

CITY OF MENDOTA
PERSONNEL RULES

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I. PERSONNEL SYSTEM

A. ADOPTION OF PERSONNEL SYSTEM

In order to establish an equitable and uniform system for dealing with personnel matters, and to comply with applicable laws relating to the administration of the personnel process, the Mendota Personnel Rules are hereby adopted. Use of the masculine pronoun, except where expressly limited, shall include the feminine pronoun.

1. Definitions

The terms used to administer the Mendota Personnel Rules are defined as follows:

- *"Advancement"* means a salary increase within the limits of a pay range established for a class.
- *"Allocation"* means the assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.
- *"Anniversary date"* means the first day of employment with the City of Mendota.
- *"Class"* means positions sufficiently similar in duties, authority, and responsibilities that permit grouping under a common title, and the application of common standards, including but not limited to selection, transfer, demotion and salary.
- *"Competitive service"* means all positions of employment in the service of the City except those excluded by the personnel rules or by resolution of the City Council. This provision shall not be construed as a waiver of any rights under the Meyers-Milias-Brown Act.
- *"Days"* means calendar days, unless otherwise stated.
- *"Demotion"* means the movement of an employee from one class to another class having a lower maximum base rate of pay.
- *"Disciplinary action"* means punitive action against a regular employee as described in these Personnel Rules, and shall not include any counseling or performance evaluation.

- *"Eligible"* means person whose name appears on an employment list.
- *"Employment List"* means:
 - *"Open employment list"* means a list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified.
 - *"Promotional employment list"* means a list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.
- *"Examination"* means:
 - *"Open-competitive examination"* means an examination for a particular class that is open to all persons meeting the qualifications for the class whether or not they are employed by the City.
 - *"Promotional examination"* means an examination for a particular class that is open only to employees meeting the qualifications for the class.
 - *"Continuous examination"* means an open-competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than six (6) months.
- *"Grievance"* means a claimed violation of certain rules or provisions as defined in Section VII of the City Personnel Rules.
- *"Lay-off"* means the separation of employees from the active work force due to lack of work or funds or to the abolition of positions by the City Council.
- *"Management Employees"* means the positions described in the Personnel Rules (I, C).
- *"Personnel Officer"* means the City Manager, or his or her designee, who have the final authority to appoint to or remove persons from positions of employment in the City in accordance with Municipal Code 2.12.040.

- *"Position"* means a group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.
- *"Probationary employee"* means an employee who has been appointed to a position but has not completed the probationary period.
- *"Probationary period"* means a one (1) year period of actual service to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.
- *"Promotion"* means the movement of an employee from one class to another class having a higher maximum base rate of pay.
- *"Provisional appointment"* means an appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class on a provisional basis for a limited or definite duration. Provisional employees do not hold regular status in their position and may be dismissed from employment at any time without cause, right to appeal, or grievance.
- *"Re-Employment"* means restoration without examination of a former regular, non-probationary employee to the same or a lower classification in which the employee previously served prior to layoff or demotion.
- *"Regular employee"* means an employee in the competitive service who has successfully completed the probationary period and has been retained as provided in these rules.
- *"Reinstatement"* means the restoration without examination of a former regular employee, or probationary employee who has completed at least six (6) months of the probationary period, to a classification in which the employee formerly served as a regular non-probationary employee.
- *"Relief of duty"* means the temporary non-punitive assignment of an employee to a status of leave with pay.
- *"Suspension"* means the temporary separation from service of an employee without pay for disciplinary purposes.

- "*Temporary employee*" means an employee who is appointed to an authorized position for a limited period of time, not to exceed one year.
- "*Transfer*" means a change of an employee from one position to another position in the same class or in a comparable class.

B. ADMINISTRATION

The City Manager shall administer the Mendota Personnel Rules and shall hold the position of Personnel Officer. He/she may delegate the appointing authority and the duties granted herein to any other officer or employee of the City. The City Manager shall have the following duties and responsibilities:

1. To act as the appointing authority for the City except where the City Council has the authority to appoint by resolution, or otherwise;
2. To administer the provisions of the Personnel Rules not specifically reserved to the City Council;
3. To prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan, subject to approval by the Council;
4. To prepare or cause to be prepared a plan for compensation of all classifications in the competitive service, subject to approval by the Council;
5. To have the authority to discipline employees in accordance with these Rules; and
6. To provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications therefore; the conducting and grading of tests; the certification of lists of persons eligible for appointment in the competitive service; and the performing of any other duty that may be required to administer the Personnel Rules.

C. COMPETITIVE SERVICE

The provisions of the Personnel Rules adopted herein shall apply to all officers, positions and employees in the service of the City of Mendota, except the Personnel Rules I, II, V, VI, and VII of these Rules shall not, unless otherwise and specifically described, apply to the following:

1. Elective Officers:
2. Contract Employees:

- (a) The City Manager;
 - (b) The City Attorney; and
 - (c) The City Engineer.
3. Management Employees:
- (a) Finance Director;
 - (b) City Clerk;
 - (c) Public Works Director;
 - (d) Public Utilities Director;
 - (e) Administrative Services Director;
 - (f) Chief of Police;
 - (g) Economic Development Director; and
 - (h) Such other personnel as may be designated by the City Council.
4. Middle Management Employees
5. Persons engaged under contract to supply expert, professional, technical or other services.
6. Volunteer personnel.
7. City officers and officials appointed directly by the City Council, including appointive boards and commissions.
8. Emergency employees hired to meet the immediate requirements of an emergency condition, such as an extraordinary fire, flood or earthquake, which threatens life or property.
9. Employees other than those listed elsewhere in this section who are not regular employees of the City.
10. Any non-permanent position primarily funded under a State or Federal employment training program This provision shall not be construed to include other personnel hired under Federal or State subsidy programs
11. Probationary employees.

12. Employees not included in the competitive service under this section are at-will employees and shall serve at the pleasure of the Personnel Officer, including but not limited to those positions listed in this section and all part-time, provisional or temporary employees.

D. STATUS OF PRESENT EMPLOYEES

Any person holding a position included in the competitive service who, on the effective date of these Rules, shall have served continuously in such position or in some other position in the competitive service for a period equal to the probationary period prescribed in the rules for his class, shall assume regular status in the competitive service in the position held on such effective date without a qualifying test, and shall thereafter be subject in all respects to the provisions of these Rules.

Any other persons holding positions in the competitive service shall be regarded as probationers who are serving out the balance of their probationary periods before obtaining regular status. The probationary period shall be computed from the date of appointment or employment.

E. VIOLATION OF RULES

Violations of the provisions of these Rules shall be grounds for rejection, suspension, demotion, dismissal or other disciplinary action as described in Section V of these Rules.

F. SUPERSEDING PROVISIONS

Memoranda of Understanding between the City and an exclusively recognized employee organization, which contains provisions contrary to or inconsistent with any of these Rules, shall be deemed to supersede these Rules.

G. CONTRACTS FOR SPECIAL SERVICE

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical, expert, professional or other services which City employees are not qualified or available to perform. The City Council may contract with any qualified person or public or private agency for the performance of such services.

II. PERSONNEL RECRUITMENT AND TERMS OF EMPLOYMENT

A. EQUAL OPPORTUNITY EMPLOYER

The City is committed to the goal of equal opportunity employment. It is the policy of the City to ensure that the application of these rules and regulations, and the recruitment, employment, training, advancement, layoff, pay, termination, and all other personnel actions for all positions, classes and individual employees shall be on the basis of qualifications and performance without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other status protected by law, except where a bona fide occupational qualification exists.

B. RECRUITMENT PRACTICES

Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants. These procedures shall apply to the City Manager, Management Employees, and Middle Management Employees, as those personnel classifications are defined Rule I, Section C.

1. Appointments and Promotions

All appointments and promotions to positions in the classified service shall be made according to merit and fitness and from eligible lists to be established in accordance with these rules. In the absence of persons eligible in such manner, provisional or temporary appointments may be made.

2. Announcement

All examinations for classes in the competitive service shall be publicized by such methods as the Personnel Officer deems appropriate. Special recruiting shall be conducted, if necessary, to insure that all segments of the community are aware of the forthcoming examinations. The announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work to be performed, minimum and desirable qualifications, the time and manner of making application, and other pertinent information.

3. Application forms

Written applications for employment shall be made on official application forms available in the Administrative Services Department, or as

otherwise prescribed on the examination announcement, including any online/electronic application procedures. Application forms shall, require information covering training, experience, and other pertinent information, and may include certificates of one (1) or more examining physicians, references and fingerprints. All applications must be signed by the applicant, including the use of an e-signature for an online/electronic application.

The completed application shall be received in the Administrative Services Department office on or before the announced final filing date and time. An oral or written indication of interest in employment is not an application.

4. Citizenship of Applicants

Employment is open to all qualified persons authorized to work in the United States. Authorization will be determined upon applicant's completion and submission of Department of Homeland Security, U.S. Citizenship and Immigration Services Form I-9. Applicants who fail to complete and submit Form I-9 will not be employed by the City.

5. Disqualification

Incomplete applications may be rejected or returned to the applicant for additional information or completion, at the Personnel Officer's discretion, providing the time limit for receiving applications has not expired. The Personnel Officer may reject any application, either before or after an examination, whose appointment is deemed contrary to the best interests of the City. Reasons for rejecting an application or applicant may include, but shall not be limited to, the following:

- a) The applicant does not possess any of the minimum qualifications required for the position;
- b) The applicant is incapable of performing the essential job functions and duties of the position, with or without reasonable accommodation, to which the applicant seeks appointment;
- c) The applicant was under the influence of controlled substances or alcohol or has a current addiction to the use of controlled substances;
- d) The applicant has made any false statement of any material fact, or practiced or attempted to practice any deception or fraud in an application or examination, or in securing eligibility for appointment.

6. Applicants With Felony or Misdemeanor Convictions

Conviction, including pleas of guilty and nolo contendere, of any felony or a misdemeanor involving moral turpitude or unfitness for employment may disqualify an applicant for employment or be grounds for removing the name of an eligible candidate from any employment list.

The City will first determine whether an applicant meets the minimum employment qualifications before asking the applicant to disclose information concerning his or her conviction history or conducting a conviction history background check. The City shall then conduct an individualized, case-by-case analysis of the facts of each applicant's criminal history before making a decision regarding their employment.

This section shall not apply to positions for which the City is required by law to conduct a conviction history background check or to those who work for a criminal justice agency, including but not limited to applicants for job positions within the Police Department.

7. Examination Process

The selection techniques used in the examination process shall be impartial and related to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection technique which will test fairly the qualifications of candidates such as but not necessarily limited to, achievement and aptitude tests, other written tests, personal interviews performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, psychological tests, successful completion of prescribed training, personal background and references, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examination shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirement of the class, covering only factors related to such requirements.

The Personnel Officer shall schedule examinations as he deems necessary, whether or not a vacancy currently exists. The Personnel Officer shall specify, according to his/her sole discretion, whether the examination shall be open, promotional, or continuous.

8. Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotion

examinations may include any of the selection techniques mentioned in the Personnel Rules (II, A7) of the Rules, or any combination of them. Only regular employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

9. Continuous Examination

Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in the Personnel Rules (II, A13-15).

10. Conduct of Examination

The City may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Officer shall see that such duties are performed. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations.

11. Notification of Examination Results and Review of Papers

Each candidate in an examination shall be given written notice of the results thereof. Such notice shall be limited to advising the candidate he/she “passed” or “failed” a specific part or all of the process. Specific numerical scores or standing on eligibility lists need not be provided to candidates.

All candidates may inspect their own test answer sheet within five (5) working days after the notification of examination results. Any error in computation, if called to the attention of the Personnel Officer within this shall be corrected. Such corrections shall not, however, require invalidation of appointments previously made.

Inspection of test papers or booklets shall be at such time and place and under such conditions of supervision as the Personnel Officer may require. Applicants will not be permitted to copy examination items.

12. Pre-Employment and Promotional Medical Examinations

The Personnel Officer may order a medical examination after a conditional offer of employment is made, including a physical or psychological examination, to determine whether an applicant for appointment or promotion has the physical or mental qualifications to perform the duties of his position, or can perform a job function without posing a direct threat to health or safety. Any such medical examinations

will only be conducted where it is job-related and consistent with business necessity and is consistently applied to all appointments to that job position. Such examination shall be at the City's expense.

No appointment to the position will be made until the Personnel Officer has received the results of the medical examination to either clear the employee to work with no restrictions or to identify any work restrictions related to the job. If the applicant has any work restrictions following the medical examination, the City will engage the applicant in a disability interactive process to determine if it can reasonably accommodate the applicant's work restrictions. To the extent that the City initially determines that it cannot reasonably accommodate the applicant's work restrictions, the City will provide the applicant an opportunity to provide additional medical information on their work restrictions to review further before finalizing any decision that it cannot reasonably accommodate the work restrictions.

13. Employment Lists

As soon as possible after the completion of an examination, the Personnel Officer shall prepare and maintain an employment list consisting of the names of candidates who qualified in the examination.

14. Duration of Lists

Employment lists shall remain in effect for six (6) months, unless exhausted, abolished or extended by the Personnel Officer. The City has no obligation to select or interview applicants who are on an Employment List. Employment Lists are maintained for convenience only. Employment Lists do not create any rights or responsibilities on behalf of the City.

