



City of St. Helena
Regular City Council Meeting
Tuesday, January 12, 2021 @ 6:00 PM

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but please observe the time limit of four minutes.

In accordance with Executive Order N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofstheleena.org. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.

Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions. Spanish translation for this meeting will be offered. To access Spanish translation, you will need to join the meeting using the Zoom app from a computer, iPad or Iphone. You will see an icon on the screen that will allow you to choose Spanish translation. To learn how to use Zoom, please see the instructions below.

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/83599184501>

Or iPhone one-tap :

US: +16699006833,,83599184501# or +13462487799,,83599184501#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

Meeting ID: 835 9918 4501

International numbers available: <https://us02web.zoom.us/j/83599184501>

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1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE

3. ROLL CALL
Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, Eric Hall and Lester Hardy
4. PUBLIC FORUM:
Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Forum. Each person's comments shall be limited to 4 minutes. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Council Members for clarifications may be posed and answered, and Council Members may make requests that items be placed on future agendas, but in accordance with state law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.
5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, AND AB 1234 REPORTS:
Reports by staff and/or Council Members on items of general interest. Brief questions for clarification may be posed and answered, and Council Members may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the City Council.
6. PRESENTATIONS AND PUBLIC RECOGNITIONS
 - 6.1. Proclamation recognizing Maria Criscione Stel, Executive Director of Friends & Foundation, St. Helena Public Library. (~~Proclamation is forthcoming~~ Provided 1-12-21 3:15pm)
[Proclamation](#)
7. STAFF BRIEFING
 - 7.1. Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
 - 7.2. City Manager COVID-19 update
8. CONSENT ITEMS
Members of the Council or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)
 - 8.1. Consideration and proposed approval of Regular Meeting Minutes of December 8, 2020. (Minutes forthcoming)

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzaopoulos, City Clerk
Recommendation:
Approve
 - 8.2. Consideration of Approval of a Resolution Authorizing an Additional 3-Month Extension to the Grant Deadline for Expenditures of the FY20 Non-Profit Grant Awarded to Vailima Foundation.

CEQA Determination: Exempt
Prepared By: Mandy Kellogg, Finance Manager

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Recommendation:

Approval of a Resolution authorizing an additional 3-month extension to the deadline for expenditures of the FY20 Non-Profit Grant awarded to Vailima Foundation with a new grant deadline of March 31, 2021.

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- 8.3. Consideration and proposed approval of a resolution (1) ratifying an emergency public project without public bidding relating to the Glass Fire; (2) ratifying Construction Contract STH Contract: FY2021-043 with Ghilotti Construction Company in an amount not-to-exceed \$104,569.00 for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road leading to the St. Helena Gun Range; and (3) authorizing the Public Works Director to approve change orders up to 15% of the contract amount. 41 - 86

CEQA Determination: Exempt from CEQA pursuant to Sections 21080(b)(3) and (4)

Prepared By: April Mitts, Finance Director

Recommendation:

Approval of a resolution (1) ratifying an emergency public project without public bidding relating to the Glass Fire; (2) ratifying Construction Contract STH Contract: FY2021-043 with Ghilotti Construction Company in an amount not-to-exceed \$104,569.00 for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road leading to the St. Helena Gun Range; and (3) authorizing the Public Works Director to approve change orders up to 15% of the total contract amount.

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- 8.4. Consideration and Approval of a Resolution Approving City of St. Helena Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property Policy and Rescinding any Previous Policies or Administrative Memoranda which are Inconsistent with City Council Policy P-FI-0021. 87 - 98

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends City Council adopt a Resolution approving City of St. Helena Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property and Rescinding any Previous Policies or Administrative Memoranda which are Inconsistent with City Council Policy P-FI-0021.

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- 8.5. Consideration and Approval of a Resolution Accepting a Donation in the amount of \$50,000 from the L. Bob & Evalyn Trincherro Charitable Fund for the City of St. Helena Fire Department for Wildfire Recovery and Relief and Approving the Attached Letter as the Written Agreement of Acceptance. 99 - 115

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

The Mayor and Vice Mayor recommend the City Council adopt a resolution accepting a donation in the amount of \$50,000 from the L. Bob & Evalyn Trincherro Charitable Fund for the City of St. Helena Fire Department for Wildfire Recovery and Relief and Approving the Attached Letter as the Written Agreement of Acceptance.

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- 8.6. Consideration and proposed adoption of a Resolution accepting the work and final construction costs of McCullough Construction Inc. in the amount of \$3,314,785.31 and directing the filing of the Notice of Completion for CIP Project No. W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement 117 - 132

CEQA Determination: Final Environmental Impact Report (SCH. No. 2006092096); Addendum to Final EIR (April 23, 2019); Addendum to Final EIR (June 23, 2020)

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer

Recommendation:

Adopt a Resolution accepting the work and final project construction costs of McCullough Construction Inc. in the amount of \$3,314,785.31 and directing the filing of the Notice of Completion for CIP Project No. W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement.

[Staff Report - Pdf](#)

- 8.7. Consideration and Proposed Approval of a Resolution Adopting the City of St. Helena 2021 Employee Handbook Superseding Prior Version(s) of the Handbook. 133 - 319

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director

Recommendation:

Approve a Resolution Adopting the City of St. Helena 2021 Employee Handbook Superseding Prior Version(s) of the Handbook.

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9. PUBLIC HEARINGS

- 9.1. None

10. OLD BUSINESS

- 10.1. None

11. NEW BUSINESS

- 11.1. Consideration and proposed approval of a resolution appointing two applicants to the Planning Commission and consider leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled. 321 - 366

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzafopoulos, City Clerk

Recommendation:

Staff recommends adopting a resolution appointing applicants to the Planning Commission and leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

Planning Commission

- Appoint one applicant to the term expiring June 30, 2021 and appoint one applicant to the term expiring June 30, 2024.

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- 11.2. Consideration and Proposed Approval of a Resolution Appointing of Members to the Water Advisory Board 367 - 398

CEQA Determination: Not a CEQA project

Prepared By: April Mitts, Finance Director

Recommendation:

Staff recommends adopting a resolution appointing the following applicants to the Water Advisory Board:

Winery customer

- One Public Member - Solely a residential customer
- Second Public Member
- City Council Member
- Planning Commissioner
-

[Staff Report - Pdf](#)

- 11.3. 2021 City Council Meeting Calendar 399 - 401

CEQA Determination: Not a CEQA project

Prepared By: Cindy Tzaopoulos, City Clerk

Recommendation:

Review the 2021 calendar and provide direction on Council meeting dates.

[Staff Report - Pdf](#)

12. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

- 12.1. **January City Council Meetings:**

1/26 (Staff reports due 1/8)

Presentation

1/26 Dr. Relucio COVID 19 Update

STAFF BRIEFING:

1/26 Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer

1/26 Monthly Water Update
CONSENT:
1/26 - Fire Department - Approving Sale of Surplus Apparatus (Rescue-17)
TBD - Glass fire termination of emergency
1/26 Amendment to Oscar Larson Contract
2/23 Interpretation Services contract
2/23 Award Housing Element contract
1/26 Generator – Water Treatment Plant
2/23 Contract Services with 4LEAF for Building Temp personnel
1/26 Lisa Wise contract amendment - inclusionary housing ordinance
1/26 Authorizing the waiver of certain development impact fees in an amount not to exceed \$76,987.68 in order to accommodate a 5-unit affordable housing project at 963 Pope Street in the Medium Density Residential district.
1/26 Awarding a Professional Services Agreement to Mintier Harnish Planning Consultants for preparation of the City's 2023-2031 6th Cycle Housing Element Update in an Amount Not-to-Exceed \$228,024.
PH or OLD / NEW BUSINESS:
OB 2/9 Scout Hall Agreement
2/9 2nd Qrtly Grant Report
PH 2/23 2018-5 Ordinance amendment
OB 1/26 963 Pope fee waiver
2/9 Mid Year Budget Review
PH - CDBG Grant discussion-planning technical assistance
OB 1/26 – Secondary Elm Tunnel Tree Assessment Recommendations
1/26 Request for City Council participation in Zoning Code Update Subcommittee

13. ADJOURNMENT

The next Regular City Council meeting is scheduled for January 26, 2021, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on January 7, 2021

Cindy Tzaopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at <https://sthelena.civicweb.net> and will be available for public review at the respective meeting.

THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL CITY COUNCIL MEETINGS

St. Helena, CA— The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur: <https://sthelena.civicweb.net/Portal/>

The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.

How to Watch or Listen to Council Meetings:

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

Watch Council Meeting by Joining the Zoom Meeting:

1. By Computer, Tablet, or Smart Phone:

1. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit zoom.us/signup and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
2. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: <https://zoom.us/join> and enter the **Meeting ID**
3. Select if you would like to connect audio and/or video and tap **Join Meeting**.
4. For specific instructions for your device, go to: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

1. Listen Only by Telephone:

1. **Dial** the number listed on the Council Agenda.
2. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #. A participate ID is not required.**
3. To disconnect from the meeting, hang up the phone.

Ways to Provide Public Comment:

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

1. Send a Public Comment in by 4:00 PM Prior to the Meeting to: publiccomment@cityofsthelena.org

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to publiccomment@cityofsthelena.org. Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 2 hours before the scheduled meeting and will be included as an attachment to the agenda. All public comments will be made publicly available and attached to the agenda item and will not be read out loud. All public comments that are received after 4:00 PM will be attached to the agenda the following day.

2. Provide Comment through Zoom meeting from a computer, tablet, or smart phone

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the "**raise hand**" feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all

incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the 'raise hand' button again.

3. Call in to the ZOOM meeting from a cell phone or landline phone only

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial *9 on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press *9 again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.

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En cumplimiento de la Ley de Estadounidenses con Discapacidades, si necesita asistencia especial para participar en esta reunión, llame a la Oficina del Secretaría de la Ciudad (707) 967-2792. La notificación 72 horas antes de la reunión, como lo requiere la Sección 202 de la Ley de Estadounidenses con Discapacidades, permitirá a la Ciudad hacer arreglos razonables para garantizar la accesibilidad a esta reunión.

### **LA CIUDAD DE ST. HELENA ALIENTA LA PARTICIPACIÓN PÚBLICA EN LÍNEA EN REUNIONES VIRTUALES DEL CONSEJO DE LA CIUDAD**

St. Helena, CA– La Ciudad de St. Helena está comprometida con la participación pública en el gobierno de la Ciudad de manera que sea consistente con la guía proporcionada por el Oficial de Salud Pública del Condado de Napa y la Orden Ejecutiva N-25-20 del Gobernador Newsom. Estas pautas se relacionan con el distanciamiento social y están destinadas a proteger a todos al limitar la propagación de COVID-19 en nuestra comunidad. En cumplimiento de estas pautas, el Ayuntamiento de St. Helena organizará una Reunión del Consejo Virtual sobre Zoom; Una herramienta de teleconferencia gratuita que permite a los usuarios mirar y / o llamar a la reunión desde sus computadoras o teléfonos. Esta reunión estará abierta al público y permite comentarios públicos en vivo. La reunión también se grabará, se transmitirá en vivo y se publicará en el sitio web de la Ciudad después de la clausura de la reunión si se presentan dificultades técnicas: <https://sthelena.civicweb.net/Portal/>

**El enlace web de ZOOM, la identificación de la reunión y el número de teléfono se enumerarán en la parte superior de la Agenda de la reunión del Ayuntamiento. Se le pedirá que ingrese la ID de la reunión, pero no habrá contraseña ni ID de participante.**

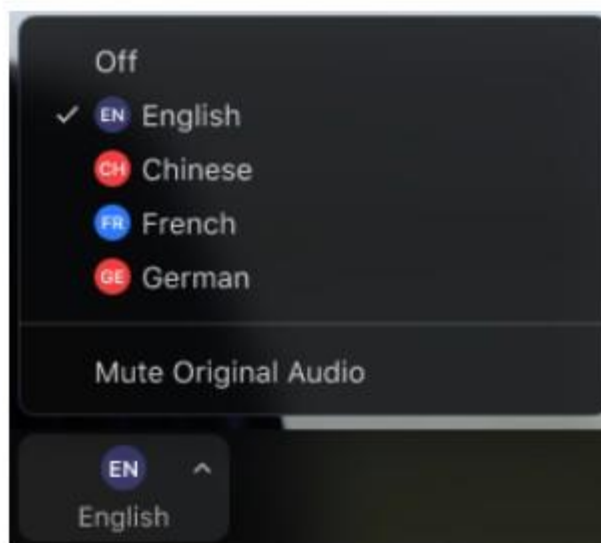
# Cómo escuchar la interpretación de un idioma



1. En los controles de la reunión o el seminario web, haga clic en **Interpre**



2. Haga clic en el idioma que desee escuchar.



3. (Opcional) Para escuchar solo el idioma interpretado, haga clic en **Siler**



1. En los controles de la reunión, toque ... Más.



2. Toque **Interpretación de idiomas**.
3. Toque el idioma que desee escuchar.



4. (Opcional) Toque el botón de alternancia **Silenciar audio original**.



5. Haga clic en **Finalizado**.

### **Cómo ver o escuchar las reuniones del Consejo:**

1. Veala a través del canal 28 de Comcast
2. Vea el video de transmisión en vivo en el sitio web de la ciudad
3. Mire y escuche en Zoom.us haciendo clic en el enlace en la Agenda del Consejo
4. Escuche llamando al número de Zoom listado en la Agenda del Consejo

### **Vea la reunión del Consejo uniéndose a la reunión Zoom:**

1. **Por computadora, tableta o teléfono:**
  - a. Antes de unirse a la reunión virtual del Ayuntamiento, le recomendamos que descargue la aplicación Zoom. Para registrarse en su propia cuenta gratuita, visite [zoom.us/signup](https://zoom.us/signup) e ingrese su dirección de correo electrónico. Recibirá un correo electrónico de Zoom ([no-reply@zoom.us](mailto:no-reply@zoom.us)) . En este correo electrónico, haga clic en Activar cuenta.
  - b. Si ha iniciado sesión en su cuenta, ingrese la ID de la reunión que figura en la Agenda del Ayuntamiento. Si no ha creado una cuenta, vaya a: <https://zoom.us/join> e ingrese la ID de la reunión
  - c. Seleccione si desea conectar audio y / o video y toque Unirse a la reunión. re. Para



obtener instrucciones específicas para su dispositivo, vaya a:  
<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

## 2. Escuche solo por teléfono:

- a. **Marque** el número que figura en la Agenda del Consejo.
- b. Cuando se le solicite, ingrese la **ID de la reunión** provista en la parte superior de la Agenda de la reunión del Concejo Municipal **y presione #. No se requiere una identificación de participación.**
- c. Para desconectarse de la reunión, cuelgue el teléfono

### Formas de proporcionar comentarios públicos:

Mientras asiste a la reunión virtual del Ayuntamiento, el público tendrá la oportunidad de proporcionar comentarios públicos en vivo durante el Foro Público y después de cada tema de la agenda. Cuando sea el momento apropiado para comentarios públicos, el Alcalde abrirá verbalmente los comentarios públicos. En este momento, cada individuo tiene permitido 4 minutos parahablar.

#### 1. Envíe un comentario público por adelantado a [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org)

La forma más fácil de proporcionar comentarios públicos es enviar su comentario público por correo electrónico. Los comentarios públicos pueden enviarse por correo electrónico a [publiccomment@cityofsthelena.org](mailto:publiccomment@cityofsthelena.org). Incluya en la línea de asunto "COMENTARIO AL CONSEJO y el PUNTO DEL PROGRAMA". Cualquier comentario público debe presentarse a más tardar 2 horas antes de la reunión programada y se incluirá como un archivo adjunto a la agenda. Todos los comentarios públicos se harán públicos y se adjuntarán al artículo de la agenda y no se leerán en voz alta. Todos los comentarios públicos que se reciban después de las 4:00 PM se adjuntarán a la agenda al día siguiente.

- 2. Proporcione comentarios a través de la reunión Zoom desde una computadora, tableta o teléfono inteligente

Esta opción permite que el público asista virtualmente a la reunión como un "asistente" silenciado sin capacidades de video o pantalla compartida. Podrá ver y escuchar a los participantes en la reunión, pero no podrán escucharlo hasta que el anfitrión de permiso.

Si desea proporcionar comentarios públicos durante un elemento específico de la agenda o durante un foro público, puede usar la función "levantar la mano" ubicada en el panel de control en la parte inferior de la pantalla. El icono es una pequeña mano azul. En Windows también puede usar el atajo de teclado Alt + Y para subir o bajar la mano. En Mac también puedes usar el atajo de teclado Alt + Y para subir o bajar lamano.

Se le notificará al anfitrión que ha levantado la mano y se lo colocará en fila con todas las solicitudes entrantes

Cuando sea su turno de hablar, se le notificará que el anfitrión le ha dado permiso de hablar. Para ser retirado de la fila, simplemente haga clic de nuevo el botón "levantar la mano".

## 3. Llame a la reunión de ZOOM desde un teléfono fijo o móvil solamente

Esta opción le permite al miembro del público la oportunidad de participar verbalmente en comentarios públicos.

Si desea hablar durante el tiempo de comentarios públicos, marque \* 9 en su teléfono.

Se le notificará al anfitrión que le gustaría hablar y se colocará en fila con todas las solicitudes entrantes.

Cuando sea su turno de hablar, se le notificará que el anfitrión le ha dado permiso de hablar. Puede presionar \* 9 nuevamente si desea ser eliminado de la fila.



## City of St. Helena PROCLAMATION

Maria Criscione Stel, Founding Executive Director  
Friends & Foundation, St. Helena Public Library  
Proclamation on Her Retirement  
January 12, 2021

**Whereas**, Maria Criscione Stel, founding executive director of Friends & Foundation, St. Helena Public Library, has retired after seven years guiding the organization's mission of advocacy and fundraising on behalf of the library; and

**Whereas**, after the merger of two predecessor groups, Ms. Criscione Stel led the transformation of the organization to a professional, effective and successful local non-profit, in part by recruiting and engaging board members, creating bylaws and committees, and setting up a solid financial structure, but especially by her leadership in establishing Friends & Foundation's annual fundraiser, Bookmark Napa Valley; and

**Whereas**, during Ms. Criscione Stel's tenure, Friends & Foundation raised more than \$1.6 million to support programs, children's services, readings, new collections, films, and other special events that foster civic engagement in St. Helena; and

**Whereas**, Ms. Criscione Stel was a skilled, well-organized administrator, an excellent advocate and communicator, and a thoughtful, hard-working leader who made good decisions, got things done and believed in the value of her work; and

**Whereas**, Maria Criscione Stel is admired and respected by colleagues, board members, donors, library staff, and city leadership;

**Now, therefore, be it resolved that we**, the City Council of the City of St. Helena, proclaim January 12, 2021, a day in St. Helena to honor and thank Mara Criscione Stel and ask everyone to thank her for her contributions to our library and the community it serves.

Dated: January 12, 2021

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Geoff Ellsworth, Mayor  
City of St. Helena





Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject: Consideration of Approval of a Resolution Authorizing an Additional 3-Month Extension to the Grant Deadline for Expenditures of the FY20 Non-Profit Grant Awarded to Vailima Foundation.**

**CEQA Exempt  
Determination:**

**Prepared By:** Mandy Kellogg, Finance Manager

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

**BACKGROUND**

On February 28, 2019, the Vailima Foundation submitted a grant application requesting \$10,000 in grant funds through the FY20 Non-Profit Grant Program. The grant funds were to be used for operational expenses related to exhibition display platforms, exhibition printing costs, gallery technology, and accessible furniture and equipment as outlined in the grant application (***Attachment A***).

On June 11, 2019, the Vailima Foundation was awarded a grant in the amount of \$5,000 through the FY 20 Non-Profit Grant Program and entered into an agreement on June 14, 2019. As part of the terms of the agreement all expenditures related to the grant must be completed by the end of the fiscal year, which was June 30, 2020.

**DISCUSSION**

On April 2, 2020, the Vailima Foundation formally requested a 6-month extension to the grant agreement due to delays experienced as a result of the COVID-19 Pandemic, which forced closure of the museum and ceased activity on the project. Per the grant agreement, a six-month extension to the deadline may be permitted upon the written approval by the City Manager or designee. On May 19, 2020, the City Manager granted the extension allowing for a new grant deadline for expenditures of December 31, 2020.

On December 10, 2020, Vailima Foundation contacted staff and informed them that they still had not been able to complete the activities outlined in the grant agreement due to the ongoing impacts from the pandemic and additional impacts from the wildfires. Due to the pandemic, they have been unable to open to the public, hire much needed help, or allow volunteers into the building to assist. Additionally, several of the board members, who had been assisting in the grant project were severely impacted by the Glass fire and have been unable to continue helping with the museum's progress.

Considering these circumstances, the Vailima Foundation has requested an additional extension to the current grant to a new completion date of March 31, 2021. Any extensions beyond the original six-month extension require approval from the City Council.

**FISCAL IMPACT**

There is no additional fiscal impact associated with this report. Grant funds were encumbered on July 1, 2020, and are already included in the current operating budget.

**RECOMMENDED ACTION**

Approval of a Resolution authorizing an additional 3-month extension to the deadline for expenditures of the FY20 Non-Profit Grant awarded to Vailima Foundation with a new grant deadline of March 31, 2021.

**ATTACHMENTS**

[Resolution Authorizing an Additional 3-Month Extension to the Grant Agreement](#)

[Attachment A - FY20 Vailima Foundation Non-Profit Application](#)

[Attachment B - Community Enrichment Grant Agreement - Executed](#)

[Attachment C - Grant Extension Letter RLSM](#)

[Attachment D - RLSM Grant Extension Request 2020](#)



**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_**

**Resolution Authorizing an Additional 3-Month Extension to the Grant Deadline for Expenditures of the FY20 Non-Profit Grant Awarded to Vailima Foundation with a New Grant Deadline of March 31, 2021.**

**RECITALS**

- A. On June 11, 2019, the Vailima Foundation was awarded a grant in the amount of \$5,000 through the FY 20 Non-Profit Grant Program and entered into an agreement on June 14, 2019; and
- B. As part of the terms of the agreement all expenditures related to the grant must be completed by the end of the fiscal year, which was June 30, 2020; and
- C. On April 2, 2020, the Vailima Foundation formally requested a 6-month extension to the grant agreement due to delays experienced as a result of the COVID-19 Pandemic; and
- D. On May 19, 2020, the City Manager granted the extension allowing for a new grant deadline for expenditures of December 31, 2020; and
- E. On December 10, 2020, Vailima Foundation contacted staff and informed them that they still had not been able to complete the activities outlined in the grant agreement due to the ongoing impacts from the pandemic and additional impacts from the wildfires; and
- F. The Vailima Foundation has requested an additional extension to the current grant to a new completion date of March 31, 2021.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

Authorize an additional 3-month extension to the deadline for expenditures of the FY20 Non-Profit Grant awarded to Vailima Foundation with a new grant deadline of March 31, 2021.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth:  
Vice Mayor Dohring:  
Councilmember Chouteau:  
Councilmember Hall:  
Councilmember Hardy:

APPROVED:

---

Geoff Ellsworth, Mayor

ATTEST:

---

Cindy Tzaopoulos, City Clerk



**City of St. Helena Nonprofit Funding Program  
Grant Application and Budget FY 2019/20**

The annual "Nonprofit Funding Program" is designed to support local non-profit organizations directly serving the community and/or benefiting the City of St. Helena. Applicant programs, projects, and services ("Project") must be consistent with the City's mission statement or support at least one of the City Council's three-year goals (see attached).

Please answer the following questions as they apply to your Project.

Applications must be received no later than **February 28, 2019 by 5:00 PM**. Late and incomplete applications will not be accepted.

**ORGANIZATIONAL OVERVIEW**

|                                             |                                                        |
|---------------------------------------------|--------------------------------------------------------|
| Organization Name:                          | Vailima Foundation (dba Robert Louis Stevenson Museum) |
| Organization Mailing Address:               | 1490 Library Lane, PO Box 23, St. Helena, CA 94574     |
| Organization Contact Person<br>(Name/Title) | Barrett Dahl, Executive Director                       |
| Organization Contact Email:                 | director@stevensonmuseum.org                           |
| Organization Contact Telephone:             | 707-963-3757                                           |
| Organization Website:                       | www.StevensonMuseum.org                                |
| Federal Tax ID Number and Status:           | 94-1673783 Good                                        |

How long has your organization been in operation? 50 Years

**PROJECT CATEGORY**

- ☐ **Programmatic Grant** – Projects or programs which provide support services to the residents of the City of St. Helena.
- ☒ **Community Enrichment Grant** – Projects which promote or benefit the St. Helena community with arts, culture, or education.

**GRANT REQUEST**

|                         |                                            |
|-------------------------|--------------------------------------------|
| Project Name:           | Gallery and Exhibition Improvement Project |
| Address of Project:     | 1490 Library Lane, St. Helena, CA 94574    |
| Requested Grant Amount: | \$ 10,000.00                               |
| Matching Funds:         | \$ TBD                                     |
| TOTAL Project Cost:     | \$ 10,000.00                               |

**APPLICATION QUESTIONS:**

1. Describe how your Project ties to the City's Goals, Mission/Vision Statement.

The Robert Louis Stevenson Museum (RLSM) respectfully requests support from the City of St. Helena Nonprofit Funding Program in the amount of \$10,000.00 for their Gallery and Exhibition Improvement Project (GEIP). The completed enhanced gallery and exhibit will be developed over the next several months with a target opening in July 2019.

The GEIP aligns with vision and mission statement as well as the three-year goals of the City of St. Helena in several ways, all of which coalesce to create an improved and accessible facility that fulfills the cultural and communal needs of both the residents of and visitors to the City of St. Helena.

Firstly, the GEIP aligns with the three-year goals of the City of St. Helena in that it too is focused on providing a safe and environmentally conscious environment for the visitors of the RLSM, while also ensuring the care and protection of the museum collection. The GEIP will also enable the RLSM to provide space for more public participation through programming and events as well as the space to accommodate student groups of all ages. Finally, the GEIP will provide a new space to inspire support and involvement of the community as well as a space that actively protects and promotes the unique history and culture of St. Helena.

In addition to the goals, the GEIP also aligns with the mission and vision of the City to provide excellent professional service to all of our guests. The GEIP will allow staff and volunteers to interact with visitors in new and lasting ways, keeping them involved with the museum. It will also highlight and embrace the history of St. Helena and Robert Louis Stevenson's relationship to it. Lastly, the GEIP will also provide a safe, accessible facility which will promote civic participation amongst residents, opportunities for conversation amongst neighbors, and strengthening the community's relationship with their Robert Louis Stevenson Museum.

2. Describe your Project including objectives and goals and explain how you will meet these goals within the deadline of June 30, 2020. Please provide a timeline for your project.

The GEIP's overall objective is to create a space that is technologically advanced, environmentally friendly, and accessible to visitors, while also better protecting the museum collection for future generations. The components of the GEIP include improvements in the areas of technology, education, and accessibility.

### TECHNOLOGY

The GEIP will focus on improving how content about the museum and its displays are made available to visitors. This will be achieved through three avenues: iPads tablets, flat screen monitors and integrating multilingual text for the sharing of information about the Stevenson and the RLSM. A card reader and dock will also be installed in order that supporters may make donations and staff can more easily process retail sales.

The RLSM will offer two Apple iPad tablets equipped with the content of the large didactic panels and images of the corresponding collection pieces on display. This information will be available in English, Spanish, and French. By diversifying the language, more visitors will be able to access the information, interact with, and develop a deeper connection to the content of the exhibits. All of the content will also be enlargeable to assist those with vision needs.

In the future, these tablets will be equipped with additional language translations as well as an audio guide for the visually impaired. Additionally, the introduction of tablets will also reduce paper waste, allowing the RLSM to be more environmentally mindful by interacting digitally with visitors.

The GEID will also equip the RLSM with two flat screen monitors with separate purposes. A smaller monitor will be installed at the reception desk and will be used to dispense information about upcoming events, public programs and museum volunteer opportunities, as well as recognize significant supporters and sponsors. Additionally, it will provide some background information about the RLSM.

A larger monitor will be installed as a component of the overall exhibit and will feature two presentations, one highlighting collection pieces which cannot be on continuous display due to their fragility, and a short presentation on the modern, cinematic, theatrical, and television adaptations of Stevenson's work and characters. The purpose of this monitor is to help provide a well-rounded experience which transports audiences from the 19<sup>th</sup> century to the present.

The objective behind the introduction of technology through iPads and monitors is to further immerse visitors in the content of the Robert Louis Stevenson Museum to help them find personal connections with the story, and to demonstrate the modern relevance of Stevenson, thus giving our audiences a more rounded experience when visiting. These devices will also allow the museum to offer didactic text in three languages--English, Spanish, and French--as well as eventually provide audio tours for the visually impaired.

## **EDUCATION**

The GEIP will also focus on improving how the collection is viewed and interpreted. This will be achieved through two means, the printing of new exhibition didactic panels and more accessible installations, achieved through improved exhibition design, such as updated casework and other types of exhibition furniture. Together these steps will better engage and inform the public utilizing the RLSM collection, while simultaneously protecting and preserving the collection for future generations.

### **Exhibition Printing**

The GEIP includes producing didactic panels which will be installed as part of the exhibit. These panels will highlight the life of Robert Louis Stevenson, and will include images of the artist and his family (some of which are drawn from the museum's collection), juxtaposed with his writings from well-known books, such as *Treasure Island*, *The Silverado Squatters*, and *A Child's Garden of Verses*. These informational didactic panels will demonstrate how Stevenson's work continues to have a lasting impact on modern literature and entertainment, demonstrating the timelessness of his work and characters.

The design and production of these didactic panels is imperative to the success of the GEIP, as they will tell the story of Robert Louis Stevenson, his life before, during, and after his time in Napa, and the influence his life had on his work. By highlighting how Stevenson's work continues today to have a profound relevance and connection to the human experience. Visitors will understand the author as a person, and be able to form their own relationship with him and his work.

### **Exhibition Display Platforms**

The RLSM GEIP includes the construction and installation of display platforms to showcase the larger furniture pieces in the RLSM's collection. Display Platform 1 will present items from Stevenson's childhood which hold historical significance to the story of Stevenson's life. Specifically, the platform will display the rocking chair, mahogany grandfather clock, and

Chippendale desk. Display Platform 2 will feature Stevenson's oak-carved writing desk which traveled with him to Samoa, and on which he wrote several of his stories.

Designing and fabricating these display platforms is essential in order to achieve a better presentation of the collection objects. Each platform will be constructed and sealed with non-VOC emitting materials and provide a secure and safe method to protect the collection from potential damage, either from elements or by unintentional interaction by the public.

#### **ACCESSIBILITY**

The GEIP will, lastly, focus on issues of accessibility for the public, volunteers, and staff. This will be achieved through providing accessible seating areas for resting during exploration and for tours. Such accessibility improvements will make moving through the gallery easier for individuals and groups, particularly those with mobility issues, and allow the staff to engage safely and easily with the public.

In taking into account the demographic of our community, our visitors, and our future, making the gallery more accessible to visitors during operating hours and during special events is of the utmost importance for individual safety. By installing seating and accessible furniture to visitors, staff, and volunteers the RLSM will be better equipped to cater to our visitors ensure everyone has a comfortable and enjoyable experience at the Robert Louis Stevenson Museum.

**TIMELINE OF PRODUCTION**

| <b>Date</b>   | <b>Description</b>                                                                                                                                                               |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| March 15-31   | Continue developing and finalizing museum didactic content                                                                                                                       |
| March 15-31   | Continue developing and finalizing artifact and object labels                                                                                                                    |
| March 20-31   | Finish gallery layout                                                                                                                                                            |
| April 1-15    | Submit content for Translation into English and Spanish                                                                                                                          |
| April 15 – 30 | Develop PowerPoint content for Reception Monitor                                                                                                                                 |
| April 15 -30  | Develop PowerPoint content for exhibition monitor <ol style="list-style-type: none"> <li>1. Stevenson Museum Collection</li> <li>2. 21<sup>st</sup> Century Stevenson</li> </ol> |
| May 1 – 15    | Upload tours and images into iPad Tablets<br>Sync all tablets with Museum website                                                                                                |
| May 15 – 20   | Final Didactic Edits                                                                                                                                                             |
| June 1        | Beta Opening of Museum (rough opening)                                                                                                                                           |
| June 1        | Order platforms                                                                                                                                                                  |
| June 15       | Order Didactics for Printing                                                                                                                                                     |
| June 30       | Order furniture for gallery and reception<br>Order monitors and mounts for exhibition space                                                                                      |
| July 1        | Install didactics                                                                                                                                                                |
| July 2        | Install platforms                                                                                                                                                                |
| July 5-7      | Install artifacts<br>Install monitors                                                                                                                                            |
| July 8        | Install Reception area<br>Install Furniture                                                                                                                                      |
| July 9-12     | Finalizing and Correcting                                                                                                                                                        |
| July 16       | Opening for regular business Tuesday, July 16 <sup>th</sup> at 12 noon                                                                                                           |



3. Describe the community support for your Project:

- a. What organizations, neighborhood associations, nonprofits, residents, etc. are also involved with the Project?

The Robert Louis Stevenson Museum GEIP will be created with the Director of the RLSM, Barrett Dahl, Ken Tomio, Kimberley Bush Tomio, Lise Lawson, Lise Lawson, Gerry Working, and Napa Valley Woodworking. The three parties bring expertise in their respective fields and will work in concert with one another to bring about the successful completion and operation of the new RLS Museum gallery and exhibit.

- b. What roles are they playing and how collaborative is the Project?

The success of the GEIP requires the cooperation of several professionals invested in the future of the Robert Louis Stevenson Museum. Going forward the work will be distributed between the listed professionals and led by RLSM Executive Director, Barrett Dahl.

**Barrett Dahl, Executive Director, Robert Louis Stevenson Museum**

Barrett Dahl has served as the Executive Director of the Robert Louis Stevenson Museum since March 2016 and in her tenure at the Museum has worked to bring new programs and community involvement to the Museum. Since 2008 she has worked and interned at several museums and offices throughout the country including the Santa Barbara Museum of Art, Smithsonian Latino Center, Evergreen Aviation and Space Museum, and the Phoebe Hearst Anthropology Museum. She completed her MA in Museum Studies from San Francisco State University. In her career in museums she has worked in curation, archives, collection management, and development. The combination of these skills combined with her intimate knowledge of the RLSM collection and the community of St. Helena make her uniquely qualified to lead the GEIP and the future of the Robert Louis Stevenson Museum.

**Kentaro Tomio, Curatorial and Design Consultant**

A professional in the field of museum and nonprofits since 1999, Mr. Tomio has worked as curator, educator and designer for over twenty years, and has organized and designed over 100 museum exhibitions. He held the positions of Curator of the Crow Collection of Asian Art in Dallas and Curator and Head of Education for the Tyler Museum of Art in Texas before becoming the Executive Director of the Alliance Forum Foundation in San Francisco. Prior to his museum career, he was faculty at several colleges and universities including the University of Chicago, Bowdoin College in Maine and Southern Methodist University in Dallas. Mr. Tomio did graduate studies at the University of Chicago in both history and anthropology. His varied

talents and experience in education, curation, and design make him a unique and invaluable asset to the GEID and the Robert Louis Stevenson Museum.

**Kimberley Bush Tomio, Trustee, Curatorial and Collection Consultant**

A museum professional since 1989, Kim Tomio has served in positions of collections care, exhibition and operations at several museums in New York, Texas and California. Currently, Ms. Tomio serves in the role of Director of Museum Services at the Asian Art Museum, San Francisco. In this capacity she is responsible for the Museum Services Department overseeing collections, exhibitions, conservation, preparation, photography, and image services. Her exceptional history in exhibition and collections management as well as her involvement on the board of trustees makes her uniquely qualified to collaborate and help guide the successful completion of the GEID.

**Lise Lawson, Trustee, Interior Design Consultant**

Formerly principal of Lise Lawson Interior Design, Ms. Lawson specialized in commercial and residential design projects. Commercial projects included banks, law firms, and hotels. Her keen attention to detail and an understanding of commercial aesthetic make her cooperation in the GEID valuable to its completion.

**Gerry Working, Trustee, Education Consultant**

Gerry Working has served as Chair of the Robert Louis Stevenson Museum board of trustees since 2016. In that time, she has applied her thirty years of experience in education and as a former principal to help bring engaging and educational programs to the RLS Museum. In her capacity as a consultant Ms. Working is instrumental in the development and editing of content for the exhibition, ensure information is accessible to all members of the public.

**Brian Chiasson, Napa Valley Wood Working**

Brian Chiasson is a licensed general contractor based in the Napa Valley. For over 15 years he has worked in furniture building and wood working. His company, Napa Valley Wood Working has been operating in the Napa Valley for nine years and frequently collaborates with other construction companies to produce quality products for customers.

c. What other support exists for your Project?

The Robert Louis Stevenson Museum was gifted with a \$5,000.00 contribution toward the improvement of the main gallery. These funds have already been allocated for spending to this project in addition to the requested amount of \$10,000.00.

At this time there is no other additional outside support. However, with the successful completion of the GEIP, the RLSM will be better positioned to develop sponsorship programs to benefit the gallery, programs, and care of the collection. It is also anticipated that the community and local businesses will become more involved and invested in the next fifty years of the Robert Louis Stevenson Museum.

4. Describe who will benefit from this Project and estimate how many people this Project may impact.

The beneficiaries of the RLSM GEIP will be threefold; the residents of St. Helena and Napa Valley, the tourists who visit year-round, and the academics and scholars who utilize the archive and collection for their varied works.

The GEIP will benefit the residents of St. Helena and Napa Valley in that they will have a cultural and historical resource unlike anything else in the area. The redesigned exhibit space and updated technology will make the facility more accessible to the diverse group of residents in Napa Valley. Furthermore, the facility will be better equipped to host public events and programming as well as accommodate school groups whose educational experience can be enhanced by the multitude of writings by Robert Louis Stevenson. The GEIP will provide a space where all members of the community can feel welcome and proud of such a unique and historic asset in their town.

The GEIP will also benefit the tourist industry of St. Helena. Quoted on the “Welcome to Napa Valley” sign on Highway 29, Robert Louis Stevenson is already a part of many visitor’s vacations. His statement that “the wine is bottled poetry” appears in thousands of images, but the Robert Louis Stevenson Museum is frequently overlooked. The GEIP will provide St. Helena with an updated and inviting tourist attraction which will be welcoming to individuals and families from around the world regardless of their language or familiarity with Stevenson. The new RLSM will connect all audiences to the story of Robert Louis Stevenson, his life, and his work, reinforcing his legacy and impact on literature, art, and entertainment in the 21<sup>st</sup> century.

The overall impact of the gallery is unquantifiable. However, the GEIP will make the RLSM more inviting and intriguing to visit for people around the world. The overall impact of this project will be a Robert Louis Stevenson Museum which is a point of pride in the community of St. Helena and Napa Valley. The museum will become a more accessible cultural and educational resource for the City and its residents allowing for more discussion on a myriad of topics including literature, poetry, film, theater as well as local and international history. The GEIP impact will be felt for many generations to come as the museum continues to grow and evolve with the community, inspiring students, adults, and people from around the world through its exhibitions, immersive programming, and care for its collection.

5. If you have received funding from other Napa County government agencies in the past two years, provide level of funding and how funding from the City of St. Helena will specifically benefit St. Helena residents.

In 2018-2019 the Robert Louis Stevenson Museum received funding from both the County of Napa and from the City of St. Helena. These two grants were used for a variety of projects outlined below.

**City of St. Helena: Nonprofit Funding Program 2018-2019**

|                                 |                   |
|---------------------------------|-------------------|
| <b>City of St. Helena Grant</b> | <b>\$5,000.00</b> |
| <b>TOTAL</b>                    | <b>\$5,000.00</b> |

The 2018-19 Grant from the City of St. Helena was used to fund the creation and installation of a *Treasure Island* themed mural created in partnership with students at Nimbus Arts. The funds were used to pay for the supervision of two Nimbus Artists working with the students and the necessary materials to create the mural. The mural was installed at the beginning of August 2018 and has remained on display on the western outside wall of the Robert Louis Stevenson Museum for the enjoyment of the community.

**County of Napa: Arts & Culture Grant 2018-2019**

|                                      |                    |
|--------------------------------------|--------------------|
| <b>Special Projects and Programs</b> | <b>\$2,500.00</b>  |
| <b>Capital Improvement Grant</b>     | <b>\$15,000.00</b> |
| <b>TOTAL</b>                         | <b>\$17,500.00</b> |

The 2018-19 Grants from the County of Napa were used to fund two separate projects.

**Special Projects and Programs:** This grant was awarded to help support the third annual, Stevenson Week during November 2018. The week of events included a new exhibit opening and lecture, special scholarly lecture with Dr. Roger Swearingen, single malt whisky tasting, and our annual Treasure Hunt. The funds were also allocated to fund print and social media promotional materials and radio advertisement on VINE Radio.

**Capital Improvement Project:** This portion of the grant was used to remove the 40-year-old red carpet from the RLS Museum gallery. Deemed to be hazardous to the collection and a hindrance to accessibility of the differently abled, the carpet was removed, and the concrete slab refinished and dyed to create a more modern and accessible space for the public to move around.

### **How St. Helena Funding Will Benefit the GEIP**

The overall impact of this project will be a Robert Louis Stevenson Museum which is a point of pride in the community of St. Helena and Napa Valley. The museum will be a more accessible cultural and educational resource for the City and its residents, allowing for more discussion on a myriad of topics including literature, poetry, film, theater as well as local and international history. The GEIP impact will be felt for many generations to come as the museum continues to grow, inspiring students, adults, and people from around the world through its exhibitions, immersive programming, and its unique and important collection.

**COST ESTIMATE:**

Include a high level of descriptions of all the program or project costs that will be paid for by City Funds.

| Description                         | Amount             |
|-------------------------------------|--------------------|
| Exhibition Display Platforms        | \$ 800.00          |
| Exhibition Printing Costs           | \$ 4,500.00        |
| Gallery Technology                  |                    |
| iPad (x2)                           | \$ 700.00          |
| Television Monitors and Mounts (x2) | \$ 1,700.00        |
| Card Reader and Dock                | \$ 300.00          |
| Accessible Furniture and Equipment  | \$ 2,000.00        |
| <b>TOTAL</b>                        | <b>\$10,000.00</b> |

**AUTHORIZED REPRESENTATIVE**

I represent that this Application Packet describes the intended use of the requested City of St. Helena Grant funds to complete the Project or Program identified above and the elements listed in the Project Budget. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this Application Packet, including the required attachments, is accurate.

Print Name: Barrett M. Dahl Signature: Barrett M. Dahl

Title: Executive Director Date: February 28, 2019



## CITY OF SAINT HELENA NON-PROFIT GRANT PROGRAM AGREEMENT

This Non-Profit Grant Program Agreement ("Agreement") is made on June 14, 2019 between the City of Saint Helena ("City") and Vailima Foundation ("Grantee").

### Background

- A. The City adopted the Non-Profit Grant Program ("Program") to the City's mission and goals and provide direct programs, projects or services to St. Helena residents.
- B. Pursuant to City Council Resolution number 2018-150, Program grants may be awarded to nonprofit agencies that promote the City's mission and goals and provide direct programs, projects or services to St. Helena residents.
- C. Grantee submitted an application for a Community Enrichment Program grant to assist in completing Gallery and Exhibition Improvement ("Project").
- D. On June 11, 2019, the City Council awarded a Program grant to Grantee as part of the annual budget process.
- E. The parties would like to memorialize the terms of the grant.

### Agreement

The parties agree as follows:

1. **Nonprofit Status.** Grantee confirms that it is an organization that is currently recognized by the Internal Revenue Service (the "IRS") as a public charity under sections 501(c)(3) of the Internal Revenue Code (the "Code"), and Grantee will inform the City immediately of any change in, or IRS proposed or actual revocation (whether or not appealed) of its tax status described above.
2. **Grant.** Subject to the terms and conditions in this Agreement, the City agrees to provide to Grantee a grant in an amount not exceeding \$5,000 ("Grant").
3. **Purpose of Grant.** The Grant may be used by Grantee solely for the purpose(s) described in Attachment A hereto.
4. **Project Completion/Grant Period.** Grant Funds will be available for the Fiscal Year in which this Agreement is made. All funds must be expended between July 1, 2019 and June 30, 2020. One six-month extension to this deadline may be permitted upon the written approval by the City Manager or designee. Any unexpended grant funds remaining at the end of the Grant Period will be deobligated from the award amount.
5. **General Provisions.**
  - a. The Grant is solely a monetary contribution and not a co-sponsorship of the Project or partnership with the City.
  - b. Grantee shall comply with any applicable regulations and permit requirements for the Project.
  - c. The Grant is not authorization of use of City property.
  - d. Grant funding may not exceed the amount stated in Section 2, regardless of the cost of the Project.
  - e. The Grant must be used for the project identified above, as described in the Grantee's





- proposal and related correspondence, and may not be expended for any other purposes without the City's prior written approval.
- f. Grantee shall not assign or transfer any portion of the Grant without the prior written consent of the City.
  - g. Grantee accepts responsibility for complying with this agreement's terms and conditions and will exercise full control over the grant and the expenditure of grant funds.
6. Revocation of Grant. The Grant may be revoked by City in the event Grantee breaches any provision of this Agreement, including the failure to properly document Project expenses or contributions or expend Grant funds for Project related expenses.
  7. Publicity. The City encourages publicity of the Grant in all of Grantee's relevant published materials— brochures, programs, annual reports, etc. In materials specific to the Project, Grantee agrees that it will include the following language: *"Made possible in part by a grant from the City of Saint Helena"* and list the City and the Grant in all published lists of Project donors.
  8. Reporting.
    - a. Grantee will provide to the City an Annual Report at the end of Grantee's current fiscal year (by June 30).
    - b. Please include several photographs of the completed Project with the final report (digital files preferred). Grantee agrees that the City may use and reproduce the photographs for any purpose the City deems appropriate.
    - c. Completed reports and photographs should be sent U.S. mail to 1480 Main Street, Saint Helena CA 94574, Attention: Finance Department.
    - d. Forms referenced in this Agreement are attached.
    - e. Grantee will provide promptly such additional information, reports and documents as the City may request and will allow the City and its representatives to have reasonable access during regular business hours to files, records, accounts or personnel that are associated with this grant, for the purpose of making such financial reviews, verifications or program evaluations as may be deemed necessary by the City.
  9. Insurance, Defense and Indemnity. Grantee shall maintain such insurance as will fully protect both Grantee and the City from any or all claims under any workers' compensation act or employer's liability laws, and from any and all claims of whatsoever kind or nature for the damage to property or for bodily injury, including death, made by anyone whomsoever which may arise from operations carried on under this Agreement, either by Grantee or by anyone directly or indirectly engaged or employed by Grantee. The City shall not be liable for, and Grantee shall defend and indemnify the City and its council members, officers, agents, employees and volunteers (collectively, "City Parties") against any and all claims, deductibles, self-insured retentions, federal, state or local taxes or contributions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to the City's provision of funds and/or Grantee's use of City funds under this Agreement arising either directly or indirectly from any act, error, omission, or negligence of Grantee or its officers, employees, agents, contractors, licensees or servants.
  10. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of California.



11. Corporation Qualified to Do Business in California. If Grantee is a California corporation, Grantee warrants that it is a corporation in good standing and is currently authorized to do business in California.
12. Terms and Conditions Survive Expiration of Term of Agreement. Unless otherwise specified herein, all terms and conditions of this Agreement shall survive the expiration of the Term of Agreement specified in Paragraph 5 above.

Executed as of the day and year first above stated.

Gerry R. Working  
Grantee Signature

Mark Prestwich  
Signature – City of Saint Helena

Gerry R. Working, Board Chair  
Print Name and Title

Mark Prestwich, City Manager  
Print Name and Title



**ATTACHMENT A**

**Grant funds will be used for operational expenses related to exhibition display platforms, exhibition printing costs, gallery technology, and accessible furniture/equipment as outlined in the grant application.**

Attachment C

ROBERT LOUIS STEVENSON  MUSEUM

Thursday, April 2, 2020

Vailima Foundation  
Board of Trustees

Gerry Working  
*Board Chair*

Kim Bush Tomio

Fred Zammataro

Dianne Fraser

Mario Sculatti

Mary Givens

Joan Farrar

Reece Baswell

Katherine Cincotta

City of St. Helena  
Attn: Mark Prestwich, City Manager  
1572 Railroad Ave  
St. Helena, CA 94574

Dear Mr. Prestwich,

I am writing to formally request an extension to the City of St. Helena Grant (2019/2020) awarded to the Vailima Foundation (dba Robert Louis Stevenson Museum).

In 2019 the RLS Museum was awarded \$5,000.00 to assist with the redesign and exhibition of the museum gallery. At this time, the final stage of the project is to have the redesigned museum didactics reprinted by Riot Arc, a professional museum fabricator.

However, in light of staffing issues due to business closures at the RLS Museum and throughout the Bay Area, it is evident to us that we may not be able to have this project completed by the May 30, 2020 deadline.

In speaking with Mandy Kellogg, Finance Manager, I would like to request that the City consider a one-time, 6-month extension so we may complete the project.

It is our hope to have the project completed as soon as normal activity resumes and we can showcase a great museum to the community of St. Helena.

Your consideration during this time is greatly appreciated. Please let me know if you have any questions.

Sincerely,



Barrett M. Dahl  
*Executive Director*

The RLSM is a tax-exempt charity under the IRS code section 501(c)3, tax ID# 94-1673783.

Attachment D


 ROBERT LOUIS STEVENSON MUSEUM

December 30, 2020

 Vailima Foundation  
 Board of Trustees

 Gerry Working  
*Board Chair*

Kim Bush Tomio

Fred Zammataro

Dianne Fraser

Mario Sculatti

Mary Givens

Joan Farrar

Reece Baswell

Katherine Cincotta

 City of St. Helena  
 Attn: City Council of St. Helena  
 1572 Railroad Ave  
 St. Helena, CA 94574

Dear City Council,

We are writing to formally request an extension of the City of St. Helena Grant (2019/20) awarded to the Vailima Foundation (dba Robert Louis Stevenson Museum).

In 2019 the RLS Museum was awarded \$5,000.00 to assist with the redesign and exhibition of the museum gallery.

Due to the shelter-in-place mandates and the recent wildfires which directly impacted several volunteers, we have been unable to collaborate regularly to complete the final portion of the grant project.

At this time the project has spent \$1,800.00 towards the grant amount. These funds have been used to purchase new technology and furniture to improve the visitation and accesiblity of the museum. When the museum reopens, the iPads will be provided with translated materials and images for bilingual visitors as well as font that can be enlarged for those with vision needs. Additionally, the new ADA furnitue will make the gallery more accessible to the physiscal needs of visitors.

The remaining portion of funds will be used to purchase professional didactic panels. These panels have been painstakingly researched, written, and edited by museum staff and committee members of the Board. At this time the board has elected to send the final panel conent to a professional editor and graphic designer to finalize the panels. It is the intention that these will be finished and ordered by March 31, 2020.

We would like to request that the City consider a 3-month extension of the grant for a new deadline of March 31, 2020, so that we may complete the project in line with professional standards and best practices.

Your consideration during this time is greatly appreciated. Please let us know if you have any questions.

Sincerely,

Gerry R. Working

  
*Board Chair*

Barrett M. Dahl

  
*Executive Director*

707.963.3757

 1490 Library Lane  
 St. Helena, CA 94574

www.StevensonMuseum.org





Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject:** Consideration and proposed approval of a resolution (1) ratifying an emergency public project without public bidding relating to the Glass Fire; (2) ratifying Construction Contract STH Contract: FY2021-043 with Ghilotti Construction Company in an amount not-to-exceed \$104,569.00 for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road leading to the St. Helena Gun Range; and (3) authorizing the Public Works Director to approve change orders up to 15% of the contract amount.

**CEQA Determination:** Exempt from CEQA pursuant to Sections 21080(b)(3) and (4)

**Prepared By:** April Mitts, Finance Director

**Reviewed By:** Mark T. Prestwich, City Manager

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

On September 27, 2020, the City of St. Helena ("City") proclaimed the existence of a local emergency due to the rapid and continuing progression of the Glass Fire which was affecting both Napa and Sonoma Counties.

As a result of the Glass Fire, the City of St. Helena has an urgent need for emergency work due to the impacts of this fire to critical City structures and to prevent damage that may be caused by erosion.

**DISCUSSION**

Public Contract Code section 1102 defines an emergency as "a sudden unexpected occurrence that poses a clear and imminent danger, requiring immediate action to

prevent or mitigate the loss or impairment of life, health, property, or essential public services."

Public Contract Code section 22035 authorizes the City Council, in cases of emergency when repair or replacements are necessary, to proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts, and if notice for bids to let contracts will not be given, the City shall comply with Public Contract Code section 22050. Public Contract Code section 22050(a) authorizes the City to proceed with awarding a public works contract to perform emergency work without giving notice for bids to let contracts upon adoption by the City Council by a four-fifths vote of a resolution finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and that the action is necessary to respond to the emergency.

Pursuant to Section 3.04.290 and Section 3.04.170 of the City's Municipal Code and Public Contract Code section 22050(b), the City Council delegated authority to make an emergency determination and award a contract to perform emergency work to the City Manager.

The City Manager determined the Glass Fire constituted an emergency that did not permit the adoption of plans, specifications, strain sheets, or working details, or be able to undergo the formal competitive bidding process due to the need to take immediate action to implement emergency erosion control measures for the Bell Canyon Reservoir and to provide emergency repairs to the access road along side of the Bell Canyon Reservoir which leads to the City's gun range.

While the City did not have to undergo formal or informal bidding procedures due to the emergency need for erosion control, three quotes were solicited from the following construction companies: Ghilotti Construction Company, McCullough Construction Company, and Argonaut Constructors for the proposed work. Argonaut responded that, with their current bid schedule, they would be unable to meet the deadline to provide a bid. Additionally Argonaut would require plans to bid which, due to the nature of the emergency work, were not being provided. McCullough Construction provided a bid of \$239,500 and Ghilotti provided a bid of \$104,569. Ghilotti offered the most competitive price for the necessary emergency work.

On December 31, 2020, the City Manager executed a Construction Contract with Ghilotti Construction company in an amount not-to-exceed \$104,569.00 for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road along side the Bell Canyon Reservoir leading to the St. Helena Gun Range.

Now, pursuant to Public Contract Code section 22050(b)(3), the City Manager must report to the City Council the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency. In turn, pursuant to Public Contract Code section



22050(c)(2), the City Council must review the emergency action by the City Manager and determine, by a four-fifths vote, there is a need the continue the action.

Pursuant to Section 3.04.170 and 3.04.175 of the St. Helena Municipal Code, the City Manager's authority is subject to confirmation by the City Council at its next meeting for any purchase in excess of \$25,000.

#### **FISCAL IMPACT**

The fiscal impact of STH Contract: FY2021-043 with Ghilotti Construction Company is a total not-to-exceed \$104,569. The City is working with FEMA, CalOES, and REMIF for reimbursement of these expenses. The deductible for REMIF is \$100,000.

Including the above contract, the total authorized contract amounts for the Glass Fire total \$1,899,293.30.

#### **RECOMMENDED ACTION**

Approval of a resolution (1) ratifying an emergency public project without public bidding relating to the Glass Fire; (2) ratifying Construction Contract STH Contract: FY2021-043 with Ghilotti Construction Company in an amount not-to-exceed \$104,569.00 for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road leading to the St. Helena Gun Range; and (3) authorizing the Public Works Director to approve change orders up to 15% of the total contract amount.

#### **ATTACHMENTS**

[STH Contract FY2021-043 Ghilotti Construction Bell Canyon Erosion Control](#)  
[St. Helena Resolution Ratification of Emergency Action Ghilotti STH Contract FY2021-043](#)

**CITY OF ST. HELENA****CONSTRUCTION CONTRACT****EMERGENCY EROSION CONTROL MEASURES FOR BELL CANYON RESERVOIR AND EMERGENCY REPAIRS TO THE  
ACCESS ROAD LEADING TO THE ST. HELENA GUN RANGE DUE TO THE GLASS FIRE INCIDENT****1. PARTIES AND DATE.**

This Contract is made and entered into this      day of                     , 202     by and between the City of St. Helena, a public agency of the State of California ("City") and Ghilotti Construction Company, a corporation with its principal place of business at 246 Ghilotti Avenue, Santa Rosa, CA. 95407 ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Contract.

**2. RECITALS.**

2.1 City. City is a public agency organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

2.2 Contractor. Contractor desires to perform and assume responsibility for the provision of certain construction services required by the City on the terms and conditions set forth in this Contract. Contractor represents that it is duly licensed and experienced in providing emergency erosion control measures around the reservoir and dam area at Bell Canyon, repair access road that runs next to the Bell Canyon Reservoir that leads to the St. Helena gun range, and related construction services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the services in the State of California, and that it is familiar with the plans of City. The following license classifications are required for this Project: Class A General Contractors License.

2.3 Project. City desires to engage Contractor to render such services for the Emergency Erosion Control Measures for Bell Canyon Reservoir and Emergency Repairs to the Access Road leading to the St. Helena Gun Range due to the Glass Fire Incident, Project No. E21-07 ("Project") as set forth in this Contract.

2.4 Project Documents & Certifications. Contractor has obtained, and delivers concurrently herewith, a performance bond, a payment bond, and all insurance documentation, as required by the Contract.

**3. TERMS**

3.1 Incorporation of Documents. This Contract includes and hereby incorporates in full by reference the following documents, including all exhibits, drawings, specifications and documents therein, and attachments and addenda thereto:

- Services/Schedule (Exhibit "A")
- Plans and Specifications (Exhibit "B")
- Special Conditions (Exhibit "C")
- Contractor's Certificate Regarding Workers' Compensation (Exhibit "D")
- Public Works Contractor Registration Certification (Exhibit "E")
- Payment and Performance Bonds (Exhibit "F")
- Federal Contract Provisions (Exhibit "G")
- Addenda
- Change Orders executed by the City
- 2018 Caltrans Standard Specifications excluding Division I

3.2 Contractor's Basic Obligation; Scope of Work. Contractor promises and agrees, at its own cost and expense, to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the "Work"), for a Total Contract Price as specified pursuant to this Contract. All Work shall be subject to, and performed in accordance with the above referenced documents, as well as the exhibits attached hereto and incorporated herein by reference. The plans and specifications for the Work are further described in Exhibit "B" attached hereto and incorporated herein by this reference. Special Conditions, if any, relating to the Work are described in Exhibit "C" attached hereto and incorporated herein by this reference.

3.2.1 Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in writing by a valid change order executed by the City. Should Contractor request a change order due to unforeseen circumstances affecting the performance of the Work, such request shall be made within five (5) business days of the date such circumstances are discovered or shall waive its right to request a change order due to such circumstances. If the Parties cannot agree on any change in price required by such change in the Work, the City may direct the Contractor to proceed with the performance of the change on a time and materials basis.

3.2.2 Substitutions/"Or Equal". Pursuant to Public Contract Code Section 3400(b), the City may make a finding that designates certain products, things, or services by specific brand or trade name. Unless specifically designated in this Contract, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process or article desired and shall be deemed to be followed by the words "or equal."

Contractor may, unless otherwise stated, offer for substitution any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified in this Contract. However, the City may have adopted certain uniform standards for certain materials, processes and articles. Contractor shall submit requests, together with substantiating data, for substitution of any "or equal" material, process or article no later than thirty-five (35) days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) days after award of Contract. Provisions regarding submission of "or equal" requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed "or equal" substitution request is rejected, Contractor shall be responsible for providing the specified material, process or article. The burden of proof as to the equality of any material, process or article shall rest with Contractor.

The City has the complete and sole discretion to determine if a material, process or article is an "or equal" material, process or article that may be substituted. Data required to substantiate requests for substitutions of an "or equal" material, process or article shall include a signed affidavit from Contractor stating that, and describing how, the substituted "or equal" material, process or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information which describes the requested substituted "or equal" material, process or article, and substantiates that it is an "or equal" to the material, process or

article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted "or equal" material, process or article. Failure to submit all the required substantiating data, including the signed affidavit, to the City in a timely fashion will result in the rejection of the proposed substitution.

Contractor shall bear all of the City's costs associated with the review of substitution requests. Contractor shall be responsible for all costs related to a substituted "or equal" material, process or article. Contractor is directed to the Special Conditions (if any) to review any findings made pursuant to Public Contract Code section 3400.

3.3 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Work under this Contract as defined by written direction by the City, beginning the effective date of the Notice to Proceed ("Contract Time"). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by the City. Such schedules or milestones may be included as part of Exhibits "A" or "B" attached hereto, or may be provided separately in writing to Contractor. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages the sum of Five Hundred Dollars (\$500.00) per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule or Project milestones established pursuant to the Contract.

3.4 Standard of Performance; Performance of Employees. Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, including any required business license, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any work necessary to correct errors or omissions which are caused by Contractor's failure to comply with the standard of care provided for herein. Any employee who is determined by the City to be uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to the City, shall be promptly removed from the Project by Contractor and shall not be re-employed on the Work.

3.5 Control and Payment of Subordinates; Contractual Relationship. City retains Contractor on an independent contractor basis and Contractor is not an employee of City. Any additional personnel performing the work governed by this Contract on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Contract and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.6 City's Basic Obligation. City agrees to engage and does hereby engage Contractor as an independent contractor to furnish all materials and to perform all Work according to the terms and conditions herein contained for the sum set forth above. Except as otherwise provided in the Contract, the City shall pay to Contractor, as full consideration for the satisfactory performance by Contractor of the services and obligations required by this Contract, the below-referenced compensation in accordance with compensation provisions set forth in the Contract.

### 3.7 Compensation and Payment.

3.7.1 Amount of Compensation. As consideration for performance of the Work required herein, City agrees to pay Contractor the a Total Contract Price not-to-exceed One Hundred and Four Thousand Five Hundred and Sixty Nine Dollars (\$104,569.00) ("Total Contract Price") provided that such amount shall be subject to adjustment pursuant to the applicable terms of this Contract or written change orders approved and signed in advance by the City.

3.7.2 Payment of Compensation. If the Work is scheduled for completion in thirty (30) or less calendar days, City will arrange for payment of the Total Contract Price upon completion and approval by City of the Work. If the Work is scheduled for completion in more than thirty (30) calendar days, City will pay Contractor on a monthly basis as provided for herein. On or before the fifth (5th) day of each month, Contractor shall submit to the City an itemized application for payment in the format supplied by the City indicating the amount of Work completed since commencement of the Work or since the last progress payment. These applications shall be supported by evidence which is required by this Contract and such other documentation as the City may require. The Contractor shall certify that the Work for which payment is requested has been done and that the materials listed are stored where indicated. Contractor may be required to furnish a detailed schedule of values upon request of the City and in such detail and form as the City shall request, showing the quantities, unit prices, overhead, profit, and all other expenses involved in order to provide a basis for determining the amount of progress payments.

3.7.3 Prompt Payment. City shall review and pay all progress payment requests in accordance with the provisions set forth in Section 20104.50 of the California Public Contract Code. However, no progress payments will be made for Work not completed in accordance with this Contract. Contractor shall comply with all applicable laws, rules and regulations relating to the proper payment of its employees, subcontractors, suppliers, or others.

3.7.4 Contract Retentions. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Contract retention shall be released and paid to Contractor and subcontractors pursuant to California Public Contract Code Section 7107.

3.7.5 Other Retentions. In addition to Contract retentions, the City may deduct from each progress payment an amount necessary to protect City from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the City in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract Price or within the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by City during the prosecution of the Work; (9) erroneous or false estimates by Contractor of the value of the Work performed; (10) any sums

representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Contract; and (11) any other sums which the City is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.7.6 Substitutions for Contract Retentions. In accordance with California Public Contract Code Section 22300, the City will permit the substitution of securities for any monies withheld by the City to ensure performance under the Contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, and thereafter the City shall then pay such monies to Contractor as they come due. Upon satisfactory completion of the Contract, the securities shall be returned to Contractor. For purposes of this Section and Section 22300 of the Public Contract Code, the term "satisfactory completion of the contract" shall mean the time the City has issued written final acceptance of the Work and filed a Notice of Completion as required by law and provisions of this Contract. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. The escrow agreement used for the purposes of this Section shall be in the form provided by the City.

3.7.7 Title to Work. As security for partial, progress, or other payments, title to Work for which such payments are made shall pass to the City at the time of payment. To the extent that title has not previously been vested in the City by reason of payments, full title shall pass to the City at delivery of the Work at the destination and time specified in this Contract. Such transferred title shall in each case be good, free and clear from any and all security interests, liens, or other encumbrances. Contractor promises and agrees that it will not pledge, hypothecate, or otherwise encumber the items in any manner that would result in any lien, security interest, charge, or claim upon or against said items. Such transfer of title shall not imply acceptance by the City, nor relieve Contractor from the responsibility to strictly comply with the Contract, and shall not relieve Contractor of responsibility for any loss of or damage to items.

3.7.8 Labor and Material Releases. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the Work governed by this Contract prior to final payment by City.

3.7.9 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720 et seq., and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Contract upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Contractor and any subcontractor shall forfeit a penalty of up to \$200 per calendar day or portion thereof for each worker paid less than the prevailing wage rates.

3.7.10 Apprenticeable Crafts. When Contractor employs workmen in an apprenticeable craft or trade, Contractor shall comply with the provisions of Section 1777.5 of the California Labor Code with respect to the employment of properly registered apprentices upon public works. The primary responsibility for compliance with said section for all apprenticeable occupations shall be with Contractor. The Contractor or any subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding \$100 for each full calendar day of noncompliance, or such greater amount as provided by law.

3.7.11 Hours of Work. Contractor is advised that eight (8) hours labor constitutes a legal day's work. Pursuant to Section 1813 of the California Labor Code, Contractor shall forfeit a penalty of \$25.00 per worker for each day that each worker is permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except when payment for overtime is made at not less than one and one-half (1-1/2) times the basic rate for that worker.

3.7.12 Payroll Records. Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code section 1776. In the event of noncompliance with the requirements of this section, Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with this section. Should noncompliance still be evident after such 10-day period, Contractor shall, as a penalty to City, forfeit not more than \$100.00 for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. The amount of the forfeiture is to be determined by the Labor Commissioner. A contractor who is found to have violated the provisions of law regarding wages on Public Works with the intent to defraud shall be ineligible to bid on Public Works contracts for a period of one to three years as determined by the Labor Commissioner. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The responsibility for compliance with this section is on Contractor. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.7.13 Contractor and Subcontractor Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. Contractor is directed to review, fill out and execute the Public Works Contractor Registration Certification attached hereto as Exhibit "E" prior to contract execution. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

3.7.14 Labor Compliance; Stop Orders. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractor's

sole responsibility to evaluate and pay the cost of complying with all labor compliance requirements under this Contract and applicable law. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Work, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

### 3.8 Performance of Work; Jobsite Obligations.

#### 3.8.1 Water Quality Management and Compliance.

3.8.1.1 Water Quality Management and Compliance. Contractor shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Work including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); local ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

3.8.1.2 Compliance with the Statewide Construction General Permit. Contractor shall comply with all conditions of the most recent iteration of the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity, issued by the California State Water Resources Control Board ("Permit"). It shall be Contractor's sole responsibility to file a Notice of Intent and procure coverage under the Permit for all construction activity which results in the disturbance of more than one acre of total land area or which is part of a larger common area of development or sale. Prior to initiating work, Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) as required by the Permit. Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, and monitoring and reporting requirements as required by the Permit. The Permit requires the SWPPP to be a "living document" that changes as necessary to meet the conditions and requirements of the job site as it progresses through different phases of construction and is subject to different weather conditions. It shall be Contractor's sole responsibility to update the SWPPP as necessary to address conditions at the project site.

3.8.1.3 Other Water Quality Rules Regulations and Policies. Contractor shall comply with the lawful requirements of any applicable municipality, drainage City, or local agency regarding discharges of storm water to separate storm drain systems or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

3.8.1.4 Cost of Compliance. Storm, surface, nuisance, or other waters may be encountered at various times during construction of The Work. Therefore, the Contractor, by submitting a Bid, hereby acknowledges that it has investigated the risk arising from



such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

3.8.1.5 **Liability for Non-Compliance.** Failure to comply with the Permit is a violation of federal and state law. Pursuant to the indemnification provisions of this Contract, Contractor hereby agrees to defend, indemnify and hold harmless the City and its officials, officers, employees, volunteers and agents for any alleged violations. In addition, City may seek damages from Contractor for any delay in completing the Work in accordance with the Contract, if such delay is caused by or related to Contractor's failure to comply with the Permit.

