduced within the City shall be laid off first. Although the City may elect to do so, it is not required to allow laid off employees to "bump" employees in other classifications. Probationary promotional employees who are laid off shall be returned to their former classification. Employees who accept lower positions or transfers in lieu of lay-off shall be paid a salary within the lower salary range that is the same as, or closest to the Employee's current salary.

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 most recent performance evaluation record once finalized and filed except when an employee has less than one year seniority with the City. In that case, only seniority will be used.
- b. documented disciplinary actions or formal recognition of meritorious performance during the preceding 12 months
- c. seniority (length of service in a regular position)
 1. in the City
 2. in the classification
- d. for employees who are equal in performance and seniority, as established in a-c above, preference will be given to those with the most veterans preference points (excluding military retirees with 20 or more years.)

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 who have 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 years, any authorized leave of absence of less than three 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.

Other Policies: The City may call back as a temporary employee within the first year after layoff any laid off employee who is on the reinstatement list when the employee is qualified to fill a vacancy of a full-time position. Once that temporary employee has worked for one year in that capacity in the City, he or she shall be reinstated as an "at will" employee with no property rights, but shall receive regular employee benefits until such time as a regular employee position is budgeted. Unless two years have elapsed

from the day of lay-off, he or she shall be placed in that regular position. Any employee who receives an involuntary transfer shall have automatic "bumping rights" to the classification said employee was involuntarily transferred from for up to six months from the effective date of the involuntary transfer in the event of layoff.

Reassignment: An employee who would otherwise be terminated for failure to accept reassignment may terminate and be placed on the Reinstatement List if the employee is being reassigned to a position previously occupied by an employee who was laid off within 20 working days of the effective date of the reassignment. An employee who chooses to terminate and have his/her name placed on the Reinstatement List under this section shall notify the City Manager in writing of his/her decision at least three working days prior to the effective date of reassignment. Such termination shall be on the same date as the reassignment would have been effective.

Reinstatement List: The name of every permanent employee who is laid off, transfers, or elects to demote to a formerly held classification in the same department for longer than one pay period due to a Reduction-in-Force, shall be placed on the Reinstatement List. Vacancies to be filled shall be offered, first in order of performance, to individuals named on the Reinstatement 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 Reinstatement List for any of the following reasons:

- a. The expiration of two years from the date of placement on the list.
- b. Re-employment with the City in a regular full-time position.
- c. Failure to respond within 14 calendar days of mailing of a certified letter (to the employee's last known address on file with the City) regarding availability for employment.
- d. Failure to report to work within 14 calendar days of mailing of a certified letter (to the employee's last known address on file with the City) containing a notice of reinstatement to a position, absent mitigating circumstances.
- e. Request in writing to be removed from the list.

Status on Re-employment: A regular employee who has been laid off or terminates in lieu of reassignment and is re-employed in a regular position within two years from the date of his layoff or termination shall be entitled to:

1. Buy back and thereby restore all sick and vacation leave credited to the employees' 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 30 days of returning to work and must be fully paid back within six months of the return to work.

2. Restoration of seniority accrued prior to and accrued during layoff.
3. Credit for all service prior to layoff for the purpose of determining the rate of accrual of vacation leave.
4. 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 classification from which he/she was laid off or terminated.

Recall: Those former employees in a classification who were laid off shall be recalled first in order of performance merit to be used in any City-wide position for which the former employee qualifies, unless exceptional circumstances occur of which the concerned employee shall be fully apprised in advance. No person from outside City employment shall be hired in a regular position in the deleted classification until all those displaced due to layoffs or transfers are recalled to their former classification or one classification lower in the same career ladder as the one in which the employee was laid off.

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.A EQUAL EMPLOYMENT GOALS AND POLICIES

In adopting these Rules, it is the goal of the City to employ the most qualified individuals and to achieve excellence in serving the needs of the community. Employment and promotions in the City shall be based upon merit and qualifications and shall be free from political influence and discrimination based upon religion, age, sex, marital status, race, creed, color, national origin, veteran status, ancestry, medical condition, disability, political affiliation, sexual orientation, gender identification, and physical handicap, unless sex or 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 to a reasonable degree: 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, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or employee must have a valid California Driver's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed

to be part of the minimum qualifications of each classification specification or job announcement and need not be specifically set forth therein.

No residency requirements shall be enforced by the City. Extensive efforts shall be undertaken to make local (Humboldt County) residents aware of personnel openings, encouraging them to apply for any positions for which they qualify, and providing them with full due consideration. It is the City's intention to create an environment wherein employees will want to live and work in this community.

4.B 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 the City staff.

All positions to be filled will be publicized by posting announcements on the City's official bulletin boards, the City's website, and in such other places deemed advisable by the City Manager. Employees may suggest additional locations.

When applicable, notice of open competitive examinations shall generally be posted a minimum of 10 working days before the filing deadline for applications unless it is in the best interests of the City to do a shorter recruitment, as approved by the City Manager. Notice of promotional openings shall be posted a minimum of five working days before the filing deadline for applications.

4.C PERSONNEL APPLICATIONS

Applications for employment, transfer, or promotion with the City shall be made on forms provided by the City Manager or designee. All information required by the application shall be provided and the applicant shall certify as to the truth thereof. Any material false statement or omission on the application shall, absent mitigation, disqualify the application and may be cause for termination or other disciplinary action if the applicant is or subsequently becomes an employee of the City regardless of when the error is discovered. 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.

In order to be considered, an application must be received by 5:00 p.m. on the final day of the advertised recruitment period. A late application shall be accepted from a qualified current City employee only under the following circumstances:

1. The employee must submit a written letter to the City Manager accompanied with a completed application for the position at least two working days prior to the first interview or testing phase; and

2. The employee must provide documentation establishing that he or she was absent from work on an authorized leave continuously from the date the position was first posted to the date the application period closed.

4.D RECRUITMENT

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 already employed by the City when, in the sole discretion of the City, their qualifications, training, work performance, and work experience are determined to be comparable to applicants from other sources.

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

1. Open Competitive: Positions 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.
2. In-House Competitive: Positions which are open only to City employees who possess the indicated minimum qualifications as set forth in the job announcement.
3. Temporary Position: Employees may be hired on a temporary basis through either a temporary agency or by the City itself. The City Manager approves these positions. These persons may be hired without competitive examination.

Variations to these procedures shall be approved in writing by the City Manager.

4.E 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, physical agility tests, other written tests, review and investigation of personal background and references, medical examination, psychiatric examination, or any combination thereof. The City Manager may at his or her

discretion include as a part of the examination process, tests which determine whether applicants 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 or 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.F CANDIDATES' EXAMINATION INSPECTION

If a selection procedure consists of a written examination, the applicant shall be given written notice of his or her test results. By appointment with the City Manager, an applicant shall have the right to review his or her own written test within 10 working days after the examination results are mailed out. However, no applicant shall be allowed to examine the test key as part of his or her examination inspection.

Any error in rating or grading shall be corrected if it is called to the attention of the City Manager at the time the applicant reviews his or 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.G NEPOTISM POLICY

An applicant for a position who has a relative employed by the City may not be denied the right to file an application for employment and compete in the examination process. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a department, division, or office in which a member of his or her immediate family is employed. Such employment shall be denied if the City Manager determines that such employment would potentially create a conflict of interest or have a potentially adverse impact on supervision, safety, security, or morale, or if the employee would be in a position where he or she would directly supervise, or be supervised by, a member of his or her immediate family.

For the purposes of this section and Section 7.A, a "relative" or "immediate family member" shall be defined to include the following: mother, father, sister, brother, spouse, daughter, son, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandmother, grandfather, granddaughter, grandson, aunt, uncle, first cousin, niece, and nephew.

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 Rules, where no member of the employee's immediate family is employed, supervised by, or supervising the vacant position. 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 Rules 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 a "prohibited relationship" unless the employees' mutual employment creates a potential conflict of interest or has a potentially adverse impact on supervision, safety, security, or morale, and so long as neither employee is in a supervisory capacity over a member of his or her immediate family.

If, as stated above, 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 City Manager, such a prohibited relationship does or would exist, the City Manager shall submit the reasons for his or her determination to the City Council for review. The City Council shall have one week to investigate the City Manager's findings and determine if a "prohibited relationship" does exist.

If the City Manager's review confirms that a prohibited relationship exists, he or she 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 such a vacant position exists, the transferee is qualified therefor, and no offer of employment to fill the vacant position has been made to another 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, the employee is qualified to fill the position, and 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.G. 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 three weeks after the determination that a prohibited relationship exists, the City Manager shall determine which of the employees shall be terminated-in-good-standing. Regardless of which procedure is utilized, the transfer, voluntary demotion, resignation, or termination-in-good-standing shall become effective one month after the City Manager's determination that a prohibited relationship has been established. This one-month time limit may be extended up to an additional two months with written approval from the City Manager, 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 such employee held at the time of termination, or to a position of equal seniority, status, and pay. In order for the employee to be eligible for reinstatement, he or she must be reinstated to a position in a department, division, or office where a prohibited relationship would not be established (or re-established), the position must be open, and the employee must still meet the qualifications for the position. This right of reinstatement shall be effective only through the 90 days immediately following the effective date of the employee's termination-in-good-standing, and shall take precedence over a right of reinstatement which has been derived from a voluntary resignation in-good-standing. Commencing on the 91st day after the effective date of the termination, the terminated employee shall have a co-equal right of reinstatement with employees who have voluntarily resigned in-good-standing, up to an additional nine months.

With the exception of the City Manager's review, as provided in this Section, any decision 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.H 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 if the employee receives a vehicle allowance or mileage reimbursement. Verification of acceptable driving records of all employees may be conducted periodically. 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 licenses expire, are suspended, or revoked. Failure to do so would be grounds for termination of employment.

4.I 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, in the City Manager's discretion. If utilized, 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.

The City Manager shall have the right to extend an eligibility list for one or more periods not to exceed in total one year from the original date of certification. If a City employee is on an eligibility list, the City Manager shall notify that employee when that list expires.

The City Manager may remove a name from an eligibility list for any of the following reasons:

1. 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.
2. If the eligible person requests in writing removal from the list.
3. If the eligible person fails to respond within 10 calendar days to a notification or letter which has been mailed to the person's last address on file with the City.
4. If the eligible person is unable to accept any offered position.
5. If a person on a promotional eligibility list resigns from City employment.
6. If other circumstances, such as, but not limited to, conviction of a crime involving moral turpitude or loss of a required license, make the person ineligible.
7. If the eligible person has not been offered an appointment after interviewing for three separately budgeted positions which are to be filled from the same eligibility list.

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

If a vacancy exists in a classification for which there is no appropriate eligibility list, the City Manager may prepare a list from one or more existing related lists by selecting names of eligibles 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 classification in which the vacancy exists.

4.J FINAL DECISIONS ON SELECTION

All appointments shall be subject to final approval by the City Manager 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 City Manager and the candidate, the date of the appointment may be changed. Upon the affected employee's written petition, effort shall be made to accommodate current City employees who are or will be on an approved leave as of the date of appointment and thereby unable to report for duty at the designated time.

4.K PRE-EMPLOYMENT PHYSICAL

Each person accepting employment in a maintenance classification with the City may be required to pass 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 an existing non-maintenance employee accepts a position in a maintenance classification.

4.L EMPLOYMENT ELIGIBILITY VERIFICATION

In compliance with law and with regulations of the United States Department of Justice and the U.S. Citizenship and Immigrations Services, the City requires that each person hired by the City complete Section I of the Employment Eligibility Verification Form I-9 to verify that the person is eligible for employment in the United States.

4.M PROBATIONARY PERIOD

The first six months, or any duly extended longer period, of all new and promotional employment in a regular position shall be deemed a probationary period. The probationary period shall commence upon the effective date of the appointment.