15. Removal of Names from List

The name of any person appearing on an employment, re-employment or promotional list shall be removed by the Personnel Officer if the eligible person requests in writing that his name be removed, or if the eligible fails to respond to a notice of certification mailed to the last designated address. The Personnel Officer may remove the name of any eligible if that person has previously been rejected for the same position or promotion three times during the life of the list. The person affected shall be notified of the removal of the name by notice mailed to the last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

16. Types of Appointment

All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, reinstatement or from eligible applicants certified by the Personnel Officer from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with these Personnel Rules.

17. Notice to Personnel Officer

If a vacancy in the competitive service is to be filled, the Personnel Officer shall be notified. If there is no re-employment list available for the class, the Personnel Officer shall have the right to decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.

18. Certification of Eligible

If the Personnel Officer does not consider it in the City's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate employment list, provided eligible are available.

When the Personnel Officer determines a vacancy should be filled by appointment from a promotional employment list or from an open employment list, they should certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the Personnel Officer may make an appointment from among such eligibles or may hold a new examination and establish a new employment list.

C. APPOINTMENT

After interview and investigation, the Personnel Officer, or their designee, shall make appointments from among those certified. The person accepting appointment shall report to the Personnel Officer, or the Personnel Officer's designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty within such period of time as the Personnel Officer shall prescribe, the applicant shall be deemed to be appointed; otherwise, the applicant shall be deemed to have declined the appointment.

1. Provisional Appointment

In the absence of there being names of individuals willing to accept appointment from appropriate employment lists, the Personnel Officer may provisionally appoint a person meeting the minimum training and experience qualifications for the position. The Personnel Officer may make such appointments when the demands of the service are such that it is not practicable to give advance notice of pending or anticipated vacancies, including but not limited to a period of suspension of an employee or pending final action on disciplinary proceedings, and it is not practical to delay appointment until a new employment list can be prepared and certified.

A provisional appointee shall not accrue any benefits, including but not limited to sick or annual leave, medical, disability or life insurance or retirement.

If a provisional appointee is selected for a full-time position with the City, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period. No special credit shall be allowed in meeting any qualifications or in the giving of any test or the establishment of any open-competitive promotional lists, for services rendered under a provisional appointment.

A provisional employee serves at-will and may be removed at any time without the right of appeal or hearing.

2. Temporary Employees, Student Interns

From time to time the City has a need for the employment of persons to fill temporary and/or seasonal work assignments. The cost and administrative delay inherent in testing persons to fill such short term positions is out of proportion to the positions and incompatible with the need to expeditiously fill such positions in time for the employee to perform the temporary work assignment. The City is also frequently offered an opportunity to hire students who work as part of their course of study. It is in the interest of the City and in the efficient administration of City services that management fill temporary positions and employ student interns with a minimum of administrative expense and delay.

The Personnel Officer may approve the appointment of temporary employees for a period not to exceed one (1) year. There will be no exceptions to allow any temporary employee to work beyond the one year cap.

The Personnel Officer may authorize department heads to employ high school and college students to work as interns for up to one thousand (1,000) hours. Interns are defined as persons regularly enrolled at Mendota High School, or in an accredited college or university whose course of study is related to the activities of City government.

The procedures utilized by department heads for the employment of temporary employees and student interns shall be carefully scrutinized by the Personnel Officer to ensure that the process is fair and complies with City policies. Personal favoritism and/or prejudice for or against any person are strictly prohibited.

Temporary employees and student interns employed under this rule shall serve at-will and are not considered part of the competitive service; they may be removed from City service at any time without the right of appeal or hearing. If eventually hired as a full-time employee, they shall not receive any special credit in any qualification for employment, in any examination or employment list for services rendered under a provisional appointment. They shall receive no employee benefits, including but not limited to such as sick leave, vacation, health plan, or retirement.

3. Regular Appointment and Probationary Period

(a) Objective of Probationary Period

The City attempts to hire the most qualified employees for each position. To ensure this, the City provides for a probationary period of employment for the employee to assess the City and the job content, and for the city to evaluate the new employee and his or her job performance.

(b) Length of Probationary Period

All regular and promotional appointments shall be tentative and subject to a probationary period of one (1) year of actual service. Leaves of absence or assignments out of class, for any reason, shall not be counted toward the completion of the probationary period and the probationary period shall be extended by the number of hours of such leaves or assignments. The Personnel Officer may extend such probationary period up to six (6) additional months of actual service.

(c) Probationary Rejection of Regular Appointment Employee

During the probationary period, an employee on regular appointment may be terminated at any time by the Personnel Officer with or without notice, with or without cause and without the right of appeal. Notification of rejection by the Personnel Officer shall be sent to probationer in writing.

(d) Probationary Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted, unless the employee is discharged from service in the manner provided in these Personnel Rules for positions in the competitive service, in which event he/she shall have the right of appeal as set forth in these Personnel Rules. If there is no vacancy in such position the employee may request to be placed on a re-employment list.

4. Oath of Office

Every employee, before entering upon the duties of employment, shall take and subscribe to the Oath of Office required by the provisions of Article 20, Section 3, of the California Constitution.

In the case of temporary employments, the oath shall be effective for all successive period of employment which commence within one calendar year from the date of subscribing to the oath or affirmation.

No compensation or reimbursement for expenses incurred shall be paid to any employee of the City unless such employee has taken and subscribed to the oath or affirmation required by this section.

5. Appointment of Relatives

Neither the City Council, Personnel Officer, nor his or her designee shall appoint to a salaried position any person who is a relative by blood or marriage within the third degree of any one or more members of the City Council or Personnel Officer.

No full-time, part-time, provisional or temporary employees shall be assigned to any position in a department where another employee of the department is a relative by blood or marriage within the third degree. The Personnel Officer may, in his or her sole discretion, make an exception to this rule when doing so is in the interest of the City.

Without exception, full-time, part-time, provisional or temporary employees who are relatives by blood or marriage shall not be placed in such position as to supervise/evaluate or be supervised/evaluated by a relative within the third degree.

As determined by the Personnel Officer, no full-time, part-time, provisional or temporary employees shall be placed into any position that would compromise the internal control environment by virtue of any relationship through blood or marriage to another employee.

The phrase “within the third degree” shall include, but is not limited to, spouses, parents, children, grandparents, siblings, grandchildren, great-grandparents, uncles and aunts, nieces and nephews, great-grandchildren, and similar relationships by affinity.

III. CHANGES IN EMPLOYMENT STATUS

A. TRANSFER

All transfers are subject to the discretion of the Personnel Officer. No person shall be transferred to a position for which that person does not possess the minimum qualifications. The Personnel Officer or their designee may transfer an employee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department directors must consent thereto unless the Personnel Officer orders the transfer. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, or for disciplinary action, each of which may be accomplished only as provided in these Rules.

B. PROMOTION

Insofar as consistent with the best interests of the service and subject to the discretion of the Personnel Officer, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and promotional list is established. Probationary employees shall not be eligible for promotion under a promotional list.

The Personnel Officer may determine that the best interest of the City require that a vacancy be filled by an open competitive examination instead of promotional examination. In such event, the Personnel Officer shall arrange for an open competitive examination and for the preparation and certification of an open competitive employment list.

C. DEMOTION

The Personnel Officer may demote an employee whose ability to perform the required duties falls below standard or for disciplinary purposes. Upon request of the employee, and with the consent of the Personnel Officer, an employee may be permitted to voluntarily demote to a vacant position in the same department. No employee shall be demoted to a position for which he does not possess the minimum qualifications. Disciplinary demotions shall be in accordance with these Personnel Rules.

All employees who are demoted will be paid at the same rate of pay as prior to demotion if, and only if, the rate of pay is within the range of the lower position. If this is not the case, the rate of pay shall be within the salary range of the lower position which is closest to the rate of pay prior to demotion, but no employee

shall be paid more than they were prior to demotion.

D. REINSTATEMENT

With the approval of the Personnel Officer, a former regular employee or probationary employee who has completed at least six (6) months of probationary service, and who has resigned with a good record, may be reinstated within two (2) years of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee shall serve a new probationary period prescribed for the class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the Personnel Officer at the time of reinstatement. The employee will receive a new anniversary date which will be the first date of employment upon reinstatement.

E. RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the Personnel Officer a written resignation stating the effective date and reasons for leaving at least two (2) weeks before the planned separation date, unless such time limit is waived by the Personnel Officer at his or her discretion. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer. Failure to give notice as required by this Rule shall be cause for denying future employment by the City. A resignation becomes final and cannot be withdrawn once it is accepted by the Personnel Officer.

F. CHANGE-OF-STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, or any other temporary or permanent change in status of employees shall be reported to the Personnel Officer in such manner as he may prescribe.

IV. LEAVES OF ABSENCE AND DISABILITY ACCOMMODATIONS

A. ATTENDANCE

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves. All departments shall keep daily attendance records of employees who shall be reported to the Personnel Officer in the form and on the dates he/she shall specify.

An employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor or designee no later than the scheduled work time and report their expected time of arrival or absence. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of, any form of accrued or unpaid leave time will be grounds for discipline, up to and including termination.

B. FAMILY & MEDICAL CARE LEAVE

The City will provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons in a 12-month period rolling backwards upon approval of the Personnel Officer, where such leave will not create an undue hardship for the City. Employees are eligible for this Family & Medical Care Leave if they have been employed by the City for at least one year, have worked 1,250 hours in the previous 12 months, and meet other eligibility requirements prescribed by law.

Family and medical care leave will be granted for any of the following reasons:

- The birth of a child or to care for the newborn child; placement of a child for adoption or foster care;
- To care for the employee's spouse, domestic partner, son, daughter, or parent who has a serious health condition; or,
- For a serious health condition that makes the employee unable to perform his or her job.

The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable." The City may require medical certification to support a request for leave because of a serious health condition and may require a second or third opinion (at the employer's expense) and a return to work report from the employee's health care provider if leave is taken for the employee's own serious health condition. Paid leave shall run concurrently with family and medical care leave before unpaid leave will be allowed.

The City will maintain the employee's health coverage during the period of Family & Medical Care leave to the extent it would otherwise had the employee been continuously employed. Upon return from leave, an employee will be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms, provided they meet the eligibility requirements prescribed herein and by law. The use of Family & Medical Care leave will not result in any loss of an employment benefit that accrued prior to the start of an employee's leave.

C. PREGNANCY DISABILITY LEAVE

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

1. Notice & Certification Requirements

- (a) Except in an emergency, requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or Department Head before the leave begins. The request must be supported by a written certification from the attending physician stating that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.
- (b) All planned leaves must be confirmed in writing and have an agreed-upon specific date of return, with the written confirmation submitted to the Department Head prior to being taken. Requests for an extension of leave must be submitted in writing to the Department Head prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four (4) months.

2. Compensation During Leave

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

3. Benefits During Leave

- (a) An employee on pregnancy disability leave may receive any group health insurance coverage that was provided before the leave on the same terms as provided to other employees who

become disabled off-duty, if: (1) the employee is eligible for concurrent family and medical care leave as described by these Personnel Rules, and (2) the employee has not already exhausted this group health insurance coverage benefit in accordance with State and Federal law. The City may recover premiums it paid to maintain health coverage, as provided by the family and medical leave laws, if an employee does not return to work following pregnancy disability leave.

- (b) An employee on pregnancy disability leave who is not eligible to receive group health insurance coverage as described above, may receive health insurance coverage in conjunction with COBRA (Consolidated Omnibus Budget Reconciliation Act) guidelines by making monthly premium payments to the City.
- (c) Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

4. Reinstatement

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

D. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of state and federal law. An employee requesting leave for this purpose shall provide the department head, whenever possible, with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may

modify the employee's work schedule to accommodate the request for leave.

E. LEAVE OF ABSENCE WITHOUT PAY

The Personnel Officer, in his/her unrestricted discretion, may grant a regular or probationary employee leave of absence without pay or seniority for not to exceed three (3) months. After three (3) months, the leave of absence may be extended if so authorized. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. An employee is not entitled to a leave of absence as a matter of right. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall cause the employee to be deemed to be discharged. The depositing in the United States mail of a first-class letter, postage prepaid, addressed to the employee's last known address, shall constitute reasonable notice to the employee that his/her leave of absence has expired and he/she must return to duty.

F. ADMINISTRATIVE LEAVE/RELIEF OF DUTY

The Personnel Officer may place an employee on relief of duty with full pay and benefits for an indeterminate period when circumstances exist such that the public interest requires that the employee be relieved from active duty. Such relief of duty shall not constitute punitive or disciplinary action. During the period of relief of duty, the employee may be required to regularly report to the department director or his designee in a manner described in writing by the department director to the employee.

G. JURY DUTY

Every classified employee of the City who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his/her supervisor, shall receive time off for the period of actual service required. The employee shall receive his normal pay during the period of jury duty. The time spent on jury duty is not work time for purposes of calculating overtime compensation.

H. TIME OFF FOR VICTIMS OF VIOLENT CRIMES OR DOMESTIC ABUSE

The City provides time off for victims of a violent crime, domestic violence, sexual assault, or stalking in accordance with state law. Employees may take time off to: (1) appear in court to comply with a subpoena or other court order as a witness to any judicial proceeding; (2) seek medical or psychological assistance; or (3) participate in safety planning to protect against further assaults. The City

shall also provide reasonable accommodations for victims of domestic violence, sexual assault or stalking who request an accommodation for their safety while at work.