3.8.1.6 **Reservation of Right to Defend.** City reserves the right to defend any enforcement action brought against the City for Contractor's failure to comply with the Permit or any other relevant water quality law, regulation, or policy. Pursuant to the indemnification provisions of this Contract, Contractor hereby agrees to be bound by, and to reimburse the City for the costs (including the City's attorney's fees) associated with, any settlement reached between the City and the relevant enforcement entity.

3.8.1.7 **Training.** In addition to the standard of performance requirements set forth in paragraph 3.4, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them without impacting water quality in violation of the laws, regulations and policies described in paragraph 3.8.1. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in paragraph 3.8.1 as they may relate to the Work provided under this Agreement. Upon request, City will provide the Contractor with a list of training programs that meet the requirements of this paragraph.

3.8.2 **Safety.** Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work. In carrying out its Work, Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be performed. Safety precautions as applicable shall include, but shall not be limited to, adequate life protection and lifesaving equipment; adequate illumination for underground and night operations; instructions in accident prevention for all employees, such as machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and adequate facilities for the proper inspection and maintenance of all safety measures. Furthermore, Contractor shall prominently display the names and telephone numbers of at least two medical doctors practicing in the vicinity of the Project, as well as the telephone number of the local ambulance service, adjacent to all telephones at the Project site.

3.8.3 **Laws and Regulations.** Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Contract or the Work, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Work. If Contractor observes that the drawings or specifications are at variance with any law, rule or regulation, it shall promptly notify the City in writing. Any necessary changes shall be made by written change order. If Contractor performs any work knowing it to be contrary

to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Contract to the same extent as though set forth herein and will be complied with. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

**3.8.4 Permits and Licenses.** Contractor shall be responsible for securing City permits and licenses necessary to perform the Work described herein, including, but not limited to, any required business license. While Contractor will not be charged a fee for any City permits, Contractor shall pay the City's business license fee, if any. Any ineligible contractor or subcontractor pursuant to Labor Code Sections 1777.1 and 1777.7 may not perform work on this Project.

**3.8.5 Trenching Work.** If the Total Contract Price exceeds \$25,000 and if the Work governed by this Contract entails excavation of any trench or trenches five (5) feet or more in depth, Contractor shall comply with all applicable provisions of the California Labor Code, including Section 6705. To this end, Contractor shall submit for City's review and approval a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

**3.8.6 Hazardous Materials and Differing Conditions.** As required by California Public Contract Code Section 7104, if this Contract involves digging trenches or other excavations that extend deeper than four (4) feet below the surface, Contractor shall promptly, and prior to disturbance of any conditions, notify City of: (1) any material discovered in excavation that Contractor believes to be a hazardous waste that is required to be removed to a Class I, Class II or Class III disposal site; (2) subsurface or latent physical conditions at the site differing from those indicated by City; and (3) unknown physical conditions of an unusual nature at the site, significantly different from those ordinarily encountered in such contract work. Upon notification, City shall promptly investigate the conditions to determine whether a change order is appropriate. In the event of a dispute, Contractor shall not be excused from any scheduled completion date and shall proceed with all Work to be performed under the Contract, but shall retain all rights provided by the Contract or by law for making protests and resolving the dispute.

**3.8.7 Underground Utility Facilities.** To the extent required by Section 4215 of the California Government Code, City shall compensate Contractor for the costs of: (1) locating and repairing damage to underground utility facilities not caused by the failure of Contractor to exercise reasonable care; (2) removing or relocating underground utility facilities not indicated in the construction drawings; and (3) equipment necessarily idled during such work. Contractor shall not be assessed liquidated damages for delay caused by failure of City to provide for removal or relocation of such utility facilities.

**3.8.8 Air Quality.** Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Although CARB limits and requirements are more broad, Contractor shall specifically

be aware of their application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.8.9 State Recycling Mandates. Contractor shall comply with State Recycling Mandates. Any recyclable materials/debris collected by the contractor that can be feasibly diverted via reuse or recycling must be hauled by the appropriate handler for reuse or recycling.

3.9 Completion of Work. When Contractor determines that it has completed the Work required herein, Contractor shall so notify City in writing and shall furnish all labor and material releases required by this Contract. City shall thereupon inspect the Work. If the Work is not acceptable to the City, the City shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a reinspection by the City. Once the Work is acceptable to City, City shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which City may be authorized or directed by law to retain. Payment of retention proceeds due to Contractor shall be made in accordance with Section 7107 of the California Public Contract Code.

### 3.10 Claims; Government Code Claim Compliance.

3.10.1 Intent. Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. Effective January 1, 2017, Section 9204 of the Public Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Section is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Section shall be construed to be consistent with said statutes.

3.10.2 Claims. For purposes of this Section, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with the terms of this Contract has been denied by the City, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the City. A "Claim" does not include any demand for payment for which the Contractor has failed to provide notice, request a change order, or otherwise failed to follow any procedures contained in the Contract Documents. Claims governed by this Section may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the change order procedures contained herein, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Section must be filed no later than fourteen (14) days after a request for change has been denied in whole or in part or after any other event giving rise to the Claim. The Claim shall be submitted in writing to the City and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing in this Section is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.

3.10.3 Supporting Documentation. The Contractor shall submit all claims in the following format:

3.10.3.1 Summary of claim merit and price, reference Contract Document provisions pursuant to which the claim is made

3.10.3.2 List of documents relating to claim:

- (A) Specifications
- (B) Drawings
- (C) Clarifications (Requests for Information)
- (D) Schedules
- (E) Other

3.10.3.3 Chronology of events and correspondence

3.10.3.4 Analysis of claim merit

3.10.3.5 Analysis of claim cost

3.10.3.6 Time impact analysis in CPM format

3.10.3.7 If Contractor's claim is based in whole or in part on an allegation of errors or omissions in the Drawings or Specifications for the Project, Contractor shall provide a summary of the percentage of the claim subject to design errors or omissions and shall obtain a certificate of merit in support of the claim of design errors and omissions.

3.10.3.8 Cover letter and certification of validity of the claim, including any claims from subcontractors of any tier, in accordance with Government Code section 12650 *et seq.*

3.10.4 City's Response. Upon receipt of a claim pursuant to this Section, City shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the claim will be processed and made within 60 days after the public entity issues its written statement.

3.10.4.1 If City needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, City shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

3.10.4.2 Within 30 days of receipt of a claim, City may request in writing additional documentation supporting the claim or relating to defenses or claims City may

have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of City and the Contractor.

3.10.4.3 City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days (if the claim is less than \$50,000, within 15 days) after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

3.10.5 Meet and Confer. If the Contractor disputes City's written response, or City fails to respond within the time prescribed, the Contractor may so notify City, in writing, either within 15 days of receipt of City's response or within 15 days of City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

3.10.6 Mediation. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, City shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after City issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with City and the Contractor sharing the associated costs equally. City and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing, unless the parties agree to select a mediator at a later time.

3.10.6.1 If the Parties cannot agree upon a mediator, each Party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each Party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

3.10.6.2 For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the Parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

3.10.6.3 Unless otherwise agreed to by City and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

3.10.6.4 The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.

3.10.7 Procedures After Mediation. If following the mediation, the claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her

written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference or mediation.

3.10.8 Civil Actions. The following procedures are established for all civil actions filed to resolve claims subject to this Section:

3.10.8.1 Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of these procedures.. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.

3.10.8.2 If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

3.10.8.3 In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.

3.10.9 Government Code Claims. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City. A Government Code claim must be filed no earlier than the date the work is completed or the date the Contractor last performs work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.

3.10.10 Non-Waiver. City's failure to respond to a claim from the Contractor within the time periods described in this Section or to otherwise meet the time requirements of this Section shall result in the claim being deemed rejected in its entirety. City's failure to respond shall not waive City's rights to any subsequent procedures for the resolution of disputed claims.

3.11 Loss and Damage. Except as may otherwise be limited by law, Contractor shall be responsible for all loss and damage which may arise out of the nature of the Work agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Work until the same is fully completed and accepted by

City. In the event of damage proximately caused by an Act of God, as defined by Section 7105 of the Public Contract Code, the City may terminate this Contract pursuant to Section 3.17.3; provided, however, that the City needs to provide Contractor with only one (1) day advanced written notice.

### 3.12 Indemnification.

3.12.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, employees, agents and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the City or the City's agents, servants, or independent contractors who are directly responsible to the City, or for defects in design furnished by those persons.

3.12.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against City or its officials, employees, agents and authorized volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, employees, agents and authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, employees, agents and authorized volunteers.

### 3.13 Insurance.

3.13.1 Time for Compliance. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

3.13.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work

hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage:

3.13.2.1 Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.

3.13.2.2 Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence and \$4,000,000 aggregate for bodily injury, personal injury and property damage; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 each accident, policy limit bodily injury or disease, and each employee bodily injury or disease. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Contract.

3.13.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions to the insurance policies:

3.13.3.1 General Liability. (1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 10 01 plus CG20 37 10 01, or endorsements providing the exact same coverage, with respect to the Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it.

3.13.3.2 Automobile Liability. (1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the



City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

3.13.3.3 Workers' Compensation and Employer's Liability Coverage.

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

3.13.3.4 All Coverages. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3.13.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

3.13.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.13.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

3.13.7 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.13.8 Subcontractors. All subcontractors shall meet the requirements of this Section before commencing Work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

3.13.9 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Work under this Contract.

### 3.14 Bond Requirements.

3.14.1 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Contract a Payment Bond in an amount required by the City and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the City.

3.14.2 Performance Bond. If specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Contract a Performance Bond in an amount required by the City and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the City.

3.14.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the effected bond within (ten) 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Contract until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the Total Contract Price is increased in accordance with the Contract, Contractor shall, upon request of the City, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. If Contractor fails to furnish any required bond, the City may terminate the Contract for cause.

3.14.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in California Code of Civil Procedure Section 995.120, shall be accepted. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.15 Warranty. Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an

additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

### 3.16 Employee/Labor Certifications.

3.16.1 Contractor's Labor Certification. By its signature hereunder, Contractor certifies that he is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Work. A certification form for this purpose, which is attached to this Contract as Exhibit "D" and incorporated herein by reference, shall be executed simultaneously with this Contract.

3.16.2 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.16.3 Verification of Employment Eligibility. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors and sub-subcontractors to comply with the same.

### 3.17 General Provisions.

3.17.1 City's Representative. The City hereby designates the General Manager, or his or her designee, to act as its representative for the performance of this Contract ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.17.2 Contractor's Representative. Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the City ("Contractor's Representative"). Following

approval by the City, Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Contract. Contractor's Representative shall supervise and direct the Work, using his best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or his designee, who shall be acceptable to the City, shall be present at the Work site at all times that any Work is in progress and at any time that any employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the City, shall be made for emergency Work which may be required. Should Contractor desire to change its Contractor's Representative, Contractor shall provide the information specified above and obtain the City's written approval.

**3.17.3 Termination.** This Contract may be terminated by City at any time, either with or without cause, by giving Contractor three (3) days advance written notice. In the event of termination by City for any reason other than the fault of Contractor, City shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, City may terminate the Contract immediately without notice, may reduce payment to Contractor in the amount necessary to offset City's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause. In the event this Contract is terminated in whole or in part as provided, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, City may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract.

**3.17.4 Contract Interpretation.** Should any question arise regarding the meaning or import of any of the provisions of this Contract or written or oral instructions from City, the matter shall be referred to City's Representative, whose decision shall be binding upon Contractor.

**3.17.5 Anti-Trust Claims.** This provision shall be operative if this Contract is applicable to California Public Contract Code Section 7103.5. In entering into this Contract to supply goods, services or materials, Contractor hereby offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time the City tender final payment to Contractor, without further acknowledgment by the Parties.

**3.17.6 Notices.** All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

**CONTRACTOR:**

Ghilotti Construction Company  
246 Ghilotti Avenue  
Santa Rosa, CA 95407  
Attn: Matt McDonald, Project Manager

**CITY:**

City of St. Helena  
1572 Railroad Avenue  
St. Helena, CA 94574  
Attn: Mark T. Prestwich, City Manager

Any notice so given shall be considered received by the other Party three (3) days after deposit in the U.S. Mail as stated above and addressed to the Party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.17.7 Time of Essence. Time is of the essence in the performance of this Contract.

3.17.8 Assignment Forbidden. Contractor shall not, either voluntarily or by action of law, assign or transfer this Contract or any obligation, right, title or interest assumed by Contractor herein without the prior written consent of City. If Contractor attempts an assignment or transfer of this Contract or any obligation, right, title or interest herein, City may, at its option, terminate and revoke the Contract and shall thereupon be relieved from any and all obligations to Contractor or its assignee or transferee.

3.17.9 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.17.10 Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Napa, State of California.

3.17.11 Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original.

3.17.12 Successors. The Parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract.

3.17.13 [Reserved]

3.17.14 Solicitation. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City shall have the right to terminate this Contract without liability.

3.17.15 Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration

contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Contract, no official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom. In addition, Contractor agrees to file, or to cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Work.

3.17.16 Certification of License.

3.17.16.1 Contractor certifies that as of the date of execution of this Contract, Contractor has a current contractor's license of the classification indicated below under Contractor's signature.

3.17.16.2 Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

3.17.17 Authority to Enter Contract. Each Party warrants that the individuals who have signed this Contract have the legal power, right and authority to make this Contract and bind each respective Party.

3.17.18 Entire Contract; Modification. This Contract contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Contract may only be modified by a writing signed by both Parties.

3.17.19 Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.17.20 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project or other projects.

3.17.21 Federal Funding Requirements. FEMA financial assistance will be used to fund all or a portion of this Agreement. The Contractor shall comply with all federal requirements including, but not limited to, the following:

a. 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference.

b. Federal Contract Provisions attached hereto as Exhibit "G" and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in the Agreement, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions.

With respect to any conflict between such federal requirements and the terms of this Agreement and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

**[SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE FOR CONSTRUCTION CONTRACT  
BETWEEN THE CITY OF ST. HELENA  
AND GHILOTTI CONSTRUCTION COMPANY**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the 30<sup>th</sup> day of December, 2020.

CITY OF ST. HELENA

GHILOTTI COSTRUCTION COMPANY

By: \_\_\_\_\_  
Mark T. Prestwich  
City Manager

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Geoff Ellsworth  
Mayor

ATTEST:

By: \_\_\_\_\_  
Cindy Tzaopoulos  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Ethan Walsh  
City Attorney

Project Code: CIP No. E21-07



**EXHIBIT "A"****SERVICES / SCHEDULE**Scope

On September 27, 2020, the City of St. Helena proclaimed the existence of a local emergency due to the rapid progression of the Glass Fire incident which affected Napa and Sonoma. The City of St. Helena has an urgent need for emergency erosion control work due to the upcoming rainy season and the threat erosion poses to the Bell Canyon Reservoir. The immediate need in completing work is to reduce erosion potential by stabilizing exposed soil and reducing surface runoff flow velocity. Additionally, the City of St. Helena has an urgent need to repair the access road that runs next to the Bell Canyon Reservoir that leads to the St. Helena gun range. These repairs are necessary for City Personal to access to critical infrastructure. The Contractor will prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement its best management practices in the completion of this work.

Description of Work

Ghilotti Construction Company will provide erosion control measures around the reservoir and dam area at Bell Canyon. Ghilotti Construction Company will also repair the access road leading to the St. Helena gun range. The description of work for the E21-07 Emergency Erosion Control Measures for Bell Canyon Reservoir and Emergency Repairs to the Access Road Leading to the St. Helena Gun Range Due to the Glass Fire Incident project consists of the following items of work:

1. The work includes furnishing all labor, materials, equipment, tools and performing all operations in connection with the erosion control measures and items identified below for the reservoir area, dam area, and all work as required
2. Supervising during construction
3. Acquiring all permits, licenses, and fees for work, etc.
4. Cleaning culverts
5. Installing water bars
6. Installing approximately 90,000 square feet of Jute Netting
7. Installing approximately 6,000 linear feet of straw wattles
8. Repairing Gun Range Road and Rip Rap
9. Installing energy dissipater
10. Removing trees from the reservoir
11. Hauling and disposing of all excess and deleterious materials from construction site
12. Miscellaneous items of work not mentioned that is necessary to perform items 1 through 11

Location and Limits of Work

Bell Canyon

- Around the Reservoir and Dam Area.

Estimated Time of Completion

Work is to commence as early as Monday, January 4, 2021 (tentative), and will remain in effect until all erosion control work is complete.

Emergency work associated with erosion control is subject to highly changeable field conditions therefore this project will be based on time and materials associated with written task orders directed by the City and based on Caltrans Labor Surcharge and Equipment Rates effective April 1, 2020 through March 31, 2021 and available here:

[https://dot.ca.gov/-/media/dot-media/programs/construction/documents/equipment-rental-rates-and-labor-surcharge/book 2020. pdf](https://dot.ca.gov/-/media/dot-media/programs/construction/documents/equipment-rental-rates-and-labor-surcharge/book%2020.pdf)

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**BID SCHEDULE****Emergency Erosion Control Measures For Bell Canyon Reservoir And Emergency Repairs To The Access Road Leading to the St. Helena Gun Range Due To The Glass Fire Incident****BID SCHEDULE**

| Item No.                | Item                                 | Unit of Measure | Estimated Quantity | Unit Price (In Figures) | Item Total (In Figures) |
|-------------------------|--------------------------------------|-----------------|--------------------|-------------------------|-------------------------|
| 1                       | Clean Culverts                       | LS              | 1                  | \$ 4525.00              | \$ 4525.00              |
| 2                       | Install Water Bars                   | LS              | 1                  | \$ 3610.00              | \$ 3610.00              |
| 3                       | Cut & Haul Fallen Trees in Reservoir | LS              | 1                  | \$ 4525.00              | \$ 4525.00              |
| 4                       | Repair Gun Range Road and Rip Rap    | LS              | 1                  | \$ 8775.00              | \$ 8775.00              |
| 5                       | Erosion Control on Dam               | LS              | 1                  | \$ 71415.00             | \$ 71415.00             |
| 6                       | Mobilization                         | LS              | 1                  | \$ 11719.00             | \$ 11719.00             |
| <b>TOTAL BID AMOUNT</b> |                                      |                 |                    |                         | <b>\$ 104569.00</b>     |

\* Note: In case of error in extension of price into the total price column, the unit price will govern

|                                                                                 |             |
|---------------------------------------------------------------------------------|-------------|
| Total Amount of Bid (written in words) is: <u>ONE HUNDRED AND FOUR THOUSAND</u> |             |
| <u>FIVE HUNDRED AND SIXTY NINE DOLLARS</u>                                      | Dollars and |
| <u>ZERO</u>                                                                     | Cents.      |
| In the event of discrepancy between words and figures, the words shall prevail. |             |
| \$ <u>104569.00</u>                                                             |             |
| <b>Total in Figures</b>                                                         |             |

**Notes:**

- The City reserves the right to increase or decrease quantities as deemed necessary.
- All project debris taken to Upper Valley/Clover Flat shall be invoiced to the City directly by Upper Valley.
- Any work encountered not itemized in the bid schedule shall be billed on force account of time and materials based on Caltrans current markup and equipment rates. Contractor to receive written authorization by the City prior to proceeding with extra work.
- Notify City of St. Helena when contract amount has reached 50% and 75% of the not to exceed amount.

BID SCHEDULE, continued

246 GHILOTTI AVENUE

Address of Bidder

SANTA ROSA, CA 95407

City

707-585-1221

Telephone Number of Bidder

644515

Contractor's License Number



Signature of Bidder

MATT McDONALD

Name of Bidder (Print)

707-585-0129

Fax Number of Bidder

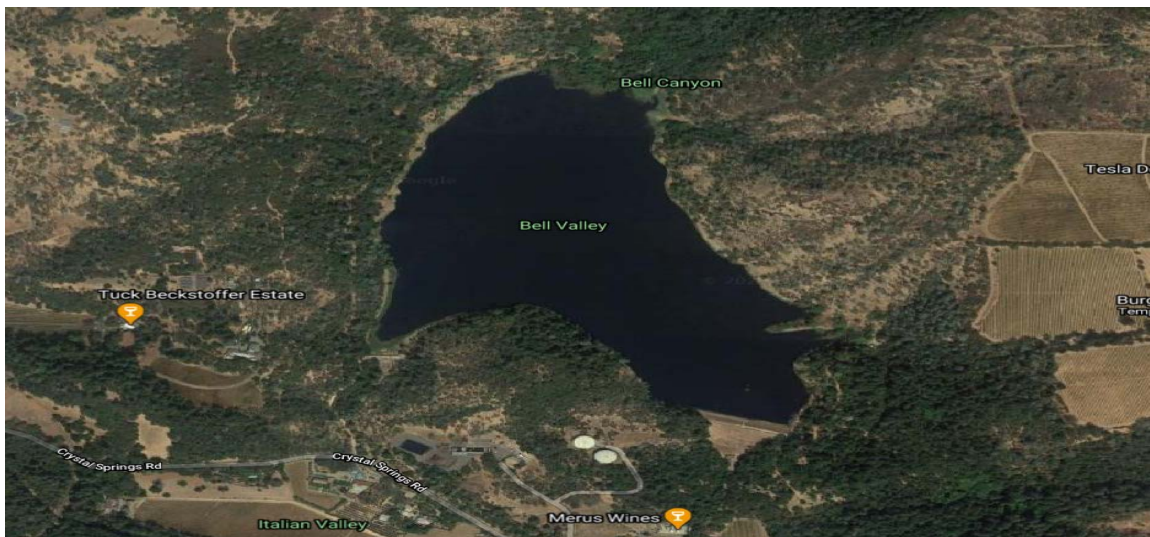
5/31/2022

License's Expiration Date

**EXHIBIT "B"**

**PLANS AND SPECIFICATIONS**

Plans and specifications other than already specified or via change order are not applicable.



**EXHIBIT "C"**

**SPECIAL CONDITIONS**

**ARTICLE 1. BONDS**

Within ten (10) calendar days from the date the Contractor is notified of award of the Contract, the Contractor shall deliver to the City four identical counterparts of the Performance Bond and Payment Bond on the forms supplied by the City and included as Exhibit "F" to the Contract. Failure to do so may, in the sole discretion of City, result in the forfeiture of Contractor's bid security. The surety supplying the bond must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the City. The Performance Bond and the Payment Bond shall be for one hundred percent (100%) of the Total Contract Price.

**EXHIBIT "D"**

**CERTIFICATION  
LABOR CODE - SECTION 1861**

I, the undersigned Contractor, am aware of the provisions of Section 3700, et seq., of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work on this Contract.

**Ghilotti Construction Company**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title (Print)

# EXHIBIT "E"

## PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Contractor hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.<sup>1</sup>

Name of Contractor: \_\_\_\_\_

DIR Registration Number: \_\_\_\_\_

DIR Registration Expiration: \_\_\_\_\_

Small Project Exemption: \_\_\_\_\_ Yes or \_\_\_\_\_ No

Unless Contractor is exempt pursuant to the small project exemption, Contractor further acknowledges:

- Contractor shall maintain a current DIR registration for the duration of the project.
- Contractor shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
- Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Contractor \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

<sup>1</sup> If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

**EXHIBIT "F"**  
**PAYMENT AND PERFORMANCE BONDS**



**EXHIBIT "G"****FEDERAL CONTRACT PROVISIONS**

During the performance of this Agreement, the Contractor shall comply with all applicable federal laws and regulations including but not limited to the federal contract provisions in this Exhibit. In this Exhibit, the term "Agency" shall mean the City of St. Helena.

**1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.326)**

- (A) Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. See Agreement.
- (B) Appendix II to Part 200 (C) – Equal Employment Opportunity: Except as otherwise provided under 41 C.F.R. Part 60, if this contract meets the definition of a "federally assisted construction contract" in 41 C.F.R. § 60-1.3, then Contractor shall comply with the following equal opportunity clause, in accordance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and implementation regulations at 41 C.F.R. Chapter 60:
  - (i) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - (ii) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
  - (iii) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action,

including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- (iv) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (v) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (vi) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (vii) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (viii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or

subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(C) Appendix II to Part 200 (D) – Davis-Bacon Act:

- (i) If this contract is in excess of \$2,000 and if required by Federal program legislation, Contractor must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").
- (ii) The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.
- (iii) If applicable, all transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

- (iv) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

(D) Appendix II to Part 200 (D) – Copeland “Anti-Kickback” Act:

- (i) Contractor shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3) as may be applicable, which are incorporated by reference into this contract. In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback” Act. The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (ii) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (iii) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (iv) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(E) Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

- (i) If this contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (ii) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
  - (iii) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (ii) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (ii) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (ii) of this section.
  - (iv) Withholding for unpaid wages and liquidated damages. The Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (iii) of this section.
  - (v) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.
- (F) Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement:
- (i) If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government

Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by the Federal awarding agency.

- (ii) The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.
  - (iii) This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- (G) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act: If this contract is in excess of \$150,000, Contractor shall comply with all applicable standards, orders, or requirements issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- (i) Pursuant to the Clean Air Act, (1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (2) Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000.
  - (ii) Pursuant to the Federal Water Pollution Control Act, (1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., (2) Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000.
- (H) Appendix II to Part 200 (H) – Debarment and Suspension: A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties

declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- (i) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
  - (ii) Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
  - (iii) This certification is a material representation of fact relied upon by Agency. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
  - (iv) Contractor warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Contractor also agrees to verify that all subcontractors performing work under this contract are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Contractor further agrees to notify the Agency in writing immediately if Contractor or its subcontractors are not in compliance during the term of this contract.
- (I) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: If this contract is in excess of \$100,000, Contractor shall have submitted and filed the required certification pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1353). If at any time during the contract term funding exceeds \$100,000.00, Contractor shall file with the Agency the Federal Standard Form LLL titled “Disclosure Form to Report Lobbying.” Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.
- (J) Appendix II to Part 200 (J) – Procurement of Recovered Materials:
- (i) Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the

item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

- (ii) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price.
- (iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (iv) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

## 2. MISCELLANEOUS PROVISIONS

- (A) The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.
- (B) This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of this contract. The Vendor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- (C) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the Agency, Contractor, any subcontractors or any other party pertaining to any matter resulting from the contract.
- (D) Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.
- (E) General and Administrative Expenses And Profit For Time And Materials Contracts/Amendments.
  - (i) General and administrative expenses shall be negotiated and must conform to the Cost Principles.
  - (ii) Profit shall be negotiated as a separate element of the cost. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the Contractor, the Contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.



- (iii) Any agreement, amendment or change order for work performed on a time and materials basis shall include a ceiling price that Contractor exceeds at its own risk.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA: (1) RATIFYING EMERGENCY PUBLIC PROJECT WITHOUT PUBLIC BIDDING RELATING TO THE GLASS FIRE; (2) RATIFYING CONSTRUCTION CONTRACT STH CONTRACT: FY2021-043 WITH GHILOTTI CONSTRUCTION COMPANY IN AN AMOUNT NOT-TO-EXCEED \$104,569.00 FOR EMERGENCY EROSION CONTROL MEASURES FOR BELL CANYON RESERVOIR AND FOR EMERGENCY REPAIRS TO THE ACCESS ROAD NEXT TO THE BELL CANYON RESERVOIR LEADING TO THE ST. HELENA GUN RANGE; AND (3) AUTHORIZING THE PUBLIC WORKS DIRECTOR TO APPROVE CHANGE ORDERS UP TO 15% OF THE CONTRACT AMOUNT.**

**WHEREAS**, Public Contract Code section 1102 defines an emergency as “a sudden unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services”; and

**WHEREAS**, Public Contract Code section 22035 authorizes the City Council of the City of St. Helena (“City”), in cases of emergency when repair or replacements are necessary, to proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts, and if notice for bids to let contracts will not be given, the City shall comply with Public Contract Code section 22050; and

**WHEREAS**, Public Contract Code section 22050(a) authorizes the City to proceed with awarding a public works contract to perform emergency work without giving notice for bids to let contracts upon adoption by the City Council by a four-fifths vote of a resolution finding that the emergency will not permit a delay resulting from a competitive solicitation for bids and that the action is necessary to respond to the emergency; and

**WHEREAS**, pursuant to Section 3.04.290 and 3.04.170 of the City’s Municipal Code and Public Contract Code section 22050(b), the City Council delegated authority to make an emergency determination and award a contract to perform emergency work to the City Manager; and

**WHEREAS**, on September 27, 2020, the City proclaimed the existence of a local emergency due to the rapid and continuing progression of the Glass Fire which is affecting both Napa and Sonoma Counties; and

**WHEREAS**, as a result of the Glass Fire, the City of St. Helena has an urgent need for emergency work due to the impacts of this fire for emergency erosion control measures for Bell Canyon Reservoir and emergency repairs to the access road leading to the St. Helena Gun Range; and

**WHEREAS**, the City Manager determined the Glass Fire constituted an emergency that did not permit the adoption of plans, specifications, strain sheets, or working details and did not permit undergoing the formal competitive bidding process because there is an imminent need to take immediate action erosion control and access road repairs; and

**WHEREAS**, three quotes were solicited for the necessary repair work; and

**WHEREAS**, Ghilotti offered the most competitive price for the necessary work; and

**WHEREAS**, the City Manager procured a Professional Services Agreement with Ghilotti Construction Company on December 31, 2020 in an amount not-to-exceed \$104,569 for such work; and

**WHEREAS**, pursuant to Public Contract Code section 22050(b)(3), the City Manager must report to the City Council the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency; and

**WHEREAS**, pursuant to Public Contract Code section 22050(c)(2), the City Council must review the emergency action by the City Manager and determine, by a four-fifths vote, there is a need to continue the action; and

**WHEREAS**, pursuant to St. Helena Municipal Code Section 3.04.170 and 3.04.175, the City Manager's authority is subject to confirmation by the City Council at its next meeting for any purchase in excess of \$25,000.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. HELENA AS FOLLOWS:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** That the public interest and necessity demand the immediate expenditure of public funds for emergency work related to the Glass Fire in order to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

**SECTION 3.** That the emergency would not permit a delay that would have resulted from a competitive solicitation for bids and that action was necessary to respond to the emergency related to the Glass Fire.

**SECTION 4.** That the City Manager's emergency determination and STH Contract FY2021-043 emergency agreement with Ghilotti Construction Company is hereby ratified.

**SECTION 5.** That the City Manager, or his or her designee, is hereby authorized to continue taking any directly related and immediate action required by the emergency condition related to the Glass Fire and directed to report back to the City Council regarding the status of the emergency condition and need to continue the emergency action at every regularly scheduled meeting until the emergency action is terminated.

**SECTION 6.** That the Director of Public Works, is hereby authorized to approve change orders up to 15% of the contract amount.

**SECTION 7.** That the approvals herein authorized are necessary to protect the public health, safety, and welfare.

**SECTION 8.** This Resolution shall become effective immediately.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Council Member Chouteau:

Council Member Hall:

Council Member Hardy:

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzafopoulos, City Clerk



Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject:** Consideration and Approval of a Resolution Approving City of St. Helena Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property Policy and Rescinding any Previous Policies or Administrative Memoranda which are Inconsistent with City Council Policy P-FI-0021.

**CEQA Determination:** Not a CEQA project

**Prepared By:** April Mitts, Finance Director

**Reviewed By:** Mark T. Prestwich, City Manager

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

Over the past few years the Finance Department has been working on developing and presenting to City Council formalized financial policies for City Council adoption.

**DISCUSSION**

St. Helena Municipal Code (SHMC) Section 3.04.180 reads:

All departments shall submit to the purchasing officer, at such times and in such forms as he or she may prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing officer may direct that the designated supplies or equipment be:

- A. Transferred to another city department or agency;
- B. Exchanged or traded in on new supplies and equipment; or
- C. Disposed of in some other suitable manner, which may include sale at auction or deposit at a landfill.

While SHMC Section 3.04.180 Surplus Supplies and Equipment allows for the sale or transfer of surplus supplies and equipment, the Code does not provide specifics for the disposition of such items. This policy is not intended to replace this section of the Code, but to establish a policy for controlling the transfer and disposition of City-owned surplus personal property, equipment, and supplies.

The recommended policy (Attachment 1) identifies the following:

1. Department responsibility to periodically review and evaluation the condition and functionality of its equipment, furniture, machinery, material, and inventory;
2. Notification of surplus items to other departments;
3. Identification of assets purchased or procured through State or Federal agencies;
4. Methods of distribution of surplus items;
5. Methods of disposal of surplus items which includes:
  - o Public Auction
  - o Sealed Bids
  - o Selling for Scrap
  - o Negotiated Sale
  - o No-Value/Donated items
6. Sale of surplus items to City Employees;
7. Proceeds from the sale of surplus items; and
8. Record keeping from the sale or transfer of surplus items.

#### **FISCAL IMPACT**

There is no fiscal impact in the adoption of P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property Policy.

#### **RECOMMENDED ACTION**

Staff recommends City Council adopt a Resolution approving City of St. Helena Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property and Rescinding any Previous Policies or Administrative Memoranda which are Inconsistent with City Council Policy P-FI-0021.

#### **ATTACHMENTS**

[Attachment 1 - P-FI-0021 Sale of Surplus Equipment, Supplies, and Personal Property](#)

[Attachment 2 - Resolution P-FI-0021 Sale of Surplus Supplies, Equipment, and Personal Property](#)

|                                                                                   |                                                       |                                                                                                           |
|-----------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br><b>Sale of Surplus Supplies, Equipment, or<br/>Personal Property Policy</b><br><b>P-FI-0021</b> |
|                                                                                   |                                                       | <b>Page 1 of 8</b>                                                                                        |

|                                                                                                  |                            |                      |
|--------------------------------------------------------------------------------------------------|----------------------------|----------------------|
| <b>Title:</b><br><b>Sale of Surplus Supplies,<br/>Equipment, or Personal<br/>Property Policy</b> | <b>Policy #</b>            | P-FI-0021            |
|                                                                                                  | <b>Revision #</b>          | 1                    |
|                                                                                                  | <b>Implementation Date</b> | 2004-02-25           |
|                                                                                                  | <b>Last Update Date</b>    | 2004-02-24           |
| <b>Approval by City Council</b>                                                                  | Resolution 2021-           | <b>Date Approved</b> |

**I. Purpose, Overview, and Scope of this Policy**

The purpose of this Policy (the “Surplus Policy”) is to establish a policy for controlling the transfer and disposition of City-owned surplus personal property, equipment, and supplies.

**II. Authority**

Updates to this policy require City Council approval.

**III. Policy****1. DEFINITIONS.**

- A. City or City of St. Helena shall mean and include the City of St. Helena, and any other affiliated agency created or activated by the City of St. Helena City Council, and any departments, boards and commissions thereof.
- B. City Manager means the City Manager or their designee.
- C. Purchasing Officer means the Director of Finance or their designee.
- D. Surplus Property means any City-owned personal property no longer needed. Examples include, but are not limited to, vehicles, machinery, equipment, furniture, and fixtures used in operations with an initial useful life greater than one-year.

**2. SURPLUS PROPERTY.**

- A. Each department must periodically review and evaluate the condition and functionality of its equipment, furniture, machinery, material, and inventory to determine if the property still provides the most appropriate method of service delivery.

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|  | <p style="text-align: center;"><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p style="text-align: center;">Policy<br/>Sale of Surplus Supplies, Equipment, or<br/>Personal Property Policy<br/>P-FI-0021</p> |
|                                                                                   |                                                                                            | <p style="text-align: center;">Page 2 of 8</p>                                                                                   |

- B. When the originating department determines the property no longer meets the departments service delivery needs, that department will notify other City departments of the availability and condition of the surplus item before requesting removing the item from operation/service.
- i. Transfer to another department - If the surplus item is being transferred to another department, the originating department must complete a Surplus Property Transfer Form and submit this Form to the Finance Department for internal processing in accordance with this Policy.
  - ii. If it is determined the item will be disposed of, the originating department is responsible for the disposal of the item(s) in accordance with this Policy.
- C. Assets purchased or procured through State or Federal agencies are subject to the respective agencies surplus rules and regulations.
- i. When property or equipment is no longer needed for the originally authorized purpose, the City must obtain disposition instructions from the Federal or State awarding agency.
  - ii. The originating department is responsible for obtaining said agencies disposal or surplus requirements in-place at the time of acquisition and are responsible to ensure the items are disposed of in accordance with said regulations.
- D. Methods of Distribution
- All methods of distribution listed below require a completed Surplus Property Transfer Form or a Surplus Property Release Form to be submitted to the Purchasing Officer or designee for processing.
- i. Transfer to Another Department – All transfers of items with an estimated value greater than \$1,000 requires approval of the Director of each department affected by the transfer.

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|                                                                                   |                                                                               | <p align="center">Page 3 of 8</p>                                                                                   |

- ii. Trade-In – Items may be offered as a trade-in for credit towards the acquisition of new property. All trade-in offers will be submitted for the review and approval of the Purchasing Officer prior to finalizing purchase of replacement equipment.
  
- iii. Return to Manufacturer – When possible, surplus property should be returned to the manufacturer for buy-back or credit toward the purchase of new property.
  
- iv. Disposal – With prior approval by the Purchasing Officer items may be offered for sale to the public by the responsible department. All surplus property will be offered for sale in “as is” and in “where is” condition with no warranty, guarantees, or representation of any kind, expressed or implied, as to the condition, utility, or usability of the property offered for sale, unless other terms of sale are authorized by the Purchasing Officer. A Surplus Property Release Form must be signed by receiving agency/person prior to release of surplus item(s). Surplus property covered under this Policy with an estimated value over \$5,000 requires approval by the City Council prior to disposal. Methods of disposal include:
  - a. Public Auction – Surplus property may be sold at public auction. City may contract with a professional auction service.
  
  - b. Sealed Bids – Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsible bidder.
  
  - c. Selling for Scrap – Surplus property may be sold as scrap, if the responsible department deems that the value of the raw material exceeds the value of the property as a whole.
  
  - d. Negotiated Sale – May be sold outright if the Purchasing Officer determines that only one known buyer is available or interested in acquiring the surplus property.
  
  - e. No Value Item – Where the Purchasing Officer determines that specific supplies or equipment are surplus and of minimal value

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|                                                                                   |                                                                               | <p align="center">Page 4 of 8</p>                                                                                   |

to the City due to spoilage, obsolescence or other cause, or that the cost of disposal of such supplies or equipment would exceed the recovery value.

The Purchasing Officer may dispose of the same in such a manner as they deem appropriate, which may include donations to interested local non-profit organizations and/or schools giving preference to nonprofit organizations and schools operating within the City. Donations made to eligible entities shall be on a first come, first-serve basis.

v. Sales to City Employees – Sale of surplus items to City employees shall be allowed in the following circumstances:

- a. The employee participated through the public auction process;  
or
- b. The employee participated through the sealed bid process.

### 3. PROCEEDS.

Proceeds from the sale or trade-in of surplus property will be applied to the appropriate fund(s) as determined by the Finance Director or designee.

### 4. RECORD KEEPING.

If the asset is a capital asset, the Finance Department will remove the capital asset from the City's General Ledger. If equipment inventory lists are maintained by user department, the list must be updated by the department.

## IV. Forms

- A. Surplus Property Transfer Form
- B. Surplus Property Release Form
- C. Surplus Property Acknowledgement Form

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|                                                                                   |                                                                               | <p align="center">Page 5 of 8</p>                                                                                   |

**CITY OF ST. HELENA – SURPLUS TRANSFER FORM**

Originating Department: \_\_\_\_\_

Receiving Department: \_\_\_\_\_

Item for Transfer: \_\_\_\_\_

Estimated Value of item for Transfer: \$\_\_\_\_\_

Reason for Transfer: \_\_\_\_\_

\_\_\_\_\_

Was this asset procured through a State or Federal Agency? ☐ YES ☐ NO

If Yes, the Originating Department is responsible for obtaining said agencies disposal or surplus requirements in-place at the time of acquisition and are responsible to ensure the items are disposed of in accordance with said regulations.

Acknowledgement by the Originating Department that the requirements were obtained, and item(s) are being disposed of in accordance with said regulations:

\_\_\_\_\_  
Originating Department Acknowledgement

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Receiving Department (If over \$1,000)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Procurement Officer Signature

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|                                                                                   |                                                                               |                                                                                                                     |
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**CITY OF ST. HELENA - SURPLUS PROPERTY RELEASE FORM**  
**Surplus with an estimated value greater than \$5,000**  
**requires City Council Authorization Prior to Disposal**

Originating Department: \_\_\_\_\_

Item for Surplus: \_\_\_\_\_

Description of Surplus (make, model, VIN, etc.): \_\_\_\_\_

\_\_\_\_\_

Reason for Surplus: \_\_\_\_\_

Was this asset procured through a State or Federal Agency?    ☐ YES    ☐ NO

If Yes, the Originating Department is responsible for obtaining said agencies disposal or surplus requirements in-place at the time of acquisition and are responsible to ensure the items are disposed of in accordance with said regulations.

Acknowledgement by the Originating Department that the requirements were obtained, and item(s) are being disposed of in accordance with said regulations:

\_\_\_\_\_  
 Originating Department Acknowledgement

Method of Distribution:

- ☐ Trade-In      ☐ Return to Manufacturer      ☐ Public Auction      ☐ Sealed Bids  
☐ Scrap      ☐ Negotiated Sale      ☐ No Value Item - Donation

Disposal of Surplus (supporting documentation is to be attached):

Date of Disposal: \_\_\_\_\_

Amount Sold/Traded or Value Amount for Donation: \$ \_\_\_\_\_

Date Funds Received: \_\_\_\_\_ Revenue Account: \_\_\_\_\_

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|                                                                                   |                                                                               |                                                                                                                     |
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Notes: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Originating Department Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Procurement Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Resolution Number (if required)

\_\_\_\_\_  
Date Authorized

Buyer/Recipient Information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

By signing below, I acknowledge I have received the property and that the property received is in "as is" and in "where is" condition with no warranty, guarantees, or representation of any kind, expressed or implied, as to the condition, utility, or usability of the property received, unless other terms of sale are authorized by the Purchasing Officer.

\_\_\_\_\_  
Buyer/Recipient Signature

\_\_\_\_\_  
Date

P-FI-0021

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|                                                                                   |                                                                               | <p align="center"><b>Page 8 of 8</b></p>                                                                            |

**CITY OF ST. HELENA - SURPLUS PROPERTY POLICY ACKNOWLEDGEMENT**

I have received and read the City of St. Helena Sale of Surplus Supplies, Equipment, Property, or Partial Interests in Property Policy P-FI-0001 and understand its provisions. I further understand that when I sign this acknowledgement form it will be placed in my personnel file.

\_\_\_\_\_  
Employee (PRINT name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

P-FI-0021

**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_**

**Resolution approving City of St. Helena City Council Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property and Rescinding any Previous Policies or Administrative Memoranda which are Inconsistent with City Council Policy P-FI-0021.**

**RECITALS**

- A. The City recognizes that fiscal policies and procedures are necessary for efficient, effective, and proper accounting of City spending; and
- B. St. Helena Municipal Code (SHMC) Section 3.04.180 allows for the sale or transfer of surplus supplies and equipment but does not provide specifics for the disposition of such items; and
- C. A Sale of Surplus Supplies, Equipment, or Personal Property policy was presented to City Council; and
- D. To avoid any inconsistencies with policy application, it is necessary to repeal and rescind any previous policies and procedures which conflict with City Council Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- 1. Approves St. Helena City Council Policy P-FI-0021 Sale of Surplus Supplies, Equipment, or Personal Property; and
- 2. Repeals and rescinds any previous policies or administrative memoranda which are inconsistent with City Council Policy P-FI-002 Sale of Surplus Supplies, Equipment, or Personal Property.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:

Councilmember Hall:

Councilmember Hardy:

APPROVED:

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Geoff Ellsworth, Mayor

ATTEST:

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Cindy Tzaopoulos, City Clerk





Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject:** Consideration and Approval of a Resolution Accepting a Donation in the amount of \$50,000 from the L. Bob & Evalyn Trincherro Charitable Fund for the City of St. Helena Fire Department for Wildfire Recovery and Relief and Approving the Attached Letter as the Written Agreement of Acceptance.

**CEQA Determination:** Not a CEQA project

**Prepared By:** April Mitts, Finance Director

**Reviewed By:** Mark T. Prestwich, City Manager

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

On November 24, 2020, City Council adopted Policy P-FI-0020 Acceptance of Donations and Charitable Gifts to the City. The purpose of this Policy ("Donation Policy") is to establish a policy that is consistent with the City's strategic goals for accepting donations in a transparent and accountable manner from individuals, community groups, and businesses wishing to make donations to the City.

Section 4 of the Donation Policy outlines the threshold amount for donation acceptance. Section 4.C. states, "Offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council."

**DISCUSSION**

L. Bob & Evalyn Trincherro Charitable Fund wishes to make a donation in the amount of \$50,000 for the City of St. Helena Fire Department for Wildfire Recovery and Relief (Attachment 1).

In accordance with the Donation Policy, the Mayor and Vice Mayor have reviewed the offer of donation and recommend the City Council accept the donation and the attached

letter as the Written Agreement of acceptance as required by Policy P-FI-0020 Acceptance of Donations to the City, Section 4.C.

**FISCAL IMPACT**

The fiscal impact of acceptance of the gift is a revenue increase of \$50,000 which will be designated for the City of St. Helena Fire Department for Wildfire Recovery and Relief.

**RECOMMENDED ACTION**

The Mayor and Vice Mayor recommend the City Council adopt a resolution accepting a donation in the amount of \$50,000 from the L. Bob & Evalyn Trincherro Charitable Fund for the City of St. Helena Fire Department for Wildfire Recovery and Relief and Approving the Attached Letter as the Written Agreement of Acceptance.

**ATTACHMENTS**

[Attachment 1 - Donation form from Schwab Charitable Redacted](#)  
[P-FI-0020 Acceptance of Donations to the City](#)

[Donation Acceptance Form L. Bob & Evalyn Trincherro Charitable Fund](#)  
[Letter Accepting of the Donation on Behalf of the Fire Department](#)  
[Resolution Acceptance of Donation](#)



L. Bob & Evalyn Trinchero Charitable Fund

-- 01 000020 19569 H 1 A797  
CITY OF ST. HELENA  
GIFT PROCESSING  
1572 RAILROAD AVENUE  
ST. HELENA, CA 94574



December 18, 2020

**GRANT ENCLOSED** We are pleased to present City of St. Helena with the enclosed grant in the amount of \$50,000.00 made on behalf of L. Bob & Evalyn Trinchero Charitable Fund at Schwab Charitable™.

|                   |                                                                                    |
|-------------------|------------------------------------------------------------------------------------|
| Grant Amount      | \$50,000.00                                                                        |
| Acknowledgment    | L. Bob & Evalyn Trinchero Charitable Fund                                          |
| Address           | You may acknowledge the donor(s) at:<br>[REDACTED]<br>St. Helena, CA 94574-0248    |
| Grant Designation | This grant is for the St. Helena Fire Department for Wildfire Recovery and Relief. |

If you have any questions regarding this grant, please visit [www.schwabcharitable.org/charities](http://www.schwabcharitable.org/charities). We wish you success with your charitable goals.

**NOTE TO THE CHARITY:**

- By accepting this grant, your organization certifies to Schwab Charitable that:
  - No donor or individual related to the donor will receive any goods, services or other more than incidental private benefits. Examples may include but are not limited to: If the grant is for an event or gala, it does not pay for tickets or any goods purchased at auction. If the grant is for a membership, the membership must be considered 100% tax deductible. If the grant is to support missionary work, your organization will have full control and discretion regarding its use and application. If the grant is for a scholarship, the donor does not have control over the distribution of funds. If the grant is to a school or educational fund, it does not pay for the tuition of the donor or any related individual nor for preferential tickets, seating or access to events.
  - The grant will not be used to fulfill a pre-existing legally binding pledge.
  - If grantee is a government entity, the grant funds can be used solely for public purposes as that term is used in Section 170(c)(1) of the Internal Revenue Code.
- Your organization should not provide the donor a tax receipt for this grant, as Schwab Charitable has already provided the donor with a tax receipt at the time of contribution. Please do not send thank you notes or marketing materials to Schwab Charitable.
- Grants and account names are recommendations of the donor and do not reflect the views of Schwab Charitable, Charles Schwab & Co. Inc. or any of its affiliates.

Schwab Charitable is the name used for the combined programs and services of Schwab Charitable Fund, an independent nonprofit organization. Schwab Charitable Fund is recognized as a tax-exempt public charity as defined in Internal Revenue Code ("IRC") Sections 501(c)(3), 509(a)(1), and 170(b)(1)(A)(vi). Schwab Charitable Fund has entered into service agreements with certain affiliates of The Charles Schwab Corporation.

EQUIPMENT REPLACEMENT FUND

©2020 Schwab Charitable Fund. All rights reserved. SGC82458-03 (1019-9TU8) 00237678 #4298489

PLEASE FOLD AND DETACH AT PERFORATION BEFORE PRESENTING CHECK FOR PAYMENT

SECURITY NOTE: The face of this document is blue on white paper. See reverse side for additional security features.

 **SCHWAB CHARITABLE**  
211 Main Street  
San Francisco, CA 94105

**Bank of America**  
Northbrook, IL

**Date:** 12/18/2020  
70-2328/0719 (IL)

**No:** 0005490096

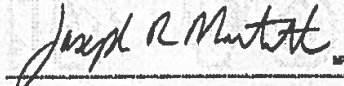
 Security Features Details on Back

**Pay:** \*\*\*FIFTY THOUSAND DOLLARS AND NO CENTS\*\*\*

**\$\*\*\*\*\*50,000.00\*\***

**To the** CITY OF ST. HELENA  
**Order of:**

**Memo:**  
4296489

  
Present for Payment Within 180 Days

⑈0005490096⑈ ⑆071923284⑆ 8765330714⑈

|                                                                                   |                                                       |                                               |
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|  | <b>City of St. Helena</b><br><b>Policy</b><br>Finance | Policy<br><b>Donation Policy</b><br>P-FI-0020 |
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|                                                                                          |                            |                                    |
|------------------------------------------------------------------------------------------|----------------------------|------------------------------------|
| <b>Title:</b><br><b>Acceptance of Donations<br/>and Charitable Gifts to the<br/>City</b> | <b>Policy #</b>            | P-FI-0020                          |
|                                                                                          | <b>Revision #</b>          | Release                            |
|                                                                                          | <b>Implementation Date</b> | 2020-11-25                         |
|                                                                                          | <b>Last Update Date</b>    | 2020-11-24                         |
| <b>Approval by City Council</b>                                                          | Resolution 2020-118        | <b>Date Approved</b><br>2020-11-24 |

### **I. Purpose, Overview, and Scope of this Policy**

The purpose of this Policy (the “Donation Policy”) is to establish a policy that is consistent with the City’s strategic goals for accepting donations in a transparent and accountable manner from individuals, community groups, and businesses wishing to make donations to the City. This policy establishes uniform criteria and procedures to guide the review and acceptance of such donations, confirm the City has adequate resources to administer such donations, and ensure that the City appropriately acknowledges the generosity of the donor. The City may accept or reject any gift or donation.

This policy does not replace reportable gift reporting as required under the Political Reform Act as outlined in California Government Code sections 91000-91014. The Fair Political Practices Commission (FPPC) requires all public officials and reporting employees to file a “Conflict of Interest Statement,” known as Form 700. Nor does this Policy replace City Council Standards of Conduct as adopted in the *City Council Rules of Procedure for the Conduct of Council Meetings and Standard of Conduct*.

### **II. Authority**

Updates to this policy require City Council approval.

### **III. Policy**

#### **1. DEFINITIONS.**

- A. City or City of St. Helena shall mean and include the City of St. Helena, and any other affiliated agency created or activated by the City of St. Helena City Council, and any departments, boards and commissions thereof.
- B. City Manager means the City Manager or their designee.
- C. City Official shall mean every elected official, officer, agent, and employee of the City who is obligated to file an Annual Statement of Economic Interests (FPPC Form 700) under state law or the City’s current conflict of interest code.
- D. City Venue shall mean and refer to any facility owned, controlled, or operated by the City.

P-FI-0020

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|  | <p align="center"><b>City of St. Helena</b><br/><b>Policy</b><br/>Finance</p> | <p align="center">Policy<br/><b>Donation Policy</b><br/>P-FI-0020</p> |
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- E. Designated Donation shall mean monetary donations whose expenditure is restricted to a Donor-specified purpose, which may identify a particular City department, program, project, or other purpose as the beneficiary of the donation. For example: such donations may include the funds directed to support a public art initiative or support construction of a skate park.
- F. Donation or Gift shall mean a monetary contribution, personal property, real property, equipment, or any other asset that the City has accepted and for which the donor has not received any legal consideration in return. For the purposes of this Policy, the terms “donation” and “gift” shall be synonymous.
- G. Donor shall mean a person or legal entity that proposes to provide a donation to the City.
- H. Endowment shall mean monetary donations that are restricted by the respective donor to the extent that only earnings, and not principal, may be expended by the City for the donor’s designated or intended purposes. Such donations are restricted donations in the sense that the donor-specified purpose is to preserve the corpus of the initial donation.
- I. FPPC shall mean and refer to the California Fair Political Practices Commission.
- J. Memorial is an item, object, or monument established to preserve the memory of a deceased person(s) or an event that occurred in the past.
- K. Tribute shall mean an item, object, or gift designated to acknowledge the contributions of living people to society.
- L. Undesignated Donation shall mean a donation made to the City by a donor without limitations or restrictions being placed upon its use.

## 2. TYPES OF DONATIONS.

- A. Donations may be offered in the form of cash, real or personal property, or in-lieu contributions.
- B. Designated donations are those donations that the donor specified for a particular City department, location, or purpose.
- C. Undesignated donations are those donations that are given to the City for an unspecified use.

## 3. CONSISTENCY WITH CITY INTERESTS AND CONSIDERATIONS

- A. Designated donations may only be accepted when they have a purpose consistent with the City’s strategic goals and objectives and are in the best interests of St. Helena.

P-FI-0020

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- B. The City must always consider the public trust and comply with all applicable laws when accepting donations.
- C. Before accepting a donation, consideration will be taken for the initial and future expenditures that may be required for use and maintenance of the donation. The City Manager will quantify the costs associated with both restricted and unrestricted donations before a donation is accepted. For example, possible clean-up costs of hazardous materials will be considered before real property is accepted.

**4. ACCEPTANCE OF UNDESIGNATED DONATIONS OF CASH OR TANGIBLE ITEMS.**

All donations to the City, including offers to employees related to the City, shall immediately be submitted for consideration for acceptance. Based on the value of the donation offered as outlined below, appropriate City staff shall review every donation and determine whether the donation is consistent with the requirements of this Policy and if the benefits to be derived warrant acceptance of the donation. The following are the threshold amounts for donation acceptance.

- A. Offers of donations of cash or items valued at \$1,000 or below may be considered for acceptance by a Department Director.
- B. Offers of donations of cash or items valued more than \$1,000 and up to \$10,000 may be considered for acceptance by the City Manager.
- C. Offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council. Donations valued at more than \$10,000 shall be accepted through a written agreement consistent with these guidelines and approved by the City Council. The required written agreement may be incorporated into another agreement, such as a development agreement, if the donation is made as part of a proposed development or project. The Mayor and Vice Mayor shall review such offers of donation and provide a recommendation to the City Council.
- D. Offers of donations for gratuitous purposes (e.g. holiday gift baskets, etc.) to any employee, department, or the City shall be made available to benefit all employees.
- E. Offers of donations of wine and other alcoholic beverages shall be inventoried and placed in the City's wine cellar for use at City-sponsored events or used for charitable purposes as authorized by the City Manager.

**5. ACCEPTANCE OF DESIGNATED DONATIONS OF CASH OR TANGIBLE ITEMS.**

P-FI-0020

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Based on the value of the donation offer as outlined in Section 4, appropriate City staff or the Mayor and Vice Mayor as provided in Section 4(C), will review the conditions of any designated donation and determine if the benefits to be derived warrant acceptance of the donation. Criteria for the evaluation include but are not limited to:

- A. Consideration of whether an immediate or initial expenditure is required in order to accept the donation.
- B. The potential and extent of the City's obligation to maintain, match, or supplement the donation.

**6. ACKNOWLEDGEMENT AND ACCOUNTING OF DONATIONS.**

- A. For all donations provided to the City under \$10,000, a Donations Acceptance Form is required to be completed by the receiving Department Director, the Finance Department, or the City Manager's Office in accordance with Section 4 (A) and Section 4 (B) of this Policy (form attached). The City Manager will acknowledge all donations by signing the designated space on the Donations Acceptance Form.
- B. The City of St. Helena Finance Department is responsible for providing for the deposit and financial administration of any donation to the City. If necessary, the Finance Department shall track the proposed use of any such donation and shall maintain separate records of accounts showing receipts and disbursements if the donation is restricted.
- C. A copy of the Donation Acceptance Form will be forwarded to donors by the receiving department and to the Finance Department.
- D. Donations over \$10,000 must be accepted by the City Council in accordance with Section 4 (C) of this Policy.
- E. The Donor Acceptance Form, including donor names and donation amounts, are public information subject to disclosure pursuant to the California Public Records Act.

**7. DECLINED DONATIONS.**

- A. The City of St. Helena reserves the right to decline any donation if, upon review, acceptance of the donation offer is determined at the sole discretion of the City to not be in the best interest of the City.

P-FI-0020



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#### 8. DISTRIBUTION OF DONATION.

- A. Tangible items will be distributed to appropriate City departments for use or, at the discretion of the Department Director or City Manager, disposed of in an appropriate manner according to this policy.
- B. Donations of cash for designated donations will be deposited into the appropriate revenue account for the designated City department.
- C. Donations of cash for undesignated donations under \$5,000 will be deposited into the City's General Fund Other Revenue account. Undesignated donations in an amount of \$5,000-\$25,000 will be designated to the Non-Profit Grant Program. Undesignated donations in an amount over \$25,000 will be distributed at the direction of City Council.

#### 9. DISPOSITION

Unless restricted otherwise in writing, the City may keep, sell, or dispose of a donation.

#### 10. DISSEMINATION OF INFORMATION.

- A. A copy of each Donation Acceptance Form for accepted donations shall be forwarded to the Finance Department and the designated department for which the donations was assigned.
- B. Accepted donations above \$5,000 shall be reported to the City Council in the Grant Report presented each quarter at a City Council meeting.
- C. Each original Donation Acceptance Form shall be maintained by the City Clerk's Office.

#### 11. DONATIONS AS CHARITABLE CONTRIBUTIONS

- A. When Qualified
  - i. A donation to the City may be tax deductible as a charitable contribution if the donation is made exclusively for a public purpose as described in the IRS Code at 26 U.S.C. § 170(c)(1).
  - ii. The City does not provide legal, accounting, tax, or other such advice to donors. Each donor is ultimately responsible for ensuring the donor's proposed donation meets and furthers the donor's charitable,

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|                                                                                   |                                                       | <b>Page 6 of 9</b>                            |

financial, and estate planning goals. As such, each donor is encouraged to meet with a professional advisor before making any donation to the City.

- iii. The City Manager will provide donors whose donations are accepted with a written statement that includes the following information required by the Internal Revenue Code 1.170A-13 and as described in IRS Charitable Contributions, Substantiation and Disclosure Requirements, Publication 1771. The City will not make a determination of whether the donation is tax deductible.
  - 1. Name of donor/Name of organization
  - 2. The amount of cash contribution
  - 3. A description (but not the value) of non-cash contribution
  - 4. Date of receipt
  - 5. A statement that no goods or services were provided by the City in return for the contribution/donation, if that was the case
  - 6. A description and good faith estimate of the value of goods or services, if any, that the City provided in return for the contribution/donation

#### 12. ACCEPTANCE OF GIFTS TO EMPLOYEES AND/OR ELECTED OFFICIALS OF THE CITY.

- A. Employees and officials of the City are required to be objective and fair in dealing with the public and persons or firms doing business with the City. Employees shall not solicit or accept gifts or gratuities for the performance of their City job responsibilities.
- B. No City official or employee shall directly or indirectly solicit, accept, or attempt to accept any money, fee, credit, gift, gratuity, object of value, or compensation of any kind which the official or employee knows, or has reason to know is being offered:
  - i. For the purpose of improperly obtaining or rewarding favorable treatment;
  - ii. With interest to influence the official or employee in the discharge of official duties;
  - iii. In consideration of having exercised official powers or performed official duties.
- C. Anonymous gifts shall be delivered to the City Manager or designee for appropriate disposition.

P-FI-0020

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|                                                                                   |                                                                | <p><b>Page 7 of 9</b></p>                              |

- D. This policy does not prohibit a City official from accepting anything of value by way of a gift when such a gift is made to and accepted on behalf of, the City of St. Helena. All such gifts to the City shall be forwarded to the City Manager for compliance with this Policy whenever possible; the City Manager or designee will ensure that all such gifts are disposed of accordingly. An example of such gifts would be those received during holiday periods.

**IV. Forms**

- A. City of St. Helena, California Donation Acceptance Form
- B. City of St. Helena, California Donation and Gift Policy Acknowledgement

|                                                                                   |                                                                               |                                                                |
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|                                                                                   |                                                                               | <p align="center">Page 8 of 9</p>                              |

**CITY OF ST. HELENA - DONATION ACCEPTANCE FORM**

Name of Donor: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of Donation: \_\_\_\_\_

\_\_\_\_\_

Donor estimate of current value: \_\_\_\_\_

Potential immediate/initial acquisition or installation cost, on-going maintenance or replacement cost:

Intended use: \_\_\_\_\_

Conditions of acceptance or donor designation: \_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

City Department receiving donation: \_\_\_\_\_

APPROVED ☐      DISAPPROVED ☐

\_\_\_\_\_

Date

\_\_\_\_\_

Department Head Signature

\_\_\_\_\_

Date

\_\_\_\_\_

City Manager Signature

\_\_\_\_\_

Date Submitted to Council

\_\_\_\_\_

Date Approved by Council/Resolution No.

P-FI-0020

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|                                                                                   |                                                                  | <b>Page 9 of 9</b>                                   |

**CITY OF ST. HELENA - DONATION AND GIFT POLICY ACKNOWLEDGEMENT**

I have received and read the City of St. Helena Donation and Gift Policy P-FI-0020 and understand its provisions. I further understand that when I sign this acknowledgement form it will be placed in my personnel file.

\_\_\_\_\_  
Employee (PRINT name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

P-FI-0020

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**CITY OF ST. HELENA - DONATION ACCEPTANCE FORM**

Name of Donor: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Description of Donation: \_\_\_\_\_

\_\_\_\_\_

Donor estimate of current value: \_\_\_\_\_

Potential immediate/initial acquisition or installation cost, on-going maintenance or replacement cost:

Intended use: \_\_\_\_\_

Conditions of acceptance or donor designation: \_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

City Department receiving donation: \_\_\_\_\_

APPROVED ☐      DISAPPROVED ☐

\_\_\_\_\_

Date

\_\_\_\_\_

Department Head Signature

\_\_\_\_\_

Date

\_\_\_\_\_

City Manager Signature

\_\_\_\_\_

Date Submitted to Council

\_\_\_\_\_

Date Approved by Council/Resolution No.

P-FI-0020



City of St. Helena  
1572 Railroad Ave.  
St. Helena CA 94574

January 12, 2021

L. Bob & Evalyn Trinchero Charitable Fund

St. Helena, CA 94574-0248

**RE: Acceptance of Grant for the St. Helena Fire Department for Wildfire Recovery and Relief**

Dear L. Bob & Evalyn Trinchero,

The City of St. Helena would like to thank you for your generous donation of \$50,000 for the City of St. Helena Fire Department for Wildfire Recovery and Relief. This letter is being provided as a confirmation that the City of St. Helena has accepted this donation on behalf of the Fire Department and the funds will be used by the City of St. Helena Fire Department for Wildfire Recovery and Relief.

Sincerely,

Mark T. Prestwich,  
City Manager

**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_**

**Resolution Accepting a Donation in the amount of \$50,000 from the L. Bob & Evalyn Trinchero Charitable Fund for the City of St. Helena Fire Department for Wildlife Recovery and Relief and Approving the Attached Letter as the Written Agreement of Acceptance.**

**RECITALS**

- A. On November 24, 2020, City Council adopted Policy P-FI-0020 Acceptance of Donations and Charitable Gifts to the City via Resolution 2020-118; and
- B. Section 4.C. of this Policy establishes that offers of donations of cash or items valued more than \$10,000 must be considered for acceptance by the City Council; and
- C. The L. Bob & Evalyn Trinchero Charitable Fund wishes to make a donation in the amount of \$50,000 for the St. Helena Fire Department for Wildfire Recovery and Relief; and
- D. In accordance with the Donation Policy, the Mayor and Vice Mayor have reviewed the offer of donation and recommend the City Council accept the donation.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- 1. Accepts a donation in the amount of \$50,000 from the L. Bob & Evalyn Trinchero Charitable Fund to the City of St. Helena Fire Department for Wildfire Recovery and Relief; and
- 2. Approves the attached letter as the Written Agreement of Acceptance as required by P-FI-0020 Acceptance of Donations to the City, Section 4.C.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:



Councilmember Hall:  
Councilmember Hardy:

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, City Clerk





Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject:** Consideration and proposed adoption of a Resolution accepting the work and final construction costs of McCullough Construction Inc. in the amount of \$3,314,785.31 and directing the filing of the Notice of Completion for CIP Project No. W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement

**CEQA Determination:** Final Environmental Impact Report (SCH. No. 2006092096); Addendum to Final EIR (April 23, 2019); Addendum to Final EIR (June 23, 2020)

**Prepared By:** Erica Ahmann Smithies, Public Works Director and City Engineer

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

**BACKGROUND**

The City has been working for several years to remove the Upper York Creek Dam (“**Dam**”) and restore the riparian habitat of the York Creek watershed. The Dam was originally constructed in 1900 to an approximate height of 35 feet above the creek bed and then in the 1930s the Dam was increased in size to approximately 50 feet above the creek bed. Additionally, staff uncovered that in connection with the 1930s expansion of the Dam, the City filed a quiet title action in Napa County Superior Court and obtained a “Clerk’s Default” confirming title in the City to that portion of York Creek below the Dam to approximately the present day entrance to Spring Mountain Vineyards. However, while the default is on file in the records of the Superior Court, it was never recorded in the official records of the Napa County Recorder, and thus the portion of York Creek below the Dam was thought to be owned by Spring Mountain Vineyards. Accordingly, since the City owns this portion of York Creek it did not need any approval from Spring Mountain Vineyards to place log structures in York Creek below the Dam as part of Project No. W-26 - Upper York Creek Ecosystem Restoration And Aquatic Habitat Enhancement (“**Project**”). Please note that staff had a Record of

Survey prepared depicting and describing the City's property interests in this area and it has been recorded with the County Recorder.

Over time the Dam had become a surplus to the City's water needs as gravel and fine sediments produced by the watershed above the Dam become trapped behind it and reduced the storage capacity of the reservoir. Sediment accumulated in the reservoir at a rate of 1,000 to 5,000 cubic yards per year depending on the magnitude of winter storm events, which necessitated regular maintenance, including annual debris removal and periodic removal of accumulated sediment. Four documented incidents of accidental, catastrophic releases of fine sediment have occurred during maintenance activities. These low-flow sediment discharges resulted in mortality of fish and other aquatic organisms over the entire stretch of York Creek below the Dam.

In 2006, the City entered into a settlement agreement with the Department of Commerce National Oceanic and Atmospheric Administration ("**NOAA**") to remove the Dam. The terms of the agreement stated that the City must pay to NOAA \$70 per day for each day beyond October 31, 2012 that the Dam continues to block fish passage to Upper York Creek. Due to rapid progress made on the construction project, in early September 2020 NOAA suspended the \$70 per day penalty the has incurred since 2012.

On April 23, 2019, City Council authorized the Public Works Director to finalize the project plans and specifications/project manual and to thereafter solicit public bids for the Project.

On April 16, 2020, the City bid the construction of the Project to its list of nine (9) pre-qualified bidders, and thereafter issued five (5) addenda to the plans and specification. On Thursday, May 28, 2020 at 2:00 PM the City Clerk received six (6) sealed bids which were read aloud publicly at 2:15 PM via Zoom. The Engineer's estimate for the Project was \$4,102,840. The bids received are listed below:

| <b>Company</b>                               | <b>Total</b>   |
|----------------------------------------------|----------------|
| McCullough Construction, Inc. of Arcata      | \$3,297,749.41 |
| Sierra Mountain Construction, Inc. of Sonora | \$3,657,978.00 |
| Suulutaaq, Inc. of Suisun City               | \$3,869,456.50 |
| Dixon Marine Services, Inc. of Inverness     | \$4,094,517.89 |
| Gordon N Ball, Inc. of Alamo                 | \$4,164,230.00 |
| Granite Rock Company of San Jose             | \$4,425,056.50 |

McCullough Construction Inc. was the lowest responsible, responsive bid, and holds a valid Class A General Contractor's License No. 715577 in the State of California, with no enforcement actions listed. Their license expires on 11/30/2021. McCullough Construction Inc.'s bid was below the engineer's estimate of \$4,102,840.28.

