

CITY OF YUBA CITY
STAFF REPORT

Date: September 17, 2019
To: Honorable Mayor and Members of the City Council
From: Human Resources Department
Presentation By: Natalie Springer, Human Resources Director

Summary

Subject: First Level Managers' Letter of Understanding (LOU).
Recommendation: A. Adopt a Resolution approving a one year Letter of Understanding with the First Level Manager group.
B. Approve a supplemental appropriation of \$101,800 to the FY 2019/2020 adopted budget.
Fiscal Impact: An increase in cost of \$101,800 for FY 2019/2020 and \$66,500 for FY 2020/2021.

Purpose:

To approve the First Level Managers' one year Letter of Understanding.

Background:

The City's employment agreement with the First Level Managers group expired on June 30, 2019. The City and the First Level Managers group have been meeting since April 2019 to negotiate a new employment agreement. The previous agreement included a one-time distribution of \$1,500 or 2% base salary (whichever was greater) and a 2% salary increase in year two. In addition, the contract included a 9-step salary schedule for new employees, a long-term disability program, and increased bilingual pay/death benefits.

While the City continues to face growing employee pension obligations the City must remain competitive in recruiting and retaining employees which requires competitive employee compensation. The proposed employment contract is an attempt to find the balance between competitive employee compensation and management of the increasing employee pension obligations.

Analysis:

The First Level Managers have agreed to a one year Letter of Understanding that:

1. Includes a 2% salary increase effective the first full pay period following July 1, 2019.
2. Includes a one-time non-PERSable stipend of \$1,500 or 2% of base salary (whichever is greater);
3. Includes salary adjustment for Recreation Supervisor I/II/III so that Step 1 is at least double minimum wage:

- a. 2% increase applied retroactively to July 6, 2019
(first full pay period following July 1, 2019)
- b. 17% increase effective September 28, 2019
(double minimum wage effective January 2020)
4. Increases benefits for dental and vision coverage;
5. Outlines 2019 Holiday Closure;
6. Increases Tuition Reimbursement program to \$5,000 per fiscal year.

The complete Letter of Understanding is attached.

Fiscal Impact:

The proposed changes will result in a net increase in cost of \$101,800 for FY 19/20 and \$66,500 for FY 20/21. Costing does not include benefit rates or increased pension costs.

Alternatives:

Do not approve First Level Manager Letter of Understanding and provide staff direction.

Recommendation:

Adopt a Resolution approving a two year Letter of Understanding with the First Level Manager group, and approve a supplemental appropriation of \$101,800 to the FY 2019/2020 adopted budget.

Attachments:

- A. Cost impact of First Level Managers Agreement Terms
- B. Revised Salary Schedule – Recreation Supervisor
- C. First Level Managers' LOU Resolution
- D. First Level Managers' LOU

Prepared By:

/s/ Ciara Wakefield

Ciara Wakefield
Administrative Analyst II

Submitted By:

/s/ Michael Rock

Michael Rock
City Manager

Reviewed By:

Human Resources

NS

Finance

RB

City Attorney

SLC by email

ATTACHMENT A

City of Yuba City
FLM - Impact of 1 Year Agreement - FINAL

| FY 19/20 - Year 1 | On-Going | One-Time | Total |
|---|-----------------|-----------------|--------------|
| 2% Salary increase | \$ 55,800 | | \$ 55,800 |
| Recreation Supervisor I/II/III - exemption requirement (effective 9/28/19)* | 7,800 | | 7,800 |
| One time stipend - 2% or \$1,500 (whichever is greater) | | \$ 38,200 | 38,200 |

Year 1 Total Cost

| | <u>\$ 63,600</u> | <u>\$ 38,200</u> | <u>\$ 101,800</u> |
|---------------------|------------------|------------------|-------------------|
| <i>General Fund</i> | 37,300 | 21,800 | 59,100 |
| <i>Other</i> | 26,300 | 16,400 | 42,700 |

*** Annual on-going cost is \$10,700**

ATTACHMENT B

FLM - RECREATION SUPERVISOR SERIES I/II/III

EFFECTIVE SEPTEMBER 28, 2019

| JCN | CLASSIFICATION | Bargaining Group | SALARY STEPS | | | | | | |
|-------|---------------------------|------------------|--------------|-------|-------|-------|-------|--|---------|
| | | | 1 | 2 | 3 | 4 | 5 | | |
| 6030* | RECREATION SUPERVISOR I | FLM | 4,507 | 4,732 | 4,969 | 5,217 | 5,478 | | Monthly |
| | | | 26.00 | 27.30 | 28.67 | 30.10 | 31.60 | | Hourly |
| 6045* | RECREATION SUPERVISOR II | FLM | 5,183 | 5,442 | 5,714 | 6,000 | 6,300 | | Monthly |
| | | | 29.90 | 31.40 | 32.97 | 34.62 | 36.34 | | Hourly |
| 6046* | RECREATION SUPERVISOR III | FLM | 5,702 | 5,987 | 6,286 | 6,600 | 6,930 | | Monthly |
| | | | 32.90 | 34.54 | 36.27 | 38.08 | 39.98 | | Hourly |