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

I. WORKERS COMPENSATION

If you have been injured on the job, you are eligible for Workers' Compensation Benefits. But there are some things you should know about work-related injuries. First, the injury must occur in the course of your employment; that is, it must happen on the job. Then, it must be an injury that arises out of your job or is related to the performance of your job duties.

1. Notification and Medical Care

The City has several obligations to injured employees. First, once it has been determined that your illness or injury is work-related and your claim has been accepted, we are responsible for providing whatever medical services are necessary to cure or relieve from the effects of the injury. These services will normally be provided at no cost to you unless there is some dispute over whether they are necessary.

If you feel that you have suffered a work-related injury, tell your supervisor immediately. If you require medical attention, you will be given a slip to take to the doctor, or your supervisor will arrange for you to be taken to the doctor. Normally, you will be treated at one of several occupational medical clinics that treat City employees.

If you would prefer that you be treated by your personal physician, you must let the City know before the need for medical treatment arises. Forms that allow you to designate your personal physician are available from the Human Resources Department. Of course, if the injury is serious, you will be taken to the nearest emergency medical care facility where you will receive whatever care is considered necessary.

2. Temporary Disability and Injury Pay

Once your claim is accepted, you will also be compensated for any time lost from work due to your injury. The first three calendar days following an on-the-job injury will be charged to sick leave or leave without pay.

This is termed the “waiting period.” On the fourth day following the injury, you would begin to receive 66% of your average weekly wages (averaged over the past year). If you are hospitalized because of the injury or if you are off for more than 14 days, there is no waiting period and you would be paid Temporary Disability pay for those first three days.

3. Permanent Disability

If the injury is serious enough to leave you with any permanent disability, you will also be compensated for it. Permanent disability awards are not “damages,” such as those which are awarded in civil cases. These awards are meant to compensate you for your reduced ability to compete in the labor market. The amount of a permanent disability award is based on the type and severity of the injury, your occupation, and your age at the time of the injury. If your treating doctor indicates that there is some degree of permanent disability, a claims examiner will contact you to explain the procedure of evaluating and rating the disability. If you have chosen to hire an attorney, your attorney will handle most of the details of this process for you.

4. Vocational Rehabilitation

If you are unable to return to your usual and customary job, you may be eligible for vocational rehabilitation services. If you are off work for a total of 90 days because of an industrial injury, you will be contacted by a rehabilitation representative who will explain the benefits you may be entitled to. If you are planning to return to work and your doctor has indicated that you will be able to return to work, don’t be disturbed when a rehabilitation counselor contacts you. The City is required by State law to provide you with this explanation of your potential eligibility for these benefits, and you will not be forced to resign, retire, or change jobs unless your doctor indicates that there is some medical necessity to do so.

If you do need vocational rehabilitation services, every reasonable effort will be made to return you to suitable gainful employment as soon as possible. You will be assigned to a vocational rehabilitation counselor who will research the possibilities of job modifications or alternative job assignments with the City. If it is not possible for you to remain with the City, you will be provided with training or job placement services that make the best possible use of your knowledge, skills and aptitude.

5. The Legal Process

It isn’t necessary to have an attorney represent you in a Workers’ Compensation case. The State of California will provide you with free assistance through the office of the Information and Assistance Officer at

the local Workers' Compensation Appeals Board. If you feel that you need to retain the services of an attorney, there are a number of local attorneys who specialize in Workers' Compensation law. Fees for these services are usually deducted from your permanent disability award.

6. Police Officer Industrial Injuries

Police Officers who are disabled temporarily or permanently by injury or illness occurring in the course and scope of employment shall be provided compensation and benefits in accordance with Labor Code section 4850.

J. **DISABILITY ACCOMODATIONS AND FITNESS-FOR-DUTY EXAMINATIONS**

1. Reasonable Accommodations. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request, preferably in writing, to the Administrative Services Department. The request must identify the job-related functions at issue and the desired accommodations.
2. Fitness-for-Duty Examinations. The City Manager or a designee may require an employee to submit to a fitness-for-duty examination to determine if the employee is able to perform the essential functions of his or her job when there is significant evidence: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; and 2) there is reason to question the employee's ability to safely or efficiently complete work duties.
 - (a) A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness-for-duty examination limited to the employee's job-related functional limitations and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether the employee is fit to perform essential job functions and if the employee's continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City's request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness-for-duty information that the City has requested.

- (b) The City may require an employee to undergo an examination by a City-designated physician, psychiatrist or psychologist, and/or submit a certificate of employability from the treating physician before returning to work after taking any leave due to injury or illness.
- 3. Determination. After receipt of reasonable documentation, the City may meet with the employee to fully consider all feasible potential reasonable accommodations. The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. After the discussions, the City will determine, in its sole discretion, whether reasonable accommodation can be made and the type of accommodation to provide. The City will not provide accommodation that would pose an undue hardship upon City finances or operations, or that would endanger the health and safety of the employee or others. Employees unable to perform the essential functions of their position, with or without reasonable accommodation, may be subject to separation of employment.

V. DISCIPLINARY ACTIONS

A. TYPES OF DISCIPLINARY ACTION

Neither employee evaluations nor informal counseling memorandums shall be considered disciplinary or punitive in nature. They may not be appealed under this policy. However, unsuccessful counseling may be referenced in a separate subsequent disciplinary action.

1. Oral Reprimand

A formal discussion with an employee about performance or conduct problems. This action shall be summarized in writing by the department director or supervisor. The employee may respond in writing to such reprimand. The employee shall not otherwise be entitled to appeal from an oral reprimand. Oral reprimands and employee responses shall not be placed in the employee's personnel jacket, however, the fact that an employee previously received an oral reprimand for similar inappropriate conduct may be referenced in future reprimands.

2. Written Reprimand

A written document presented to an employee regarding performance or conduct problems. A copy must be provided to the employee with a copy filed in the employee's personnel jacket. Within five (5) working days following service of the written reprimand, the employee may file a written response, the original being directed to the department director or supervisor and a copy filed in the employee's personnel jacket. A written reprimand may not be appealed under this policy.

3. Minor Disciplinary Suspension

An involuntary absence without pay for a period of fewer than five (5) working days.

4. Major Disciplinary Suspension

An involuntary absence without pay for a period of five (5) or more working days but not exceeding thirty (30) working days.

5. Disciplinary Salary Reduction

A reduction in pay from the employee's current step within a pay range to a lower step within that same pay range.

6. Disciplinary Demotion

Reduction from a position in one class to a position in another class having a lower salary range.

7. Dismissal

Permanent discharge or removal from City service.

B. GROUNDS FOR DISCIPLINARY ACTION

The following list of grounds for disciplinary action are not intended, nor is it, a comprehensive and complete list of all grounds for disciplinary action. Any inappropriate conduct by a City employee will be grounds for disciplinary action. The following list is merely a sampling of types of conduct that are grounds for disciplinary action pursuant to the personnel rules, including, but not limited to:

1. Incompetence or inefficiency in the performance of the duties of one's position.
2. Insubordination, including refusal to accept assignment or direction from an authorized supervisor or City management.
3. Neglect of duty.
4. Unsatisfactory job performance, or refusal or inability to improve such performance in accordance with written or verbal direction.
5. Absence without authorized leave.
6. Excessive absenteeism or tardiness, as defined by the employee's department director, the Policies, or Memorandum of Understanding.
7. Dishonesty.
8. Theft.
9. Fraud in securing or retaining employment.
10. Discourteous treatment or offensive conduct toward or around members of the public or other employees, including fighting, using profane or abusive or threatening language toward others, or malicious backbiting.
11. Failure to cooperate with employee's supervisor or fellow employees.

12. Drinking alcoholic beverages or consuming other intoxicants on the job, or reporting for work while under the influence of alcohol or other intoxicants.
13. Use of unlawful narcotics or drugs.
14. Malfeasance or misconduct, which shall include, but shall not be limited to, conviction, plea of guilty, or no contest of any felony, or damaging City property, equipment, or vehicles, or the waste of City supplies through negligence or misconduct.
15. Violation of any City regulation, ordinance, resolution, or policy or departmental rule.
16. Unapproved outside employment or activity while on City time or City business, or that violates the City's policies, or other enterprise that constitutes a conflict of interest with service to the City.
17. Mishandling of public funds.
18. Falsifying or altering any City record.
19. Any conduct unbecoming an employee of the City of Mendota that causes discredit to the City or results in the impairment or disruption of City service.
20. Unjustified and repeated abuse of sick or annual leave.
21. Failure to comply with safety procedures.
22. Failure to follow defined job duties and procedures.
23. Misuse or destruction of City equipment or property.
24. Sleeping on the job.
25. Acceptance of gifts or gratuities in connection with or relating to employee's job duties.
26. Discrimination, including harassment, against other employees or members of the public on the basis of any legally protected classification.
27. Taking retaliatory action against person engaged in protected conduct.

C. DISCIPLINARY POLICY AND PROCEDURE

The following procedures apply to for-cause regular employees who are subjected to disciplinary salary reduction, major disciplinary suspension, demotion, or dismissal. For purposes of this section, these disciplinary actions will be referred to as “major disciplinary action.”

The disciplinary notice or appellate procedures shall not be applicable to those positions which may be deemed exempt by Council resolution, Personnel Rules Section I(C), or to probationary employees.

1. Proposed Notice of Discipline - Procedure

If the City proposes a major disciplinary action, the employee shall be served with a written notice of the proposed disciplinary action. Such notice shall:

- (a) State the charges and specifications against the employee.
- (b) Include all information relied upon in making the decision to propose disciplinary action.
- (c) Advise the employee of any rights to respond to the proposed discipline, either orally or in writing, State that the employee’s response will be considered before the proposed disciplinary order goes into effect including a pre-disciplinary Skelly conference prior to the imposition of the proposed discipline.

2. Employee Response and Skelly Conference

The Notice of Proposed Discipline will include a date for the pre-disciplinary Skelly conference that will be overseen by the Department Director or his or her designee. The Skelly conference is an informal meeting, not a formal or adversary hearing; the employee shall not be entitled to cross-examination. The employee shall have the right of representation at the Skelly conference, if so requested.

The Department Director may, after consideration of all information received, decide to sustain, modify, or reject the proposed disciplinary action.

Service of an order for disciplinary action or any notice required to be given to an employee will be deemed sufficient and complete when delivered in person to the employee to whom it is directed, or when it is sent by certified mail, postage prepaid, to the last known address of the employee.

The City shall not provide a pre-disciplinary Skelly Conference to for-cause regular employees subjected to a minor disciplinary suspension. However, such employees may request a similar conference during the minor disciplinary suspension or within a reasonable time thereafter.

3. Final Notice of Discipline

If a major disciplinary action is imposed, a written statement shall be given to the employee of the following:

- (a) The level of discipline, if any, to be imposed, as well as the charges and a summary of facts on which the disciplinary action is based.
- (b) The effective date(s) of the disciplinary action.
- (c) A copy of all written materials, reports, or documents upon which the discipline is based.
- (d) Any rights of appeal.

4. Evidentiary Appeal

The appeal procedure described herein shall apply to a disciplinary action of regular, for-cause employees resulting in a disciplinary salary reduction, major disciplinary suspension, demotion, or dismissal. It shall not be applicable to those positions which may be deemed exempt by Council resolution or to probationary employees. It shall also not apply to counseling or oral reprimands, written reprimands, or minor disciplinary suspensions.

Regular, for-cause employees shall have the right of appeal to the Administrative Services Department from such disciplinary actions as described in this section. Such appeal must be filed with the Department within ten (10) calendar days following receipt of a Final Notice of Discipline. The appeal must be in writing and must set forth the grounds or basis for the appeal. If the employee involved does not file said appeal, the City's decision shall be final and take effect as prescribed.

- (a) **Hearing.** Upon receipt of a written appeal from an affected employee, the Administrative Services Director shall arrange for a hearing as provided in this section. Said hearing shall be conducted within a reasonable time after receipt of a timely written appeal, as determined by the City. The Administrative Services Department shall arrange for the selection of a hearing officer utilizing the services of the American Arbitration Association or State Mediation & Conciliation Services to

conduct the hearing and issue a decision. Hearings shall be conducted under the voluntary rules of the American Arbitration Association, unless otherwise provided in this section.

- (b) Representation. The appellant employee shall have the right to appear personally or to be represented by counsel or by anyone else of his/her choosing, including other City employees, with the exception of supervisory, management, and confidential employees.
- (c) Failure of Employee to Appear. Failure of the appellant to personally appear at the hearing shall be deemed a withdrawal of his/her appeal and the Final Notice of Discipline shall be final.
- (d) Decision. The Hearing Officer shall render a decision no later than thirty (30) calendar days after (1) the conclusion of the hearing and the briefs, if any, have been submitted, or (2) receipt of the official hearing transcript, unless otherwise agreed upon by both parties. The Hearing Officer's decision shall be final and conclusive. A copy of such decision, along with a proof of service of mailing, shall be forwarded to each of the parties' representatives. Copies shall also be distributed to the Administrative Services Director.

The Hearing Officer may sustain, reject, or modify any or all of the charges filed against employee. If the disciplinary action is reversed or modified by the Hearing Officer, he or she may determine whether the employee is to be compensated in all or in part for the time lost on or after the date the disciplinary action went into effect.

The cost of the Hearing Officer and other mutually incurred costs shall be borne equally by the parties. Pursuant to Code of Civil Procedure Section 1094.6, the parties have ninety (90) days from the date of the proof of service of mailing of the written findings and decision to appeal the decision to the Superior Court in and for the County of Fresno.