During the probationary period, an employee is at-will and may be terminated by the City Manager without cause and without the right of appeal, hearing or resort to any grievance procedure. At the conclusion of the probationary period, if the employee's performance does not meet City standards but is not altogether unsatisfactory, the probationary period may be extended up to an additional six months, at the discretion of the City Manager. The decision to extend the length of an employee's probationary period must be based on justifiable reasons and must be made prior to the expiration of the original six month probationary period. Such a decision shall not be appealable or grievable.

An employee who fails to complete his or her promotional probationary period satisfactorily shall be reinstated to the position in the same classification from which he or she was promoted unless discharged from the City service as provided in these Personnel Rules. Such reinstatement shall be without the right of appeal, hearing or resort to any grievance procedure.

4.N 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 City Manager may disregard such conviction if he/she finds and determines that mitigating circumstances exist, such as, but not 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, the Police Chief, and the City Attorney 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.O FINGERPRINTING AND BACKGROUND CHECKS

To facilitate the City's ability to perform complete background checks on its employees, new City employees may be fingerprinted and their backgrounds researched to ensure that there is nothing which would hinder their ability to perform their job satisfactorily or create any unnecessary liability for the City.

4.P RESIGNATION

Employees who desire to terminate their service with the City shall submit a written resignation to the City Manager at least two weeks prior to the effective date of the resignation. Failure to comply with this requirement may be cause for denying future employment with the City. Resignations shall be deemed accepted by the City upon submission.

4.Q REHIRE

Any regular employee who voluntarily or involuntarily resigns or separates and is later rehired, may forfeit all previous seniority and benefits and does not need to be rehired at his/her former grade or salary, except in the case of lay-off. The rehired employee may be considered the same as a new hire. With approval of the City Manager, a former employee who is eligible for rehire may be rehired by appointment rather than competitively, but may still be placed on at least six months probation upon return.

SECTION 5: PERFORMANCE EVALUATIONS & SALARY ADJUSTMENTS

5.A SALARY AT APPOINTMENT

Except as otherwise stated in this Section, all new employees shall be appointed at the beginning 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 lowest salary within the salary range, the City Manager may offer, subject to council approval, a higher salary that is within the salary range, commensurate with the proposed employee's education, training, and experience.

All final appointments are subject to City Manager approval, regardless of the salary at which the employee is appointed.

5.B EMPLOYEE PERFORMANCE EVALUATION

Regular reports on forms prescribed by the City Manager shall be made as to the efficiency, competency, conduct, and merit of all employees appointed by the City Manager. Performance evaluations should be completed at the following times: at the end of the 6 month probation period, 12 months after successfully completing probation, and annually thereafter. As outlined in Section 4.N, 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 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 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 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 his or her performance evaluation report and agree or disagree with it. Based upon the Performance Evaluation Report, the supervisor may make appropriate recommendations regarding a possible merit increase, promotion, or other action. Due to budgetary constraints, a positive performance evaluation or change in status from probationary to permanent does not automatically result in a merit increase.

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

If a regular employee is not in agreement with a performance evaluation which results in an overall below-City Standard rating, the employee may, within 10 working days after receipt of the evaluation, request a review of such evaluation. If the employee is not in agreement with the determination of the City Manager, the employee may, within 10 working days after receipt of the determination of the City Manager, request a further review by the City Council, whose decision shall be final and conclusive.

If the City Manager prepared the evaluation in question, the employee may omit review by the City Manager and proceed directly to the next level of review by the City Council, as appropriate.

Probationary employees may attach written responses to their probationary evaluations and submit them to the City Manager for consideration; however, such employees have no appeal rights.

The employee and supervisor must sign and date the report. If the employee refuses to sign the report, the supervisor shall note this fact and any circumstances surrounding the employee's refusal on the Performance Evaluation Report. Copies of the Report shall be distributed to the employee and the City Manager.

Performance evaluations shall not be subject to the appeals process (See Section 9) or the grievance process (See Section 10). The above procedures shall be utilized as the exclusive means to have the evaluation reviewed by a higher authority.

5.C MERIT SALARY INCREASES:

1. Permanent Full-time and Part-time Employees shall earn merit salary increases based, depending on budget availability, on meeting or exceeding satisfactory performance of duties in the overall rating rather than simple longevity, as follows:
 - a. Normal Progression: From the date of employment until the successful conclusion of the probationary period, no merit salary increase shall be granted. At the end of a successful probationary period, the employee shall become eligible for a merit salary increase provided that the employee's overall performance has satisfactorily met City Standards. Thereafter, eligibility for merit salary increases shall occur at 12-month intervals, provided the employee's performance is satisfactory, until such time as the employee reaches the top of the salary range available for his

or her position. General employees must achieve at least an overall "meets job standards" to be deemed as having met City Standards. An employee who receives an overall performance mark less than "meets job standards" will not receive a merit salary increase. Management employees shall be afforded the same status until such time as the City Manager adopts a new evaluation plan for management employees. Nothing in this section shall preclude the City Manager from adopting new evaluation procedures and forms.

- b. Promotional Progression: From the date of promotion until the successful conclusion of the probationary period, no merit salary increase may be granted. When an employee is promoted to a classification with greater salary range, his or her salary increases to an appropriate salary within the grade of the new job classification. An employee who is promoted shall be compensated at an amount within the new salary range which is not less than five percent higher than the salary he or she earned in the previous salary range.

All promoted employees who successfully pass their promotional review period are eligible for a merit salary increase provided satisfactory performance is achieved. A promoted employee is eligible for another merit salary increase, annually thereafter, from the date of the promotional review until their salary reaches the top of the salary range.

2. Temporary Employees may not receive merit reviews normally. A temporary employee may receive a performance evaluation when his or her period of service concludes to determine whether he or she is eligible for rehire and may be evaluated more frequently at the discretion of the supervisor. This performance evaluation may also be used as a basis for considering salary in the event the employee is rehired.

SECTION 6: ATTENDANCE AND HOURS OF WORK

6.A WORK WEEK AND OVERTIME

For purposes of applying the overtime requirements of the Fair Labor Standards Act (FLSA), the workweek for City employees shall begin at 12:01 a.m. Tuesday and end at 12:00 p.m. (midnight) Monday night. For any illness or emergency absence from work, the employee must notify the supervisor within the first half hour of normal reporting time when possible.

For Non-Exempt positions, which do not meet one of the FLSA exemption categories, overtime hours worked shall be compensated for time actually worked in excess of 40 hours in a

work week. Holiday hours, sick leave hours, vacation, compensatory time, or administrative leave will not be included as time worked for purposes of calculating FLSA overtime.

Overtime for Non-Exempt employees shall be compensated in one of the following two ways:

1. As paid time at the one-and-one-half rate of pay; or
2. As compensatory time as accrued at the one-and-one half rate of pay.

Prior to overtime being authorized, the employee and his or her supervisor shall agree as to how the employee shall be compensated (i.e., paid time or compensatory time). If the employee and supervisor do not 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, yet they cannot agree on the method of compensation, then the employee shall be given the choice of how he or she wishes to be compensated.

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.

Compensatory time accumulated under these Rules and Regulations must be utilized or paid in conjunction with termination of employment.

6.B OVERTIME COMPENSATION

Overtime compensation shall be provided to City employees as follows:

1. Exempt employees are salaried and/or contract employees and shall not receive overtime compensation. Employees in these categories are the City Manager and the Police Chief.
2. Non-exempt employees may receive overtime compensation in the form of paid time or compensatory time-off, at a time-and-one-half rate. The choice of compensation method is determined by the employee and his/her supervisor. Non-exempt employees may accrue comp-time to a maximum cap of 40 hours. The City Manager may allow accrual beyond the maximum if circumstances warrant.
3. 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.

6.C NO GUARANTEE OF HOURS

Nothing contained in these Rules 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 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.D STAND-BY AND CALL-BACK POLICY

Policies relating to stand-by and call-out duty shall be established by the City Manager, as necessary. For more information on stand-by and call-out requirements and compensation, refer to Section 13 of this Manual.

6.E TIME SHEETS

All employees must complete time sheets showing hours worked and leave taken. Salaried employees are not subject to having their pay reduced for less than eight hour increments when no other authorized leaves are available to them. The City may make deductions from paid leave accruals for periods of less than eight hours. Time sheets must be signed by the individual employee, the employee's supervisor, and the City Manager. Notice of any correction(s) to the time sheet will be sent to the employee. Such corrections will be deemed final unless questioned by the employee within 30 days after notice of correction has been given to the employee. Unresolved matters may be taken to the City Council for a final determination.

6.F CONSTRUCTIVE RESIGNATION

An employee who is absent, without authorized leave, for three or more consecutive work days is deemed to have resigned. If the City Manager determines that extenuating circumstances exist, the resignation may be rescinded, in which case, absence may be covered by leave, with or without pay, if so approved by the City Manager.

6.G LUNCH AND BREAK POLICY

Rest Periods. All nonexempt employees who are scheduled to work six hours or more per day must take two ten minute breaks each day. Rest breaks must be taken as close to the middle of each four hour work period as practicable. Part-time employees are not entitled to a paid break unless they work longer than three and one-half hours. Employees who work more than three and one-half hours but less than six hours are entitled to one paid break period. Break periods shall not exceed 10 minutes each. An employee who takes a break from his/her normal

work station to smoke is using part of the 10-minute break. Employees in transit in the conduct of City business while smoking does not constitute a smoke break.

Meal Periods. Employees who are scheduled to work five hours or more must take one unpaid lunch break of at least thirty (30) minutes, but not to exceed sixty (60) minutes per day. All meal periods shall be taken no later than the start of the employee's sixth hour of work. If an employee works at least five hours but no more than six hours the lunch period may be waived by mutual consent of the employee and the City. If an employee works for a period of more than ten hours, the employee must take a second unpaid meal period of at least thirty (30) minutes which shall be taken no later than the start of the employee's eleventh hour of work. If any employee works more than ten hours but less than twelve hours the second meal period may be waived by mutual consent of the employee and the City. If an employee is alone during a meal period, he/she may be authorized to eat at the work-site on paid time. All on duty meal periods must be agreed to by the employee and the City in writing prior to an employee taking an on duty meal period.

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 City Manager, may establish cause for variation from the scheduling of break and lunch periods.

6.H EXEMPT EMPLOYEES AND PARTIAL DAY ABSENCES

In accordance with the Fair Labor Standards Act and the City's accountability to the public, exempt employees are subject to deductions for partial day absences. These employees may use paid leaves in accordance with these rules for partial day absences. If an exempt employee has exhausted his/her paid leaves, he/she shall receive a reduction in pay for partial day absences.

SECTION 7: LEAVES

7.A HOLIDAYS

Days which are designated as paid holidays by the Council shall be holidays for City employees, unless using a flex holiday per Section 7.A.5, below. A holiday falling on Sunday will be observed the following Monday. A holiday falling on Saturday will be observed the previous Friday.

1. Regular Full-time Employees are entitled to the following nine (9) paid holidays each year:

New Year's Day	January 1
Dr. Martin Luther King, Jr. Day	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veterans' Day	November 11
Thanksgiving	4th Thursday in November
Christmas Day	December 25

2. Temporary Employees will not normally be given paid holidays, but will be given leave without pay on holidays which preclude their working.

3. Regular, part time employees working at least 20 hours per week shall receive prorated holiday pay. Part time employees working less than 20 hours per week are not eligible and shall not be paid for holidays.

4. In-Lieu Holiday: Any non-exempt employee whose work schedule requires the employee to work on an approved holiday will be awarded an in-lieu holiday which will be entered on the time sheet as compensatory time at the overtime rate. Employees who work less than eight hours on a holiday will receive compensatory time at the overtime rate equaling the actual time worked or shall be paid at the overtime rate for those hours worked plus holiday pay. The choice to receive pay or compensatory time is the employee's.

5. Flex Holiday: If a paid holiday falls on a Saturday or Sunday during any given year, the employee shall have the option to utilize one (1) day of holiday leave during another work day within the two-week pay period on which the holiday falls with the consent of the City Manager.