| JCN | CLASSIFICATION | Bargaining Group | SALARY STEPS | | | | | | | | | | |
|------|---------------------------|------------------|--------------|-------|-------|-------|-------|-------|-------|-------|-------|--|---------|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | | |
| 6430 | RECREATION SUPERVISOR I | FLM | 4,507 | 4,620 | 4,732 | 4,851 | 4,969 | 5,093 | 5,217 | 5,348 | 5,478 | | Monthly |
| | | | 26.00 | 26.65 | 27.30 | 27.99 | 28.67 | 29.38 | 30.10 | 30.85 | 31.60 | | Hourly |
| 6445 | RECREATION SUPERVISOR II | FLM | 5,183 | 5,313 | 5,442 | 5,578 | 5,714 | 5,857 | 6,000 | 6,150 | 6,300 | | Monthly |
| | | | 29.90 | 30.65 | 31.40 | 32.18 | 32.97 | 33.79 | 34.62 | 35.48 | 36.34 | | Hourly |
| 6446 | RECREATION SUPERVISOR III | FLM | 5,702 | 5,845 | 5,987 | 6,137 | 6,286 | 6,443 | 6,600 | 6,765 | 6,930 | | Monthly |
| | | | 32.90 | 33.72 | 34.54 | 35.41 | 36.27 | 37.17 | 38.08 | 39.03 | 39.98 | | Hourly |

ATTACHMENT C

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
APPROVING THE FIRST LEVEL MANAGERS' LETTER OF UNDERSTANDING
JULY 1, 2019 – JUNE 30, 2020**

WHEREAS, the City recognizes the First Level Managers commitment to the City and its citizens while providing outstanding and dedicated service to all and;

WHEREAS, City staff and the First Level Managers have negotiated a one year Letter of Understanding and;

WHEREAS, the City appreciates the efforts and energy the First Level Managers have put forth to negotiate this Letter of Understanding.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

Approve the attached First Level Managers' Letter of Understanding.

The attached Letter of Understanding is hereby approved effective immediately retroactive to July 1, 2019.

The Director of Finance is hereby authorized to make the necessary budget adjustments to implement the provisions of this resolution.

The forgoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 17th day of September 2019.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

Approved as to form:

Stacey Sheston
BB&K, Special Counsel

ATTACHMENT D

LETTER OF UNDERSTANDING

Between

The City of Yuba City

And

The First Level Managers

July 1, 2019 through June 30, 2020

Table of Contents

| | |
|---|---|
| ARTICLE 1 SALARY | 3 |
| 1.1 Salary Increases | 3 |
| 1.2 9-Step Salary Schedule | 3 |
| 1.3 Bilingual Pay | 3 |
| 1.4 Animal Services Standby Pay | 3 |
| 1.5 Communications Center Coordinator Education Pay | 4 |
| 1.6 Work Schedule | 4 |
| 1.7 Recreation Supervisor I/II and III | 4 |
| ARTICLE 2 PUBLIC EMPLOYEES' RETIREMENT SYSTEM | 5 |
| 2.1 Retirement Terminology | 5 |
| 2.2 Classic Member Retirement Formula | 5 |
| 2.3 "New Member" Retirement Formulas Provided by Statute | 5 |
| 2.4 CalPERS Contributions By Employees | 5 |
| 2.5 City's Paying and Reporting the Value of the Member Contribution (Classic Only) | 6 |
| ARTICLE 3 FLOATING HOLIDAYS | 6 |
| ARTICLE 4 HOLIDAY CLOSURE | 6 |
| ARTICLE 5 BENEFITS | 6 |
| 5.1 Health Plans | 6 |
| 5.2 Dental and Vision Plans | 7 |
| 5.3 Life Insurance | 7 |
| 5.4 EAP – Employee Assistance Program | 7 |
| 5.5 Health Benefits Committee | 7 |
| 5.6 Short Term Disability | 8 |
| 5.7 Long Term Disability | 8 |
| 5.8 Tuition Reimbursement | 8 |
| ARTICLE 6 DEFERRED COMPENSATION | 8 |
| ARTICLE 7 CERTIFICATIONS | 8 |
| ARTICLE 8 DEPT. OF TRANSPORTATION COMMERCIAL DRIVERS TESTING | 8 |
| ARTICLE 9 COMMERCIAL DRIVERS LICENSE EXAMINATION | 8 |
| ARTICLE 10 VACATION LEAVE | 9 |
| 10.1 Accrual Rate | 9 |
| 10.2 Returning Former Employees | 9 |
| 10.3 Vacation Accrual and Post-Separation Contributions of Accrued Leave Hours | 9 |