VI. LAYOFF PROCEDURES

A. STATEMENT OF INTENT

Whenever, in the judgment of the City Manager, it becomes necessary to abolish any position of employment, the employee holding such position may be laid off or demoted without disciplinary action and without the right of appeal.

1. Notification

Employees to be laid off shall be given, whenever possible, prior notice of at least fourteen (14) calendar days.

2. Order of Layoff

In each class of position, employees may be laid off according to employment status in the following order: temporary, provisional, probationary, and regular. Temporary, provisional and probationary employees shall be laid off according to the needs of the service as determined by the Personnel Officer.

Regular employees shall be laid off by inverse seniority within the below groupings. Seniority is defined as the length of full-time service at or above a classification within the department. Employees who received "improvement-needed" or worse on their last written evaluation shall be subject to layoffs before those who received a higher rating.

Whenever the Personnel Officer believes that the best interest of the City requires the retention of employees with special qualifications, characteristics, skills or fitness for the work, the Personnel Officer may grant an exception to the order of layoff.

3. Vacancy and Demotion

Except as otherwise provided, whenever there is a reduction in the work force, the Personnel Officer shall first demote the employee to be laid off to a vacancy, if any, in a lower class for which the employee is qualified. All persons to be demoted shall have their names placed on the re-employment list.

4. Bumping Rights

An employee affected by layoff shall have the right to displace an employee in the same department who has less seniority in the same class or in a lower class in which the affected employee once had permanent status.

In order to bump down to a former or lower class, an employee must request displacement action in writing to the Personnel Officer within five (5) working days of receipt of notice of layoff. Notice of layoff shall include a notice of the rights set forth in these rules.

Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

Employees retreating to a lower, or similar, class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or the class series.

There shall be no interdepartmental displacement rights.

5. Re-employment List - In General

Regular, non-probationary employees laid off or demoted in accordance with these rules shall be entered upon a re-employment list. Lists from different departments shall be combined into a single list. The Personnel Officer shall review such list for former employees in the same or lower classification as that in which a vacancy arises. The City is not required to interview or hire from the Re-employment List. The Re-Employment List does not create any benefit or rights to applicants.

6. Duration

Names of persons laid off shall be carried on a re-employment list for six (6) months, except that persons appointed to permanent positions at the same level from which they were laid off shall, upon such appointment, be dropped from the list. Persons who refuse re-employment shall be dropped from the list. Persons re-employed in a lower class or on a temporary basis, shall be continued on the list for the higher position for one (1) year. The City Manager may extend the duration of a re-employment list.

7. Re-employment After Layoff

Employees rehired to City service from a re-employment list shall retain all benefits, accumulated leave and seniority rights that such employees enjoyed prior to being laid off.

VII. GRIEVANCE PROCEDURE

A. ESTABLISHED PURPOSE

The purpose of this procedure is to provide a just and equitable method for the resolution of grievances without fear of coercion or reprisal.

B. GRIEVANCE DEFINED

Subject to the exclusions listed in this Policy, a grievance is a claimed violation of a specific provision of these Personnel Rules or a Memorandum of Understanding (MOU), and is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

The following matters are expressly excluded from the definition of “grievance”:

1. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meeting and conferring process or matter within the scope of representation;
2. Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling;
3. Challenges to a reclassification, layoff, transfer, denial of reinstatement, or denial of a step or merit increase;
4. Challenges to any disciplinary action;
5. Challenges to examinations or appointment to positions;
6. Management of the City generally;
7. Determination of the nature, necessity or organization of any service or activity conducted by the City, including the decisions to expand or reduce services or the workforce, and/or to impose layoffs;
8. Methods of financing;
9. Determination of or change in facilities, equipment, methods, technology, means or size of the work force;
10. Determination of or of or change in the location, number of locations, relocations and types of operations, processes or materials to be used in carrying out City functions;
11. Determination of work assignments and schedules;

12. Determination of productivity or performance programs and standards;
13. Determination of standards, policies, and procedures for selection, training, and promotion of employees; and
14. Establishment, implementation, and modification of Department organizations, supervisory assignments, chains of command, and reporting responsibilities.

C. GENERAL PROVISIONS

1. No retribution or prejudice shall be suffered by any employee making use of the grievance procedure.
2. The time limits established herein may be extended by mutual written agreement between the grievant and management.
3. If management, at any step of the procedure, fails to respond within the prescribed time limit specified, the grievant may process the grievances to the next step.
4. If the grievant, at any step of the procedure fails to appeal management's decision on the grievance within the prescribed time limit specified, such decision shall be deemed accepted and shall not be subject to further appeal or consideration.
5. By mutual written agreement, a grievance may revert to a prior level of reconsideration.
6. The grievant shall be present at all conferences in the grievance procedure.
7. All communications, notices and papers required to be in writing shall be served personally or by United States mail. For mailed notices and papers, the postmark shall be within the prescribed time limits.
8. Management shall inform the grievant of any limitation on the authority of the management representative to fully resolve the grievance.
9. All employees have the right to consult with their supervisor, their department head, or the Personnel Officer without prejudice, concerning the manner, form and/or procedure for filing a grievance.
10. Failure of the grievant to complete any step on the grievance procedure will bar further consideration of the grievance.
11. The grievance procedure shall not be used in addition to, or as a substitute for, the disciplinary procedure, the unfair labor relations practice

procedure or the impasse procedure, when any of such procedures are or could reasonably have been available in the exercise of reasonable diligence.

12. Grievances may be filed by an exclusively recognized employee organization.
13. If the grievance is against the employee's supervisor or department head, the employee may apply to the City Manager in writing for permission to commence the Grievance Procedure at the step immediately above the supervisor alleged to be the subject of the grievance. The City Manager (or the City Council, in the event the grievance is against the City Manager) shall permit this short circuit of the grievance procedure upon his/her determination that there are special circumstances that prevent the employee from obtaining full and fair consideration of the grievance by the employee's supervisor or department head.

D. REPRESENTATION RIGHTS

1. The employee has the right to the assistance of a representative of his or her choice in the investigation, preparation and presentation of a grievance.
2. Representation may occur at any stage of the grievance procedure provided, however, that prior to calling for representation at Step One (1) of the procedure, the employee shall informally discuss his or her grievance with his or her supervisor. Upon conclusion of such discussion, and in accordance with the below procedures, the employee may file a formal grievance within ten (10) calendar days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance in order to have the assistance of a representative at Step One.
3. If the employee elects another employee as his or her representative, such representative shall not be released during working hours without the approval of his or her supervisor.
4. The supervisor shall grant the representative a reasonable amount of time during work hours to assist the grievant, provided such would not unreasonably interfere with or delay City work.
5. Grievance conferences between management and grievant will normally be conducted during regular working hours at a mutually convenient time.
6. The investigation of a grievance during working hours by an employee and his or her representative, if any, shall be in accordance with the following:

- (a) Prior to entering any job site, the grievant and representative shall obtain the approval of the job site supervisor.
- (b) There shall be no solicitation of grievances or employee organization membership.
- (c) The investigation shall be conducted expeditiously and in a reasonable amount of time, with due regard for the work requirements of the City.
- (d) Where the investigation commences prior to the end of the regular workday, time spent after the close of the regular workday shall be on the representative's and the employee's own time.
- (e) Entry to a City job site will not be permitted if it would unreasonably interfere with or delay City work.
- (f) All safety regulations relating to the presence or conduct of persons at the job site shall be followed.

E. GRIEVANCE PROCEDURE

1. Informal Resolution

Employees who believe they have a bona fide complaint within the scope of these procedures shall promptly inform and discuss the issue with their immediate supervisor as designated by the Department Director or his/her designee to, in good faith, clarify the matter expeditiously and informally resolve the matter. If the informal discussion does not resolve the problem to the employee's satisfaction, and if the complaint constitutes a grievance as herein defined, the employee may file a formal grievance in accordance with the following procedure.

2. Step One – Immediate Supervisor

- (a) The employee shall file a written grievance on the form provided by the City to his or her supervisor within ten (10) calendar days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. The employee shall complete all parts of the grievance form.
- (b) The supervisor shall, within five (5) calendar days after receipt of the grievance, have a discussion with the employee concerning the grievance.

- (c) The supervisor shall within five (5) calendar days of the grievance conference, render a written decision to the employee with a copy of the original grievance.

3. Step Two – Department Director

- (a) Within five (5) calendar days of receipt of the decision of the supervisor, the grievant, if he or she wishes to appeal the decision, shall submit an appeal to the department head. The appeal shall be submitted on forms provided by the personnel office, in conformity with the procedures stated therein and shall include the supervisor's response, if any.
- (b) The department head or his or her designee shall, within five (5) calendar days of receipt of the appeal, schedule a conference at a mutually agreeable time. A representative of the grievant and/or management may attend this conference in accordance with the Personnel Rules (VII, D) of this procedure.
- (c) The department head or his or her designee shall, within five (5) calendar days of the conference, render a written decision to the grievant with a copy of the original grievance.

4. Step Three – City Manager

- (a) Within five (5) calendar days of receipt of the written decision from the department head or his or her designee, the grievant, if he or she wishes to appeal the decision, shall submit an appeal to the City Manager. The appeal shall be submitted on forms provided by the personnel office, in conformity with the procedures stated therein and shall include the original grievance and management's responses, if any.
- (b) The City Manager or his or her designee shall within seven (7) calendar days of receipt of the appeal schedule a conference at a mutually agreeable time. A representative of the grievant and/or management may attend this conference in accordance with the Personnel Rules (VII, D) of this procedure.
- (c) The City Manager or his or her designee shall within seven (7) calendar days of the conference, render a written decision to the grievant with a copy of all appeal documents.
- (d) The City Manager may at his or her option, render a written decision based on the documents submitted for his or her review without the conference within the time frame set forth above. If he or she does so, the grievant may discuss this decision with the

City Manager at a mutually convenient time, provided the grievant requests such meeting within seven (7) calendar days of receipt of the City Manager's decision.

- (e) Grievances shall be appealable in accordance with the procedures set forth in Step 4.
- (f) Nothing in this section shall prohibit, by written agreement, a more expeditious handling of the grievance.

5. Step Four – Binding Arbitration

- (a) If the response at Step Three does not resolve the grievance, the grievant and Union may jointly request that the matter be submitted to binding arbitration. Such request shall be made in writing to the City Manager within five (5) calendar days of the grievant's receipt of the Step Three response. An arbitrator may be selected by mutual agreement between the parties. Should the parties fail to agree upon an arbitrator within a reasonable time, as determined by the City, they shall make a joint request to the State Mediation & Conciliation Service for a list of seven (7) arbitrators who have had experience in the municipal sector. The parties shall select the arbitrator by alternately striking names from said list until one name remains; such person shall then become the arbitrator. The first party to strike a name shall be determined by the toss of a coin.
- (b) The arbitrator selected shall hold a hearing as expeditiously as possible at a time and at a place convenient to the parties, and shall be bound by the following:
 - (1) The arbitrator shall be bound by the language of the MOU, as well as the City's and departmental rules and regulations consistent therewith in considering any issue properly before him/her.
 - (2) The arbitrator shall expressly confine him/herself to the precise issues submitted to him/her and shall have no authority to consider other issues not submitted to him/her.
 - (3) The arbitrator shall be bound by applicable Federal, State and local law.
 - (4) In disputes involving the interpretation of the MOU, the arbitrator will only interpret the MOU and will not have the power to add to, delete from, or amend any part of the parties' Agreement. Additionally, the arbitrator may not

recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to thirty (30) days before the grievance was timely filed.

- (c) The arbitrator's decision shall be final and binding on the City, the Union, and the grievant. All fees and costs of the arbitrator and court reporter, if any, shall be borne by the losing party. The Union has the authority to settle grievances at any step in the process on behalf of members of the bargaining unit.

VIII. PREVENTION OF HARASSMENT

A. PURPOSE

Every employee is entitled to a work environment free from discriminatory harassment or retaliation. This policy prohibits harassment and discrimination on the basis of any of the following protected classifications: actual or perceived race, religious creed, color, sex (including gender, gender identity, gender expression, and pregnancy), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation, military and veteran status or any other protected classification. Retaliation, including any threats to engage in unfair immigration-related practices, against any individual for making a complaint of discriminatory harassment or for participating in a harassment investigation, or for exercising a right protected by State labor or employment laws or any applicable ordinance is prohibited.

1. Policy Statement

The City has zero tolerance for any conduct that violates this policy. Conduct need not arise to the level of a violation of law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions, up to and including discharge. The City will take appropriate preventative, corrective and/or disciplinary action in response to behavior that violates this division or the rights and privileges it is designed to protect.

2. Definitions

(a) Discrimination

Treating any individual differently because of the individual's protected classification as described above by this policy.

(b) Harassment

Harassment can include any form or combination of verbal, physical, visual, or environmental conduct. It need not be explicit or specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders. Harassment may include, but is not limited to, the following types of behavior:

- (1) Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes, and propositioning based on an actual or perceived protected classification. This may include, but is

not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.

- (2) Physical: Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived protected classification. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.
- (3) Visual or Written: The display or circulation of offensive or derogatory visual or written material related to a protected classification. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions (i.e. email).
- (4) Environmental: A work environment that is permeated with sexually oriented talk, innuendo, insults or abuse not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his or her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

(c) Discrimination/harassment does not include the following:

- (1) Bona fide acts or omissions based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission guidelines.