On June 23, 2020, City Council approved a resolution awarding McCullough Construction, Inc., of Arcata, California a construction contract in the amount of \$3,297,749.41 and authorized the Director of Public Works to approve change orders not to exceed 20% of the contract amount. In addition to awarding the construction contract, City Council also approved a second addendum to the EIR and authorized a cultural resources monitoring agreement with Middletown Rancheria of Pomo Indians of California.

### **DISCUSSION**

Immediately following the award of contract, the City held a pre-construction meeting on June 25 with actual construction activities beginning the week of June 29, 2020. While the City was still waiting on final approval of the Army Corp permit, certain construction activities such as dewatering and sediment removal above the York Creek Dam site were allowed to commence. The final regulatory permit was received from the Army Corp in the beginning of August once the historical determination of the dam structure itself had been satisfactorily reviewed by the State Historic Preservation Office and National Parks Service. Construction was then substantially completed and inspected on September 24, 2020, which was more than a month ahead of the October 31 deadline. However, on September 28 the Glass Fire started and delayed the completion of the hydroseeding and other incidental work at the dam site.

Due to the severity of the Glass Fire through the Spring Mountain Road area, additional work and consultation with the County and regulatory agencies commenced to determine how much work, if any, would be needed through the limits of the project area. While the fire did not directly impact the work at the dam site, 6 of 36 downstream sediment log structures were severely burned and additional work was requested of the contractor at the 6 locations. All construction work was finally completed in early November. In addition to the contractor completing extra work, the consulting biologist has been monitoring the York Creek downstream of the dam following each rain event over 0.5" in precipitation. While it is too soon to know how/if the Glass Fire will impact the project and the entire York Creek watershed beyond the project limits, it will continue to be monitored closely by City and County staff as well as the Napa County Resource Conservation District.

The Director of Public Works was authorized a construction contingency for unforeseen conditions not to exceed 20% (\$659,549.90) of the construction contract. The Director authorized eight contract change orders during the project. The change orders, and net sum for project under-runs and over-runs are summarized below:

| <b>Number</b> | <b>Description</b>                                                                       | <b>Amount</b> |
|---------------|------------------------------------------------------------------------------------------|---------------|
| CCO No. 1     | Bridge over dam spillway to assist in truck access for hauling away excavation materials | \$35,000.00   |
| CCO No. 2     | Project sign fabrication and                                                             | \$1,356.14    |

|           |                                                                                     |                                        |
|-----------|-------------------------------------------------------------------------------------|----------------------------------------|
|           | installation                                                                        |                                        |
| CCO No. 3 | Rubber mats to protect cultural resources at various access points and staging area | \$14,960.49                            |
| CCO No. 4 | Project delay claims due to final Army Corp permit delay                            | \$36,088.40                            |
| CCO No. 5 | Additional asbestos air monitoring                                                  | Cost over-run billed to Bid Item No. 9 |
| CCO No. 6 | New Road Pull-out and Field Trailer Credit                                          | \$17,286.80                            |
| CCO No. 7 | Bridge Reflector                                                                    | \$580.15                               |
| CCO No. 8 | Post Glass Fire Repair: Straw Wattles and Log Structures                            | \$10,183.43                            |
|           | <b>Contract Change Order Total</b>                                                  | <b>\$115,455.41</b>                    |

Project under-runs were mostly attributed to a reduction in staging area protection, excavation and off-hauling of materials, and hydroseeding. Project over-runs included additional asbestos monitoring and rock slope protection for a net savings to the construction contract of \$98,419.51.

McCullough Construction, Inc. has signed the attached final compensation letter and agreed to a final contract amount of \$3,314,785.31. There are two items which remain to be billed on the project and will be billed upon completion of the one-year maintenance period. The two items are as follows:

1. Bid Item No. 7 – Stormwater Pollution prevention plan (SWPPP) implementation up until, and closeout after, final stabilization, with a value of \$750.
2. Bid Item No. 24 – One-Year Site Maintenance, which covers meeting revegetation and invasive species removal criteria found in Sections 02102 and 02900 of the project specifications and has a value of \$48,120.

The Public Works Department has inspected all other work and found the work to be completed satisfactorily. Following the acceptance of the project, City Staff will file a Notice of Completion for the project with the Napa County Recorder's Office. If no liens or claims have been filed within 35 days of filing the Notice of Completion, the retained payment funds to date (5% of construction invoices) and any amount due other than Bid Items No. 7 and 24 will be released to McCullough Construction, Inc. accordingly.

#### **FISCAL IMPACT**

Project W-26 – Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement is included in the June 2020 adopted five-year Capital Improvement

Program with a total estimated cost of \$9,016,268 (Attachment 1). The total amount spent to-date is \$7,676,072 with estimated remaining expenditures of \$608,644, bringing the total project costs to \$8,284,716 through the construction phase.

Of the total costs, \$4,631,299 was estimated for construction, construction management, construction inspection, and contingency costs. A summary of anticipated final construction expenditures (including invoices paid to-date) are presented below:

Project W-26 Upper York Creek Estimated Final Construction Project Costs

|                                                                                        |                       |
|----------------------------------------------------------------------------------------|-----------------------|
| Estimated Construction Costs -<br>McCullough Construction                              | \$3,314,785.31        |
| Labor Compliance - Contractor<br>Compliance and Monitoring (CCMI)                      | \$25,000.00           |
| Cultural Resource Monitoring -<br>Middletown Rancheria                                 | \$52,216.90           |
| Year-1 Post-Construction Monitoring -<br>Napa County Resource Conservation<br>District | \$120,331.00          |
| <u>Construction Management &amp; Inspection -<br/>EKI</u>                              | <u>\$674,000.00</u>   |
| <b>Estimated Total Construction Cost</b>                                               | <b>\$4,186,333.21</b> |

Although the estimated construction costs are less than anticipated, additional funding will be required to complete the ten-year mandatory post-construction monitoring with an anticipated cost of \$120,000 annually. Additionally, it is recommended a maintenance and restoration reserve fund for the Upper York Creek Project be established in the amount of \$250,000 for the first year and \$100,000 annually thereafter until the completion of the ten-year monitoring requirement. Establishment of this fund will set aside designated funds to address any required maintenance of the Upper York Creek Dam area identified in the ten-year monitoring period. Staff recommends the amount designated in the restoration fund be reviewed and adjusted after the first five years of post-construction implementation to determine if the amount set aside is sufficient for maintenance.

The post-construction requirements/recommendations were not included in the adopted CIP budget and total an estimated \$2,230,000 in additional expenses. Because the construction costs were less than anticipated, staff recommends utilizing the remaining \$731,552 budgeted for this project for post-construction activities leaving an additional \$1,448,448 of unidentified funding over a 10-year period which averages to just short of \$145,000 per year starting in FY 2022. Staff recommends the additional \$1,448,448 of unidentified funding be included through the adoption of the annual Water Operations budget over the ten-year period. These recommendations will be presented during the

City's FY 2022 budget development workshops in Spring 2021. Attachment 2 provides a summary the project's actual and remaining estimated expenditures.

City funds budgeted for this project include Water Bonds, U.S. EPA Grant, California Proposition 84 Grant, Water Enterprise Funds, and General Funds. Grant funding matches have been matched 100% and drawdowns totaling \$800,000 and \$987,876 have been submitted to the State and Federal grant agencies respectively. The Proposition 84 grant requires a 10% grant retention in the amount of \$80,000 which will be released upon approval of the project completion report which is anticipated by June 2021.

**RECOMMENDED ACTION**

Adopt a Resolution accepting the work and final project construction costs of McCullough Construction Inc. in the amount of \$3,314,785.31 and directing the filing of the Notice of Completion for CIP Project No. W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement.

**ATTACHMENTS**

[Attachment 1 - W-26 Adopted CIP](#)

[Attachment 2 - W-26 Summary](#)

[Attachment 3 - W-26 Resolution](#)

[Attachment 4 - W-26 Notice of Completion](#)

[Attachment 5 - MCI Project Closeout Letter](#)



## Upper York Creek Ecosystem Restoration

**Project No:** W-26

**Category:** Water

**Project Location:** Spring Mtn Rd. (APN 022-180-013)

**Responsible Department:**



**PROJECT PURPOSE & DESCRIPTION:** Complete collaboration with the US Army Corp of Engineers, NOAA-Fisheries, the California department of Fish and Game, and the California regional Water Quality Control Board to remove the dam and restore fish passage in York Creek.

### EXPENDITURE ACCOUNTS:

**Fund:** 763 **Dept:** 5030

| EXPENDITURES                                          |                  |                  |                |                |                |         |         | PROJECT TOTAL    |
|-------------------------------------------------------|------------------|------------------|----------------|----------------|----------------|---------|---------|------------------|
|                                                       | Total YTD        | Rollover Funds   | 2020-21        | 2021-22        | 2022-23        | 2023-24 | 2024-25 |                  |
| 3110 - Design                                         | 959,184          | 816              |                |                |                |         |         | 960,000          |
| 3140 - Legal Services                                 | 188,305          |                  | 25,000         | 20,000         | 15,000         |         |         | 248,305          |
| 3150 - Construction Management                        | 260              | 314,740          | 59,000         | 150,000        | 150,000        |         |         | 674,000          |
| 3160 - Construction Contract                          | 129,707          | 4,070,293        | 450,000        |                |                |         |         | 4,650,000        |
| 3170 - Contingency                                    |                  |                  | 100,000        |                |                |         |         | 100,000          |
| 9999 - FY 2006-2008 Actuals                           | 1,078,786        |                  |                |                |                |         |         | 1,078,786        |
| 9999 - Lobbying                                       | 51,715           |                  |                |                |                |         |         | 51,715           |
| 9999 - Service                                        | 1,253,462        |                  |                |                |                |         |         | 1,253,462        |
| <b>EXPENDITURE TOTALS</b>                             | <b>3,661,419</b> | <b>4,385,849</b> | <b>634,000</b> | <b>170,000</b> | <b>165,000</b> |         |         | <b>9,016,268</b> |
| <b>FUNDING SOURCES</b>                                |                  |                  |                |                |                |         |         |                  |
| 211-Grant EPA SFBWQIF                                 | 29,923           | 907,953          |                |                |                |         |         | 937,876          |
| 763-Water Capital Improvement                         | 1,309,946        | 383,097          | 634,000        | 170,000        | 165,000        |         |         | 2,662,043        |
| 763-Water Capital Improvement - General Fund Transfer | 949,124          | 650,876          |                |                |                |         |         | 1,600,000        |
| 763-Water Capital Improvement - Grant Prop 84         |                  | 800,000          |                |                |                |         |         | 800,000          |
| 763-Water Capital Improvement - Water Bond            | 1,372,426        | 1,643,923        |                |                |                |         |         | 3,016,349        |
| <b>FUNDING TOTALS</b>                                 | <b>3,661,419</b> | <b>4,385,849</b> | <b>634,000</b> | <b>170,000</b> | <b>165,000</b> |         |         | <b>9,016,268</b> |

**W-26 UPPER YORK CREEK ECOSYSTEM RESTORATION AND AQUATIC HABITAT ENHANCEMENT CIP  
SUMMARY OF ACTUAL AND REMAINING ESTIMATED EXPENDITURES**

| Expenditures                   | Adopted CIP Budget | Actual To-Date through<br>January 6, 2021 | Remaining<br>Estimated Expenditures | Estimated Total Project Costs |
|--------------------------------|--------------------|-------------------------------------------|-------------------------------------|-------------------------------|
| 3110 - Design                  | 960,000            | 1,122,545                                 | 17,493                              | 1,140,037                     |
| 3140 - Legal Services          | 248,305            | 261,185                                   | -                                   | 261,185                       |
| 3150 - Construction Management | 674,000            | 642,300                                   | 326,741                             | 969,041                       |
| 3160 - Construction Contract   | 4,650,000          | 3,266,079                                 | 264,410                             | 3,530,489                     |
| 3170 - Contingency             | 100,000            | -                                         |                                     | -                             |
| 9999 - FY 2006-2008 Actuals    | 1,078,786          | 1,078,786                                 |                                     | 1,078,786                     |
| 9999 - Lobbying                | 51,715             | 51,715                                    |                                     | 51,715                        |
| 9999 - Service                 | 1,253,462          | 1,253,462                                 |                                     | 1,253,462                     |
| <b>Sub-Total Expenditures</b>  | <b>9,016,268</b>   | <b>7,676,072</b>                          | <b>608,644</b>                      | <b>8,284,716</b>              |

| Anticipated Post-Construction Expenditures      |                  |
|-------------------------------------------------|------------------|
| 10-year Monitoring (\$120,000/year)*            | 1,080,000        |
| Maintenance & Restoration Reserve Fund          | 1,150,000        |
| <b>Post Construction Sub-Total Expenditures</b> | <b>2,230,000</b> |

|                            |                   |
|----------------------------|-------------------|
| <b>Total Expenditures:</b> | <b>10,514,716</b> |
|----------------------------|-------------------|

\*Year 1 of required 10-year monitoring has been included in the "Remaining Estimated Expenditures" in the summary sheet. The amount of \$1,080,000 accounts for the remaining 9-years of required monitoring.

| Funding Source                                                                                    | Budgeted           |
|---------------------------------------------------------------------------------------------------|--------------------|
| 211 - Grant EPA SFBWQIF                                                                           | 987,876            |
| 763 - Water Capital Improvement                                                                   | 2,662,043          |
| 763 - General Fund Contribution                                                                   | 1,600,000          |
| 763 - Prop 84 Grant                                                                               | 800,000            |
| 763 - Water Bond                                                                                  | 3,016,349          |
| <b>Current Funding Sources</b>                                                                    | <b>9,066,268</b>   |
| Anticipated total costs including 10-year post-construction monitoring and maintenance activities | 10,514,716         |
| <b>Post-Construction Anticipated 10-year funding needs</b>                                        | <b>(1,448,448)</b> |

## **CITY OF ST. HELENA**

### **RESOLUTION No. 2021-**

**Resolution accepting the work and final project construction costs of McCullough Construction Inc. in the amount of \$3,314,785.31 and directing the filing of the Notice of Completion for CIP Project No. W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement**

### **RECITALS**

- A. The City of St. Helena ("City") once maintained the Upper York Creek Dam (the "Dam"), which facility was constructed in approximately 1900 along York Creek and acted as a barrier for fish and other aquatic organisms to access upstream habitat. The Dam restrained the natural and gradual flow of gravel and fine sediments produced by the watershed above the Dam, and the resulting accumulation of sediment deposits filled the reservoir behind the Dam. Thus, the Dam was no longer used by City to provide water for the needs of its residents. Further, the Dam required regular maintenance and these activities resulted in several accidental discharges of large volumes of sediment that were proven catastrophic to fish and other aquatic organisms downstream of the Dam. Finally, the lack of gravel and sediment dispersal through natural and gradual hydraulic processes had negatively impacted habitat along York Creek; and
- B. In 2006, the City entered into a settlement agreement with the Department of Commerce National Oceanic and Atmospheric Administration (NOAA) to remove the Upper York Creek Dam; and
- C. A Notice of Preparation for the Draft Environmental Impact Report ("Draft EIR"), which initiated the environmental review process for Project No. W-26 - Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement ("Project") under the requirements of the California Environmental Quality Act ("CEQA"), was distributed to responsible agencies, interested parties, and the public on September 19, 2006, and the 30-day Draft EIR scoping comment period concluded in October 18, 2006; and
- D. The Draft EIR was prepared and circulated for public review from April 19, 2007 to November 14, 2007, and on April 28, 2015, the City Council of the City of St. Helena, by resolution, certified the Final Environmental Impact Report ("FEIR") (State Clearinghouse #2006092096) for the Project (which included the Draft EIR), adopted

CEQA findings, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Plan, and approved the Project; and

- E. Subsequent to the certification of the FEIR and approval of the Project, City staff met and conferred with various state and federal regulatory permitting agencies in pursuit of the additional permits required to construct and operate the Project, which, as requested by those agencies, resulted in the need to consider modifications to the Project regarding the timing of implementation of Mitigation Measure H&H-PA1, to specifically include the construction of a series of log structures within York Creek below the existing Dam, as the first phase of the Project ("Phase 1"), that will serve to capture some of the sediment that will be released through removal of the Dam, in the second phase of the Project ("Phase 2"); and
- F. On April 23, 2019, the City Council approved an Addendum to the Final EIR and added Phase 1 to the Project, as a means to implement Mitigation Measure H&HPA1, in connection with City Council authorization to publicly bid the Project; and
- G. On April 16, 2020, the City bid the construction of the Project to its list of nine (9) pre-qualified bidders; and
- H. The Project, as described in the plans and specifications, required the successful bidder to comply with Transportation and Traffic Mitigation Measure TRAPA2, which provided that in order to avoid traffic impacts during peak hours, truck traffic on Main Street/SR 29 through the City of St. Helena would be limited to 9 a.m. to 3 p.m. daily; and
- I. The regulatory permits limited Project construction activities within York Creek, such as dam and sediment material excavation and removal, to June 1st through October 31st and thus, given the volume of dam and sediment material to be removed, there was a concern that the limited construction window of June 1st through October 31st, as further constrained by the limited trucking hours of 9 a.m. to 3 p.m. imposed by TRAPA2, and continued delay to issuance of all required Project permits, left little to no flexibility to the Project schedule should unforeseen delays had been encountered; and
- J. In the wake of the COVID-19 pandemic and the resulting shelter in place orders issued at the local, regional and state level, the City saw decreased traffic levels on Main Street/SR 29 through the City of St. Helena during all hours of the day, including the AM and PM peak hours (i.e. 7-9 a.m. and 3-6 p.m.), and therefore on June 23, 2020, based upon substantial evidence set forth in the June 11, 2020, Technical Memorandum prepared by GHD, Inc. (See Exhibit A to Addendum), the City Council approved the Addendum to the Final EIR dated June 23, 2020, and approved a modification to Transportation and Traffic Mitigation Measure TRA-PA2 which allowed truck traffic along Main Street/SR 29 through the City of St. Helena unless future traffic counts revealed that all or a portion of either AM (i.e. 7 a.m. to 9

a.m.) or PM (i.e. 3 p.m. to 6 p.m.) peak hour LOS thresholds were equal to or greater than LOS E (i.e. 1,350 vehicles/hour; and

- K. On Thursday, May 28, 2020 at 2:00 PM the City Clerk received six (6) sealed bids which were read aloud publicly at 2:15 PM via Zoom and McCullough Construction, Inc. (MCI), of Arcata, California, submitted the lowest bid of \$3,297,749.41; and
- L. On June 23, 2020, the City of St. Helena Council awarded the W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement Project to MCI in the amount of \$3,297,749.41, authorized the City Manager to execute a construction contract in the amount of \$3,297,749.41 with MCI, and authorized the Director of Public Works to approve change orders not to exceed 20% (\$659,549.90) of the contract amount; and
- E. The Public Works Director/City Engineer authorized eight contract change orders (CCO) during the project as follows:

| Number               | Description                                          | Amount       |
|----------------------|------------------------------------------------------|--------------|
| CCO No. 1            | Bridge over spillway                                 | \$35,000.00  |
| CCO No. 2            | Project Sign Fabrication and Installation            | \$1,356.14   |
| CCO No. 3            | Rubber Mats for Cultural Resource Site Protection    | \$14,960.49  |
| CCO No. 4            | Project Delay Claim due to Army Corp Permit Delay    | \$36,088.40  |
| CCO No. 5            | Additional Air Monitoring – billed to Bid Item No. 9 | \$0.00       |
| CCO No. 6            | New road pull-out and field trailer                  | \$17,286.80  |
| CCO No. 7            | Bridge Reflector                                     | \$580.15     |
| CCO No. 8            | Post-Glass Fire Wattles and Log Structure Repairs    | \$10,183.43  |
| Total Change Orders: |                                                      | \$115,455.41 |

Project bid item under-runs were a reduction in staging area protection, excavation and off-hauling of materials, and hydroseeding. Project over-runs included additional asbestos monitoring and rock slope protection

Sum of bid item under-runs and over-runs: (\$98,419.51)

- F. The final construction contract amount is \$3,314,785.31, which includes change orders totaling \$115,455.41 and contract unit item under-runs and over-runs in the amount of (\$98,419.51); and
- G. The project has been inspected and MCI has completed the work in accordance with the contract documents for the project except for one year of site maintenance and stormwater compliance monitoring; and

- H. If no liens or claims have been filled within 35 days of filing the Notice of Completion, the retained payment funds and any amount due except for the one year of site maintenance and stormwater compliance monitoring will be released to MCI.

### RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

1. The contract entitled W-26 Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement Project, with the final contract amount of \$3,314,785.31, is accepted as complete, subject to the Contractor McCullough Construction, Inc. completing one-year of site maintenance and stormwater compliance, continuing warranty, and other obligations pursuant to the contract.
2. The Public Works Director/City Engineer is authorized to prepare a Notice of Completion and the City Clerk is directed to file a Notice of Completion with the Napa County Recorder.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021 by the following vote:

|                         |       |
|-------------------------|-------|
| Mayor Ellsworth:        | _____ |
| Vice Mayor Dohring:     | _____ |
| Councilmember Chouteau: | _____ |
| Councilmember Hardy:    | _____ |
| Councilmember Hall:     | _____ |

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzafoopoulos, City Clerk

**Recording Requested By:**

City of St Helena  
1572 Railroad Avenue  
St Helena, CA 94574

**Exempt From Recording Fees Per  
Government Code Sec. 27383**

**When Recorded Mail To:**

City Clerk  
City of St Helena  
1572 Railroad Avenue  
St Helena, CA 94574

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

## NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

1 The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is: fee simple.

2 The full name and address of the undersigned owner and of any and all co-owners are:

| Name              | Street and No.   | City      | State |
|-------------------|------------------|-----------|-------|
| City of St Helena | 1572 Main Street | St Helena | CA    |

3 Work or Improvement on the property hereinafter described as the W-26 - Upper York Creek Ecosystem Restoration and Aquatic Habitat Enhancement was completed and accepted by the City of St. Helena City Council on January 12, 2021.

4 The work done was: within York Creek and included removal of trees and grubbing to prepare the site for excavation; the installation of large logs in the creek downstream of the dam as sediment traps to capture sediment and create steelhead spawning habitat, some of which must be moved carefully into place using traditional logging techniques such as block and tackle since some areas are too steep for vehicle access; the installation of a creek by-pass system for creek dewatering to facilitate construction; the excavation, transportation, and disposal at a local landfill of approximately 10,000 cubic yards (CY) of earthen dam material which may contain naturally occurring asbestos; the excavation, transportation, disposal and grading of approximately 12,000 CY of entrapped creek sediments disposal at a local landfill or otherwise approved location; traffic control to safely move soil hauling trucks in and out of the site onto a narrow, winding road; the construction of a rip rap-stabilized channel in the dam excavation area; and restoration of the stream channel habitat upstream of the earthen dam with cut logs and branches and revegetation of impacted areas..

5 The name of the original contractor for the work of improvement as a whole was: McCullough Construction, Inc.

6 The real property herein referred to is situated in the County of Napa, State of California, and described as follows: York Creek in the area of the City of St. Helena's York Creek Dam adjacent to Spring Mountain Road, St. Helena, CA. 94574.

By: \_\_\_\_\_

Owner's Authorized Agent's Signature

Erica Ahmann Smithies, PE Public Works Director/City

Engineer

**VERIFICATION**

I, the undersigned, say:

I am the person who signed the foregoing notice. I have read the above notice and know its contents, and the facts stated therein are true of my own knowledge.

I declare under the penalty of perjury that the above is true and correct.

Executed at St. Helena, California, this 12<sup>th</sup> day of January, 2021.

City of St. Helena

\_\_\_\_\_  
Erica Ahmann Smithies, Public Works Director





## City of St. Helena

*"We will conduct city affairs on behalf of our citizens  
using an open and creative process."*

1572 Railroad Ave.  
St. Helena, CA 94574  
Phone: (707) 968-2658

[www.cityofstheleena.org](http://www.cityofstheleena.org)

December 16, 2020

Attention: Dena McCullough  
McCullough Construction Inc.  
57 Alder Grove Rd  
Arcata, CA 95521

RE: Final Estimate and Payment  
Project No. W-26 - Upper York Creek Ecosystem Restoration & Aquatic Habitat  
Enhancement

Dear Ms. McCullough,

In accordance with the provisions of Section K-05 of the General Conditions, MCI has notified the Engineer of completion of the work and the Engineer has satisfied himself/herself of the actual completion of the work, subject to certain continuing obligations of MCI as provided in the project specifications and outlined in the Punch-list Memo dated 30 November 2020 in Exhibit A attached hereto. Accordingly, and in accordance with Section K-06 of the General Conditions, the Engineer has submitted to you a proposed final estimate for the above referenced project.

The October progress payment No. 4 indicates a total project cost for this contract of \$3,314,785.31, which you have approved on behalf of MCI. Your concurrence is MCI's acknowledgement that the total project cost in the October payment request (\$3,265,915.31) plus the two future charges listed below (totaling \$48,870.00) is the final cost that will be shown on the final payment request (due at the end of the one-year maintenance period) and includes all of MCI's costs for this project. The following two tasks are not yet complete or billed, and will be billed at the conclusion of the one-year maintenance period:

- 1) Bid Item No. 7 – Stormwater Pollution prevention plan (SWPPP) implementation up until and closeout after final stabilization, with a value of \$750.
- 2) Bid Item No. 24 - One-Year Site Maintenance, which covers meeting revegetation and invasive species removal criteria found in Sections 02102 and 02900 of the project specifications and has a value of \$48,120.

Your promptness in signing and returning this acknowledgement letter will expedite the acceptance of the project. Please be aware that your signature will invalidate your right to file any claims in the future.

If you intend to file any claims, your attention is directed to Section D-13 of the General Conditions.

If you do submit a claim, it is the intention of the Engineer to make his/her final determination of claim matters in the minimum possible time, consistent with the assurance that all the facts are available. Therefore, when this letter is signed and returned to this office, and you do not have, or request within 30 days, any further actions, outstanding payments, claims, or liens in connection with this contract, all retention withheld to date will be released within 35 days after project acceptance by the City Council.

If you have any questions, please call me at (707) 968-2627.

Sincerely,

Erica Ahmann Smithies, PE  
Director of Public Works and City Engineer

Received and Acknowledged By:

\_\_\_\_\_  
McCullough Construction

\_\_\_\_\_  
Date



Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: CONSENT ITEMS**

**Subject: Consideration and Proposed Approval of a Resolution Adopting the City of St. Helena 2021 Employee Handbook Superseding Prior Version(s) of the Handbook.**

**CEQA**    **Not a CEQA project**  
**Determination:**

**Prepared By:** Kathy Robinson, Human Resources & IT Director

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

**BACKGROUND**

The City of St. Helena's Employee Handbook ("Handbook") was initially adopted by the City Council on January 9, 1990 via Resolution 90-4. Between 1990 and 2005, 31 amendments to the Handbook were adopted by City Council. The last adopted amendment to the Handbook was via Resolution 2005-21, which is often referred to the 2005 Employee Handbook. Since 2005, there have been an additional 93 amendments adopted by resolution which impact the terms and conditions of employment of employees of the City of St. Helena; however, these amendments were not incorporated into the Handbook.

In late 2014/early 2015, an update to the Handbook was initiated by staff; however, the process stalled as a result of changes in the Human Resource (HR) Department structure, staff changes in HR, and changes in City leadership. In late 2017/early 2018, after City Manager Mark Prestwich's appointment, the Handbook update was assigned to the City's Labor Attorney under Burke, Williams, and Sorensen Law (BWS). This was done for several reasons including: (1) to ensure the Handbook incorporated all relevant resolutions adopted after 2005; (2) to have the Handbook vetted by an attorney to ensure resolutions previously adopted do not conflict with applicable laws and/or Federal/State rules and regulations; (3) to ensure the revised Handbook incorporated any new applicable laws, rules, and regulations; and (4) to delete antiquated/outdated

content, structure, and formatting. Because of the scope, the revised Handbook was not done utilizing "track-changes" formatting and was instead re-written utilizing a new structure/formatting expanding the Handbook from 52-pages of content to just under 200-pages of content.

With the updated Handbook, BWS has provided a reference chart identifying where sections of the 2005 Handbook have been included in the new Handbook. The new Handbook includes employee acknowledgment receipts of the following: (1) Handbook; (2) drug-free workplace policy; (3) policy against discrimination, harassment, retaliation, and abusive conduct; (4) electronic communications policy; and (5) social media policy.

### **DISCUSSION**

Following the development of the new Handbook, the Human Resources Director facilitated meetings with representatives of each of the bargaining units: Police Officer Association (POA) and St. Helena Miscellaneous Employees (SHEA), as well facilitated meetings with the unrepresented groups consisting of full-time firefighters, mid-managers, and department heads. Each group reviewed the new Handbook and provided comments which were incorporated into the final Handbook document. The updated Handbook was reviewed by the City's Labor Attorney at Best, Best, and Kreiger and has been approved as to form.

### **FISCAL IMPACT**

None.

### **RECOMMENDED ACTION**

Approve a Resolution Adopting the City of St. Helena 2021 Employee Handbook Superseding Prior Version(s) of the Handbook.

### **ATTACHMENTS**

[Resolution Approving 2021 Employee Handbook](#)

[Exhibit A. 2021 Employee Handbook - Final Approved as to Form](#)

Attachment 1

**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_\_\_\_**

**Approving the adoption of the City of St. Helena's  
2021 Updated Employee Handbook Superseding Prior Version(s)  
of the Handbook**

**RECITALS**

- A. The City of St. Helena's Employee Handbook was initially adopted by the City Council on January 9, 1990 via Resolution 90-4; and
- B. Between 1990 and 2005, 31 amendments to the Handbook were adopted by City Council; and
- C. The last adopted amendment referenced in the handbook was by Resolution 2005-21, which is often referred to the 2005 Employee Handbook; and
- D. Since 2005, there have been 93 additional amendments adopted by resolution which impacts the terms and conditions of employment of employees of the City of St. Helena and these additional amendments were not incorporated into the Handbook; and
- E. In late 2014/early 2015, an update to the Handbook was initiated by staff; however, these efforts were stalled; and
- F. In late 2017/early 2018, after City Manager Mark Prestwich's appointment, the proposed handbook update was assigned to the City's Labor Attorney under Burke, Williams and Sorensen Law (BWS) to (1) ensure the Handbook incorporated all relevant resolutions adopted after 2005, (2) have the Handbook vetted by an attorney to ensure resolutions previously adopted do not conflict with applicable laws and/or Federal/State rules and regulations, (3) ensure the revised Handbook incorporated any new applicable laws, rules, and regulations, and (4) delete antiquated/outdated content, structure, and formatting; and
- G. Due to the significant scope of the Handbook revisions, the Handbook was expanded from 52 pages to almost 200 pages; and
- H. Following the development of the new Handbook, the Human Resources Director facilitated meetings with representatives of each of the bargaining units: Police Officer Association (POA) and St. Helena Miscellaneous Employees (SHEA), as well as the unrepresented groups consisting full-time firefighters, mid-managers, and department heads. Each group reviewed the handbook and provided comments, and comments were incorporated into a final Handbook document; and
- I. The final draft Handbook was reviewed by the City's Labor Attorney through Best, Best, and Kreiger with minor recommendations to the draft to meet current Federal/State legislation, current practice, provide clarifying language, and remove redundancies; and

- J. All bargaining units, unrepresented groups, and the City's Labor Attorney through Best, Best, and Kreiger have approved the final draft of the Employee Handbook (Exhibit A).

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. Approves adoption of the City of St. Helena 2021 Employee Handbook (Exhibit A) Superseding Prior Version(s) of the Handbook.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

**Mayor Geoff Ellsworth:**

**Vice Mayor Paul Dohring:**

**Councilmember Anna Chouteau:**

**Councilmember Eric Hall:**

**Councilmember Lester Hardy:**

APPROVED:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

ATTEST:

\_\_\_\_\_  
Cindy Tzafopoulos, City Clerk

**Legend for updates/edits recommended by City Attorney:**

Added to reflect federal and/or state compliance.

Updated to reflect current practices.

Clarifying language.

Removed for redundancy; language exists in MOUs and/or unrepresented compensation program.



2021

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## **RULE 1. GENERAL PROVISIONS**

### **SEC. 1.1 PURPOSE**

These Personnel Rules (“Rules”) contained within this Employee Handbook are intended to establish and maintain an efficient and uniform personnel program for the City of St. Helena (“City”).

### **SEC. 1.2 APPLICABILITY**

The provisions of these Rules apply to all City employees, except those covered by St. Helena Police Department Policy Manual or the St. Helena Fire Personnel Policy Manual. These Rules do not apply to volunteers, interns, elected officials, or contract employees—unless any of the sections in the Employee Handbook specifically provides that it’s applicable to these positions or classifications. Temporary employees, including part-time and/or casual employees, are not eligible for any benefits beyond the hourly wage and any benefits required by applicable state or federal law and regulations, unless these Rules specifically state that a listed benefit is granted to temporary employees.

For employees covered by a separate Memorandum of Understanding (“MOU”) or other formal, written agreement or compensation resolution, specific provisions of such other MOUs, agreements, or compensation resolutions shall supersede and take precedence over the Rules in this Handbook.

### **SEC. 1.3 NOT AN EMPLOYMENT CONTRACT**

None of these Rules shall be deemed to create a vested contractual right, expressed or implied, for any employee.

### **SEC. 1.4 PRIOR POLICY REPEALED**

The terms and provisions of these Rules prevail over the terms and provisions of any prior City Personnel system rule, resolution, regulation, and/or policy governing the personnel program, and such prior personnel program rules, resolutions, regulations, and/or policies are hereby repealed, including, but not limited to, the Employee Handbook adopted by the City Council by adoption of Resolution 90-4 and amended by subsequent Resolutions.

### **SEC. 1.5 DELEGATION OF AUTHORITY**

Except as otherwise provided, any duties, responsibilities, powers, and authority granted by the Rules to the City Manager, Appointing Authority, Human Resources & Information Technology Director (“HR”), Department Head, or any other person may be delegated, in writing, to another designee at the discretion of the delegating individual.

### **SEC. 1.6 AMENDMENT OF RULES**

The City shall have authority to adopt, amend, or repeal these Rules. The City Manager shall have authority to prepare and recommend revisions to the Rules to the City Council.

### **SEC. 1.7 TERM OF PERSONNEL SYSTEM RULES**

These Rules shall take effect when adopted by the City Council of the City. This Employee Handbook shall remain in effect unless repealed, in whole or in part, by the City Council. The City Council may in its sole discretion add to, delete, or otherwise modify these Rules, subject to the following paragraph.

Prior to amendment of these Rules, the City Manager shall comply with applicable requirements of the Meyers-Milias-Brown Act (Government Code Section 3500, *et seq.*).

### **SEC. 1.8 VIOLATION OF RULES**

Violation of the provisions of these Rules shall constitute grounds for disciplinary action. A violation shall not make disciplinary action mandatory but shall be given such weight as is appropriate in view of all the circumstances.

### **SEC. 1.9 EMPLOYEE RESPONSIBILITY**

It shall be the responsibility of each employee to become aware and be knowledgeable of these Rules.

### **SEC. 1.10 CONFLICTS**

#### **Administrative and/or Department Policies and Procedures**

The City Manager or individual City Department Heads may develop and administer supplemental written department policies and procedures as deemed necessary for the efficient, safe, and orderly administration of the City or department. However, no such policies or procedures shall conflict with or supersede these Rules, other City Council resolutions and ordinances, or existing laws, and shall be approved by the City Manager before their implementation.

Copies of department policies and procedures must be distributed to each employee of the department. In the event of a conflict between an administrative or departmental policy or procedure, the provisions of these personnel system Rules shall control. As stated in Section 1.2, these Rules do not apply to employees covered by the St. Helena Police Department Policy Manual or the St. Helena Fire Personnel Fire Manual.

### **SEC. 1.11 DISTRIBUTION OF PERSONNEL POLICIES**

A copy of these Rules shall be posted on the City's website. Each City employee and recognized employee organization shall be informed about the Rules and where to find them. Copies also shall be available in the Human Resources Department. An



employee with questions about these Rules may direct them to their immediate supervisor, the Department Head, or to Human Resources.

#### **SEC. 1.12 SEVERABILITY**

If any provision, or the application(s) of any provision of these Rules, as implemented, are rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provision of these Rules shall remain in full force and effect. Nothing in these Rules shall be construed to deny any person or employee the rights granted by federal and state law. The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by these regulations.

#### **SEC. 1.13 CHANGES TO THE LAW**

When any local, state, or federal ordinance, regulation, or law that is incorporated in the Rules or upon which the Rules rely is amended, the Rules shall be deemed amended in conformance with those amendments.

#### **SEC. 1.14 DEFINITION OF TERMS**

##### **A. General Definition.**

All words and terms used in these Rules and in any resolution or ordinance dealing with personnel policies, system, or procedures shall be defined as they are normally and generally defined in the field of personnel administration unless a specific definition is provided for herein.

##### **B. Specific Definitions.**

1. Acting Appointment (also known as Temporary Upgrade Pay or Out-of-Class Pay). An appointment to temporarily perform the duties of a higher position. The person filling this position must meet the minimum standards or qualifications of the position. Acting appointments are held on an at-will basis by current City employees.
2. Advancement. A salary increase within the limits of a pay range established for a class.
3. Allocation. The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
4. Anniversary Date. The date upon which a person is appointed to a position or as modified according to these Rules. The date determines eligibility for a salary step increase except as modified according to these Rules.
5. Applicant. Any person submitting a formal completed application for employment with the City.

6. Appointing Authority. Consistent with the requirements, and subject to the exceptions of the St. Helena Municipal Code, the City Manager or their designee is the Appointing Authority for City employees. The City Council shall appoint the City Manager, the City Attorney, and the Fire Chief.
7. Appointment. The offer to, and acceptance by, an individual for a position in the competitive service.
8. At-will Executive Management Employee. An employee who serves at the will of the City Manager and who has responsibility for formulating, administering, and/or managing City policies and programs. In the City, this would typically be department heads.
9. Average Work Day (for part-time employees only). An Average Work Day refers to the average number of hours actually worked per work day, considering a five (5) day work week. This applies to part-time employees only. In any case for which the time period to be considered is twelve (12) calendar months, the average work day is the number of hours worked in the preceding twelve (12) months, divided by two thousand eighty (2080), and then multiplied by eight (8).
10. City. The City of St. Helena, California.
11. City Council. The City Council of the City of St. Helena, California.
12. City Manager. The City Manager of the City of St. Helena, California, or their designee.
13. City Service. All positions in all departments and agencies of the City that are subject to control and regulation by the City of St. Helena.
14. Class. The grouping together of those positions similar in duties, authority, responsibility, and ability. Each class shall be assigned a separate class title.
15. Class Specification. The official description of a class including: (1) the title, (2) a definition, (3) a statement of the duties and responsibilities, and (4) the employment standards, such as education, experience, knowledge, and skills and abilities which may be required of applicants.
16. Classification. The action of assigning a position to a class, that is, a particular type of employment in the City Service designed to include all positions having duties and responsibilities sufficiently similar so that the same requirements as to education, experience,

knowledge, and ability may be required of incumbents and the same schedule or compensation may fairly be made to apply.

17. Compensation. The salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include expenses authorized and incurred incidental to employment.
18. Compensatory Time Off. As provided for by the Fair Labor Standards Act, time off from work in lieu of monetary payment for overtime work.
19. Competitive Service. All positions of employment in the service of the City except those excluded by the employee handbook.
20. Confidential Employee. An employee, who in the course of their duties, has access to confidential information relating to the City's administration of employer-employee relations. This definition shall also include those bargaining unit covered employees, who in the course of their duties, have access to confidential information relating to the City's administration of employer-employee relations and are consequently excludable from holding a bargaining unit office and/or divulging confidential employer information to any bargaining units. This access may include instances of an occasional but critical nature or due to the employee whose position requires the incumbent to provide direct administrative support to a manager who has such access.
21. Continuous Service. Length of uninterrupted employment (including holidays and authorized paid or unpaid leave, but not including other periods of leave without pay or times on suspension, in a regular position) that is measured from the effective date of appointment until separation.
22. Contract Employees. Those individuals employed by the City pursuant to the terms of an individual employment contract that sets forth terms and conditions of employment. Contract employees are at-will employees, are not part of the Competitive Service, and may be terminated without cause and without right to appeal.
23. Day or Days. Calendar days unless otherwise stated.
24. Demotion. The movement of an employee from one class to another class having a lower maximum base rate of pay.
25. Department Head. The individuals designated as the administrative head of a City department. A member of the managerial staff of the City, consisting of the City Manager, the Fire Chief, the Police Chief,

the Director of Public Works, the Planning Director, the Library Director, the Recreation Director, and the Finance Director.

26. Disciplinary Action. The discharge, demotion, reduction in pay, or suspension of a regular or management employee for punitive reasons.
27. Domestic Partner. A person who has filed a Declaration of Domestic Partnership with the California Secretary of State pursuant to California *Family Code* section 297 *et. seq.*
28. Employee. A person who is legally occupying a position in the City's service, other than an independent contractor.
29. Eligibility List. The list which contains the names of successful applicants according to relative performance on the total weighted examinations.
30. Exempt Employees. Employees whose duties and responsibilities allow them to be "exempt" from overtime pay provisions as provided by the Fair Labor Standards Act (FLSA) and any applicable state laws.
31. Full-Time Employees. Employees who are regularly scheduled to work 40 or more hours per week. All Positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work.
32. Human Resources or HR. The Human Resources Director & Information Technology Director of the City of St. Helena, California, or their designee.
33. Internal Recruitment. A recruitment for a particular position that is open to regular and probationary employees only.
34. Lay-Off. 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 for the above reasons or due to organization changes.
35. Management. Those employees holding the position of Department Director or higher.
36. Memorandum of Understanding (MOU). An Agreement reached as a result of meeting and conferring on hours, wages, and working conditions in accordance with California law and City ordinances, resolutions, and rules.
37. Mid-Manager/Mid-Management Employee. An employee whose position is just below the Department Heads or City Manager and is

responsible for managing a distinct responsibility area. Mid-Managers are in regular City service and are not at-will.

38. Minimum Qualifications. The minimum requirements for an applicant to be considered for a particular City position, which vary according to the position sought.
39. Non-exempt Employees. Employees who hold positions that, by the nature of the job requirements or the salary earned, is entitled to earn compensation at an overtime rate. Non-exempt status is based on applicable law, including, but not limited to the federal Fair Labor Standards Act ("FLSA").
40. Open-Competitive Recruitment. A recruitment for a particular position that is open to all interested applicants.
41. Overtime. As defined by the Fair Labor Standards Act.
42. Part-Time Employees. Employees who are regularly scheduled to work fewer than forty (40) hours per week.
43. Position. A specific office or employment provided by the budget, whether occupied or vacant of limited term or regular term, and requiring the performance of certain duties and responsibilities assigned or delegated by the Appointing Authority.
44. Probationary Period. A period 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, and during which an employee may be rejected from the position without cause and without right of appeal.
45. Promotion. The movement of an employee from a position in one class to a vacant position in another class having a higher maximum base rate of pay.
46. Provisional Appointment. An appointment of a person who is not a current employee and who possesses the minimum qualifications established for a particular class due to the absence of available eligible candidates.
47. Reclassification. Modification of job title and corresponding salary range adjustment supported by an appropriate classification analysis prepared under the direction of HR, which identifies a change in level of difficulty, job requirements, or job responsibilities between the existing job description and actual job duties.

48. Reduction in Pay. A temporary or permanent decrease in an employee's rate of pay for disciplinary reasons.
49. Reemployment. The restoration of a former regular employee to a classification in which the employee formerly served as a regular non-probationary employee prior to being laid off from the City.
50. Reemployment List. A list of names of regular employees who have been laid off from a position.
51. Regular Employee. An employee in a full-time position within the competitive service who has successfully completed the probationary period and has been retained as hereafter provided in these Rules.
52. Regular Position. A full-time budgeted position of indefinite duration to be filled by a Regular Employee.
53. Reinstatement. The restoration without examination of a former employee or probationary employee to a classification in which the employee formerly served.
54. Rejection. The involuntary separation from the City service of an employee who has not successfully completed the probationary period for a position, or the demotion of an employee who did not successfully complete the employee's promotional probationary period.
55. Resignation. The voluntary separation of a City employee from the City service.
56. Salary Range. The range of salary rates for a class; the classifications may be paid on an hourly or salaried basis, as applicable, and the term "salary" is utilized as a general term for cash compensation paid either an hourly or salaried basis.
57. Salary Rate. The dollar amount of each step in a salary range, or the flat dollar amount for a class not having a salary range.
58. Salary Step. The minimum through maximum salary increments of a salary range.
59. Seniority. An employee's status in relation to other employees based first on years of service in a particular class and then on total years of service at the City.
60. Standby. A period or condition which requires that an employee be able to readily report to work and be prepared to undertake work tasks. This normally includes either remaining at their home telephone or otherwise arranging for the immediate and convenient

notification of an emergency condition and being prepared to timely report to the site of the work assigned.

61. Supervisor. The mid-management staff of the City, including the designated assistant to a Department Head or the head of a sub-department or a division of a department.
62. Suspension. The temporary separation from service of an employee without pay for disciplinary purposes.
63. Temporary Employee. An employee who is appointed for a limited period of time for a specified, limited purpose. A temporary employee is generally classified as a casual worker, and is given a working title, but is not appointed to a position.
64. Termination. Separation from City employment for disciplinary reasons or as a result of rejection during a probationary period.
65. Transfer. The movement of an employee from one position to another vacant position in the same class or to a vacant position in another class with the same maximum base rate of pay that has similar job duties and qualifications.
66. Vacancy. An unfilled authorized position in the City employment.
67. Work Day. (1) One calendar day during which an employee is normally scheduled to work; if the employee is engaged in shift work that begins on one calendar day and ends on the following day, only one work day is denoted. (2) The number of hours of work contained in a calendar day for a given employee.

#### **SEC. 1.15 NON-DISCRIMINATION**

##### **A. Equal Employment Opportunity.**

The City is committed to a policy of equal opportunities for applicants and employees. The City does not discriminate against applicants or employees (including interns, volunteers, and contractors, regardless of their classifications), with respect to terms or conditions of employment based on race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military and veteran status, and/or any other category protected by federal and/or state law, nor does the City discriminate against applicants or employees (including interns, volunteers, and contractors, regardless of their classifications) who are perceived to have such characteristics or who associate with an individual having such characteristics. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants.

##### **B. Disabled Applicants and Employees.**

Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The City will engage in the interactive process, as defined by the Americans with Disabilities Act (“ADA”) and the Fair Employment and Housing Act (“FEHA”), to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, the City will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

1. Request for Accommodation. An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Department. The request must identify: (1) the job-related functions at issue; and (2) the desired accommodation(s). Reasonable accommodation can include, but is not limited to, job restructuring, reassignment to a vacant position for which the employee is qualified, leaves of absence, and making facilities accessible.
2. Reasonable Documentation of Disability. Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee’s ability to perform their essential functions, but will not require disclosure of diagnosis or genetic history.
3. Interactive Process. The City will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, the City will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process may include a meeting with the employee or applicant, the City, and will typically include information from the employee’s or applicant’s health care provider.
4. Case-by-Case Determination. The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The City will not provide an accommodation that would pose an undue hardship upon the City or that is not required by law.
5. Fitness for Duty Leave. While the City is engaged in the interactive process with an employee, the City may require that the employee be placed on a fitness for duty leave.
6. Medical Examinations.

Following a conditional offer of employment, prospective employees in a designated classification could be required to complete a post-offer, pre-employment medical



examination. The City may require that employees take a psychological and/or a medical examination, as it deems necessary in order to determine employees to be mentally and physically capable of performing the essential functions of the job. Conditional offers of employment are made contingent upon passing this medical examination; however, the City will make reasonable accommodations to the special needs of any disabled individual as required by law. A licensed health care provider chosen by the City will perform such examination without cost to the prospective employee. The prospective employee will be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. The health care provider will indicate the employee's fitness for employment on the examination form. In the event the examination is not completed prior to the employee's scheduled start date, only a temporary appointment may be made. Probationary appointment will be contingent on a satisfactory examination.

Depending on the essential functions of a position, a medical examination may be required for:

- (a) Applicants who have received a conditional offer of employment;
- (b) Employees seeking a transfer from one position requiring general physical abilities to another position requiring physical abilities of a specific and different nature;
- (c) Employees returning to work from a medical leave of absence, subject to any restrictions imposed by the California Family Rights Act. The physician conducting the medical examination will be supplied with a current job description indicating the essential functions of the position; or
- (d) When a supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.

The results of all medical examinations will be kept confidential. Examination results for newly hired employees and employees transferring to another position will be kept in the employee's confidential medical file. No employee will hold any position in which the employee is not able to perform the essential functions of the job, with or without reasonable accommodation.

#### 7. Prevention of Harassment/ Discrimination/Retaliation.

City policy prohibits harassment and discrimination based on an employee's race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation, gender identity, gender expression, age, religious or political affiliation or belief, creed, physical or mental disability, medical condition, genetic information, marital or registered

domestic partner status, membership in or attitude toward any employee organization, military or veteran status, and/or any other category protected by federal and/or state law. In addition, City policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment investigation, proceeding, or hearing.

Employees who believe they have been harassed, discriminated against, or retaliated against, should report that conduct to their own supervisor, any City Supervisor or Department Head, or the Human Resources Department and the City will investigate those complaints. For more information regarding the policy and complaint procedures, employees should review the City's policy against harassment, discrimination, and retaliation under Rule 16 of the Handbook.

## **RULE 2. CLASSIFICATIONS**

- A. The Human Resources Department, with the assistance of the Department Head, will prepare written job descriptions for each class of positions.
- B. Each job description will include the class title, a brief description of the scope, nature, and responsibility of the class, and a description of the tasks or duties ordinarily performed in the positions allocated to the class which includes a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Job descriptions are not restrictive. While job descriptions will include essential functions of positions, they shall not be construed as an all-inclusive list of tasks performed; or be interpreted as restricting the assignment of related tasks not specifically listed therein; or as limiting the authority of supervisory personnel to assign, direct, and control the work of subordinate employees. A supervisor may assign other related duties and responsibilities or otherwise direct the work of employees.
- C. Substantive revisions to job descriptions that are associated with substantive changes to the duties performed by a particular class shall be subject to approval by the City Council. Non-substantive changes, such as to reflect previous, gradual changes to the conditions in which work is currently performed or to improve accuracy in describing the class or position title or non-substantive details associated with job duties already performed, may be approved administratively by the City Manager and are not subject to approval by the City Council.
- D. Each job description will identify the date of approval or last revision.
- E. The City Manager shall ascertain and record the duties and responsibilities of all positions in the City and shall prepare a classification

plan for such positions. The classification plan shall consist of classes of positions defined by class specification, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class.

- F. The City's classification plan is continually reviewed, based on the job analysis, and utilized for decision making on compensation, selection, employee development, career advancement, and other personnel activities. The City Manager shall ascertain and record the duties and responsibilities of all positions in competitive service and prepare a classification for such positions.
- G. Each position shall be allocated to the appropriate class in accordance with the character, difficulty, and responsibility of its assigned duties. Positions in a single class shall be sufficiently similar to permit substantially the same level of skill, knowledge, ability, and other qualifications required of incumbents, same or similar selection method to select incumbents, and the same schedule of compensation.
- H. The City Manager shall prepare the proper assignment of any new positions to a class in the classification plan or, when appropriate, create a new class. When a new position is created and is classified before it is occupied, the position shall be subject to review by the City Manager after it is occupied to determine if the incumbent is performing the duties of the class.
- I. The reclassification plan may be amended from time to time. The assigned duties of positions that have been materially changed by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the City Manager to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to affect a change in salary in the absence of a significant change in assigned duties and responsibilities. During the process of consideration of the impacts of such amendments, recognized employee organization(s) affected shall be notified as required by the Meyers-Milias-Brown Act (Government Code Section 3500 *et. seq.*).
- J. The City Manager may approve the relocation of a position to a different class or approve the creation of a new class whenever the duties of the position change materially. This may occur upon the recommendation of the Department Head or upon the request of an employee and with concurrence of the Department Head. When any change is made within a Department that significantly affects the duties and responsibilities of any position, the Appointing Authority shall report these facts in writing to the Human Resources Department. The Human Resources Department may study the allocation of any position in the classification plan and make recommendations to the City Manager for a change in class or the

allocation to a more appropriate class. The Department Head shall be consulted before a classification study begins in their department.

### **RULE 3. COMPENSATION**

#### **SEC. 3.1 SALARY ON APPOINTMENT**

- A. New Employees. New employees shall be paid at the first step of the salary range (*i.e.* Step A) for the position to which the employee is appointed except as provided for elsewhere in these Rules.
- B. Advanced Step Hiring. The City Manager may appoint a new employee to an advanced step of the pay range if it is determined that qualified applicants cannot be successfully recruited at the first step of the salary range.
- C. Reemployment. A person who previously held a position with the City and was in good standing may, at the discretion of the City Manager, when reemployed in a position with the same or lower pay range than held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination, or the nearest lower applicable step for the range to which the person is appointed.
- D. Salary Schedule. Salaries paid and any special compensation shall be in accordance with these Rules and the most recent applicable Salary Resolution adopted by the City Council and any amendments thereto. Such Resolutions are hereby incorporated as part of these Rules and are available from the City Clerk.
- E. Temporary Employees and Special Salaries. Salaries for temporary employees and special salaries and incentive payments shall be in accordance with a Salary Resolution adopted by the City Council or as set forth in the applicable Municipal Code.
- F. Hourly Rates. Where any bi-weekly pay rate is to be converted to a salary hourly equivalent, the bi-weekly rate of pay shall be divided by 80 to determine the hourly rate. Daily rates are equivalent to the appropriate hourly rate multiplied by eight hours.

#### **SEC. 3.2 SALARY ANNIVERSARY DATES**

Employees shall have a salary anniversary date of their date of hire. Employees who have been promoted or demoted since their date of hire shall have a salary anniversary date of their date of promotion or demotion, as applicable. The salary anniversary date may be modified by the action of the Appointing Authority.

### **SEC. 3.3 INCREASES WITHIN SALARY RANGE**

Employees will normally become eligible for an adjustment in pay after having served satisfactorily for the designated qualifying period and after a performance report evaluation--typically six (6) months of service in the first or starting step. The adjustment shall be made only if recommended by the employee's supervisor, and if approved by the City Manager. The remaining steps are incentive adjustments, based on performance evaluation, to encourage an employee to perform at their highest level, and to recognize seniority and increased skill on the job. Employees are normally eligible for these adjustments any time after the completion of six (6) months of service at the preceding step, until step D, at which time the qualifying period to become eligible for Step E is the completion of twelve (12) months of service at the preceding step. This period may be shortened or extended in conjunction with the performance report recommendations and as approved by the City Manager.

In general, an employee becomes eligible for the next higher step based on the following schedule:

- Six (6) months at Step A to become eligible for Step B;
- Six (6) months at Step B to become eligible for Step C;
- Six (6) months at Step C to become eligible for Step D;
- Twelve (12) months at Step D to become eligible for Step E.

Other regular employees may be granted a step increase after having served for the designated qualifying period and after a performance evaluation finding that the employee's performance was not less than satisfactory.

In unusual cases, upon recommendation of the Department Head, where special ability or aptitude is demonstrated, the Manager may approve advancement of an employee to a higher step before completion of the normal qualifying period.

### **SEC. 3.4 SALARY UPON PROMOTION**

Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the salary range, any employee who is promoted to a position in a class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of 5% over their prior step. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the range. An employee thus promoted is assigned to a new salary anniversary date effective on the date of promotion.

### **SEC. 3.5 SALARY ON DEMOTION**

Any employee who is demoted to a position in a class with a lower salary range shall have their salary reduced to a salary step in the range for the lower class which is:

- A. If a disciplinary demotion, one or more steps less than that received in the salary range for the class from which the employee is demoted. A new salary anniversary date shall be established on the basis of the demotion.
- B. If a non-disciplinary demotion, the step the employee would have attained in that lower class if their services had been continuous in the said lower class with the same level of performance and length of service. The employee shall retain their salary anniversary date.

**SEC. 3.6 ACTING PAY, TEMPORARY UPGRADE PAY OR OUT-OF-CLASS PAY**

A. Acting Pay/Temporary Upgrade Pay.

An employee may be required on the basis of an acting appointment to serve in a class with a higher salary range than that of the class in which the employee is normally assigned. The City Manager has the discretion to provide such an employee with additional pay, up to ten percent (10%) of the employee's current base rate of pay, during the acting period, provided the following classifications are met:

- 1. The employee shall possess the minimum qualifications for the higher class, and perform all the duties and assume the assigned additional responsibilities of the higher Class, and
- 2. The acting appointment is made in writing.

This additional pay is provided at the City Manager's sole discretion and must be pre-approved in writing.

Whether the additional pay is reportable compensation for retirement purposes shall be subjected to applicable laws and regulations. Under current CalPERS rules and regulations, any additional pay for performing partial duties of the higher class shall not be reportable special compensation.

B. Out-of-class Pay.

An employee may be temporarily assigned to perform substantial functions of a higher classification for at least a period of one month (1) but may not perform those additional duties on a full-time basis (2) and/or the employee assigned to the position normally responsible for the duties is not absent.

The City Manager has the discretion to provide an increase of up to ten percent (10%) of the employee's current base rate of pay, effective on the first day of assumption of the substantial additional duties and continuing until the City Manager determines that the assignment of the additional duties ceases.

This additional pay is provided at the City Manager's sole discretion and must be pre-approved in writing.

Whether the additional pay is reportable compensation for retirement purposes shall be subjected to applicable laws and regulations. Under current CalPERS rules and regulations, any additional pay for performing partial duties of the higher class shall not be reportable special compensation.

Acting Pay, Temporary Upgrade Pay and Out-of-Class Pay shall be reported in accordance with the requirements of Government Code Section 20480.

C. Reporting Time Worked.

Non-exempt employees are responsible for reporting on a City form all hours worked and leave taken during the pay period, and these employees are responsible for securing approval of their immediate supervisor on the City form, indicating approval of all the hours submitted.

**SEC. 3.7 PAY PERIODS**

- A. The salaries and wages of all employees are paid bi-weekly, generally on Friday following the end of the pay period.
- B. The City Manager retains discretion to change the timing of future pay periods. Should the City Manager decide to implement this change, employees will receive written notice of the intended change before the next pay day.
- C. In the event a pay day falls on one of the holidays listed in these rules, the immediately previous working day shall become the pay day.

**RULE 4. APPLICATIONS, RECRUITMENT AND EXAMINATIONS**

**SEC. 4.1 VACANCIES**

- A. Vacant regular positions, as defined above, may be filled only by selection from an eligibility list, by acting or provisional appointment, by transfer, by reinstatement, or by demotion. Selection of employees for positions is made by the City Manager after considering recommendations from the Department Head.
- B. When a position becomes vacant, the City Manager shall be notified by the supervisor responsible for the position regarding the need to fill the vacancy, and the requested method for filling the vacancy.
- C. Announcements of all vacant positions will be publicly posted through online or on City bulletin boards at the discretion of the Human Resources Department or the City Manager.
- D. Appointing Authority.

1. Appointment of temporary and part-time employees shall be by the Department Head with the approval of the City Manager.
2. Appointment of full-time employees shall be by the City Manager.
3. Appointment of Department Heads shall be by the City Manager in accordance with applicable provisions of the Municipal Code.

**SEC. 4.2 ANNOUNCEMENT OF VACANCIES/ACCEPTANCE OF APPLICATIONS**

- A. If a continuing need for the position exists, the City Manager will determine whether to conduct an initial internal recruitment or proceed directly to an open-competitive recruitment.
- B. The City Manager may conduct an internal recruitment when he or she determines, in their sole discretion, that doing so is in the best interest of the City.
- C. If the position will be filled by open-competitive recruitment, then the City Manager (or the City Manager's designated individual) will publicly advertise the position by a written announcement setting forth the basic requirements for the job, a closing date for acceptance of applications, and information where applications and the job description can be obtained.
- D. If the City Manager determines that an initial internal recruitment will be conducted, then the City Manager will limit all initial advertisement for the position to current employees only and will initiate the examination process, ending with an interview with the responsible supervisor.
- E. The City Manager in their discretion may designate the internal recruitment as a "Promotional Recruitment." An internal Promotional Recruitment will only be open to current employees for which the open position would be a promotion.
- F. As part of an initial screening process, employees who achieved a rating of "Does Not Meet Expectations" on their most recent performance report will be disqualified from further consideration at the first step of the internal recruitment.
- G. Following completion of the interview process for internal applicants and scoring of candidates, the supervisor will provide the City Manager with a written recommendation, as follows:
  1. The internal eligibility list should be used to extend a conditional offer of employment; or



2. Cause exists as set forth in Section 4.3 to abolish the internal eligibility list and proceed with an open-competitive recruitment for which any prior internal candidates may re-apply.
- H. If in the City Manager's sole discretion, the City Manager finds cause to abolish the internal eligibility list, the affected applicants will receive written notice of this action and of the opportunity to re-apply in connection with the open-competitive recruitment.
- I. For all recruitments, applications will be available in the Human Resources office of and online through the City's website. Applications will be collected by Human Resources until the closing date specified in the announcement for acceptance of applications.

#### **SEC. 4.3 ELIGIBILITY LIST/SELECTION TESTING**

Following the closing date for applications, and completion of the examination process, an eligibility list shall be created.

- A. Criminal Conviction History.
  1. The City shall not ask any applicant for employment to disclose, through any written form or verbally, at any time, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pre-trial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.
  2. Unless otherwise required by law, the City shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until the City has made a conditional offer to the applicant.
- B. Examination Process and Background Screening.
  1. Examinations shall be conducted and used to aid in the selection of qualified employees. They shall consist of recognized selection techniques that will fairly test the qualifications of candidates and shall be job-related. Examinations may include, but are not limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, or any combination thereof. The City Manager or designee may set minimum standards for all tests.
  2. Classifications designated by the City shall have their fingerprints submitted for clearance through the California Department of Justice and other agencies as deemed appropriate. Fingerprints will be

submitted using the “LiveScan” process and in accordance with applicable state, federal, and local laws regarding the LiveScan process.

3. The City also retains the right to conduct a thorough background check of each applicant. When conducting background checks on applicants, the City shall comply with all requirements of the Federal Fair Credit Reporting Act and the California Investigative Consumer Reporting Agencies Act.
4. Upon scoring of all selection components, the names of applicants will be placed on eligibility lists, ranked according to scores.
5. In case of tied scores, the following rules shall apply:
  - (a) For purposes of placement on the eligibility list, if an applicant who has a tied score is a veteran, as that term is defined in Section 50088 of the California Government Code, or as may be amended, the tie will be broken in favor of the veteran, such that the veteran will be placed at a higher position than the non-veteran.
  - (b) All other candidates with tied scores shall be listed in alphabetical order.

C. Duration of Eligibility Lists.

1. Eligibility lists shall become effective upon the City Manager's certification that the lists represent the relative evaluations of the candidates whose names appear on them.
2. Unless otherwise provided in these Rules, eligibility lists shall be effective for a period of one (1) year from the date of their establishment, provided that the City Manager may extend the period not to exceed an additional twelve (12) months. The City Manager may abolish for cause an eligibility list at any time and request a new recruitment and the preparation of a new eligibility list for any class or position. Two (2) or fewer names of qualified candidates available for appointment on an eligibility list constitute sufficient cause for abolishing an eligibility list, but it is not the sole reason constituting cause.

D. Removal of Names from Eligibility Lists.

1. The City Manager may remove the name of any eligible candidate from an eligibility list for any of the following reasons:
  - (a) On evidence that the eligible candidate cannot be located by postal authorities:

Failure to reply within five (5) business days to a letter requesting information as to availability for appointment, or failure to notify the Human Resources Department of any change of address resulting in the return of letters without forwarding by the U.S. Post Office, will be considered grounds for removal. A candidate who is notified of their removal under this section may request in writing that the City Manager restore their name to the eligibility list. Such a request may be granted if, in the City Manager's sole discretion, an acceptable reason exists for the candidate's failure to reply to a notice requesting availability for appointment or failure to file a notice of a changed address. Upon receipt of a verbal or written statement from the eligible candidate declining appointment and stating that the employee wishes their name to be removed from the eligibility list.

(b) If an offer of regular full-time employment in the class for which the eligibility list was established has been declined by the eligible candidate.

(c) If an eligible candidate on a promotional eligibility list leaves the City service.

(d) After a determination has been made by the City Manager that the candidate does not meet job-related standards.

E. Availability of Candidates. It shall be the responsibility of eligible candidates to notify the City in writing of any change of address or other change affecting availability for consideration for appointment.

F. Disqualification based on Criminal Conviction History.

1. If a background screening discloses a previous criminal conviction, the City Manager will make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship of the job that justify denying the applicant the position. In making the individualized assessment, the City Manager will take into account a number of factors in determining whether to disqualify the applicant or rescind a conditional offer, if any. Such factors may include the nature of the position, nature and gravity of the conviction, length of time since conviction, and completion of any resulting incarceration or probation.
2. If the City Manager disqualifies the candidate based on the conviction history, the City will provide written notification along with a copy of the criminal history report, if any. In the City's written notice, an explanation of the applicant's right to respond to the notice of the City's preliminary decision before the decision becomes final and the deadline by which to respond will be included. In the notice, the City will also inform the applicant that the applicant's response may include submission of evidence challenging the accuracy of the conviction history report that is the

basis for rescinding the offer, evidence of rehabilitation or mitigating circumstances, or both.

3. The applicant shall have at least five (5) business days to respond to the City's notice before the City makes a final decision. If, within the five (5) business days, the applicant notifies the City in writing that the applicant disputes the accuracy of the conviction history report that was the basis for the preliminary decision to possibly rescind the offer and that the applicant is taking specific steps to obtain evidence supporting that assertion, the applicant shall have five (5) additional business days to respond to the notice.
4. If the City, upon reviewing the applicant's response, makes a final decision of disqualification, the City shall notify the applicant its final decision in writing.

**G. Conditional Offer of Employment.**

All job applicants are required to submit to a physician's examination, and depending on the Position, may also be required to submit to a drug screen, at the City's expense, upon being made a conditional offer of employment. No job commitment shall be made until a negative drug screen result is obtained, where applicable, and a physician has certified that the applicant is medically fit to perform the essential functions of the Position, with or without reasonable accommodation. When the applicant reports to the medical facility for the scheduled examination, personal identification shall be provided to the facility in the form of a photograph and verifiable signature (for example, a driver's license). All test results will be kept confidential. The applicant will be told whether the tests were passed or failed, but only the City Manager, the Human Resources Director, and their designee(s) will have access to the test results, on a need-to-know basis.

**H. Employment Oath.**

1. All employees of the City must complete and sign the Oath or Affirmation of Allegiance for Public Officers and Employees on the first day of employment or as soon thereafter as practicable in accordance with Section 3 of the Constitution of the State of California.
2. A signed copy will be included in the employee's personnel file.

**RULE 5. APPOINTMENTS**

**SEC. 5.1 APPOINTMENT OF NEW EMPLOYEE**

The hire date of a new employee shall be that of the first day actually worked.

**SEC. 5.2 PROVISIONAL APPOINTMENTS**

- A. It shall be the policy of the City to require all supervisors and other appointing authorities, whenever possible, to notify the City Manager of impending or anticipated vacancies in their departments sufficiently in advance so as to allow for the establishment of an appropriate eligibility list. However, when the demands of the services are such that it is not practicable to give such notification and if it is not practicable to delay appointment until a new eligibility list can be certified, the Appointing Authority may make a provisional appointment to the position. As soon as practicable, but not longer than six (6) months after a provisional appointment has been made, the City Manager may cause an examination to be prepared, and all positions filled provisionally shall be filled by an appointment from an eligibility list. Provisional appointments are not intended to be long-term and shall not exceed a total of six (6) months.
- B. A person appointed to a position on a provisional basis shall not be entitled to credit for the time served under the provisional appointment toward the completion of their probationary period and shall be entitled to the same salary and other benefits as an applicant appointed from an eligibility list except that the employee may not be employed under the provisional appointment for longer than the period authorized herein.
- C. No preference shall be allowed in any examination or the establishment of any eligibility lists for a position for an applicant who rendered service in that position under a provisional appointment.