7.B VACATION LEAVE

All vacations must be scheduled in advance when practical and approved by the employee's immediate supervisor or the City Manager. Vacations shall be taken at such a time as not to place an undue burden on the employee's department or division. All City employees

are encouraged in the interest of their own health and well-being to utilize, rather than to accumulate, vacation time.

When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits. All employees must be employed by the City for at least 180 days (six months) before vacation time can be utilized. Vacation Leave accrual is based on 26 pay periods, using the stated monthly benefit.

Employees shall receive vacation benefits as follows:

1. Full time employees with up to and including 5 years of continuous service shall earn 3.692 hours of vacation time per pay period of service (12 vacation days per year).
2. Full time employees with from 6 to 10 years of continuous service shall earn 4.615 hours of vacation time per pay period (15 vacation days per year).
3. Full time employees with 11 plus years of continuous service shall earn 6.154 hours of vacation time per pay period of service (20 vacation days per year).
4. Regular, part time employees working at least 20 hours per week shall receive prorated vacation accumulation benefits. Part time employees working less than 20 hours per week are not eligible and shall not accrue vacation.

Employees cannot accumulate more unused vacation than the equivalent of that which has been earned during the preceding 24 month period. Employees who have accumulated vacation and whose employment is terminated with the City shall receive payment for all unused and accumulated vacation.

Employees may choose to convert any unused and accumulated vacation to compensation. Employees are limited to one vacation conversion per calendar year.

7.C SICK LEAVE

Sick leave is a benefit that is offered to all full-time employees. It is earned on a 26-pay period basis, given the monthly rates stated below. Employees who successfully complete their probationary periods, retire under the requirements of the Public Employees Retirement System (PERS), are disabled, or voluntarily resign with proper notice to the City are eligible to receive a proportionate payment for the value of any unused sick leave. The City's policy for sick leave accrual and "buy-back" is as follows:

1. Full-time employees shall accrue sick leave at the rate of 3.69 hours per pay period (12 days per year). Employees accruing sick leave may accrue a maximum of 480 hours. There is no compensation for sick leave to the employee when the employee leaves employment with the City.

2. Regular, part time employees working at least 20 hours per week shall receive prorated sick leave benefits. Part time employees working less than 20 hours per week are not eligible and shall not receive sick leave.
3. Temporary Employees shall not normally accrue paid sick leave, but may take leave without pay as approved by their supervisors.
4. These policies for the accrual of sick leave are not applicable to a Contract Employee who has negotiated different provisions in his/her contract.

Sick leave shall be allowed only in case of necessity and actual sickness or disability of the employee, including pregnancy disability. Sick leave is not an earned right to time off from work. However, employees who are sick are encouraged to use this benefit instead of coming into work, being unproductive, and potentiall spreading the illness to co-workers. If an employee is to be absent from work due to illness or other allowable reason, he/she must notify the supervisor by telephone within the first half hour of normal reporting time or earlier if possible. An employee's preventive medical and dental appointments (within reason) and dependent care are acceptable uses of sick leave.

Six days (48 hours) per year of sick leave may be utilized for the illness or death of immediate family members, as defined in Section 4.H of the Rules, when such members require personal care (including preventive medical and dental treatment). After six days of sick leave have been used for the benefit of other family members, the employee must use vacation, or other non-sick leave accruals. If an employee has exhausted all accrued sick leave, he/she may request other forms of leave, subject to the City Manager's approval.

In the case of absences of three consecutive days, written medical verifications for the employee or family member may be required of an employee. A medical excuse may be required for any other absence if circumstances warrant such proof.

Up to 24 hours of sick leave may be voluntarily donated from one employee to another out of a humanitarian need when the recipient employee has no leave accrued, including sick leave, vacation leave, administrative leave, or in lieu holidays. No more than six months of total leave may be donated to an individual employee.

7.D PERSONAL LEAVE

Each full-time employee may take up to three (3) personal leave days per year. The employee may use these days at his/her discretion but must give his/her supervisor one week's prior notice before using personal leave days. If, for extraordinary reason, the day(s) chosen by the employee cannot be taken off for work reasons, the supervisor must inform the employee in writing within two days of receiving notice from the emplouee of his/her desire to uise a personal leave day and an alternate date shall be suggested. This leave is available after one year of service, and unused personal leave cannot be carried into the next year. An employee who does not use all of the available personal leave in a given year will not be compensated for the unused portion.

7.E VOTING LEAVE

In accordance with State law, the City encourages all employees to vote in local, state, and national elections. Employees are encouraged to vote outside of normal working hours. Under special circumstances, an employee who does not have ample time to vote outside of normal working hours may make arrangements with his or her supervisor to take up to two hours with pay in order to vote.

7.F BEREAVEMENT LEAVE

Employees shall be allowed five days bereavement leave in the event of death of an immediate family member. Immediate family in this instance shall be narrowly defined as mother, father, spouse, natural/step children, mother-in-law, father-in-law, brother or sister. For other family members, sick leave may be used in place of bereavement leave.

If travel is required in excess of 300 miles for the death or funeral in the immediate family, the employee may use an additional two work days of accrued sick leave for this reason in conjunction with the five days of bereavement leave.

Employees will be allowed unplanned vacation leave to be taken up to 10 days in length in addition to bereavement in the event of death in the employee's immediate family (parent, spouse, child, step-child, mother-in-law, father-in-law, brother or sister).

7.G 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 his or her supervisor at least one 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 his or her duties with the City as long as required by the court system or other tribunal. The employee shall obtain a jury calendar or assignment sheet weekly during such service. The employee shall have the jury calendar or assignment sheet signed by the jury clerk or commissioner and shall deliver this sheet to his or her supervisor at the end of each week to verify jury duty or witness service.

If a regular employee on an alternative work schedule is summoned for jury duty, the City Manager shall convert the employee's usual work shift to a regular five day, Monday through Friday shift basis. A regular employee required to serve on jury duty shall be entitled to his or her regular rate of pay, provided the employee deposits any fees for service, excluding mileage,

with the City. A temporary employee called for jury duty will not be compensated for time lost while on jury duty, but shall be entitled to retain his or her jury fees.

Except for probationary employees, an employee's salary anniversary date shall be extended if his or her jury duty is in excess of 30 days per fiscal year. If an employee is required to serve on jury duty while on probation, his or her probationary period shall be extended the same length of time as the jury duty. 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.

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 his or her 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.H PREGNANCY LEAVE

Pregnancy leaves of absence shall be granted to employees medically disabled by pregnancy, childbirth, or related conditions, provided such leave shall not exceed four months. This is an unpaid leave of absence. At the commencement of a pregnancy leave of absence, employees may use accrued sick leave, and thus, continuing to receive pay. An employee may use vacation, compensatory time-off, and/or administrative leave allowances after exhaustion of sick leave, at the discretion of the employee, to extend the paid period of the leave of absence. 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. The authorized absence is only for the duration of the disability up to four months.

When an employee is on pregnancy leave, the City shall continue payment of benefit premiums for the employee and her dependents.

If the employee chooses to remain away from work longer than four months, she must apply for family leave. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a pregnancy leave of absence unless the employee is continuing to receive pay by utilizing accrued sick leave, vacation, compensatory time-off or administrative leave allowances.

Any employee who takes a pregnancy leave of absence shall have her salary anniversary date extended by the same length of time as the unpaid portion of the leave. For purposes of this section, paid portions of pregnancy disability leave include only those portions for which

payments are received on account of vacation, sick leave, compensatory time-off, administrative leave, and holiday allowances. If an employee takes a pregnancy leave of absence while on probation, her probationary period shall be extended the same length of time as the pregnancy disability 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.

A request for a pregnancy leave of absence should be submitted by the employee as soon as feasible after the employee learns of her pregnancy. 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. 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 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, at the end of the four-month pregnancy leave period, the employee shall be required to return to work full-time. If approved by the employee's physician and the City Manager, the employee may choose the option of returning to work prior to the conclusion of the four-month period on either a full-time or part-time basis and receive pro-rated pay and benefits.

Up to an additional two months of pregnancy leave may be granted for medical reasons either prior to or after birth if the employee's physician provides a written statement indicating the employee's inability to perform her duties or any feasible "limited duties." Such an extension of pregnancy disability leave is subject to the approval of the City Manager whose decision is final and conclusive. Nothing herein shall guarantee an extension beyond the standard four months of leave.

An employee may take both pregnancy leave and, subsequently, State family care and medical leave to be with a newborn. The employee is entitled up to four months of pregnancy leave, plus an additional 12 weeks using the State family care and medical leave provisions.

The City shall attempt to reasonably accommodate any transfer request by an employee who is affected by her pregnancy. Any transfer request must be accompanied by a certification from the employee's health care provider stating that a transfer is medically advisable. Transfer requests may be made to alternate positions which are open and to which the employee is qualified for. When a pregnant employee's health care provider certifies that it is medically advisable for the employee to take intermittent leave or leave on a reduced work schedule, the City may require the employee to transfer temporarily to an available alternative position. Any alternative position must have the equivalent rate of pay and benefits that the employee is receiving, and the employee must be qualified for the position. Transferring an employee to an alternative position may include altering the employee's existing job duties to accommodate the employee's need for intermittent leave or a reduced work schedule.

7.I FAMILY CARE AND MEDICAL LEAVE

Although all public agencies, such as the City, are "covered" by the Family and Medical Leave Act ("FMLA") (29 U.S.C § 2600 et seq.) and California Family Rights Act ("CFRA") (Gov't Code §§ 12945 et seq.), employees of the City are not "eligible" for FMLA/CFRA leave since the City does not employ at least 50 employees within a 75-mile radius, as required by the FMLA/CFRA. However, the City does provide leave as set forth below.

Leaves of absence shall be granted upon request to employees who have full-time status with the City during the previous 12-month period, and for the reason of childbirth, adoption, foster care, parental care, serious family illness or injury, or the employee's own serious health condition, provided such leave shall not exceed 12 weeks of leave in a 12 month rolling period. If both parents are employed by the City, the two employees are only entitled to receive a combined 12 weeks for the birth, adoption, or foster care of a child.

At the commencement of a family leave of absence, employees shall first use all accrued vacation, compensatory time off, or administrative leave allowances and, thus, continuing to receive pay. Sick leave accruals may not be used, unless certified by a doctor for the employee personally. Pay will cease when all accrued allowances have been used, and the employee shall receive leave without pay and be subject to all policies governing leave without pay, except as modified herein. The use of accrued time off shall not extend the length of the leave.

The City requires the following information on a certification of the need for this leave:

1. The date on which the serious health condition commenced.
2. The probable duration of the condition.
3. In the case of caring for a family member, an estimate of the amount of time the employee needs to care for the individual.
4. That the serious health conditions warrant participation of a family member to provide care during the period of treatment.

In the case of an employee's own serious health condition, the employee is unable to perform the functions of his or her position. The City can seek second and third opinions at its cost.

When an employee is on unpaid family leave, the City shall continue payment of benefit premiums for the employee and his/her dependents. Vacation time, sick leave, administrative leave, and holidays shall not accrue during a family leave of absence unless the employee is continuing to receive pay by utilizing accrued vacation, compensatory time off or administrative leave allowances, as well as sick leave when applicable due to disability.

An employee who takes a family leave of absence shall have his/her salary anniversary date extended by the same length of time as the unpaid portion of the family leave. For purposes of this section, paid portions of family leave include only those portions for which payments are received on account of vacation, compensatory time off, administrative leave, and holiday allowances. If an employee takes a family leave of absence while on probation, his/her

probationary period shall be extended the same length of time as the family 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. Family leave shall not constitute a break in service for purposes of longevity or seniority.

The employee should request a family leave of absence by submitting the request in writing to his/her supervisor or to the City Manager.

7.J LEAVE OF ABSENCE WITHOUT PAY

Any employee who is absent from work and who is not on leave of absence with pay shall be considered to be on leave of absence without pay, if such leave has been authorized by the proper authorities.