- (2) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with City or departmental rules or regulations, or any other appropriate work related communications between supervisor and employee.

3. Supervisor-Subordinate Relationships

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change with the result that sexual conduct that was once welcome becomes unwelcome and harassing. Employees engaged in such a relationship must immediately report their relationship to the Director of Administrative Services. The employees may continue their employment but not in a supervisor-subordinate role. The employees shall have first right to determine which of them will be transferred to an open position, if any exists, for which they meet the minimum qualifications. The City may unilaterally transfer one of the employees if one does not volunteer within five (5) calendar days of reporting the relationship. Failure to comply with this reporting requirement shall be grounds for discipline, including dismissal.

4. Responsibility

- (a) This division applies to all City personnel. Each department head is responsible for ensuring that the work environment is free from all types of unlawful discrimination, including sexual harassment. Supervisors are responsible for taking prompt, appropriate action within their work units to avoid and minimize the incidence of discrimination.
- (b) All employees shall report any conduct which violates this policy to their immediate supervisor, manager, any Department Head, the Administrative Services Department, or appropriate authority figure. This includes any instances of discriminatory harassment which they directly observe, whether or not the conduct is reported by the employee who is the object of such conduct.

Under no circumstances shall employees who believe they are victims of such conduct be required to first report that harassment to a supervisor or other authority figure if that figure is the individual who has harassed the employee. Employees may,

without following the departmental chain of command, file a complaint directly with the Department Head or City Manager.

All employees shall cooperate with any investigation of any alleged discriminatory harassment conducted by the City or its agents.

- (c) The City is also a member of the Employment Risk Management Authority and, as a member, the City is required to maintain an “Employee Reporting Line.” This is a toll-free telephone number that employees may call to report potential wrongdoing in the workplace. The City receives a transcript of the telephone call and the reporting party’s name, if left. Employees are not required to leave their name. The Line is monitored 24 hours/day and employees may submit their complaint anonymously. However, enough information must be provided to allow for an adequate investigation.

The Employee Reporting Line telephone number is (877) 651-3924. The City’s “Entity Organization Code” is “10312,” which is how transcripts of calls involving the City are forwarded to the City for action. Finally, employees may also make a report at the Employment Risk Management Authority’s website at www.employeeprotectiononline.com.

- (d) Any supervisors or managers receiving information regarding violation(s) of this policy shall immediately notify Administrative Services. If it is not possible to report to Administrative services, the supervisor or manager must report the complaint to the City Manager. All supervisors or managers shall maintain confidentiality to the extent possible in communicating or investigating any claims of alleged discrimination or harassment.

B. INVESTIGATION OF COMPLAINT

1. Informal resolution

Sometimes an individual is unaware that his/her conduct is offensive. Whenever possible, employees who believe that they are experiencing discrimination and/or harassment are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, informal assistance or counseling should be sought from a supervisor. No employee is required to attempt informal resolution before filing a complaint.

2. Formal investigation

Upon receipt of any written or oral complaint, the department head shall initiate a formal investigation after consultation with Administrative Services.

Administrative Services shall conduct or authorize an investigation. The investigator will have full authority to investigate all aspects of the complaint. The investigative authority includes accessibility to records and cooperation of all employees involved. No influence will be used to suppress any complaint and the investigation will be conducted in a manner that ensures, to the extent possible, the privacy of the parties involved.

The investigator shall report in writing the findings of fact to Administrative Services. Administrative Services will determine whether the policy has been violated and inform the complainant of the general investigation conclusion(s) when the investigation has concluded.

Disciplinary action shall be decided in accordance with City policy and after consultation between Administrative Services and the Personnel Officer.

3. Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on employer bulletin boards for office locations and telephone numbers.

4. False or Malicious Complaints

If it is determined that the reporting party knowingly or maliciously filed a false complaint or that the act reported did not in fact occur, the City may issue appropriate discipline.

5. Documentation

The Administrative Services Director shall maintain a complaint file containing copies of witness forms, complaint forms, and investigation files. The information contained in this file is confidential and privileged, subject to disclosure only under appropriate legal measures. Department Heads may review investigation files concerning their departments only with the prior approval of the City Manager. In cases of confirmed claims

resulting in discipline, the personnel file of the disciplined employee will contain appropriate documentation relating to the disciplinary actions taken. In cases of unsubstantiated and unfounded claims not resulting in discipline, the investigation file will be maintained for five (5) years.

C. MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this policy at least once every two (2) years. The Administrative Services Department will schedule training sessions each year to ensure that employees are able to schedule the mandatory training. Attendance at the training will be documented.

IX. SUBSTANCE ABUSE POLICY AND TESTING

A. PURPOSE OF THE SUBSTANCE ABUSE POLICY

Substance abuse causes job related accidents, absenteeism, substandard performance, poor employee morale and impairs the City's reputation. This policy is intended to eliminate substance abuse in the workplace. It is not intended to intrude into the private lives of City employees. The City's concern is that employees be in a condition to perform their duties safely and efficiently at work. The use of performance impairing or unlawful drugs and alcoholic beverages on the job, and the influence of those substances on employees during working hours are inconsistent with that objective. *It is unlawful for employees to manufacture, distribute, dispense, possess or use a controlled substance.*

B. APPLICATION

1. This policy applies to all employees and applicants for employment with the City of Mendota. It applies to all alcoholic beverages and to all substances, drugs, and medications, legal or illegal, which could impair an employee's ability to effectively and safely perform their job or other City-related business.
2. The City maintains a separate policy in compliance with the Federal Department of Transportation's mandatory drug and alcohol testing policies for positions requiring a Commercial Driver's License. Covered employees, employed in any capacity, who operate a commercial vehicle or who have a CDL or CDP (Permit) are subject to the requirements contained in this policy as well as the mandated policy. Such employees shall review the City's Administrative Policies regarding the City's Safety-Sensitive Drug and Alcohol Testing Program to ensure compliance and may direct any questions to the Director of Administrative Services.
3. For the purpose of enforcing this policy and maintaining an alcohol, drug and controlled-substance free workplace, the City reserves the right to search all work areas and property to which the City maintains full or joint control with the employees, including but not limited to City vehicles desks, lockers, file cabinets, furniture, or storage areas. No employee has any expectation of privacy in any City building, property, or communications system. Such searches may be conducted when the City has reasonable grounds to conclude that there has been a violation of this policy and in accordance with the Personnel Rules (X, C (Miscellaneous, Right to Search City Property)).

C. EMPLOYEE REQUIREMENTS

1. Employees shall not report to work or be on duty, nor be subject to call-in, while under the influence of or in possession of alcoholic beverages or illegal drugs while on City property and wherever City business is performed. An employee is on duty during working hours, including breaks, during meal periods, or any time while on City property.
2. The City Manager may grant special permission for City employees to use or possess alcoholic beverages in appropriate circumstances such as during community celebrations, staff parties or special events.
3. Employees shall not, directly or through a third party, manufacture, distribute, dispense, sell, or provide, alcohol or any drugs in both City workplaces or wherever City business is performed while either or both employees are on duty.
4. City employees shall not be barred by this Rule from properly performing their job functions. Accordingly, other employees who come into possession of alcoholic beverages and/or unlawful drugs as part of their official duties shall not be in violation of this Rule.
5. Employees must notify their supervisor before beginning work when taking any medication or drugs, prescription or non-prescription, which could interfere with the safe and effective performance of their duties or operation of City equipment. In the event there is a question regarding an employee's ability to safely or effectively perform his/her duties while using prescribed medications, a medical clearance from a qualified physician may be required.
6. An employee must immediately submit to an alcohol or drug test by a City selected physician or laboratory when there exists reasonable cause to suspect that the employee is or was impaired or under the influence of drugs or alcoholic beverages while on City duty.
7. An employee must provide, within twenty-four (24) hours of request by their supervisor, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug/alcohol test is positive. The prescription must be in the employee's name.
8. Compliance with this policy is a condition of City employment. Disciplinary action will be taken against those who violate this policy.
9. The City will provide reasonable opportunities of rehabilitation to employees with a drug or alcohol problem in accordance with federal and/or state law.

10. The City has established a voluntary Employee Assistance Program (EAP) to assist employees who voluntarily seek help for alcohol or drug related problems. Employees should contact their supervisors or the EAP Counselor for information concerning this Program.

D. PROCEDURES

1. Drug and Alcohol Testing

- (a) Pre-Employment Drug Tests

- (1) Generally, no drug test will be conducted before making a conditional offer of employment to the applicant. However, pre-employment testing for illegal drug use may be permitted in cases where (1) there is a special need (e.g., safety-sensitive positions or positions supervising children) to justify the test, and (2) all applicants for the position are required to test.
 - (2) Before a drug test is administered to an employee or applicant with a conditional offer for City employment, he/she will be asked to sign a consent form authorizing the clinic or laboratory to obtain a blood and/or urine specimen and to release the results of the test to the Personnel Officer and to the appropriate Department Head. The consent form shall provide space for the employee or job applicant to indicate his/her current or recent use of prescription or over-the-counter medication.
 - (3) A job applicant who refuses to consent to a drug and/or alcohol test after he or she receives a conditional offer of employment will be denied employment with the City and will be removed from the appropriate eligibility list.
 - (4) A positive test from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of unlawful drugs and/or alcohol could reasonably affect job performance.
 - (5) If a drug screen is positive for prescription drugs at the pre-employment physical, the applicant must provide, within twenty-four (24) hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name, or if the applicant does not provide adequate

verification, the Personnel Officer may decide not to hire the applicant.

(b) Drug and Alcohol Tests During Employment

- (1) Reasonable Suspicion. Supervisors, directors or management may require a drug or alcohol test when he/she has a reasonable suspicion that the employee is under the influence alcohol, illegal drugs, or controlled substances while on City duty. "Reasonable suspicion" is based on objective factors that lead a reasonable person to suspect that an employee is under the influence of drugs or alcohol at work.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- (i) Appearance;
 - (ii) Slurred speech;
 - (iii) Alcoholic odor on breath;
 - (iv) Unsteady walking and movements;
 - (v) Bizarre or extremely unusual behavior; or
 - (vi) Possession of alcohol or unauthorized drugs while on duty.
- (2) Post-Accident Testing. The City may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided that the "reasonable suspicion" factors described above are present.

- (c) In the event a supervisor reasonably suspects that an employee is or was under the influence of alcoholic beverages or performance impairing drugs while on City duty, the following procedures shall be followed:

- (1) Supervisor shall notify the Department Director or Administrative Services, or their designees, of their reasonable suspicion. If the Director or Administrative Services concurs that there is reasonable suspicion of a violation of this policy, the Director or Administrative

Services shall notify the appropriate law enforcement agency.

- (2) The Director or supervisor shall immediately notify the employee their suspicions and advise that he/she may have a representative present during the drug/alcohol test. The Director or supervisor shall document this notification, specific facts constituting his/her reasonable suspicion, and all other facts from the initiation of procedures until such time as the employee can be safely transported home in an Incident Report form. The delay in the employee securing representation shall not exceed fifteen (15) minutes from the time the employee is ordered to submit to the drug/alcohol test. The employee shall be permitted an additional period of time, not to exceed fifteen (15) minutes, in which to confer with his/her representative.
 - (3) The employee will be offered an opportunity to give an explanation of his/her condition, such as reaction to a prescribed drug, fatigue, etc. This shall be recorded in the Incident Report.
 - (4) The supervisor shall sign and date the Incident Report form.
 - (5) The employee shall be provided with a copy of the Incident Report form upon its completion.
- (d) An employee who refuses to consent to a drug and/or alcohol test when there is reasonable suspicion of drug or alcohol use in violation of this policy, shall be subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.
- (e) An employee reasonably believed to be under the influence of alcoholic beverage or performance impairing drugs while on City duty, such that there is a question regarding an employee's ability to safely or effectively perform his/her duties, shall be prevented from engaging in further work, and shall be detained for a reasonable time until he/she can be safely transported from the work site.
- (f) Positive Results for Drug and Alcohol Tests During Employment
- (1) A positive result from a drug and/or alcohol analysis showing use of unlawful or performance impairing drugs or

alcohol may result in disciplinary action up to and including discharge. Upon the request of the employee who tested positive on the drug or alcohol analysis, the City Manager may, in his or her own discretion, order and authorize a retest of such employee.

- (2) If the drug screen is positive for prescription drugs, the employee must provide, within twenty-four (24) hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee provides bona fide verification and the prescription drug affects their ability to perform their essential functions, the City will engage in the disability interactive process to determine if it can reasonable accommodate the disability. Please see Rule XI(H) for additional guidance. If the employee does not provide adequate verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his/her supervisor of his/her on-the-job use of such prescription or performance impairing drug, the employee will be subject to disciplinary action, up to and including discharge.

2. Confidentiality

Laboratory reports and test results shall not appear in the employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Personnel Officer or his/her designee, including but not limited to the Administrative Services Director. The report or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request.

Disclosures, without employee consent, may also occur when:

- (a) the information is compelled by law or by judicial or administrative process;
- (b) the information has been placed at issue in a formal dispute between the City and the employee;
- (c) the information is to be used in administering an employee benefit plan; or

- (d) the information is needed by medical personnel for the diagnosis for treatment of the employee who is unable to authorize disclosure.

X. SAFETY

A. GENERAL EMPLOYEE SAFETY

City of Mendota is committed to the safety and health of all employees and recognizes the need to comply with regulations governing injury and accident prevention and employee safety. Maintaining a safe work environment, however, requires the continuous cooperation of all employees.