| | |
|---|----|
| ARTICLE 11 CATASTROPHIC ILLNESS AND INJURY LEAVE DONATION PROGRAM | 10 |
| ARTICLE 12 ADMINISTRATIVE LEAVE | 10 |
| 12.1 Exempt Classification | 10 |
| 12.2 Maximum Cash Out | 10 |
| 12.3 Maximum Carry Over | 10 |
| 12.4 Additional Allotment | 10 |
| 12.5 Separation of Employment | 10 |
| ARTICLE 13 COMPENSATORY TIME | 11 |
| 13.1 Maximum Accumulation | 11 |
| 13.2 Maximum Cash Out | 11 |
| ARTICLE 14 ONE-TIME NON-PERSABLE STIPEND | 11 |
| ARTICLE 15 COUNSELING MEMORANDUM | 11 |
| ARTICLE 16 WATER CERTIFICATE PAY, CALLBACK, STAND BY AND SHIFT DIFFERENTIAL | 11 |
| 16.1 Water Certificate Pay | 11 |
| 16.2 Callback and Stand-by Time | 12 |
| 16.3 Personnel Eligibility for Water Distribution Stand-by | 12 |
| 16.4 Assignment Period | 13 |
| 16.5 Assignment Limits | 13 |
| 16.6 Exceptions | 13 |
| 16.7 Shift Differential | 13 |
| ARTICLE 17 INTEREST BASED PROBLEM SOLVING | 13 |
| 17.1 Philosophy | 13 |
| 17.2 Modifications | 14 |
| ARTICLE 18 TERM OF AGREEMENT | 14 |

ARTICLE 1 SALARY

1.1 Salary Increases

Effective the first full pay period following July 1, 2019 the City agrees to a 2% salary increase.

1.2 New 9-Step Salary Schedule

Effective November 25, 2017, a 9-step salary schedule was implemented for new City employees hired in any FLM positions. The 9-step salary schedule shall have both the first step and last step the same as the 5-step salary schedule.

1.3 Bilingual Pay

First Level Managers who are proficient in speaking a foreign language shall receive an additional \$23.08 per work week. The second language must be one commonly spoken in the greater Yuba City area and thus of benefit to the City in providing services to the community residents. The method of certifying proficiency and the determination of which language will be covered under this program shall be determined by the City in consultation with First Level Managers.

1.4 Animal Services Standby Pay

When the Animal Services Manager is on vacation or off duty due to injury or illness:

- The Animal Services Supervisor shall maintain phone availability during the hours between 7:45 am and 6:45 pm, seven days each week, which correlates to the duty hours of the Animal Control Officers.
 - The Animal Services Supervisor shall be available **only** to Animal Control Officers who are on probation. Animal Control Officers who have successfully passed probation are expected to work independently and make sound judgements relative to field calls and shelter operations in the absence of a supervisor.
 - Unless there is an extreme emergency, the stand-by call-out for the Animal Services Supervisor shall be for phone consultation to provide direction. Rarely, would the Animal Services Supervisor be required to respond to a location to give direction to Animal Control Officers, however, the possibility is that it could occur at some point. The Animal Services Supervisor is responsible for determining whether responding to a location is warranted. In some cases, the Animal Services Supervisor will receive direction from Animal Services Manager to report to a location.
- If the Animal Services Supervisor is required to stand-by during otherwise off-duty hours, stand-by pay shall be compensated at \$2.45 per hour.
- The Animal Services Manager and Animal Services Supervisor will alternate planned time off to ensure management staff is available for phone consultation by subordinate staff. No other staff member will fill in for management consultation in the absence of the Animal Services Manager or Animal Services Supervisor with the exception of the Executive Director.
- The Animal Services Supervisor will not be issued a take-home vehicle.