This section is designed to grant special requests for leaves of absence without pay which are not specifically addressed in either the military leave or pregnancy disability leave sections of these Personnel Rules.

A leave of absence without pay must be approved by the City Manager. No leave of absence without pay shall be granted unless the employee requests the leave in writing and includes the reason for the request. Approval by the appropriate authority shall be in writing. No leave of absence without pay pursuant to this Section shall be requested or authorized for the purpose of imposing disciplinary action upon any employee.

An employee on a leave of absence without pay shall not receive compensation or accrue sick leave, vacation, or holiday credits. After 30 consecutive working days 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. However, upon approval of a leave of absence without pay, the employee may elect to continue his or her benefits coverage at his or her own expense. Any employee requesting a leave of absence without pay shall utilize all of his or her accrued compensatory time-off, administrative leave, and vacation time prior to the start of the leave without pay.

Any employee who takes a leave of absence without pay for more than 30 work days in a calendar year shall have his or her salary anniversary date extended by the same length of time as the leave without pay. If an employee takes a leave of absence without pay while on probation, his or her probationary period shall be extended the same length of time as the leave without pay. 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.

Upon expiration of an approved leave of absence without pay, the employee shall be reinstated to the position he or she occupied at the time leave was granted.

Unauthorized failure on the part of an employee to report to work upon expiration of the leave of absence without pay shall constitute job abandonment and will result in dismissal.

Any employee who chooses to take leave without pay without notification for more than (3) days, otherwise choosing not to report to work and having no accrued leave, may be dismissed by the City Manager, and the cause and the effective date of the action will be put in writing and delivered to the employee by certified mail.

7.K MILITARY LEAVE

Military leave will be afforded to employees in accordance with State and Federal law.

Employees must submit a copy of military orders to the City Manager 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 .

7.L 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 City Clerk or the City Manager. Upon receiving notice of the injury, the Clerk or the Manager shall be responsible for giving the injured employee an "Employee's Claim For Workers' Compensation Benefits" (DWC-1) form within 24 hours. The City Manager shall be responsible for completing an "Employer's Report of Occupational Injury or Illness (Form 5020)."

Workers' Compensation benefits shall be administered in accordance with the law and the City's Workers' Compensation insurance policy.

Additional information concerning Workers' Compensation Leave or benefits may be obtained by contacting the City Manager.

SECTION 8: CONDUCT AND DISCIPLINARY GUIDELINES

8.A GENERAL STATEMENT OF POLICY

It is the City's belief that rules of conduct are most effective when they are written and communicated to employees and supervisors, consistently enforced, and the difference between major and minor forms of misconduct is recognized.

The City's goal is to administer discipline on an equitable and corrective basis. Effective discipline reinforces training by identifying rules and their reasons, correcting misconduct or improving job performance, serving as a deterrent through enforcement, and penalizing in relation to the severity of the offense and the employee's past record.

8.B CUSTOMER SERVICE POLICY

Area residents, businesses, consulting firms, and members of the public in general depend on each City employee to render service speedily, efficiently, effectively and courteously. The following guidelines express in part the expectations of how employees are to implement the customer service philosophy of the City:

1. Employees shall keep themselves informed in order to perform their jobs effectively.
2. Employees shall be concerned about the welfare of others.
3. Employees shall be considerate, tolerant, patient and fair with others.
4. Employees shall be as cheerful and as positive as possible.
5. Employees shall use their training and capabilities to provide residents and businesses with the best service possible. Every effort should be made to provide correct answers and positive results.

8.C UNLAWFUL DISCRIMINATION

Any employee who harasses or unlawfully discriminates against any other person on the basis of the other person's religion, age, sex, marital status, race, color, national origin, ancestry, medical condition, political affiliation, physical handicap, disability, sexual orientation, or gender identification shall be subject to disciplinary action in accordance with these Rules.

8.D STANDARDS OF CONDUCT

Employees are encouraged to excel in their work. City employees are prohibited from engaging in any conduct which could reflect unfavorably upon the City. The following standards are intended to govern the actions of all City employees during their course of employment. Employees who violate these standards shall be subject to appropriate disciplinary actions.

1. Employees shall abide by and carry out City ordinances, resolutions, policies, procedures, and the Employee Policies and Procedures Manual of the City to the best of their knowledge and ability.
2. Employees shall always conduct themselves in a manner which reflects well on the City and creates positive morale among City employees.
3. Employees shall operate all equipment safely and utilize safe means of carrying out their duties.
4. Employees shall follow instructions for all equipment and property.
5. Supervisors shall manage in an effective, considerate and fair manner.
6. Subordinates shall follow instructions in a positive, cooperative manner.
7. Employees shall provide service with courtesy and a smile and avoid arguments with the public and other employees. If citizens become difficult, they should be referred to a supervisor.
8. Employees shall avoid interpersonal conflict with others as it may affect productivity or the City's image. It is not necessary for everyone to like everyone else, but it is necessary to treat everyone professionally and courteously.
9. Employees shall dress appropriately. Although dress will vary with the type of work done, neatness, cleanliness, and a professional image are essential. When applicable, uniforms or clothing that identifies the employee as a City worker must be kept in good condition and worn while on duty, if required. Political buttons, or other attire that do not promote a professional image or may not provide adequate protection from work-related injuries shall not be worn while on duty.
10. The use or possession of alcoholic beverage, illegal drugs, or controlled substances while on paid duty time, or working while under the influence thereof, will not be tolerated. Violation will result in disciplinary action, as outlined in these Rules.
11. Employees should behave in their personal lives in such a manner as not to reflect discredit upon the City.

8.E OBJECTIVE OF DISCIPLINARY GUIDELINES

The disciplinary guidelines outlined in Section 8 are intended to be standards for applying discipline on the job. The offenses listed are not intended as comprehensive coverage of the subject. The disciplinary actions listed are standards and guidelines. Individual circumstances may justify a supervisor, together with the City Manager, administering more or less severe forms of disciplinary actions than those listed in these guidelines. The disciplinary authority must use reasonable judgment and proper documentation in each individual instance.

Any variations to these procedures will be reviewed and approved in writing by the City Manager.

8.F LEVELS OF OFFENSES

There are four levels of offenses listed. A documented pattern which shows a history of recent disciplinary problems can result in cumulative or more severe disciplinary actions, including disciplinary suspension, reduction in pay, demotion, or dismissal. Moderating circumstances which may result in less severe disciplinary action include an employee's positive work record, outstanding accomplishments, length of service, and extenuating circumstances of the violation.

1. Engaging in any of the following conduct will most likely result in dismissal:
 - a. Theft, embezzlement, or fraud.
 - b. Falsification, unauthorized removal or alteration of official City records or employment applications.
 - c. Possession of, use of, or working while under the influence of alcoholic beverages or other controlled substances during City working hours, while on City property, while operating City vehicles, or while subject to duty (i.e., stand-by).
 - d. Assault, battery, or fighting an individual while on duty or under the guise of office.
 - e. Illegal possession or brandishing of weapons or firearms on City premises or property, while on duty or under the guise of employment.
 - f. Acceptance of bribes or extortion.
 - g. Conviction of a felony or any crime involving moral turpitude.
 - h. Commission of an act involving moral turpitude, whether or not a conviction is obtained.
 - i. Sexual harassment (as defined in Section 1.P of these Rules and Regulations) or unlawful discrimination against employees or others based upon race, color, national origin, ancestry, ethnicity, religion, age, medical condition, political affiliation, physical handicap, disability, sexual orientation, gender identity, or sex.
 - j. Intentionally damaging property of value.
 - k. Job abandonment of three consecutive work days with no notification or approved absence.
 - l. Material false statement or omission on the employment application.
 - m. Driving on City business with a suspended or revoked driver's license.
 - n. Continuing unsatisfactory job performance.
 - o. Felony eavesdropping or electronic recording of a confidential communication without consent of all parties to such communication.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

2. Engaging in any of the following conduct will most likely result in disciplinary suspension without pay for five to thirty working days, reduction in pay or dismissal depending upon the circumstances, cumulation, or pattern of offenses. Other recently documented violations along with this incident or the repeating of such offenses will result in dismissal.
- a. Intentionally misusing or abusing City property or property of another.
 - b. Disregard for major safety rules.
 - c. Insubordination by refusing a supervisor's legitimate order.
 - d. Unlawfully restricting work efficiency and production.
 - e. Attempting to provoke a fight on City premises, threatening, or deliberately intimidating others through threat of physical force.
 - f. Unauthorized release of information which has been validly classified as confidential.
 - g. Intentional mistakes or gross negligence causing damage.
 - h. Use of authority for personal gain.
 - i. Dishonesty, including falsifying time cards or other reports.
 - j. Driving on City business with an expired license.

This is not an exhaustive list. Other violations of a similar serious scope and nature will result in the above mentioned disciplinary action.

3. Engaging in any of the following conduct will most likely result in a written reprimand on the first offense, a disciplinary suspension of one to nine working days without pay, reduction in pay, or demotion on the second offense, and possible dismissal on the third. Other recently documented violations in conjunction with this violation will result in more severe disciplinary action.
- a. Unauthorized operation of tools, machinery or equipment.
 - b. Gambling on City property.
 - c. Disregard of minor safety rules including failure to report an injury or accident.
 - d. Abuse of authority.
 - e. Carelessness or inefficiency in completing assignments.
 - f. Unauthorized sleeping or unaccounted whereabouts while on duty.
 - g. Traffic violations, including preventable accidents, in City vehicles or while on City business.
 - h. Political activity which violates pertinent provisions of state or local law.
 - i. Unauthorized absences or excessive leave without pay.
 - j. Abusive language which is personally or professionally insulting or derogatory.
 - k. Failure to notify the employee's supervisor of the loss of a required certificate or license, including driver's license.
 - l. Statements or allegations which are malicious, vexatious, or not made in good faith and designed to discredit another individual or agency.
 - m. Garnishment on two or more different debts within any one year period.

This is not an exhaustive list. Other violations of similar scope and nature will result in the above mentioned disciplinary action.

4. Engaging in any of the following conduct will most likely result in either an informal discussion or formal warning on the first offense and a written reprimand on the second offense. Further incidents will result in more serious disciplinary action, including possible disciplinary suspension, reduction in pay, demotion or dismissal. Other recently documented violations in conjunction with this violation will also result in more severe disciplinary action.
 - a. Creating or contributing to unsanitary conditions.
 - b. Violation of smoking policy.
 - c. Unauthorized soliciting of contributions.
 - d. Distributing unauthorized printed matter on City time.
 - e. Failure to meet production or performance standards.
 - f. Engaging in behavior which prevents or hampers job performance.
 - g. Tardiness in reporting to work.
 - h. Abuse of sick leave.
 - i. Abuse of breaks or lunch time.
 - j. Inability or unwillingness to work harmoniously with other employees.
 - k. Failure to contact supervisor when late or absent.
 - l. Failure to report change of vital information.
 - m. Failure to observe reasonable standards of personal appearance.
 - n. Failure to follow specified job instructions.
 - o. Minor safety violations, including housekeeping rule violations.
 - p. Frequent personal phone calls.
 - q. Frequent violations of established departmental rules and procedures.
 - r. Reading non-related material during work time when not authorized.
 - s. Misrepresentation of facts which does, or may lead to, a disruption of City business.
 - t. Posting or distributing materials or telling jokes which are offensive to a person or persons with normal sensibilities.

This is not an exhaustive list. Other violations of a similar scope and nature will result in the above mentioned disciplinary action.

SECTION 9: DISCIPLINARY ACTIONS AND APPEAL PROCESS

9.A DEFINITION OF DISCIPLINARY ACTION

"Disciplinary Action" means action taken by the City Manager for disciplinary reasons, pursuant to these Rules. Such disciplinary actions include: (1) a formal warning; (2) a written reprimand; (3) disciplinary suspension; (4) reduction in pay; (5) demotion; or (6) dismissal.