City of Mendota will maintain safety and health practices consistent with the needs of our industry. If you are ever in doubt about how to safely perform a job, it is your responsibility to ask your supervisor for assistance. Any suspected unsafe conditions and all injuries that occur on the job must be reported immediately. Compliance with these safety rules is considered a condition of employment. Therefore, it is a requirement that each supervisor makes the safety of employees an integral part of her/his regular management functions. It is the responsibility of each employee to accept and follow established safety regulations and procedures.

B. REPORTING SAFETY ISSUES

All accidents, injuries, potential safety hazards, safety suggestions and health and safety related issues must be reported immediately to your supervisor. If you or another employee is injured, you should contact outside emergency response agencies, if needed. If an injury does not require medical attention, a Supervisor and Employee Report of Accident Form must still be completed in case medical treatment is later needed and to insure that any existing safety hazards are corrected. The Employee's Claim for Worker's Compensation Benefits Form must be completed in all cases in which an injury requiring medical attention has occurred.

Federal law (Occupational Safety and Health Administration) requires that we keep records of all illnesses and accidents that occur during the workday. California State Worker's Compensation Act also requires that you report any workplace illness or injury, no matter how slight. If you fail to report an injury, you may jeopardize your right to collect worker's compensation payments as well as health benefits. OSHA also provides for your right to know about any health hazards that might be present on the job. Should you have any questions or concerns, contact your supervisor for more information.

1. Entering and Leaving the Premises

At the time you are hired, you will be advised about the proper entrances and exits for our employees, as well as unauthorized areas, if any. Our insurance company prohibits unescorted or unauthorized visitors in our facilities. If you are expecting visitors, such as clients, customers or

friends, please notify your supervisor. You are expected to abide by these rules at all times. Failure to do so will lead to disciplinary action.

2. Security Checks

City of Mendota may exercise its rights to inspect all packages and parcels entering and leaving our premises.

3. Safety Rules

Safety is everybody's business. Safety is to be given primary importance in every aspect of planning and performing all City of Mendota activities. We want to protect you against industrial injury and illness, as well as minimize the potential loss of production.

Below are some general safety rules to assist you in making safety a regular part of your work. Your supervisor may post other safety procedures in your department or work area.

4. Working Safely

Safety is everyone's responsibility. Remind your co-workers about safe work methods. Start work on any machine only after safety procedures and requirements have been explained. Immediately report any suspected hazards and all accidents to your supervisor.

5. Lifting

Ask for assistance when lifting heavy objects or moving heavy furniture. Bend your knees, get a firm grip on the object, hold it close to your body and space your feet for good balance. Lift using your strong leg muscles, not your weaker back muscles.

(a) Rules for lifting

- (1) Take a balanced stance, feet placed shoulder-width apart. When lifting something from the floor, squat close to the load.
- (2) Keep your back in its neutral or straight position. Tuck in your chin so your head and neck continue the straight back line.
- (3) Grip the object with your whole hand, rather than only with your fingers. Draw the object close to you, holding your elbows close to your body to keep the load and your body weight centered.

- (4) Lift by straightening your legs. Let your leg muscles, not your back muscles, do the work. Tighten your stomach muscles to help support your back. Maintain your neutral back position as you lift.
- (5) Never twist when lifting. When you must turn with a load, turn your body, feet first.
- (6) Never carry a load that blocks your vision.
- (7) To set something down, use the same body mechanics used for lifting.

6. Materials Handling

Do not throw objects. Always carry or pass them. Use flammable items, such as cleaning fluids, with caution. Also, stack materials only to safe heights.

(a) Rules for material storage

- (1) Store heavy objects on lower shelves.
- (2) Try to store materials inside cabinets, files, and lockers.
- (3) Aisles, corners, and passageways must remain unobstructed.
- (4) Fire equipment, extinguishers, fire door exits, and sprinkler heads should remain unobstructed. Materials should be at least 18inches minimum away from sprinkler heads.

7. Trash Disposal

Keep sharp objects and dangerous substances out of the trash can. Items that require special handling should be disposed of in approved containers.

8. Cleaning Up

To prevent slips and tripping, clean up spills and pick up debris immediately.

9. Preventing Falls

To prevent slips and tripping, clean up spills and pick up debris immediately.

10. Slips and Falls

- (a) All pathways should be clear of objects.
- (b) Do not leave file and desk drawers open. Close drawers completely after every use.
- (c) Make sure that your shoes are appropriate for your work area. Non-slip shoes should be worn at all times.
- (d) Secure electrical cords and wires away from walkways.
- (e) Always use a stepladder for overhead reaching. Chairs should never be used as ladders.
- (f) Clean up spills immediately. Do not wait for someone else to do it.
- (g) Pick up objects co-workers may have left on the floor.
- (h) Report loose carpeting or damaged flooring.
- (i) Never carry anything that obscures your vision.
- (j) Avoid excessive bending, twisting, and leaning backward while seated.

11. Falling Objects

Store objects and tools where they won't fall. Do not store heavy objects or glass on high shelves.

12. Work Areas

Keep cabinet doors and file and desk drawers closed when not in use. Remove or pad torn, sharp corners and edges. Keep drawers closed. Open only one drawer at a time.

13. Ladder Safety

- (a) Never use a substitute for a ladder (i.e. chair, desk, boxes, etc.)
- (b) Know what kind of ladder to use.
- (c) Inspect your ladder (Is it sturdy? Is it bent?)
- (d) Set up the ladder properly. (Do not lean ladders up against other objects. Extend the legs of the ladders out fully.)

- (e) Climb the ladder properly.
- (f) Practice safe work habits.
- (g) Carry the ladder correctly. (Watch for others and objects in your path.)

14. Electrical Hazards

- (a) Never put your finger or anything other than an electrical plug in an outlet.
- (b) Pull by the plug, not the cord, when unplugging an appliance.
- (c) Do not use an electrical appliance when you are wet, have wet hands or are standing in water.
- (d) Limit the number of appliances plugged into each outlet.
- (e) Be alert for damaged plugs and cords. Do not touch them!
- (f) Do not place electric cords so that they run through doorways or under carpets.

15. Fire Extinguishers

Know where fire extinguishers are and how to use them.

16. Report Injuries

Immediately report all injuries, no matter how slight, to your supervisor.

17. Ask Questions

If you are ever in doubt regarding the safe way to perform a task, please do not proceed until you have consulted a supervisor. Employees will not be asked to perform any task that may be dangerous to their health, safety or security. If you feel a task may be dangerous, inform your supervisor at once.

We strongly encourage employee participation and your input on health and safety matters. Please obtain a Safety Suggestion Form from your supervisor for this purpose. Employees may report potential hazards and make suggestions about safety without fear of retaliation. We appreciate, encourage and expect this type of involvement! The success of the safety program relies on the participation of all employees. Though it is City of Mendota's responsibility to provide for the safety, health and security of

its workers during working hours, it is the responsibility of each employee to abide by the rules, regulations and guidelines set forth.

Remember, failure to adhere to these rules will be considered serious infractions of safety rules and will result in disciplinary actions.

18. Weapons

City of Mendota believes it is important to establish a clear policy that addresses weapons in the workplace. Specifically, City of Mendota prohibits all persons who enter company property from carrying a handgun, firearm, knife or any other device, tool, chemical agent or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm regardless of whether the person is licensed to carry the weapon.

The only exception to this policy will be police officers, security guards or other persons who have been given written consent by City of Mendota to carry a weapon on the property.

Any employee disregarding this policy will be subject to immediate discipline, up to and including termination.

19. Fire Prevention

Know the location of the fire extinguisher(s) in your area and make sure they are kept clear at all times. Notify your supervisor if an extinguisher is used or if the seal is broken. Keep in mind that extinguishers that are rated ABC can be used for paper, wood, or electrical fires. Make sure all flammable liquids, such as alcohol, are stored in approved and appropriately labeled safety cans and are not exposed to any ignition source.

If you are aware of a fire, you should:

- (a) Dial 911 or the local fire department.
- (b) If possible, immediately contact your supervisor. Evacuate all employees from the area.
- (c) If the fire is small and contained, locate the nearest fire extinguisher. This should only be attempted by employees who are knowledgeable in the correct use of fire extinguishers.
- (d) If the fire is out of control, leave the area immediately. No attempt should be made to fight the fire.

- (e) When the fire department arrives, direct the crew to the fire. Do not re-enter the building until directed to do so by the fire department.

20. Emergency Evacuation

If you are advised to evacuate the building, you should:

- (a) Stop all work immediately
- (b) Contact outside emergency response agencies, if needed
- (c) Shut off all electrical equipment and machines, if possible
- (d) Walk to the nearest exit, including emergency exit doors.
- (e) Exit quickly, but do not run. Do not stop for personal belongings.
- (f) Proceed in an orderly fashion to a parking lot near the building. Be present and accounted for during roll call.
- (g) Do not re-enter the building until instructed to do so.

21. Housekeeping

Neatness and good housekeeping are signs of efficiency. You are expected to keep your work area neat and orderly at all times—it is a required safety precaution.

If you spill a liquid, clean it up immediately. Do not leave tools, materials, or other objects on the floor that may cause others to trip or fall. Keep aisles, stairways, exits, electrical panels, fire extinguishers, and doorways clear at all times.

Easily accessible trash receptacles and recycling containers are located throughout the building. Please put all litter and recyclable materials in the appropriate receptacles and containers. Always be aware of good health and safety standards, including fire and loss prevention.

Please report anything that needs repairing or replacing to your supervisor immediately.

22. Office Safety

Office areas present their own safety hazards. Please be sure to:

- (a) Leave desk, file or cabinet drawers firmly closed when not in use.

- (b) Open only a single drawer of a file cabinet at a time.
- (c) Arrange office space to avoid tripping hazards, such as telephone cords or calculator electrical cords.
- (d) Remember to lift things carefully and to use proper lifting techniques.

23. Property and Equipment Care

It is your responsibility to understand the machines needed to perform your duties. Good care of any machine that you use during the course of your employment, as well as the conservative use of supplies, will benefit you and City of Mendota. If you find that a machine is not working properly or in any way appears unsafe, please notify your supervisor immediately so that repairs or adjustments may be made. Under no circumstances should you start or operate a machine you deem unsafe, nor should you adjust or modify the safeguards provided.

Do not attempt to use any machine or equipment you do not know how to operate, or if you have not completed training on the proper use of the machine or equipment.

24. Restricted Areas

In the interest of safety and security, certain portions of City of Mendota's facilities may be restricted to authorized personnel only. Such areas will be clearly marked. Some areas may be designated no smoking areas as well.

25. Safety Rules When Operating Machines and Equipment

When operating machines and equipment, please be sure to follow these procedures:

- (a) Make sure machine guards are in place while machines are in operation.
- (b) Remove loose clothing, jewelry or rings before operating machinery.
- (c) Wear steel toe shoes and prescription eye protection to start the job, if required.

Required personal protective equipment, except for prescription glasses and steel-toed shoes, will be issued to you by your supervisor.

We will continue to provide a clean, safe and healthy place to work and we will provide the best equipment possible. You are expected to work safely, to observe all safety rules and to keep the premises clean and neat. Remember that carelessly endangering yourself or others may lead to disciplinary action, including possible termination.

26. Security

Maintaining the security of City of Mendota buildings and vehicles is every employee's responsibility. Develop habits that insure security as a matter of course. For example:

Always keep cash properly secured. If you are aware that cash is insecurely stored, immediately inform the person responsible.

Know the location of all alarms and fire extinguishers, and familiarize yourself with the proper procedure for using them, should the need arise.

When you leave City of Mendota's premises, make sure that all entrances are properly locked and secured.

27. Smoking

Smoke only in designated smoking areas. Please be courteous and concerned about the needs of your fellow employees and others. Please do not smoke in restricted areas.

All employees are expected to abide by this policy while at work.

XI. MISCELLANEOUS

A. PERSONNEL RECORDS

The Personnel Officer shall maintain a service or personnel record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent by the Personnel Officer.

B. INTERNET, ELECTRONIC MAIL AND VOICEMAIL USE

1. Internet Use

Internet, World Wide Web, and Intranet access has been provided to City employees for the benefit of the City and its customers/citizens. This access enables employees to connect to information and other resources around the world. All employees are required to maintain and enhance the City's public image, and to use the Internet in a productive manner. The following guidelines have been established for using the Internet and the City's electronic mail system.

2. Acceptable Uses of the Internet

Employees accessing the Internet, World Wide Web and/or the City's own Intranet are representing the City when doing so. Accordingly, all such communications should be for professional, business reasons and should not be for personal use. Each employee is responsible for ensuring that they use their Internet access privilege in an effective, ethical and lawful manner. "Chat rooms" may only be used to conduct official City business, or to gain technical or analytical advice.

3. Unacceptable Uses of the Internet

The Internet, World Wide Web and/or the City's Intranet should not be used for personal gain or advancement of individual views. Solicitation of non-City business, or any use of the Internet for personal gain, is strictly prohibited. Use of the Internet must not disrupt the operation of the City network or the networks of other users, and must not interfere with an employee's productivity. Copyrighted materials belonging to entities other than this City may not be transmitted by employees on the Internet. One copy of copyrighted material may be downloaded for an employee's personal use in research if pre-approved by the City Manager of City of Mendota. Employees are not permitted to copy, transfer, rename, add or delete information or programs belonging to other users unless given express permission to do so by the owner of such information or programs. Failure to observe copyright or license agreements may result in

disciplinary action from the City including termination or legal action by the copyright owner.