**SEC. 5.3 ACTING APPOINTMENTS TO A HIGHER CLASS**

An acting appointment may be made of a current employee to a higher class or position occupied by a person on temporary leave or disability. Upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume the duties and receive the compensation and privileges as if the employee had continued their duties in their previous classification.

**SEC. 5.4 REINSTATEMENT**

The City Manager may reinstate any person who has resigned in good standing, provided that such reinstatement is accomplished within one (1) year of the date of resignation, or as otherwise required by law. Such reinstatement action may, at the discretion of the City Manager, take precedence over any eligibility list except a reemployment list. Any person so reinstated shall be subject to a new probationary period of the same length as established for new appointees to a position in the class, unless excused by the City Manager.

## **SEC. 5.5 TRANSFER**

- A. The City Manager may institute a voluntary or involuntary transfer of an employee from one position to another vacant position in the same class or to a vacant position in a comparable class at the same salary level.
- B. An employee who has achieved a rating other than “Does Not Meet Expectations” on their most recent performance evaluation may initiate a request for voluntary transfer to an available position in the same Class for which a recruitment has not yet opened, and for which the employee meets the minimum qualifications, by submitting a request in writing to the supervisor. The supervisor will issue a written recommendation to the City Manager as to whether to proceed with an internal recruitment or open-competitive recruitment, or to exercise the discretion to grant the employee’s transfer request.
- C. While the City Manager retains sole discretion whether to institute voluntary and involuntary transfers, consideration will be given to the affected employee’s and the supervisor’s wishes.

## **SEC. 5.6 NEPOTISM**

- A. Definitions.
  - 1. Applicant. A person who applies for a position at the City and is not a current employee.
  - 2. Change of Status. A change in the legal status or personnel status of one or more current employees.
    - (a) Changes in legal status include, but are not limited to, marriage, divorce, separation, or any such change through which a current employee becomes a family member or ceases to be a family member of another current employee.
    - (b) Changes in personnel status include, but are not limited to, promotion, demotion, transfer, resignation, retirement, or termination of a current employee who is a family member of another current employee.
  - 3. Current Employee. A person who is presently a City employee or an elected or appointed City official.
  - 4. Direct Supervision. One or more of the following roles, undertaken on a regular, acting, overtime, or other basis shall constitute “Direct Supervision”:
    - (a) Occupying a position in an employee’s direct line of supervision;

(b) Functional supervision, such as a lead worker, crew leader, or shift supervisor; or

(c) Participating in personnel actions including, but not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, assignments, approval of merit increases, evaluations, and grievance adjustments.

5. Family Member. A spouse, domestic partner, parent, parent-in-law, step-parent, legal guardian, sister, step-sister, sister-in-law, brother, step-brother, brother-in-law, child, step-child, legal ward, daughter-in-law, son-in-law, grandchild, or grandparent.

B. Prohibited Conduct.

Conduct by family members including, but not limited to, one or more of the following:

(a) Participation directly or indirectly in the recruitment or selection process for a position for which a family member is an applicant;

(b) Direct supervision of a family member that does not comply with limitations set forth in this Rule; or

(c) Conduct by one or more family members that have an adverse effect on supervision, safety, security, or morale.

C. Guidelines for Applicants.

No qualified applicant may be denied the right to file an application for employment and compete in the examination process. However, consistent with this Section, the City may reasonably regulate, condition, or prohibit the employment of an applicant for a full-time position.

D. Disclosure. Each applicant is required to disclose the identity of any family member who is a current employee.

E. Assessment by the Human Resources Department.

For each applicant who has a family member who is a current employee, the Human Resources Department shall assess whether any of the following circumstances exist:

1. Business reasons of supervision, safety, security, or morale warrant the City's refusal to place the applicant under direct supervision by the family member; or

2. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for family members than for other employees, which warrant the City's

refusal to permit employment of family members in the same department, division, or facility.

F. Decision.

1. If the Human Resources Department determines that either of the above circumstances exists, the Human Resources Director shall exercise their discretion to either reject the applicant or consider the applicant for employment in a position that does not present either of the above circumstances.
2. Following examination, if the applicant is successfully certified as eligible, he or she may be employed in a position for which the Human Resources Director has determined that neither circumstance exists pursuant to Section 5.6.
3. When an eligible applicant is refused appointment by virtue of this Section, their name shall remain on the eligibility list for openings in the same classification. For each opening, the Human Resources Director shall make a determination consistent with Section 5.6.

G. Guidelines for Current Employees.

1. Employees shall report a Change of Status to the Human Resources Department within a reasonable time after the effective date of the Change of Status. Wherever feasible, employees shall report a Change of Status in advance of the effective date.
2. Within thirty (30) days from receipt of notice, the Human Resources Director shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.
3. The Human Resources Director shall consult with an affected supervisor to make a good faith effort to regulate, transfer, condition, or assign duties in such a way as to minimize potential problems of supervision, safety, security, or morale.
4. Notwithstanding the above provisions, the City retains the right to exercise its discretion to determine that the potential for creating an adverse impact on supervision, safety, security, or morale cannot be sufficiently minimized and to take further action pursuant to Section 5.6.
5. Following a Change of Status or new hire of a family member, affected supervisors shall reasonably monitor and regulate both family members' conduct and performance for a period of one (1)



year from the date of the Human Resources Director's determination. The supervisor shall document these actions. Successive supervisors may re-visit such a determination at their discretion.

6. If the supervisor determines, subject to any applicable requirements of due process, that an employee has engaged in prohibited conduct, the supervisor shall re-visit the Human Resources Director's determination. Depending on the severity of the Prohibited Conduct, the supervisor may recommend that the Human Resources Director take one or more of the following additional measures:

- (a) Transfer one of the family members to a similar position that would not be in violation of this policy. The transfer will be granted provided the family member qualifies and there is an opening to be filled. There can be no guarantee that the new position will be within the same classification or at the same salary level.

- (b) If the situation cannot be resolved by transfer, one of the family members must separate from City employment. If one of the employees does not voluntarily resign, the employee with primary responsibility for the prohibited conduct will be discharged.

- (c) Supervisors who receive complaints from other employees that one or more family members have engaged in prohibited conduct shall respond in accordance with existing complaint and disciplinary procedures, where applicable.

- (d) Where situations exist prior to the effective date of this Section that may be in conflict with this Section, every effort shall be made to reasonably address the situation so as to avoid any future conflict.

- H. Employee Complaints. Employees who believe that they have been adversely affected by prohibited conduct by one or more family member(s) should submit complaints to the Human Resources Department.
- I. Appeal of Determination. Current employees and applicants affected by the application of this Section, may appeal the action to the City Manager within ten (10) days of the action. The City Manager shall hear the individual's concerns and issue a written decision within thirty (30) days of receipt of the individual's appeal. The decision of the City Manager is final, and no other appeal may be had unless the employee is entitled to further administrative appeal under other provisions of these Rules.
- J. Savings Clause. Should any provision of this Rule, or any application thereof, be unlawful by virtue of any federal, state, or local laws and regulations, or by court decision, such provision shall be effective and

implemented only to the extent permitted by such law, regulation or court decision, but in all other aspects, the provisions of this Rule shall continue in full force and effect.

**SEC. 5.7      CONSENSUAL      ROMANTIC      RELATIONSHIPS      BETWEEN  
EMPLOYEES.**

- A. General. Consensual romantic or sexual relationships between City employees can lead to misunderstandings, complaints of favoritism, adverse effects on employee morale, and possible claims of sexual harassment during or after termination of the relationship. As a result, such relationships present existing or potential conflicts that adversely affect efficient operation of the City. Relationships that present an actual conflict under this Section are therefore prohibited.
- B. Application. This section shall apply to all City employees, regardless of gender or sexual orientation, who have a romantic or sexual relationship with another City employee. The provisions regarding nepotism shall govern employees who marry or become domestic partners with another City employee.
- C. Definition of Conflict. For purposes of this Section, a conflict exists if business issues of supervision, safety, security, and/or morale would be impacted by a romantic or sexual relationship between two employees.
- D. Supervisor's Duty to Report. If a romantic or sexual relationship exists between a Supervisor and another employee (including another Supervisor), the Supervisor shall promptly disclose the relationship to the Human Resources Director and request a determination as to whether the relationship presents a conflict. The disclosure must identify the names and positions of both employees. A Supervisor's failure to comply with this section shall be grounds for discipline up to and including dismissal.
- E. Determination. Within five (5) working days, the Human Resources Director shall issue a written determination as to whether the relationship presents a conflict, and is thereby prohibited. The Human Resources Director, in consultation with the City Manager, shall have exclusive discretion in making the determination.
- F. Resolution of Conflicts. Subject to limitations imposed by law and applicable provisions of these Rules, the Human Resources Director will attempt in good faith to work with the Supervisor and the other employee to consider options to eliminate the conflict, including removing the Supervisory authority that created the conflict, reassignment, transfer, or voluntary demotion of a Supervisory employee, or where the Human Resources Director determines that modification of a Supervisor's assignment is not feasible, reassignment, transfer, or voluntary demotion of a non-Supervisory employee. The Human Resources Director retains

discretion to determine that the conflict may be resolved via voluntary resignation or by involuntary demotion or dismissal.

- G. Prohibited On-Duty Conduct. All City employees are prohibited from engaging in intimate, physical, or other conduct in furtherance of a romantic or sexual relationship with anyone, including another City employee, at work locations or during work hours. Moreover, upon termination of a sexual or romantic relationship with another City employee, employees are prohibited from engaging in behavior that adversely affects the working conditions of any City employee. In general, all employees are expected to observe appropriate standards of workplace conduct in their interactions with other City employees.
- H. Complaints. Employees who believe that they have been adversely affected by romantic or sexual relationships between City employees should follow the complaint procedures provided under the City's policy against harassment, discrimination, and retaliation. The complaint procedures are available to all employees regardless of their past or present participation in a romantic or sexual relationship with another City employee.

## **RULE 6. PROBATION**

### **SEC. 6.1 PROBATIONARY STATUS**

- A. During the probationary period the employee, unless subject to the terms and conditions of an employment contract, may be rejected at any time, for any lawful reason, or no reason.
- B. Department Directors, and temporary employees, including part-time and contract employees, are not subject to a probationary period since these employees are subject to discharge at the discretion of the appointing authority, without further justification. Other employees (including the City Manager, City Attorney, and Fire Chief) may also be deemed at-will employees pursuant to employment contracts.

### **SEC. 6.2 PROBATIONARY PERIODS**

- A. The probationary period varies from one position to another and shall not include time served under a temporary, acting, or provisional appointment. Periods of time on leaves longer than thirty (30) days require that the probationary period be extended a period of time equal to the amount of time spent on leave.
- B. Each new full-time regular employee or safety employee shall be a probationary employee until their successful completion of the prescribed probationary period. In general, the probationary period for regular employees is twelve (12) months, and for safety employees, the

prescribed probationary period is eighteen (18) months. If, at any time prior to successful completion of the prescribed probationary period, it appears that the probationary employee will not successfully complete the prescribed probationary period, the Department Head may extend the probationary period once for an additional six (6) months.

### **SEC. 6.3 REGULAR STATUS**

- A. An employee's status shall be considered regular upon their completion of the applicable probationary period.
- B. If a probationary employee receives written notice of rejection from the City Manager prior to expiration of the applicable probationary period, the employee has not attained "completion" within the meaning of Section 6.3.

### **SEC. 6.4 REJECTION DURING PROBATIONARY PERIOD OF PROMOTED EMPLOYEES**

- A. Regular Employees. A regular employee who is rejected during the probationary period from a position to which the employee has been promoted may be reinstated to the position from which the employee was promoted, if such position is vacant and existing, unless the employee is discharged for cause, which would have been sufficient to cause their discharge from their former position as well. In such case, the employee shall be entitled to appeal their discharge as provided in these rules.
- B. Probationary Employees. Employees promoted to a higher class while on probation in a lower class and who subsequently fail to perform satisfactorily in the promoted position may return to their former position provided the position has not been eliminated and is vacant. Such employee shall continue to serve a probationary period for the length of time remaining on the probationary period at the time of promotion.

## **RULE 7. PERFORMANCE REPORTS**

### **SEC. 7.1 POLICY**

It is the policy of the City that periodic and regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager and supervisors that these ratings be made. The Human Resources Director, under the direction of the City Manager, shall provide and prescribe the forms and procedures to be used in such reports of performance so that the program of performance reporting will be carried on in a sound, timely, and effective manner.

### **SEC. 7.2 AUTHORITY TO MAKE REPORTS**

Department Heads shall prepare reports of performance for those employees within their department. The City Manager shall prepare reports of performance for the Department Directors. The City Manager shall review and approve all personnel

performance reports following review and signature by the employee and their supervisor.

### **SEC. 7.3 TIME FOR REPORTING**

#### **A. Probationary Employees.**

No later than ten (10) days prior to the completion of the probationary period, the supervisor shall furnish the Human Resources Department with a report as to the progress and capability of the probationary employee, a copy of which shall also be furnished to the probationer.

#### **B. Regular Employees.**

A report for an employee shall be prepared and received no later than ten (10) days prior to their salary anniversary date. An employee may be also given a report of performance at any other time during the year upon the employee's request or at the discretion of the Appointing Authority. An employee who has been rated "improvement needed" or "unsatisfactory" (or equivalent i.e., "does not meet expectations") shall receive a report three (3) months from receiving such rating and shall receive another report in another three (3) months in connection with a Performance Improvement Plan (PIP) this employee is assigned to complete.

#### **C. Lack of Opportunity to Observe Performance.**

If, as a result of extended absence or other circumstances resulting in a supervisor's opportunity to observe an employee's performance for fewer than three (3) months, the employee and the supervisor may mutually agree in writing to delay issuance of the report of performance by up to three (3) months, with prior approval of the Human Resources Director. If the employee is eligible for a step advancement, and the supervisor determines that the employee's performance so warrants, the supervisor may recommend to the City Manager that the employee receive the step advancement retroactively to the salary anniversary date.

### **SEC. 7.4 REVIEW WITH EMPLOYEE**

It is acknowledged that one of the prime benefits of a sound performance rating system is that it can bring together the employee and their supervisor in a frank and constructive discussion and appraisal of the employee's work and the specific ways in which it may be improved. Therefore, each performance report shall be thoroughly discussed with the employee with this view in mind. The employee shall sign the report to acknowledge its contents. Such signature shall not necessarily mean the employee endorses the content of the report. The employee shall be entitled to submit a written response to their performance report within ten (10) calendar days of receipt of the performance report. Any such response will be attached to the employee's performance report and maintained in their regular personnel file. No administrative appeal of the rating or contents of a performance report may be had by the employee.

## **SEC. 7.5      DISTRIBUTION OF REPORTS**

Reports shall be prepared in three (3) copies. After review and approval of the City Manager, one copy shall be retained by the Human Resources Department and one copy shall be provided to the employee. The Human Resources Department copy, along with any response by the employee, shall be made a part of the employee's employment history and included in the employee's personnel file.

## **SEC. 7.6      PERFORMANCE RATINGS**

### **A.      Effects of "Improvement Needed" and "Unsatisfactory" Ratings.**

1. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent "i.e. "does not meet expectations") will not be eligible to be appointed off of any eligibility list until a satisfactory rating is established.
2. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") will not receive any merit salary increase during the period following the report, except as provided in subsection 5 below.
3. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") will be subject to a Performance Improvement Plan. "Unsatisfactory" or "improvement needed" ratings in individual rating categories may also result in a Performance Improvement Plan, in the discretion of the City.
4. In any case, where an employee receives an overall rating of "unsatisfactory" on two (2) consecutive occasions or "improvement needed" (or equivalent i.e. "does not meet expectations") on three (3) consecutive occasions, Disciplinary Action shall be taken by the Appointing Authority as provided for in these rules, if such action has not already been taken.
5. If an employee who has been denied a merit salary increase improves their performance to such an extent that the City Manager believes a merit salary increase is now justified, the City Manager shall indicate the improvement on a report of performance form and may specifically award a merit salary increase. Additionally, in awarding the merit salary increase under this subsection, the City Manager may change the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same. Any merit salary increase awarded under this subsection shall not be made retroactive.

## **SEC. 7.7 PERFORMANCE IMPROVEMENT PLAN**

- A. The City Manager may authorize the use of a Performance Improvement Plan following an employee's receipt of an overall rating of "unsatisfactory" or "improvement needed" (or equivalent i.e. "does not meet expectations") in their most recent performance report, or based on similar ratings in particular evaluation categories, or at any other time upon request of a supervisor whose other efforts to have an employee conform to the City's policies and procedures or other standards of performance have not been successful.
- B. A Performance Improvement Plan is not a disciplinary action, and should not be used in place of appropriate disciplinary action.
- C. A Performance Improvement Plan shall detail the specific reasons that performance is deficient or non-compliant, requirements for improvement, the number of special and/or regular evaluation periods that the Plan is intended to be in place, and a schedule for review of the employee's progress under the Plan.
- D. The employee will receive an opportunity to meet with their supervisor or the City Manager to provide input into the terms of the Performance Improvement Plan before the Plan takes effect. However, in the City Manager's discretion, the Performance Improvement Plan may take effect prior to expiration of the employee's time to respond to their performance report.
- E. The City Manager shall retain discretion to determine at any time that an employee under a Performance Improvement Plan has not demonstrated reasonable improvement and that the Plan should be discontinued.
- F. The City Manager may further determine at any time that Disciplinary Action is warranted to address an employee's insufficient performance or other misconduct.
- G. If the City Manager determines that the employee has demonstrated sufficient improvement under the terms of the Performance Improvement Plan, and the employee then maintains acceptable performance over the full period of the Performance Improvement Plan, then the Plan shall be considered "successful." H. After the completion of a "successful" Performance Improvement Program, the City shall maintain a record of the Plan in the employee's personnel file.
- H. If the City Manager determines that a Performance Improvement Plan has not been "successful," or that the employee's performance has regressed in the evaluation period following completion of a "successful" Performance Improvement Plan, the City Manager may determine the issuance of proper disciplinary measures.

## **RULE 8. HOURS OF WORK/OVERTIME**

### **SEC. 8.1 POLICY**

- A. It is the policy of the City that forty (40) hours per week shall constitute a week's work, for all full-time employees, except that work days and work weeks of a different number of hours may be established in order to meet the varying needs of the City where permitted by law.
- B. Temporary employees, including part-time employees, are not eligible for any benefits beyond the hourly wage and any benefits required by applicable state or federal law and regulations, unless those benefits specifically and explicitly granted to these employees in these Rules.

### **SEC. 8.2 WORK WEEK**

The normal work week shall be five (5) consecutive weekdays starting at 8:00 a.m. and ending at 5:00 p.m. on Monday to Friday except:

- 1. Library hours may vary.
- 2. Parks hours include Saturday and Sunday.
- 3. Streets, Parks, Water, Water Treatment, and Wastewater Treatment Department Hours are from 7:00 a.m. to 3:30 p.m.
- 4. Hours of operation differing from these guidelines may be established for any office or Department in order to meet the needs of the City and the citizens of St. Helena.

### **SEC. 8.3 DAILY HOURS OF WORK**

Daily hours of work or shifts for employees shall be assigned by the City Manager as required to meet the operational requirements of the City.

### **SEC. 8.4 CHANGE IN WORKING HOURS**

Any foreseeable absence or deviation from scheduled working hours desired by an employee shall, in advance, be cleared in writing through the office of the City Manager, and such absence shall be noted on the employee's time sheet.

### **SEC. 8.5 OVERTIME**

- A. Overtime Compensation.

Employees shall not perform work outside of their regularly scheduled shifts unless requested to do so by a Department Head or with advance written authorization from a Department Head. This requirement applies to, but is not limited to:

- 1. Work performed before the start of the shift;



2. Work performed during meal periods;
3. Work performed after the end of the shift; and
4. Other work performed "off the clock" including work performed at home.

All employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts. Where required, time spent on such work shall be kept to a minimum. All time worked and leave used must be reported on an employee's timecard, regardless of when or where the work was performed.

Department Heads shall adhere to the following guidelines in requesting or assigning work outside an employee's regularly scheduled shift:

An employee who may be required to perform work outside the regular shift shall be notified of the apparent need for such work as soon as practicable prior to when the work is expected to begin.

Non-exempt employees shall be paid at one and one-half times the employee's regular rate of pay for all hours actually worked in excess of the employees regularly scheduled shift or in excess of forty (40) hours in a work week. Paid time off or other non-working time (except paid rest breaks under Section 8.6), such as vacation, sick leave, holidays, jury duty, and compensatory time off, shall not be considered hours worked.

#### **SEC. 8.6 REST BREAKS**

Non-exempt employees shall be entitled to a paid 15-minute break for every four (4) hours worked. Such time shall be considered hours worked.

#### **SEC. 8.7 CONDUCT DURING THE WORKDAY**

During the workday, employees are expected to devote their full time in the performance of their assigned duties. Any approved outside work, part-time job, hobbies, or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.

### **RULE 9. LEAVES OF ABSENCE**

#### **SEC. 9.1 HOLIDAYS**

- A. The following days shall be recognized and observed as paid holidays for regular full-time employees:

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

3. Presidents' Day (Third Monday in February)
4. Cesar Chavez Day (March 31)
5. Memorial Day (Last Monday in May)
6. Independence Day (July 4)
7. Labor Day (First Monday in September)
8. Veteran's Day (November 11)
9. Thanksgiving Day (Fourth Thursday in November)
10. Friday after Thanksgiving Day
11. Christmas Eve (December 24)
12. Christmas Day (December 25)

Except for emergency services, all City offices shall be closed on recognized and observed paid holidays above and all full-time employees shall receive full pay provided they are employed and in a paid status on the first working day prior to and following the holiday.

When a recognized and observed holiday falls on a Saturday, the preceding Friday shall be deemed a holiday. When a holiday falls on a Sunday, the following Monday shall be deemed a holiday. When Christmas Eve falls on a Friday, the preceding Thursday shall be deemed a holiday. When Christmas day falls on a Monday, the following Tuesday shall be deemed a holiday. When Christmas falls on a Thursday, the following Friday shall be a holiday in lieu of Christmas Eve Day.

B. Holidays for Employees on work schedules other than Monday through Friday

Employees assigned to a seven-day operation departments or employees working a five-day work week other than Monday through Friday shall be allowed another day off within the same work week if a holiday falls on one of their regularly scheduled days off. Employees whose holidays are changed because of shift rotations shall be allowed another day off if a legal holiday falls on one of their days off. Employees regularly scheduled to work on a holiday which falls on a Saturday or Sunday shall receive holiday compensation for the work on that Saturday or Sunday. Holiday compensation shall not be paid for work on any weekday preceding a Saturday holiday or on any weekday following a Sunday holiday.

C. Personal Convenience Holiday.

Each regular, full-time employee shall be eligible for two (2) Personal Convenience Holidays of eight (8) hours each. Each regular employee, Department Head, and full-time unrepresented safety employee who has been continuously employed by the City

for at least five (5) years will be granted three (3) additional Personal Convenience Holidays. Personal Convenience Holidays must be used prior to the end of the calendar year and will not accrue or carry over. They may be taken at the employee's convenience, subject to the Department Head's approval. These Holidays shall not incur additional expense to the City (e.g., causing another employee to work overtime). Each of these Holidays must be taken as a full day.

## **SEC. 9.2 VACATION**

- A. Unless otherwise required by an applicable MOU or employment agreement, full-time regular employees shall accrue vacation, on a daily basis, according to the following schedule:

| Years of Service | Vacation Accrual |
|------------------|------------------|
| 0 – 4 years      | 10 days per year |
| 5 years          | 15 days per year |
| 6 years          | 16 days per year |
| 7 years          | 17 days per year |
| 8 years          | 18 days per year |
| 9 years          | 19 days per year |
| 10 years         | 20 days per year |

The maximum rate at which vacation may be accrued by any employee is twenty (20) days per year.

- B. Part-time Employees: On July 1 of each year, a part-time employee will be awarded vacation hours in an amount determined by multiplying the employee's "average work day" by ten, provided that:
1. In computing the "average work day," no time worked prior to the employee's first anniversary date shall be considered.
  2. Administration of the use of vacation leave by part-time employees will be by the same rules as regular employees.
- C. The City Manager may in their sole discretion, permit a Department head to accrue vacation on a schedule other than as specified in Section 9.2. The City Manager shall specify the applicable schedule in writing at the time of hire.
- D. Employees may begin using accrued vacation after completing six (6) months of continuous employment with the City.
- E. Employees may carry over up to 80 hours of unused accumulated vacation to the next fiscal year. This carryover amount shall be prorated for new hires.

- F. Employees may convert up to one-half (1/2) of their unused accumulated vacation days per fiscal year to compensation and shall be paid at the employee's rate of pay at the time of the conversion.
- G. At termination of employment for any reason, the City shall compensate the employee for the employee's accumulated vacation time at the employee's straight time rate of pay at the time of termination.
- H. The City will not require an employee to take vacation time in lieu of sick leave or leave of absence during periods of illness. However, the employee may elect to take vacation time in case of extended illness constituting a "serious health condition" within the meaning of the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy where sick leave has been fully used. If a holiday falls on a work day during an employee's vacation period, that day shall be considered as a paid holiday and not vacation time.
- I. Vacations may be scheduled at any time during the year upon written approval of the Department Head.

### **SEC. 9.3 SICK LEAVE**

#### **A. Definitions.**

The definitions provided in this Section 9.3 apply only to the provisions in Section 9.3.

- 1. Immediate Family. Immediate Family means: (1) a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*; (2) biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* to either the employee or the employee's spouse or domestic partner as a minor; or (3) an employee's spouse, registered domestic partner, grandparent, grandchild, or sibling, including half-siblings.
- 2. Permitted Use of Sick Time. Sick Time is not discretionary leave, and Permitted Use of Sick Time consists of any of the following:
  - (a) Diagnosis, care, or treatment of the existing health condition of an employee or a member of the employee's immediate family;
  - (b) Preventative care for an employee or a member of the employee's immediate family;
  - (c) For employees who are victims of domestic violence, sexual assault, or stalking, leave taken for the purposes described in Sections 230(c) and 230.1(a) of the California Labor Code.

(d) Extension of Bereavement Leave to which an employee is entitled under Section 9.4.

3. Full-Time Employees. For purposes of this policy a "Full-Time Employee" means any regular or probationary Full-Time Employee.
4. PTS Employees. For purposes of this policy a "PTS Employee" means any employee who is not a Full-Time employee, including, but not limited to, part-time, temporary, and seasonal employees.
5. Employees. For purposes of this policy the term "Employees," without further modification, includes all City employees, regardless of status or hire date.

B. Eligibility.

All Employees are eligible to accrue and use paid sick leave in accordance with the applicable terms of this policy.

C. Waiting Period Prior to Use of Sick Leave by New Hires.

All New Hires must complete an initial, one-time ninety (90) calendar day waiting period before using sick leave. Employees who leave City employment before completion of the 90-day waiting period are not entitled to use any sick leave. However, New Hires who return to City employment within twelve (12) months of separation will have their sick leave balances restored and need only complete the remainder of the ninety (90) day period before becoming entitled to use available sick leave.

D. Accrual.

1. Full-Time Employees.

Full-Time Employees shall earn sick leave at the rate of eight (8) hours per month. There shall be no limit on sick leave accrual.

2. PTS Employees.

(a) PTS Employees will receive a bank of twenty-four (24) hours of sick leave on the first day of the next month following their first date of employment, whichever is later. New Hires must satisfy the waiting period before using any time from the sick leave bank.

(b) The City will provide an additional bank of twenty-four (24) hours of sick leave on January 1 of each subsequent calendar year to each PTS employee.

(c) PTS Employees shall accrue no additional sick leave beyond the twenty-four (24) hour bank and shall have no right to carry over banked hours from year to year.

E. Notice.1. Unscheduled Time Off.

An Employee shall contact their immediate supervisor at least two hours prior to the commencement of the assigned work shift, or as soon thereafter as is practical, to report absence from work due to a Permitted Use of Sick Time. Consideration shall be given to emergency situations that restrict the employee from contacting their immediate supervisor prior to their assigned work shift, including, but not limited to accident, injury, or hospitalization.

An employee shall notify their immediate supervisor before the employee leaves the work site prior to completion of the work shift due to any unscheduled Permitted Use of Sick Time; however, the employee need not provide the reason that sick time is needed to the immediate supervisor.

2. Scheduled Time Off.

Notice of time off for scheduled appointments involving a Permitted Use of Sick Time, such as personal medical appointments, must be provided to the Department Head or the Human Resources Department, at least one week in advance of the appointment, whenever feasible. Every effort should be made to schedule such appointments at times that do not conflict with the City's work schedule.

The employee shall again notify their immediate supervisor before the employee leaves the work site prior to completion of the work shift due to the scheduled Permitted Use of Sick Time.

F. Medical Certification or Other Documentation.

Employees off work on sick leave for a period of more than three (3) consecutive work days, or whose usage indicates potential abuse of sick leave, may be required at any time to provide a doctor's note or other relevant documentation certifying that the reason for the employee's absence is a Permitted Use of Sick Time, and if the employee is unable to return to work, stating how long the employee is expected to be unable to do so.

G. Return to Work.

For any absence of seven (7) or more consecutive work days due to an employee's own illness or injury, the supervisor may require that the employee provide a note from their physician, releasing the employee with or without restrictions, before the employee may return to work.

H. Reinstatement of Unused Sick Leave Balances.

An Employee who separates from employment with the City and returns to active employment within twelve (12) months of their separation date shall have their unused sick leave balance reinstated, up to a maximum of twenty-four (24) hours. For purposes

of this provision, unused sick leave is leave that was accrued, but never taken by the Employee, and that was not converted to Personal Leave.

I. Retention and Inspection of Records Pertaining to Sick Leave.

The City shall keep records documenting the hours worked and paid sick leave accrued and used by an employee for three (3) years. Upon reasonable request, and within twenty-one (21) calendar days after the request, the City shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick days accrued and used.

J. Abuse of Sick Leave.

Employees who do not comply with this policy, including providing insufficient notice of sick leave or using sick leave for reasons other than for a Permitted Use of Sick Time, are committing abuse of sick leave, which is grounds for discipline, up to and including termination.

The City reserves the right to take reasonable steps to determine whether an employee is abusing sick leave, including, but not limited to, attempting in-person or electronic communication with an employee using sick leave, identifying and tracking consistent patterns of sick leave use, such as in connection with weekends, holidays, and scheduled days off, and considering social media content or other relevant evidence that is either publicly available or shared voluntarily by other employees or interested individuals.

**SEC. 9.4 BEREAVEMENT LEAVE**

- A. Employees are entitled to paid bereavement leave in the event of death in their immediate family. Bereavement leave is a separate benefit from other paid leaves; however, sick leave may be used to supplement the periods provided in this section.
- B. Employees may be granted up to three (3) working days of paid bereavement leave or five (5) working days if the death occurs out of State, per immediate family member.
- C. For purposes of this Section 9.4, "immediate family" shall have the same definition as in Section 9.3.

**SEC. 9.5 MILITARY LEAVE**

Military leave shall be granted in accordance with state and federal law (i.e. the California Military and Veteran's Code and the Federal Uniformed Services Employment and Reemployment Rights Act.) An employee entitled to military leave shall give the Administrative Services Manager an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking military leave, an employee, when possible, shall present a copy of their military orders to the Human

Resources Department. In addition, leave for military exigency or military caregiver shall be granted in accordance with the Family and Medical Leave Act.

#### **SEC. 9.6 JURY DUTY**

This policy shall apply to all regular and probationary employees in all classifications.

An employee summoned for jury duty will immediately notify the Human Resources Department. While serving on a jury, an employee will be given a leave of absence, with pay, for the duration of said jury duty. Said leave of absence with pay is conditional upon the employee returning to work upon their dismissal each day to complete their normal work day. It is also conditional upon the employee's conveyance to the City of any compensation received as a juror, not including any travel allowance received.

#### **SEC. 9.7 VOTING LEAVE**

In accordance with California Election Code sections 14000 and 14001, if a registered voter does not have sufficient time outside normal working hours within which to vote at general direct primary or presidential elections, the employee may take off such working time as will enable him/her to vote. The scheduling of the time referenced above shall be subject to the approval of the employee's supervisor and shall normally be at the beginning or end of a work shift. A maximum of two (2) hours may be taken with pay. The employee must provide two (2) days of advance notice of the need for voting leave.

#### **SEC. 9.8 ELECTION OFFICIAL LEAVE**

Employees serving as an election official shall be permitted leave in order to so serve. Such leave is unpaid, but, at their option, employees may request to use vacation leave to serve as an election official. An employee taking leave to serve as an election official is required to give their Department Head at least ten (10) days of advance notice before the date of the election in which the employee is to serve as an election official. Employees serving as an election official are required to provide their Department Head with proof of service prior to taking leave.

#### **SEC. 9.9 LACTATION BREAKS**

- A. In accordance with California and federal law, the City will provide an employee with reasonable unpaid time off and an appropriate area for the purpose of the employee expressing breast milk for the employee's infant child.
- B. An "appropriate area" is a place other than a bathroom that is in close proximity to the employee's work area and that is shielded from view and free from intrusion by other employees and the public. The City will consider input from the affected employee but retains sole discretion in identifying an "appropriate area" on a case-by-case basis.



**SEC. 9.10 UNPAID LEAVES OF ABSENCE**

- A. The City Manager, in their discretion, may grant an employee leave of absence without pay for up to three (3) months. Unpaid leave of absence may be granted by the City Manager for the following grounds: (1) for personal reasons which are acceptable to the City Manager; (2) for reason of illness in the event sick leave has been exhausted; (3) in conjunction with pregnancy-related leave; or (4) to pursue a course of education which will increase the employee's capability in holding the City position. The City Manager may require sufficient documentation establishing the employee's need for leave.
- B. After the initial three (3) months of leave of absence without pay, the City Manager may, in their discretion, extend the leave for up to nine (9) additional months in a maximum of three (3) month increments. However, unless otherwise required by law, in no circumstances shall the total amount of unpaid leave be longer than twelve (12) months.
- C. Exhaustion of Paid Leaves.
1. Non-medical Leave of Absence without Pay. An employee requesting leave under this section for nonmedical reasons is required to fully exhaust all of their paid leaves, except sick leave, in order to be eligible to receive a leave of absence without pay.
  2. Medical Leave of Absence without Pay. An employee requesting leave under this section for medical reasons is required to fully exhaust all of their paid leaves, including sick leave, in order to be eligible to receive a leave of absence without pay.
- D. Accrual of Benefits.
1. Leave of absence without pay shall not be construed as a break in service or employment, and rights accrued at the time leave is granted shall be retained by the employee; however, vacation credits, sick leave credits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the unpaid period of absence.
  2. Unless the employee notifies the City Manager at the time of the request for leave without pay that they elect to pay the premiums for continuation of Health, Dental, and other insurance benefits, those benefits will be terminated beginning from the calendar month following the start of the unpaid leave. If that election is made and the leave request is granted, it is the responsibility of the employee to submit payment to the City such that it is received prior to the City processing payment to the insurance carrier. The City will not make a premium payment in anticipation of receipt of the payment from the employee.

3. Retirement benefits shall be adjusted for leave without pay in accordance with the Public Employees' Retirement System (PERS) regulations.
  4. An employee returning after leave of absence without pay shall receive the same step in the salary range, they received when they began their leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward by an amount equal to the days of unpaid leave taken by the employee.
- E. Failure to Return from Leave. If an employee takes any action during their leave that is inconsistent with an intention to return to employment with the City, such as accepting full-time employment with another employer, the employee will be considered to have voluntarily terminated their employment. Failure of the employee to return to their employment upon the termination of any authorized leave of absence shall constitute an automatic termination from City service of that employee— unless such leave is extended.

#### **SEC. 9.11 UNAUTHORIZED LEAVES OF ABSENCE AND FAILURE TO RETURN FROM LEAVE**

- A. An employee may be considered to have voluntarily resigned from their employment with the City under any of the following circumstances:
1. Absence from their job for more than five (5) consecutive working days without compliance with applicable notice requirements under these Rules;
  2. Any action taken during a leave of absence from the City that is inconsistent with an intention to return to employment with the City, such as accepting full-time employment with another employer;
  3. Failure to return to employment following the expiration of an authorized leave of absence—unless the City permits extension of the leave.
- B. The City shall provide written notice to employees who are considered to have voluntarily resigned. The notice shall describe the facts on which the voluntary resignation is based and the right to petition the Human Resources Director for reconsideration.
- C. Any unauthorized absence may be cause for Disciplinary Action.

#### **SEC. 9.12 EXECUTIVE LEAVE**

- A. Each FLSA-exempt, unrepresented employee who has completed one year of City service shall receive forty (40) hours of executive leave per

calendar year, which may be used by the end of the calendar year. During their first year as a City employee, FLSA-exempt, unrepresented employees shall obtain a pro rata amount of executive leave commensurate with the time remaining in the calendar year. Executive leave may not be carried forward from year to year. There is no cash value to Executive Leave and FLSA-exempt, unrepresented employees shall not receive compensation for any unused Executive Leave hours at the time of separation from City employment.

- B. Additionally, at-will executive staff may receive up to another five (5) days Executive Leave annually at the discretion of the City Manager provided on July 1<sup>st</sup> of each year, and all hours not taken by December 31<sup>st</sup> of the same year will be lost unless an extension of time is granted by the City Manager.

- C. Newly hired employees shall have Executive Leave awarded to them in the following pro-rated manner:

If the employee is hired from:

|                     |                                                                   |
|---------------------|-------------------------------------------------------------------|
| January – March     | 40 hours awarded on the date of hire                              |
| April – June        | 30 hours awarded on the date of hire                              |
| July – September    | 20 hours awarded on the date of hire, 40 hours additional at-will |
| October -- December | 10 hours awarded on the date of hire, 20 hours additional at-will |

#### **SEC. 9.13 VICTIM LEAVE**

Victims of domestic violence and/or sexual assault shall be permitted unpaid leave in accordance with Labor Code sections 230(c) and 230.1. Victims of a violent or serious felony or a felony involving theft or embezzlement shall be permitted unpaid leave in accordance with Labor Code section 230.2.

#### **SEC. 9.14 SCHOOL VISITATION LEAVE**

Employees shall be permitted to take unpaid leave (under Section 9.11) or any accrued, but unused vacation hours, for child-related activities, in accordance with Labor Code Sections 230.7 and 230.8. Employees are required to submit written leave request and written approval from Department Head or City Manager, at least three (3) days before the start of the leave.

#### **SEC. 9.15 FITNESS FOR DUTY LEAVE.**

- A. Purpose/Policy. Employees are expected to report to work fit for duty, which means able to perform their job duties in a safe, appropriate, and effective manner, free from adverse effects of physical, mental, emotional, and/or personal problems. This Rule is intended to provide a safe

environment and protect the health and welfare of employees and the public. If an employee feels that they are not fit to perform their duties, the employee must notify their supervisor immediately.

- B. Reasons for Fitness for Duty Leave. A fitness for duty examination may be ordered in any of the following situations:
1. An employee returns from a medical leave of absence of more than seven (7) working days.
  2. An employee is involved in the interactive process with the City.
  3. Supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.
  4. Fitness for duty examinations based on a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol shall be conducted in accordance with the City's Drug-Free Workplace Policy.
- C. Procedures for Ordering a Fitness for Duty Examination. When a supervisor becomes aware of or observes behavior that makes him/her reasonably suspect that the employee may not be fit for duty, the supervisor shall refer the employee to the City Manager who will determine whether a fitness for duty examination is necessary and should be scheduled. If the circumstances warrant it, the City Manager may place the employee on a paid or unpaid leave pending the results of the employee's fitness for duty examination. The examination shall be paid for by the City.
- D. Procedure Following Receipt of Examination Results. The doctor examining the employee shall be limited to finding the employee "fit for duty" or "unfit for duty." In no case shall the doctor reveal the underlying cause of any unfitness for duty without the employee's permission.
- E. Fit for Duty. If the doctor finds the employee is fit for duty, the employee shall return to work immediately and perform all duties of their position.
- F. Unfit for Duty. If the employee is found to be unfit for duty, the employee shall not be permitted to work and may utilize accrued paid leave (e.g. sick leave, vacation, etc) while off duty. The employee may request a leave of absence in accordance with the appropriate subsection of this Policy, and, where appropriate, the City shall engage in the interactive process to evaluate the employee's workplace needs or restrictions. The City shall

then evaluate those needs or restrictions and determine whether they can be reasonably accommodated.

**RULE 10. FAMILY CARE AND MEDICAL LEAVE, PREGNANCY DISABILITY LEAVE, AND MILITARY FAMILY LEAVE POLICY**

**SEC. 10.1 POLICY**

- A. The City will provide family and medical care leave for eligible employees as required by state and federal Law. The leaves provided for in this Policy are granted under a variety of state and federal laws. Employees should be aware that leave under one Section of the Policy may also qualify for leave under another Section and will run concurrently. For example, military caregiver leave is provided for under the FMLA, but in certain circumstances, might also qualify for CFRA leave. In situations where similar state and federal leave programs do not both apply (e.g. an eligible employee is entitled to take CFRA leave to care for a registered domestic partner, but FMLA leave does not include registered domestic partners), the City will advise affected employees in writing which of their statutorily-protected leaves are being used and how much of that leave remains.
- B. Additional definitions and other provisions governing employees' rights and obligations under the FMLA, CFRA, and PDL that are not specifically set forth below are set forth in the Department of Labor's FMLA regulations (29 C.F.R. § 825.00 *et seq.*) and the California Department of Fair Employment and Housing's CFRA regulations (2 C.C.R. § 11087 *et seq.*) and PDL regulations (2 C.C.R. § 11035 *et seq.*) This Policy is deemed to include and be governed by such statutory and regulatory provisions, including subsequent revisions, except where expressly contradicted by more generous terms of this Policy.

**SEC. 10.2 FAMILY CARE AND MEDICAL LEAVE (FMLA/CFRA LEAVE)**

- A. Eligibility. To be eligible for FMLA/CFRA leave, an employee must have:
  - 1. Been employed by the City for at least twelve (12) months prior to the date on which the FMLA/CFRA leave is to commence, measured as of the date the leave is to start;
  - 2. Have worked at least 1,250 hours over the twelve(12) month period preceding the FMLA/CFRA leave, measured as of the date the leave is to start; and
  - 3. For employees performing covered military service under the federal Uniformed Service Employment and Reemployment Rights Act, periods of absence due to such service shall be counted for

purposes of determining whether the employee meets these eligibility requirements.

B. Qualifying Reasons for FMLA/CFRA Leave. Employees meeting the eligibility requirements under Section 10.2 may take FMLA/CFRA leave for any of the following qualifying reasons:

1. The birth of a child of the employee and in order to care for such child.
2. The placement of a child with the employee for adoption or foster care of the child by the employee and in order to care for that child.
3. Providing care for a qualifying family member with serious health condition:
  - (a) Under FMLA, a spouse, child, or parent with a serious health condition, and
  - (b) in addition to those persons listed in (a), CFRA-qualifying family members include registered domestic partners, grandparents, grandchildren, and siblings.
4. The employee's own serious health condition.

The FMLA and CFRA also provide for certain military exigency leave and military caregiver leave. The PDL also provides for leave for employees with a serious health condition is on account of her pregnancy, childbirth, or related medical conditions.

C. Child.

1. Under CFRA, leave may be taken by an employee for a "child" who is, regardless of age, a biological child, adopted, or foster child, a stepchild, a legal ward of the employee, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
2. Under FMLA, only biological, adopted, foster, or step children, legal wards, or persons for whom the employee stands in loco parentis) qualify, and only if they are (1) under 18, or (2) are over 18 and incapable of caring for themselves due to a physical or mental disability.

D. In loco parentis.

1. For purposes of this Policy an employee stands in loco parentis by providing day-to-day care or financial support with demonstrated intent of assuming the responsibilities typically held by a parent.
2. Whether an employee stands in loco parentis to a child for purposes of this Policy will be determined by the City on a case-by-case basis,

and the City may require reasonable documentation to support an employee's claim of providing either day-to-day care or financial support for the child.

- E. Serious Health Condition. A serious health condition is an illness, injury, impairment, or physical or mental condition of the employee or a child, parent, spouse, or registered domestic partner of the employee that makes the employee unable to work or unable to perform one or more of the essential functions of the employee's position, and which involves either inpatient care or continuing treatment or supervision by a health care provider, as follows:

(a) "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care, or any resulting period of incapacity. A person is considered to have an "overnight stay" for purposes of this provision if a health care facility formally admits him/her to the facility with the expectation that the employee will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.

(b) "Continuing treatment or supervision by a health care provider" means and includes any one or more of the following:

- (a) In-person treatment two or more times, within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider, with the first visit being within seven (7) days of the first day of incapacity; or
- (b) In-person treatment by a health care provider on at least one (1) occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, with the first visit being within seven (7) days of the first day of incapacity.
- (c) Any period of incapacity due to pregnancy, or for prenatal care, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three (3) days.
- (d) Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, whether or not in-person treatment is received during

that time, or whether the resulting absence lasts fewer than three (3) days. A chronic serious health condition is one which:

- (i) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
  - (ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - (iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- (e) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- (f) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either:
- (i) Restorative surgery after an accident or other injury; or
  - (ii) A condition that would likely result in a period of incapacity of more than three (3) consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).
- (g) "Incapacity" means that a person is unable to work, attend school, or perform regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

- F. Amount of Leave Entitlement. Provided that all applicable conditions of Section 10.2.A are met, an employee may take a maximum of twelve (12)



workweeks of FMLA/CFRA leave in a rolling twelve (12) month period measured backwards from the date the employee uses any FMLA/CFRA leave.

1. Employees taking FMLA/CFRA leave for the birth, adoption, or foster care of their child must initiate and complete any FMLA/CFRA leave within one (1) year of the birth of the child or placement of the child with the employee for adoption or foster care.
2. An employee's FMLA/CFRA leave does not need to be consecutive, but can be cumulative within a twelve (12) month period.
3. Industrial injury leaves and all non-industrial injury leaves are FMLA/CFRA leaves if they qualify as serious health conditions.

G. Concurrent Use of Accrued Paid Leaves.

1. Leave taken under this Policy is unpaid.

Employees may elect or may be required to use their accrued leave balances concurrently with FMLA/CFRA leave, as provided below. When an employee elects or is required to use their accrued leave balances, the employee may specify in writing the order in which the employee would prefer to exhaust their leave balances. If the employee fails to designate the order of exhaustion, the City will exhaust the leave balances in the following order: sick leave, compensatory time off, floating holiday, vacation. The paid leave shall run concurrently with the FMLA/CFRA leave, and shall not extend the employee's entitlement to FMLA/CFRA leave beyond twelve (12) workweeks.

2. Sick leave.

Employees are required to run all accumulated sick leave concurrently when FMLA/CFRA leave is taken for the employee's own serious health condition. Employees may elect to so coordinate their accumulated sick leave when FMLA/CFRA leave is taken for any other reason.

3. Other paid leaves.

Employees are required to coordinate all other accrued paid leaves of absence, including but not limited to, compensatory time off, vacation, and holiday leave, when taking FMLA/CFRA leave for any reason.

4. Coordination with Wage Replacement Plans.

If an employee who is on FMLA/CFRA leave is also receiving a wage replacement payment from State Disability Insurance, Paid Family Leave, Short-Term Disability Programs, Long-Term Disability Programs, and/or Workers' Compensation, the employee and the City may mutually agree to coordinate the employee's accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee's regular salary.

H. Intermittent or Reduced Schedule Leave.

1. An As-needed Basis.

Intermittent FMLA/CFRA leave is leave taken on an as-needed basis in increments of minutes, hours, or days. A reduced schedule FMLA/CFRA leave involves a reduction in the number of hours per day or per week that an employee regularly works, with the employee substituting FMLA/CFRA time substitute for hours not worked. The minimum FMLA/CFRA leave increment that can be taken by an employee is fifteen (15) minutes.

2. Calculation of Intermittent or Reduced Schedule Leave.

The maximum equivalent number of hours to which an employee is entitled during the twelve (12) week period will be based on the employee's regularly scheduled workweek. For example, an employee who is regularly scheduled to work forty (40) hours per workweek will be entitled to a maximum of 480 hours of FMLA/CFRA leave, whereas, an employee who is regularly scheduled to work thirty-two (32) hours per workweek will be entitled to a maximum of 384 hours of FMLA/CFRA leave. In calculating this amount for employees with a varying schedule, the City will use an average of the employee's workweeks within the twelve (12) month period immediately preceding the intermittent or reduced schedule leave.

3. Impact on Salary.

Where permitted by applicable state and federal wage and hour laws, the City may make deductions from an employee's salary for all hours of leave taken as intermittent leave, unless the employee is entitled or required to coordinate paid leave.

4. Inclusion of Scheduled Overtime.

If an employee normally would be required to work overtime hours, but is unable to do so because of an FMLA/CFRA-qualifying reason that limits the employee's ability to work overtime, the hours that the employee would have been required to work may be counted against the employee's FMLA/CFRA entitlement, as the employee would be considered to be using intermittent or reduced schedule leave. For example, if an employee is normally required to work fifty (50) hours in a particular workweek, but because of an FMLA/CFRA-qualifying reason, the employee works only forty (40) hours that week, the employee would use ten (10) hours of FMLA/CFRA-protected leave out of the fifty (50) hour workweek.

5. Conditions for Taking Intermittent or Reduced Schedule Leave

- (a) FMLA/CFRA leave taken for the employee's own serious health condition, or the serious health condition of the employee's spouse, registered domestic partner, parent, or child, or for military caregiver leave, may be taken intermittently or on a reduced leave schedule when medically necessary (as distinguished from voluntary treatments and procedures).

(b) Military exigency leave may be taken on an intermittent or reduced schedule basis without limitation.

(c) Leave taken following the birth, adoption, or placement or foster care of a child may be taken on an intermittent or reduced schedule basis.

I. Temporary Transfer.

1. Required by the City.

The City may require that the employee temporarily transfer to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits and that better accommodates recurring leave periods than the employee's regular position.

2. Requested by Employee.

An employee on intermittent or reduced schedule FMLA/CFRA leave for foreseeable and planned medical treatments may request a transfer to an open and available position for which the employee is qualified, if the duties of that position would better accommodate the employee's intermittent or reduced schedule FMLA/CFRA leave. Transfers will not be considered under this Section when the intermittent or reduced schedule FMLA/CFRA leave is unscheduled, such as in the case of chronic conditions.

J. Leave Taken for Baby Bonding. The basic minimum duration of a leave taken for the birth, adoption, or foster care of a child shall be two (2) weeks. However, the City will also grant two (2) requests for shorter leave periods in the applicable one (1) year period.

K. Employee Notice. Employees requesting leave under the FMLA/CFRA must notify their supervisor in accordance with the rules set forth below. Employees must provide the supervisor with sufficient information to make the City aware that the employee needs FMLA/CFRA leave, and the anticipated timing and duration of that leave. Supervisors must forward any such requests to the Human Resources Department for review and approval.

1. Foreseeable Events.

An employee must provide the City with at least thirty (30) days advance notice before the date the leave is to begin, or must provide notice as soon as is practicable, normally the same business day or next business day if the employee is off work when the employee learns of the need for leave. If the employee provides less than thirty (30) days advance notice, the City may require explanation of why thirty (30) days advance notice was not practicable.

(a) In any case in which the need for FMLA/CFRA leave is foreseeable based on one of the circumstances listed below in sub-

section b., the employee shall make a reasonable effort to schedule any planned medical treatment or supervision so as not to unduly disrupt the operations of the City. However, any such scheduling shall be subject to the approval of the health care provider of the employer or the employee's child, parent, spouse, or registered domestic partner (CFRA only).

(b) The need for leave is considered "foreseeable" when it is taken for any of the following reasons:

- (a) Planned medical treatment for a serious health condition of the employee.
- (b) Planned medical treatment for a serious health condition of a family member.
- (c) An expected birth, placement for adoption, or foster care.

(c) If an employee fails to provide the requisite thirty (30) day advance notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the taking of the leave by up to thirty (30) days after the date the employee provides notice of the need for FMLA/CFRA leave.

## 2. Unforeseeable Events.

If an employee requires FMLA/CFRA leave for an unforeseeable event, the employee is required to provide notice to the City as soon as is practicable.

## 3. Notice of Intermittent/Reduced Schedule Leave.

The notice requirements for foreseeable intermittent or reduced schedule leaves shall be the same as for other foreseeable leaves, and the notice requirements for unforeseeable intermittent or reduced schedule leave shall be the same as for other unforeseeable leaves.

## 4. Contents of Notice.

All requests for FMLA/CFRA leave should include the anticipated date(s) and duration of the leave and be sufficient to make the City aware that the employee needs leave under the FMLA/CFRA. The employee must state the reason the leave is needed. When the employee provides notice, it may not contain sufficient information for the City to determine whether the employee's leave could be for an FMLA/CFRA-qualifying purpose. In such cases, the City may follow up with the employee for additional information, and the employee is required to respond to the same. However, the employee shall not be required to provide the City with a diagnosis.

## 5. Changes to Dates of Leave.

The employee must advise the City as soon as practicable when the employee learns that the dates of the FMLA/CFRA leave may change.

6. Requests for Extension.

Any requests for extensions of an FMLA/CFRA leave must be received at least five (5) working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the FMLA/CFRA leave. If the employee has exhausted their leave entitlement, the City will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation for the employee's own serious health condition.

L. City Response to a Request for FMLA/CFRA Leave or Request for Extension - Eligibility Notice.

Within five (5) working days of an employee's request to take FMLA/CFRA leave, the City shall provide the employee with a written Eligibility Notice. The Eligibility Notice is not a designation of the employee being on FMLA/CFRA Leave. The Eligibility Notice shall include the following information:

1. Whether the employee is eligible to take FMLA/CFRA leave. If the employee is ineligible for FMLA/CFRA leave, the notice will include the reason(s) why the employee is ineligible.
2. Whether the employee has exhausted their twelve (12) week FMLA/CFRA entitlement.
3. Whether additional information, such as a medical certification, is required from the employee in order to process the employee's request for FMLA/CFRA leave or request for extension.
4. The employee's rights and responsibilities under the FMLA/CFRA will include a statement of whether the employee is required to provide a medical certification or recertification. A statement requiring a medical certification will also advise the employee of the anticipated consequences of their failure to provide adequate notice.
5. If the employee has requested an extension of leave for their own serious health condition but has exhausted their leave entitlement, the City will advise whether additional leave will be granted as a reasonable accommodation.

M. Medical Certification and Recertification.

Any request for FMLA/CFRA leave for an employee's own serious health care condition or for FMLA/CFRA leave to care for a family member with a serious health condition must be supported by medical certification from the treating health care provider. Employees are encouraged to use the City's medical certification form to ensure that all

pertinent information is obtained. Any request for an extension of FMLA/CFRA leave also must be supported by a medical certification from the treating health care provider. Again, employees are encouraged to use the City's medical certification to ensure that all pertinent information is obtained.

1. Timing of Request for Medical Certification.

The City will request medical certification:

- (a) Within five (5) business days after an employee requests foreseeable leave;
- (b) Within five (5) business days after an employee provides notice of an unforeseeable leave, or within five (5) business days after an unforeseeable leave commences, whichever is later;
- (c) On a later date — if the City has a reason to question the appropriateness or duration of an employee's leave (FMLA only).

2. Timing for Employee's Return of the Medical Certification.

All medical certifications and re-certifications must be returned to the City within fifteen (15) days from the City request, regardless of whether the leave is foreseeable or unforeseeable. Exceptions to this may be granted when it is not practicable to provide the certification or recertification within fifteen (15) days, despite the employee's diligent, good faith efforts to do so.

3. Certification for Serious Health Condition of Spouse, Registered Domestic Partner, Parent, or Child.

The employee must have the patient's treating health care physician complete a medical certification form when requesting family leave to care for a family member with a serious health condition. Employees are encouraged to use the City's medical certification form to ensure that all pertinent information is obtained.

- (a) Medical Recertification. If the employee requests additional leave beyond the time period which the health care provider originally estimated that the employee needed to take care of the employee's child, parent, spouse, or registered domestic partner, the City may request a recertification from the employee.

4. Certification for the Employee's Own Serious Health Condition.

- (a) First Opinion. The employee must have their health care physician complete a medical certification form when requesting FMLA/CFRA leave for their own serious health condition. Employees are encouraged to use the City's medical certification form to ensure that all pertinent information is obtained.

(b) Second and Third Opinions. If the City has reason to doubt the validity of the certification provided by the employee, the City may require the employee to obtain a second opinion from a doctor of the City's choosing at the City's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the City may require a third opinion, also at the City's expense, performed by a mutually agreeable doctor who will make a final determination that shall be binding on both the City and the employee.

(c) Medical Recertification. The City may request recertification of a medical condition upon the expiration of the time period which the health care provider originally estimated, if additional FMLA/CFRA leave is requested.

5. Certification for an Employee's Return to Work.

(a) Returning from a Continuous Leave. As a condition of restoration to their former position, an employee taking continuous leave under the FMLA/CFRA is required to provide the City with certification from their health care provider stating that the employee is able to resume their essential work functions. An employee who fails to provide the certification may have their reinstatement delayed.

(b) Returning from an Intermittent or Reduced Schedule Leave. If the employee is on intermittent or reduced schedule leave, the City may require a fitness for duty certification at fixed intervals not exceeding every thirty (30) days if there are reasonable safety concerns. "Reasonable safety concerns" means a reasonable belief of significant risk of harm to the employee or others.

(c) Contents of Certification. The City will provide the employee with a form and a copy of the employee's job description for their health care provider to review in completing the fitness for duty certification, and employees are encouraged to use the City's form to ensure that all pertinent information is obtained. The employee must provide a complete and sufficient fitness for duty certification. If the employee's health care provider releases the employee back to work with restrictions, the City will engage in the interactive process to determine what reasonable accommodation, if any, will permit the employee to return to work in accordance with the ADA and the FEHA.

6. Employee's Failure to Provide a Medical Certification or Recertification. If the employee fails to timely provide a complete and sufficient medical certification when requested, the request for FMLA/CFRA leave may be denied or delayed until a sufficient certification is provided. Employees will be advised of these

consequences in connection with any request by the City for medical certification or recertification.

N. City's Designation of Leave. Absent extenuating circumstances, within five (5) working days after the City has acquired enough information to determine whether the employee's request qualifies for FMLA/CFRA leave, the City will provide the employee with a written Designation Notice.

1. Designating Leave as FMLA/CFRA-Qualifying. If the leave is designated as being FMLA/CFRA-qualifying, the Designation Notice will contain, but is not limited to, the following information:

(a) A statement that the leave is being designated as FMLA and/or CFRA leave;

(b) The amount of leave being counted as FMLA and/or CFRA leave, if known;

(c) Whether accrued paid leave will be used during the leave, and that any paid leave used will count as FMLA/CFRA leave;

(d) Whether a medical certification will be required to release the employee to return to work; and

(e) Whether a job description or description of essential duties is attached to the Designation Notice for the health care provider to use in completing the medical certification to release the employee to return to work.

2. Unable to Designate. If the City is unable to determine whether the leave requested is FMLA/CFRA-qualifying because more information is needed, the employee will be informed that the medical certification is incomplete or insufficient, and the City will provide a list of deficiencies and explain the employee's opportunity to cure said deficiencies; or a second or third medical opinion is being required.

3. Not Designating Leave as FMLA/CFRA-Qualifying. If the City has determined that the employee's leave does not qualify as FMLA/CFRA leave, the City will notify the employee in writing that their leave is not being designated as FMLA/CFRA leave, and the reason for the denial.

O. Employment Benefits and Protection.

1. Previously Accrued Benefits and Seniority Status.

(a) Leave under the FMLA/CFRA will not result in the loss of any employment benefits accrued before the date the leave commenced.



(b) Leave under the CFRA will not constitute a break in service or otherwise cause the employee to lose longevity or seniority, even if other paid or unpaid leave constitutes a break in service for purposes of establishing longevity or seniority, layoff, recall, promotion, job assignment, or seniority-related benefits.

2. No Accrual of Leave or Seniority during Unpaid FMLA/CFRA Leave.

(a) An employee on unpaid FMLA/CFRA leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, administrative leave, nor will they be paid for holidays during the unpaid leave.

(b) The time off on unpaid FMLA/CFRA leave shall not count as time worked for purposes of establishing additional seniority for purposes of layoff, recall, promotion, job assignment, and other seniority-related benefits. However, during the time that an employee supplements their unpaid FMLA/CFRA leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the City's policy governing those leaves of absence (i.e., when coordinating with sick leave, the rules governing sick leave will apply with regard to the employee's benefits).

3. Maintenance of Health Insurance of the Employee.

(a) Employees will continue to receive the same medical benefits while on FMLA/CFRA leave for up to twelve (12) workweeks in a twelve (12) month period. The City shall be responsible for the continued payment of the City's share of the cost of the employee's health benefits during that twelve (12) workweek period. Benefits for absences beyond the allotted period will be handled in the same manner as benefits for employees on any other type of unpaid leave of absence.

(b) An employee who notifies the City that they do not intend to return to work from the FMLA/CFRA leave is not entitled to medical benefits provided by the City as if the employee were on a FMLA/CFRA leave and instead is entitled to the benefits provided to employees who are on an unpaid leave of absence for any other reason.

4. Maintenance of Benefits Requiring Employee Contributions.

(a) During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue health insurance coverage for the employee, a spouse, registered domestic partner, and/or any dependent(s) as well as any other benefits offered or sponsored by the City to which the employee is

required to make monthly contributions. Employees must notify the City in writing of such an election.

(b) An employee will continue to be responsible for making the payment of monthly contributions for which the City has not received advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.

(c) All monthly contributions are due and payable to the City at the same time as they would be if made through payroll deduction.

(d) If any monthly contributions are not received within thirty (30) days of their due date, the City has the option to either discontinue said benefit(s) or continue said benefit(s) by making the monthly contributions on the employee's behalf.

(e) Upon the employee's return to work, the City is entitled to seek reimbursement from him/her for the employee's share of any monthly contributions made on their behalf.

(f) Employees included in a pension or retirement plan may continue to make contributions in accordance with the terms of the plan during the period of leave. However, the City shall not be required to make plan payments for employees during the leave period which is unpaid, and the unpaid leave period shall not be counted for purposes of time accrued under the plan.

(g) If the City provides a new health plan or benefits or changes health plans or benefits while an employee is on FMLA/CFRA leave, the City will give written notice to the employee to advise that the employee is subject to the new or changed plan/benefits in the same manner, and to the same extent, as if the employee were not on leave.

5. Failure to Return from Leave. The City may recover the entire premium it paid for maintaining health insurance benefits for an employee during any period of unpaid leave if the employee fails to return to work promptly upon the expiration of a leave for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave or other circumstances beyond their control.

P. Reinstatement.

1. Restoration to Position.

When an employee returns from a leave under the FMLA/CFRA, the employee will be restored to the position held when the leave began, or to a comparable position, with equivalent (i.e. virtually identical) employment benefits, pay, and other conditions of employment.

The duties of the position must be capable of being performed in the same or similar geographic location, and involve the same or substantially similar duties as the position held when leave began, with responsibilities that entail substantially equivalent skill, effort, responsibility, and authority.

2. Denial of Restoration Rights.

The City may refuse to reinstate an employee to their pre-leave position at the conclusion of an FMLA/CFRA leave if the employee's position and any comparable position have ceased to exist because of legitimate business reasons unrelated to the employee's FMLA/CFRA leave. In this case, the City shall reasonably accommodate the employee through alternative means that will not cause undue hardship to the City's operation. The City may offer an employee any other position that is available and suitable. The City is not required to create new employment that would not otherwise be created, discharge or transfer another employee, or promote another employee who is not qualified to perform the job.

3. Opportunity to Fulfill Missed Requirements.

If an employee is unable to attend a necessary course, renew a license, or is otherwise adversely affected in terms of fulfilling minimum requirements or qualifications for the position as a result of the FMLA/CFRA leave the employee will be given a reasonable opportunity to fulfill those requirements or qualifications upon returning to work from FMLA/CFRA leave.

**SEC. 10.3 PREGNANCY DISABILITY LEAVE OR TRANSFER.**

A. Eligibility And Duration.

1. 1. Eligibility.

(a) Any employee who is disabled on account of pregnancy, childbirth, or related medical conditions may take a pregnancy-related disability leave, regardless of the number of hours worked or her length of employment with the City. However, unless an employee has met the eligibility requirements under this Policy, she shall not be subject to the additional terms and conditions that apply to an employee who is eligible for FMLA leave.

(b) An employee's pregnancy-related disability is not considered a serious health condition under the CFRA and is not counted against an employee's CFRA leave eligibility.

2. Amount of Leave Entitlement.

An eligible employee may take a pregnancy-related disability leave for the period of disability, up to four (4) months (an equivalent of 17 1/3 weeks). The pregnancy disability leave shall run concurrently with any family care or medical leave to which the employee may be entitled under the FMLA. An employee is entitled to take off the number of days or hours that the employee would normally work during 17 1/3 weeks of employment. For example, an employee, who regularly works forty (40) hours per week is entitled to take 693 hours of leave, and an employee who regularly works twenty (20) hours per week, would be entitled to 346.5 hours of leave.

### 3. Temporary Transfer.

Any employee affected by conditions related to pregnancy, childbirth, or related medical conditions is entitled to transfer temporarily to a less strenuous or hazardous position or to less strenuous or hazardous duties upon the certification of the employee's health care provider that the transfer is medically advisable— if the transfer can be reasonably accommodated.

### 4. Reasonable Accommodation.

The City will provide reasonable accommodation to an employee who is affected by pregnancy, childbirth, or related medical conditions as required by law.

#### B. Use of Accrued Leave.

An employee taking pregnancy-related disability leave must coordinate any available sick leave with her pregnancy-related disability leave. An employee taking pregnancy-related disability leave may, at her option, coordinate any other accumulated paid leaves, including, but not limited to, vacation time, holiday pay, compensatory time off, or administrative leave with her pregnancy-related disability leave. The paid leave shall run concurrently with the pregnancy-related disability leave, and shall not extend the employee's entitlement to pregnancy-related disability leave beyond the amount specified in Section 10.3 of this Policy.

### 1. Coordination with Wage Replacement Plans.

(a) This provision only applies when the employee's pregnancy-related disability leave is also designated as a serious health condition under the FMLA. Pursuant to the provisions of the FMLA, if an employee is receiving a wage replacement payment from State Disability Insurance, Short-Term Disability, and/or Long-Term Disability, the employee and the City may mutually agree to coordinate the employee's accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee's regular salary.

(b) If the employee is still receiving SDI benefits when her twelve (12) workweeks of leave under the FMLA expire, the City will require that she begin coordinating any additional accrued sick leave with the wage replacement benefits. The employee may also

elect to coordinate all other accrued paid leaves with the wage replacement benefits.

C. Notice.

An employee should notify her supervisor of her need for pregnancy-related disability leave or transfer as soon as she is aware of the need for such leave.

1. Foreseeable Events. Where the need for pregnancy-related disability leave or transfer is foreseeable, the employee must provide at least thirty (30) days' advance notice to the City of the need for pregnancy-related disability leave or transfer. If the leave or transfer is required in connection with any planned, non-emergency medical treatment or supervision, the employee shall consult with the City and make a reasonable effort to schedule any such planned medical treatment or supervision to minimize disruption to the City's operations, subject to the approval of the health care provider of the employee.
2. Unforeseeable Events. For non-emergency events that are not foreseeable thirty (30) days in advance, or when thirty (30) days' advance notice is not practicable, the employee must notify the City as soon as practicable under the circumstances, ordinarily within two (2) working days after the employee learns of the need for leave.
3. Notice of Intermittent Leave. In the event that an employee requires intermittent pregnancy-related disability leave, she shall notify the City of the anticipated dates for the absences as much in advance as possible.
4. Failure to Provide Notice. If the employee fails to provide the requisite thirty (30) day advance notice for foreseeable events without any reasonable excuse for the delay, the City reserves the right to delay the employee's right to take the FMLA/CFRA leave for up to thirty (30) days after the date the employee provides notice of the need for pregnancy-related disability leave or transfer.

D. Contents of Notice or Request for Extension.

1. All requests for pregnancy-related disability leave or transfer should include the anticipated timing and duration of the leave or transfer and be sufficient to make the City aware that the employee requires a pregnancy-related disability leave or transfer. Any requests for extensions of a pregnancy-related disability leave or transfer must be received at least five (5) working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the pregnancy-related disability leave or transfer.

2. If the employee has exhausted her leave entitlement under Section 10.3, the City will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section.