- The Animal Services Supervisor will utilize their Department issued cellphone as needed for any phone consultation work performed while on stand-by.
- The Animal Services Supervisor shall be compensated in the same manner as the stand-by Animal Control Officer. When responding to a stand-by phone consultation or call-out, the Animal Shelter Supervisor shall receive a minimum two (2) hours at time and one-half the employees' regular rate of pay. Multiple call-outs within a two (2) hour minimum period (starting from the time of the first call) are not separately compensable. If continuous work hours exceed the two (2) hour minimum, the actual time worked is paid at time and one – half the employees' regular pay. If responding to a location, callback pay is from portal to portal when calculating actual hours worked.
- When on stand-by, the Animal Services Supervisor must refrain from the use of alcohol, medication or substances that may interfere with their ability to effectively respond to any call for service. The Animal Services Supervisor must be available by phone and, if needed, be physically able to respond within 45 minutes to an incident location within Animal Control's jurisdiction.
- The Animal Services Supervisor shall maintain a current California Driver's License.

1.5 Communications Center Coordinator Education Pay

The Communications Center Coordinator shall receive education incentive pay. Incentive pays are not cumulative, meaning that an employee is eligible only for one incentive for each type of degree or certificate (i.e., if an employee has two Associate's degrees, the employee is eligible for an incentive of 2.5%; if an employee has an Associate's degree and a POST Public Safety Dispatch Intermediate, the employee is eligible for an incentive of 5.0%). The total for all the above incentives shall not exceed 7.5%.

The educational incentive shall be paid as follows:

- POST Public Safety Dispatch Intermediate 2.5%
- POST Public Safety Dispatch Advance 2.5%
- AA or AS degree 2.5%
- BA or BS degree 5.0%

1.6 Work Schedule

Assigned work schedule may be changed at sole discretion of the Department Head subject to written notice to the employee including the duration of work schedule no less than one (1) week prior to the implementation.

1.7 Recreation Supervisor I/II and III

Effective the first full pay period following City Council adoption, the Recreation Supervisor I, step 1 shall be adjusted to \$26 per hour. With this change, the remaining Recreation Supervisor I/II and III salary steps shall be adjusted to reflect this increase. Ongoing the Recreation Supervisor I, step 1, shall be adjusted to at least double the minimum wage. The remaining Recreation Supervisor I/II and III steps shall be adjusted to remain at the current separation.

ARTICLE 2 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

2.1 Retirement Terminology

Retirement benefits shall be provided to eligible employees in accordance with the appropriate, then existing, contract between the City and the California Public Employees' Retirement System (CalPERS).

The use of terms "classic member" and "new member" shall be as defined by CalPERS and the Public Employee Pension Reform Act of 2013 (PEPRA).

A new CalPERS member is defined as:

- An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and has no prior membership in any other public retirement system; or
- An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and is not eligible for reciprocity with another public retirement system; or
- An individual who established prior membership in a retirement system and after a break in service of more than six months, returns to active membership in that system with a new employer.

2.2 Classic Member Retirement Formula

A. Employees classified as classic member miscellaneous category:

- The 2.7% at 55 (8% member contribution) CalPERS formula shall be provided for classic member miscellaneous category employees hired on or before June 30, 2012. Effective July 1, 2012, 2% at 55 formula (7% member contribution) was provided for new classic member miscellaneous employees hired on or after July 1, 2012.

B. All other current retirement benefits including the optional benefit programs in the existing contract between the City and CalPERS for miscellaneous shall remain in effect to the extent permitted by law.

2.3 "New Member" Retirement Formulas Provided by Statute

A. Employees classified as new member miscellaneous category employees.

- 2% at 62 retirement formula.

2.4 CalPERS Contributions by Employees

A. Employees classified as classic miscellaneous:

- Effective with the CalPERS contract amendment for 2014, all classic miscellaneous employees shall cost share 4% (or 3.5% for those classic members at the 2% at 55 retirement formula) towards the employer contribution rate. (Example: the intent is

that if the City's required employer contribution is 23%, the City would pay 19% and the employees would pay 4%.)

- Effective July 1, 2015 or as soon as CalPERS approves the contract amendment, whichever occurs later, all classic miscellaneous employees shall cost share 8% (or 7% for those classic members at the 2% at 55 retirement formula) towards the employer contribution rate.
- B. New CalPERS member shall contribute towards their retirement benefits in accordance with PEPRA.
- C. All applicable contributions identified in (A) thru (B) above shall be made through payroll deduction on a pre-tax basis.

2.5 City's Paying and Reporting the Value of the Member Contribution (Classic Only)

The City shall pay 100% of the employee's contribution to CalPERS and continue to report 100% of the employer payment of member contributions to CalPERS as additional compensation for retirement purposes only.