In addition, any employee accessing Internet sites containing pornography, racial or ethnic hate propaganda or other similarly inappropriate websites unrelated to employment will be subject to immediate discipline, including termination. Employees may not use the City 's computer system and Internet access for "shopping." All computer and Internet use will be tracked by the City from time to time for all users to insure that the City 's computer systems are not being used in an inappropriate manner.

4. E-Mail and Voicemail Use

Electronic mail (E-mail) and voicemail may be used for non-confidential business contacts. The City 's E-mail and voicemail systems are available to assist in the conduct of the City 's business. These systems, including the equipment and the data stored in the system, are and remain at all times the property of the City. As such, all messages created, sent, received or stored in the system are and remain the property of the City. Therefore, should you send or receive "personal" messages in violation of this policy, the City may review and copy any and all such messages.

Messages should be limited to the conduct of business at the City. Voicemail and E-mail may not be used for the conduct of personal matters except in very limited circumstances and with the approval of your supervisor.

The City reserves the right to retrieve and review any message composed, sent or received. Please note that even when a message is deleted or erased, it is still possible to recreate the message; therefore, ultimate privacy of messages cannot be ensured to anyone and the City reserves the right to review deleted messages. While voicemail and E-mail may accommodate the use of passwords for security, confidentiality cannot be guaranteed. Messages may be reviewed by someone other than the intended recipient. Furthermore, although you may be granted the use of a "password," it is not for the protection of your privacy. Rather the use of passwords is for the protection of the City so that someone other than the intended recipient does not review the messages. Moreover, all passwords must be made known to the City and the City will at all times have the ability to review E-mail and voicemail messages regardless of an employee's use of a personal password. The reason for this is simple: your system may need to be accessed by the City when you are absent.

Messages may not contain content that may reasonably be considered offensive, disruptive, or illegal. Harassment of any kind, as defined by the Personnel Rules, through the use of E-mail or voicemail is prohibited.

Employees learning of any misuse of the voicemail or E-mail system or violations of this policy shall notify their supervisor or the City Manager of City of Mendota immediately. As appropriate, the City will investigate the matter. Employees found to have misused the City's electronic resources will be disciplined up to and including termination.

Internet use, use of personal E-mail and/or voicemail which in the sole discretion of the City is determined to be excessive, disruptive, or an inappropriate use of City time and resources is prohibited and may lead to discipline up to and including discharge.

C. RIGHT TO SEARCH CITY PROPERTY, EMPLOYEES AND PROPER USE OF CITY EQUIPMENT

Employees have no right of privacy in the workplace. Therefore, to the fullest extent allowed under the law, City of Mendota will search and inspect City facilities, employees and the personal property of employees as necessary to insure the City's interests are protected. Situations in which this may arise include suspicion of employee theft, incidents of violence or threats of violence, when an employee is suspected of the use, sale, or distribution of drugs, improper or illegal use of City facilities, misuse of City technology such as the Internet, E-mail or voicemail and other situations in which the City believes a search and inspection is appropriate.

All City of Mendota property—including, but not limited to, desks, storage areas, work areas or offices, lockers, file cabinets, credenzas, computer systems, office telephones, cellular telephones, modems, facsimile machines, duplicating machines, and vehicles—must be used properly and maintained in good working order. Employees who lose, steal, or misuse City of Mendota property may be personally liable for replacing or fixing the item and may be subject to discipline, up to and including discharge.

City of Mendota reserves the right, at all times and without prior notice, to inspect and search all City property for the purpose of determining whether this policy or any other policy of City of Mendota has been violated, or when an inspection and investigation is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. These inspections may be conducted during or outside of business hours and in the presence or absence of the employee.

In addition, in order to ensure the safety and security of employees and citizens, and to protect City of Mendota's interests, City of Mendota reserves the right to question and inspect any employee or other individual entering onto or leaving City of Mendota's premises. City of Mendota also may request employees' consent while on the job or on City of Mendota's premises to agree to reasonable inspection of their personal property and/or persons. The individual may be

requested to self-inspect his or her personal property or person by displaying the contents of any packages in the presence of a representative of City of Mendota, typically a management employee of the same gender. As long as it is within the scope of the law the City of Mendota will not tolerate any employee's refusal to submit to a search. Refusal to submit to a lawful search will be grounds for discipline up to and including termination.

City of Mendota's technical resources, such as its computer system, voicemail system, and E-mail, are provided for use in the pursuit of City of Mendota business and are to be reviewed, monitored, and used only in that pursuit, except as provided in this policy. As a result, computer data, voicemail messages, and E-mail transmissions are readily available to numerous persons. If, during the course of your employment, you perform or transmit work on City of Mendota's computer systems or other technical resources, your work may be subject to the investigation, search, and review of others in accordance with this policy. In addition, any electronically stored communications that you either send to or receive from others may be retrieved and reviewed by City of Mendota.

Employees have no right of privacy as to any information or file maintained in or on City of Mendota property or transmitted or stored through City of Mendota's computer systems, voicemail, E-mail, or other technical resources. All bills and other documentation related to the use of City of Mendota's equipment or property are the property of City of Mendota and may be reviewed and used for purposes that City of Mendota considers appropriate.

Although it is a common practice to refer to a City computer as a particular employee's computer, all computers are owned by City of Mendota and employees have no right of privacy as to any information or file maintained in or on a City computer. All files and other information on City of Mendota property or transmitted or stored through City of Mendota's computer systems, voicemail, E-mail, or other technical resources remain City property at all times. All documentation related to the use of City of Mendota equipment or property is the property of City of Mendota and may be reviewed and used for purposes that City of Mendota considers appropriate. Similarly, although you may be provided a password, the City retains the right to review the entire contents of your computer at any time. Do not share your password with other employees. Passwords are used to track computer use. Failure to follow this policy may lead to discipline including termination.

Employees may access only files or programs, whether computerized or not, that they have permission to use. Computer software is protected from unauthorized copying and use by federal and state law; unauthorized copying or use of computer software exposes both City of Mendota and the individual employee to substantial fines and/or imprisonment. Therefore, employees may not load personal software onto City of Mendota's computer system and may not copy software from City of Mendota for personal use. All employees must contact the

City Manager of the City of Mendota to install any software on the City of Mendota's computer system. Unauthorized review, duplication, dissemination, removal, installation, damage, or alteration of files, passwords, computer systems or programs, or other property of the City of Mendota, or improper use of information obtained by unauthorized means, may be grounds for disciplinary action up to and including termination.

Messages stored and/or transmitted by voicemail or E-mail must not contain content that may reasonably be considered offensive or disruptive to any employee. Offensive content would include, but not be limited to, sexual comments or images, racial slurs, gender-specific comments or any comments or images that would offend someone on the basis of his or her age, sexual orientation, religious or political beliefs, national origin, or disability.

D. DRESS AND GROOMING CODE

1. Grooming Guidelines

(a) Hair

Must be neat, clean and well groomed in a business-like style. Hair color must be appropriate for the professional setting. Long hair must be kept in a neat hairstyle. Hair adornments should be small and professional. Facial hair must be short and well trimmed.

(b) Personal Hygiene

Employees are expected to maintain a high standard of cleanliness, regular bathing, oral hygiene, and use of deodorant.

(c) Make-Up

Should be simple and appropriate for the business setting. Heavily applied dramatic eye make-up or unusual lipstick colors, such as black, are unacceptable.

(d) Jewelry

Must be simple and appropriate for the business setting. Visible body piercing, with the exception of ears, is not permitted. Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

(e) Perfume or Cologne

Should be lightly applied.

(f) Fingernails

Must be kept clean, neatly trimmed. Length should not interfere with performing of job duties. Style and polish must be appropriate for the business setting.

(g) Other

No Tattoos or other unnatural markings are allowed anywhere on the head, face, or neck. Any visible tattoos cannot be obscene, sexually explicit, discriminatory, extremist, or gang-related. No visible tattoos shall be greater than 4 by 6 inches. Any non-conforming tattoos must be covered with clothing or a bandage while at work.

2. Dress Guidelines for Office Staff

(a) Tee Shirts

Tee shirts are not allowed.

(b) Slacks

Must be full length. Dress or casual slacks must be appropriate for the business setting. Leggings, knit stretch pants and jeans are unacceptable. Cropped pants and shorter suits are acceptable; however, hosiery is preferred.

(c) Hemlines

Are to be worn at a professional length, no higher than 4" above the knee.

(d) Necklines

Must be for the business setting. Plunging necklines, which reveal cleavage or undergarments, are not permitted. No backless tops or dresses. Sleeveless tops or dresses can be worn with a jacket.

(e) Midriff

Clothing must be worn so that midriff is covered.

(f) Undergarments

Color of undergarments must be inconspicuous, conventional usage only. Sheer clothing, which allows undergarments to show

through, is not acceptable. Undergarments should be appropriate to the cut of clothing being worn so it is not visible.

(g) Shoes

Shoes must always be well maintained and appropriate for the business setting. Backless, strapless or thong-type shoes are not permitted at any time.

(h) Belts

Must be worn at a conventional length and coordinate with clothing.

(i) Ties

Must be appropriate for the business setting.

(j) Fit

Clothing must be fitted in a traditional and professional manner. Excessively long or baggy clothing or tight, revealing clothing is not permitted.

(k) Casual Dress Day

Friday may be a casual dress day subject to either Department or City Manager approval. Casual dress does not include T-shirts, tank tops, shorts, revealing clothing, “beach-type” shoes, or sportswear (for example, jogging or gym clothes).

3. If an employee has a question about how the above policies apply to them, the matter should be immediately raised with their supervisor for consideration and determination.

E. **INCONSISTENT, INCOMPATIBLE OR CONFLICTING EMPLOYMENT ACTIVITIES**

1. Purpose

The purpose of this division is to implement the provisions of Government Code § 1126 relating to inconsistent, incompatible, and conflicting employment by City employees. It is not the intent or purpose of this division to restrict, limit or interfere with employees’ right to outside employment. It is intended only to prevent outside employment that is inconsistent and incompatible with City employment.

2. Policy

- (a) Employees of the City shall not engage in any employment, activity or enterprise for compensation that is inconsistent, incompatible, in conflict with, or inimical to his/her duties as an employee of the City.
- (b) No employee of the City shall perform any work, service, or counsel for compensation (except as provided in Government Code § § 1128 and 1129) outside of his/her employment with the City, where any part of his/her efforts will be subject to approval by any officer, employee, board or commission of the City.
- (c) Each Department Director, subject to the City Manager's approval, may determine the consistency or inconsistency of outside employments, activities or enterprises with City employment. Authorization to engage in outside employment or activities for compensation is subject to revocation by the Department Head or City Manager without cause. Outside employment, activity, or enterprise shall be prohibited:
 - (1) If it involves the use, for private gain or advantage, or City time, facilities, equipment or supplies, or the City badge, uniform, prestige or influence of his/her City office or position;
 - (2) If it involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his/her employment with the City or as a part of his/her duties as an employee of the City;
 - (3) If it involves the performance of an act in other than his/her capacity as an employee of this City, which act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement of any officer or other employee of the City; or
 - (4) If it involves time demands as would render performance of his/her duties as an employee of the City less efficient.
- (d) No City-owned equipment, vehicles, tools, supplies or any other item shall be used by any employee while the employee is

engaged in any outside employment or activity, or for personal use.

3. Procedures

All employees of the City shall, within thirty (30) days of beginning any outside employment and annually, on April 1, submit a written statement to the Personnel Officer outlining and describing in full, all outside employment engaged in by such employee. Such statement shall include the name and address of the employee's outside place of employment, the name of the employee's supervisor at such outside place of employment, a job description for such employee's position at such outside place of employment, and the number of hours spent at such employment each month. Forms for such report shall be available in the personnel office. The Personnel Officer may require the employee to provide further and additional appointing information relative to such employee's outside employment.

Violation of any of the provisions of this division shall be grounds for disciplinary action, including dismissal from the City service.

F. **EMPLOYEE POLITICAL ACTIVITIES**

The City Prohibits:

- (1) Employees and officers from engaging in political activities during work hours;
- (2) Employees and officers from participating in political activities of any kind while in uniform;
- (3) Political campaigning in City buildings or on premises adjacent to City buildings; and
- (4) An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate. All other political activities of City employees shall conform to pertinent provisions of State law and any local provision adopted pursuant to State law.

G. **GIFTS OR GRATUITIES**

No City officer or employee shall solicit or accept any gifts or gratuities in connection with or relating to employee's job duties or services rendered.

Gifts, rewards, or awards may be provided by the City of Mendota to City employees for work-related recognition, making special contributions, or

achieving major milestones such as years of service, promotion, departure, or retirement. The expense for such gifts or awards must follow prescribed accounting or procurement procedures. The Internal Revenue Service classifies many awards to staff as taxable income subject to W-2 reporting and tax withholding. All monetary awards, gifts, or cash equivalents, including but not limited to certificates or cards, are subject to personal income tax.

H. COMPENSATION

Employees should consult their Memorandum of Understanding for guidance on salary or compensation.

XII. EMPLOYER-EMPLOYEE RELATIONS

A. GENERAL

1. Statement of Purpose

These rules implement Chapter 10, division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) entitled "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, ordinances, resolutions and rules which establish and regulate the civil service system, or which provide for other methods of administering employer-employee relations.