E. Intermittent or Reduced Schedule Leave. Pregnancy-related disability leave can be taken on an intermittent or on a reduced schedule basis when medically advisable, as determined by the employee's health care provider. The minimum pregnancy-related disability leave increment that can be taken by an employee is fifteen (15) minutes. If pregnancy-related disability is taken on an intermittent or reduced schedule basis and it is foreseeable based on planned medical treatment because of pregnancy, the City retains the discretion to temporarily transfer the employee to an alternative position, for which the employee is qualified, with equivalent pay and benefits, which better accommodates the employee's leave schedule, but need not have equivalent duties.

F. City Response to a Request for Pregnancy-Related Disability Leave or Transfer or Request for Extension.

Within five (5) working days of an employee's request for pregnancy-related disability leave or transfer, the City shall provide the employee with a written Eligibility Notice, which shall conform to the provisions of Section 10.2. The Eligibility Notice shall also inform the employee of her additional rights under the California PDL. If the employee has exhausted her leave entitlement under Section 10.3, the City will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section.

G. Timing of Certification.

Any request for pregnancy-related disability leave or transfer must be supported by a medical certification from a health care provider.

1. For foreseeable pregnancy-related disability leaves or transfers, employees must provide the required medical certification before the leave/transfer begins. When this is not possible, employees must provide the required certification within 15 days, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification may result in the denial or delay of foreseeable pregnancy-related disability leaves or transfers until such certification is provided.
2. In the case of unforeseeable leaves, failure to provide the required medical certification within fifteen (15) days of being requested to do so may result in a denial of the employee's continued leave until certification is eventually provided. Any request for an extension of the leave/transfer must also be supported by an updated certification.

- H. Contents of the Certification for Pregnancy-Related Leave. Employees are encouraged to use the City's medical certification when requesting pregnancy-related disability leave to ensure that all pertinent information is obtained. The following information must be included: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
- I. Contents of the Certification for Pregnancy-Related Transfers. Employees are encouraged to use the City's medical certification when requesting pregnancy-related disability transfer to ensure that all pertinent information is obtained. The medical certification for pregnancy-related transfer shall include: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the transfer is medically advisable.
- J. No Second/Third Opinions Allowed. There will not be a second or third opinion regarding pregnancy-related disability leave or transfer.
- K. Return to Work Certification. As a condition of restoration to her former position, an employee taking leave under the FMLA/PDL is required to provide the City with certification from her health care provider stating that she is able to resume her original job duties.
- L. City's Designation of Leave. Once an employee requests pregnancy-related disability leave or transfer, the Human Resources Director shall notify the employee in writing whether the requested leave or transfer is approved and qualifies as pregnancy-related disability leave or transfer. This designation shall comply with the provisions of Section 10.3, and shall also inform the employee of any additional rights and obligations under the California Pregnancy Disability Leave Law.
- M. Employment and Benefits Protection. The provisions in this Policy regarding employment and benefits protection in connection with FMLA/CFRA leave also apply to all pregnancy-related disability leaves, except that where the City's policy permits employees on paid leave and/or unpaid leave to accrue seniority, employees on paid and/or unpaid pregnancy-related disability leaves shall also accrue seniority.
- N. Reinstatement. Upon the completion of the employee's pregnancy-related disability leave or transfer period, and upon submission of the return to work notice, the employee shall be returned to the same position she previously held, or to a comparable position as permitted by law. However, for pregnancy-related disabilities, there is no reinstatement exception for key employees.

**SEC. 10.4 MILITARY FMLA LEAVE.**

The City provides for two (2) types of military family leave under FMLA and CFRA: military exigency leave, which is addressed in Section 10.4 A. and military caregiver leave, which is addressed in Section 10.4 B.

**A. Military Exigency Leave.****1. Overview.**

The City permits employees who have a covered military family member in the Armed Forces (including the National Guard or Reserves) to take up to twelve (12) workweeks of FMLA leave due to a qualifying exigency resulting from the covered military family member's active military duty (or call to active duty status) in support of a contingency operation. Leave granted under this Section shall count against the FMLA and CFRA leave granted.

**2. Definitions.**

(a) Armed Forces. The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves.

(b) Covered Active Duty or Call to Active Duty Status. One of the following:

(a) For a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or

(b) For a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation under a provision of law referred to in section 10.1(a)(13)(B) of Title 10, United States Code.

(c) Covered Military Family Member.

(a) An employee's spouse, registered domestic partner, son, daughter, or parent who is a member of the Armed Forces and is on Covered Active Duty or Call to Active Duty Status.

(b) For purposes of this definition only, "son" or "daughter" means the employee's biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, within the meaning of Section 10.2.D of this Policy, regardless of age.



(d) Covered Military Family Member's Child.

The biological, adopted, foster child, stepchild, legal ward, or child for whom the Military Family Member stands in loco parentis, within the meaning of Section 10.2.D of this Policy, who is either under the age of 18 or who is aged 18 or older but incapable of self-care because of a physical or mental disability at the time leave under this Section 10.4 is to commence.

(e) Covered Military Family Member's Parent.

The biological, adoptive, step, or foster father or mother, or an individual who stood in loco parentis, within the meaning of Section 10.2.D of this Policy, to a Covered Military Family Member who was under 18 years of age.

3. Qualifying Reasons for Military Exigency Leave.

Military exigency leave under CFRA can be taken for a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified in Section 3302.2 of the California Unemployment Insurance Code. Similarly, military exigency leave under FMLA can be taken for the following non-medical, non-routine activities only:

(a) Short-Notice Deployment Activities. If a Covered Military Family Member receives seven (7) or less calendar days' notice prior to the date of deployment, an employee may take FMLA leave to address any issue arising from an impending call or order to active duty in support of a contingency operation. The employee may take FMLA leave for up to seven (7) days beginning on the date the Covered Military Family Member receives the notice of impending call or order to active duty.

(b) Military Events and Related Activities. An employee may take FMLA leave to attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the Covered Military Family Member. An employee may also take FMLA leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American Red Cross that are related to the active duty or call to active duty status of a Covered Military Family Member.

(c) Childcare and School Activities. An employee may take FMLA leave for the following reasons, if the reason is necessitated by the Covered Military Family Member's active duty or call to active duty status, or circumstances arising from it:

(a) To make alternative childcare arrangements of a Covered Military Family Member's Child;

- (b) To provide childcare for a Covered Military Family Member's Child on an urgent, immediate need basis, but not on a regular, routine, or everyday basis;
- (c) To enroll in or transfer a Covered Military Family Member's Child in a new school or day care facility; and/or
- (d) To attend meetings with staff at a school or day care facility, such as regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a Covered Military Family Member's Child.

(d) Financial and Legal Arrangements. An employee may take FMLA leave in order to make or update financial or legal arrangements to address the Covered Military Family Member's absence while on active duty or call to active duty status; and/or to act as the Covered Military Family Member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the Covered Military Family Member is on active duty or call to active duty status (up to a period of ninety (90) days following the termination of the Covered Military Family Member's active duty status).

(e) Counseling Activities. An employee may take FMLA leave to attend counseling, provided that:

- (a) The need for counseling arises from the Covered Military Family Member's active duty or call to active duty;
- (b) Such counseling is provided by someone other than a health care provider; and
- (c) The counseling is for the employee, the Covered Military Family Member, and/or the Covered Military Family Member's Child. (Note that if medical counseling is needed due to a serious health condition, the employee may be able to take FMLA/CFRA leave under Section 10.2 instead.)

(f) Rest and Recuperation Activities. If a military member is granted short-term, temporary, rest and recuperation leave during the period of deployment, an employee may take FMLA leave to spend time with the military member. An employee may take FMLA leave for this purpose for up to fifteen (15) working days for each instance of rest and recuperation, beginning on the date the

Covered Military Family Member commences each instance of rest and recuperation leave.

(g) Post-Deployment Activities. An employee may take FMLA leave to attend arrival ceremonies, reintegration briefings, events, and any other official ceremony or program sponsored by the military for a period of ninety (90) days following termination of the Covered Military Family Member's active duty status. An employee may also take FMLA leave to address issues that arise from the death of a Covered Military Family Member while on active duty status, such as meeting and recovering the body of the Covered Military Family Member.

(h) Parental Care.

An employee may take FMLA leave for care of a Covered Military Family Member's Parent who is incapable of self-care.

"Incapable of self-care" means that the individual requires active assistance to provide daily self-care in three (3) or more of the following activities: caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, or other activities or instrumental activities of daily living.

An employee may take parental care leave for the following purposes when the need arises from the covered active duty or call to active duty of the Covered Military Family Member:

- (a) To arrange for alternative care of the Covered Military Family Member's Parent from the existing care arrangement;
- (b) To provide care for the Covered Military Family Member's Parent on an urgent, immediate need basis (as opposed to a routine, regular, or everyday basis);
- (c) To admit to or transfer to a care facility the Covered Military Family Member's Parent; or
- (d) To attend meetings with staff at a care facility, such as meetings with hospice or social service workers, which are not regular or routine.

(i) Additional Activities.

An employee may take FMLA leave for another form of exigency, provided that:

- (a) The reason for the leave arises out of the Covered Military Family Member's active duty or call to active duty;

- (b) The City and the employee mutually agree that such leave shall be considered taken for a qualifying exigency; and
- (c) The City and employee mutually agree on the timing and duration of the leave.

4. Employee Notice of Need for Military Exigency Leave

(a) Timing of Notice.

Employees are required to give notice of the need for military exigency leave as soon as practicable under the circumstances

(b) Content of Notice.

Employees are required to provide the City with sufficient information, depending on the situation, to notify the City as to the anticipated timing and duration of the leave, that a Covered Military Family Member is on active duty or call to active duty status, and that one of the qualifying exigencies in Section 10.4 is present.

(c) Updates from Employee.

The employee is required to advise the City as soon as is practicable when the dates of leave or other circumstances change.

5. City Response to Notice of Need for Military Exigency Leave.

The City will request any additional, necessary information needed to process the employee's request and will also follow the procedures set forth in responding to an employee's notice that they have a need for military exigency leave.

6. Certification of Need for Military Exigency Leave.

The City will request certification of the employee's need for military exigency leave when it provides notice under Sections 10.2 and/or 10.4, and will provide the employee with a form to complete or an explanation of the information needed. Employees requesting military exigency leave for the first time for a particular active duty or call to active duty are also required to provide the City with a copy of the military member's active duty orders.

(a) Required Information for Certification.

- (a) A signed statement or description by the employee of the facts supporting the request for leave for one (1) or more of the reasons set forth in this Section and any available supporting written documentation, including, but not limited to, meeting announcements, appointment confirmations, or a copy of a bill for services.

- (b) The approximate date on which the reason for the leave commenced, or will commence.
  - (c) The applicable timeframe.
    - (i) If, for a single, continuous period of time, the beginning and end dates for the employee's absence from work;
    - (ii) If, on an intermittent or reduced schedule basis, the estimated frequency and duration of the employee's absences.
  - (d) For leave involving a meeting with a third party, appropriate contact information for the individual or entity, such as name, title, organization, address, telephone number, fax number, and email address, as well as a brief description of the purpose of the meeting.
  - (e) For leave involving rest and recuperation activities, a copy of the Covered Military Family Member's Rest and Recuperation orders, or other documentation issued by the military indicating that the Covered Military Family Member has been granted Rest and Recuperation leave and identifying the dates of that Rest and Recuperation leave.
- (b) Timing of City's Notice of Required Certification. The City will request the certification under the timeframes set forth in Sections 10.2 and 10.4.
- (c) Insufficient or Incomplete Certification. Employees are required to provide a complete and sufficient certification. If an employee provides an incomplete or insufficient certification, the City will give the employee written notice of the deficiencies and seven (7) calendar days to cure the deficiencies, unless seven (7) days is not practicable, despite the employee's diligent, good faith efforts. The employee's leave may be denied if the employee fails to provide timely a required certification.
- (d) Verification of Certification. The City may verify the employee's certification by contacting the appropriate Department of Defense unit to verify the military member is on active duty or call to active duty status. If the exigency involves meeting with a third party, the City may contact the entity or individual with whom the employee is meeting to verify the meeting or appointment schedule and the nature of the meeting. The City will not request additional

information. No permission from the employee is required for such verification.

B. Military Caregiver Leave.

1. Overview.

An employee who is the spouse, registered domestic partner, son, daughter, parent, or next of kin of a Covered Service member in the Regular Armed Forces, National Guard, or Reserves who has incurred a serious injury or illness in the line of duty while on active duty may take up to twenty-six (26) workweeks in a single twelve (12) month period per covered service member and per injury/illness of the service member. Leave granted under this Section shall run concurrently with the FMLA and CFRA leave granted under Section 10.2 (unless the employee is caring for their "next of kin" who is not covered by the CFRA). Leave granted under this Section shall be included in computing the employee's twelve (12) weeks of leave granted under the FMLA, so that an employee may not, under any circumstances, exceed twenty-six (26) total weeks of FMLA leave in a rolling twelve (12) month period.

2. Definitions.

(a) Armed Forces.

The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves.

(b) Authorized Health Care Provider.

For purposes of completing the certification, any one of the following may meet the requirement:

- (a) United States Department of Defense ("DOD") health care provider;
- (b) A United States Department of Veterans Affairs ("VA") health care provider;
- (c) A DOD TRICARE network authorized private health care provider;
- (d) A DOD non-network TRICARE authorized private health care provider; or
- (e) Any health care provider permitted to provide medical certification under Section 10.2 of this Policy.

(c) Covered Service Member.

- (a) A current member of the Armed Forces who is undergoing medical treatment, recuperation, or

therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a Serious Injury or Illness; or

- (b) A veteran who is undergoing medical treatment, recuperation, or therapy for a Serious Injury or Illness and who was a member of the Armed Forces, at any time during the period of five (5) years preceding the date on which the employee commences FMLA leave to care for the veteran. If the veteran was discharged or released under conditions other than dishonorable, prior to March 8, 2013, the period from October 28, 2009 through March 8, 2013 shall not be counted in determining whether the veteran's last day of service falls within the five-year period.

(d) Next of Kin. The nearest blood relative of a Covered Service member (other than their spouse, registered domestic partner, parent, son, or daughter), in the following priority order:

- (a) A blood relative designated in writing by the service member as their nearest blood relative for purposes of military caregiver leave under the FMLA, who, if so designated, shall be the only next of kin for purposes of this Policy;
- (b) Blood relatives who have been granted legal custody of the service member by court decree or statutory provisions:
- (c) Brothers or sisters;
- (d) Grandparents;
- (e) Aunts or uncles; and
- (f) First cousins.

If no blood relative has been designated, all blood relatives at the next applicable level of priority shall be considered "next of kin" who may take FMLA leave to provide care for the Covered Service member, either simultaneously or not.

(e) Outpatient Status. The status of a Covered Service member who is assigned to a military medical treatment facility as an outpatient, or a unit established for the purpose of providing command and control of members of the military receiving medical care as outpatients.

(f) Parent of a Covered Service member. A Covered Service member's biological, adoptive, step or foster father or mother, or an individual who stood in loco parentis to a Covered Service member.

(g) Son or Daughter of a Covered Service member. A Covered Service member's biological, adopted, foster child, step child, legal ward, or child for whom the Covered Service member stood in loco parentis, within the meaning of Section 10.2.D of this Policy, except that this definition shall apply regardless of the child's age.

(h) Serious Injury or Illness.

(a) For a current member of the Armed Forces. An injury or illness incurred by a Covered Service member in the line of duty on active duty (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty or active duty), and that may render the service member medically unfit to perform the duties of their office, grade, rank, or rating.

(b) For a veteran who is a Covered Service member.

An injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty) and that manifested itself before or after the member became a veteran; and is one of the following:

- (i) A continuation of a Serious Injury or Illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of their office, grade, rank, or rating; or
- (ii) A physical or mental condition for which the veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of fifty (50) percent or greater, and the VASRD rating is based, in whole or in part, on the condition precipitating the need for the military caregiver leave; or
- (iii) A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or



- (iv) An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

- (i) Veteran. A person who served in the Armed Forces, and who was discharged or released therefrom under conditions other than dishonorable.

### 3. Terms of Military Caregiver Leave.

Except for the differences set forth in this Section 10.4., the City shall grant military caregiver leave under the same terms that FMLA/CFRA leave is granted under Section 10.2 to care for a parent, spouse, registered domestic partner, or child with a serious health condition.

### 4. Required Certifications.

The City will provide the employee with a form to complete that certifies the service member's family relationship, military status, and Serious Injury or Illness. The employee is required to ensure that this form, or an equivalent form containing the information set forth in this Section, is completely and sufficiently completed and returned within the same time periods set forth in Section 10.2 of this Policy. If the employee fails to provide a complete and sufficient form, the City will inform him/her of the deficiencies, and grant the employee at least seven (7) calendar days to cure them.

- (a) Certification of Family Relationship and Military Status. The City will require proof of the service member's family relationship to the employee and proof of the service member's military status for the employee's first request of military caregiver leave for a particular illness or injury for a particular service member.

- (b) Certification of Serious Illness or Injury. The City will require certification from an Authorized Health Care Provider that the service member is suffering from a Serious Illness or Injury. However, the employee will not be required to reveal the service member's diagnosis.

- (a) The Authorized Health Care Provider may base the certification upon their personal determination and/or may certify their reliance upon determination(s) made by an authorized DOD representative or an authorized VA representative. The certification must also include:

- (i) The name, address, appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the

medical specialty, and the basis on which the person is an authorized health care provider, as set forth in Section 10.2, above;

- (ii) The approximate date on which the injury or illness commenced, or was aggravated, and its probable duration; and
- (iii) Information sufficient to establish that the Covered Service member is in need of care, and addressing the following matters:
  - i) Whether the need for care is for a single continuous period, and if so, an estimate of the beginning and ending dates, including any time needed for treatment and recovery;
  - ii) Whether there is a medical necessity for periodic care, based on a schedule of planned medical treatment, and if so an estimate of the treatment schedule;
  - iii) Whether there is a medical necessity for periodic care for reasons other than planned medical treatment, such as episodic flare-ups, and if so, an estimate of the frequency and duration of the periodic care.

## 5. Alternative Certifications

(a) Special Automatic Certification. The DOD may issue a special invitation to a member(s) of a service member's family when a DOD health care provider has determined that the injury or illness is serious enough to warrant the immediate presence of a family member at the service member's bedside. If the DOD issues an invitational travel order ("ITO") or invitational travel authorization ("ITA") for "medical purposes" to any member(s) of the service member's family (even if the employee's name is not on it), the ITO or ITA constitutes automatic certification of military status and Serious Injury or Illness for the period of time specified in the ITO or ITA for the employee to take leave on either a continuous or intermittent basis, and the City will not require further certification of those matters for the specified period of time. However, in this circumstance, the City may still require proof of the covered family relationship between the employee and the service member. The ITO or ITA is in effect for the duration specified on it. If the employee wishes to request leave to care for a Covered Service

Member beyond the period of time specified in an ITO or ITA, he/she must submit additional certification in accordance with Section 10.2 above.

(b) Documentation of Enrollment in Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. As another alternative to the certification required, the City will accept as sufficient certification documentation of the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, whether or not the employee is the named caregiver in the enrollment documentation. However, the City may still require proof of the covered family relationship between the employee and the service member. The City may also require proof of the service member's date of discharge and proof that the service member's discharge was other than dishonorable.

6. Authentication and Clarification. The City may seek authentication and clarification of a certification issued this Section, of an ITO or ITA, or of documentation of enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
7. Second and Third Opinions. No second or third opinions of the service member's Serious Illness or Injury will be sought from an Authorized Health Care Provider who meets the criterion set forth in this Section; however, the City may request a second or third opinion by an Authorized Health Provider who meets the criterion in 10.5. No second or third opinions will be sought regarding an ITO or ITA for the period of time specified in the ITO or ITA.
8. Recertification. No recertification of the service member's Serious Illness or Injury will be sought.
9. Administrative Delays in Issuance of Military Documents. When an employee is unable to submit required documentation within the timeframe required under Section 10.3, despite their diligent, good faith efforts to obtain such documents, the City will not delay or deny leave on the grounds of such administrative delay.

#### **SEC. 10.5 EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE**

1. Employees are expected to fully cooperate with the City in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the City's inquiries for information to determine whether the employee is requesting leave under the FMLA, CFRA, and/or PDL.

Employees are also required to consult with the City and make a reasonable effort to schedule foreseeable treatments so as to not unduly disrupt the City's operations. Employees on family care or medical leave must respond to the City's reasonable inquiries and keep the City updated as to the status of the employee's family care or medical leave.

2. Failure to cooperate with the City or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by the FMLA, CFRA, and/or PDL. Employees who have questions about their responsibilities under this Policy should direct their inquiries to the Human Resources Department.

## **RULE 11. LAYOFF/SEPARATION/RETIREMENT**

### **SEC. 11.1 ELIMINATION OF POSITIONS**

Decreased public interest or changes in the City's operational or fiscal priorities may result in the elimination or curtailment of a public service activity which may therefore require the layoff of one or more employees.

### **SEC. 11.2 LAYOFF PROCEDURE**

Whenever, in the judgment of the City, it becomes necessary, due to the lack of work, lack of funds, or other economic reason, or because the necessity for a position no longer exists, the City Council may lay off any employee from a position. The said layoff shall not be subject to appeal.

Employees laid off shall be given at least fourteen (14) calendar days' notice, and impacts bargaining with represented employee groups will occur as required by law.

Whenever there is a reduction in the work force, the City Manager shall first transfer the employee to a vacancy, if any, in any non-promotional position for which the laid-off employee is qualified. In order for the employee to retreat to a lesser position, the employee must request displacement action in writing, explaining the employee's qualifications, to the City Manager within five (5) working days of receipt of the layoff notice. Employees retreating to a lesser position 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 position from which the employee was laid off.

Temporary, seasonal, and regular employees shall be laid off according to the needs of the service as determined by the City Manager.

In cases when there are two or more regular positions with the same job description from which the layoff is to be made, it shall be the City Manager's responsibility to consider the following criteria before making a discretionary determination regarding order of layoff:

- A. Overall tenor of past evaluations (evaluations in the most recent sixty (60) days prior to layoff are excluded);
- B. Seniority; and
- C. Input from the affected department supervisor.

### **SEC. 11.3 RESIGNATIONS**

Resigning employees shall be required to file a written resignation stating the effective date and reason(s) at least two (2) weeks prior to leaving the City's service, unless the time limit is waived by the City Manager. The effective resignation date should be the last day the employee actually worked. The resignation shall be forwarded to the HR.

### **SEC. 11.4 TERMINATIONS**

The City Manager may terminate:

- A. Employees at any time while they are on probation.
- B. Employees in the exempt service at any time. This authority applies only to those exempt employees the City Manager has the authority to appoint.
- C. Employees for disciplinary purposes in accordance with Rule 13, to the extent applicable.

### **SEC. 11.5 EXIT INTERVIEW**

Any person leaving the City Service may be interviewed by the City Manager or designee. The purpose of the interview shall be to allow the City Manager to receive and give the employee an opportunity to provide their candid observations of the City employment in order to help improve personnel management and departmental functioning.

### **SEC. 11.6 BENEFITS AT SEPARATION**

When an employee is separated for any reason, all benefits shall end as of the date of termination, with the exception of the employee's health benefits, which may continue through the end of the month in accordance with the rules of the applicable health benefits provider. Any accrued and unused vacation shall be paid out at separation. In the event an employee has received any advance of vacation and used more than the employee accrued prior to their separation date, the amount of the un-accrued but used vacation shall be deducted from the employee's final compensation, except as otherwise required by law.

**RULE 12. OUTSIDE EMPLOYMENT/POLITICAL ACTIVITIES/CONTRACTS AND CONFLICTS OF INTEREST/CODE OF ETHICS**

**SEC. 12.1 OUTSIDE EMPLOYMENT**

During the employees' work day, they are expected to devote full attention to their prescribed duties. Outside of their working hours, employees may engage in outside employment, enterprise or activity (collectively "outside employment") under the following circumstances only:

1. They notify the Department Director prior to beginning outside employment, providing sufficient information for the Department Director to determine whether the outside employment is consistent with this Rule.
2. The Department Director shall assess whether any of the following factors are involved in the proposed outside employment:
  - (a) Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employee's City employment as a part of employee's duties as a City employee; or
  - (b) Performance of an act in other than the employee's capacity as a City employee which act may later be directly or indirectly subject to the control, inspection, review, audit, or enforcement by such employee or the department by which the employee is employed; or
  - (c) Conditions or factors which are likely to directly or indirectly lessen the efficiency of the employee in the employee's regular City employment, or conditions in which there is a substantial danger of injury or illness to the employee; or
  - (d) Use of City time, facilities, equipment, and supplies, prestige, influence, or confidential information of the employee's City office or employment for private gain or advantage; or
  - (e) Solicitation of future employment with any person or business entities doing business with the City over which the employee has some control or influence in employee's official capacity at the time of the transaction.
3. The Department Director will approve proposed outside employment that they determine does not:

- (a) conflict with or is not incompatible or inconsistent with the employee's City responsibilities, including performance of overtime and emergency duties and any other aspect of City operations;
  - (b) lessen the effectiveness of the employee; and
  - (c) create a conflict of interest.
4. The Department Director shall advise the employee in writing as to whether the outside employment is approved or prohibited.
  5. An employee may submit a written appeal to the City Manager within fourteen (14) days from the employee's receipt of the Department Director's written determination that a proposed outside employment is prohibited. The written appeal shall specify the grounds on which the employee challenges the Department Director's determination and shall include an attachment with all relevant documentary evidence for the appeal. The City Manager shall issue a written decision to the employee within fourteen (14) days from the date of the meeting. The decision of the City Manager shall be final.

An employee with approved outside employment must notify the Department Director within one (1) working day regarding any changes to the terms or conditions of the outside employment that may have a potential adverse effect on the application of one or more of the factors under Section 12.1.

Employees shall be subject to disciplinary action pursuant to Rule 13 for violation of this Rule, including, but not limited to, failure to disclose outside employment, failure to provide timely updates regarding changes to outside employment, and intentional inclusion of material mis-statements or exclusion of material information in the employee's description of the outside employment.

#### **SEC. 12.2 POLITICAL ACTIVITIES**

Employees may not solicit political funds or contributions from other employees while on duty or on City property, nor may any employee participate in political activities while on duty or while in any uniform which would represent the City.

#### **SEC. 12.3 CONTRACTS AND CONFLICTS OF INTEREST**

No City employee can be financially interested in any contract made by him/her in their official capacity, or by anybody or board of which he/she is a member. All employees of the City are required to adhere to applicable local, state, and federal conflict of interest requirements and prohibitions, including but not limited to the provisions of Article 4 of Title 1, Division 4, Chapter 1 of the Government Code.

## **SEC. 12.4 CODE OF ETHICS**

Employees of the City at all levels are guardians of public trust. Employees are required to be impartial and responsible in the fulfillment of their duties. The citizens and customers of St. Helena expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

### **1. Responsibilities of Public Service**

All employees shall uphold the Constitution of the United States, the Constitution of the State of California, and to comply with Federal, State, and Local laws and City Policies. Recognizing the special responsibilities of serving the City and its citizens and customers, employees are required to maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern, and responsiveness. The conduct of employees in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain.

In addition, all employees shall comply with all applicable provisions of California law governing public employees and officials, particularly the California Political Reform Act and its provisions on gifts and conflicts of interest.

### **2. Use of Confidential Information**

City employees shall not use confidential information acquired by or available to them in the course of their employment with the City for personal gain or for personable, non-City business related reasons.

### **3. Use of City Employment and Facilities for Personal Gain**

All employees shall not engage in any activity which results in any of the following:

- (a) Use of time, facilities, equipment, supplies, funds, or other resources of the City for the private advantage or gain for oneself or another or for campaign related political activities;
- (b) Use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others;
- (c) Disclosure or use of official information that is not available to the general public for private advantage or gain for oneself or another; and/or
- (d) Use of the authority of their position with the City to discourage, restrain, or interfere with any person who chooses to report potential violations of any law or regulation.

No employee shall directly or indirectly accept:



(a) Private advantage, remuneration, or reward for oneself or another as a result of the prestige or influence of the City office, employment, or appointment;

(b) Financial consideration from any source other than the City for the performance of their official duties, except for stipends received as representatives on boards, commissions or committees at a local, regional, or state level; or

No employee shall give special treatment or consideration to any individual or group beyond that available to any other individual or group.

No employee shall discriminate against or harass a citizen or co-worker on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military and veteran status, and/or any other category protected by federal and/or state law.

All employees shall conduct themselves in a courteous and respectful manner at all times during the performance of their duties.

#### 4. Reporting of Improper Activities

The City has a responsibility to conduct its affairs ethically and in compliance with the law. City employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State, or Federal law with their immediate supervisor or another management employee within the employee's department. Employees may also contact the City Manager or Human Resources department.

#### 5. Enforcement.

In addition to any other penalty as provided by law, any employee found to be in violation of the Code of Ethics shall be subjected to appropriate disciplinary action, up to and including, employment termination.

### **RULE 13. DISCIPLINARY ACTIONS**

#### **SEC. 13.1 CAUSES**

A. Disciplinary measures may be taken for any good and sufficient cause. The extent of the Disciplinary Action taken shall be commensurate with the offense provided that the prior employment history of the employee may also be considered pertinent. Cause may include, but is not limited to, the following:

1. Violation of City Personnel Rules, ordinances, regulations, rules, and/or administrative policies and procedures; or of standards established under California or federal law;

2. Failure to maintain job performance standards or to properly perform assigned duties;
3. Theft of, harm to, or waste of City property or the personal property of another;
4. Lack of workplace and job-related cooperation;
5. Insubordination;
6. Dishonesty;
7. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
8. Unauthorized absence from employment or excessive absenteeism;
9. Tardiness;
10. Failure to maintain satisfactory working relationships with other employees or the public;
11. Reporting for work, or being at work, under the influence of or in possession of alcohol, or non-prescribed controlled substances;
12. Assault, battery, or fighting while on duty or under the guise of office;
13. Gambling on City property or during working hours;
14. Sleeping on the job or leaving the job without authorization;
15. Improper use of City funds;
16. Acceptance of bribes or extortion;
17. Unauthorized use of City property;
18. Falsification of records, including information provided on an application for employment or on time sheets;
19. Failure to properly care for City property;
20. Acceptance of any gift, (other than as provided for by written City policy) reward or other form of compensation in addition to compensation for performance of official duties;
21. Carelessness or negligence;
22. Misuse or failure to maintain any employment qualification;

23. Discourteous treatment of the public or fellow employees;
24. Disorderly conduct or horseplay;
25. Failure to comply with safety standards;
26. Interfering with the work performance of others;
27. Abuse of leaves of absence, including sick leave; and/or
28. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.

- B. Reduction in Pay. Reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure are not disciplinary measures and do not trigger any rights of appeal under this Rule.

### **SEC. 13.2 AUTHORITY FOR DISCIPLINARY ACTIONS**

Department Directors and/or the City Manager shall have authority to take Disciplinary Action.

Temporary or part-time employees may be discharged by the Department Head. A full-time employee may be discharged only by the City Manager. Department Heads may be discharged only by the City Manager, with the exception of the Fire Chief as provided in the Municipal Code.

The Human Resources Department shall be notified of any contemplated Disciplinary Action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Human Resources Department may be notified as soon as possible subsequent to the time the action is taken.

### **SEC. 13.3 TYPES OF DISCIPLINARY ACTION**

- A. Lesser Disciplinary Action.
  1. Oral Reprimand. Oral reprimand as a Disciplinary Action means the employee is informed of their poor performance verbally by their supervisor. The employee shall have no right to prior notice and no right of appeal.
  2. Written Reprimand. Written reprimand as a Disciplinary Action means an official notification of the employee that there is cause for dissatisfaction with their services and that further disciplinary measures may be taken if said cause is not corrected. Reprimand notices shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any appeal hearing. The employee shall have no right to prior notice and no right of appeal, but shall have a right to attach a

response that will be included with the reprimand in the personnel file.

3. Suspension Without Pay For Less Than Five (5) Working Days. Suspension without pay shall be a temporary separation from City service. Prior to the imposition of the suspension without pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the suspension without pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the suspension without pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.
4. Reduction In Pay. Reduction for a time period equivalent to less than a five (5) working day suspension. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. The maximum reduction in pay that may be given for any one Disciplinary Action shall be two (2) steps within the range for that class. Reduction in pay shall become effective on the first of the month following the effective date of the Disciplinary Action. Prior to the imposition of the reduction in pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the reduction in pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the reduction in pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.

B. Serious Disciplinary Actions. Serious Disciplinary Actions require due process as set forth in Rule 13.4. Serious Disciplinary Actions include the following:

1. Reduction in range equivalent to a five (5) or more working day suspension without pay.
2. Suspension without pay for five (5) or more working days, but not more than thirty (30) working days. Suspension without pay shall be a temporary separation from City service.
3. Demotion without consent as Disciplinary Action, shall be a reduction in classification or rank, with reduction in salary.
4. Dismissal means the discharge of an employee from the City service on the initiative of the employee's supervisor. Such termination of employment shall be permanent.

#### **SEC. 13.4 PROCEDURES FOR SERIOUS DISCIPLINARY ACTIONS**

- A. Notice of Proposed Disciplinary Action. In instances of serious Disciplinary Actions as defined in Section 13.3, employees shall receive a written notice of proposed Disciplinary Action.
1. The notice of proposed Disciplinary Action shall state the proposed Disciplinary Action and the effective date and specific reasons for the proposed Disciplinary Action.
  2. The notice of proposed Disciplinary Action shall include copies of all written materials supporting the proposed action.
  3. The notice of proposed Disciplinary Action shall inform the employee of their right to respond, either orally or in writing, to the City Manager, as appropriate, within five (5) working days of the date of the notice of proposed Disciplinary Action if it was personally delivered, or within seven (7) working days of the date of the notice of proposed Disciplinary Action if it was delivered by United States mail. If the employee requests to respond orally to the notice of the proposed Disciplinary Action, the City Manager, as appropriate, shall schedule a meeting as soon as possible.
- B. Notice of Decision. After review of the employee's timely written response, if any, or following the conclusion of the meeting, the City Manager shall issue and deliver to the employee a Notice of Decision which shall be a written statement of the decision to uphold, modify, or reject the proposed Disciplinary Action. Such action to be taken may not include discipline more severe than that described in the notice of proposed Disciplinary Action. Absent an agreed extension of time, the Notice of Decision shall be served within seven (7) working days after the receipt of the written response or the conclusion of the meeting, whichever is later.
- C. Disciplinary Appeal Hearing.
1. Right to a Disciplinary Appeal Hearing. Any employee who has received a Notice of Decision imposing serious Disciplinary Action shall be entitled to request an evidentiary appeal of the imposition of discipline.
  2. Requesting a Disciplinary Appeal. An employee wishing to appeal the imposition of a serious Disciplinary Action shall initiate the appeal by filing a written request with the City Manager within five (5) working days of the date of the Notice of Discipline if it was personally delivered, or within seven (7) working days of the date of the notice of imposition of discipline if it was delivered by United States mail. The request shall be addressed to the City Manager, and shall identify the subject matter of the appeal, the grounds for

the appeal, and the relief desired by the employee. All disciplinary appeal hearings shall be conducted in private unless the employee requests a public hearing.

3. Scheduling the Disciplinary Appeal Hearing with the City Council. The City Manager shall schedule the disciplinary appeal hearing to take place at the closed personnel session at the next regular meeting of the City Council, if so desired, the City Council may meet earlier by calling a special meeting.
4. Representation and Employee Appearance at Disciplinary Appeal Hearing. The employee is entitled to be represented by counsel or other representative at the disciplinary appeal hearing. However, an employee who requests a disciplinary appeal hearing must be present during the disciplinary appeals hearing. Failure to be present shall constitute a waiver of the employee's right to an appeal. Waiver will not occur if the employee can demonstrate good cause for their failure to be present within three (3) working days from the date the employee fails to appear.

D. Conduct of Disciplinary Appeal Hearings. The City Council, at its sole discretion may elect to have a neutral hearing officer conduct the appeal hearing. The proceedings before the City Council or hearing officer, as applicable shall be conducted as follows:

1. All parties shall have the following rights:
  - (a) To call and examine witnesses under oath;
  - (b) To introduce exhibits;
  - (c) To cross examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
  - (d) To impeach any witness regardless of which party first called him/her to testify;
  - (e) To rebut the evidence against them; and
  - (f) To present oral and written arguments
2. The City shall have the burden of proof, and the burden shall be by the preponderance of the evidence.
3. The hearing shall not be conducted in accordance with the technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of

serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in a court of law. The City Council's decision shall not be invalidated by any informality in the proceedings.

4. Hearsay evidence may be used for the purpose of explaining any direct evidence but shall not be sufficient in and of itself to support a finding unless it would be admissible over objections in civil actions.
5. The City Council or hearing officer shall not take testimony from one (1) party outside the presence of the other.
6. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
7. Irrelevant evidence and unduly repetitious evidence shall be excluded.
8. The City Council or hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence.
9. The City Council or hearing officer shall have the power to exclude any witnesses.

E. Issuance of Decision.

Within thirty (30) days after the close of the hearing (which shall not occur prior to completion of a reporter's transcript, if requested by either party), a written statement of decision, containing findings of fact and conclusions of law, shall be issued by the City Council or hearing officer. If the hearing is conducted by a hearing officer, the hearing officer's decision shall be advisory to the City Council, and the City Council shall have the discretion to accept or reject the hearing officer's decision. The City Council shall have the authority to affirm, revoke, or reduce the Disciplinary Action imposed against the employee. The City Council may not provide for discipline more stringent than that imposed by the City Manager.

If the City Council declines to accept the findings and conclusions made by the hearing officer, the City Council must review the record or provide for an additional opportunity to be heard, after which it may adopt the findings and conclusions made by the hearing officer, or adopt its own findings and conclusions.

The City Council's decision constitutes a final resolution of any Disciplinary Action and no further appeal shall be permitted within the City's administrative process. A copy of the City Council decision shall be provided to the employee and shall be made public at the next public session of the City Council.

Notwithstanding the above, the City Council shall not have binding authority to add, modify, or subtract from the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. Further, the City Council shall not have the authority or power to

render a binding decision that requires the City to expend additional funds, to hire additional personnel, to buy additional equipment or supplies, or to pay wages or benefits not specifically provided for in the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. The City Council shall not have the authority to require the City to perform any other action that would violate state or federal laws.

F. Judicial Review.

An employee may seek judicial review of the final decision by the City Council in accordance with Section 1094.5 of the California Code of Civil Procedure by filing a petition for a writ of mandate. Section 1094.5 of the Code of Civil Procedure requires that the petition writ of mandate must be filed not later than the ninetieth (90<sup>th</sup>) day following the date on which the City Council's decision becomes final.

**SEC. 13.5 ADMINISTRATIVE LEAVE WITH PAY**

An employee may be placed on an Administrative Leave with Pay temporarily to allow the City time to fully investigate the facts of an alleged violation, while the Disciplinary Action is in process, or when the City Manager or Human Resources Director determine that it is in the best interests of the City.

The employee on Administrative Leave with Pay must be reasonably available by telephone during their normal working hours (subject to adjustment, as provided below) and able to report to the City within sixty (60) minutes if directed to do so. An employee's normal working hours may be altered while on Administrative Leave with Pay to correspond with the City's typical business hours. When an employee is placed on Administrative Leave with Pay during this investigation, the employee may be directed not to discuss the alleged violation or the Disciplinary Action with anyone, except a legal or employee association representative of their choice. Failure to remain reasonably reachable by telephone or to report to the City within sixty (60) minutes of being directed to do so shall be considered insubordination, and could result in additional Disciplinary Action. The employee shall be informed that communicating with others, except a legal or employee association representative of their choice, about a pending investigation constitutes insubordination and is a separate and independent ground for discipline.

**SEC. 13.6 TIME EXTENSIONS**

Any time limitations or requirements as set forth under this Rule may be extended or changed by mutual written agreement of the parties.

**SEC. 13.7 DELIVERY OF NOTICES**

When notice is required under this Rule, the notice shall be given to the affected employee either by delivery of the notice to the employee in person; or if the employee is not available for personal delivery, by placing the notice in the United States mail, first Class, postage paid, and by traceable overnight delivery service (FedEx or equivalent) in an envelope addressed to the employee's last known home address. It shall be the



responsibility of the employee to inform the City, in writing, of their current home address and of any change in such address, and the information so provided shall constitute the employee's "last known home address". Such personal delivery or mailing shall be presumed to provide actual notice to the affected employee.

## **RULE 14. GRIEVANCE AND COMPLAINT PROCEDURE**

### **SEC. 14.1 ESTABLISHMENT**

These procedures are established in order to provide adequate opportunities for employees to bring forth their views relating to any unfair or improper aspect of their employment situation and to seek correction.

### **SEC. 14.2 SCOPE OF PROCEDURES**

The procedures set forth in this Rule shall apply to all employee complaints and grievances, as defined herein, except where other methods have been specifically prescribed in these Rules, such as in the matters of dismissal, demotion and reduction, or in an applicable memorandum of understanding between the City and an exclusive representative of a unit or unit of employees.

### **SEC. 14.3 DEFINITIONS**

- A. Complaint. An allegation or charge that the complaining employee has suffered a wrong as a result of management action or inaction.
- B. Complaint Procedure. The process by which a determination is made as to whether or not a wrong has been committed. Complaints may not be filed over matters for which there is a separate appeal, which are subject to the grievance procedure, or which are expressly excluded from the grievance procedure pursuant to Section 14.3.
- C. Grievance. An expressed claim by an employee that the City has violated, misinterpreted, or misapplied an obligation to the employee as such obligation is expressed and written in a resolution, memorandum of understanding, or these Rules. Specifically excluded from the grievance procedures are the following:
  - 1. Performance evaluations;
  - 2. Deferred merit salary increases;
  - 3. All Disciplinary Actions;
  - 4. Probationary dismissals upon original appointment or rejection from probation;
  - 5. Policy decisions of the City Council, including but not limited to resolutions, ordinances and minutes orders;

6. Complaints under the jurisdictions of Workers' Compensation law or Occupational Injury law or the applicable procedures for such complaints;
  7. Transfer to another Position in the same classification without a loss of pay; and
  8. Matters for which there is a separate investigation procedure or appeal process, including, but not limited to, the harassment prevention policy and disciplinary action.
- D. Grievance Procedure. The process by which the validity of a grievance is determined.

#### **SEC. 14.4 COMPLAINT PROCEDURE**

- A. Step 1. The employee shall discuss any complaint with their immediate supervisor within ten (10) working days after the employee knew, should have reasonably known, of the circumstances which for the basis of the alleged complaint. Grievances not timely raised shall be deemed waived. The immediate supervisor is required to review every complaint and attempt to settle it as quickly and fairly as possible. The immediate supervisor shall issue a written decision to the employee within five (5) working days from the date of their meeting with the employee.
- B. Step 2. If the action taken by their immediate supervisor is not satisfactory, the employee shall submit their complaint in writing to the City Manager within ten (10) working days of receipt of the immediate supervisor's written decision. The City Manager or designee shall meet and discuss the complaint with the employee within five (5) working days of their receipt of the complaint. The City Manager or designee shall have twenty (20) days from the date of their meeting with the employee to issue a decision. The decision of the City Manager or designee is final.

#### **SEC. 14.5 GRIEVANCE PROCEDURE**

- A. Step 1. Responsibility of Employee / Informal Resolution. The employee shall inform, in writing, their immediate supervisor of their grievance and relevant facts within five (5) working days after the employee knew, or reasonably should have known, of the circumstances giving rise to the grievance. The immediate supervisor shall hold discussions and attempt to resolve the matter after the employees has presented their grievance. Within ten (10) working days of receiving the grievance, the immediate supervisor shall give the employee a written reply after the discussions. It is the intent of this informal meeting that at least one personal conference be held between the employee and their immediate supervisor.
- B. Step 2 Department Head Review. If the grievance is not satisfactorily resolved in Step 1, the grievant must submit their grievance in writing to

the Department Head within ten (10) working days after receiving their immediate supervisor's response. The statement must include the following:

1. A concise statement of the grievance including specific reference to any law, policy, rule, regulation and/or instruction deemed to be violated, misapplied or misinterpreted;
2. A full explanation of the circumstances involved;
3. The decision rendered by the immediate supervisor at Step 1;
4. The specific remedy sought by the grievant.

The Department Head or their designee shall take such review and investigative action as they deem necessary and hold a meeting with the grievance. The Department Head or their designee shall inform the grievant of their decision in writing within ten (10) days after receiving the grievance.

C. Step 3 City Manager Review. If the grievance is not satisfactorily resolved in Step 2, the grievant must present their grievance in writing to the City Manager within ten (10) working days after receiving their Department Head's written decision. The statement must include the following:

1. A concise statement of the grievance including specific reference to any law, policy, rule, regulation and/or instruction deemed to be violated, misapplied or misinterpreted;
2. A full explanation of the circumstances involved;
3. The decision rendered by the department head at Step 2;
4. The specific remedy sought by the grievant. The City Manager or their designee shall take such review and investigative action as they deem necessary and inform the grievant of their decision in writing within ten (10) days after receiving the grievance. Prior to issuing the written decision, the City Manager shall schedule a meeting with the employee to discuss the matter. The City Manager's decision will be in writing setting forth the decision and the reasons therefore and will be transmitted promptly to all parties in interest. The decision of the City Manager or their designee is final. Time limits for appeal shall begin the day following receipt of written decision. Within the above time limits, either party may request a personal conference with the other.

#### **SEC. 14.6 GENERAL PROVISIONS**

- A. No retribution or adverse employment action shall be taken against employees because of their use of the grievance or complaint procedures.

- B. All documents, communications and records dealing with the processing of grievances and complaints shall be filed separately from personnel files.
- C. Failure by the City at any step of this procedure to communicate the decision on the grievance or complaint within the specified time limits shall permit the grievant or complainant to proceed to the next step.
- D. The grievant or complainant shall be present at all steps of the procedure.
- E. Failure at any step of these procedures to appeal a decision on a grievance or complaint within specified time limits shall be deemed acceptance of the decision rendered by the employee.
- F. The time limits specified at any step in this procedure may be extended by mutual written agreement of the City and grievant or complainant.
- G. The original grievance or complaint shall accompany all requests for institution of the next step in the grievance or complaint procedure.
- H. Communication with the grievant or complainant shall be processed by personal signed receipt of documents, or by email with a reply confirming receipt, or by traceable overnight delivery service (FedEx or equivalent).

## **RULE 15. POLICY AGAINST WORKPLACE VIOLENCE**

### **SEC. 15.1 OBJECTIVES**

The City is strongly committed to ensuring the safety of all employees. Consistent with this policy, acts or threats of violence, including intimidation, harassment, and/or coercion which involve or affect employees will not be tolerated, and will be subject to appropriate Disciplinary Action, up to and including termination. The following are the objectives of the City:

- A. To ensure that all workplace threats and violent behavior are addressed promptly.
- B. To ensure that the level of physical and facility security in City workplaces is sufficient to protect the health and safety of employees.
- C. To ensure that all employees are appropriately trained in workplace security, diffusing hostile situations, and steps to take during an emergency incident.
- D. To ensure that all Disciplinary Action taken for behavior prohibited under this Rule is reviewed, evaluated, and administered consistently and equitably throughout the City, and done so in a timely manner.

## **SEC. 15.2 THREATS OR ACTS OF VIOLENCE DEFINED**

A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety, or the safety of their immediate family, and that serves no legitimate purpose. General examples of prohibited workplace violence include, but are not limited to the following:

- A. Threatening to harm or harming an individual or their family, friends, associates, or their property.
- B. Fighting or challenging another individual to a fight.
- C. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
- D. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, text messages, or other correspondence.
- E. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the City.
- F. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.
- G. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
- H. Possession of firearms (loaded or unloaded), weapons, or any other dangerous devices on City property. This includes "look-alike" weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives having a blade longer than three and one-half (3½) inches, folding knives having a blade that locks into place, razor blades, and clubs.
- I. Use of a personal or City-issued tool or other equipment in a threatening manner toward another.

## **SEC. 15.3 REPORTING WORKPLACE VIOLENCE**

Any employee who is the victim of a threat or act of violence, or any employee who witnesses such conduct, should immediately report the incident to their supervisor or other appropriate person in the chain of command. Should the employee perceive that they are in immediate danger of a violent act, or has just been victimized by a violent act, or is a witness of a violent act or imminent violent act, the employee shall whenever possible:

- A. Place themselves in a safe location.
- B. If appropriate, call the Police Department or 911 and request immediate response of a police officer and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed.
- C. Inform the Human Resources Department or the City Manager of the circumstances.
- D. Complete a written report as soon as possible and submit the original copy to the Human Resources Department.
- E. Cooperate fully in any administrative or criminal investigation, which shall be conducted within existing policy and laws.

#### **SEC. 15.4 REPORTING POTENTIAL FUTURE WORKPLACE VIOLENCE**

Employees who have reason to believe they or any employee may be the subject of a violent act in the workplace or as a result of their City employment, should immediately notify the Human Resources Department or the City Manager.

#### **SEC. 15.5 VIOLATION OF RULE**

The City's prohibition against threats and acts of violence applies to all persons in the City operation, including but not limited to City personnel, contract and temporary workers, customers, and anyone else on City property. Violations of this Rule by any individual may be followed by legal action as appropriate, which may include, but is not limited to, seeking a temporary restraining order and/or injunction on behalf of employees if the situation warrants such action. In addition to appropriate legal action, violations of this Rule by employees, including making a false report under this Rule, may lead to appropriate Disciplinary Action pursuant to Rule 13, up to and including termination.

### **RULE 16. POLICY AGAINST HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT**

#### **SEC. 16.1 GENERAL POLICY**

The City is committed to providing a work environment that is free of discrimination, harassment, and retaliation. In keeping with this commitment, the City maintains a strict policy prohibiting harassment, including sexual harassment and takes reasonable steps to promptly correct discriminatory, harassing, and retaliatory conduct. This policy prohibits harassment in any form, including verbal, physical and visual harassment by or against any employee, intern, volunteer, applicant for employment, or vendor, or guest. This policy applies to all of the City's activities, wages, reviews, leaves, training, benefits, and all other conditions and terms of employment.

As a general guideline, harassment can be avoided if employees act professionally and treat each other with respect.

## **SEC. 16.2 PURPOSE OF POLICY**

Federal and state law expressly prohibit discrimination and harassment of employees or applicants based upon race, color, national origin, religious creed, ancestry, physical or mental disability, medical condition, pregnancy, childbirth or related medical condition, age (40 and over), sexual orientation, sex, gender, gender identity, gender expression, genetic information, military or veteran status, marital status, or any other basis protected by applicable state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

The purpose of this policy is to establish a means to protect employees, applicants for employment, or guests from harassment. Additionally, this policy enforces the City's long-standing policy that all employees, applicants for employment, and guests should be able to enjoy a work environment that is free from all forms of unlawful discrimination or harassment. Discrimination, harassment, and retaliation constitute misconduct that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination, harassment, or retaliation can result in serious economic implications such as high turnover, ineffective use of time during working hours, costly salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination, harassment, and retaliation complaints.

The further purpose of this Policy is to define and forbid discriminatory, harassing, and retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, or retaliation against any individual who reports discrimination, harassment, or retaliation or who participates in an investigation of such reports.

## **SEC. 16.3 DEFINITION OF TERMS**

- A. Employee. An employee refers to any individual under the direction and control of the City under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this Policy, the term "employee" includes any individual who is an unpaid intern or volunteer of the City. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of "employee" for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the City.
- B. Legally Protected Category/Legally Protected Characteristic. Race, color, national origin, religious creed, ancestry, physical or mental disability, medical condition, pregnancy, childbirth or related medical condition, age (40 and over), sexual orientation, sex, gender, gender identity, gender expression, genetic information, military or veteran status, marital status, or any other protected basis under state, federal or local law, including

association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

- C. Discrimination. Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated because the employee is a member of a Legally Protected Category or Characteristic. Examples of conduct that can constitute discrimination if based on an individual's Legally Protected Category or Characteristic include, but not limited to, the following:

1. Failing or refusing to hire an individual based on their Legally Protected Category or Characteristic.
2. Terminating an individual from employment based on their Legally Protected Category or Characteristic.
3. Singling out or targeting an individual for different or less favorable treatment because of their Legally Protected Category or Characteristic.

- D. Harassment. Harassment is any verbal, visual, or physical conduct based on an employee's membership in a Legally Protected Category, the perception that an employee is a member of a Legally Protected Category, or the employee's association with individuals in a Legally Protected Category, or perception that an individual has one or more of these Legally Protected Categories, that creates an intimidating, hostile or otherwise offensive working environment. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program;
2. Submission to or rejection of the conduct is used as the basis for an employment decision; or any decision related to an unpaid internship or volunteer program;
3. The harassment unreasonably interferes with an employee's work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee's Legally Protected Characteristic.



Harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the City.

- E. Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature all may constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creating an intimidating, hostile or offensive working environment.

This definition includes potential forms of offensive behavior, such as the following:

1. Unwanted sexual advances.
2. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, derogatory images, and comments about an employee's body or dress.
3. Verbal sexual advances or propositions.
4. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.
5. Physical conduct, such as touching, assault, impeding, or blocking movements.
6. Retaliation for reporting harassment or threatening to report harassment.

Sexual harassment includes many forms of offensive behavior and may include harassment of a person of the same or opposite sex as the harasser.

Sexual harassment need not be motivated by sexual desire. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, harassment by a subordinate, or harassment by third parties doing business with or for the City.

- F. Abusive Conduct. Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests, even when not due to an employee's Legally Protected Category or Characteristic. It may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or

the gratuitous sabotage or undermining of a person's work performance. Workplace bullying, including off-duty cyber-bullying of employees, is strictly prohibited. While abusive conduct and bullying are not per se unlawful, such conduct does violate City policy and will not be tolerated.

- G. Retaliation. Taking adverse action against any employee because of (1) the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination, harassment, retaliation, or abusive conduct or (2) because of the employee's participation in an employment discrimination, harassment, or retaliation investigation, proceeding, or hearing, or (3) because of such opposition or participation by a family member or close associate of the employee.
1. Protected Opposition. Protected opposition to perceived discrimination, harassment, retaliation, or abusive conduct includes, but is not limited to, threatening to file a discrimination, harassment, or retaliation complaint with any federal or state agency, or court, or complaining or protesting about alleged discrimination, harassment, retaliation, or abusive conduct to a supervisor, manager, co-worker, or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. The City also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights. Opposition not made in good faith, or made in a manner which disrupts the workplace, or which constitutes an unlawful activity, or which includes badgering or threatening of employees or supervisors is not protected.
  2. Protected Participation. Protected participation includes, but is not limited to, filing a charge, testifying, assisting, or participating in any manner in an investigation under this Policy, or in a proceeding, hearing or litigation under federal or state discrimination, harassment, or retaliation statutes, at other hearings regarding protected employee rights, such as unemployment compensation proceedings, and making requests for reasonable accommodation of a Legally Protected Characteristic.
  3. Adverse Action. Adverse actions include, but are not limited to, the following acts: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.
- H. Supervisor. Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct other employees, or to adjust their grievances, or to effectively recommend such action, if the exercise

of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Employees who have questions regarding these definitions or are uncertain what constitutes discrimination, harassment, sexual harassment, retaliation, or other prohibited conduct under the City's policy should contact a supervisor, the Human Resources Department, or the City Manager.

#### **SEC. 16.4 REPORTING DISCRIMINATION, HARASSMENT, RETALIATION, OR ABUSIVE CONDUCT**

- A. In General. The City's complaint procedure provides for an immediate, thorough, impartial, and objective investigation of every discrimination, harassment, retaliation, and abusive conduct claim, appropriate disciplinary action against one found to have engaged in prohibited discrimination, harassment, retaliation, or abusive conduct, and appropriate remedies to any victim of discrimination, harassment, retaliation, or abusive conduct. The City encourages reporting of all perceived incidents of discrimination, harassment, retaliation, and abusive conduct.
- B. Complaint Procedure
  1. The City cannot resolve discrimination, harassment, retaliation, or abusive conduct unless the City is aware of the situation. The City relies upon its employees to bring those concerns to the attention of the City so that the necessary steps can be taken to correct the situation, and all employees are encouraged to do so. Accordingly, any employee, applicant, or guest who believes he or she has been harassed, discriminated or retaliated against or subjected to abusive conduct should promptly report the facts of the incident/incidents and the name(s) of the individual(s) involved to their immediate supervisor, any supervisor, the Human Resources Department or to the City Manager.
  2. Complaints can be made verbally or in writing and should include the following information:
    - (a) The employee's name and position title.
    - (b) The name of the person or persons committing the discrimination, harassment, or retaliation, including their title(s).
    - (c) The specific nature of the discrimination, harassment, retaliation, or abusive conduct, how long it has been going on, and any adverse employment action, demotion, failure to promote, dismissal, refusal to hire, transfer, etc., taken against the victim as a result of the harassment, if applicable, or any other threats made against the victim as a result of the harassment.

(d) Witnesses to the discrimination, harassment, retaliation, or abusive conduct, if any.

(e) Whether the victim previously has reported such discrimination, harassment, retaliation, or abusive conduct and, if so, when and to whom.

Notification to the City is essential. Employees may be assured that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, retaliation, or abusive conduct.

ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE CITY'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY IF SUCH CLAIMS ARE LITIGATED.

C. Reporting Obligations

1. Any supervisor who receives a complaint of discrimination, harassment, retaliation, or abusive conduct; witnesses discrimination, harassment, retaliation, or abusive conduct; or has any reason to believe that discrimination, harassment, retaliation, or abusive conduct may have occurred in the workplace is required to report the conduct immediately to the Human Resources Department or the City Manager.
2. A supervisor will be subject to discipline for failing to report offensive conduct that potentially constitutes discrimination, harassment, retaliation, or abusive conduct if the supervisor knew or should have known of the offensive conduct in the normal course and scope of their supervisory duties.
3. All other employees who observe or are advised about the discrimination, harassment, retaliation, or abusive conduct involving another employee are encouraged to report the conduct to a supervisor, the Human Resources Department, or the City Manager.

D. The City's Response to Reports or Complaints.

1. Investigation of Complaints.

(a) All incidents of discrimination, harassment, retaliation, and abusive conduct that are reported must be investigated appropriately by the City so that corrective and preventive actions can be promptly taken if warranted. The City will promptly undertake or direct an effective, thorough, impartial, and objective investigation of the allegations, which will be conducted by qualified personnel.

(b) The investigation will include obtaining information from the accused and anyone who may have been a witness to the alleged misconduct. Statements made in the course of the investigation will be kept as confidential as practicable.

(c) The City will document each complaint and track each investigation to ensure reasonable progress, timely closure, and reasonable findings based on the evidence collected.

2. Intermediary Measures. Employees may be placed on a leave of absence, temporarily transferred or assigned other working hours or duties, or subject to other intermediary measures, until the conclusion of the investigation.

3. Cooperation with the Investigation.

(a) It is important for the complaining party, the accused party, and all persons interviewed as witnesses during the investigation to understand that it is a violation of this policy to discuss any confidential investigation matters with other employees, or to conduct separate investigations at any time. The City will not tolerate any employees who interfere with its own internal investigations, or internal complaint procedures.

(b) All employees involved in a workplace investigation into alleged discrimination, harassment, retaliation, or abusive conduct are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action, up to and including termination.

(c) All employees are prohibited from engaging in retaliation.

4. City Determination and Corrective Action.

(a) The City will make its determination based on the findings of the investigation and communicate that determination to the complaining employee, and to the accused. Parties are not entitled to copies of any notes or other written materials regarding the investigation, as these are considered to be confidential documents.

(b) If it is determined that the accused, or any other employee has violated City policies, appropriate corrective action will be taken. In addition, as part of the City's efforts to remedy the complaining employee's concerns, the complaining employee will be informed in general terms regarding any remedial measures and disciplinary actions imposed against the violator.

(c) In light of the City's desire to have a professional and productive work environment, the City reserves the right to take appropriate corrective action when an employee engages in inappropriate conduct that does not fully rise to the legal standards or definitions set forth in this Policy. For example, the City may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the City, or did not involve a legally protected characteristic.

5. Anonymity and Confidentiality.

(a) While the City will investigate anonymous complaints, the City strongly discourages anonymous complaints.

EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE CITY'S ABILITY TO COMPLETE A THOROUGH INVESTIGATION.

(b) Employees should also be aware that should the City learn of the identity of an anonymous complainant, the City cannot guarantee that their identity will remain confidential, if the City determines in its discretion that disclosure is necessary to complete the investigation.

(c) The City will take all reasonable steps available to maintain the confidentiality of all complaints of discrimination, harassment, retaliation, and abusive conduct, as well as all information gathered during an investigation. However, the City retains sole discretion to determine whether disclosure of information is necessary to complete the investigation.

(d) All employees involved in the investigation of discrimination, harassment, retaliation, or abusive conduct complaints as either investigator(s), complainant(s), witness(es), or accused are required to keep all information related to the investigation confidential except as may be needed to consult legal counsel or an association representative (if any). Revealing such information is grounds for disciplinary action, except as expressly permitted by law, such as in discussion with a legal or employee representative.

**SEC. 16.5 EMPLOYEE'S DUTY TO DISCLOSE BENEFITS RECEIVED**

Employees are hereby informed that no supervisor, manager, or officer of the City, or other person or entity doing business with the City, is authorized to expressly or impliedly condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee's acquiescence to any sexual demand.

To the contrary, all employees are instructed that they must refuse such demands and report them promptly either to their immediate supervisor, the Human Resources Department, or to the City Manager. Any employee who is found to have accepted any benefit from the City because he/she submitted to an unreported sexual demand will be disciplined appropriately, including but not limited to, reimbursement for the value of any benefits received. Any employee making such a demand will be similarly disciplined.

#### **SEC. 16.6 ADDITIONAL ENFORCEMENT INFORMATION**

In addition to the City's internal complaint procedure, employees should also be aware that the Equal Employment Opportunity Commission ("EEOC") and the Department of Fair Employment and Housing ("DFEH") investigate and prosecute complaints of discrimination, harassment, and/or retaliation in employment.

Employees can contact the EEOC as follows:

San Francisco City Office  
450 Golden Gate Avenue  
5 West P.O. Box 36025  
San Francisco, CA 94102-3661  
800-669-4000 | 510-735-8909 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

San Jose Local Office  
96 N. Third St., Suite 250  
San Jose, CA 95112  
800-669-4000 | 800-669-6820 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

Employees can contact the DFEH as follows:

Bay Area Regional Office  
39141 Civic Center Drive, Suite 250  
Fremont, CA 94538  
800-884-1684 | 800-700-2320 (TTY)  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

#### **SEC. 16.7 TRAINING AND POLICY DISSEMINATION**

- A. All employees who are hired by the City will be given a copy of this Policy, and will receive guidance from the City on its provisions and the City's commitment to provide a workplace free from discrimination, harassment, and retaliation.
- B. All employees will be trained in accordance with applicable requirements of the Fair Employment and Housing Act (Government Code § 12950.1) and implementing regulations.

Non-Supervisory Employees: Non-Supervisory employees will receive training lasting for a minimum of one (1) hour, within six (6) months of their assumption of a position, and will be trained once every two (2) years on matters relating to the prevention, reporting and correction of harassment, discrimination and retaliation. Seasonal and temporary employees may receive the above one-hour training if they are directly hired by the City.

Supervisory Employees:

1. All supervisory employees will be trained once every two (2) years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six (6) months of their hiring or assumption of the supervisory position.
2. Supervisory training will last for a minimum of two (2) hours.
3. Supervisory training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:
4. Information and practical guidance regarding federal and state statutory laws about sexual harassment;
  - (a) Information about the correction of sexual harassment and the remedies available to victims of sexual harassment; and
  - (b) Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.
  - (c) Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.

**RULE 17. DRUG FREE WORKPLACE****SEC. 17.1 PURPOSE**

It is the City's goal to create a healthy and safe working environment in order to deliver the best and most efficient services to the members of the City. It is the responsibility of all employees of the City to cooperate in efforts to protect the life, personal safety, and property of co-workers and members.

Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale, and impaired public relations. It is the goal of this policy to prevent substance abuse, including alcohol abuse, in the workplace by clearly stating employee responsibilities relative to substance abuse and by providing managers and supervisors with guidelines and procedures for the detection of such abuse and the enforcement of related rules.



Accordingly, employees must take all reasonable steps to abide by and cooperate in the implementation and enforcement of these policies and regulations.

The City encourages employees who believe that they may have a drug or alcohol problem to voluntarily seek counseling, assistance, and/or rehabilitation, and will be supportive of those employees who voluntarily seek help before the City discovers that the employee has a drug or alcohol problem. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance through the City's Employee Assistance Program (E.A.P.) However, the City will be equally firm in identifying and disciplining those employees who are substance abusers and do not seek help before performance issues arise or other misconduct occurs.

Alcohol and/or drug abuse will not be tolerated on or off the job for any employee, and disciplinary action, up to and including termination, will be used as necessary to achieve the goal of eliminating substance abuse in the workplace.

As required by the Drug-Free Workplace Act of 1988, this policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of City Manager and employees. To that end, the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) that increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the City's reputation. All employees and applicants should be aware that violations of this policy may result in discipline, up to and including termination, or in not being hired.

#### **SEC. 17.2 APPLICABILITY**

This policy applies to all employees of and to all applicants for positions with the City. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal that could impair an employee's or officer's ability to effectively and safely perform the functions of the job.

Certain City employees are also subject to the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952, as amended), which requires alcohol and drug testing of safety-sensitive transportation employees who are required to have a commercial driver's license (49 CFR Parts 40, 382, 391, 392, and 395, as amended). Employees who are required to have commercial driver's licenses are covered by this Policy, except to the extent that it conflicts with any other District policy or state or federal law governing drug testing of employees required to possess a commercial driver's license.

#### **SEC. 17.3 RESPONSIBILITY**

It is the responsibility of all employees to understand and abide by the provisions of this policy. It is the responsibility of managers and supervisors to ensure that all employees and officers abide by the provisions of this policy.

#### SEC. 17.4 DEFINITIONS

- A. Alcohol or Alcoholic Beverage. Any liquid containing ethyl alcohol (ethanol) and/or any beverage that has alcoholic content in excess of 5% by volume.
- B. Applicant. Any person applying for employment with the City who has been extended a conditional offer of employment.
- C. Controlled Substance. Any drug that is classified by the federal Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under medical supervision. Examples of controlled substances include, but are not limited to, marijuana/cannabis metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP).
- D. Drug(s). Any substance (other than alcohol) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present. The term "drug" refers to both Legal and/or illegal drugs, as defined herein.
- E. Drug Paraphernalia. Any device or instrument used for injecting, smoking, consuming, or otherwise administering a controlled substance or legal and/or illegal drug, which includes, but is not limited to, the items set forth in California Health and Safety Code Section 11364.
- F. Human Resources Department. The City's Human Resources Director or their designee.
- G. Prescription Drug. Any substance lawfully prescribed by a licensed or regulated professional for consumption or use.
- H. Illegal Drug. A controlled substance, a legal drug which has not been legally obtained, or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.
- I. Legal Drug. Any drug, including any prescription drug or over the counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- J. Impaired. Diminished capacity, ability, mental acuity, or performance.
- K. Intoxicant. Any substance (including alcohol and/or alcoholic beverages) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present.
- L. Reasonable Suspicion. A belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under

the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform their job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Alcohol odor on breath, or other observed odor from an employee that is customarily associated with drug or alcohol use;
3. Unsteady walking and movement;
4. Physical impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);
5. An accident involving damage to City property or personal injury;
6. Physical altercation;
7. Verbal altercation;
8. Unusual behavior;
9. Job impairment;
10. Possession of alcohol or drugs; or
11. Information obtained from a reliable source with personal knowledge.

M. City Manager. The City Manager or their designee.

N. Under the Influence of Drugs or Alcohol. The use of (1) any alcoholic beverage; (2) any illegal drug or substance, or (3) the use or misuse of any legal drug, in a manner and to a degree that impairs the employee's work performance or ability to use the City's property or equipment safely.

## **SEC. 17.5 POLICY**

A. Employee Responsibilities. An employee must:

1. Sign and submit to their immediate supervisor or the Human Resources Director the Acknowledgement of Receipt of Drug-Free Workplace Policy, noting specifically that the employee has read, understood, and agreed to abide by the provisions of this policy as a condition of continued employment.
2. Not report to work or be subject to duty (on standby) while under the influence of alcohol and/or any alcoholic beverages. Employees shall not consume, use, possess, or be under the influence of

alcohol and/or alcoholic beverages while on the City premises, on the City property, or in a City vehicle or at any time while on duty, during meal or rest periods, while on-call, while on stand-by or while wearing a City uniform.