9.B MAJOR DISCIPLINE

1. Pre-disciplinary hearings:
 - a. Prior to the imposition of a major disciplinary action, which shall include, but is not limited to, an unpaid suspension of more than five (5) days, demotion, reduction in pay of one (1) month or more (which equates to a loss of pay which is more than the equivalent of a five (5) day suspension), or discharge, all regular employees shall be presented with a written Notice of Proposed Disciplinary Action informing the employee as to his/her right to a pre-disciplinary hearing.
 - b. The Notice of Proposed Disciplinary Action shall include:
 - i. A description of the discipline proposed;
 - ii. A statement of the reasons for which the action has been proposed, which shall include a brief description of the alleged facts upon which the proposed action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed;
 - iii. Copies of any documents relied upon in reaching a decision to propose the disciplinary action; and
 - iv. A statement advising the employee that he may respond to the City Manager, or his/her designee, regarding the proposed disciplinary action, orally or in writing, before it takes effect. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the City Manager, and the last date upon which a response may be made.
 - c. The employee shall have seven (7) working days from the date of the Notice of Proposed Disciplinary Action to respond to the charges, either orally or in writing. Upon a showing of good cause, the City may extend the time for response beyond seven (7) working days. In responding, either orally or in writing, the employee may designate a representative to

assist in the presentation of the response.

i. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment, and meet with the City Manager or his/her designee.

ii. During this meeting, the employee or the employee's representative, may present any reasons why the employee feels that the proposed action is not proper. The City Manager or his/her designee shall listen to the employee's presentation, but need not present any evidence on behalf of the city nor shall either party present witnesses for examination at this time.

iii. A written response must be received in the office of the City Manager no later than 5:00 p.m. on the last day given to respond.

iv. The City Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the proposed action, a different action, or no action shall be taken.

d. Failure by the employee, or the employee's representative, to respond to the Notice of Proposed Disciplinary Action within the period allowed shall result in the disciplinary action taking effect as proposed.

2. Right to Appeal:

a. Any regular employee shall have the right to appeal any major disciplinary action, including, but not limited to, an unpaid suspension of more than five (5) days, a demotion, a reduction in pay of one (1) month or more (which equates to a loss of pay which is more than the equivalent of a five (5) day suspension), or a discharge.

b. Requests for appeal shall be made in writing, signed by the employee and filed with the City Manager within ten (10) working days of the effective date of the discipline. Failure to do so shall constitute waiver of the right to appeal and failure to exhaust administrative remedies.

c. At its next regular meeting following receipt of a timely notice of appeal from the decision of the City Manager or his/her designee, the Council may appoint a Hearing Officer, Appeal Board, or Committee of the Council to hear the appeal and recommend a decision which it shall certify to the Council, or the Council may hear the appeal. If the Council hears the appeal, the employee shall be given the option of having the hearing held in open session.

- d. The City Manager shall notify the employee of the date, time and place of the hearing.
- e. The employee shall appear personally at the hearing and may be represented by Counsel of his/her choice. In the event that the employee or his/her representative fails to appear, the appeal shall be deemed waived.
- f. All parties and witnesses to be heard at the hearing shall be sworn and shall testify under oath. The hearing shall not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall 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 might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be admitted, but it may not be the sole basis upon which a finding is made.
- g. Upon conclusion of a hearing not conducted by the Council, the Hearing Officer, Appeal Board, or Council shall cause its findings and recommendations to be prepared in writing and shall deliver the same to the City within twenty (20) working days following the conclusion of the hearing.
- h. The City Manager shall deliver a copy of such findings and recommendations of the Hearing Officer, Appeal Board, or Council and to any other officer or employee affected by such findings and recommendations or from whose actions the appeal was taken. The Council may then adopt, reject or modify such recommendations. Findings may be modified only upon a showing by the Council that such modification is supported by appropriate evidence in the hearing record. The decision of the Council shall be final for all purposes.

9.C MINOR DISCIPLINE

In the case of minor discipline, which shall include, but is not limited to, an unpaid suspension of five (5) days or less, reduction of pay of less than one (1) month (which equates to a loss of pay which is the equivalent of a five (5) day or less suspension), and written reprimand, employee shall be afforded the following:

- 1. Notice of Disciplinary Action, which shall include:
 - a. A description of the discipline and, except with regard to a written reprimand, the effective date(s) of the discipline;
 - b. A statement of the reasons for which the action is based on, which shall include a brief description of the alleged facts upon which the action is being taken and a statement of any employer rules, regulations, etc. or laws that are alleged to have been violated; and, if applicable, a list of any

previous disciplinary actions, counseling, evaluations or other relevant actions which support the action proposed.

c. Copies of any documents relied upon in reaching a decision to implement the disciplinary action; and

d. A statement advising the employee that he/she may respond to the City Manager, or his/her designee, regarding the disciplinary action, orally or in writing, after it takes effect. This part of the Notice of Disciplinary Action shall include the name of the person to whom the response is to be made, if other than the City Manager, and the last date upon which a response may be made.

2. The employee shall have seven (7) working days from the date of the Notice of Disciplinary Action to respond to the charges, either orally or in writing. Upon a showing of good cause, the City may extend the time for response beyond seven (7) working days. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.

a. In the event the employee chooses to respond orally, the employee must, within the period given to response, make an appointment and meet with the City Manager or his/her designee.

b. During this meeting, the employee, or his/her respective representative, may present oral argument and documentary evidence in support of his/her position; however, the employee shall not be permitted to call and examine witnesses.

c. A written response must be received in the office of the City Manager no later than 5:00 p.m. on the last day given to respond.

d. The City Manager or his/her designee shall take the employee's timely response into consideration and shall make a determination as to whether or not the disciplinary action was appropriate. The City Manager may uphold the disciplinary action, or decide to impose a lesser form of discipline.

3. Failure by the employee, or the employee's representative, to respond to the Notice of Disciplinary Action within the period allowed shall result in the employee waiving his/her right to respond.

4. In the case of minor discipline, no right of appeal is provided, except for the right to respond as set forth in Section 2, above.

SECTION 10: GRIEVANCES

10.A POLICY

Grievances are defined as any good faith or reasonable complaint between the City and an employee or group of employees involving the interpretation, application, or enforcement of these Employee Policies and Procedures Manual. However, complaints involving performance evaluations, denial of merit pay increases, employee classification, disciplinary actions, rejection from probation, layoffs, and termination of temporary and at-will employees are not grievable. Employees of the City shall be required to comply with the procedures set forth regarding items which are grievable. Failure to comply with the timelines set forth by this grievance procedure shall result in waiver of the right to file a grievance.

Employees of the City who pursue grievances according to the provisions of this grievance procedure shall be free of harassment by fellow employees, supervisors and administration and shall in no way effect their present or future employment status.

10.B GRIEVANCE PROCEDURE STEPS

The steps of the grievance procedure as follows:

1. Grievances must be discussed with the employee's immediate supervisor, or his/her superior in the event that the employee's problem is with the supervisor, within five (5) working days of the occurrence of the event giving rise thereto. The supervisor or his/her superior will attempt to resolve the matter and will, within a reasonable period of time, issue his/her decision on the matter in writing.
2. If not previously resolved, the employee may, within five (5) days of receiving the written decision of the employee's supervisor or his/her superior, submit a written request for review by the department head. The written request must be made on the form prescribed by the City Manager, and shall contain a clear, concise statement of the grievance and facts upon which it is based. The written request must contain a citation to the rule, regulation, or policy allegedly violated, as well as the specific remedy sought. The department head shall make such investigation of the facts and issues as is warranted under the circumstances and shall make a determination within five (5) working days of receipt of the request and the written decision of the supervisor or his/her superior.
3. If the employee is dissatisfied with the determination of the department head, the employee shall, within five (5) working days of receipt of the department head's determination, notify the department head and the City Manager of the employee's desire to appeal such determination. Said notice shall be in writing.
4. The City Manager, or his/her designee, shall arrange and conduct a meeting between the employee and the department head. At such meeting, discussion shall be limited to the issues raised in the initial grievance complaint and an earnest effort shall be made to resolve the problem.
5. Following the meeting, the City Manager shall issue a statement of his/her

conclusions and findings. The decision of the City Manager shall be final.

6. If the City Manager is the supervisor and involved in the grievance, then this process shall occur where the City Council or its designee assumes the responsibilities previously designated to the City Manager.

SECTION 11: EMPLOYEE RECORDS AND FILES

11.A PERSONNEL FILES

1. Central Personnel Files: The City Manager 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 City Manager. Copies of documents concerning disciplinary actions taken by the supervisor or City Manager 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 the City Manager's office.

2. Payroll Files: The City staff 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 City Manager. There will be no disclosures of this information to third parties except as authorized by State and Federal law, or as duly authorized in writing by the employee to third parties. The payroll information may be included as a section of the personnel file.

Nothing herein shall prohibit the City from keeping or placing documents in an observation file for the purpose of investigating alleged criminal conduct. An observation file shall not be considered a personnel file, and an employee or his or her designated representative shall not have access to observation files nor receive copies of documents placed in such files.

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

11.B DOCUMENTS IN PERSONNEL FILES

Upon request of the employee, an employee may place documents in his or her respective personnel files that commends his or her job performance with the City or demonstrates educational attainment.

Disciplinary documents shall be placed in personnel files. An employee shall be provided a copy of any documents placed in his or her personnel file, and may review his or her file on request. However, employees are not entitled to review documents which are exempt from disclosure pursuant to Labor Code section 1198.5.

If no further conduct requiring disciplinary action occurs and at the employee's written request, documents concerning minor disciplinary actions shall be removed from an employee's

personnel file after one year or upon their incorporation in a performance evaluation, whichever occurs first. If no further conduct requiring disciplinary action occurs and at the employee's written request, documents concerning major disciplinary actions shall be removed from an employee's personnel file after three years, provided that such documents may be retained thereafter if they establish a pattern of conduct extending past the three year period. With good cause, the City Manager may grant an employee's request to remove the document from the employee's personnel file(s) sooner than the indicated time frames.

11.C ACCESS TO FILES

No person other than the City Manager, City Attorney, Special Legal Counsel, immediate supervisor, or their designated representatives shall have access to an employee's personnel file. No person other than the payroll division staff, City Manager, or the City Attorney shall have access to an employee's payroll file. All employee requests for inspection of that employee's personnel file shall be in writing, utilizing an inspection request form maintained by the City and available to the employee upon request. Upon making an appointment and issuing an inspection request, an employee or a person designated in writing by the employee for such purpose may inspect the contents of his or her respective personnel file. However, employees are not entitled to review documents which are exempt from disclosure pursuant to Labor Code section 1198.5. Upon paying the reasonable cost associated therewith, except as provided above, an employee or his or her designated representative may obtain copies of any documents contained in the employee's personnel file.

The employee may file a grievance regarding the contents of his or her personnel file in accordance with the Grievance Procedure regulations outlined in Section 10.

11.D DISCLOSURE OF INFORMATION

No direct information contained in the personnel files shall be disclosed concerning any current or former City employee other than the employee's job title, inclusive dates of employment, work location, salary, work phone number, and departmental assignment to any person other than the City Manager, City Attorney, Special Legal Counsel, Council Chair 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 by the City Manager. Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

11.E CHANGES-IN-STATUS

It is the employee's responsibility to notify the City staff of any changes in his or her address, phone number, marital status, dependent status, name change, training certificates, or other pertinent information.

11.F APPLICATION RETENTION

Applications submitted by candidates for City employment become the property of the City and must be retained for at least three years.

11.G DESTRUCTION OF PERSONNEL RECORDS

Personnel records, including employment applications, shall be destroyed only in accordance with the provisions of the City's system for the destruction of public records and then in accordance with other applicable law.

SECTION 12: EMPLOYEE BENEFITS

12.A GENERAL

Benefits for City employees shall be provided as outlined in this Manual or as agreed upon in an employment contract for contract employees. Specific information on these benefits may be obtained by contacting the City Manager.