It is the purpose of these rules to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. Nothing in these rules shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others:

- (a) The exclusive right to determine the mission of its constituent departments, commissions and boards;
- (b) Set standards of service;
- (c) Determine the procedures and standards of selection for employment;
- (d) Direct its employees;
- (e) Take disciplinary action;
- (f) Relieve its employees from duty because of lack of work or for other lawful reasons;
- (g) Maintain the efficiency of governmental operations;
- (h) Determine the content of job classifications;
- (i) Subcontract work;
- (j) Maintain the efficiency of governmental operations;

- (k) Determine the methods, means and personnel by which government operations are to be conducted;
- (l) Take all necessary actions to carry out its mission in emergencies; and
- (m) Exercise complete control and discretion over its organization and the technology of performing its work.

2. Definitions

As used in these rules, the following terms shall have the meanings indicated:

- *"Appropriate unit"* means a unit of employee classes or positions, established under the following Representation Proceedings hereof.
- *"Confidential employee"* means an employee who, in the course of his/her duties, has access to information relating to the City's administration of employer-employee relations.
- *"Consult/Consultation in Good Faith"* means to communicate orally or in writing with all effected recognized employee organizations for the purpose of presenting and obtaining views or advising of proposed actions in a good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of the meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to the following Impasse Procedures hereof.
- *"Day"* means calendar day unless expressly stated otherwise.
- *"Employee relations officer"* means the City Manager or his/her duly authorized representative.
- *"Exclusively Recognized Employee Organization"* means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to the Representation Proceedings hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

Such recognition status may only be challenged by another employee organization as set forth in the procedures for Decertification of Exclusively Recognized Employee Organization

- *"Impasse"* means that the representatives of the City and a recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a memorandum of understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- *"Management employee"* means an employee having responsibility for formulating, administering or managing the implementation of City policies and programs.
- *"Proof of employee support"* means:
 - An authorization card recently signed and personally dated by an employee, provided that the card is not subsequently revoked in writing by the employee;
 - A verified authorization petition or petitions recently signed and personally dated by an employee; or
 - Employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one (1) employee organization for the account of any one (1) employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee.
 - The phrase *"recently signed"* shall mean within ninety (90) days prior to the filing of such proof of support.
- *"Supervisory employee"* means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

B. REPRESENTATION PROCEEDINGS

1. Recognition Petition – Filing by Employee Organization

An employee organization that seeks to be formally acknowledged as the exclusively recognized employee organization representing the employees in an appropriate unit shall file a petition with the employee relations officer containing the following information and documentation:

- (a) Name and address of the employee organization.
- (b) Names and titles of its officers.
- (c) Names of employee organization representatives who are authorized to speak on behalf of the organization.
- (d) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- (e) A statement whether the employee organization is a chapter of or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization and if so, the name and address of each such other organization.
- (f) Certified copies of the employee organization's constitution and by-laws.
- (g) A designation of those persons, not exceeding two (2) in number, and their addresses to whom a notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- (h) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- (i) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- (j) A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a

majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the employee relations officer or to a mutually agreed upon disinterested third party.

- (k) A request that the employee relations officer formally acknowledge the petitioner as the exclusively recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.
- (l) The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete under penalty of perjury by the duly authorized officer(s) of the employee organization executing it.

2. City Response

Upon receipt of the petition, the employee relations officer shall determine whether:

- (a) There has been compliance with the requirements of the recognition petition; and
- (b) The proposed representation unit is an appropriate unit in accordance with Section B(7) of this Resolution.

If an affirmative determination is made by the employee relations officer on the foregoing two (2) matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on such request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the employee relations officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section B(10) of this Resolution.

3. Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one

which corresponds with respect to some, but not all, the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty percent (30%) and otherwise in the same form and manner as set forth in Section B(1) of this Resolution. If such challenging petition seeks establishment of an overlapping unit, the employee relations officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the employee relations officer shall determine the appropriate unit or units in accordance with the standards in Section B(7) of this Resolution. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the employee relations officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section B(10) of this Resolution.

4. Granting Recognition Without an Election

If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the employee relations officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the employee relations officer shall formally acknowledge the petitioning employee organization as the exclusive recognized employee organization for the designated unit.

5. Election Procedure

Where recognition is not granted pursuant to Section B(4) of the Resolution, the employee relations officer shall arrange for a secret ballot election to be conducted by a party agreed to by the employee relations officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. All employee organizations that have duly submitted petitions that have been determined to be in conformance with this Article (Representation Proceedings) shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days

before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election.

An employee organization shall be formally acknowledged as the exclusively recognized employee organization for the designated appropriate unit following an election or runoff election if it received a numerical majority of all valid votes cast in the election. In an election involving three (3) or more choices, where none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the two (2) choices receiving the largest number of valid votes cast, the rules governing an initial election being applicable to a runoff election.

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

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Conciliation Service.

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

6. Procedure for Decertification of Exclusively Recognized Employee Organization

A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the employee relations officer only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a memorandum of understanding then having been in effect less than three (3) years, whichever occurs later. A decertification petition may be filed by two (2) or more employees or their representative or an employee organization and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

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

- (b) The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as the representative of that unit.
- (c) An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the appropriate unit and the relevant and material facts relating thereto.
- (d) Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized employee organization. Such proof shall be submitted for confirmation to the employee relations officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this section.

An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this section in the form of a recognition petition that evidences proof of employee support of at least thirty percent (30%) and otherwise confirms to the requirements of Section B(1) of the Resolution.

The employee relations officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this Article (Representation Proceedings). If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section B(10) of these Rules. If the determination of the employee relations officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent exclusively recognized employee organization and to unit employees.

The employee relations officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section B(7) of the Resolution.

During the "open period" specified in the first paragraph of this section, the employee relations officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent exclusively recognized employee organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may, within fifteen (15) days of such notice, file a recognition petition in accordance with this section, which the employee relations officer shall act on in accordance with this section.

If, pursuant to this section, a different employee organization is formally, acknowledged as the exclusively recognized employee organization, such organization shall be bound by all the terms and conditions of any memorandum of understanding then in effect for its remaining term.

7. Policy and Standards for Determination of Appropriate Units

The policy objectives for determining the appropriateness of units shall be the effect of a proposed unit on (1) The efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) Providing employees with effective representation based on recognized community of interest considerations.

These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- (b) History of representation in the City and similar employment; except that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- (c) Consistency with the organizational patterns of the City.
- (d) Effect of differing legally mandating impasse resolution procedures.
- (e) Number of employees and classifications and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

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

Notwithstanding the foregoing provisions of this section, managerial and confidential responsibilities, as defined in Section A(2) of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore such managerial and confidential employees may only be included in units that do not include non-managerial and non-confidential employees. Managerial and confidential employees may not represent any employee organization that represents other employees.

Peace Officers have the right to be represented in separate units composed solely of such peace officers.

Also under the MMBA, professional employees have the right to be represented separately from non-professional employees.

The employee relations officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this section.

8. Procedures for Modification of Established Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the employee relations officer only during the period specified in Section B(6) of the Resolution. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section B(1), shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section B(7) hereof. The employee relations officer shall process such petitions as other recognition petitions under this Article (Representation Proceedings).

The employee relations officer may, on his/her own motion, propose that an established unit be modified. The employee relations officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the employee relations officer shall determine the composition of the appropriate unit or units in accordance with Section B(7), and shall give written notice of such determination to the affected employee organizations. The employee relations officer's determination

may be appealed in accordance with Section B(10) of this Resolution. If a unit is modified pursuant to the motion of the employee relations officer hereunder, employee organizations may thereafter file recognition petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to Section B(1) of the Resolution.

9. Procedure for Processing Severance Requests:

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing form and processing of such request shall be as specified in Section B(8) for modification requests.

10. Appeals

An employee organization, aggrieved by an appropriate unit determination of the employee relations officer, or an employee organization aggrieved by a determination of the employee relations officer that a Recognition Petition (Sec. B(1)), Challenging Petition (Sec. B(3)), Decertification Petition (Sec. B(6)), Unit Modification Petition (Sec. B(8)) --- or employees aggrieved by a determination of the employee relations officer that a Decertification Petition (Sec. B(6)) or Severance Request (Sec. B(9)) ---has not been filed in compliance with the applicable provisions of this Article (Representation Proceedings) may, within ten (10) days of notice thereof, request the intervention of the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the City council for final decision within fifteen (15) days of notice of the employee relations officer's determination or the termination of proceedings, whichever is later.

Appeals to the City council shall be filed in writing with the City Clerk, and a copy thereof served on the employee relations officer. The City council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City council on the use of such procedure, and/or any decision of the City council determining the substance of the dispute shall be final and binding.

C. ADMINISTRATION

1. Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the City by an exclusively recognized employee organization under items (a) through (h) of its recognition petition under Section B(1) of this Resolution, shall be submitted in writing to the employee relations officer within fourteen (14) days of such change.

Exclusively recognized employee organizations that are party to an agency shop provision shall provide annually to the employee relations officer and to unit members within sixty (60) days after the end of its fiscal year the financial report required under Government Code Section 3502.5(f) of the MMBA.

2. Employee Organization Activities, Use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in memoranda of understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and not to such internal employee organization business as soliciting membership, campaigning for office, and organizing meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

3. Administrative Rules and Procedures

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

D. IMPASSE PROCEDURES

1. Initiation, Meeting, Purpose

If the meet and confer process has reached impasse as defined in these Rules, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the employee relations officer. The purpose of such meeting shall be:

- (a) To review the position of the parties in a final effort to reach agreement on a memorandum of understanding; and
- (b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

2. Procedures Enumerated

Impasse procedures are as follows:

- (a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- (b) If the parties agree to, and do participate in mediation, and if mediator is unable to effect settlement of the controversy, the employee organization may present a request to the City and the Public Employment Relations Board (PERB) to submit the impasse to fact-finding. This request by the employee organization to submit the impasse to fact-finding must be made no sooner than 30 days, but no later than 45 days, following the selection of a mediator by the parties.
- (c) If the parties do not agree to participate in mediation, the employee organization may present a request to the City and PERB to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.
- (d) Within five (5) working days after PERB's determination that the request for fact-finding is sufficient, a fact-finding panel of three (3) shall be appointed in the following manner: one (1) member of the panel shall be appointed by the employee relations officer, one (1) member shall be appointed by the exclusively recognized employee organization. PERB shall, within five (5) working days after making its determination that the request for fact-finding is sufficient, submit the names of seven persons, drawn from the list of neutral fact-finders established pursuant to Government Code section 3541.3(d). PERB shall thereafter designate one of the seven persons to serve as the chairperson unless notified by the parties within five (5) working days that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by PERB.

The following constitute the jurisdictional and procedural requirements for fact-finding:

- (a) The panel shall, within ten (10) days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. The panel shall have subpoena power with regard to hearings, investigations and inquiries.
- (b) Subject to the stipulations of the parties, the fact-finders shall determine and apply the following measures and criteria in arriving at their findings and recommendations:
 - (1) State and federal laws that are applicable to the employer.
 - (2) Local rules, regulations, or ordinances.
 - (3) Stipulations of the parties.
 - (4) The interests and welfare of the public, and the financial ability of the public agency.
 - (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
 - (6) The consumer price index for goods and services, commonly known as the cost of living.
 - (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
 - (8) Any other facts not confined to those specified in paragraphs (a)-(g), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
 - (i) Maintaining appropriate compensation relationships between classifications and positions within the City;

(ii) Other legislatively determined and projected demands on agency resources (i.e., budgetary priorities as established by the governing body);

(iii) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s);

(iv) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s);

(v) Assurance of sufficient and sound budgetary reserves; and

(vi) Constitutional, statutory, and Municipal Code/ Charter limitations on the level and use of revenues and expenditures.

- (c) Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of the facts and recommendations for the resolution of the issues in dispute, which shall be presented in terms of the criteria and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairman of the fact-finding panel shall serve such findings and recommendations on the employee relations officer and the designated representative of the exclusively recognized employee organization before they are made available to the public.
- (d) If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the fact-finder or the chairman of the fact-finding panel shall make them public by submitting them to the City Clerk for consideration by the City Council in connection with the Council's legislative consideration of the impasse.
- (e) After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the City Council may hold a public hearing, the City Council may hold a public hearing regarding the impasse, and take such action regarding the impasse as it, in its discretion, deems appropriate as in the public

interest, including implementation of the City's last, best and final offer. Any legislative action by the City Council on the impasse shall be final and binding.

3. Costs

The costs for the services of a mediator and fact-finding panel chairperson agreed upon by the parties shall be borne equally by the City and the exclusively recognized employee organization, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's résumé on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The parties shall make payment directly to the chairperson.

Any other mutually incurred costs shall be borne equally by the parties. Any separately incurred costs for the panel member selected by each party shall be borne by such party.

XIII. ACKNOWLEDGMENT

This is to acknowledge that I have received a copy of the City of Mendota's Personnel Rules and have read and understand their contents. I understand that the rules contain important information about the City's general personnel policies and my obligations as an employee of the City. Further, I understand that I must keep the Personnel Rules in a safe place for reference and any changes or updates which may be made from time to time.

I further understand that the City may change, rescind or add to any rules, policies, or practices described in the Personnel Rules from time to time in its sole discretion without prior notice, and that the language used in the Personnel Rules is not intended to create, and does not create, a contract between the City of Mendota and any employee.

DATED: _____

Employee's Signature

Employee's Name (Print)