3. Not report to work or be subject to duty while under the influence of drugs whenever the use of the legal drug might do any of the following:
  - (a) Endanger the safety of the employee or another person;
  - (b) Pose a risk of significant damage to the City's property or equipment; or
  - (c) Substantially interfere with the employee's job performance or the safe or efficient operation of the City's business or equipment.
  - (d) Also, employees shall not consume, use, possess, or be under the influence of any illegal drugs or intoxicants while on City premises, on City property, or in a City vehicle or at any time while on duty, during meal or rest periods, while on stand-by or while wearing a District uniform.
4. Notify their supervisor, Department Head and/or the Human Resources Director, before beginning work, when taking any medication or legal drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment. An employee who is unsure if a drug might impair their ability to perform the job properly and safely must advise their supervisor or Department Head of the potential concern before beginning work. In doing so, employees are not required to disclose the name of a medication or the medical reason for taking the drug, but may instead focus on the potential for impairment in relation to assigned job duties.
5. Not manufacture, possess, use, trade, offer to sell, sell, or buy drugs or alcohol during working hours or while subject to duty (on stand by), on breaks, during meal periods, or anytime while on the City's property or wearing a City-issued uniform. This policy is not intended to prevent an employee from lawful possession, purchase or use of prescribed and/or over the counter drugs that do not impair the employee's work performance or ability to use the City's property or equipment safely.
6. Not store in a locker, desk, automobile, or other repository on the City's property, any alcohol or illegal drug. This policy is not intended to prevent an employee from possessing alcoholic

beverages in sealed containers in their personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift.

7. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to duty. This policy is not intended to prevent an employee from possessing alcoholic beverages in sealed containers in their personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift, where otherwise permitted.
8. Submit to an alcohol and/or drug test when requested to do so by the employee's Department Head in accordance with the guidelines set forth in this policy.
9. Provide, within 24 hours of a request, bona fide verification of a current, valid prescription for any potentially impairing drug or medication identified when a drug test is positive. The prescription must be in the employee's name.
10. File an "Employee Report of Conviction for Violating Criminal Drug Statutes in The Workplace" form with the Human Resources Department within five (5) days of such conviction.

B. City Responsibilities.

1. The City Manager, in consultation with Human Resources, is responsible for reasonable enforcement of this policy.
2. The City Manager or supervisor, after consulting with Human Resources, may request that an employee submit to a drug and/or alcohol test in accordance with the guidelines set forth in this policy.
3. Whenever an employee refuses an order to submit to a drug or alcohol test upon appropriate request, the employee will be reminded of the requirements of this policy and the disciplinary consequences for their refusal. Such refusal may be considered insubordination and grounds for disciplinary action up to and including termination.
4. Where there is reasonable suspicion that an employee is under the influence of drugs or alcohol, the employee will be detained for a reasonable time until the employee can be safely transported home at the employee's own cost.
5. Employees must not physically search the person of another employee, nor may they search the personal possessions of another employee without that employee's consent in the presence of the City Manager or the Human Resources Director.

6. Supervisors must notify the Human Resources Department when they have reasonable suspicion to believe that an employee may have illegal drugs in their possession or in an area not jointly or fully controlled by the City. If the Human Resources Department concurs that there is reasonable suspicion of illegal drug possession, the Human Resources Department may notify the appropriate law enforcement agency.

C. Rehabilitation.

1. General. The City encourages those employees who think that they may have a problem with abusing drugs and/or alcohol to seek assistance and rehabilitation at an early date, prior to notification of alcohol/drug testing, prior to performance issues or other misconduct associated with abuse, and prior to any other means of discovery by the City of the employee's drug and/or alcohol problem. However, the City reserves the right to discipline employees, up to and including termination, who are discovered to have a problem with abusing drugs or alcohol, and do not come forward for help prior to the City's discovery or the City's demand that the employee submit to a drug or alcohol test.
2. Employee Assistance. The Employee Assistance Program (E.A.P.) is available to assist employees in their efforts to overcome problems with drugs and/or alcohol abuse. Information pertaining to such programs may be obtained by contacting the Human Resources Department.
3. Voluntary Referral. If done prior to the City's discovery of or request for a drug or alcohol test, an employee's effort to voluntarily seek treatment or rehabilitation for the first time, will not be used as the basis for disciplinary action. However, the City may in such cases require employees to comply with the provisions of the Last Chance Agreement and Follow-Up Testing.
4. Leave of Absence. If necessary, the employee may be granted a leave of absence in order to participate in treatment and rehabilitation. Such a leave of absence will be unpaid and subject to the requirements of applicable state/federal laws and the City's Personnel Rules regarding unpaid leaves of absences. An employee is required to exhaust all paid leaves prior to being granted an unpaid leave of absence for the purpose of receiving treatment and rehabilitation. Where permitted by applicable law, the City reserves the right to deny such leave if granting the leave would impose an undue hardship on the City.
5. Last Chance Agreement. The City has the discretion to allow employees who are undergoing treatment or rehabilitation to sign a Last Chance Agreement in lieu of termination for work-related drug

or alcohol use. A Last Chance Agreement is a condition of continued employment, in which the employee promises to complete the treatment or the rehabilitation program and to comply with other specified terms. If the employee refuses to sign the Last Chance Agreement or violates the agreement, the employee will be subject to disciplinary action up to and including termination.

6. Follow-Up Testing. An employee entering a rehabilitation or treatment program may be required to submit to random testing for up to one (1) year after completion of the program. If the employee fails to comply or if further substance abuse is detected upon such testing, the employee may be subject to disciplinary action up to and including termination.

D. Drug Testing Guidelines.

1. Drug Testing. Employees subjected to a drug test will be tested by submitting to a urinalysis test. The urinalysis test will be administered by a medical facility designated by the City, according to its testing protocol. The drug test will test for the following classes of drugs: amphetamines, cocaine, THC, methamphetamine, opiates.
  - (a) Medical Marijuana. The City recognizes that the State of California has legalized the use of marijuana for certain medical uses as well as recreational use. However, in accordance federal law, the City treats medical marijuana the same as any other illegal drug that is subject to regulation under this Policy. The City reserves the right to take any action under this policy when the drug involved is marijuana, whether it is used for medical or non-medical purposes.
2. Alcohol Testing. Employees subjected to an alcohol test will be tested by submitting to a breathalyzer test. The breathalyzer test will be administered by the medical facility designated by the City, according to its testing protocol.
3. Pre-Employment Examinations.
  - (a) Required. Certain pre-employment physical examinations will include drug and alcohol testing. No drug or alcohol test will be administered prior to the applicant receiving a conditional offer of employment. Only safety sensitive positions or those positions that interact with children will be subject to this section. The City will designate whether the position is safety sensitive or interacts with Children in the job announcement. For purposes of pre-employment drug/alcohol testing, this includes the following categories of positions:

Safety-Sensitive. Safety-sensitive positions include those positions with duties that are fraught with such risks to others that even a momentary lapse of attention can have disastrous consequences.

Interaction with Children. Positions that include interaction with children are those in which employees are directly responsible for protecting children or have continuous interaction or supervision that puts them in a position of influence over children.

(b) Results. A positive result for a drug and/or alcohol analysis may result in the applicant not being hired. If a drug screen is positive at the pre-employment physical, the applicant may be requested to provide, within twenty-four (24) hours of the 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 acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

#### **SEC. 17.6 ALCOHOL/DRUG TESTING OF EMPLOYEES**

- A. Cause. With the exception of the pre-employment drug and alcohol tests, employees will only be required to submit to drug and/or alcohol tests in the following circumstances:
1. When the City Manager, the Human Resources Director, or supervisor has a reasonable suspicion that the employee is under the influence of drugs or alcohol while on the job or subject to being called to the job.
  2. When the City Manager, the Human Resources Director, or supervisor has a reasonable suspicion that the employee is in possession of drugs and/or alcohol in a manner which is in violation of this policy.
  3. When an employee who suffers a work-related injury, which requires medical treatment other than first aid may be required to submit to a drug and/or alcohol test at the time they receive medical treatment for their injuries.
  4. When the employee is subjected to Return to Duty and/or Follow-Up Testing following the employee's return from rehabilitation and/or treatment.
- B. Documentation. When the City Manager, the Human Resources Director, or supervisor requests that an employee submit to a drug and/or alcohol test based on reasonable suspicion, that person must document in writing the facts constituting the reasonable suspicion that the employee in question is under the influence of drugs and/or alcohol. When possible,



the employee's behavior should be witnessed and separately documented by another supervisor.

- C. Prerequisite. Prior to the administration of any drug or alcohol testing, the City's designated physician and/or the City Manager, the Human Resources Director, or supervisor will attempt to obtain from the employee to be tested a completed and signed consent form. This form will provide the employee's consent in writing to physical and/or psychological examination and testing and will authorize the release of such information by the physician to the City. Refusal by the employee to sign a consent form is considered insubordination and may be grounds for disciplinary action, up to and including termination.
- D. Results. If the drug screen is positive, the employee may be requested to provide, within twenty-four (24) hours of the test results, 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.
- E. Confidentiality. Laboratory reports and test results will not be included in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control the Human Resources Department. The reports or test results may be disclosed to supervisors on a strictly need-to-know basis and to the tested employee upon request.

Disclosures, without employee consent, may also occur when:

- 1. The information is compelled by law or by judicial or administrative process;
  - 2. The information has been placed at issue in a formal dispute between the City and the employee;
  - 3. The information is to be used in administering an employee benefit plan; or
  - 4. The information is needed by medical personnel for the diagnosis or treatment of the employee, when the medical personnel is unable to authorize the disclosure.
- F. Disciplinary Action. Disciplinary action, up to and including termination, may be taken against an employee for any violation of this policy, including, but not limited to the following reasons:
    - 1. Failure to comply with any of the Employee Responsibilities set forth in this policy.
    - 2. Positive results from a drug and/or alcohol test.
    - 3. Refusal to be tested in accordance with this policy.

4. Violation of or refusal to enter into a Last Chance Agreement.

#### **SEC. 17.7 CONSTITUTIONALITY**

It is the intent of this policy statement to conform to state and federal constitutional guarantees. Should any provision of this policy statement not conform to statutory, constitutional or court restrictions, such non-conforming provision(s) will not be enforced.

### **RULE 18. PERSONNEL FILES AND RECORDS**

#### **SEC. 18.1 IN GENERAL**

The City maintains a personnel file on each employee. An employee's personnel file will contain only material that the City determines is necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

- A. Inspection of and Obtaining a Current or Former Employee's Personnel File.
  1. A current or former employee wishing to inspect/ obtain copies of their personnel file must submit a written request to the Human Resources Department, along with reasonable proof of identity. A current or former employee who seeks to authorize another person to inspect copies of their personnel file must provide a satisfactory written authorization for inclusion with the written request along with proof of identity. Reasonable proof of identity may be required at the time of in-person pick up of requested documents.
  2. The City shall issue a written notice setting a date for inspection of the personnel file within thirty calendar days of receipt of the request, to take place during normal business hours. With the requesting person's written consent, the date for inspection may be extended on one occasion by up to five (5) calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the City's expense instead of scheduling an in-person inspection.
  3. The City shall issue a written notice setting a date on which the requested copies may be picked up in person during normal business hours and identifying the cost of reproduction that must be paid to the City at the time of pick up. The date for in-person pick up of the documents shall be no more than thirty calendar days after receipt of the request by the City. With the requesting person's

written consent, that date may be extended on one occasion by up to five (5) calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the expense of the City instead of scheduling an in-person pick up.

4. A current employee may inspect their personnel file at the place the employee reports to work, or may instead consent to inspect their personnel file at City Office without loss of compensation. Inspection by former employees and authorized representatives shall take place at the HR office, unless otherwise mutually agreed in writing by the City, and may require additional reasonable proof of identity.
5. A designated City employee must be present throughout the inspection. Neither personnel files nor contents of personnel files shall be removed from the place of inspection without advance written authorization from the Human Resources Director.
6. If the requesting person chooses delivery by mail instead of in-person pick up, the notice provided by the City shall also identify the additional actual postage expenses for which the requesting person must reimburse the City prior to receipt of the copies.

B. Limits on Frequency of Exercise of Rights to Inspect or Receive Copies of Personnel Files.

1. Current employees shall be entitled to exercise rights under this policy to inspect and obtain copies of personnel records at reasonable intervals upon reasonable notice in accordance with this policy.
2. Former employees shall be entitled to exercise rights under this policy to inspect or receive copies of their personnel records once per year.
3. The City shall comply with a maximum of fifty (50) requests per month filed under this policy by one or more representatives of current Employees.

C. Access to Personnel Records by Department Directors

1. Department Directors shall have access to all records, documents, and papers pertaining to employees in their department, if the examination shall aid in the discharge of their duties. All personnel records are confidential, and the Department Director shall maintain this confidentiality.

2. Each employee is responsible for keeping their file up to date by notifying the Human Resources Department of any changes to relevant personal information, including, but not limited to change of address, contact information, emergency contact information, and number and names of dependents for health benefit maintenance.

D. Personnel Action Form.

Every appointment, transfer, promotion, demotion, termination, or any other temporary or permanent change in status of employees shall be reported to the Human Resources Department in such manner as prescribed. A Personnel Action Form shall include the employee's name, title of position held, the department to which assigned, salary, changes in employment status, residence data, and such other information as may be considered pertinent. Signature of the Human Resources Director shall be included on Personnel Action Forms as a result of an appointment, promotion, demotion, transfer and termination. A copy of the Personnel Action Form shall be included in the employee's personnel file. A copy of the form shall be delivered to Finance before payment is made to the appointee.

**RULE 19. POLICY ON THE USE OF ELECTRONIC COMMUNICATIONS**

**SEC. 19.1 PURPOSE**

- A. The City is making every effort to provide its employees with the best technology available to conduct the City's business. In this regard, the City has installed, at substantial cost, equipment such as computers and advanced technological systems such as electronic mail (E-mail) for use to conduct its official business.
- B. This Policy was created to advise all users regarding the access to and the disclosure of information created, transmitted, received and stored via the use of land-line telephones, City-owned cellular phones, the Internet, City e-mail, computer systems, and Electronic Storage Systems. This policy also identifies the appropriate use of City cellular phones, ownership of City cellular phones, and address privacy of any data contained on or transmitted using City cellular phones, as outlined under this policy.
- C. The City's Policy regarding the use of the Electronic Communications Systems, including, but not limited to, Internet, intranet, and E-mail is, among other things, intended to guide employees on the performance of their duties. This Policy is also intended to place all users on notice that they should have no expectation of privacy when using any of the City's Electronic Communications Systems.
- D. The City reserves the right to monitor Internet use, all e-mail, and other computer transmissions, land-line telephones, City-owned cellular phones, as well as any stored information, created, or received by users within any

of the City's Electronic Communications Systems. The reservation of this right is to ensure that public resources are being used appropriately and to ensure that the City's Electronic Communications Systems are operating as efficiently as possible in order to protect the public interest. All computer applications, programs, and any information—whether work-related or personal, created or stored by users on City's Electronic Communications Systems—are City Property.

- E. This Policy applies to all employees of the City and to any person who is given access to the City's Electronic Communications Systems. No person shall access the City's Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.

## **SEC. 19.2 DEFINITIONS**

- A. Cellular Phone (Mobile Phone). A type of short-wave analog or digital telecommunication in which a subscriber has a wireless connection from a mobile telephone to a relatively nearby transmitter. Types of cellular phones include Digital/Analog, satellite, Wi-Fi, as well as Smartphones such as Blackberry, iPhone, and other data-enabled phones including devices equipped with direct connect functionality.
- B. Electronic Communications. Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectric, or photo optical system, including but not limited to telephone calls, cellular phone calls, fax machine transmissions, text messages, and e-mail.
- C. Electronic Communications Systems. All electronic equipment, devices, software, data, and/or other means of electronic communication (either furnished by the City or property of the employee used to conduct City business), including, but not limited to computer hardware and software, telephones, fax machines, cellular telephones, pagers, e-mail, Internet/World Wide Web, voice mail, personal digital assistants, and tablets. It also includes any wire, radio, electromagnetic, photo optical, photo electronic facilities for the transmission of Electronic Communications, and any computer facilities or related electronic equipment for the Electronic Storage of such communications as well as any newly created devices yet to be created.
- D. Electronic Mail (E-mail). E-mail may include non-interactive communication of text, data, images or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called "e-mail", "facsimile" or "instant messaging" system; or voice messages transmitted and stored for later retrieval from a computer system.

- E. Electronic Storage Systems. Any stored data, wire or Electronic Communication incidental to electronic transmission thereof. It also means any stored communications by an Electronic Communications service for purposes of backup protection of such communication.
- F. Hands-free. An adjective used to describe a device that can be used without the use of hands; most commonly used with mobile phones. Hands-free devices are equipped with both a speaker and a microphone. Common examples of hands-free devices are mobile headsets and earpieces, which can be wired or wireless, as well as blue-tooth devices, which use wireless technology to exchange data over short distances.
- G. Messaging (Instant / Text (SMS) / PIN). A text-based conference over telecommunication lines such as the Internet and/or cellular frequencies between two or more people who may or may be connected at the same time.
- H. Internet. Internet refers to a worldwide network of networks, connecting informational networks communicating through a common communications language or “protocol.”
- I. Landline. Landline refers to Standard telephone and data communications systems that use in-ground and telephone pole cables in contrast to wireless cellular and satellite services.
- J. Smartphone. A cellular phone that is characterized as a wireless telephone set with special computer-enabled features, such as e-mail, text-messaging, Internet, Web browsing, fax, PIM, and LAN connectivity that provides computing and information storage and retrieval capabilities for personal or business use. Examples include Blackberry, iPhone, and other data-enabled devices running software such as Windows Mobile and Android.
- K. Social Networking Sites. Any web-based URL site that allows for the public or private posting of messages, photos or video. Social networking sites include, but are not limited to, Facebook, LinkedIn, Twitter, YouTube, Yelp, and Instagram.
- L. Standards. Departmental directions or instructions describing how to achieve policy.
- M. Users. Any person using the City’s Electronic Communications Systems.
- N. Vendors. Any private person or business enterprise doing business with the City.
- O. Wi-Fi cellular phone. A cellular telephone that can automatically switch between conventional cellular and Wi-Fi VoIP modes, even during the

course of a conversation. A Wi-Fi LAN acts, in effect, as a cellular repeater for such a phone.

- P. Litigation Hold. Litigation Hold, also known as “legal hold,” is used to preserve mailbox items, data and information stored on Electronic Storage Systems for discovery before and during legal proceedings, investigations or similar events. The goal is to preserve mailbox items from inadvertent or purposeful modification or deletion by the mailbox owner or any user with mailbox access, as well as automated deletion processes. Items in litigation hold are returned when discovery searches are performed.
- Q. Public Record. Any record relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.
- R. Records Retention Schedule. The most current protocol or schedule, approved by the Council, related to the retention or destruction of the City records.

### **SEC. 19.3 POLICY AND PROCEDURES**

- A. Access of Electronic Communications Systems.
  - 1. No regular, probationary, temporary, seasonal, or contractual City employee or volunteer shall access the City’s Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.
  - 2. All employees, official, contractors, interns and volunteers provided access to the City’s Electronic Communications Systems, Electronic Communications, and Electronic Storage shall be given a copy of this and all related technology policies and shall sign an acknowledgement of the policies recognizing the parameters for compliance.
- B. No Right of Privacy.
  - 1. The City respects the individual privacy of its employees. However, employee privacy does not extend to the employee’s work-related conduct or to the use of City-provided equipment or supplies. Employees should be aware that the terms of this Policy limit their privacy in the workplace.
  - 2. The City’s Electronic Communications Systems, Electronic Communications, and Electronic Storage are City property and are intended for City business. All Electronic Communications and Electronic Storage within these systems are the property of the City, regardless of the content, including any personal communications. The City reserves the right to monitor the Electronic

Communications Systems for any reason at any time without notice to the user(s), including the right to review, audit, and disclose all matters and content sent over and/or stored on Electronic Communications Systems.

3. As a result, employees should be aware that no Electronic Communications transmitted on the Electronic Communications Systems, or Electronic Storage contained within the systems, is private or confidential. Employees should have no expectation of privacy with respect to any use, including storage, business or personal, of the City's Electronic Communications Systems.
4. Employees should be aware that Electronic Communications and/or Electronic Storage can be copied, modified, and/or forwarded to others without the express permission of the original author. Therefore, employees must use caution in the storage, transmission, and dissemination of Electronic Communications outside of the City and must comply with all state and federal laws.
5. Electronic Communications and/or Electronic Storage of the City may be recognized as official records in need of protection/retention in accordance with state and federal laws. All electronic communications are subject to the Personnel Rules and all state and federal laws, including but not limited to the California Public Records Act, open meeting laws, and the federal Electronic Communications Privacy Act.

C. Passwords.

All passwords created by the user or issued to the user are for the purpose of communication and are not to be shared, given, or otherwise disclosed to any other person. Passwords must not be shared and may be changed periodically by the City to ensure security. All security features contained within the City's Electronic Communications Systems such as passwords, codes, or delete functions will not prevent the City from accessing employees' business or personal Electronic Communications, stored or otherwise, on the City's Electronic Storage Systems.

D. Appropriate Use of Electronic Communications Systems.

The City's Electronic Communications Systems are designed to facilitate City business and communication through the appropriate use of the Electronic Communications Systems and Electronic Storage thereon. The City values its Electronic Communications Systems and Electronic Storage, and takes measures to safeguard them from corruption and illegal use, and to protect the City from any possible liability due to illegal use of the Electronic Communications Systems and Electronic Storage.

1. No user shall access the City's Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.



2. All users requesting authorization to access the City's Electronic Communications Systems, Electronic Communications, and/or Electronic Storage shall be given a copy of all related technology policies and shall sign an acknowledgement of the policies recognizing the parameters for compliance with those policies.

E. Improper Use of Electronic Communications Systems.

It is the responsibility of each City employee to use the City's Electronic Communications Systems in a professional and courteous manner. The City forbids the use of its Electronic Communications Systems in a manner that violates any law, regulation, ordinance, or policy or procedure of the City. Electronic Communications Systems should not be used in any way that is offensive, harmful, or insulting to any person. Examples of prohibited uses include, but are not limited to:

1. Illegal activities;
2. Solicitation of funds;
3. Political messages or transmissions;
4. Messages or transmissions that violate the City's Policy Against Harassment, Discrimination, Retaliation and Abusive Conduct based on gender, genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, sexual orientation, gender expression or identity, age, pregnancy, childbirth, or related medical condition, military or veteran's status, or any other basis protected by applicable federal, state or local law;
5. Messages or transmissions that violate the City's personnel rules, and/or another policy of the City, including, but not limited to, policy against workplace violence or drug-free workplace policies; or
6. Any other message or transmissions which are in any way inappropriate.

F. Personal Use of Electronics Communications Systems.

The City's Electronic Communications Systems are primarily for conducting City business. Limited, occasional, or incidental use of the electronics communications systems (either furnished by the City or property of the employee) for personal, non-business purposed is permitted only under the following circumstances:

1. Personal use may not interfere with the productivity of the employee or their co-workers;
2. Personal use may not involve any prohibited activity described in this Policy;

3. Personal use may not involve conduct that is prohibited under other City Policy or Rule;
4. Personal use may not disrupt or delay the performance of City business;
5. Personal use may not consume City resources or otherwise deplete system resources available for City business purposes;
6. Personal use may not be used for personal employee gain or commercial ventures;
7. Personal use may not support or advocate non-City-related business purposes.

If an employee's personal use of the City's Electronic Communications Systems results in a cost to the City, the cost must be reimbursed to the City by the employee.

G. Retention of Electronic Communications.

1. All E-mail maintained on a City owned or furnished Electronic Communications Device or City controlled and maintained Electronic Communications System or stored on a City controlled or maintained Electronic Storage System is potentially a public record under California Public Records Act. Accordingly, employees and officials have the same responsibility for E-mail as for any other public record subject to the guidelines established under this Section.
2. No electronic communication shall be considered by the City to be retained in the ordinary course of business, with the exception of electronic communication containing content required to be retained by law. It is the responsibility of the creator to determine if an electronic communication sent internally should be classified as a record that requires retention in accordance with the City approved Records Retention Schedule. It is the responsibility of the recipient of an electronic communication received from outside City sources to determine if an electronic communication should be classified as a record that requires retention in accordance with the City Council approved Records Retention Schedule. Once retention status is determined, transfer of the electronic communication to a printed hard copy is required prior to deletion or purge from the electronic communication system.
3. Categories of E-mail: E-mail generally falls within two broad categories: transitory messages and public records of lasting value. Questions about the proper classification of a specific E-mail, record, or piece of information should be directed to the employee's

supervisor or Department Head. City officials should consult with the City Manager or City Attorney.

(a) Transitory Messages:

An E-mail should be categorized as a “transitory message” when it is a routine communication or information exchange; does not have lasting value; does not document City business that should be preserved for future reference; and conveys information of limited important, in lieu of oral communication and has very limited administrative value.

Transitory messages include notices of meetings or events, internal requests for information, minor announcements about employee activities, listserve messages, personal messages, phone messages, and invitations.

Some E-mail may contain information that is more than transitory, but not generally needed beyond a limited period or maintained in the ordinary course of business. Examples include preliminary drafts, notes, memos, and some routine correspondence. Such E-mail may be deleted after the default retention period established below, but before the minimum two-year retention period for public records of lasting value, when the information is no longer needed for operational purposes and has limited historical significance or value.

Transitory messages should be read and deleted from the applicable City Electronic Communications System or Electronic Storage System within 30 days of receipt.

When job requirements necessitate retention for periods longer than 30 days, transitory messages should be moved off the applicable City Electronic Communications System or Electronic Storage System to an appropriate department folder, and deleted when their usefulness has ended.

(b) Public Records of Lasting Value:

An E-mail should be classified as a public record of lasting value when it (1) has operational value, such as administrative actions taken or planned, reports or recommendation, policies, procedures, guideline, templates, and information needed to ensure continuity of operations; (2) is required to be kept by law; (3) has fiscal value or is required for financial reporting and audits; and (4) has historical signification.

E-mail messages that have lasting value should (1) not be stored in an individual user’s E-mail folders/files; (2) be electronically stored in a shared public folder on a departmental networked file system as directed by the IT Director; (3) be printed and maintained in hard copy format, if needed; and (4) be retained for at least the minimum two-year period required under the City’s Records Retention Schedule.

Only the Department responsible for the retention of a specific type of information or record is required to store and control the disposition of a public record in electronic form. Other recipients should not retain messages longer than required for their

respective job or position purposes. When the need no longer exists, the information should be deleted.

4. Default Retention Period.

(a) E-mail in the “deleted items” folder will be automatically deleted after thirty (30) days.

(b) E-mail in mailboxes, including any subfolder, will be automatically deleted after two (2) years.

5. Litigation Holds.

A litigation hold directive will be issued by the City Attorney's Office or City Manager's Office when required by law due to pending or threatening litigation.

A litigation hold directive overrides this Policy, as well as any records retention schedules.

E-mail and accounts of separated employees that have been placed on litigation hold status must be maintained by the IT Department until the hold is released.

No employee or official who has received a litigation hold directive may alter or delete an E-mail that falls within the scope of that hold. Such individuals will also be required to provide access to or copies of any Electronic Communications that they have downloaded and saved, or moved to some other storage account or device.

H. Access of Another Person's Electronic Communications.

Employees may not intentionally intercept, eavesdrop on, record, read, alter, retrieve, receive, send, or use another person's Electronic Communications and/or Electronic Storage without proper authorization. Employees, including system administrators and Supervisors, may not, without proper authorization, peruse Electronic Communications and/or Electronic Storage of other employees. Proper authorization may be granted as set forth this Policy.

I. Requests for Access to Employee's Data, Messages, and Phone Records.

Requests for access into an employee's individual data, messages, and phone records will be made to the City Manager. The City Manager may grant such request and direct appropriate action.

If the request is made pursuant to a Public Records Act request, then the City Manager may seek assistance of the City Clerk and the IT Director to obtain responsive records, request the employees to conduct a search of any Electronic Communications Device (whether personal or City issued) for such responsive records and request a written statement concerning the results of the search.

J. City-Wide Website Policies.

1. The City website, including all domains owned and maintained by the City, represents a fundamental communication tool for providing critical City information to the public. The goal of the website is to encourage increased participation in City government and to help create a more vibrant community for residents and visitors alike. Toward that end, the development and use of the City's sites are guided by the Web Site Policy.
2. The City Manager is responsible for the creation and implementation of the City website, ensuring compliance with the City's policies regarding the website, and maintaining and securing the City's servers and website.
3. To preserve the public nature of the City's website and to avoid any perception that the City endorses or provides favorable treatment to any private person or business enterprise (hereinafter collectively referred to as "vendor"), no corporate or commercial logos or links to vendor sites will be allowed on the City's external website, unless such link represents a mission critical partnership and is permitted by the City Manager.
4. Vendors that create or maintain a website for the City must follow all policies established for the City's website.
5. The City's website is for "official use" only. All information disseminated through the City's website must be related to the official duties and responsibilities of employees and City departments.
6. The California Public Records Act applies to information processed, sent and stored on the Internet. Confidential information should not be posted on the City's external website. The City Manager must approve all posted information.
7. No City employee or official may use any City website for campaign-related purposes. Such campaign-related purposes include, but are not limited to, the following: statements in support or opposition to any candidate or ballot measure; requests for campaign funds or references to any solicitations of campaign funds; and references to the campaign schedule or activities of any candidate. No City official's website may be linked to any private website related to a candidate's campaign for elective office.

K. Internet Usage Policies.

1. Authorization for Internet Access. Authorization for Internet access must be obtained through the employee's immediate supervisor or Department Head. Once authorization is approved the employee is responsible for the security of their account password and will be

held responsible for all use or misuse of their account. Users must maintain secure passwords.

2. General Provisions. The City reserves the right to limit access to certain sites deemed inappropriate. Access may be monitored at the request of a supervisor. Should the need arise; you are obligated to cooperate with any investigation regarding the use of your computer equipment.

Questions regarding confidential or proprietary information should be directed to the City Manager. City management has the right to monitor and log all transactions in or out of the system. All security features contained within the City's Electronic Communication Systems such as passwords, codes, or delete functions will not prevent the City from accessing employees' Electronic Communications, stored or otherwise, on the systems.

3. Appropriate Use of the Internet. Employees who are granted access to the Internet are expected to use this access in a professional and courteous manner. The prohibited uses of Electronic Communications Systems described in this Policy apply to the use of the Internet. All users should be aware that appropriate use of the Internet includes, but is not limited to, the following rules:

- (a) Never use an account assigned to another user.
- (b) Never make an unauthorized attempt to enter any computer.
- (c) Never post, send, or provide access to any confidential City materials or information, unless authorized.
- (d) Never post, send or provide videos or still footage taken during working hours and/or during the course of employment to any social networking website.

4. Improper Use of the Internet. Employees should be aware that the improper use of the Internet also includes, but is not limited to:

- (a) Disclosing confidential information obtained in the course of employment;
- (b) Accessing websites or online content that may degrade, hamper, or impede on the performance and/or capacity of the City's Electronic Communication Systems;
- (c) Accessing gross, indecent, obscene, harassing, pornographic, or sexually explicit materials;
- (d) Accessing gambling sites;

- (e) Accessing illegal drug-oriented sites; and
- (f) The representation of yourself as someone else, real or fictional.

5. Accessing social networking sites.

- (a) Personal Use of Social Networking Sites. The City does not condone the personal use of social networking sites during the workday or by using City-owned equipment. Employees are also reminded and cautioned that information posted on a social networking site may not be private or confidential. Employees are also reminded and cautioned that information posted on a social networking site may be used as evidence in administrative or legal proceedings. An employee's use of social networking sites in a manner that violates City Rules or Policies will not be tolerated by the City and may be grounds for disciplinary action, up to and including termination.
- (b) Official City Use of Social Networking Sites. The City may elect to use social networking sites to communicate with the public. Such official use of social networking sites is regulated by the City Manager. No department in the City may establish a presence on any social networking site without the advanced approval of the City Manager.

No employee is authorized to post information on behalf of the City on any social networking site without the express, written permission of the City Manager. Unauthorized posting on behalf of the City will not be tolerated.

L. Employee Terms of Use for City-Issued Phones.

City-issued phones are provided for the conduct of City business. All telephone equipment (land-line phones and cellular phones) shall be issued to personnel according to the needs defined in their job description.

The use of phones by employees for making personal calls may be permitted, subject to the provisions of this Policy, if it does not interfere with the conduct of City business. The use of City's phones must be in accordance with the following procedures:

1. All calls should be limited to the shortest amount of time necessary to conduct City business.
2. All City employees must continuously strive to minimize costs.

3. Employees are not allowed to use City-issued phones in an illegal, illicit, or offensive manner.
4. Employees are not allowed to use City-issued phones to conduct personal for-profit business.
5. Safeguarding issued equipment is the responsibility of the individual employee. Misuse or abuse of equipment may be cause for disciplinary action and/or cost reimbursement.
6. Features on cellular phones such as directory assistance, busy signal confirmations, text messaging, and emergency interrupts should only be used for official City business and only when absolutely necessary. Misuse or negligent use of these features may be cause for disciplinary action and/or cost reimbursement.
7. Employees are not allowed to operate cellular telephones, tablets, PDAs, laptop computers, navigational devices or any other devices that may cause driver distraction when driving a City vehicle or when driving a private vehicle being used to conduct City business. Employees shall make every attempt to properly park their vehicle prior to using such devices. The only exception to this rule is if the employee uses a hands-free device.
8. Any personal calls made from a City-issued phone will be the responsibility of the employee. Employees are responsible for identifying minutes of personal use and then reimbursing the City for additional costs incurred by the City. The reimbursement amount should be a simple calculation of the per-minute rate charged for every minute of personal usage. This reimbursement should be made payable to the "City of St. Helena" and should be submitted as payment to the City within ten (10) days of receiving the bill.
9. The City may provide employees with a monthly cellular phone bill and quarterly desk phone usage report for the telephone numbers assigned to them. It is the responsibility of the employee to identify the minutes of personal use and reimburse the City. This reimbursement should be made payable to the "City of St. Helena" and should be submitted as payment to the City within ten (10) days of receiving the bill or usage report.

M. City-Issued Phone Monitoring.

The Human Resources Department is responsible for reviewing and monitoring their staff's cell phone bills on a regularly, usually monthly, basis. The Human Resources Department is also responsible for distributing the cell phone bills to employees for review. If cellular phone overage is due to increased City business use, the employee should tell their supervisor. The supervisor may then contact the Human Resources Department and request that the employee's plan be altered.



On an annual basis, the Human Resources Department may review which employees have cell phones and whether or not they still need them.

The Human Resources Department is responsible for documenting the issuance of a cell phone, its accessories, and ensuring that they are returned once the employee has exited the department.

N. Use of Personal Electronic Communications Devices or Private E-mail Accounts for City Business.

No user should conduct City business on any non-City issued Electronic Communications Devices or non-City E-mail account without prior written authorization from the City, and any such use is highly discouraged.

If any City business is inadvertently conducted on non-City issued Electronic Communications Devices or non-City E-mail accounts, the employee or official must: (a) forward all such Electronic Communications or records memorializing the City business to their City-issued Electronic Communications Devices or City E-mail account; or (b) print out any such Electronic Communications or records and retain them according to the procedure stated in this policy.

Any user who uses personally-owned Electronic Communications Devices to access the City's E-mail server for work-related purposes must be aware that by doing so, they are waiving certain privacy interests, and that City-related E-mails, data or other material accessed, located, stored, or transmitted on personal Electronic Communications Devices, are subject to all City Personnel Rules and policies and all federal, state, and local laws, including, but not limited to, the California Public Records Act, the Meyers-Milias-Brown Act, and open meeting laws.

Employees conducting City business on off-duty time on any Electronic Communications Device (whether personal or City-issued) must report such activities to their supervisor and note this activity on their timecard as time worked.

O. Violation of Policy.

Violations of this Policy shall be reported to the City Manager and/or the Human Resources Department. Any employee who accesses the City's Electronic Communications Systems without complying with the procedures set forth in this Policy or otherwise violated this Policy may be subject to disciplinary action, up to and including termination, as provided for in the City's Personnel Rules. In addition, misuse of the Electronic Communications Systems may, in appropriate cases, be referred for criminal prosecution.

## **RULE 20. VEHICLE USE POLICY AND ACCIDENT REPORTING**

### **SEC. 20.1 PURPOSE**

Employees may be authorized to operate City vehicles for the purpose of conducting City business, provided the employee driver is at least 18 years old, has a valid

California Driver's License for the vehicle being drive, has reasonable experience driving the type of vehicle being used, could reasonably be expected to operate the vehicle in a safe and prudent manner and meets the requirements as set forth below.

Compliance with California law and these rules are required for any eligible driver to be authorized to use a City vehicle and for any driver of a non-owned, borrowed or rental vehicle being used on City business when authorized passengers will be transported. The City is authorized to deny a vehicle to anyone if, in the sole opinion of the City, there is any reason the vehicle may not be operated safely. Individual supervisors may impose additional standards, restrictions, or driver education or training requirements. This Rule is in addition to any requirements, standards, operating restrictions, or suspensions imposed by law.

#### **SEC. 20.2 AUTHORIZED DRIVERS**

Authorized drivers are City employees, and those officially authorized volunteers and agents. Volunteers or agents may be considered employees for vehicle liability coverage, provided the vehicle use is solely for the benefit of the City or to conduct City business, and the volunteer or agent is officially authorized to drive by the City. Contractors are not eligible and may not use City vehicles without written authorization from the City.

Authorized drivers are not consultants or vendors, speakers, members of special event groups, government representatives, or members of visiting community organizations.

#### **SEC. 20.3 AUTHORIZED PASSENGERS**

Authorized passengers include those in official City-sponsored or authorized transportation programs and City employees, agents, or volunteers while on authorized City business. Authorized passengers may also include persons who are on location at the City's request, for example, for potential employment at the City, to provide contracted services, or for participation in a City event/program. Other examples of authorized passengers include visiting faculty/staff, government representatives, or community organizations. All other passengers are prohibited from traveling in City a vehicle.

Examples of unauthorized passengers are employee's spouse, children, or other family members, friends, or neighbors of a City employee driver, or members of the general public.

#### **SEC. 20.4 APPROVED USERS**

City vehicles may be used solely for the purpose of conducting City business. Examples of approved uses include conducting departmental business, business errands, or a City employee on site, City-related sponsored, or approved conferences, meetings, events, and use by volunteers in programs sponsored by, directed by, or for the sole benefit of the City.

## **SEC. 20.5 SUPERVISORY RESPONSIBILITY**

It is the responsibility of the Department Head where vehicles are assigned to see that their vehicles are in proper working condition. Each Department is responsible for instructing new employees in the proper method of fueling and servicing vehicles. Employees must ensure that each vehicle is mechanically maintained, washed and cleaned, and parked within its designated area.

Designated City employees must have City vehicles in readiness for emergency purposes. Duty or standby employees (Maintenance Departments) may be authorized to take assigned vehicles home. In addition, the City Manager may provide authorization for other positions to take vehicles home on an as needed basis.

Employees authorized to operate City-owned vehicles must maintain and carry a valid California Class A, B or C driver's license.

## **SEC. 20.6 VEHICLE OPERATOR RESPONSIBILITIES**

- A. Employees must obey all State traffic laws and safe driving procedures.
- B. Personal Vehicle Used for City Business.
- C. Personal vehicles may not be used for City business unless such use is approved in advance by the City Manager. If the use of a personal vehicle has been approved, the employee may be reimbursed for such use at the rate per mile recognized by the Internal Revenue Service, for no more than the actual number of miles driven, plus reasonable parking fees and tolls. This cash reimbursement is the only approved reimbursement method; reimbursement may not be "in-kind" by the provision of fuel, parts, service, or any other thing of value at City expense. No additional reimbursement will be allowed except in writing by the City Manager, and then only when extraordinary and unforeseeable expenses not under the control of the City or the employee are encountered. Prior to operating a personal vehicle in the course of employment, the employee must show proof of liability insurance on that vehicle and possess a valid California driver's license.
- D. Employees must view a safe driving training video before driving City or personal vehicles on City business.
- E. All drivers will be subject to periodic reviews of their DMV reports. Employees that operate City vehicles or their own vehicles on City business are required to report suspension or revocation of their license to their supervisor and to the Human Resources Department. Failure of an employee to report a change in license status may result in disciplinary action.

- F. Employees are not authorized to operate vehicles for which they have not been trained including safety procedures and vehicle maintenance requirements.
- G. Employees using a personal vehicle in the performance of City work must provide proof of adequate insurance coverage for collision, personal injury, and property damage to the City. Whether coverage is adequate shall be determined in the sole discretion of the City Manager. Employees who use privately-owned vehicles for City business are responsible for bodily injury and/or property damage to others resulting from such privately-owned vehicle use.

#### **SEC. 20.7 VEHICLE USE REQUIREMENTS**

- A. All City vehicles (except for one vehicle) are clearly identified as City-owned vehicles and reasonably uniform in color and appearance.
- B. City-owned vehicles are restricted to official City use.
- C. Drivers are responsible to complete appropriate paperwork prior to operating City vehicles. Thorough completion of vehicle checklists is required, including name, department, City vehicle number, pre/post-driving checklist, odometer reading, and signature. The driver will walk around and inspect the vehicle for damage, inoperable lights, loose hardware, dirty windshields, tire condition and any other condition that may create an unsafe situation. Checklists will be reviewed by the supervisor and kept in the City Office, files.
- D. Employees must wear seatbelts at all times when in a City vehicle or in their personal vehicle on City business.
- E. No one may operate a City vehicle, or a personal vehicle in the course of their employment, while under the influence of drugs or alcohol, or under any other influence that would render him/her unsafe to operate a motor vehicle.
- F. Operating a City vehicle or a personal vehicle in the course of one's City employment—after drinking alcoholic beverages—is never permitted, regardless of how much alcohol is consumed, and what the location/social event is. City employees are required to plan transport home or to the City premises—after drinking alcoholic beverages— including, but not limited to, requesting a friend/co-worker to give a lift, to ride with a driver who hasn't been drinking, catching public transportation, and sharing a taxi/Uber/Lyft with others.
- G. City employees are prohibited from using cell phones while driving on City business and/or City time. The only exception to this rule is when the employee uses a hands-free device.

- H. As determined by City management, if an employee's duties require that he or she keep a cell phone turned on while driving, the employee must use a hands-free device. Employees are prohibited from reading/sending/composing text messages, emails, or instant messages while operating a vehicle on City business and/or City time.
- I. Pursuant to City policy and as required by law, an employee under the age of 18 years is prohibited from driving a motor vehicle while using a cell phone or other mobile service device, even if equipped with a hands-free device. This prohibition does not apply to such a person using a wireless telephone or a mobile service device for emergency purposes. Any violation of this policy is a violation of City rules subject to disciplinary action and may be a violation of law subject to criminal penalties.
- J. Vehicles must not be parked in "No Parking" zones except in emergency situations.
- K. Employees will be personally responsible for paying any citations and parking tickets received during use of City vehicles.
- L. Vehicles must not be left unattended with the key in the ignition. Employees who violate this policy shall be disciplined. Vehicles will be locked when not occupied
- M. Vehicles may not be driven out of state unless specifically authorized by the City Manager.
- N. Unless expressly authorized otherwise by the City Manager, City vehicles may be used only for City business and must remain on City property at any time they are not being used on City business, except:

Because they are subject to call in serious situations, when transportation and radio communication are critical, the Chief Plant Operator, Chief Wastewater Treatment Plant Operator, Streets & Buildings Superintendent, Parks & Trees Superintendent, Underground Utilities Superintendent, Operations Manager, Assistant Operations Manager, Public Works Director and the Chief of Police are authorized to drive a marked City vehicle between home and work for the convenience of the City. These vehicles may not be used for personal errands but may be used only for official business. Given the design of these City vehicles (e.g., with clear police, fire and public safety officer marks meets the "qualified non-personal use vehicle" requirements under applicable IRS regulations, the use of these City vehicles for commuting will not be reported as fringe benefits. Yet, the value of permitting these employees to use these City vehicles to commute will be included in wages, subject to legally required withholdings.

In order to have tools and materials on-hand and to provide timely transportation to emergency or problem areas, personnel designated as "on-call" may drive a City vehicle between work and home during those times they are "on-call." These vehicles may not be used for personal errands, but may only be used for official business, other than the

trips to and from work. If these vehicles do not meet the IRS “qualified non-personal use vehicle” requirement, using these City vehicles to commute shall be a non-cash taxable fringe benefit.

O. Use of City Vehicles during Off-duty time.

1. The City provides certain employees “take home City vehicles” as a mutual benefit, and these employees subject to call out are expected to respond to City needs at all hours of the day and night, weekend and holidays included. The City recognizes employees’ needs to address personal matters while commuting to and from the City, and driving a City vehicle is not intended to create further hardship for the affected employee beyond being subject to call out; As a result, de minimis personal use of a City vehicle while commuting to and from work is a reasonable accommodation.
2. Employees may not deviate from a direct path between home and work, or stop en route for personal business, except where such personal business would be considered de minimis in nature and an essential action in the employees’ personal life. Driving a City vehicle is not intended to create a hardship for the affected employee.
3. After 5 p.m. Monday through Friday, and at any time on weekends and holidays when any City vehicle is parked other than for City work, or at the employee’s home, the employee must notify the Police dispatcher, the location of the vehicle and how long it will be left unattended.
4. Other than for City business, only City employees are allowed to ride in a City vehicle, except carrying a passenger to meet an unusual situation, as permitted by the City Manager. More intensive use, or use outside of permitted exceptions, is prohibited.
5. Use of City vehicles during off-duty time is limited to responding to call outs, commuting to and from work, and transportation to other official City business. City vehicles may not be used for personal trips and errands (except as described in (1) above). During those times that an employee is designated as “on-call” and being compensated with stand-by pay, the employee is expected to be able to get to the vehicle and respond to an emergency within a reasonable time.

Employees must ensure that (1) vehicle doors are locked, (2) lights are off, and (3) windows are closed and (4) the vehicle is free of debris after each use.

Any deficiency encountered must be reported to a supervisor immediately. It is the supervisor’s responsibility to ensure that appropriate action is taken to correct the problem. At no time shall an unsafe vehicle be driven.

## **SEC. 20.8 REQUIRED REPORTING OF ACCIDENTS/VIOLATIONS**

In the event of an accident involving a City vehicle, or a personal vehicle being used for City business, the employee operating or having custody of the vehicle shall immediately, or as soon as practical, report the accident to a law enforcement agency of appropriate jurisdiction. In the event the contacted agency declines to investigate, the employee should include in their report the agency contacted and the date and time of contact. The employee shall cooperate fully in any accident investigation and shall, as soon as practicable, furnish to the City Manager, or the Human Resources Department, and to the City's insurance carrier (the Redwood Empire Municipal Insurance Fund, or "REMIF") a written report of the accident.

A City driver must promptly report to their supervisor all accidents, moving violations, or other vehicle citations that occur while the employee is conducting City business. The driver's supervisor must immediately forward the information to the Human Resources Department. Failure to report accidents, convictions, and violations as required may result in the loss of privilege to use City vehicles and disciplinary action.

Mandatory post-accident testing for drugs and alcohol will be conducted in accordance with the City's Drug-Free Workplace policy.

Hit and run and vandalism are criminal incidents and must be reported to the police and the City.

City drivers must immediately report any accident, incident of damage, or personal injury involving City vehicles.

All drivers and employees are expected to properly safeguard the City's vehicles and use them in accordance with City policy. If it is determined that a vehicle is being misused, or is at substantially higher risk of theft or damage due to a lack of reasonable precautions by employees, employees may be required to forfeit use of the City vehicle.

## **SEC. 20.9 INSPECTION, SERVICE AND MAINTENANCE POLICY**

All City vehicles will at all times be kept in good repair, serviced, and clean. Any City vehicles found to be in an unsafe condition should be immediately removed from service until all safety defects have been corrected.

All maintenance and repair work will be done by City personnel at City facilities unless authorized otherwise by a Department Head or the City Manager, except emergency repairs necessitated by extraordinary circumstances.

All fuel purchased will be through retail outlets designated by City Manager and according to established procedures. If fuel must be purchased using an employee's own resources, the driver will be reimbursed on presentation of proof-of-purchase and utilizing an expense reimbursement form.

City vehicles including construction equipment, forklifts, and other equipment are required to be serviced and maintained in accordance with the manufacturer and City

guidelines, whichever is stricter. Every vehicle must undergo a monthly inspection by the driver (tires, brakes, lights, turn signals, horn, no cracked/broken glass, current registration, current insurance card, clean appearance).

City guidelines for vehicle service and maintenance include complying with manufacturer's service recommendations, using recommended types of gasoline; maintain proper fluid levels (oil, antifreeze coolant, brake, and transmission, etc.) and ensuring proper tire pressure; working signals, lights (headlamps, turn-signal lights, tail-lights, brake-lights, etc.), brakes, and other vehicle safety items.

Failure to comply with the service, maintenance, and inspection requirements of this program may result in suspension of driving privileges, increased insurance charges, and/or loss of the vehicle.

#### **SEC. 20.10 ELECTRONIC TRACKING TECHNOLOGY**

The City, in its sole discretion may install Electronic Tracking Technology on City-owned or leased vehicles to increase efficiencies, save on fuel costs, facilitate City business, and enhance City services.

Electronic Tracking Technology means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. Electronic Tracking Technology used for public safety greatly enhances job performance, personnel safety, situational awareness, and may provide assistance in time critical scenarios. City employees may, in the course of employment, be required to drive and/or ride in agency-owned or leased vehicles equipped with Electronic Tracking Technology.

Electronic Tracking Technology may include Event Data Recorders (EDR), Sensing and Diagnostic Modules (SDM), or other systems that are used for the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the City vehicle and/or to capture safety systems-related data for retrieval after a collision or similar incident has occurred. The following information may be generated by the City's Electronic Tracking Technology: (1) Mileage reports; (2) information about where vehicles were located and at what time; (3) the last reported location of vehicles; (4) the path a vehicle traveled during any period of time; (5) the speed the vehicle traveled; and (6) how long a vehicle was idle or stopped for a given period of time. As such, Electronic Tracking Technology allows the City to monitor location, elevation, and velocity of its vehicles, at any time. The City may use Electronic Tracking Technology at its sole discretion, and in the ordinary course of business.

Electronic Tracking Technology in City vehicles may also be used to for other business-related purposes, including, but not limited to, metrics, performance measures, locating stolen vehicles, providing aid to vehicles that break down, increasing employee safety, managing agency resources effectively, or ensuring that routes or assignments are being followed.

Additionally, the City may utilize Electronic Tracking Technology during a disciplinary investigation or discipline of its employees pertaining to the misuse or abuse of their



vehicles, inappropriate use of time, speeding, or other misconduct or violation of City directives, documented procedures, or Personnel Rules and Regulations.

Employees are prohibited from tampering with, altering or attempting to alter, disabling, or destroying any Electronic Tracking Technology equipment.

## **RULE 21. PERSONAL TELEPHONE USE AND TEXT MESSAGING**

- A. Employees are encouraged to keep all personal phone calls and text messaging to a minimum, regardless of whether the employee is using a City-owned telephone or a personal telephone. Friends and relatives should be discouraged from calling and texting during working hours unless there is an emergency. Personal calls and text messages should be made during break periods or lunch whenever possible. Personal long distance or toll calls from a City owned telephone are to be charged to the employee's own telephone number or long-distance calling cards/apps.
- B. Excessive personal phone calls or text messaging, or communications through similar electronic means, may result in disciplinary action, up to and including termination.

## **RULE 22. EMPLOYEE REIMBURSEMENTS AND TRAVEL**

### **SEC. 22.1 PURPOSE**

- A. Employees have a right to receive reimbursement for all appropriate business expenses.
- B. This Rule is to assure that City employees and officials adhere to procedures when arranging for travel, lodging, meals, and other expenses and that they are paid for reasonable expenses incurred for travel, conferences, meetings, and meals as a result of conducting authorized City business. The Rule assures that payments made by the City are for actual and necessary expenses incurred for City business. It also assures that City employees and officials will receive advances and/or reimbursements in a timely manner.
- C. This Rule assumes a mutual trust between the City and its employees and City officials. Employees are expected to use good judgment in the expenditure of public funds with which they have been entrusted. Employees and officials are advised, by virtue of this policy, that not attending any conference or training is unethical and a dereliction of duty.
- D. These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of City travel. Accordingly, the basic standard that should always prevail is to exercise good judgment in the use and stewardship of the City's resources.

## **SEC. 22.2 APPLICABILITY**

- A. As used in this Rule, "employee" shall refer to all City employees, officials, and City Council members.
- B. As used in this Rule, "conference" shall refer to an official function of a professional or governmental organization or agency normally requiring attendance for more than one (1) day.
- C. As used in this Rule, "meeting" shall refer to a meeting with one or more persons for the conduct of City business or an official meeting of a professional or governmental organization or agency not requiring overnight accommodations or meals other than those related to the meeting.
- D. As used in this Rule, "local area travel" shall refer to travel within an area generally within 300 miles of, or five hours of travel time from, St. Helena.

## **SEC. 22.3 AUTHORIZED TRAVEL EXPENSES**

- A. Except as otherwise provided, all employees must seek prior authorization, pursuant to the reimbursement procedures set forth below, for reimbursement pursuant to this Section.
- B. Employee travel may be authorized for local and non-local travel activities, undertaken for the purpose of conducting City business, such as professional meetings, conferences and training sessions. Payments for travel and meeting expenses may be in the form of either advances or reimbursement, including appropriate registration fees, food, lodging, transportation costs, and reasonable incidental expenses as described in this Rule.
- C. Travel at City expense will be undertaken only upon approval of the City Council, City Manager, or Department Head and in accordance with guidelines outlined herein. Any deviation from the specific provisions may be granted only by the City Council:
  - 1. Conference: Attendance at conferences shall be subject to the following:
    - (a) Funds must be available in the proper department budget category to cover the anticipated costs of the conference.
    - (b) Out-of-state travel requires City Council approval, except for those out-of-state destinations that are within fifty (50) miles from the California border (e.g., Reno, Nevada).
    - (c) Following return from a conference, the employee may be required to submit to the City Manager a brief report containing an

overview of the conference and assessment of the value of the attendance at the conference.

2. Meetings: Attendance at meetings shall be subject to the following:
  - (a) Sufficient funds are available in the appropriate budget for the meeting expenses.
  - (b) The employee is required to obtain approval of the Department Head or the employee's immediate supervisor.
  - (c) Attendance of a Department at any meeting requiring absence from the City for all or most of a work day shall be subject to prior notification to the City Manager.

3. Lobbying:

- (a) Sufficient funds are available in the appropriate budget. (2) City Council approval is required prior to the trip. Agenda items to identify Council adopted policy decision or strategy, identification of the City delegation, the officials or agencies to be contacted, and the estimated costs of the trip are required. Expenses eligible for reimbursement under this Section generally include: (a) communicating, including lobbying, with representatives of regional, state, and national government on City adopted policy positions; (b) attending educational seminars designed to improve employees' or officials' skills and informational levels; (c) participating in regional, state, and national organizations whose activities affect the City's interests; (d) recognizing service to the City; (e) attending City events; (f) implementing a St. Helena City Council-approved strategy for attracting or retaining business to St. Helena, which will typically involve at least one staff member.

Expenses ineligible for reimbursement under this Section shall include, but are not limited to, such expenses related to the following activities:

- (a) The personal portion of any trip;
- (b) Political or charitable contributions or events;
- (c) Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;
- (d) Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), alcoholic beverages, tours, personal amusements, or other cultural events;

- (e) Non-mileage personal automobile expenses, including repairs, traffic citations, insurance, or gasoline; and
- (f) Personal losses incurred while on City business.

The City will not be responsible for, nor reimburse for, citations and parking tickets.

All reimbursements made pursuant to this Section must be approved by the employee's Department Head. . Reimbursements made to any supervisor must be approved by the Department Head; any reimbursements made to any Department Head, members of the City Council, Boards, or Commissions must be approved by the City Manager, and any reimbursements made to the City Manager must be approved by the Finance Director. An individual may not authorize or approve reimbursement for their own travel. Reimbursements pursuant to this Section shall be subject to appropriation of funds in the annual budget and any supplemental policies adopted by ordinance or resolution.

Each Department Head shall be held responsible for the administration of this Rule within their department. Administration shall be consistent with the adopted budget as set out in the budget detail document.

Employees should schedule travel so that the employee leaves at a reasonable hour and arrives at the destination on time. Employees should also return promptly when employee business is finished, thereby minimizing the time away from work and ensuring full reimbursement of all related expenses.

#### **SEC. 22.4 STANDARD REIMBURSEMENT PROCEDURE**

Upon completion of any travel for which reimbursement is sought, the following items shall be promptly submitted to the employee's supervisor:

1. A completed Expense Reports, which documents expenses meet the requirements of the City policy.

For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed, and how those were related to the City adopted legislative positions and priorities.

Expense Reports are to be submitted within thirty (30) days of an expense being incurred, accompanied by itemized receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

2. All receipts for expenses incurred while traveling. Itemized receipts are required for expenditures for airline tickets, hotel rooms, conference/meeting registration fees, parking, and all other expenses for which receipts normally are obtainable; unless those expenses have been prepaid in full through the City. Inability to

provide such documentation in a timely fashion may result in the expense being borne by the employee/official.

In general, a receipt is required for all reimbursable expenditures, except mileage reimbursements or other expenses for which receipts are not available (i.e.: incidental parking meter expenses); receipts for tolls under \$5 are not required but an account of expenses must be made on the expense reimbursement form including toll location; receipts are not required for per diem payment for meals unless the employee/official requests payment in excess of the per diem amounts specified, in which case the employee/official is required to receive prior written approval from the City Manager; and

3. Any other supporting document, such as conference program materials.

City officials should keep in mind that some expenditure may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

Employees may choose to make a copy for their own records.

All expenses are subject to verification of compliance with the City's reimbursement policy.

Employee travel expenses will be reviewed by their supervisor, Department Head, or City Manager and, if approved, forwarded to the Finance Department for reconciliation and payment processing. If employees are to receive reimbursement, the Finance Department will process a check on the next regular accounts payable run.

Employees are responsible for preparing and filing employee travel request; travel advances requests, reimbursements, and travel expense reports pursuant to City policy. Expenditures in excess of any amounts authorized by the City's policy shall be at the risk of the employee/official with respect to reimbursement. An employee's request for reimbursement may be rejected if it was inconsistent with City policy or did not serve a City business purpose.

Should any request for reimbursement be rejected, any such request and supporting documentation will be returned to the employee for correction of any errors or omissions.

#### **SEC. 22.5 REIMBURSABLE EXPENSES**

Except as otherwise provided, expenses associated with the following items may be approved for reimbursement pursuant to this Section.

##### **A. Transportation.**

Transportation costs include, but are not limited to, airplane, train, bus and taxi fares, bridge tolls, parking, car rental, and fuel charges associated with a car rental. An employee should generally take the most direct and commonly traveled routes.

The guiding principle should be the most cost effective and efficient use of public resources.

B. Air Travel.

The employee should take advantage of lower airfare rates by booking their flight as early as possible, and purchasing non-refundable, coach class tickets. An employee may sometimes avoid higher airfare by staying over a Saturday night. In some instances, an extra night in a hotel/motel can be much less than the added cost of the airfare. Selection of carrier, reservations, and ticketing should be arranged as early as feasible to obtain the greatest discount. Also consider the use of alternative transportation methods, such as using a nearby airport and ground transportation if the total fares are lower.

Travel outside of the local area shall normally be by common carrier air transportation. No employee may act as Pilot in Command of a private aircraft on City travel.

Incidental transportation expenses for airport limousine, bus, or taxi service will be reimbursed if incurred as a necessary part of officially approved travel. Other travel expenses, including car rental, will be limited to circumstances where less expensive intra-city travel service is not available or practical.

C. Airport Parking.

Long-term parking should be used for travel exceeding twenty-four (24) hours.

D. Private Vehicles.

Use of any private vehicle must be approved by the employee's supervisor, or the City Manager, in advance. If the use of a personal vehicle has been approved, the employee may be reimbursed for such use at the rate per mile recognized by the Internal Revenue Service, as reimbursement for all costs incurred while operating such vehicle such as gasoline, wear and tear on the car, insurance coverage, and other incidental items. The City will additionally reimburse reasonable parking fees and tolls. The cash reimbursement is the only approved reimbursement method; reimbursement may not be "in-kind" by the provision of fuel, parts, service, or any other thing of value at City expense. No additional reimbursement will be allowed except in writing by the City Manager, and then only when extraordinary and unforeseeable expenses not under the control of the City or the employee are encountered.

Prior to operating a personal vehicle in the course of employment, the employee must show proof of liability insurance on that vehicle and possess a valid California driver's license.

If an employee elects to travel by personal car where adequate public air service is available, the maximum allowable mileage will be the coach air fare rate or mileage, whichever is less.

Employees are expected to obey and comply with all laws and regulations, including speed limits and other traffic regulations.

FLSA-exempt, unrepresented employees who receive auto allowance are not reimbursed for travel within the County of Napa. If travel is required by the employee in their personal vehicle beyond the County line, mileage shall be reimbursed at the same rate as set by the IRS.

E. City vehicles.

City vehicles may be used if available, subject to any limitations regarding their use. Employees must comply with the City's Vehicle use Policy.

City vehicles shall be used for local area travel in connection with official City business whenever practical. Any necessary out of pocket expenses incurred with the operation of a City vehicle shall be reimbursed.

Reasonable and necessary expenditures will be allowed for parking and toll charges incurred in connection with official travel.

Employees are expected to obey and comply with all laws and regulations, including speed limits and other traffic regulations.

F. Rental vehicles.

Rental vehicles may be authorized when employees are on City business and other modes of transportation are not available, too costly, or impractical.

G. Public Transit and Carpooling.

Employees are encouraged to make optimum use of available public transit services and carpooling.

H. Lodging and Incidental Expenses.

1. Lodging costs will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging costs should not exceed the group rate published by the conference sponsor for the meeting in question. For overnight stays in other contexts, a helpful source of guidance is the Internal Revenue Service per diem rates for lodging, which include adjustments for higher cost locations. (<https://www.gsa.gov/travel/plan-book/per-diem-rates>.)
2. Additionally, all properties approved by the Federal Emergency Management Agency (FEMA) as being fire safe and in compliance with the Hotel Motel Fire Safety Act of 1990 can be located using: <https://apps.usfa.fema.gov/hotel/>.

3. A factor in considering hotels in metropolitan areas is their proximity to the offices where business will be conducted: the cost of transportation away from the business center can exceed the higher cost of the closer hotel. The guiding principle should be the most cost effective and efficient use of public resources in selecting lodging with a degree of sophistication while serving the business needs of the trip. In the event that arrangements have been made for the City to be billed directly for hotel or motel rooms, incidental charges should be paid for by the employee at the time of checkout and appropriate reimbursement requests be made by the employee upon return from travel.

- I. Reasonable incidental expenses, such as tips, cab fare, parking fees, and internet charges, when required in connection with official City business, will be reimbursed on the basis of actual expenditures.

- J. Meals.

Payment for meals while on City business shall be \$50.00 per diem for each full day. On travel days, when the employee is not out of the City for the full day, the following schedule is applicable: breakfast (\$10.00); lunch (\$15.00); dinner (\$25.00).

Meal expense in excess of the per diem may be approved by the City Manager where metropolitan costs are considerably higher. Per Diem rates for higher cost metropolitan areas will not exceed IRS per diem rates found at <https://www.gsa.gov/travel/plan-book/per-diem-rates>. In the event a meal cost is higher than IRS per diem rates, written authorization can only be made by the City Manager and the employee is to provide itemized receipts for all meals.

Meal expenses and associated gratuities should be moderate, taking into account community standards and the prevailing restaurant costs of the area.

Meal charges in excess of the specified listed amounts are allowed for special luncheons, banquets, and other meals if part of a previously approved conference or meeting program. When such luncheons, meals and other meals are included in the registration fee or otherwise paid by the City, the per diem will be reduced accordingly.

The City will customarily not pay for alcohol/personal bar expenses. In recognition of St. Helena community standards that meals associated with lobbying events typically include consumption of donated wine this policy recognizes corkage costs are an appropriate expense. Any other alcohol expenses require the prior written authorization of the City Manager.

- K. Excluded Expenses.

Expenses associated with the following items are not considered necessary expenditures or losses incurred by an employee in direct consequence of the discharge of their duties, and no reimbursement shall be provided pursuant to this section.



Personal expenses such as laundry, barbering, valet service, in-room movies, gratuities for porters, personal telephone calls, and/or alcoholic beverages.

Additional expenses associated with the participation of an employee's non-employee spouse or guest, including any increased room rate due to double occupancy.

Travel on behalf of another public agency, unless reimbursement is otherwise authorized by the City Council.

L. Audits of Expenses Reports

All expenses are subject to verification of compliance with this policy.

**RULE 23. CASH ADVANCES AND CREDIT CARD USE**

**SEC. 23.1 CASH ADVANCES.**

- A. From time to time, it may be necessary for an employee or official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such requests for an advance should be submitted to the Finance Director ten (10) days prior to the need for the advance with the following information: (a) the purpose of the expenditure(s); (b) the anticipated amount of the expenditure(s) (for example, hotel rates, meal per diem, and transportation expenses); and (c) the dates of the expenditure(s).
- B. Any unused advance must be returned to the Finance Department within two (2) business days of the employee's or official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.
- C. In the event that the Finance Director is uncertain as to whether a request complies with this policy, such individual must seek resolution from the City Manager and/or City Council.
- D. Cash advances not exceeding \$25.00 for official City business expenses may be made from petty cash, with Department Head approval. All advances exceeding \$25.00 shall be approved by the Finance Director.

**SEC. 23.2 CREDIT CARD USE.**

- A. City Procurement Cards: City Council Policy P-F1-0012
  - 1. City Council Policy P-F1-0012, Issuance and Use of City Procurement Cards ("Procurement Card Policy"), was approved by the City Council on February 13, 2018. The purpose of the Procurement Card Policy is to establish a framework for appropriate use of the City's Procurement Cards. A Procurement Card is a City-issued credit card from a financial institution, and the Procurement

Card shall be used as an option for small purchases unless the items are available in current City inventory or through established contracts. The Procurement Card Policy applies to all employees who are issued a City Procurement Card and all departments who authorize employees to use City Procurement Cards.

2. In general, the City Procurement Card is to be used for official City business and may not be used for personal purchases under any circumstances. Failure to follow the Procurement Card Policy, including any outlined procedures for Procurement Card purchases, may lead to the suspension or termination of a procurement card and disciplinary action. Reimbursement to the City by the employee for the unauthorized charges is mandatory.
3. The Finance Director acts as the Citywide Procurement Card Administrator and serves as the primary contact for the financial institution issuing procurement cards and administers the City-wide program.
4. The Procurement Card will only be issued to Cardholders who certify they have read, understand, and will comply with the Procurement Card Policy. Employees issued a Procurement Card are responsible for any and all use of the Procurement Card.
5. Use of a City Procurement Card is a privilege and the City Manager or Director of Finance may suspend or revoke cards at any time in accordance with their assessment of the City's best interests such, as but not limited to, lack of timely review and approval of Procurement Card invoices and violations of the City Procurement Card Policy.
6. The City Procurement Card may be issued in a designated individual name and/or the name of the City. For further details regarding the use of the City Procurement Cards, please refer to the Procurement Card Policy.

B. City Fuel Cards: City Council Policy P-F1-0013

1. City Council Policy P-F1-0013, Issuance and Use of City Fuel Cards ("Fuel Card Policy"), was approved by the City Council on March 13, 2018. The purpose of the Fuel Card Policy is to establish uniform procedures, accountability and controls for fueling motor vehicles and equipment owned by the City. A Fuel Card is a City-issued credit card from a financial institution. The Fuel Card shall only be used on City vehicles and/or City equipment and is not authorized for use on any other vehicle or equipment. The Fuel Card Policy applies to all employees who are issued a City Fuel Card.