The City retains the right to alter the benefit plan, if it finds such changes to be in the best interest of the City. The policies in this Manual are based on Federal law and may change from time to time.

12.B MEDICAL INSURANCE

The City provides a generous allowance to employees for Medical Insurance coverage. The City will pay the full premium for coverage for all full-time employees. Additionally, for all employees hired after December 1, 2012, the City will pay seventy percent (70%) of the cost for coverage of the employee's spouse or legal partner, and dependent children, with the employee bearing thirty percent (30%) of the cost for dependant care, and all deductibles related thereto.

The City maintains the right to review and change the provider of medical care coverage, as well as the cost allocations between the City and the employee, as necessary to address budgetary considerations. Reasonable efforts will be made to minimize any disruption to coverages for employees if it becomes necessary to change insurance carriers.

12.C DENTAL INSURANCE

The City provides a generous allowance to employees for Dental Insurance coverage. The City will pay the full premium for coverage for all full-time employees, his/her spouse or legal partner, and dependent children.

The City maintains the right to review and change the provider of dental care coverage as necessary to address budgetary considerations. Reasonable efforts will be made to minimize any disruption to coverages for employees if it becomes necessary to change insurance carriers.

12D. VISION STIPEND

The City provides an annual \$200 allowance to employees for vision care assistance. This stipend may be used by the employee, his/her spouse or pegal partner, or by dependent

children. The stipend will be offered as a reimbursement of vision care expenses incurred and will be paid to the employee after proper receipts/documentation is provided.

12.E. LIFE INSURANCE

The City may offer the cost of life insurance to employees in conjunction with medical insurance, although the City assumes no obligation to do so.

12.F. UNEMPLOYMENT COMPENSATION

As required by State law, all City employees are covered under the California Unemployment Compensation Program. Further information can be obtained by contacting the local State of California Employment Development Department.

12.G. CITY RETIREMENT PLAN

The City has available to all employees an Internal Revenue Code (IRC) Section 457 Plan.

Deferred compensation is an IRS-approved method of deferring federal and state income taxes on savings until retirement. Taxes are paid, on both savings and earnings, when they are withdrawn during retirement, or upon separation from City employment.

An employee may defer a maximum allowable by law per calendar year. The employee may increase, decrease, stop and restart voluntary contributions not more than once a quarter.

For all full-time permanent employees, or as determined by an employee's contract, where applicable, the City will provide the following:

1. 6% of the employee's salary as the automatic City contribution;
2. up to an additional amount of 6% of the employee's salary based on the level of contribution by the employee.

Payments into the 457 program are made at every pay period.

In accordance with IRS rules, an employee may not withdraw these assets unless there is a bonafide emergency which is unforeseeable, unbudgetable, severe, beyond the employee's control, and must represent a last resort. A request for emergency withdrawal must be documented and supported in writing to the City Manager.

12.H MEDICARE

By law, effective after April 1, 1986, all employees must have a certain percentage deducted from their gross pay for Medicare. The City will deduct the employee contributions in accordance with Federal law. The City shall pay the employer's share, which is equal to the employee's share.

12.J CLOTHING/UNIFORM/EQUIPMENT ALLOWANCE

Some employees, by the nature of their job requirements, may require special clothing, uniforms, or equipment.

SECTION 13: STAND-BY AND CALL-OUT

13.A CALL-OUT

In the event non-exempt employees who are not assigned to stand-by duty are called out to work during normal off-duty hours to protect the public health or safety, they will be compensated at time-and-one-half for actual time worked, with a minimum of two hours credit for each call out. For the purpose of this Section, actual time worked shall include all time from the time the employee leaves home to respond to the call until the employee has returned home. Call back shall be defined as having to return to work after having left work.

SECTION 14: TRAINING

14.A TRAINING

The City recognizes the importance of employee development and training. In an effort to improve the capabilities and effectiveness of City personnel, the costs of required training will be paid by the City as needs are established and funding is available. This training effort shall be geared to both organizational improvement and individual employee development. This development shall not only be the responsibility of the City Manager, but shall be shared with employees in a total organizational effort.

14.B 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 such as computers, copiers, telephones, supervisory, writing skills, etc.

14.C DEPARTMENTAL TRAINING

City departments and divisions are encouraged to offer specialized training to their employees. Such training shall be the responsibility of the Department or Division Head and may include topics such as safety, equipment operation and other training in their specific fields of responsibility.

14.D TRAINING COURSES

The City shall encourage local educational resources to offer courses and workshops at City facilities on matters in which employees of several departments may benefit. Such courses may be offered periodically in such areas as management, supervision, communications, time management, stress management, writing skills, etc.

14.E SEMINARS AND CONFERENCES

Employees may attend seminars or conferences covering current issues and areas relevant to their positions under the following conditions:

1. Employees must submit their request on forms prescribed by the Finance Manager and follow all applicable procedures.

2. Budgeted funds must exist for all such training and any travel. In-state and out-of-state attendance shall require approval by the City Manager.
3. Employees must comply with the City's Administrative Travel Policy and provide necessary receipt documentation.
4. Employees who have recently received such training must be willing to provide "in-house" training to other employees, if requested.

14.F TRAINING AND TRAVEL REIMBURSEMENT

In accordance with the Fair Labor Standards Act (FLSA), employees who are not exempt from FLSA 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 City Manager. 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 or 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 City Manager 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 workplace is not work time and shall not be treated as hours worked. When an employee is assigned by the City Manager to travel outside of the City, time 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 his or her residence and regular workplace.

When an employee is assigned to travel outside the City, return the same day, and he or she utilizes public transportation, the time spent traveling between the employee's home and the location of the public carrier (i.e., airport, 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.



AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 9 PAGES

1. Agreement between City and County for Enhanced Library Services.

DISCUSSION AGENDA ITEM

Date: July 31, 2013

Item: Agreement between City and County for Enhanced Library Services

Background: On May 22, 2013, the City authorized the City Manager to sign the Memorandum of Understanding between the County of Humboldt and the City with respect to library services. This document sets forth the respective responsibilities, with the County providing staffing and collection materials and the City providing utilities and building maintenance services.

There has been considerable interest expressed in providing for additional operational hours in order for the new facility to be open an additional day on Thursdays. Currently the library hours are limited to Saturday and Tuesdays only. The cost for an additional four hours of staffing at the rate of \$13.26 per hour, is \$2,758 per year. The FY 2013-14 budget adopted by the City includes \$1,152 to enhance library services. The Friends of the Trinidad Library have agreed to fund the difference between the \$2,758 annual cost and the City budget of \$1,152, or \$1,606 per year.

The attached agreement will provide for the City to reimburse the County for the cost of staffing the library an additional 4 hours per week to enable the library to offer open hours on Thursdays. The City would be responsible for collecting the contribution made by the Friends.

Proposed Action: Authorize the City Manager to execute the attached agreement.

Attachment

**GRANT AGREEMENT BETWEEN COUNTY OF HUMBOLDT AND
CITY OF TRINIDAD MAKING ENHANCED LIBRARY SERVICES AVAILABLE FOR THE TRINIDAD
COMMUNITY**

This grant agreement (hereinafter "Agreement") is made and entered into this _____ day of _____, 2013, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as COUNTY, and the City of Trinidad, a municipal corporation, hereinafter referred to as CITY. COUNTY and CITY are hereinafter referred to collectively as PARTIES.

RECITALS

WHEREAS, CITY, in collaboration with the Friends of the Trinidad Library ("Friends"), desires to enhance library services available for the Trinidad community; and

WHEREAS, COUNTY operates the County Library ("Library") by providing library services at various locations throughout the County of Humboldt but has limited funding available to enhance services at any individual location; and

WHEREAS, CITY, in collaboration with Friends, has funding available for the purpose of enhancing Library services available to the Trinidad community; and

WHEREAS, COUNTY is willing to offer enhanced services to the Trinidad community contingent on enhanced funding;

NOW, THEREFORE, the parties mutually agree as follows:

1. PROJECT DESCRIPTION

COUNTY shall provide the services specified in Exhibit A (the "Project"), attached hereto and incorporated herein. In consideration for provision of these services, CITY agrees to pay COUNTY a sum not to exceed five thousand dollars (\$5,000) to cover COUNTY'S costs in carrying out the Project during the initial term, and sums not to exceed five thousand dollars per term for each renewal term pursuant to section 2. Costs for service hours and administration for each year shall be as set forth in the Project Budget attached hereto as Exhibit B and incorporated by reference. The

Director of Library Services, on behalf of COUNTY, and the City Manager, on behalf of CITY, are hereby authorized to execute subsequent annual Project Budgets.

2. TERM

The term (the "Term") of this Agreement is August 1, 2013 to July 31, 2014, unless extended by the written agreement of the PARTIES. The Agreement shall automatically renew on its termination date for a subsequent one-year period unless terminated as provided herein.

3. RELATIONSHIP OF PARTIES

Nothing herein shall be construed as creating a partnership or joint venture between CITY and COUNTY.

4. ASSIGNMENT

Neither party shall assign its obligations under this Agreement without the prior written consent of the other. Any assignment in violation of this provision shall be void, and shall be cause for immediate termination of the Agreement.

5. ENTIRETY OF CONTRACT

This Agreement shall constitute the entire Agreement between the parties relating to the Project, and shall supersede any previous agreements, promises, representation, understanding and negotiation, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms which are embodied in this Agreement are hereby ratified. The Project shall be subject to the provisions of the Memorandum of Understanding for provision of library services entered into between PARTIES as of June 18, 2013.

6. AMENDMENT

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the PARTIES.

7. TERMINATION

This Agreement may be terminated prior to the expiration of the Term only as follows, and any such termination shall not affect any rights or obligations of the PARTIES arising prior to the effective date of termination:

A. **Termination for Convenience.** At any time and for any reason, upon thirty (30) days written notice either party may terminate this Agreement. CITY shall pay only for those services rendered as of the date when termination is effective.

B. **Termination for Cause.** If, in the opinion of CITY, COUNTY fails to perform the Project required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement as determined at the sole discretion of CITY, or violates any ordinance, regulation, or other law which applies to its performance herein, CITY may terminate this Agreement immediately, effective on the date of notice. In such event, CITY may exercise any of its rights under this Agreement or available to it under the law.

If, in the opinion of COUNTY, CITY fails to make timely payment for the Project as required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement as determined at the sole discretion of COUNTY, or violates any ordinance, regulation, or other law which applies to its performance herein, COUNTY may terminate this Agreement immediately, effective on the date of notice. In such event, COUNTY may exercise any of its rights under this Agreement or available to it under the law.

C. Termination for Lack of Funding. Should CITY experience any loss of its funding that renders CITY unable to continue to support the Project provided by COUNTY as described in this Agreement, CITY may terminate this Agreement immediately, effective on the date of notice.

9. NOTICES

Notices shall be given to COUNTY at the following address:

Director of Library Services
Humboldt County Library
1313 Third Street
Eureka, CA 95501

Notices shall be given to CITY at the following address:

City Manager
City of Trinidad
409 Trinity Street
Trinidad, CA 95570

Notice shall be in writing and may be given by delivering a copy of said notice to CITY or COUNTY personally, or by mailing a copy of said notice to CITY or COUNTY. If mailed, notices shall be deemed received two (2) days after their deposit in the United States mail, postage prepaid and addressed as set forth above.

10. COMPLIANCE WITH APPLICABLE LAWS

PARTIES shall comply with any and all applicable federal, state and local laws.

11. JURISDICTION AND VENUE

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt.

12. SEVERABILITY

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

13. NO WAIVER

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other provision of this Agreement.

14. MEDIA RELEASE

All press releases and informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers, Internet). In addition, CITY shall inform COUNTY of requests for interviews by media related to this Agreement prior to such interviews taking place. COUNTY reserves the right to have a representative present at such interviews.

15. NUCLEAR FREE CLAUSE

CITY certifies by its signature below that CITY is not a Nuclear Weapons contractor, in that CITY is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CITY agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this Agreement if it determines that the forgoing certification is false or if CITY becomes a nuclear weapons contractor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first herein above written.