2. The City Fuel Card is to be used for City official use only and may be used at Wright Express (WEX) participating locations. There will be a vehicle number on each Fuel Card, and a dedicated card will be issued to each City vehicle. Each driver will have their own Personal Identification Number (PIN).
3. Various employees are authorized to receive a City issued Fuel Card PIN for City-related purchases. All employees operating City vehicles on a regular basis will receive a WEX PIN. Prior to receipt of the WEX PIN, the employee will receive the associated City Fuel Card Policy and sign an agreement for use of the Fuel Card and PIN. A copy of the agreement will be placed in the employee's personnel file.
4. Any misuse of the City issued Fuel card will result in reasonable disciplinary action that may include a combination of the following: (A) suspension of Fuel Card access, and (B) termination of Fuel Card.
5. For further details regarding the use of the City Procurement Cards, please refer to the Fuel Card Policy.

#### **SEC. 23.3 VIOLATION OF THE POLICY**

Use of public resources of falsifying expenses reports in violation of this policy may result in any or all the following:

1. Loss of reimbursement privileges;
2. A demand for restitution to the City;
3. Prosecution for misuse of public resources;
4. The agency's reporting the expenses as income to the elected official to state and federal tax authorities.

#### **RULE 24. WHISTLE BLOWING POLICY**

##### **SEC. 24.1 DEFINITION OF "WHISTLE BLOWING"**

For purposes of this provision, "whistle blowing" consists of disclosure of information that the employee reasonably believes constitutes a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties, when that disclosure is made to one or more of the following:

1. A government or law enforcement agency;
2. A person with authority over the employee;

3. Another employee who has authority to investigate, discover, or correct the violation or noncompliance; or
4. Any public body conducting an investigation, hearing, or inquiry, including, but not limited to, information given as testimony.

#### **SEC. 24.2 SCOPE OF POLICY**

The City encourages employee complaints, reports or inquiries about practices believed to be unlawful or constitute serious violation of the City policies, including illegal or improper conduct by the City itself, by its leadership, or by others on its behalf. Other subjects for which the City has existing complaint procedures shall be addressed under those other procedures. This Policy is not intended to provide a means of appeal from outcomes in those other procedures.

#### **SEC. 24.3 PROCEDURE**

Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports or inquiries. They may be directed to the Human Resources Director or City Manager, or to the City Attorney if involving the Human Resources Director or City Manager. The City will conduct a prompt, discreet, and objective review or investigation in response. However, Employees must recognize that the City may be unable to fully evaluate or address a report or inquiry that is made anonymously or made in a vague or general manner.

#### **SEC. 24.4 PROTECTION FROM RETALIATION BECAUSE OF GOOD FAITH COMPLAINTS, REPORTS, OR INQUIRIES**

- A. The City prohibits retaliation by or on behalf of the City against employees for making good faith complaints, reports or inquiries under this policy or by participating in a review or investigation under this policy. Any employee who makes a complaint using this procedure or otherwise engages in "whistleblowing" is protected against adverse employment actions (discharge, demotion, suspension, harassment, or other forms of discrimination) taken by the City or any person acting on behalf of the City. This protection extends to those whose allegations are made in good faith but prove to be mistaken or unsubstantiated. Employees who participate or assist in an investigation will also be protected. Every reasonable effort will be made to protect the anonymity of the "whistleblowing" employee; however, there may be situations where it cannot be guaranteed.
- B. The City reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

**RULE 25. SOCIAL MEDIA POLICY SEC.****SEC. 25.1 PURPOSE**

The City recognizes that social media plays an increasingly important role in society and communication. This policy is to establish guidelines on the use of social media sites by the City as an additional means of conveying City-related information to the public and maximizing the promotion of City-managed programs and services. This policy is also designed to establish lawful and proper parameters for employees' personal use of social media while being employed with the City.

While social media presents many benefits, such as community engagement through an interactive platform, it also presents certain risks of liability to the City. This policy is intended to mitigate associated risks from use of social media technology where possible. This policy is in addition to and complements the City's policies regarding the use of technology, computers, social media, e-mail and the internet.

The City has an overriding interest and expectation in protecting the integrity of information posted on its social media pages and deciding what is "spoken" on behalf of the City. This policy applies wholly to the City and all City employees and all participation on social media must be in accordance with the provisions set forth herein.

**SEC. 25.2 DEFINITIONS**

- A. "Social media sites" refers to interactive platforms and technologies which allow entities or individuals to post or publish content through and on the internet. Social media uses many technologies and platforms, including social networking, blogs, wikis, photo and video sharing, and more.
- B. "City social media page" means a page on a social media site which the City establishes and maintains, and over which it has control over all postings, except for advertisements or hyperlinks by the social media site's owners, vendors or partners. No social media platforms are to be utilized without express authorization from the City Manager.
- C. "City social media team" refers to those City employees specifically authorized by the City to create content or to post or comment on a City social media page on behalf of the City. The City social media team is comprised of the City Manager's Office, Community Services and Information Technology Office and other individuals designated by the City Manager or Department Head. Only members of the City social media team may post or comment on behalf of the City.
- D. "Employee" means any person employed by the City including full-time, part-time, temporary, seasonal, and probationary employees. For purposes of this policy, "employee" does not include any volunteers or appointed or elected official of the City.

- E. “Post” or “Comment” means information, articles, pictures, videos, hyperlinks or any other form of content or communication posted on any City social media page.

### **SEC. 25.3 GENERAL POLICY**

This policy applies to all authorized employees who utilize social media websites on behalf of the City for the following purposes:

- A. To establish guidelines for posting of information on social media websites.
- B. To establish guidelines for user policies of social media websites.
- C. To provide a uniform policy that will be implemented by all departments which utilize social media as an informational tool.

All City employees shall comply with this policy in all respects. This policy is subject to revision at any time. In the event of a revision to this policy, the City will attempt to provide prior notice of any such change. However, this policy may be changed without prior notice when deemed necessary to fully protect the City's interests and/or the public's interests. If it is necessary to change this policy without providing prior notice to employees, the City shall notify the employees of the change at the earliest possible time.

All City employees shall sign an acknowledgement of receipt of this policy indicating that he or she has read and understands all of its provisions and agrees to be bound by the same. Before posting anything on social media website, the employee must check the most current policy to ensure compliance.

### **SEC. 25.4 GUIDELINES AND PROCEDURES**

- A. Ownership and Adherence to Other City Policies
  - 1. Social media website communications composed, sent, or received on City equipment are not privacy-protected, are subject to search and review (and appropriate action) by the City, and may be subject to public disclosure.
  - 2. The use of City computers, City-issued smartphones, City-issued tablets, or any other City-issued electronic device to post information on a social media website is subject to all applicable policies of the City.
  - 3. Content posted on a City social media page may be subject to the California Public Records Act. Any content maintained in a social media format that is related to City business, posted communication, communication submitted for posting, and removed content, may be a public record subject to public disclosure.

B. Creation of City Social Media Pages

1. The City Manager's Office may establish official City social media pages. The City Manager's Office will maintain a written list of all approved City social media pages and websites.
2. The City's official website is the City's primary source and means of internet communication. To the extent possible, a link to the City's official website should be included on any City social media page. Wherever possible, City social media pages should link back to the official City website for forms, documents, online services and other information necessary to conduct business with the City. Information posted by the City on social media pages will supplement and not replace required notices and standard methods of communication.
3. Each established department within the City may create departmental City social media pages and/or City social media pages for a specific City-related purpose or City event with approval of the City Manager.
  - (a) Creation of any such City social media pages must be proposed, in writing, by the Department Head to the City Manager. The City Manager may, in their sole discretion, approve, deny, or modify the creation of such social media websites. A department may not create a City social media website without the prior written authorization of the City Manager. Consideration shall be given to the overall nature and theme of the website, and its suitability for use for City purposes.
  - (b) Each department is responsible for the creation, administration, and deactivation of their City social media website account or page. Any user identifications, logins, and passwords must be shared with the City Manager's office.
  - (c) Any City social media website that is created for a specific purpose or event should be deleted or taken down once it is no longer necessary and/or timely, and the department must provide written confirmation of same to City Manager's office.
  - (d) The City Manager's Office shall have ultimate authority over all City participation on social media websites and may order the removal of all or part of a department's social media page if the City Manager, in their sole discretion, determines that the content or social media website is not in the best interests of the City.
4. For the purpose of this policy, all City social media pages must have been approved and created in accordance with this policy.

C. Administration and Maintenance of Authorized City Social Media Pages

1. Only City social media team members are permitted to maintain, administer, and/or post on an authorized City social media page on behalf of the City.
  - (a) In approving an authorized City social media page, the City Manager, or their designee, shall designate at least one authorized employee as being responsible for the regular monitoring and maintenance of that particular City social media page.
  - (b) The City social media team shall only address issues within the scope of their specific authorization.
  - (c) The City social media team must conduct themselves at all times as a representative of the City and in accordance with all City policies.
2. Social medial websites often have their own polices, terms of use, conditions of use, and/or legal restrictions. These terms could have significant legal and financial implications for the City. Therefore, prior to signing and/or agreeing to adhere to any polices, terms of use, conditions of use, and/or legal restrictions for a social media website, the City social media team member must obtain the City Manager's written approval. In addition, prior to posting any content on an authorized City social medial website, City social media team members must review, become familiar with, and comply with the website's policies and terms and conditions.
3. Any and all information posted by City social media team members on City social media pages created on behalf of the City must:
  - (a) Directly pertain to the City;
  - (b) Contain factual information that is freely available to the public and that is not made confidential by any policy of the City, or by local, state, or federal law; and
  - (c) Present the City in a positive light.
4. City social media team members are prohibited from posting the following content on any authorized City social media page or website:
  - (a) A photograph, video, or image of any person who can be readily identified by the naked eye in the photograph, video, or image without first obtaining the depicted person's (or their legal representative's) consent.
  - (b) Many social media sites allow the City to "like" or "follow" other site users or to share content posted by other site users.



Express permission to like or follow any entity, organization, or individual must be obtained from the City Manager or their designee. Sharing or re-posting content is permissible if relevant to City business, programs, services, or events and the City has full permission or rights to do so, unless it includes content that is prohibited in this policy.

(c) Language that is sexually explicit, or that is lewd or obscene, racial, promotes religious beliefs, political, or illegal, or that expresses a personal opinion.

(d) Actual or perceived threats to public health, safety or property unless the authorized employee has authorization from the City Manager to post such content.

(e) Actual or potential legal claims, lawsuits or other legal issues, unless approved in advance in writing by the City Manager.

(f) Personnel or medical matters.

(g) Testing materials or matters related to the evaluation of employment applicants (this does not prohibit the City from advertising vacancies on a social media website);

(h) Budget planning and priorities, unless approved in advance in writing by the City Manager.

(i) Criminal investigations and content regarding crime scenes.

(j) Solicitation, engaging in or endorsing any commercial, products or activities. This provision is intended not to limit the City's ability to support business in St. Helena generally, but to refrain from supporting a particular commercial enterprise.

(k) Comments in support of or in opposition to elected and appointed City officials, political candidates, political campaigns, ballot measures, and matters that may reasonably be agendaized for consideration by the City Council and/or any City commission, agency, or board.

(l) Comments regarding the position of any City Council member or member of any City commission, agency, or board regarding a City-related issue or comments regarding, or speculating about, a potential decision by the City Council or any City commission, agency, or board.

5. Following City Manager approval of an authorized City social media website, City social media team members must adhere to the following rules:

(a) City social media pages should make clear that they are maintained by the City and state that they follow the City's use of social media policy and the host site's terms of use. City social media pages are considered City property and are not for personal use or benefit.

(b) City social media sites shall bear the name of the City. If feasible, City social media sites shall also bear the City's official logo or informal logo as designated by the City's graphics standards. If a department wishes to use any other image as the profile picture or background image, the department must obtain the City Manager's prior written approval.

(c) Wherever applicable, City social media sites shall be classified and registered with the service provider as "Official" and/or Government Entity sites. The social media team shall take advantage of all options provided by the service provider for Government Entity sites that provide additional protections for the City.

(d) Authorized City social media pages or websites shall utilize account names or usernames that are clearly identifiable as City social media pages.

(e) City account profiles must contain a valid City email address.

(f) If possible, City social media team members shall disable any feature of an authorized City social media page or website that allows members of the public to post content or comment on City postings to the authorized City social media page or website. The City Manager may grant an exception to this upon the request of the Department Head.

(g) City social media team members may not use or include personal email addresses or any other personal information in the user profiles and/or posted content for authorized City social media pages or websites. Instead, City social media team members may use their name, title, and a City email address.

(h) City social media team members shall enable, set, or configure all accessibility features available on authorized City social media pages or websites to ensure that the content of such websites is accessible to as many people as possible.

(i) If an approved social network website requires account administrative approval to join, everyone who requests access must obtain the City Manager's prior written approval. The City Manager may delegate this approval authority to a Department Head or other designee.

(j) In order to maintain the security of the City's internal IT network, City social media team members shall use different passwords for authorized City social media pages or websites than are used for logging into the City's internal network.

(k) City social media team members shall follow the City's IT department password guidelines when selecting passwords for City social media pages or websites.

(l) City social media team members may not share an authorized City social media page or website account password with anyone who is not an authorized employee as to that particular authorized City social media page or website.

6. City social media team members may only work on authorized City social media pages or websites during City business hours and on City-owned computers, unless (a) otherwise directed and authorized by the City Manager or their designee or (b) after-hours and/or off-site work is necessary to avoid and/or remedy a violation of this policy and that, in the City social media team member's best judgment, waiting for approval by the City Manager or their designee would cause harm to the City's interest and/or the public's interests. In the event that a City social media team member performs after-hours and/or off-site work on an authorized City social media page or website, the City social media team member must report such work in writing to their department head and the City Manager at the earliest possible time following such work.

7. Except as expressly provided in this policy, employees accessing any authorized City social media page or website shall comply with all applicable policies of the City.

D. Comments and Posts by the Public

1. While the City's primary goal is to disable posts and comments by non-City social media team members, it is not always possible on some social media pages or websites to disable the feature that allows or permits comments or responsive posts by members of the public. In such an event, the following regulations apply:

(a) The City social media team member for each authorized City social media page or website that allows public posts must create and provide a "terms of use" that is readily accessible and applicable to anyone wishing to post a response. Any such "terms of use" policy must be approved in advance in writing by the City Manager and City Attorney or their respective designees.

(b) To the extent that members of the public are permitted to post content on an authorized City social media page or website,

City social media team members may, but are not required to, respond to a post by a member of the public. By permitting use of this feature, the City does not intend to create, nor has it established, a general public forum, and all comments and posts must comply with this policy.

(c) Authorized City social media pages or websites must provide a mechanism for City social media team members to remove posts or prevent posting of messages that clearly violate this response policy. If no such mechanism exists, then the authorized City social media page or website may only be utilized if the website provides the capability of disabling posts from other parties.

(d) City social media team members must review the webpage and all associated content not less than once each work day. If the assigned City social media team member will be absent for more than one work day for any reason, the Department Head or their designee is responsible for performing the review.

2. Every social media website that allows comments or posts from the public must include the following disclaimer:

Comments posted on this page will be monitored and inappropriate content will be removed as soon as possible. Moreover, the City does not intend to create, nor has it created, a general public forum, and all comments and posts must comply with the City of St Helena Social Media Policy. Pursuant to the City's policy, the City reserves the right to remove inappropriate content, including, but not limited to:

- (a) Profane, obscene, violent, or pornographic language or content;
- (b) Content that promotes, fosters, or perpetuates discrimination or harassment on the basis of race, color, national origin, religious creed, ancestry, physical or mental disability, medical condition, pregnancy, childbirth or related medical condition, age, sexual orientation, sex, gender identity, gender expression, genetic information, military or veteran status, marital status, or any other basis protected by state or federal law.
- (c) Sexual content or links to sexual content;
- (d) Solicitation of commerce and other pure commercial speech, including, but not limited to any advertising or business services or products for sale;
- (e) Threats to any person or organization or conduct or encouragement of illegal activity;

- (f) Comments not topically related to City posts, business information, announcements, events, or comments not related to the original topic or post, including random or unintelligible postings or comments;
- (g) Comments in support of or in opposition to political campaigns or ballot measures;
- (h) Information that may compromise the safety or security of the public or public systems or City employees or the City's technology resources;
- (i) Content that violates a legal ownership interest of any other party, including, but not limited to copyrights or trademarks;
- (j) Content containing personal or sensitive information, including, but not limited to home addresses, phone numbers, social security numbers, dates of birth, or driver's license numbers; and

3. Content that violates any federal, state, or local laws.

The above list is not exhaustive, and the City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law. Notwithstanding the foregoing, the City of St. Helena is not obligated to take such actions and disclaims any and all responsibility and liability for any materials posted by a member of the public.

Please be aware that, under certain circumstances, content appearing on this page may be subject to California's public records laws and subject to disclosure by the agency if requested. This may include information about you that you make available through your privacy settings on this site on your own pages.

A comment posted by a member of the public on any City of St. Helena social media site is the opinion of the commentator or poster only, and the publication of a comment does not imply endorsement of, or agreement by, the City of St. Helena, nor do such comments necessarily reflect the opinions or policies of the City of St. Helena.

By posting a comment, users agree to indemnify the City of St. Helena its officers and employees from and against all liabilities, judgments, damages, and costs (including attorney's fees) incurred by any of them which arise out of or are related to content posted by users. If a user does not agree to these terms, the individual should not use the City of St. Helena's social media pages or websites as a violation of these terms may lead to legal liability.

- 4. If it is not possible to provide the preceding disclaimer on a City social media page or website, this fact must be brought to the City Manager's attention prior to establishing a City social media page or website. In that situation, special approval from the City Manager

will be necessary in order to proceed with that particular City social media page or website.

5. The inclusion of links in any post must comply with the City's official website external link policy, unless authorized by the Department head or City Manager.

E. Policy for Personal Use of Social Media

1. While employees may voluntarily choose to engage with the City on its social media pages, the City does not encourage or require any employee to follow or "like" City social media sites.
2. The City does not condone the personal use by City employees of social media sites, including personal or non-City social media pages or sites, during the workday or during working time by any means, including by using City-owned equipment. City employees have no right or expectation of privacy when using City-issued devices or systems. The City reserves the right to monitor, search, or disclose employee use of City resources.
3. Employees are reminded and cautioned that nothing posted on the internet is private. Content can easily be shared, forwarded, and distributed to broader audiences without your knowledge or permission.
4. Information posted on any social media site may be used as evidence in disciplinary, administrative, or legal proceedings.
5. The personal use of social media by a City employee in a manner that violates any City policy or procedure will not be tolerated, and may be grounds for disciplinary action, up to and including termination. Employees are expected to comply with the same ethical and performance standards online as in the workplace.
6. Employees may not use their official City email addresses to create or maintain any personal social media page(s).
7. An employee's use of social media in a manner that violates the City's policies and procedures, including, but not limited to, the City's workplace harassment, discrimination, and retaliation policies, will not be tolerated, and may be grounds for disciplinary action, up to and including termination.
8. Employees may not post any content on the internet or social media that constitutes or contains City confidential, proprietary, privileged, private, personnel, or other non-public information.

9. City employees are prohibited from using the City logo or informal logo, representing the City, or representing that they speak on behalf of the City. Employees must also make clear in any online activity that the views and opinions they express about work-related matters are their own, have not been reviewed by the City, and do not necessarily represent the views and opinions of the City.
10. This policy is not intended to prohibit conduct permitted by any state or federal law.

F. California Public Records Act

1. All content posted on a social media website may be subject to the California Public Records Act, California's civil discovery statutes, and other applicable laws requiring the disclosure of public records. All content must be managed, stored, and retrieved to comply with these laws, including any photographs or images. In addition, all content subject to the City's records retention policy must be maintained consistent with that policy. Any content on authorized social media websites shall be maintained in a format that preserves the integrity of the original record and must be easily accessible using the approved City platform and tools. Any content submitted for posting that is deemed unsuitable because it is not topically related or is inappropriate under this policy must also be retained pursuant to the applicable record retention schedule. In addition, City staff must adhere to the following rules:
  - (a) The City Manager's office will maintain a list of all authorized City social media pages or websites and all account information for such websites, including login passwords, to allow for the immediate alteration or removal of content that is inappropriate or inconsistent with City policy. All such information must be shared with the City Manager's office and updated when changed.
  - (b) City social media team members shall maintain a record of City social media page or website account information, including username, registered email address, date established, and authorizing representative and the site's terms of use.
  - (c) All documents shall be easily accessible, including photographs or images if the website is subject to a California Public Records Act request or similar request for disclosure.
  - (d) City staff shall direct any public records requests to the City Clerk's Office.

G. Failure to Adhere to Policy

An employee's failure to adhere to the provisions of this policy may result in disciplinary action being taken against the employee, up to and including termination.

## **RULE 26. INJURY AND ILLNESS PREVENTION PROGRAM**

### **SEC. 26.1 OVERVIEW**

The Injury and Illness Prevention Program (or "Safety Program") is developed to provide standards for sound, workable safety activities to assist the City of St. Helena in fulfilling its important function of leadership and public service. The success of the safety program depends upon the positive support of the City Officials, the cooperation of department heads and all employees toward the prevention of accidents.

It is the policy of the City of St. Helena (St. Helena) to provide safe working conditions for all City employees and volunteers and to comply with Cal/OSHA regulations and occupational best practices in order to prevent workplace illness and injury.

Title 8 of the California Code of Regulations, Section 3203 requires that every employer establish, implement, and maintain an effective Injury and Illness Prevention Program (IIPP). The intent of the City's Health & Safety Manual is to establish policy and procedures not only to meet these regulations, but to continually improve employee health and safety, with the ultimate goal of eliminating work-related injury and illness.

It is the responsibility of each Department Head to establish safety as a standard operating procedure, and to insure safe working conditions for all City employees. It is the obligation of all City personnel to strive to prevent accidents and work injuries. Failure to following this program and safety directions will result in progressive disciplinary action up to and including discharge.

The basic purpose for the Injury and Illness Prevention program is the elimination of accidents and illness which cause occupational injuries or property damage. Each accident or injury is caused either by an unsafe act of an individual, an unsafe physical condition, or a combination of both. Accidents can be prevented by eliminating unsafe acts and correcting unsafe conditions.

The benefits of an active safety program touch on every phase of business, home and community. Specifically, these benefits include better working conditions, improved public relations, higher morale of workers, cost reduction, increased production and harmonious employer-employee relations.

The City agrees to make every reasonable provision for the safety and health of its employees while at work, to abide by applicable federal, state, county and city laws and to make available such protective equipment as is required by such law.

To accomplish this goal, and as a condition of employment, City officials, management, and staff must all work together to implement this IIPP and to identify, report, and abate potential hazards to foster a safe working environment.



**SEC. 26.2 THE PLAN****A. Labor/Management Safety and Health Committee.**

The City establishes, implements and agrees to maintain an effective Injury and Illness Prevention Program in accordance with Section 3203 of the General Industry Safety Orders as amended July 1, 1991. In order to accomplish the objectives, a Labor/Management Safety and Health Committee shall be maintained.

**B. Safety Coordinator.**

The City Manager shall appoint a Safety Coordinator which is typically delegated to a staff member in Human Resources. The Safety Coordinator shall have the following powers and duties:

1. Assist in the implementation and coordination of the Injury and Illness Prevention program for all City departments.
2. Assist in preparing and coordinating an overall educational and training program in accident prevention for all City departments and to assist them in the development of safe operating practices and in the elimination of unsafe conditions.
3. Review and analyze all reports and investigate or assist in investigating all employee accidents reported therein to determine causes and responsibilities, and at regular intervals prepare and distribute reports and summaries of the results for such investigations and review.
4. Call upon any City officer or employee and the Labor/Management Safety and Health Committee as needed for assistance in investigating accidents.
5. Oversee the inspection of City property; make recommendations to City officers and departments for the unsafe operating practices and procedures and unsafe physical and mechanical conditions of City property and facilities; and require such officers and departments to report in writing to the Safety Coordinator as to the action to correct such unsafe conditions.
6. Maintain an internal CAL OSHA 200 LOG and CAL OSHA Supplementary File for the current year and the previous five (5) years at the City Manager's office, City Hall.
7. Post the right half of the CAL OSHA log every February 1 for the entire year.

**C. Departmental Safety Coordinator.**

Each individual Department Head is delegated the authority and responsibility for implementing the Injury and Illness Prevention program in accordance to the City of St. Helena Injury and Illness Prevention Program, Health & Safety Manual for City Employee within their department. Department Heads must influence employee safety and provide the stimulus necessary to keep line supervisors active in their accident prevention efforts. The Department Head shall appoint a Departmental Safety Committee Coordinator consisting of one or more employees within their department or office.

It shall be the Department Head's responsibility to include those requirements as spelled out in SB 198, Statutes of 1989, Chapter 1369, Labor Code Section 6401.7 and Title 8 California Code of Regulations, General Industry Safety Orders 3203, Construction Safety Orders 1509. Compliance shall include, but not limited to:

1. Identifying safety and health hazards associated with occupations employed.
2. Developing a code of safe practices that effectively address identified hazards.
3. Implementing a system of periodic inspections, investigations and incidents and correcting deficiencies.
4. Implementing a training program for all employees.
5. Establishing a system for communicating with employees on safety matters.
6. Complying with record keeping requirements for Injury and Illness Prevention program.

D. Duties of Department Safety Committee Coordinator(s).

It shall be the duty of each department Safety Committee Coordinator(s) to:

1. Assist the department in promoting safety and in developing an effective accident prevention program within every department or office.
2. Constantly inspect departments or offices for conditions that might cause accidents and bring them to the attention of the Safety Coordinator through the head of their department or office.
3. Investigate and make detailed reports to the Department Head of all industrial, automobile, fire and other accidents involving city property and/or personnel within the department.
4. Assist the Safety Coordinator and the Safety Committee in their reviews.

5. Attend all meetings at the call of the Department Head.
6. Report to respective Department Head.
7. Be a designated department staff member to sit on the Labor/Management Safety and Health Committee.

E. Labor/Management Safety and Health Committee.

The City Manager shall establish a Labor/Management Safety and Health Committee. This committee shall be comprised of Departmental Safety Committee Coordinators from each department, should include at least one representation from all City field operations (Fire, Police and Public Works), and shall have a designated management safety representative (as identified and employee representative attend a quarterly Safety and Health Committee meeting. There will be equal representation of unit employees and supervisory management personnel. Unit employees may be nominated and elected by the employees of the department they represent or may be assigned by their appropriate Department Head. Supervisory management employees will be assigned by their appropriate Department Heads. All terms run on a fiscal year basis. Alternates may attend due to any absence.

F. Duties of the Labor/Management Safety and Health Committee:

1. Meet regularly on a quarterly basis (law requires at least quarterly).
2. Designate a Chair, Co-chair and Secretary by vote of the committee members.
3. Prepare and make available to all employees, written records of the safety and health issues discussed at the committee meetings and minutes of all meetings (minutes will be maintained and posted to the City's intranet by the Secretary).
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury, occupational illness or exposure to hazardous substances and, where appropriate, submit suggestions to management for prevention of future incidents.
5. Review investigations of occupational accidents and their causes with the objective of confirming the causal factors and ensuring steps have been or will be taken to prevent future incidents.
6. Develop special emphasis programs each fiscal year to communicate safety and health issues to City employees. Special emphasis programs may be based upon occupation injury and illness trends, recognition of hazards in the City, or suggestions from the employees regarding a target area(s) to improve.

7. Consider recognition programs for City employees whose contribution to the employees' safety and health efforts is unique in some way that improves the safety and health of City work.
8. Provide a forum for employees to voice safety and health issues, concerns or hazards that have not previously been addressed.
9. Encourage and facilitate employee-to-employer communications, either direct or anonymous.

### **SEC. 26.3 EMPLOYEE PROTECTION**

There shall be no reprisals or discrimination for employee advising the City of unsafe conditions and practices, unrecognized hazards and suggestions to improve workplace safety. No employee or employee organization shall be held liable for any act or omission in connection with a health and safety committee.

## **RULE 27. FRAUD PREVENTION AND DETECTION POLICY**

### **SEC. 27.1 OVERVIEW**

The City recognizes the importance of protecting the organization, its operations, its employees and its assets against financial risks, operational breaches and unethical activities. Therefore, it is incumbent upon the City Council and City Management to institute and clearly communicate the fraud prevention policy to both internal and external stakeholders.

The City maintains a zero-tolerance policy regarding fraud and corruption. All matters raised by any source will be taken seriously and properly investigated. This policy covers all City employees and officials. Additionally, this policy covers City vendors, customers and partners to the extent that any City resources are committed or used.

### **SEC. 27.2 THE PLAN**

#### **A. Definitions.**

1. Fraud is defined as an intentional deception, misappropriation of resources, or the manipulation of data to the advantage or disadvantage of a person or entity. Some examples of fraud include:
2. Falsification or inflation of expenses and invoices
  - (a) Misappropriation of the City's assets (funds, supplies, furniture, equipment, etc.)
  - (b) Unauthorized alteration or falsification of records

- (c) Improprieties in handling and accounting of monies collected, cash or otherwise
- (d) Knowingly providing false information on job applications, time sheets, requests for reimbursement or funding, and other forms
- (e) Profiteering as a result of insider knowledge of confidential activities
- (f) Computer-related activity involving unauthorized alteration, destruction, forgery, manipulation of data, or misappropriation of City-owned software

3. Corruption is defined as the offering, giving, soliciting or accepting of an inducement or reward that may improperly influence the action of a person or entity. Some examples of corruption include:

- (a) Bribery
- (b) Conspiracy
- (c) Extortion

B. Reporting Fraud and Corruption.

Allegations and concerns about fraudulent or corrupt activity may come from various sources including:

- (a) Employees
- (b) Vendors
- (c) Members of the public
- (d) Results of internal or external audit reviews
- (e) Any other interested parties

All employees have a duty to report any information or suspicions about the possible fraudulent or corrupt activity of any official, employee, vendor or any other party associated with the City. Such duty includes reporting detected or suspected activity immediately to the employee's Department Head or supervisor.

If reporting this to the employee's Department Head or supervisor compromises the integrity of the information in any way, the employee should contact the City Manager and arrange for a meeting. Similarly, if the information cannot be discussed with the City Manager, the employee should contact the Mayor, Vice-Mayor or other City Council Member and arrange for a meeting to discuss the matter.

Alternatively, anonymous written complaint can be provided to the City Manager or, if the circumstances warrant, to the Mayor, Vice-Mayor or other Council member. It is strongly recommended that complaints be made no later than 10 working days of having knowledge or suspicion. It is also strongly recommended that a written and signed statement of the complaint be submitted to the City Manager within eight working days of the initial anonymous complaint report. Anonymity in the complaint procedure may compromise the City's ability to complete a thorough investigation. Complaints must include the following information:

- (f) The employee's name and position title (unless made anonymously).
- (g) The name of the alleged person or persons committing the fraud, including their title(s).
- (h) The specific nature of the fraud and, if known, how long it has gone on.
- (i) Witnesses to the fraud, if any.

No attempt should be made by anyone other than those authorized to conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Retaliation and retribution will not be tolerated against any employee who reports suspected fraudulent or corrupt activities. All reports will be taken seriously and will be investigated by appropriate staff or legal counsel. If deemed necessary, the City will notify and fully cooperate with the appropriate law enforcement agency. Any investigation resulting in the finding of fraud or corruption will be reported to the City Council.

If an employee is determined to have acted maliciously or with deceit in making false accusation, the employee will be subject to disciplinary action.

If suspected fraud involves programs funded in whole or in part with federal funds, additional responsibilities, such as special reporting and disclosure to the awarding agency, may apply to the organization. It is the policy of the City to fully comply with all additional reporting, disclosure and other requirements pertaining to suspected acts of fraud.

#### C. Deterring Fraud and Corruption.

The City has established internal controls, policies, and procedures in an effort to deter, prevent, and detect fraud and corruption.

All new employees are subject to background investigations including a criminal background check. Prior to making an offer of employment to any applicant, the City will also verify some or all of the following items: employment history, education, and personal references.

All vendors, contractors, and suppliers must be in good standing, and authorized to transact business in the state of California. Vendors, contractors and suppliers are also subject to screening.

Contractual agreements with the City shall contain provisions prohibiting fraudulent or corruptive acts and shall include information about reporting fraud and corruption. City employees will receive fraud and corruption awareness training before the policy implementation and at least every two (2) years. New employees will receive training as part of orientation at the commencement of employment

D. Corrective Action.

Final determination regarding action against an employee, vendor, recipient or other person found to have committed fraud or corruption will be made by the City Manager, the City Council will take appropriate action.

Offenders at all levels of the organization will be treated equally regardless of their position or years of service, position/title, or relationship with the City. Determinations will be made based on a finding of facts in each case, actual or potential damage to the organization, cooperation by the offender, and legal requirements.

Depending upon the seriousness of the offense and the facts of each individual case, action against an employee can range from written reprimand to legal action, either civil or criminal. In all cases involving monetary losses, the City will pursue any and all means of legal recovery.

E. Confidentiality.

The City will treat all information received confidentially to the extent permitted by law. Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected by subsequently found innocent of wrongful conduct and to protect the City from potential civil liability.

## **RULE 28. VOLUNTEER & INTERNSHIP PROGRAM**

Department Heads may appoint volunteer workers/interns who will serve without pay or other compensation. Minors under the age of 14 shall not be eligible for the City's volunteer & internship program. Minors under 18 years of age must obtain workers' permits ("Statement of Intent to Employ Minor and Request for Work Permit"), signed by the minor's parent or guardian, to be eligible for participating in the City's volunteer & internship program. Emancipated minors (i.e., minors entering into a valid marriage) applying for the City's volunteer & Internship Program must still obtain workers' permits—even though parental consent is not required.

**EMPLOYEE ACKNOWLEDGEMENTS**

DRAFT



**CITY OF ST HELENA  
ACKNOWLEDGEMENT OF RECEIPT OF PERSONNEL  
RULES/EMPLOYEE HANDBOOK**

I acknowledge that I have received my copy of the City of St. Helena Personnel Rules/Employee Handbook. I recognize that the Personnel Rules/Employee Handbook supersede any inconsistent and/or conflicting Personnel Rules, policy statements, manuals, and/or administrative policies previously issued by the City of St. Helena. I will read and abide by all rules and regulations set forth in the Personnel Rules/Employee Handbook.

I understand that the Personnel Rules/Employee Handbook do not create a vested contractual right in the execution of the duties and responsibilities relating to the Personnel Rules/Employee Handbook.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**CITY OF ST. HELENA  
DRUG-FREE WORKPLACE POLICY  
ACKNOWLEDGEMENT OF RECEIPT**

By my signature below, I acknowledge that I have received, read, and understood the City of St. Helena's Drug-Free Workplace Policy, and I will abide by its terms. I understand that failure to fully comply with all terms set forth in the policy may lead to disciplinary action, up to and including termination.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DRAFT

**CITY OF ST. HELENA  
ACKNOWLEDGMENT OF RECEIPT OF  
POLICY AGAINST DISCRIMINATION, HARASSMENT,  
RETALIATION, AND ABUSIVE CONDUCT**

This will acknowledge that I have received my copy of the City of St. Helena's Policy against Discrimination, Harassment, Retaliation and Abusive Conduct ("Policy") and that I have read the Policy, understand my rights and obligations under the Policy, and agree to be bound by it.

My signature below further signifies that I have read this Policy and that I accept and will abide by all of its provisions.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DRAFT

**CITY OF ST. HELENA  
ACKNOWLEDGEMENT OF  
ELECTRONIC COMMUNICATIONS POLICY**

This will acknowledge that I have received, read, and understand the Policy on the Use of Electronic Communications of the City of St. Helena's ("City"). I am aware that violation of this Policy may result in disciplinary action, up to and including termination. I understand this signed acknowledgement will be maintained in my personnel file.

I recognize and understand that the City's Electronic Communications Systems are to be used primarily for conducting City business. I am aware that I have no expectation of privacy or confidentiality when using the City's Electronic Communications Systems and/or Electronic Storage. I understand that the City has, and will exercise, the right to monitor, review, copy, and/or disclose all matters on the City's Electronic Communications Systems and/or Electronic Storage at any time, with or without notice to me, and that such access may occur during or after working hours. I realize that the use of a password or other security features does not restrict the City's access.

I also hereby consent that the City may monitor, review, and/or copy any information, both personal and business related, on the City's Electronic Communications Systems and/or Electronic Storage at any time, and may, without further notice, disclose that information to a third party, including law enforcement agencies.

My signature below further signifies that I have read this Policy and that I accept and agree to comply with all of its provisions.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**CITY OF ST. HELENA  
ACKNOWLEDGEMENT OF  
SOCIAL MEDIA POLICY**

This will acknowledge that I have received, read, and understand the Social Media Policy of the City of St. Helena's ("City"). I am aware that violation of this Policy may result in disciplinary action, up to and including termination. I understand this signed acknowledgement will be maintained in my personnel file.

My signature below signifies that I have read this Policy and that I accept and agree to comply with all of its provisions.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DRAFT





Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section: NEW BUSINESS**

**Subject:** Consideration and proposed approval of a resolution appointing two applicants to the Planning Commission and consider leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

**CEQA Determination:** Not a CEQA project

**Prepared By:** Cindy Tzafopoulos, City Clerk

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

In mid November, the City Clerk advertised a recruitment seeking applicants from the community to fill two vacancies on the Planning Commission and four on the Active Transportation & Sustainability Committee.

**DISCUSSION**

The recruitment seeking applicants from the community to fill vacancies concluded in December 2020. The City received a total of nine applications for the Planning Commission and none for the Active Transportation & Sustainability Committee.

Per City Council Rules of Procedure appointments shall be made by interview, ballot process and the Mayor shall nominate applicants with the appointments subject to approval by the majority of Council. The City Council convened an applicant interview meeting on January 12, 2021 at 4:00 pm.

The following lists the names of the individuals with expiring terms and applicants.

**Planning Commission**

One Planning Commissioner term of office that expired June 30, 2020 by Bobbi Monnette and leaving a vacancy that will expire June 30, 2024 and Lester Hardy was elected to the City Council and vacated his Planning Commission seat expiring June 30, 2021.

Nine applications were received from:

- Bernard Lauper
- Chris Fowler
- Edward Kuntz
- Leslie Stanton
- Marika Rothfeld
- Michael Mills
- Patrick Rue
- Philippa Ward
- Rosaura Segura

Should Council decide not to appoint someone from the current applicants, staff would re-advertise for the position to fill the vacancy.

#### **FISCAL IMPACT**

There is no fiscal impact.

#### **RECOMMENDED ACTION**

Staff recommends adopting a resolution appointing applicants to the Planning Commission and leaving the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

#### **Planning Commission**

- Appoint one applicant to the term expiring June 30, 2021 and appoint one applicant to the term expiring June 30, 2024.

#### **ATTACHMENTS**

[Bernard Lauper Planning Commission Application Redacted](#)  
[Chris Fowler Planning Commission Application Redacted](#)  
[Edward Kuntz Planning Commission Application Redacted](#)  
[Leslie Stanton Planning Commission Application Redacted](#)  
[Marika Rothfeld Planning Commission Application Redacted](#)  
[Michael Mills Planning Commission Application Redacted](#)  
[Patrick Rue Planning Commission Application Redacted](#)  
[Philippa Ward Planning Commission Application. Redacted](#)  
[Rosaura Segura Planning Commission Application Redacted](#)  
[Appointments Resolution](#)





CITY HALL, 1572 RAILROAD AVENUE  
OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Committee

Name: Bernard Lauper

Home Address:

1380 Big Rock Road, St. Helena, CA 94547

Mailing Address: 1380 Big Rock Road, St. Helena, CA 94547

Occupation: Insurance Professional

Business Address: 700 Airport Blvd. Suite 300, Burlingame, CA 94010

Telephone: Home n/a Cell 415 412 8278 Business 650 227 7206

E-mail: bvlauper@gmail.com

➤ Please indicate if above numbers can be made available to the public  
upon request: ☒ **Yes** ☐ **No** Business Phone # only

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? 4/2018

Current occupation (within last 12 months) Managing Director of Insurance Brokerage Agency

Business interests in last 12 months: Rist Strategies Company a insurance brokerage  
company headquartered in Boston, MA

Previous Committee/Commission Experience:

None

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

LinkedIn has history to include education: <https://www.linkedin.com/in/bernardlauper/> See attached  
for additional history

Professional and/or community service activities:

I have been on advisory boards for a number of insurance companies to include Blue Cross, Chubb, Firemans Fund, Safeco, United Healthcare and a software company.

I also served on the San Mateo Community College District Foundation Board.

Local government related experience: None

None

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

See attached

Names, addresses, and phone numbers of three individuals familiar with your background:

Robert Findlay,

Latife Hayson,

Justin Stephens

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

12/29/20

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

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***Bernard Lauper***

***Additional Information for Planning Commission  
Application***

**How long have you lived in St. Helena?** We have been living in St. Helena since April 2018. We have just registered a house we have been building with the Post Master, and are in process of changing voter registration, insurance, bills etc. to St. Helena

**Education/Experience:** A resume may be attached containing this and any other information that would be helpful in evaluating your application.

For some background on me you can visit my LinkedIn profile:

<https://www.linkedin.com/in/bernardlauper/>

What LinkedIn does not specifically show is my history in working with real estate. I have not only insured literally every type of real property; single dwelling, multi-tenant,

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retail, office, warehouse, bio pharma but have also been directly involved in real estate has an investor.

I purchased my first rental property at the age of 22 which was a single family home. Since that time I have been directly invested in single and multi-family homes. I have also been a limited partner in several companies and was primarily involved in multi-family housing but also had investments in office buildings and several projects included manufacturing and warehousing space.

**Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute.**

I have time and energy and want to contribute to making my community a better place for the existing generations and those that will follow us. My interest in getting involved was “piqued” when I attended a St. Helena City council meeting reference the recent Glass Mountain wild fire.

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My experience in buying, building and selling a company has helped develop an understanding of what needs to get done today and what planning needs to be accomplished for tomorrow. I have experience in leading teams but am also comfortable in being a contributor. I am not shy in sharing my thoughts but am also eager to understand other positions and supportive of the decisions made by the team. Based on 360-degree feedback my work style was described as collaborative, open and dependable.

My personal interest and history in real estate as a tenant, land lord, home owner (including the recent experience of building our primary home) and investor provides a varied perspective on the different needs for each group.

I have reviewed the Planning Committees Bylaw's and recent agendas. I would welcome a phone or video meeting to discuss if my experience and talent would be a fit for this committee.



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## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Commission - 4 year term.

Name: Christopher Fowler

Home Address:  
933 Main Street

Mailing Address: P.O. Box 1204

Occupation: Picture framer, Realtor, Notary Public

Business Address: 1310 Oak Ave.

Telephone: Home N/A Cell 530.386.5655 Business 963.9294

E-mail: Guideline2@yahoo.com

➤ Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? 2.5 years

Current occupation (within last 12 months) Picture framer and Realtor.

Business interests in last 12 months: None.

Previous Committee/Commission Experience:

Town of Truckee Working Parking Committee.

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

St. Helena public schools, attended Humbolt State and Chico State Universities from 1997-2001.

\_\_\_\_\_  
\_\_\_\_\_

Professional and/or community service activities:

\_\_\_\_\_  
\_\_\_\_\_

Local government related experience: Town of Truckee Working Parking Committee.

\_\_\_\_\_

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Please see attached statement.

\_\_\_\_\_  
\_\_\_\_\_

Names, addresses, and phone numbers of three individuals familiar with your background:

Jake Scheideman,

Ahren Trumble,

John Sales,

\_\_\_\_\_  
\_\_\_\_\_

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

12.28.2020

\_\_\_\_\_  
Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:  
City of St. Helena  
City Clerk  
1572 Railroad Avenue  
St. Helena, CA, 94574

December 28, 2020

Dear Council Members and Community,

I grew up in St. Helena, and was gone for around 20 years. My wife (Jessica), kids, and I moved back about two and a half years ago. Jessica and I gave ourselves two years to get reacquainted with St. Helena before we got involved with things to see how things ebbed and flowed, what the dynamics were, and observe what seemed to be working and what seemed to need to be addressed.

Living in Truckee, while not necessarily involved directly with town politics and policy, I co-founded an extremely successful, high end German auto repair business and I have helped guide clients and friends through residential and commercial real estate purchases over the last 13 years. Friends and clients continually seek my advice because they know I am a fair, open, and balanced person that looks at the bigger picture.

There are so many wonderful things to love about this city and how it can move forward. And, there are many things that need to be addressed moving forward if St. Helena is going to flourish again. I love this town and would very much like to help steer it toward a sustainable and well thought-out future. I believe being able to participate on the Planning Commission is a worthy cause and being able to have direct input with the Zoning Ordinance update for the 2040 General Plan is an opportunity that I cannot overlook.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Fowler". The signature is stylized with a large "C" and "F".

Chris Fowler





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OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofsthelena.org](http://www.cityofsthelena.org)

## APPLICATION FOR APPOINTMENT

**Note:** Your application will be copied for the City Council and made available to the press and public.

Board/Committee/Commission to which you are applying: CITY PLANNING  
COMMISSION

Name: Edward L. Kuntz

Home Address:  
2488 Spring Mountain Road Saint Helena CA 94578

Mailing Address: Same as above

Occupation: Retired

Business Address: \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Cell 713-256-0162 Business \_\_\_\_\_

E-mail: Edward@ELKuntz.com

➤ Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? \_\_\_\_\_

Current occupation (within last 12 months) Retired

Business interests in last 12 months: See Attachment

Previous Committee/Commission Experience:

See Attachment

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

See Attachment

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Professional and/or community service activities:

See Attachment

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Local government related experience: See Attachment

See Attachment

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Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

With my background, I believe that I can contribute to the success of the City and think it is my civic duty to serve and support my community.

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Names, addresses, and phone numbers of three individuals familiar with your background:

Doug Barr 707 :

Marjorie Arroyo

Lisa Pelosi

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*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

Si

Date

12/28/20

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*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:  
City of St. Helena  
City Clerk  
1572 Railroad Avenue  
St. Helena, CA, 94574

## EDWARD L. KUNTZ

In May, 2014 Mr. Kuntz retired as Chairman of the Board of Directors of Kindred Healthcare, the largest provider of post acute health care services in the United States. Kindred was a New York Stock Exchange, Fortune 500 company with revenues of approximately \$7 billion. Mr. Kuntz joined Kindred in 1998 as President and served as CEO from 1999 to 2003 and as Chairman from 1999 to 2014.

He is a senior operating partner of Sentinel Capital Partners, a New York based private equity firm. He has served on several of their portfolio company boards including, Castle Dental, Metro Dental, Reach Out Healthcare, Interim Healthcare, and Northeast Dental Management.

Mr. Kuntz is presently the Chairman of the Board of Directors of US Physical Therapy("USPh"), a New York Stock Exchange company operating one of the largest groups of outpatient physical therapy clinics in the U.S. He is also an independent director of Stabilis Energy, a supplier of liquified natural gas in the United States and Mexico. Mr. Kuntz is also affiliated with New Mountain Capital, a private equity fund and is an advisory partner of Aperture Venture Partners, a venture capital group.

From 1991 to 1998, Mr. Kuntz served as CEO and Chairman of Living Centers of America, a New York Stock Exchange company providing long term care services to seniors. In the past he has served as a director of PharMerica, a New York Stock Exchange company providing pharmaceutical products and services to healthcare institutions and Rotech Healthcare, a provider of home oxygen and related healthcare products and services.

Before relocating to California, he was a director of the AntiDefamation League, Houston, Texas; Nora's Foundation, a residential community for transplant patients; Life Gift Foundation, the federally designated organ procurement organization for Southeast Texas; and InterFaith Ministries of Houston. In the past he has served as Chairman of the Board of the Alzheimer's Association of Southeast Texas, and the Thyroid Society, as well as member of the President's Advisory Board of Temple University, and the Board of Congregation EmanuEl Houston, Texas.

Mr. Kuntz currently resides in Saint Helena with his wife Caroline and two dogs. He has three children and four grandchildren. Mr. Kuntz graduated magna cum laude with a Bachelor of Arts degree and also a received Juris Doctor and Master of Law degrees from Temple University. He was an editor of the Law Review and designated a Barenkopf Scholar at Temple Law School. He practiced law in the Philadelphia area for a number of years before becoming affiliated with the businesses outlined above. His law practice focused upon real estate, tax and corporate matters

Contact Information:  
2488 Spring Mountain Road  
Saint Helena, CA 94578  
713-256-0162  
Email: Edward@ELKuntz.com



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OFFICE OF THE CITY CLERK  
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[www.cityofsthelema.org](http://www.cityofsthelema.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Name: Leslie Stanton - applying for Saint Helena Planning Commission

Home Address:  
1705 Hillview Place Saint Helena, CA 94574

Mailing Address: 1705 Hillview Place Saint Helena, CA 94574

Occupation: Retired Saint Helena Children's Librarian

Business Address: \_\_\_\_\_

Telephone: Home 707-963-3951 Cell 707-363-0542 Business \_\_\_\_\_

E-mail: lesliestan@gmail.com

➤ Please indicate if above numbers can be made available to the public upon request: ☒ Yes ☐ No

Resident of St. Helena? ☒ Yes ☐ No Yes, how long have you lived in St. Helena? 50 yrs

Current occupation (within last 12 months) Retired Saint Helena Children's Librarian - work as a volunteer at the Saint Helena Public Library.

Business interests in last 12 months: Family vineyard, Stanton Vineyards and Saint Helena Public Library.

Previous Committee/Commission Experience:

St. Helena Tree Committee

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Saint Helena High School - Graduate,

CSU Chico & UC Davis - BS in Plant Science and Viticulture.

Professional and/or community service activities:

We Care Animal Rescue - 15 years, Federated Women of Upper Napa Valley - 20 years (current) Reading is Fundamental,

Volunteer in St. Helena Public Schools, St. Helena Multicultural Group, Sustainable St. Helena and Women Stand Up I Black Lives Matter

Local government related experience: Ran for Saint Helena City Council in the Fall of 2020.

Ran for Saint Helena City Council in the Fall of 2020.

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I have been engaged with local politics for years and upon my retirement I committed myself to becoming more active

in the local issues. The community came to my support in this past election and upon narrowly losing I have been encouraged to remain active in politics

and I have been encourage to seek a seat on the planning commission. I would like to be a voice for the community.

Names, addresses, and phone numbers of three individuals familiar with your background:

Linda & Garry Rose

David Knudsen

Susan Swan

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

December 17, 2020  
Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

Garry L. Rose  
1753 Vineyard Avenue  
St. Helena, CA 94574

City of St. Helena  
Mayor and City Council  
1572 Railroad Avenue  
St. Helena, CA 94574

Dear Mayor Ellsworth and members of the City Council,

I am writing in support of Leslie Stanton to be appointed to the St. Helena Planning commission. Leslie has been a resident of St. Helena for most of her life, was previously employed by the City of St. Helena as a librarian and is known by many people in town. Those things, combined with her true interest in the future of St. Helena, her popularity with the residents of the city and a real willingness to devote her time and energy to the planning commission; I would ask that you recognize her abilities and appoint her to one of the vacant positions on the planning commission. Leslie will make a great addition to this advisory board.

Thank you very much for your consideration.

Yours truly,

Garry L Rose

A handwritten signature in cursive script, appearing to read "Garry L. Rose", written in dark ink.



Gmail - Letter of support. Go Leslie!

12/28/20, 11:51 AM



Leslie Stanton <lesliestan@gmail.com>

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## Letter of support. Go Leslie!

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**Maddie Chandler** <m.chandlerworkshop@gmail.com>  
To: Leslie Stanton <lesliestan@gmail.com>

Fri, Dec 18, 2020 at 8:23 AM

To whom it may concern,

I am writing in support of Leslie Stanton for Planning Commission. Leslie has been an advocate for the betterment and wellbeing of our community. As a member of the Planning Commission she would be a voice for all ages, all ethnicities, all sexual orientations and all socioeconomic backgrounds. And not only does she look out for our residential community, Leslie knows what is important to keep our local business thriving and is committed to what is truly best for the economy of our small town. Please consider Leslie as a important asset of the Planning Commission.

Thank you for your time,

Madelyn Chandler

Saint Helena

Gmail - reference letter

12/28/20, 11:50 AM



Leslie Stanton <lesliestan@gmail.com>

## reference letter

2 items

Nancy J Brandl <brandlfamily@sbcglobal.net>  
To: Leslie Stanton <lesliestan@gmail.com>

Sat, Dec 19, 2020 at 12:01 PM

here it is! i can edit, add, delete whatever if you would like.

December 19, 2020

To St Helena City Council Members:

I am writing to support the appointment of Leslie Stanton to the St Helena Planning Commission.

I believe that Leslie is ideally suited for this position for the following reasons:

1) She is well known and highly regarded by many who live in St Helena. Her position as the children's librarian for many years gives her much needed insight into the needs of children and families in this town. Furthermore, the familiarity that her position afforded would encourage folks to reach out and communicate re issues important to them.

2) Leslie has been an active and involved citizen in our community for many years. Her advocacy over the years at city council meetings has demonstrated her ability to analyze and understand complex issues and policy matters. She is one who consistently is willing to show up and make a difference.

3) Leslie's strong 3rd place position in the recent city election shows that many in this community support her in a role of city government. Only 58 votes shy of a win. Those who supported her in this election deserve to have her voice heard as a Planning Commission member.

Please appoint Leslie Stanton to this important position.

Sincerely,  
Nancy Parrish Brandl  
1096 N Crane Ave  
St Helena CA

Leslie Stanton <lesliestan@gmail.com>  
To: Nancy J Brandl <brandlfamily@sbcglobal.net>

Sun, Dec 20, 2020 at 7:14 PM

<https://mail.google.com/mail/u/1?ik=307c22f92d&view=pt&search=...msg-f%3A1686538153703552784&simpl=msg-a%3Ar979770671458332405>

Page 1 of 2



Gmail - Leslie Stanton on Planning Commission

12/28/20, 11:55 AM



Leslie Stanton &lt;lesliestan@gmail.com&gt;

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**Leslie Stanton on Planning Commission**

2 messages

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**Linda Rose** <linda@mgrose.com>  
To: Leslie Stanton <lesliestan@gmail.com>

Sat, Dec 19, 2020 at 12:19 PM

Dear Mayor and City Council members,

I want to highly recommend Leslie Stanton for the Planning Commission. She is the perfect person for that position. And I feel she is very needed on the Commission.

She has lived here and raised her children here. She knows all about St. Helena and really cares about our town. She also worked for the City for years as a Librarian.

She also came within a few votes of being elected to the City Council, so she is obviously supported by many people in town.

Please appoint her to the Planning Commission.

Sincerely,  
Linda Rose

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**Leslie Stanton** <lesliestan@gmail.com>  
To: Linda Rose <linda@mgrose.com>

Sun, Dec 20, 2020 at 7:13 PM

Thank you very much Linda!

December 21, 2020

Dear City Council Members,

I am writing in support of Leslie Stanton, a lifelong resident of St. Helena, who is interested in serving on the Planning Commission. Ms. Stanton has the character, ethics, and skill set that makes for a great public servant and an effective and responsible planning commissioner.

Ms. Stanton's excellent listening, reading and comprehension skills, along with input from fellow planning commissioners, will help her in successfully determining how to balance the public good with private rights and interests as she makes decisions on various project applications including use permits, variances, parcel maps and design review for residential, commercial, and industrial development, and etcetera.

I am confident Ms. Stanton will serve with an open mind, she will treat fellow board/commission members, staff and everyone who comes before her with respect, and she will display good ethical behavior as she seeks to further the overall interests of the private citizen as well as the commercial sector of our community.

Sincerely,

Nancy Dervin

Dear Mayor Ellsworth and City Council Members,

I am writing to encourage you to approve Leslie Stanton's application for a position on St. Helena's Planning Commission.

As many of you know, Leslie Stanton has shown her commitment to the community of St. Helena for the past 34 years and continues to do so in myriad ways, both large and small.

Her decision to apply for a position on the St. Helena Planning Commission is a testament to her commitment to service.

There are many reasons Leslie would make a welcome addition to the Planning Commission. Among other things, she is connected to members of the community in ways that no one else is, both as a result of having lived here for the last 50 years, and as the St. Helena Children's Librarian for 34 years, which has given her an opportunity to get to know members of the community whose voices are often not heard. She is approachable, curious, willing to listen and explore, and to learn more. And she knows where to go to find the answers to pressing questions.

Given her long tenure in St. Helena, Leslie Stanton also has the institutional memory so important to making sound, responsible decisions about a community such as ours, with a diverse population and where many residents don't think their voices are being heard or are reticent to speak up on their own behalf.

I can't think of a more qualified candidate for the St. Helena Planning Commission and strongly urge the City Council appoint Leslie Stanton as a member of the Planning Commission.

Sincerely,

Elaine de Man  
St. Helena, CA

SUSAN SWAN  
921 Charter Oak Avenue  
St. Helena California 94574  
7073684194  
[susan94574@gmail.com](mailto:susan94574@gmail.com)

28 December 2020

The Honorable Geoff Ellsworth  
The Honorable Members of the St. Helena City Council  
1572 Railroad Avenue  
St. Helena, CA 94574

Re: Leslie Stanton – Letter of Support for Planning Commission Appointment

Dear Mayor Ellsworth and Honorable Councilmembers,

I am writing in support of Leslie Stanton's application for a position on the St. Helena Planning Commission. I strongly believe that having Leslie in a leadership position in St. Helena will benefit our town and its residents in countless ways, and as a long-term resident, I will be hopeful for our town's future with Leslie on the Planning Commission; I know her commitment to our town and its residents runs deep.

I have known Leslie for 26 years, first as my children's beloved librarian, and later as a friend and a colleague. I have always been impressed not only by Leslie's work ethic, but also by her vast knowledge of St. Helena's history, its current issues, and the cares and concerns of the people who make up our town. On a recent walk through town, Leslie couldn't stop herself from picking up every shred of trash she encountered!

Leslie's skills are many, and her ability to think outside the box to enhance the library and its resources is well known. On any project, Leslie takes the lead and does what it takes to get it done. She has a remarkable attention to detail and always knows exactly how to achieve her long-term goal. She is patient, open minded, able and willing to listen without judgment, and works well within a team framework, whether she is in the role of leader or as one member of a group. Leslie will be an asset to the Planning Commission. She will thoughtfully make decisions based on the best interests of the community and not her own interests or those of special interest groups. Leslie understands the development process well and will make informed decisions based on that knowledge.

Leslie has many strengths that will serve our city well. She is extremely personable, she sincerely cares for others and has the respect of the generations of children she served at the library and their parents, and she shares the values of most of our residents: to preserve St. Helena in all its beauty and to help it thrive.

Sincerely,

Susan Swan



CITY HALL, 1572 RAILROAD AVENUE  
OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Commission

Name: Marika Rothfeld

Home Address:

921 Charter Oak Avenue St. Helena, CA 94574

Mailing Address: same as above

Occupation: Attorney

Business Address: 1201 Dowdell Lane St. Helena, CA 94574

Telephone: Home \_\_\_\_\_ Cell 7073631929 Business \_\_\_\_\_

E-mail: marika.rothfeld@gmail.com

- Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? '95

Current occupation (within last 12 months) Corporate Counsel for Duckhorn Portfolio

Business interests in last 12 months: \_\_\_\_\_

Previous Committee/Commission Experience:

See attached resume

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Please see attached resume

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Professional and/or community service activities:

Please see attached resume

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Local government related experience: Please see attached resume

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Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Please see attached Letter of Interest

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Names, addresses, and phone numbers of three individuals familiar with your background:

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*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

|                        |       |          |
|------------------------|-------|----------|
| _____                  | _____ | 12/31/20 |
| Signature of Applicant |       | Date     |

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena  
City Clerk  
1572 Railroad Avenue  
St. Helena, CA, 94574

MARIKA ROTHFELD

921 Charter Oak Ave St. Helena, CA 94574

707 363 1929 marika.rothfeld@gmail.com

December 30, 2020

Cindy Tzaopoulos  
City Clerk  
1572 Railroad Avenue  
St. Helena, CA 94574

Dear Ms. Tzaopoulos:

I am writing to express my interest in joining the St. Helena Planning Commission. My experience as an attorney at a firm specializing in land use and real property law, coupled with my strong desire to make a long-lasting impact through St. Helena's codes, zoning standards, and Housing Element, make me an excellent candidate for the Planning Commission. Additionally, I am a St. Helena native and have a deep connection to and appreciation for the city and the community.

I believe I am particularly well-suited for a Planning Commission seat, because as a life-long local, I am genuinely invested in the future of St. Helena's growth and development. I wrote my law school application essay about how local laws affected and shaped the community in which I grew up. As a member of the Planning Commission, I would be both personally and professionally rewarded knowing that I had a hand in re-writing local laws and further shaping our community.

Not only do I have a legal background, I have also been civically minded throughout my life, beginning with my tenure on the St. Helena Sustainability Committee from 2011 through 2014, where I assisted in drafting the ordinance banning single-use plastic bags in the city of St. Helena. I have also worked at Bay Area Legal Aid in Napa and at the ACLU and have always enjoyed using advocacy skills to effect change and to learn more about public policy and local issues. I see the work I would do as a member of the Planning Commission as a perfect amalgamation of my desire to advocate for St. Helena's best interests and my goal to help intelligently grow and develop our city while respecting its core values.

My strong ties to St. Helena and my longstanding desire to use my skills and interests to impact change in my community make me an excellent candidate for the Planning Commission.

Thank you in advance for your consideration.

Sincerely,  
Marika Rothfeld

## MARIKA ROTHFELD

921 Charter Oak Ave, St. Helena, CA 94574

707 363 1929 marika.rothfeld@gmail.com

### EDUCATION

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#### THE UNIVERSITY OF MICHIGAN LAW SCHOOL

*Juris Doctor*

Ann Arbor, MI

Class of 2017

- Research Assistant to Allyn Kantor, Professor of Alternative Dispute Resolution and Environmental Justice
- *Michigan Journal of Environmental and Administrative Law*, Associate Editor

#### THE UNIVERSITY OF CALIFORNIA, LOS ANGELES

*Bachelor of Arts, Cum Laude*, Major in World Arts and Cultures, Minor in Geography/Environmental Studies

Los Angeles, CA

Class of 2011

- *Phi Beta Kappa* and Dean's Honors List
- UCLA Center for American Politics and Public Policy Program in Washington, D.C. (Spring 2011)
- New America Foundation, Public Policy Institute in Washington, D.C. (Research Intern, Spring 2011)

#### THE COURT OF MASTER SOMMELIERS

*Sommelier* – Successfully passed Introductory Sommelier Exam

Sonoma, CA

2014

### WORK EXPERIENCE – ADMITTED TO THE CALIFORNIA BAR

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#### DUCKHORN PORTFOLIO

*Director, Corporate Counsel*

St. Helena, CA

October 2020 – Present

- Part of a three-person in-house counsel legal team for the 11<sup>th</sup> largest wine supplier in the United States.
- Focus areas include intellectual property, alcohol and beverage compliance matters, employment and human resources, corporate bookkeeping matters, and business-related projects.
- Duties include research, writing, and transactional drafting of service agreements and custom crush agreements.

#### MILLER STARR REGALIA

*Litigation Associate*

Walnut Creek, CA

January 2019 – October 2020

- Represented a diverse array of real estate and commercial clients, including developers, landowners, large multinational corporations, and municipalities in state and federal court.
- Litigated matters including disputes related to commercial leasing, purchase and sale agreements, business formation, quiet title actions, lien rights, eminent domain, and easements.
- Drafted complaints, correspondence to clients and opposing counsel, internal research memoranda, settlement agreements, and settlement conference statements; conducted legal research for dispositive motions.

#### BAY AREA LEGAL AID (BAYLEGAL)

*Law Clerk*

Napa, CA

May 2018 – January 2019

- Drafted estate planning documents, power of attorney forms, and healthcare directives.

#### AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA

*Law Clerk*

Los Angeles, CA

Summer 2016

- Drafted memoranda and advocacy letters on topics including labor and employment law, reproductive rights, prison and police practices, geo-tracking laws, Title IX, 8<sup>th</sup> amendment and 14<sup>th</sup> amendment violations, and housing discrimination.

#### COOMBS & DUNLAP, LLP

*Summer Associate*

Napa, CA

Summer 2015

- Drafted grape purchase agreements, custom crush agreements, vineyard leases, and winemaking-related agreements.
- Obtained wineries' ABC and TTB licensing and permitting and tracked clients' trademarks.
- Drafted memoranda on topics including easement disputes, CEQA compliance, and landlord/tenant disputes.

#### SAINT HELENA SUSTAINABILITY COMMITTEE

*Committee Member*

St. Helena, CA

July 2011 – May 2014

- Member of advisory board to City Council on projects requiring EIRs and CEQA compliance; drafted and revised city ordinances.

#### PLUMPJACK WINERY AND CADE ESTATE WINERY

*Wine Educator*

Napa Valley, CA

November 2011 – May 2014

### ADDITIONAL INFORMATION

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- Co-Author of *Shaping 21<sup>st</sup> Century Journalism: Leveraging a "Teaching Hospital Model" in Journalism Education* (2011).
- The French Laundry Culinary Garden, *Harvest Intern*, Summer 2015.





CITY HALL, 1572 RAILROAD AVENUE  
OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Commission

Name: Michael Mills

Home Address:

1380 Grove Court, St. Helena CA 94574

Mailing Address: same

Occupation: software company executive & lawyer

Business Address: 1335 Main Street, Suite 110, St. Helena CA 94574

Telephone: Home \_\_\_\_\_ Cell 917-885-1517 Business \_\_\_\_\_

E-mail: michael.mills.ca@gmail.com

➤ Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? 4 yrs

Current occupation (within last 12 months) Co-Founder & Chief Strategy Officer  
Neota Logic Inc.

Business interests in last 12 months: same

Previous Committee/Commission Experience:

None in St. Helena

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

My resume (LinkedIn profile) is attached.

Professional and/or community service activities:

See attachment.

Local government related experience: See attachment.

See attachment.

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

See attachment.

Names, addresses, and phone numbers of three individuals familiar with your background:

Polly Ogden,

Tracy Sweeney,

Melissa Staid,

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

s/ Michael Mills

December 31, 2020

Signature of Applicant

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

## Contact

[mills@neotalogic.com](mailto:mills@neotalogic.com)

[www.linkedin.com/in/  
michaelmillsny](https://www.linkedin.com/in/michaelmillsny) (LinkedIn)

# Michael Mills

Co-Founder & Chief Strategy Officer at Neota Logic Inc  
New York

## Experience

College of Law Practice Management  
President  
October 2020 - Present (3 months)

Neota Logic Inc  
Co-Founder & Chief Strategy Officer  
2011 - Present (9 years)

Pro Bono Net  
Director  
2000 - 2020 (20 years)

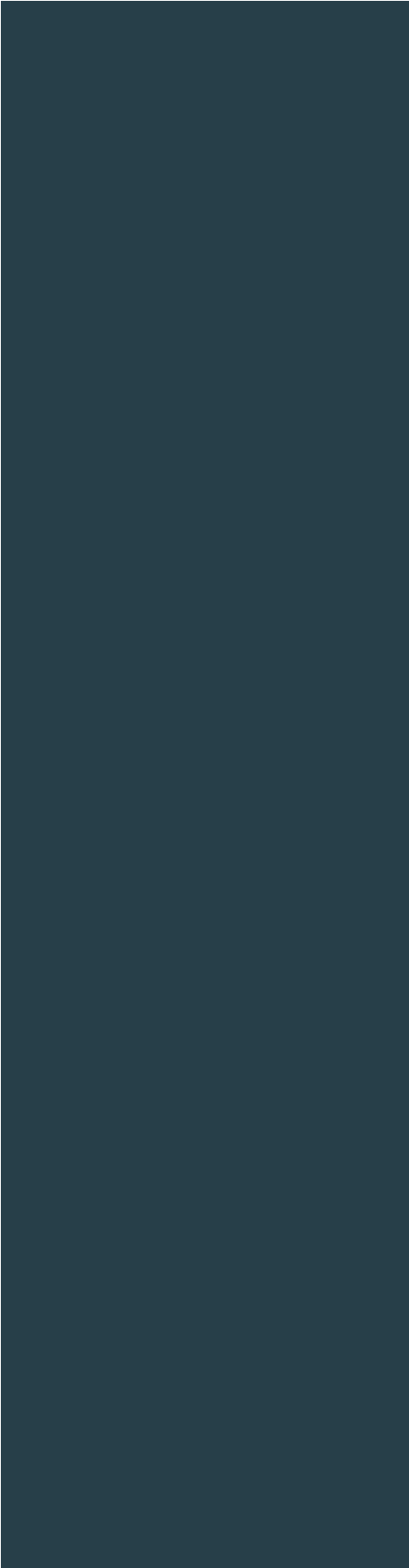
Kraft Kennedy  
Consultant  
January 2010 - December 2010 (1 year)

Davis Polk & Wardwell  
Director of Professional Services & Systems  
January 1990 - December 2009 (20 years)  
Chief Knowledge Officer and co-head of technology

Mayer Brown  
Partner  
1984 - 1990 (6 years)

Central Park Conservancy  
General Counsel  
1980 - 1985 (5 years)  
New York, New York, United States

Davis Polk & Wardwell LLP  
Associate  
1975 - 1983 (8 years)



United States District Court, District of Oregon - Hon. J.M. Burns  
Law Clerk  
1974 - 1975 (1 year)

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## Education

University of Chicago Law School  
J.D., law · (1974)

Reed College  
B.A. · (1969)

Attachment to Application for Appointment to St. Helena Planning Commission

Michael Mills

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### Professional and/or community service activities:

I served as founding general counsel of the Central Park Conservancy, New York City, <https://www.centralparknyc.org>. The Conservancy is a not-for-profit organization that funds and manages one of the most celebrated and most visited public parks in the country. When we founded the Conservancy, I negotiated with the City of New York a ground-breaking public/private partnership agreement providing for shared financing and governance of the Park, resulting in dramatic improvements to the Park's landscape, facilities, popularity, and community integration.