COUNTY OF HUMBOLDT

BY _____

CHAIR, BOARD OF SUPERVISORS

BY _____

DEPUTY COUNTY COUNSEL

CITY OF TRINIDAD:

BY _____

CITY MANAGER

EXHIBIT A: PROJECT

As of the date of this Agreement, COUNTY provides library services at the Trinidad Branch Library that include 11 hours of open service to the public weekly (the "Base Open Hours"). PARTIES acknowledge that COUNTY, through its Board of Supervisors, may establish the dates and times for the Base Open Hours and may increase or decrease the Base Open Hours depending upon the availability of funding.

This Project will provide additional hours of open service to the public weekly (the "Enhanced Open Hours") beyond the Base Open Hours. COUNTY agrees to provide staffing for the Trinidad Branch Library for the Enhanced Open Hours as specified in the Project Budget (Exhibit B). COUNTY agrees that the Enhanced Open Hours shall be scheduled on a different day of the week than any Base Open Hours.

CITY agrees reimburse COUNTY for costs in carrying out the Project. To provide reimbursement to COUNTY for administrative costs associated with opening and closing the library facility, CITY will pay COUNTY an hourly rate for one-half hour weekly more than the number of Enhanced Open Hours (i.e., payment for 3.5 hours of service to the public shall be based on 4 hours of staff time). The hourly rate as of August 1, 2013, shall be Thirteen Dollars and Twenty-Six Cents (\$13.26). COUNTY shall provide CITY thirty (30) days advanced notice prior to any increase in the hourly rate.

COUNTY shall submit an invoice, quarterly, to CITY itemizing all work completed and costs incurred as of the invoice date. Payment for work performed will be made within thirty days after receipt of the invoice. Although payment will customarily be made in arrears, COUNTY may request prospective payment. Prospective payments must be approved in writing by CITY. CITY shall be solely responsible for collecting any contribution made by the Friends to the cost of providing the Enhanced Open Hours.

In the event that the Enhanced Open Hours fall on a COUNTY holiday, COUNTY shall be relieved of the responsibility to provide the Enhanced Open Hours during the week of the holiday conflict and CITY shall be relieved of the responsibility to pay for the Enhanced Open Hours during that week.

EXHIBIT B: PROJECT BUDGET

For the period August 1, 2013, through July 31, 2014, COUNTY shall provide 3.5 hours of Enhanced Open Hours service at the Trinidad Branch Library. In consideration, CITY shall pay COUNTY for 4 hours weekly at the rate of \$13.26 per hour. The expected total cost to CITY for this Project Budget period is Two Thousand Seven Hundred Fifty-Eight Dollars and Eight Cents (\$2,758.08).

On behalf of COUNTY,

Victor Zazueta, Director of Library Services

On behalf of CITY,

Karen Suiker, City Manager



AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 10 PAGES

2. Consider adoption of Solid Waste Management Ordinance 2013-03, and give direction regarding sole source negotiation with franchise provider.

DISCUSSION/ACTION AGENDA

Date: July 31, 2013

Item: Solid Waste Management Ordinance

Background: In 2008 the City Council adopted Resolution 2008-11 requesting that the City of Trinidad become a member of the Humboldt Waste Management Authority (HWMA). At that time, City staff was concerned about HWMA's financial situation and neither organization pursued the issue. The City Council subsequently reaffirmed its desire to join HWMA at their meeting of January 13, 2010. In order to be considered for membership, a proposing member must be able to demonstrate flow control of solid waste, which can be accomplished by adoption of a solid waste ordinance. Such an ordinance is attached for council consideration.

In addition to flow control, the attached ordinance establishes the regulatory framework to assess and collect fees for garbage collection, establish applicable standards, provide for enforcement, penalty assessment and recovery, and additionally, the ordinance would enable the City to establish a fee structure to fund waste and waste diversion activities.

Once an ordinance is adopted, the City will be in a position of proposing membership in HWMA, and the current members will each need to approve Trinidad's joining of the Authority.

In addition to Ordinance consideration, the Council will in the near future be asked to consider a franchise agreement for solid waste and recyclable collection services. Toward that end, it is recommended that the Council authorize staff to sole source negotiate with Humboldt Sanitation (HumSan). HumSan already has a long term franchise agreement with the County for the northwestern area which means trucks are presently serving the surrounding area, and HumSan is familiar with Trinidad customers as they have been providing sanitation services to the City of Trinidad for many years. Provisions that staff will negotiate might include, but are not necessarily limited to the following:

- Pick up of city garbage twice/week at no cost to city Tuesdays and Fridays, with franchiser to provide 3 yard container for this purpose
- Allow for city staff self-haul of green waste and electronic waste to Humboldt Sanitation at no charge to city;
- Franchiser to provide suitable container and removal of same for twice a year residential green waste pickup and once a year scrap metal pickup.

- Five year agreement with possible multi-year extension with concurrence of both parties.
- Rate structure equal to the rate structure in place with the agreement with the County of Humboldt.

Staff has solicited a legal opinion and has been advised that there is no state law provision requiring a garbage haul contract to be put out for public bid. That is, however, an available option should the council determine that to be in the best interests of the citizens of Trinidad.

Proposed Action:

1. Adopt Ordinance No. 2013-03 to provide for the Public Health, Safety and Welfare by Managing Solid Waste with the City of Trinidad
2. Direct staff to transmit the adopted Ordinance to HWMA and request its members approve Trinidad's joining of the Authority.
3. Authorize staff to sole source negotiate with Humboldt Sanitation on a franchise agreement to be brought back for council consideration in the future.

Attachment:

Ordinance No. 2013-03



ORDINANCE 2013-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY AND WELFARE BY MANAGING SOLID WASTE

The City Council of the City of Trinidad does ordain as follows:

SECTION 1. Purposes.

The purposes of this Ordinance are:

- 1.1 To comply with the requirements of the California Integrated Waste Management Act of 1989 as amended, Public Resources Code Section 40000 et seq., which requires the City to divert at least 50% of discarded materials from landfill disposal.
- 1.2 To create a cost effective solid waste and recyclable materials collection system in order to increase the diversion of recyclable materials from landfill disposal.
- 1.3 To provide an enforcement mechanism to ensure that residential properties, businesses, commercial and non-residential properties provide for the proper storage and collection of solid waste and recyclable materials.
- 1.4 To protect the public health, safety, and welfare of the City by reducing or eliminating health hazards, fire hazards, offensive odors, and unsightly litter attributable to accumulations of solid waste.
- 1.5 To create a system of solid waste management that directs materials collected from the curb into the County-wide processing and disposal system, in order to participate in economic efficiencies of scale.

SECTION 2. Exclusive Rights of City, City Responsibility.

- 2.1 The City holds exclusive authority to manage and regulate Solid Waste, including but not limited to regulations regarding the storage, collection, transportation, processing and disposal of Solid Waste. Such authority includes the right to determine the methods by which such regulation occurs, for example, through contract, permit, franchise, or another method. The City may enter into exclusive or non-exclusive contracts or franchises for the collection and transportation of Solid Waste including Recyclable Materials. No person, entity, organization or firm is authorized to collect such Solid Waste without authorization or permission from the City. Nothing in this Chapter shall be construed as restricting or interfering with a Generator's right to transport Recyclable Materials not regulated by this Ordinance produced by such person or on such person's premises to a recycling facility, provided that transportation occurs in accordance with the provisions of this Ordinance.

SECTION 3. Duty to Assure Removal of Solid Waste.

- 3.1 Every Generator of Solid Waste has the duty to provide, as herein required, for the storage, removal, and/or composting, or recycling of all Solid Waste materials produced on the premises occupied by him or her in compliance with the provisions of this Chapter where applicable, and in a manner that does not create a public nuisance or health hazard. Failure to comply with the requirements of this Ordinance is hereby deemed a public nuisance which may be subject to abatement by the City.

SECTION 4. Definitions.

Unless the context requires otherwise, the definitions in this section govern the construction of this Ordinance. The definition of a word applies to any of that word's variants.

- 4.1 Authorized Recycling Collection Contractor. Any person or entity that the City has authorized to collect Recyclable Materials in the City pursuant to franchise, contract or permit granted in accordance with the provisions of this ordinance.
- 4.2 Authorized Solid Waste Collection Contractor. Any person or entity that the City has authorized to collect Solid Waste for landfill disposal in the City pursuant to franchise, contract or permit granted in accordance with the provisions of this Ordinance.
- 4.3 Customer. A natural person, business or entity who has signed up to receive collection services by the Authorized Solid Waste or Recyclable Materials Collection Contractor.
- 4.4 Designated Recyclable Materials. Recyclable Materials designated by the Manager as subject to curbside collection.
- 4.5 Generator. Any person, firm, or entity that generates Solid Waste.
- 4.6 Hazardous Waste. A waste defined as a "hazardous waste" in accordance with Section 25117 of the Health and Safety Code, or a combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:
- 4.6.1 Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
 - 4.6.2 Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.
- 4.7 Household Hazardous Waste. Hazardous Waste commonly occurring in households, including but not limited to motor oils, latex paints, solvents or oil-based paints, batteries, pesticides and cleansers.
- 4.8 Landfill Disposal Facility. Any state permitted facility or location where landfill disposal of Solid Waste occurs or where Solid Waste for landfill disposal may be deposited, for example, a transfer station.
- 4.9 Manager. The City Manager for the City of Trinidad, or his/her designee.
- 4.10 Recyclable Materials. Materials that have been Source Separated from the Solid Waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products in the market place and that are not land-filled. Recyclable Materials include any materials identified by the Manager for which a market exists, including but not limited to: plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, cans, as well as

compostable materials such as green waste, yard waste or food waste.

- 4.11 Recycle. The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise be disposed of, and returning them to the economic mainstream in the form of raw material for new, re-used, or reconstituted products which meet the quality standards necessary to be used in the market place.
- 4.12 Recycling Facility. A facility designated or permitted by the City to process recyclable material.
- 4.13 Single-Family Unit. Premises used for or designated as a single-family residential dwelling, irrespective of whether residents therein are transient, temporary, or permanent.
- 4.14 Solid Waste.
- 4.14.1 Except as provided in subdivisions 2, 3, and 4, Solid Waste includes, but is not limited to, all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de-watered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semi-solid wastes, yard waste and other discarded solid and semi-solid wastes, Recyclable and Compostable materials.
- 4.14.2 Solid Waste does not include low-level radioactive waste regulated under Chapter 7.6 of Division 20 of the Health and Safety Code.
- 4.14.3 Solid Waste does not include medical waste, which is regulated pursuant to the Medical Waste Management Act, Division 20 of the Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility. Medical waste which has been treated and which is deemed to be Solid Waste shall be regulated pursuant to this Ordinance.
- 4.14.4 Solid Waste does not include Hazardous or Household Hazardous Waste.
- 4.15 Solid Waste Collection Services. Services provided by an Authorized Solid Waste Collection Contractor for the collection of Solid Waste materials which may include Solid Waste for Landfill Disposal and/or Designated Source Separated Recyclable Materials.
- 4.16 Solid Waste For Landfill Disposal. Solid Waste material intended by the Generator for landfill disposal.
- 4.17 Source Separated. The process of removing Recyclable Materials from Solid Waste at the place of discard, prior to collection, into separate containers that are separately designated for collection.
- 4.18 Special Waste. Non-rotting Solid Waste material from dwelling units, institutional, commercial, industrial, or agricultural establishments that requires special collection, handling, treatment, and/or disposal techniques or permit changes for disposal.

SECTION 5. Collection Service.

- 5.1 Collection Authorized. The City may enter into an exclusive contract(s) or franchise agreement(s) for the purpose of collecting Solid Waste for Landfill Disposal and/or Designated Recyclable Materials. No other person, entity, organization or firm is authorized to collect Solid Waste for Landfill Disposal or Designated Recyclable Materials.