I served as a founding director, strategic planning committee chair, and vice-chair of Pro Bono Net, <https://www.probono.net>, a national not-for-profit organization that works "to bring the power of the law to all by building cutting-edge digital tools and fostering collaborations with the nation's leading civil legal organizations."

As Co-Founder and Chief Executive Officer, now Chief Strategy Officer, of Neota Logic, <https://neotalogic.com>, I conceived and guided my company's program of collaboration with law schools and not-for-profit legal services organizations. We educate law students in the use of digital tools to deliver legal services and create collaborations among law schools, law firms, and legal services organizations and government agencies to build and deploy software solutions for self-represented litigants and others who cannot easily access or afford in-person legal services.

As a part-time resident of the Town of Shelter Island, New York, I was an active supporter of the Nature Conservancy (which owns and manages one-third of the town's land area), the Historical Society (the town is more than 300 years old), and the Fire Department and Ambulance Service (100% volunteer).

I serve as President of the College of Law Practice Management, <https://collegeoflpm.org>, a by-invitation association of about 300 experienced

lawyers, law firm managers, technologists, marketers, academics, and others engaged in advancing the quality, efficiency, and accessibility of legal services for all consumers.

**Local government related experience:**

I do not have experience with local government in St. Helena. See above re work with New York City government and other state and local government agencies.

**Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute.**

I became a full-time resident of St. Helena in 2017, though my professional and personal connections to St. Helena and the Napa Valley began many years ago. Civic engagement is a responsibility of all who benefit from a community and have time, energy, resources, or skills to contribute.

St. Helena has many challenges, now and in the years close ahead—among them infrastructure, public buildings and facilities, revenue, affordable housing, local business conditions, and water. The Planning Commission is an active participant, with the Council and the community, in meeting these challenges. It is often the first forum for public discussion and shaping of solutions.

This year, a critical responsibility for the Commission is updating the Zoning Code in light of the General Plan, with the advice and assistance of LWC. My training and experience as a lawyer may be helpful, though I am certainly not a zoning or land use lawyer. In addition, my work in software often involves analysis and parsing of complex statutes and regulations.



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ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

## Planning Commission

Name: Patrick Rue

Home Address:

2175 Palmer Dr., St. Helena, CA 94574

Mailing Address:

Occupation: Business owner

Business Address: \_\_\_\_\_

Telephone: Home \_\_\_\_\_ Cell \_\_\_\_\_ Business \_\_\_\_\_

E-mail: \_\_\_\_\_

Y Please indicate if above numbers can be made available to the public upon request: Yes or No Yes

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? 2 years

Current occupation (within last 12 months) Owner, Erosion Wine Co.

Business interests in last 12 months: Erosion Wine Co., The Bruery

Previous Committee/Commission Experience:

None.

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Please see attached resume.

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Professional and/or community service activities:

Please see attached resume.

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Local government related experience: None.

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Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Please see attached cover letter.

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Names, addresses, and phone numbers of three individuals familiar with your background:

Alan Burns, City Attorney,

Jeff Feeney, Real Estate Broker

Tom Beck, Council Member &

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

\_\_\_\_\_  
December 21, 2020

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574



City of Saint Helena  
1572 Railroad Avenue  
Saint Helena, CA 94574

December 21, 2020

RE: Planning Commission Applicant

Dear City of Saint Helena Officials,

I would like to submit my application for appointment to the Planning Commission. There are several reasons I'm applying:

— This is a wonderful community that has been so welcoming to my family, who have lived here a short two years. There is great civic engagement here— people really care. I would like to give back, particularly in an area where there is a need.

— As a business owner, particularly in the alcohol beverage industry, I've had many experiences applying for use permits, interacting with city planning staff, and presenting before planning commissions. I appreciate the complex processes, and the considerations that are involved in making decisions.

— I'm excited by the prospect of being involved in the zoning code update, particularly in finding balance between the interests of the City, its residents, and its businesses.

— I feel that my experience as a business owner, law school graduate, and resident of St. Helena would provide a solid foundation for being a productive member of the Planning Commission.

I have recently applied for a Use Permit for my business, Erosion Wine Co. I understand that if I were chosen, I would need to recuse myself and to not discuss my pending application with any member of the Planning Commission.

Thank you for your consideration!

Sincerely,

Patrick Rue

2175 Palmer Drive, Saint Helena, CA 94574

### **Experience**

Erosion Wine Co., Saint Helena, CA

Owner / Winemaker-in-Training, December 2018 - Current

The Bruery / Offshoot Beer Co., Placentia, CA & Anaheim, CA

Founder, September 2018 - Current

CEO / Founder, May 2007 – September 2018

### **Education**

Chapman University, School of Law, Orange, CA

Juris Doctor, May 2006

Santa Clara University, Santa Clara, CA

B.S. Sociology, June 2003

### **Certifications**

Cicerone Certification Program, Chicago, IL

Master Cicerone, December 2014

Beer Judge Certification Program (BJCP)

National Beer Judge, June 2007

### **Affiliations**

California Craft Brewers Association, Sacramento, CA

Member, Board of Directors, January 2016 - December 2018

Third Window Brewing Co., Santa Barbara, CA

Advisor & Equity Partner, July 2014 - Present

Brewers Association, Boulder, CO

Government Affairs Committee, October 2013 - October 2016

Great American Beer Festival Judge, October 2013 - Present

Vistage International, San Diego, CA

Advisory Board for Member Companies, October 2010 - April 2018



CITY HALL, 1572 RAILROAD AVENUE  
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[www.cityofstheleena.org](http://www.cityofstheleena.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Commision seat expiring 6/30/21

Name: Philippa M. Ward

Home Address:

1709 Spring Mountain Road, St. Helena, CA 94574

Mailing Address: 1709 Spring Mountain Road, St. Helena, CA 94574

Occupation: Real Estate Broker

Business Address: 1111 Main Street, Ste A, St. Helena, CA 94574

Telephone: Home \_\_\_\_\_ Cell 917-331-1730 Business \_\_\_\_\_

E-mail: philippa.ward@evrealestate.com

- Please indicate if above numbers can be made available to the public upon request: ☒ **Yes** ☐ **No**

Resident of St. Helena? ☒ **Yes** ☐ **No** Yes, how long have you lived in St. Helena? <sup>6+ yrs</sup> \_\_\_\_\_

Current occupation (within last 12 months) real estate broker and HOA manager

Business interests in last 12 months: real estate broker, partner in a family winery in the Carneros region, investor in fitness tech company

Previous Committee/Commission Experience:

St. Helena Civic Financial task force 2020

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

please see attached Linkedin profile

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Professional and/or community service activities:

Current Board Member for the Arts Council of Napa Valley

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Local government related experience: civic financial task force for St. Helena

civic financial task force for St. Helena

---

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I love the city of St. Helena and wish to serve it's residents and the greater good. I have been in real estate

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for many years and lived in cities of various sizes but also have the benefit of being from here. I would like to see

---

the planning commission streamlined and interpreting code as written to benefit the city of St. Helena and it's citizens

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Names, addresses, and phone numbers of three individuals familiar with your background:

Linda Reiff- 1

Mary Maher-

Chuck Sawday-

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*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

Philippa M. Ward

12/18/2020

Signature of Applicant

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

## Contact

philippa.ward@engelvoelkers.com

www.linkedin.com/in/philippa-ward-6677409 (LinkedIn)  
www.sreadvisors.com (Company)  
www.saintsbury.com (Company)

## Top Skills

Luxury  
Residential  
Real Estate

# Philippa Ward

Global Real Estate Advisors at Engel & Völkers St. Helena  
St Helena

## Experience

Engel & Völkers St. Helena  
Global Real Estate Advisors  
May 2019 - Present (1 year 8 months)  
St. Helena, California

Saintsbury Winery  
Owner, Partner  
May 2001 - Present (19 years 8 months)  
Napa Valley  
www.saintsbury.com

Saintsbury is a family owned premier Pinot Noir and Chardonnay producer in the Napa Valley.

## STRATEGIC REAL ESTATE ADVISORS

Senior Vice President  
June 2015 - May 2019 (4 years)  
353 North Shelmor Blvd, suite 200, Mt. Pleasant, SC 29464

Strategic Real Estate Advisors is a full service commercial real estate advisory company focused on providing transactional results according to client objectives. The company principals have over 60 years combined experience in the commercial real estate field. Since its inception, in the fall of 2002, Strategic Real Estate Advisors has achieved exceptional results for its clients. The firm is headquartered in Charleston, South Carolina. The Principals specialize in serving clients with exceptional professionalism. Hands-on and highly focused commercial real estate plans are designed to maximize the client's specific needs and objectives. Listening and attending to our clients objectives allows us to nurture long term relationships built on performance and trust.

Through our affiliate company, Strategic Asset Management, Strategic Real Estate Advisors offers clients the convenience of property management, property maintenance and asset management services. This full service

approach ensures that even after the transactional work is completed, clients' assets are effectively managed to perform at maximum potential.

#### Arthur Ravenel Jr. Company

Sales Associate

November 2010 - June 2015 (4 years 8 months)

Philippa began her real estate career in 2000 brokering high end residential properties, vineyards and wineries in the Napa Valley. Her love of real estate and enjoyment of the luxury service sector have made her career not only enriching but also successful, with six consecutive years as a national sales award winner for Pacific Union International in the Bay Area of Northern California. Philippa also worked several years for Stribling & Associates in Manhattan in the luxury Co-Op/Townhouse sector. She was raised in the Napa Valley where her family business, Saintsbury Winery in the Carneros region, continues to thrive. She attended University of California at Santa Barbara and earned a Bachelors degree in Sociology. Philippa has traveled extensively and enjoys the multifaceted lifestyle that she shares with most of her clients, making her uniquely qualified to understand their needs in Charleston. Her love of real estate and her desire to be near family have led her to Charleston. Philippa works closely with her Aunt and Uncle, Heidi & Arthur Ravenel.

#### Stribling & Associates

Broker Associate

May 2008 - December 2011 (3 years 8 months)

#### Pacific Union

Broker Associate

2001 - 2010 (9 years)

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### Education

University of California, Santa Barbara

Bachelors, Sociology · (1997 - 2000)



CITY HALL, 1572 RAILROAD AVENUE  
OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofsthelema.org](http://www.cityofsthelema.org)

## APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

Board/Committee/Commission to which you are applying:

Planning Commission

Name: Rosaura Segura

Home Address:

1363 El Bonita Avenue, St. Helena 94574

Mailing Address: 1363 El Bonita Avenue, St. Helena Ca

Occupation: Self Employed - Service Provider/Grape Grower

Business Address: 345 La Fata Ave., Ste. B, St. Helena

Telephone: Home ----- Cell 249-0719 Business 963-5851

E-mail: segimm@sbcglobal.net

➤ Please indicate if above numbers can be made available to the public upon request: ☒ Yes ☐ No

Resident of St. Helena? ☒ Yes ☐ No Yes, how long have you lived in St. Helena? \_\_\_\_

Current occupation (within last 12 months) Self Employed, provide services for essential workers

Business interests in last 12 months: \_\_\_\_\_

Previous Committee/Commission Experience:

President of the Governing Board of Trustees, Napa Valley College - 2020

Trustee, Napa Valley College 2016-2019

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

See attached.

Professional and/or community service activities:

See attached

Local government related experience: a few years back when Mayor Britton was in charge. Social issues were resolved.  
a few years back when Mayor Britton was in charge. Social issues were resolved.

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Names, addresses, and phone numbers of three individuals familiar with your background:

Honorable Scott Snowden -

Aurelio Hurtado

Oscar De Haro

*Appointments to this position may require you to file a Conflict of Interest Disclosure*

12-28-2020  
Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574



**REASONS FOR WISHING TO SERV ON THIS COMMITTEE/COMMISSION**

I have been a resident of St. Helena since 1972. I have been civically active since approximately 1990 (see attached bio).

I love my town and it has been my desire to serve it as well. I am very glad that we were able to purchase a home which was a fixer upper back in 2004 and it was wonderful raising my children here. I was a very involved parent while they attended the St. Helena Unified School District.

I am very glad that the Council passed an Equity and Inclusion Resolution and I think that because I am Bi-Cultural and Bilingual I will be an asset in the Planning Commission. It is clear that the Latino population is perceived in a certain manner not favorable. I am the culture, but I also do well in the Anglo population, I am not a career politician, but I would like to see workforce housing developed in town, Napa is getting just as expensive to rent and so I know of people who make the commute from Solano, Lake and Sonoma counties, why not make a real effort to have them live here? Less traffic congestion on the roads and better for the environment. We need to understand that we need each other. Let me make your Equity and Inclusion plan a reality.

I appreciate your time and consideration.

**ROSAURA SEGURA**  
**345 La Fata Street, Suite B**  
**St. Helena, California 94574**  
**(707) 963-5851 \* (707) 963-0933**  
**Segimm@sbcglobal.net**

- 1.) Has been a Napa Valley Resident since 1972, is number 5 of 6 children of a man who worked very hard in the Napa Valley Fields and a wonderful lady of her house, and has 3 children.
- 2.) Established an Immigration Services business in 1989 serving the Hispanic Community in Napa, Solano, Sonoma, Lake and Mendocino and beyond. Traditionally has hired students on part-time basis to expose them to community service.
- 3.) Served on the Upper Valley Hispanic Scholarship Fund administered by the St. Helena Catholic Church <sup>feat</sup> and was funded by a Napa Valley Vintner.
- 4.) Was a member of the Napa Valley Migrant Farmworker Housing Committee since 1992, serving as the Chairperson since 1994. This committee worked tirelessly to bring awareness of the need of Migrant Farmworker Housing in the Napa Valley and was the catalyst for the landmark passage of Measure L in Napa County, which amends agricultural land use for the sole purpose of the construction of migrant farmworker housing. Napa Valley is being looked upon as a model country wide for its efforts in providing housing to its farmworkers.
- 5.) Was a board member of the St. Helena Boys and Girls club since 1994 which has been providing services to local youth since 1990 and has expanded its services to the community of Calistoga since 2000.
- 6.) Received the "Community Service" award for excellent service provided to the Community from the California Human Development in April 1999.
- 7.) Received a Certificate of Recognition from Assembly woman Pat Wiggins in April 1999
- 8.) Received the Lifetime Achievement award from the Napa County Hispanic Network for Community Service in October 2000
- 9.) Received a Resolution from Senator Wes Chesbro recognizing Community Service in October 2000.
- 10.) Has a Congressional Record recognizing Community Service dated October 2000.
- 11.) Was featured on the "Latino Leaders" magazine, a nationwide publication on the Latino Advocates section on May 2004 recognizing community service on the migrant housing issue.
- 12.) Served as an Advisor to the Institute of Mexicans Abroad, an agency of the Secretariat of Foreign Affairs, from 2006-2009 on the Politics commission, due to this, was able to persuade Congressman Luis Gutierrez to make an appearance in St. Helena during his country wide "Familias Unidas" immigration reform tour in May 2011 to which approximately 200 people were in attendance and benefited from his message.
- 13.) Launched Encanto Vineyards, LLC, producing Sauvignon Blanc and Pinot Noir, first vintage having been released in 2008.
- 14.) Received the "Building a Legacy" award from the Napa County Hispanic Chamber of Commerce in July 2011.
- 15.) I was elected by my fellow Mexican wine producers Secretary of the newly formed Napa Sonoma Mexican American Vintners Association. Our mission statement includes education in general (academic, community)
- 16.) Elected to serve the Napa Valley College as a Trustee for area 6 in November 2016
- 17.) Elected by fellow trustees as Board Chair Dec. 2019
- 18.) Has been a grape grower since 2016, hands on farmer. Grows Sauvignon Blanc

JUDGE W. SCOTT SNOWDEN, Retired  
1478 RAILROAD AVENUE, SUITE 4  
SAINT HELENA, CA 94574-1145

Mayor Geoff Ellsworth  
and Members of the City Council  
City of Saint Helena  
1572 Railroad Avenue  
St. Helena, CA 94574

December 16, 2020

Dear Mayor Ellsworth and Members of the City Council,

I write to express my support for the appointment of Rosaura Segura to the St. Helena Planning Commission.

Preliminarily, let me observe that I am familiar with the position to which I recommend her. Although it is true that I am currently an arbitrator/mediator practicing in St. Helena, and that I was a Napa County Judge (of the Municipal Court for about 5 years, and of the Superior Court for a little over 20 years), it is also true that before taking the bench, I was a member, and Chair, of the St. Helena Planning Commission as well as a member, and Chair, of the Napa County Planning Commission. Thus, my prior governmental and civic activities give me a clear knowledge of the position to which I urge you appoint Ms. Segura.

I have known Ms. Segura for more than 35 years. I have known her as a committed citizen of St. Helena, a dedicated and vocal representative of the Mexican American community here, and as a personal friend. And I know her immediate family, as well as countless members of her extended family. I consider all of them friends.

I cannot think of anyone who would be a more worthy and deserving candidate for membership on our Planning Commission. Indeed, we are all fortunate that she is willing to, and wants to serve. I sincerely hope that you will do our town and its people the service of appointing her to the Planning Commission.

Very truly yours,

Judge W. Scott Snowden, (Ret.)

Phone (707) 287-0775 Fax (707) 968-9898  
e-mail: ssnowden@jamsadr.com

**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-**

**Appointing applicants to the Planning Commission**

**RECITALS**

- A. There is one expired term and one vacated term on the Planning Commission;
- B. Applications have been received from community members for the openings. Per City Council Rules of Procedure appointments shall be made by interview, ballot process and the Mayor shall nominate applicants with the appointments subject to approval by the majority of Council;
- C. The recruitment concluded December, 2020. An applicant interview meeting is scheduled to be held On January 12, 2021 at 4pm;
- D. There is a desire to leave the recruitment open for the Active Transportation & Sustainability Committee's unfilled terms of office until filled.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

**Planning Commission**

- 1. \_\_\_\_\_ is appointed to the Planning Commission filling a vacated term expiring on June 30, 2021 and \_\_\_\_\_ is appointed to the Planning Commission filling a term expiring on June 30, 2024.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth: \_\_\_\_\_  
Vice Mayor Dohring: \_\_\_\_\_  
Councilmember Chouteau: \_\_\_\_\_  
Councilmember Hall: \_\_\_\_\_  
Councilmember Hardy : \_\_\_\_\_

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, City Clerk



Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section:** **NEW BUSINESS**

**Subject:** **Consideration and Proposed Approval of a Resolution  
Appointing of Members to the Water Advisory Board**

**CEQA** **Not a CEQA project**  
**Determination:**

**Prepared By:** April Mitts, Finance Director

**Reviewed By:** Mark T. Prestwich, City Manager

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

On June 23, 2020, City Council adopted a resolution establishing Phase I Water Regulations based on St. Helena Municipal Code (SHMC) Section 13.04.230 where conditions requiring the establishment of a Phase II water emergency, as determined by the Director of Public Works appeared to be imminent. At the time of the emergency, the City had extremely low rainfall (20"), a forecast for a potential multi-year drought, and Bell Canyon Reservoir was at 60% capacity. Water operations had also implemented changes to conserve Bell Canyon water usage by optimizing Stonebridge Wells and City of Napa water use. The forecast was for a potential Phase II trigger by November 2020.

On October 13, 2020, the Public Works Director informed City Council that a Phase II Water Emergency had been triggered on October 1, 2020.

At the October 27, 2020, City Council Meeting, the St. Helena City Council adopted Resolution No. 2020-107 making the determination that conditions requiring the establishment of a Phase II water emergency exist and as a result directed City staff to enact a Phase II Water Emergency. In accordance with SHMC 3.04.230(C)(8) if a Phase II emergency is declared, the City Council shall cause a Water Advisory Board to be formed.

**DISCUSSION**

The City Council appoints the Water Advisory Board when the City Council determines a water shortage emergency exists within the criteria established by SHMC Section 13.04.220. The Board's advisory role is largely focused on evaluating requests for exemptions to the City's water emergency allocation of 65 gallons per day per person, exceptions to water conservation measures, or water connections that would otherwise be prohibited.

**Duties of the Water Advisory Board**

Other duties of the Board include:

1. The Board shall have access to all records in the possession of the water enterprise necessary in its judgment to perform its duties, including customer records - SHMC 13.04.230(C)(8).
2. The Board shall maintain the confidentiality of individual customer records unless the Board determines, by resolution, that release of such information is necessary in the pursuit of its duties - SHMC 13.04.230(C)(8).
3. The Board shall meet at least monthly and may grant permits for uses of water or for exceptions to water conservation measures or for water connections otherwise prohibited by SHMC Sections 13.04.230, 13.04.240, and 13.04.250 if it finds and determines that such regulations would:
  - o Cause an unnecessary and undue hardship to the applicant or the public;
  - o Cause an emergency condition affecting the health, sanitation, fire protection, or safety of the applicant or public; or
  - o Promote water conservation by providing for the establishment of water efficient landscaping meeting the standards of SHMC Section 17.112.140 and such policies and regulations as have been adopted to implement the provisions of that chapter, replacing more water-intensive landscaping - SHMC 13.04.280(B)(1), (2), and (3).
4. The Board shall prescribe necessary procedures for application for and use of exception permits - SHMC 13.04.280(C).
5. The Board shall hear and determine appeals of any decision of the Director of Public Works in granting or denying exceptions - SHMC 13.04.280(D).

**Duration of the Board**

Unless the City Council otherwise directs, the Board will disband when the water emergency is no longer in effect - SHMC 13.04.230(C)(8).

**Composition of the Board**

This Board will consist of the following - SHMC 13.04.230(C)(8):

1. One City Council Member
2. One Planning Commissioner
3. One winery customer
4. Two public members, one of whom shall be solely a residential customer

On November 13, 2020, a recruitment was posted for volunteers to serve on the Water Advisory Board. Information regarding the recruitment was made available on the City's website as well as notifications sent through the City's e-news service (Attachment 1 and Attachment 2). A total of seven applications have been received. They are as follows:

One Winery customer

- Diana C. Ortiz Toji - Environmental Supervisor for Sutter Home Winery/Trinchero Family Estates

Two Public Members - One whom shall be solely a residential customer

- Elizabeth Gray
- Philip Murphy
- Edward Poole
- Brent Randol
- George M. Schisler, Jr.
- Richard Walloch

Designate One City Council Member

- 

Designate One Planning Commissioner

- 

Per City Council Rules of Procedures, appointments shall be made by interview, ballot process and the Mayor shall nominate applicants with the appointment subject to approval of the majority of Council. The City Council convened an applicant interview meeting prior to the Regular Scheduled City Council Meeting held on January 12, 2021.

#### **FISCAL IMPACT**

There is no fiscal impact to the establishment of the Water Advisory Board.

#### **RECOMMENDED ACTION**

Staff recommends adopting a resolution appointing the following applicants to the Water Advisory Board:

Winery customer

- 

One Public Member - Solely a residential customer

- 

Second Public Member

- 

City Council Member

- 
- Planning Commissioner
- 

### **ATTACHMENTS**

[Attachment 1 - Water Advisory Board Flyer](#)

[Attachment 2 - Water Advisory Board Duties and Composition](#)

[Elizabeth Gray Water Advisory Board Application for Appointment Redacted](#)

[Philip Murphy Water Advisory Board Application for Appointment Redacted](#)

[Diana Ortiz Toji application for appointment.water board redacted Redacted](#)

[Edward Poole Water Advisory Board Application for Appointment Redacted](#)

[Brent Randol Water Advisory Board Application for Appointment Redacted](#)

[George M. Schisler Jr. Application for Appointment Redacted](#)

[Richard Walloch Water Advisory Board Application for Appointment Redacted](#)

[Resolution Water Advisory Board](#)





CITY HALL, 1572 RAILROAD AVENUE  
OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

### **City seeking volunteers to serve on the Water Advisory Board**

Effective November 1, 2020, the City of St. Helena established a Water Shortage Emergency condition requiring the implementation of Phase II Water Regulations and formation of a **Water Advisory Board**.

With the declaration of a Phase II emergency the City Council shall cause a Water Advisory Board to be formed consisting of:

- One City Council member
- One Planning Commissioner
- One winery (water) customer
- Two public members, one of whom shall be solely a residential customer.

Applications may be obtained on the City of St. Helena Web site at: [www.cityofstheleena.org](http://www.cityofstheleena.org) and must be turned in by December 15, 2020. For additional information, contact City Clerk Cindy Tzaopoulos at 707-968-2742 or [cityclerk@cityofstheleena.org](mailto:cityclerk@cityofstheleena.org).

It is anticipated that applicant interviews and appointments will be made at the January 12, 2020 City Council Meeting.

## **WATER ADVISORY BOARD: ITS DUTIES AND COMPOSITION**

The City of St. Helena has declared a Phase II Water Shortage Emergency. Phase II mandates that customers do not exceed their allotted water usage as set forth in the ordinance. For example, residential users are limited to sixty-five gallons per person per day, with an additional allowance for landscape use in summer months. The ordinance allows a customer to seek an Exception Permit, allowing greater water usage than the ordinance otherwise allots, if the customer in an application filed with the City under oath can show one or more of the grounds specified in the ordinance for an increased allocation. The Public Works Director is authorized to grant an Exception Permit, with conditions if appropriate.

The applicant customer or any other person may appeal the decision of the Public Works Director to grant or to deny an Exception Permit to the Water Advisory Board in accordance with the procedure set forth in the ordinance. The Board has access to all records of the Water Enterprise, including customer records, which it must keep confidential unless it otherwise determines in the public interest. The Board is required to use its best efforts to resolve an appeal within twenty days. The decision of the Board can be appealed to the City Council.

In a nutshell the Water Advisory Board is an intermediate appellate body charged with passing judgment on appeals of grants or denials of Exception Permits. It has no other function.

The City Council appoints the Water Advisory Board. By ordinance it consists of one member of the City Council, one member of the Planning Commission, one winery customer, and two public members, one of whom shall be solely a residential customer. The Director of Public Works is an *ex officio* member. It automatically dissolves upon cessation of the Phase II (or higher) Water Shortage Emergency.

\* \* \* \* \*

The relevant provisions of the St. Helena Municipal Code are 13.04.230(C)(8) (the composition of Water Advisory Board), 13.04.240 (Phase II water regulations, and 13.04.280 (Exception permits, including duties of the Water Advisory Board).



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OFFICE OF THE CITY CLERK  
ST. HELENA, CA 94574  
(707) 968-2742  
[www.cityofsthelena.org](http://www.cityofsthelena.org)

## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

**Note:** Your application will be copied for the City Council and made available to the press and public.

You are (check one):

- ☐ One City Council member
- ☐ One Planning Commissioner
- ☐ One winery (water) customer
- ☒ Two public members, one of whom shall be solely a residential customer.

Name: Elizabeth Gray

Home Address:

[REDACTED] Saint Helena, CA 94574

Mailing Address: same as home

Occupation: Financial Consultant

Business Address: NA

Telephone: Home [REDACTED] Cell                      Business                     

E-mail: [REDACTED]

➤ Please indicate if above numbers can be made available to the public upon request: Yes or No

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? 6 years

Current occupation (within last 12 months) Chief Financial Officer

Business interests in last 12 months: Healthcare

Previous Committee/Commission Experience:

NA

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Dartmouth College - BA History/Government, Haas School of Business - MBA

PLEASE SEE ATTACHED RESUME FOR CAREER INFORMATION

Professional and/or community service activities:

Finance Committee for Headlands Center for the Arts

Board Member of Southern Exposure

Local government related experience: NA - this is my first endeavor

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Having worked in the private sector for over 25 years in finance and as a passionate member of the Saint Helena community, I would like to bring my skill set to facilitate in making incredibly important decisions relating to water conservation and use in our town. There are many competing interests here and the decision-making for water that is a precious resource critical to all (residents and commercial businesses - wineries, entertainment, etc.) needs to be made with a balanced view of both the short and long term impacts of those decisions.

Names, addresses, and phone numbers of three individuals familiar with your background:

Judi Feeley -

Stephanie Robotham -

Alison Sloga -

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

Elizabeth Gray

Digitally signed by Elizabeth Gray  
Date: 2020.11.20 16:01:46 -08'00'

11/20/2020

Signature of Applicant

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena - City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

## **ELIZABETH GRAY**

### ***Executive Summary***

More than twenty years of progressive leadership in financial strategy, corporate development, investor relations, fundraising, accounting, human resources and business operations. Outstanding communication, analytical, organizational and collaborative abilities. Expertise includes financial modeling and forecasting, operational process development and implementation, managing teams of direct reports and strong cross-functional relationships.

### ***Professional Background***

**Cogitativo, Inc. (Data Science as a Service to Healthcare Payors)**

**01/2018 – 06/2020**

**Chief Financial Officer**

Leading the management team with responsibilities for financial management, product development and operations. Worked closely with cross-functional management team to develop a three-year strategic plan which outlined opportunities for new product development as well as expansion of payment integrity initiatives.

- Partnered closely with the CEO to raise a Series B funding for Cogitativo of \$18.5M to support product acceleration of AI driven solutions to remediate waste and inefficiency in the healthcare system.
- Developed a revenue forecast and tracking model by client that aligned to our data science algorithms payment integrity findings which also provided insights to the performance of our internal models across clients.
- Managed an external factoring relationship (based on receivables) and closely tracked payables to provide the company with adequate cash to sustain business operations in a very cash constrained environment.
- Developed in internal team of recovery analysts whose primary responsibilities are to help collect overpayments on behalf of our clients. Streamlined processes for tracking and monitoring as well as developed an internal workflow to be able to scale and handle large volumes of outgoing correspondence to our Payor's provider networks.
- Manage facilities, HR and an accounting manager for day to day operations.
- Transitioned accounting from Quickbooks to Netsuite to produce a more accurate and robust ability to track receivables as well as leverage financial reporting that can tie back to our business KPIs.

**Hint, Inc. (Drinkhint.com, top selling fruit flavored bottled water)**

**2016 – 2017**

**VP of Finance**

- Built financial models (annual plan, 3- and 5- year plan) with detailed P&L's by line of business.
- Developed investor deck presentations to secure additional financing from venture debt.
- Led and closed a successful round of Series B financing.
- Negotiated and secured an ABL with a premier bank reducing monthly interest expense by a factor of 7.
- Partnered with eCommerce marketing team to optimize online marketing spend by focusing on customer acquisition KPI's.
- Managed month end close, annual and semi-annual audits, banking and insurance relationships, AP/AR, sales forecasting and financial reporting.
- Implemented tools for process improvement including expense reporting and company equity management.

**ZIRX (On-demand valet parking service start-up)**

**2015 - 2016**

**VP of Finance**

- Led finance function managing HR, Facilities and IT with support for sales, operations, marketing, engineering and product development.
- Developed financial KPIs and bottom-up business model by city to drive strategic business decisions including staffing, business expansion and product development.
- Managed all day to day operational finance projects including monthly financial and board reporting, month end close, 409A valuation, stock option management and an ERP migration from QuickBooks to Intacct.

**ELIZABETH GRAY**

**BlogHer, Inc. (Social media website acquired by SheKnows Media Holdings-HQ in AZ/NY) 2013 - 2015**  
**VP of Finance and Operations**

- Led process to evaluate strategic exit options, conduct due diligence and negotiate the merger and acquisition by SheKnows Media Holdings.
- Managed all processes related to finance and administrative functions including financial planning, accounting, treasury, legal, human resources and office management.
- Supervised a finance team of four to manage internal budgets, financial forecasting, monthly close, annual audit, 409A valuations, sales compensation plans, tax filings and cash management.
- Drove a 25% increase in operational efficiency through vendor contract negotiations and lease management for offices located in CA and NY.
- Negotiated and secured refinancing for two debt instruments totaling \$8.5M that allowed for increased corporate investment in BlogHer's signature technology platform, InfluenceHer 360.

**Linden Research, Inc. (Secondlife.com - online 3-D virtual world) 2008 - 2012**  
**Director of Financial Planning and Business Analysis**

- Managed and enhanced a complex revenue model (transactional blended with SaaS) to accurately forecast revenue and cash flow projections. Achieved annual targets for revenue of \$89M and net income of \$0.5M.
- Established and managed an operational budget planning and forecasting process which facilitated cross functional collaboration to insure optimal resource allocation.
- Built a reporting structure for monthly, quarterly and annual reporting to executive team, investors and BOD.
- Presented quarterly financial results and financial outlook to board of directors and venture capital investors in absence of a CFO.
- Managed a business analyst team of three to drive business strategy, data analysis and support of operational reporting.
- Drove the development of a customer segmentation model that provided unique business insights to the product development team and new product development to create long term value.
- Collaborated with management team to develop, present and execute a three-year strategic plan approved by the BOD.
- Partnered with human resources and legal to execute a RIF and perform a compensation review.

**Shopping.com (a subsidiary of eBay, Inc.) 2005 - 2008**  
**Director of Financial Planning and Analysis**

- Drove the development of budgets, detailed long-range business plans and forecasts with senior management. Made recommendations for optimizing resourcing and achieving financial targets.
- Developed and implemented weekly, monthly and quarterly forecasting and reporting including a corporate dashboard/scorecard for analyzing key business metrics.
- Managed financial reporting and analysis internally and externally (to eBay corporate) including month-end close reporting, divisional planning and reporting, and ROI/profitability analysis of Shopping.com strategic initiatives.

**Tilia, Inc. (a subsidiary of Jarden, Corporation-JAH) 2003 - 2005**

Tilia, Inc (\$220M rev) was a leading manufacturer and distributor of innovative kitchen appliances including the FoodSaver and VillaWare brands prior to the Jarden acquisition and merger with Sunbeam Products, Inc.

**Senior Financial Planning and Analysis Manager**

- Developed and delivered annual and long range strategic plans - including capital plans, inventory management and purchasing forecasts.
- Managed financial analysis for 35 department budgets and worked closely with the executive team to ensure delivery of quarterly profit targets.
- Supervised team of four analysts - two senior financial analysts, a cost accountant and a pricing analyst.
- Reported monthly financial results to Jarden including variance analysis of financials and top-line business performance review.
- Developed profitability analysis for Tilia Direct to Consumer business (infomercial), brand and new product development, product pricing and marketing spend.

**ELIZABETH GRAY**

**Tilia, Inc. (a subsidiary of Jarden, Corporation-JAH) cont.**

**Senior Financial Analyst**

- Provided executive management team with strategic business analysis including a balanced scorecard, seasonality analysis, product mix and channel growth comparisons, pricing analysis and recommendations for media spend based on in market test performance.
- Developed an ROI/financial model to assess viability of the launch of a new product line extension.

**Diageo (World's leading premium alcohol beverage business)**

**2000 – 2002**

**Senior Financial Analyst**

- Developed and delivered quarterly performance reviews (QPR), five-year strategic plans and annual operating plans.
- Managed and delivered western regional advertising and promotions budget (\$56M), strategic accounts marketing budgets (\$2M) and local tactical budget (\$5M).
- Developed five-year strategic plan for the white spirit portfolio to meet regional profit target including local market and brand pricing strategies for the Gordon's and Smirnoff brands.
- Completed marketing effectiveness and ROI analysis for on- and off-premise marketing promotions.

**GAP, Inc.**

**1999 – 2000**

**Management Associate – Financial Planning and Analysis Banana Republic Finance**

- Managed P&L for the \$1.5B Banana Republic division. Developed monthly forecasts, provided quarterly earnings releases and assessed current performance towards achievement of quarterly and annual plans.
- Developed a five-year divisional strategic financial plan aligned with the strategic direction of the division and investment goals of the corporation with a focus on capital investment, store operations and cash flow.
- Developed a contingency plan analysis to forecast financial risk and created expense management plans for the division.

**Ford Motor Company**

**Summer 1998**

**Finance Intern – Marketing, Sales & Service U.S. Controller's Office**

- Built complexity reduction model to be used as the foundation for Model Year 2000 Econoline Van, Wagon and Strip Chassis pricing strategy. Delivered recommendations for option reductions to pricing and marketing for the wide range of Econoline customers.

**RREEF (Real Estate Investment Advisory Firm acq. by Deutsche Bank in 2002)**

**1995-1997**

**Financial Analyst – Portfolio Management**

- Facilitated in the appraisal of ~\$500M (7M sq. ft) of commercial real estate assets (Class A-C) on the west coast.
- Monitored ongoing performance of 42 commercial real estate properties – vacancy rates, leasing opportunities and review of operating budgets and strategic property plans.
- Researched and analyzed commercial real estate market trends in major U.S. metropolitan areas.
- Facilitated property dispositions totaling over \$150M due to closing of an investment fund for RREEF's institutional investors.

**Cambridge Associates, Inc. (Investment management consulting firm)**

**1991-1994**

**Investment Manager Analyst/Consulting Associate**

- Analyzed client portfolios ranging from \$30M-\$5B in assets for strategic investment opportunities and divestitures.
- Evaluated trends in operating statistics, debt and endowment levels, and spending policies of 16 metropolitan museums and libraries to determine optimal investment strategies for longevity and operating sustainability in the non-profit sector.
- Coordinated and conducted analysis for preparation of client presentations.
- Developed an alternative asset evaluation model for an \$8.5B corporate pension fund.
- Led professional development activities and trained an analyst class of 10 associates.

**ELIZABETH GRAY**

***Education***

*University of California at Berkeley: Walter A. Haas School of Business*  
Master of Business Administration, May, 1999  
Emphasis in Finance and Marketing

Berkeley, CA

*Dartmouth College*  
B.A. History, minor in government, June, 1991

Hanover, NH

***Board Positions/Affiliations***

*Headlands Center for the Arts Finance Committee*  
2016 – Present

*Marin Headlands, SF Bay Area*

Headlands Center for the Arts is a multidisciplinary, international arts center dedicated to supporting artists; the creative process; and the development of new, innovative ideas and art.

*After-School All-Stars (ASAS) – Bay Area Chapter*  
2016-2020

*SF Bay Area*

After-School All-Stars is a national non-profit organization that partners with schools across the United States to expand the learning day for low-income children. Currently, ASA serves nearly 92K students on 400 school sites in 14 regions across 10 states.

*Southern Exposure (SOEX)-BOD Treasurer*  
2010 – 2016

*San Francisco, CA*

SOEX is a 46-year old non-profit artist run organization providing support to the Bay Area's arts and educational communities.





CITY HALL, 1572 RAILROAD AVENUE  
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(707) 968-2742  
[www.cityofstheleena.org](http://www.cityofstheleena.org)

## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

You are (check one):

- ☐ One City Council member
- ☐ One Planning Commissioner
- ☐ One winery (water) customer
- ☒ Two public members, one of whom shall be solely a residential customer.

Name: PHILIP MURPHY

Home Address: [REDACTED]

Mailing Address: SAME

Occupation: RETIRED

Business Address: \_\_\_\_\_

Telephone: Home [REDACTED] Cell [REDACTED] Business \_\_\_\_\_

E-mail: [REDACTED]

➤ Please indicate if above numbers can be made available to the public upon request: Yes or No

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? 45 yrs.

Current occupation (within last 12 months) RETIRED

Business interests in last 12 months: PRESIDENT & HALL MANAGER OF THE NATIVE SONS HALL

Previous Committee/Commission Experience:

NONE

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

S.F. STATE, WORKED FOR ECOLAB HEALTHCARE FOR THE LAST  
40 YEARS. BEFORE THAT I WORKED IN RETAIL & MANUFACTURING  
AND HAD MY OWN DBP BUSINESS

Professional and/or community service activities:

RUN THE NATIVE SONS HALL

Local government related experience: NONE

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I FEEL THE COMMITTEE NEEDS INPUT FROM A LONG TIME  
RESIDENT AND HOMEOWNER THATS BEEN A PART OF THE ST.  
HELENA COMMUNITY FOR MANY YEARS (45 YRS) AT THE SAME  
ADDRESS.

Names, addresses, and phone numbers of three individuals familiar with your background:

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

Sig 

12-8-2020  
Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.

Please return the completed application to:

City of St. Helena - City Clerk  
1572 Railroad Avenue



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## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

**Note:** Your application will be copied for the City Council and made available to the press and public.

You are (check one):

- ☐ One City Council member
- ☐ One Planning Commissioner
- ☒ One winery (water) customer
- ☐ Two public members, one of whom shall be solely a residential customer.

Name: Diana C. Ortiz Toji

Home Address: [REDACTED]

Mailing Address: Same as above

Occupation: Environmental Supervisor

Business Address: [REDACTED]

Telephone: Home [REDACTED] Cell [REDACTED] Business [REDACTED]

E-mail: [REDACTED]

➤ Please indicate if above numbers can be made available to the public upon request: **Yes** or **No**

Resident of St. Helena? **Yes** or **No** Yes, how long have you lived in St. Helena? [REDACTED]

Current occupation (within last 12 months) [REDACTED]

Environmental Supervisor for Sutter Home Winery/Trinchero Family Estates

Business interests in last 12 months: [REDACTED]

Sutter Home Winery/Trinchero Family Estates

Previous Committee/Commission Experience:

N/A

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Please see cover letter. Education: Bachelor of Science in Biology, Minor in Cultural Anthropology.

In college I combined my passion for environmental conservation with connecting with communities using a cultural perspective.

After school, I worked for 2 years for a non-profit in Huntington Beach. I developed and conducted Environmental Education Programs for the local community.

Professional and/or community service activities:

Please see above and cover letter.

Local government related experience: N/A

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Please see cover letter.

Names, addresses, and phone numbers of three individuals familiar with your background:

Ted Wells,

Tye Taylor,

Bob Torres,

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

 Digitally signed by Diana Ortiz  
Date: 2020.12.07 09:05:07 -08'00'

Signature of Applicant

12/7/2020

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena - City Clerk  
1572 Railroad Avenue  
St. Helena, CA, 94574



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## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

**Note:** Your application will be copied for the City Council and made available to the press and public.

You are (check one):

- ☐ One City Council member
- ☐ One Planning Commissioner
- ☐ One winery (water) customer
- ☒ Two public members, one of whom shall be solely a residential customer.

Name: Edward G. Poole

Home Address:

[REDACTED], St. Helena, CA 94574

Mailing Address:

[REDACTED]

Occupation: Attorney

Business Address:

[REDACTED]

Telephone: Home [REDACTED] Cell [REDACTED] Business [REDACTED]

E-mail:

[REDACTED]

➤ Please indicate if above numbers can be made available to the public upon request: Yes or No

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? \_\_\_\_\_

Current occupation (within last 12 months) Attorney; emphasis on California Public Utility issues  
including water, gas and electricity

Business interests in last 12 months: Represent end uses of water, electricity and gas;  
have represented mobilehome parks in disputes over private water systems

Previous Committee/Commission Experience:

None

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Resume attached

Professional and/or community service activities:

Represented the owners of Vineyard Valley before the City Council in setting water rates

Chair, San Francisco Zoological Society Board of Directors

Local government related experience: None

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

While not a fulltime resident of St. Helena, I have been residing in St. Helena since March. I am very interested in giving back to the community in which I live, and believe my experience with water issues at both the state and local levels could be useful to the advisory board. I am a consensus builder and look forward to learning more about these issues

Names, addresses, and phone numbers of three individuals familiar with your background:

Sheila Dey, [REDACTED]

Richard McCann, Ph.D, MCubed, [REDACTED]

Irene Moosen, [REDACTED]

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

Edward G. Poole

Digitally signed by Edward G. Poole  
Date: 2020.12.12 11:01:13 -08'00'

12-12-2020

Signature of Applicant

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena - City Clerk  
1572 Railroad Avenue  
St. Helena, CA, 94574

# EDWARD GRAY POOLE

Anderson & Poole



## PROFESSIONAL EXPERIENCE

**Anderson & Poole, P.C.**, San Francisco, California

Principal, November 1990 to present; Associate, June 1987 to November 1990.

Head of energy-regulatory practice. Significant experience in natural gas and electric re-regulation proceedings at the California Public Utilities Commission, and in transportation issues representing carriers and shippers. Advise transportation and telecommunications companies and various local corporate clients on labor, contract and operational issues. Estate planning, probate and trust administration; general corporate and business transactions.

**Ropers, Majeski, Kohn & Bentley**, Redwood City, California

August 1985 to June 1987. Associate. General corporate and business litigation, including debtor bankruptcy, real estate fraud and breach of contract.

**Senate Committee on Insurance, Claims and Corporations**, Sacramento, California

June 1983 to May 1985. Staff Member. Researched and drafted legislation relating to municipal liability insurance and joint power administrations.

## EDUCATION

**University of the Pacific, McGeorge School of Law**, Sacramento, California

Juris Doctor, 1985

Legislation Editor, McGeorge Law Journal

**Bowdoin College**, Brunswick, Maine

Bachelor of Arts, 1982

Joint Major in History and Government/Legal Studies

*Cum laude* in History

## PROFESSIONAL ASSOCIATIONS

State Bar of California

Conference of California Public Utility Counsel

Energy Bar Association

## REGULATORY EXPERTISE

Mr. Poole regularly represents stationary and non-stationary public utility clients in virtually every area of regulatory activity, including but not limited to, administrative ratemaking and rulemaking proceedings, administrative and civil enforcement proceedings, and litigation related to activities of regulated enterprises. The firm has represented a myriad of large and small utility clients in obtaining regulatory authority and relief from regulatory action, and represented entities in merger, acquisition, control and financing transactions of varying complexities. In particular, Mr. Poole is one of California's leading experts on mobilehome park rate issues concerning the provision of submetered electricity, natural gas, water and telephone utility services. The firm also has an active appellate practice in matters before the California Public Utilities Commission, and post-Commission appellate practice before the California Courts of Appeal and Supreme Court, and the federal District Court, Ninth Circuit Court of Appeals, and the U.S. Supreme Court



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## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

**Note: Your application will be copied for the City Council and made available to the press and public.**

You are (check one):

- ☐ One City Council member  
☐ One Planning Commissioner  
☐ One winery (water) customer  
☒ Two public members, one of whom shall be solely a residential customer.

Name: Brent Randol

Home Address:

[REDACTED] St Helena, CA 94574

Mailing Address: [REDACTED] St Helena, CA 94574

Occupation: Investments

Business Address: [REDACTED] St Helena, CA 94574

Telephone: Home [REDACTED] Cell [REDACTED] Business [REDACTED]

E-mail: brentrandol@comcast.net

- Please indicate if above numbers can be made available to the public upon request Yes or No  
Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? 26 years  
Current occupation (within last 12 months) Investment Business Development

Business interests in last 12 months: N/A



Previous Committee/Commission Experience:

Napa Regional Park & Open Space District Director 2014-Present

Napa County Wildlife Conservation Commission 2008-2013

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

Resume Attached

Professional and/or community service activities:

Napa County Grand Jury Foreperson 2003, Rebuilding Together St Helena

VITA tax volunteer, Leadership Napa Valley Graduate

Local government related experience: Napa Regional Park & Open Space District

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

I am a fourth generation Napa Valley resident the last 26 in St Helena. Water is critical for the health and well being of our community. I have help many leadership roles and have extensive experience with complex problem resolution. I love

This community and want to give back to the community that has given so much to me.

Names, addresses, and phone numbers of three individuals familiar with your background:

Scott Coleman

Ray Particelli

Joe Beltrami

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

11/30/2020

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena - City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574

**Brent Randol**

St. Helena, CA 94574 | [REDACTED]

### **BUSINESS DEVELOPMENT LEADER**

Top Performing business development professional with comprehensive experience and a proven track record for consistently driving continuous growth and profitability in the financial services industry. Experience encompasses wide breadth of responsibilities and areas of expertise within the financial products industry. Demonstrated outstanding talents in developing and leading the cultivation of corporate to corporate relationships. Expertise includes:

- Delivering significant revenue increases through the development and implementation of relationship-based strategies.
- Skill and leadership for uncovering and exploiting business development opportunities while forging mutually beneficial and profitable corporate-to-corporate partnership alliances.
- Cultivating highly profitable and lasting business relationships earned through the establishment and maintenance of premium levels of client service.

### **PROFESSIONAL EXPERIENCE**

**RAYMOND JAMES FINANCIAL SERVICES**, Saint Helena, CA

January 2018-Present

#### **Business Development Consultant**

Develop affiliations with advisor and/or financial planning professionals/organizations to recruit advisors and/or their practices to various Raymond James Financial divisions. Act in a professional sales and marketing capacity to help meet division goals.

- Established and maintained relationships that led to recruiting new advisors and/or practices.
- Assisted advisors during transition to the firm and/or facilitated acquisitions.

**PATELCO FINANCIAL SOLUTIONS**, Pleasanton, CA

March 2017 to December 2017

#### **Director of Investments - Consultant**

Set and achieved revenue/profit goals for the program, as well as for the Financial Advisors. Worked closely with the management and staff to develop a business plan designed to grow the investment business and integrate it as a core offering of the credit union.

- As the Program Manager/VP, Investments, identified and recruited for staffing needs, coached, mentored, and provided both basic and advanced sales training to registered reps and sales assistants to implement the plan for success.

**AMERIPRISE FINANCIAL**, Saint Helena, CA

June 2010 to March 2017

#### **Regional Recruiting Director**

Regional Director of Franchise Development for the Pacific. Mergers and Acquisitions on both of our platforms.

- Grew the population of Financial Advisors in eight western states in both the independent and employee channels.
- The top director based on hiring head count and trailing 12 production, winning 3 consecutive performance contests against peers.

Brent Randol

Page 2

**INVESTMENT PROFESSIONALS INC**, Saint Helena, CA

June 2009 to June 2010

**BUSINESS DEVELOPMENT - Contract**

Handled the outreach, prospecting, and marketing to attract Non Deposit Investment Programs in financial institutions, signing and closing contracts. Consulted with financial institution on program design and structure, implementation, rep compensation, platforms, and conversions.

**GRUBB & ELLIS SECURITIES**, Saint Helena, CA

June 2008 to March 2009

**WHOLESALE**

Raised capital for Grubb & Ellis Realty Investors real estate investment trusts (REITs); multi-member limited liability companies (LLCs) and 1031 tenant-in-common (TIC) exchange offerings in 14 western states.

- Regularly spoke with investors and financial advisors regarding REITs, tenant-in common investments, LLCs and private wealth management investments.

**SMITH BARNEY**, San Francisco, CA

June 2002 to October 2007

**AREA INVESTMENT MANAGER**

Managed and trained Bank Brokerage Representatives in San Francisco Bay Area. Established objectives, conducts performance reviews, and provides forecasting and strategic analysis for each quarter.

- Recruited, interviewed, hired, assigned and implemented the training and development of 19 Stockbrokers and 3 Sales Assistants.
- Acted as a resource to answer questions, review documents, approve trade blotters, and conduct annual audits.
- Ensured relationships were managed according to policies and procedures, ensuring service and sales standards were achieved.

**ADDITIONAL RELEVANT EXPERIENCE****CUNA Mutual Group**, San Francisco Bay Area**Division Manager****Steve Leshner & Associates**, San Francisco Bay Area**Wholesaler****Independent Financial Marketing Group**, San Francisco Bay Area**Account Director**

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**EDUCATION****Bachelor of Science – Business Administration, Finance, Minors: Economics, Computer Science**

Humboldt State University, Arcata, CA

**LICENSES****Series 7, Series 9, Series 10, Series 24, Series 26, Series 53, Series 63, Series 65****California Life and Disability, Long Term Care Certification, California Fire and Causality License**

Brent Randol

Page 3

### **HONORS AND AWARDS HIGHLIGHTS**

**Named Top Recruiter** at Ameriprise, October 2015, 2016, 2017

**Presidents Volunteer Award**, March 2005, 2006, 2007

**Team Builder Award**, January 2005

**Foreperson Napa County Grand Jury**, June 2004

**Citistars Winner**, March 2004

**Finalist Customer Excellence Award**, September 2000,

**Nomination: Managers Choice Award**, February 1999

**Graduate Leadership Napa Valley**, June 1997

**Sales Manager of the Year** for Independent Financial, April 1997

**Outstanding Manager of the Year** – “Investment Marketing Magazine”, October 1995

**Pamco Achievement Award for Outstanding Sales Management**, February 1991



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## APPLICATION FOR APPOINTMENT

**Note:** Your application will be copied for the City Council and made available to the press and public.

Board/Committee/Commission to which you are applying:  
Water Advisory Board Community Member

Name: George M. Schisler, Jr.

Home Address:

[REDACTED], St. Helena, CA

Mailing Address:

Occupation: Attorney

Business Address:

Telephone: Home

Cell

Business

E-mail:

- Please indicate if above numbers can be made available to the public upon request: Yes or No Ok for busine:

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? Part time, since 2018

Current occupation (within last 12 months) In house counsel, Lam Research Corporation

Business interests in last 12 months: I own some properties in Calistoga  
two rentals, and another that my kids will live in.

Previous Committee/Commission Experience:

None

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

BS. Econ. Wharton Business School, Univ of PA, 1979

JD Univ of Michigan Law School 1982

Attorney in private practice until 1998; in house counsel since 1998

Professional and/or community service activities:

none

Local government related experience: none

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

Happy to help if you need it. I am familiar with Corporate Governance practices, but have virtually no experience with government processes

Names, addresses, and phone numbers of three individuals familiar with your background:

Laurie Shelton (wife)

Lester Hardy,

Jeff Warren,

*Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.*

George M. Schisler, Jr.

Signature of Applicant

December 5 2020

Date

*If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.*

Please return the completed application to:

City of St. Helena

City Clerk

1572 Railroad Avenue

St. Helena, CA, 94574



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## WATER ADVISORY BOARD APPLICATION FOR APPOINTMENT

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You are (check one):

- ☐ One City Council member
- ☐ One Planning Commissioner
- ☐ One winery (water) customer
- ☒ Two public members, one of whom shall be solely a residential customer.

Name: Richard Walloch

Home Address: [REDACTED]

Mailing Address: As Above

Occupation: Retired

Business Address: N/A

Telephone: Home [REDACTED] Cell [REDACTED] Business —

E-mail: [REDACTED]

➤ Please indicate if above numbers can be made available to the public upon request: Yes or No

Resident of St. Helena? Yes or No Yes, how long have you lived in St. Helena? 3 years

Current occupation (within last 12 months) Retired

Business interests in last 12 months: N/A

Previous Committee/Commission Experience:

Member - Financing Civic Infrastructure Task Force

Education/Experience: A resume may be attached containing this and any other information that would be helpful in evaluating your application.

See Resume

Professional and/or community service activities:

Registered Mechanical Engineer - State of California

Local government related experience: None

Please explain your reasons for wishing to serve on this committee/commission and how you feel that you may contribute

We currently have a severe drought and a limited water supply. The city council has approved a stage 2 water emergency and set consumption limits. The penalties attached to the council information are severe, will be controversial and may conflict with Proposition 218. Most neighboring water agencies have a tiered rate structure encouraging water conservation. Saint Helena has studied a tiered rate structure but has not installed one. The Advisory board should study these issues and make recommendations to the council.

Names, addresses, and phone numbers of three individuals familiar with your background:

Geoff Ellsworth, Mayor  
Eric Hall - Council Member - Elect  
Tom McBroom -

Appointments to this position may require you to file a Conflict of Interest Disclosure Statement, which is of public record.

[Signature] 11/21/2020  
 Signature of Applicant Date

If you have any questions regarding the appointment procedure, please telephone the City Clerk at (707) 968-2742.

Please return the completed application to:  
 City of St. Helena - City Clerk  
 1572 Railroad Avenue  
 St. Helena, CA, 94574



# Resume

**Name:** Richard Walloch

**Qualifications:** -BSME Washington State University 1969, Pullman, Washington  
 -Registered Professional Engineer in Mechanical Engineering, State of California #M 16487

**Summary:** Richard is a Management Consultant and Project Director with extensive experience in Project Development and Project Management. Rich has a proven record of successful assignments and projects with Unocal and Chevron, including the Project Management Institute Project of the Year runner up award for the North Pailin Project and two Unocal Chairman's Awards for outstanding achievement on the Avila Beach and Gunung Salak Projects.

**Experience:**

5/2018 to Present Retired

8/2017 to 4/2018 Project Manager at Anvil Corporation, evaluating projects for Procter and Gamble, Sacramento.

4/2011 to 7/2017 Principal- Walloch Consulting LLC- Evaluation of Project Management systems/performance for the Oil and Gas and Chemicals Industries

4/2006 to 3/2011 Projects Director- Chevron Project Resources Company. Management of all Major Capital Projects for the Downstream refineries, chemical plants and Joint Ventures worldwide.

11/04 to 4/2006 Project Manager for the A&B Gas Development Project for Unocal/Chevron Netherlands, The Hague. Design and Construction of a 125 MMSCFD gas processing platform in the Dutch Sector of the North Sea.

8/02 to 11/04 Project Manager for the West Seno 2 Oil and Gas Processing Facility. This Project was for the Installation of a Tension leg Platform offshore Balikpapan, Indonesia. The initial phase of the Project was for Detailed Engineering in Houston, TX. I was transferred to Jakarta, Indonesia for the Procurement and bidding phase. The project was suspended when Phase 1 production did not meet forecast.

9/00 to 7/02 Engineering Manager- North Pailin Project. The Project constructed an 8 pile jacketed, 200 MMSCFD gas processing platform in the Gulf of Thailand. I was assigned to this project during the Engineering phase (Perth, Western Australia) and transferred to Batam, Indonesia for the Fabrication phase and Offshore in the Gulf of Thailand for installation and startup.

- 12/97 to 9/00      Project Manager- Avila Beach Remediation Project, Avila Beach, CA. Managed the demolition, remediation and reconstruction of the town of Avila Beach, CA, where oil leakage had caused contamination of the town and beach. Responsibilities included Project Management, Public relations, and environmental permitting.
- 6/95 to 12/97      Construction Manager- Salak Geothermal Project. Managed the construction of a 195 MW Geothermal Power Plant in the Rain Forest of Indonesia. Received the Unocal Chairman's award for outstanding achievement. The project has operated at over 98% on-stream time since it's startup.

*1980-1995 Projects with Unocal San Francisco Refinery*

- 6/93 to 6/95      Project Manager- Reformulated Fuels Project. A 100 MM\$ revamp of the refinery to produce CARB Reformulated Gasoline. Added a new hydrogen plant, Isomerization unit. additional tankage and revised gasoline blending plus numerous minor refinery modifications.
- 6/87 to 6/93      Maintenance Superintendent, responsible for a 20 MM\$ annual maintenance budget. The department had 200 full time employees and turnaround staffing in excess of 1000.
- 1/84 to 6/87      Project Manager for 3 large Refinery Projects which installed a new crude unit, Isomerization Unit and Cogeneration Plant.
- 9/82 to 12/83      Superintendent of Personnel
- 11/80 to 9/82      Project Manager- Unocal San Francisco Refinery

*Project with Hallanger Engineers, Orinda, CA*

- 9/77 to 11/80      Project Manager for the 50 Crude Unit revamp at Tosco's Avon refinery. Increased the Capacity of the Crude Unit from 65,000 to 100,000 BPD. Installed Crude Desalting Units at both 50 Crude Unit and Unit 33.

*Initial Assignments with Unocal*

- 6/69 to 8/77      Various Engineering and maintenance assignments at Unocal's refineries in San Francisco and Los Angeles.

Contact Information



**CITY OF ST. HELENA**

**RESOLUTION NO. 2021-\_\_**

**Appointing Members to the Water Advisory Board.**

**RECITALS**

- A. Pursuant to Municipal Code Section 13.04.230 the City Council shall cause a Water Advisory Board to be formed; and
- B. The Water Advisory Board shall be comprised of: one City Council Member, one Planning Commissioner, One winery customer, and two member of the public, one of whom shall be solely a residential customer.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

- 1. Mayor Ellsworth hereby appoints Council Member \_\_\_\_\_ to the Water Advisory Board as the City Council representative; and
- 2. Mayor Ellsworth hereby appoints Planning Commissioner \_\_\_\_\_ to the Water Advisory Board as the Planning Commission representative; and
- 3. Mayor Ellsworth hereby appoints \_\_\_\_\_ to the Water Advisory Board as the winery customer representative; and
- 4. Mayor Ellsworth hereby appoints \_\_\_\_\_ to the Water Advisory Board as the member representing the public at large; and
- 5. Mayor Ellsworth hereby appoints \_\_\_\_\_ to the Water Advisory Board as the member representing the public at large solely as a residential customer.

Approved at a Regular Meeting of the St. Helena City Council on January 12, 2021, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Chouteau:

Councilmember Hall:

Councilmember Hardy:

APPROVED:

ATTEST:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

\_\_\_\_\_  
Cindy Tzaopoulos, City Clerk



Report to the City Council  
Regular City Council - 12 Jan 2021

**Agenda Section:** **NEW BUSINESS**

**Subject:** **2021 City Council Meeting Calendar**

**CEQA** **Not a CEQA project**  
**Determination:**

**Prepared By:** Cindy Tzafopoulos, City Clerk

**Reviewed By:** April Mitts, Finance Director

**Approved By:** Mark T. Prestwich, City Manager

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**BACKGROUND**

The City Council annually reviews the proposed meeting calendar. The City Council has traditionally cancelled the first meeting in July and its second meeting in December.

**FISCAL IMPACT**

None

**RECOMMENDED ACTION**

Review the 2021 calendar and provide direction on Council meeting dates.

**ATTACHMENTS**

[2021 Calendar](#)

**CITY OF ST. HELENA**  
*PLANNING/COUNCIL/HOLIDAY*  
*CALENDAR*

# 2021

|     |     |                               |
|-----|-----|-------------------------------|
|     |     | Planning Commission           |
|     |     | PH Notices due to City Clerk  |
| 1st | 2nd | Council Mtg                   |
|     |     | Council Reports Due           |
|     |     | City Council Agenda Published |
|     |     | Holiday                       |

## JANUARY

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     |     |      | 1   | 2   |
| 3   | 4   | 5   | 6   | 7    | 8   | 9   |
| 10  | 11  | 12  | 13  | 14   | 15  | 16  |
| 17  | 18  | 19  | 20  | 21   | 22  | 23  |
| 24  | 25  | 26  | 27  | 28   | 29  | 30  |
| 31  |     |     |     |      |     |     |

## FEBRUARY

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     | 1   | 2   | 3   | 4    | 5   | 6   |
| 7   | 8   | 9   | 10  | 11   | 12  | 13  |
| 14  | 15  | 16  | 17  | 18   | 19  | 20  |
| 21  | 22  | 23  | 24  | 25   | 26  | 27  |
| 28  |     |     |     |      |     |     |

## MARCH

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     | 1   | 2   | 3   | 4    | 5   | 6   |
| 7   | 8   | 9   | 10  | 11   | 12  | 13  |
| 14  | 15  | 16  | 17  | 18   | 19  | 20  |
| 21  | 22  | 23  | 24  | 25   | 26  | 27  |
| 28  | 29  | 30  | 31  |      |     |     |

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APRIL

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     |     | 1    | 2   | 3   |
| 4   | 5   | 6   | 7   | 8    | 9   | 10  |
| 11  | 12  | 13  | 14  | 15   | 16  | 17  |
| 18  | 19  | 20  | 21  | 22   | 23  | 24  |
| 25  | 26  | 27  | 28  | 29   | 30  |     |

## MAY

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     |     |      |     | 1   |
| 2   | 3   | 4   | 5   | 6    | 7   | 8   |
| 9   | 10  | 11  | 12  | 13   | 14  | 15  |
| 16  | 17  | 18  | 19  | 20   | 21  | 22  |
| 23  | 24  | 25  | 26  | 27   | 28  | 29  |
| 30  | 31  |     |     |      |     |     |

## JUNE

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     | 1   | 2   | 3    | 4   | 5   |
| 6   | 7   | 8   | 9   | 10   | 11  | 12  |
| 13  | 14  | 15  | 16  | 17   | 18  | 19  |
| 20  | 21  | 22  | 23  | 24   | 25  | 26  |
| 27  | 28  | 29  | 30  |      |     |     |

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JULY

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     |     | 1    | 2   | 3   |
| 4   | 5   | 6   | 7   | 8    | 9   | 10  |
| 11  | 12  | 13  | 14  | 15   | 16  | 17  |
| 18  | 19  | 20  | 21  | 22   | 23  | 24  |
| 25  | 26  | 27  | 28  | 29   | 30  | 31  |

## AUGUST

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
| 1   | 2   | 3   | 4   | 5    | 6   | 7   |
| 8   | 9   | 10  | 11  | 12   | 13  | 14  |
| 15  | 16  | 17  | 18  | 19   | 20  | 21  |
| 22  | 23  | 24  | 25  | 26   | 27  | 28  |
| 29  | 30  | 31  |     |      |     |     |

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SEPTEMBER

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     | 1   | 2    | 3   | 4   |
| 5   | 6   | 7   | 8   | 9    | 10  | 11  |
| 12  | 13  | 14  | 15  | 16   | 17  | 18  |
| 19  | 20  | 21  | 22  | 23   | 24  | 25  |
| 26  | 27  | 28  | 29  | 30   |     |     |

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OCTOBER

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     |     |      | 1   | 2   |
| 3   | 4   | 5   | 6   | 7    | 8   | 9   |
| 10  | 11  | 12  | 13  | 14   | 15  | 16  |
| 17  | 18  | 19  | 20  | 21   | 22  | 23  |
| 24  | 25  | 26  | 27  | 28   | 29  | 30  |
| 31  |     |     |     |      |     |     |

## NOVEMBER

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     | 1   | 2   | 3   | 4    | 5   | 6   |
| 7   | 8   | 9   | 10  | 11   | 12  | 13  |
| 14  | 15  | 16  | 17  | 18   | 19  | 20  |
| 21  | 22  | 23  | 24  | 25   | 26  | 27  |
| 28  | 29  | 30  |     |      |     |     |

## DECEMBER

| Sun | Mon | Tue | Wed | Thur | Fri | Sat |
|-----|-----|-----|-----|------|-----|-----|
|     |     |     | 1   | 2    | 3   | 4   |
| 5   | 6   | 7   | 8   | 9    | 10  | 11  |
| 12  | 13  | 14  | 15  | 16   | 17  | 18  |
| 19  | 20  | 21  | 22  | 23   | 24  | 25  |
| 26  | 27  | 28  | 29  | 30   | 31  |     |

| Meeting Date | Staff Reports Due | Agenda Published |
|--------------|-------------------|------------------|
| 01/12/21     | 12/23/20          | 12/31/20         |
| 01/26/21     | 01/08/21          | 01/15/21         |
| 02/09/21     | 01/22/21          | 01/29/21         |
| 02/23/21     | 02/05/21          | 02/12/21         |
| 03/09/21     | 02/19/21          | 02/26/21         |
| 03/23/21     | 03/05/21          | 03/12/21         |
| 04/13/21     | 03/26/21          | 04/02/21         |
| 04/27/21     | 04/09/21          | 04/16/21         |
| 05/11/21     | 04/23/21          | 04/30/21         |
| 05/25/21     | 05/07/21          | 05/14/21         |
| 06/08/21     | 05/21/21          | 05/28/21         |
| 06/22/21     | 06/04/21          | 06/11/21         |
| 07/13/21     | 06/25/21          | 07/02/21         |
| 07/27/21     | 07/09/21          | 07/16/21         |
| 08/10/21     | 07/23/21          | 07/30/21         |
| 08/24/21     | 08/06/21          | 08/13/21         |
| 09/14/21     | 08/20/21          | 08/27/21         |
| 09/28/21     | 09/10/21          | 09/17/21         |
| 10/12/21     | 09/24/21          | 10/01/21         |
| 10/26/21     | 10/08/21          | 10/15/21         |
| 11/09/21     | 10/22/21          | 10/29/21         |
| 11/23/21     | 11/05/21          | 11/12/21         |
| 12/14/21     | 11/19/21          | 11/29/21         |
| 12/28/21     | 12/10/21          | 12/17/21         |