SECTION 6. Collection Containers.

- 6.1 Containers. All Solid Waste and Designated Recyclable Materials for collection shall be placed in containers or bags at the location as designated by the Manager. Such containers and bags shall be maintained at all times in good repair and in a clean, neat and sanitary condition. Containers shall be kept covered at all times except when depositing or removing Solid Waste or Recyclable Materials. Containers and bags shall be stored on private property unless the owner has been granted written permission by the City to use public property for such purposes. The weight of any individual container or bag when filled within four inches of the top shall not exceed 1.25 pounds per gallon.
- 6.2 Source Separation. In the event the City authorizes the collection of Designated Recyclable Materials, said Materials shall be Source Separated by the Generator and placed into the container provided or required for collection.
- 6.3 Storage, General. The area used for storage of any Solid Waste and Recyclable Material shall be maintained at all times in a clean, neat and sanitary condition, in such a manner that does not create a health or safety hazard, and does not litter public or private property, including the premises of the Generator. Solid Waste and Recyclable Material may not be stored on or in front of any premise in an unsightly manner. The Manager may establish additional container and/or storage requirements as needed to maintain the public health and safety.
- 6.4 Unauthorized Containers. Each use of a container for Solid Waste or Recycling materials other than that provided or required by the Authorized Solid Waste or Recycling Collection Contractor, and each use of a container which does not meet the weight limitations, shall constitute a separate and distinct offense punishable as provided in this Chapter. In all situations of non-conforming containers, a warning notice shall be mailed to the Customer and/or property owner advising of applicable provisions of this Chapter.

SECTION 7. Collection Requirements, General.

- 7.1 Point of Collection. The Manager may specify the placement of Solid Waste and Recyclable Materials for collection on the curb or alley, and may also specify the size type or kind of container for collection. When space restraints exist, the Manager may require Customers to utilize combined collection containers. It shall be presumed that materials placed in specified collection containers at a point of collection in accordance with this Chapter are to be collected by an Authorized Collection Contractor.
- 7.2 Collection Intervals. Solid Waste shall be collected weekly, monthly, bi-monthly, or more or less frequently as determined necessary by the Manager to protect the public health and safety. Recyclable Materials shall be collected at frequencies established by the City in the collections service contract or franchise agreement.
- 7.3 Time Limit on Container Placement at Curb. Containers containing Solid Waste or Recyclable Materials placed on the curb for collection shall be placed not more than twelve (12) hours prior to the collection date and shall be removed not more than twelve (12) hours subsequent to the collection date.
- 7.4 Authority To Enter Upon Private Property. The City, its employees, and Authorized Solid Waste and Recycling Collection Contractors are authorized to enter upon and/or across private property for the sole purpose of collecting Solid Waste and Recyclable Materials as required by this Chapter. Authorized Solid Waste and Recycling Collection Contractors shall not enter dwelling units or other residential buildings for collection purposes. Owners of Commercial premises may provide written permission for an Authorized Solid Waste or Recycling Collection Contractor to enter such premises for collection purposes.

7.5 Responsibilities at Point Of Collection.

- 7.5.1 Authorized Solid Waste and Recycling Collection Contractors shall be responsible for the collection of Solid Waste and Recyclable Materials from the point of collection to the transportation vehicle provided that Solid Waste and Recyclable Materials are placed in containers as required by this Chapter. Any spillage or blowing litter occurring prior to the arrival of Authorized Solid Waste Collection Contractor at the point of collection shall be collected and cleaned up by the Generator of such Solid Waste. Any spillage or blowing litter caused as a result of the Authorized Solid Waste Collection Contractor shall be collected and cleaned up by the Solid Waste Collection Contractor.
- 7.5.2 Authorized Solid Waste and Recycling Collection Contractors shall not be required to reach into containers to remove any contents.
- 7.5.3 Containers emptied by Authorized Solid Waste and Recycling Collection Contractors shall be returned to the point of collection.

7.6 Special Collections. The Manager may require an Authorized Solid Waste Collection Contractor to make Solid Waste collections in addition to those ordinarily scheduled, when necessary, to protect the public health and safety. Fees for such special collections shall be established by resolution of the City Council.

7.7 Vehicle Standards. Vehicles used by Authorized Solid Waste or Recycling Collection Contractors to transport Solid Waste for Landfill Disposal or Recyclable Materials shall be maintained in a safe, clean, and sanitary condition, and shall be constructed, maintained, and operated to prevent litter spillage, leakage, emission of offensive odors, or creation of a health or safety hazard.

7.8 Liability Insurance. No contracts or franchises for Solid Waste collection services shall be entered into by the City until and unless the prospective contractor or franchiser shall procure and maintain for the duration of the contract or franchise, general liability, pollution liability and workers' compensation insurance in connection with the performance of the work thereunder by the contractor or franchiser, its agents, representatives, employees or subcontractors. Coverages, minimum limits of insurance, deductibles, self-insured retentions, as well as all other insurance provisions, shall be in a form and amount satisfactory to the City.

SECTION 8. Ownership of Solid Waste and Recyclable Materials.

- 8.1 Solid Waste. Solid Waste for Landfill Disposal shall remain the property of the Generator even after such Solid Waste is placed at a point of collection or into a bulk container for collection or is deposited in violation this Chapter. The Generator of Solid Waste shall retain ownership of such Solid Waste even after its collection.
- 8.2 Recyclable Materials. Source Separated Recyclable Materials placed on the curb for collection shall become the property of the Authorized Solid Waste or Recycling Collection Contractor, or of the City, as set forth in the agreement for collection of Recyclable Materials entered into by the City and such contractor.
- 8.3 Self Haul of Own Recyclable Materials. Nothing in this Chapter limits the right of any person to donate, sell or otherwise dispose of his or her own Recyclable Materials. The transportation of any such Materials shall occur in a manner that does not create any litter spillage, leakage, emission of offensive odors, or creation of a health or safety hazard.

SECTION 9. Disposal of Solid Waste, Processing of Recyclable Materials.

- 9.1 Disposal at Approved Sites Only. All Solid Waste and Designated Recyclable Materials shall be

deposited at a processing facility or disposal site designated by the City, approved by the State and in compliance with all relevant requirements of local, state, and federal laws and regulations. Authorized Solid Waste and Recyclable Collection Contractors shall transport collected Solid Waste and Recyclable Materials to facilities as specified in the collection agreement entered into by the City and such contractor.

- 9.2 Unlawful Disposal. It shall be unlawful for any person to throw or deposit any Solid Waste, or to cause the same to be thrown or deposited, in or upon any street, alley, gutter, park, body of water or other public property, or to throw or deposit Solid Waste for landfill disposal in or upon any private property or body of water. It shall be unlawful for any person to place Solid Waste into any Solid Waste disposal container without authorization from the City or Customer having possession of such container.
- 9.3 Placement in City Waste Containers Prohibited. City Solid Waste containers are placed in City parks and other public areas for the use by the public to control trash, litter and garbage generated at their respective locations. Such waste containers are not to be used as disposal sites for trash or rubbish which is generated off site. It is unlawful for any person to place, dump, deposit or throw away Solid Waste, Recyclable Material, yard waste, or other refuse or debris of any kind or character whatsoever in City Solid Waste containers if such was generated at a location other than where the waste container is located.

SECTION 10. Hazardous Waste.

- 10.1 Hazardous Waste Segregation, Disposal. All Generators of hazardous waste shall segregate such hazardous waste from all other Solid Waste.
- 10.2 Hazardous Waste Disposal. No person, entity or firm may knowingly cause or permit hazardous waste to be collected or transported to a Landfill Disposal Facility, except in accordance with State and Federal law.
- 10.3 Violations. Any person, entity or firm found in violation of this section shall be guilty of a misdemeanor. Any and each such placement of hazardous materials shall constitute a separate and distinct offense.

SECTION 11. Other Solid Waste Materials.

- 11.1 Collection of Other Solid Waste and Recyclable Materials. The City may enter into exclusive and non-exclusive contracts or franchise agreements, or issue permits for collection services of non-Designated Recyclable Materials, including but not limited to collection of such items as Green Waste, Bulky Goods, and Food Waste, in which case the applicable provisions of this Chapter shall apply.
- 11.2 Grading, Demolition, and Construction Waste. Grading, demolition and construction wastes shall be confined to the property on which grading, demolition or construction occurs, and shall be removed by the owner or his agents immediately after such demolition or construction is completed.
- 11.3 Special Waste. Special wastes shall be confined to the property upon which they originate in such a manner that does not create a health or safety hazard. No items of special wastes shall be stored on or in front of any premises in an unsightly manner. The collection and/or transportation of special wastes to a disposal or processing facility shall be the responsibility of the Generator of said special wastes, and such collection and/or transportation shall occur in a timely fashion.
- 11.4 Green Waste. Tree limbs, brush, and other yard waste which cannot be composted, shall be

confined to the property upon which it originates in such a manner that does not create a health or safety hazard. The Generator of such green waste shall be responsible for making prompt arrangements to have such green waste collected and transported to a disposal or processing facility in a timely fashion.

- 11.5 Abandoned Solid Waste. When the Generator of Solid Waste cannot be located or identified, the owner of the premises or property on which such Solid Waste is found shall be responsible for the storage, collection, and/or processing of such Solid Waste materials in accordance with this Chapter.

SECTION 12. Additional Prohibited Acts.

- 12.1 Unauthorized Collection Prohibited. It shall be unlawful for any person other than the Generator or an Authorized Solid Waste or Recycling Collection Contractor to remove Solid Waste or Designated Recyclable Materials which have been placed on a curb or alley for collection.
- 12.2 Placement of Unauthorized Materials. It shall be unlawful for any person to place any object or item of any kind or character except the authorized Solid Waste or Recyclable Materials on a curb or alley for collection by an Authorized Solid Waste or Recycling Collection Contractor.
- 12.3 Interference. It shall be unlawful for any person to interfere in any manner with Solid Waste collection equipment or Solid Waste Collection Contractors in the lawful performance of their duties as such, whether such equipment or collectors are those of the City or of an Authorized Solid Waste Collection Contractor.
- 12.4 Burning. It shall be unlawful for any person to burn Solid Waste except in accordance with all applicable federal, state and local laws.
- 12.5 Accumulation of Materials Constituting a Hazard. It shall be unlawful for any person to create or allow to be created or maintained upon any premises owned, occupied or managed by such person any accumulation of materials that are dangerous as a fire menace or hazard to the public health, safety and welfare.

SECTION 13. Rates and Charges.

- 13.1 Rate Determination. Customer rates for collection services shall be established by the City Council.
- 13.2 Billing For Services. The Authorized Solid Waste and Recycling Collection Contractor shall be responsible for billing the collection subscribers in accordance with provisions set forth in a franchise agreement awarded by the City to the Authorized Solid Waste and Recycling Collection Contractor.

SECTION 14. Enforcement and Penalties.

- 14.1 Inspection. In order to ensure compliance with this ordinance and the California Integrated Solid Waste Management Act, the City is authorized to inspect any and all phases of Solid Waste management within the City. No inspection shall be made in any dwelling unit unless authorized by the occupant, or in accordance with due process of law. In all cases where such inspections reveal a violation of the provisions of this ordinance, the Manager shall issue a notice for each such violation stating therein the violation or violations found, the applicable law and regulations, and the time period within which corrective action shall be taken.
- 14.2 Penalties. Any person violating the provisions of this ordinance shall be guilty of an infraction

for each offense unless otherwise specified herein. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues and for each activity in violation of this Chapter. The fact that Solid Waste remains on an occupant's premises in violation of this ordinance shall be "prima facie" evidence that the occupant of the premises is responsible for the violation hereof.

SECTION 15. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

SECTION 16. This ordinance will take effect thirty (30) days after the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Trinidad, State of California, on Wednesday, July 10, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

First Reading:

Second Reading:

Attest:

Gabriel Adams
Trinidad City Clerk

Julie Fulkerson
Mayor