ARTICLE 3 FLOATING HOLIDAYS

Two (2) floating holidays per fiscal year shall be provided which must be used during the fiscal year. These two floating holidays have no cash value and may not be carried over to a subsequent fiscal year. If any employee in this unit does not use either or both of these floating holidays during the fiscal year when the holidays are provided, the employee forfeits the unused floating holiday(s). Scheduling/approval of use of the floating holidays must be in accordance with the requirements of Rule 2.08 in the Personnel/Rules and Regulations.

ARTICLE 4 FY 2019-2020 HOLIDAY CLOSURE

Employees covered by this agreements, as well as those in the Mid-Managers unit, have agreed to the 2020 Holiday Closure schedule set for in Exhibit D. Actual implementation logistics relating to this schedule will be provided following conclusion of discussions with the Local 1 unit.

ARTICLE 5 BENEFITS

5.1 Health Plans

A. Employee Contributions:

Employee contributions are on a pre-tax basis.

B. Health Care Premium Cost:

Effective with the November 15, 2014 pay period, the split is 80%/20% between the City and the employee, with the City paying 80% of the total premium cost and the employee paying 20%. The contribution shall be based on the lowest cost health plan available to the majority of City employees.

C. Cash-in-lieu Payment:

Cash-in-Lieu payments are when an employee reduces the level of health care coverage rather than entire coverage shall be as follows:

- Employees, who reduce the level of health care coverage to which they are entitled, i.e. from full family coverage to employee plus one, or employee only coverage, or from employee plus one to employee only coverage, shall be entitled to a Cash-in-Lieu benefit. The Cash-in-Lieu benefit is based upon the lowest cost health plan available to the majority of City Employees.

The employee making the election covered above, shall receive the difference between the Cash-in-Lieu benefit to which they would have been entitled had they waived coverage at their present coverage level and Cash-in-Lieu benefit for the lower level elected.

- The Cash-in-Lieu of medical insurance bonus for employees electing to forego health insurance coverage will be based on the below percentages of the current lowest cost health plan available to the majority of City employees:

| | |
|------------------------------|-----|
| Employee only: | 25% |
| Employee plus one dependent: | 25% |
| Family coverage: | 30% |

5.2 Dental and Vision Plans

The City shall pay 90% of the premium and employees shall pay 10% of the premium. Premiums will be based on periodic actuarial conducted by an outside consultant.

Effective January 1, 2020, for dental, the calendar year maximum shall increase to \$1,750 and for vision, the benefit maximum (as defined in the plan document) shall increase to \$600 every 24 months.

A. Claims Administrator

The City may change the Dental and Vision Plan claims administrator at any time.

5.3 Life Insurance

Life insurance benefit amount of fifty thousand dollars (\$50,000) shall be maintained for First Level Managers.

5.4 EAP – Employee Assistance Program

The Yuba City Employee Assistance Program (EAP) is an employee benefit that assists employees with personal problems and/or work-related problems that may impact their job performance, health, mental and emotional well-being. The City offers free and confidential assessments, short-term counseling, referrals, and follow-up services for employees and their household members. For details about the EAP program, please see the Human Resources Department.

5.5 Health Benefits Committee

The First Level Managers shall designate one (1) representative to the committee. The general purpose of the committee is to address benefit plan design and cost containment. The committee

consists of members from each employee association and serves in an advisory capacity to management.

5.6 Short Term Disability

- A. **Waiting Period:** A 30-calendar day waiting period must pass before benefits are payable.
- B. **Premium:** The City shall set the Short Term Disability rates based on outside actuarial; no premium cap shall exist. The City agrees to discuss any changes to the premium with the First Level Manager representative prior to taking action.
- C. **Benefit:** The benefit shall be equal to 60% of earning at time of the disabling event; no dollar cap on the benefit shall exist.

5.7 Long Term Disability

At the City's expense, the City will provide a long-term disability program for employees.

5.8 Tuition Reimbursement

Effective the first full pay period after adoption, tuition reimbursement shall be increased to maximum of five thousand dollars (\$5,000) per fiscal year.

ARTICLE 6 DEFERRED COMPENSATION

First Level Managers shall receive a monthly City contribution of \$50 paid into the City of Yuba City deferred compensation plan.

ARTICLE 7 CERTIFICATIONS

The City shall pay the costs associated with obtaining and maintaining special certificates or licenses that are required by the State of California, the City of Yuba City or any governmental agency to obtain and maintain as a condition of employment. (Note: if the certificate or license is required prior to employment, the City will only reimburse post-hire expenses.)

ARTICLE 8 DEPT. OF TRANSPORTATION COMMERCIAL DRIVERS TESTING

It is mutually agreed that the Addendum to Alcohol and Drug Abuse Policy implementing the Omnibus Transportation Employee Testing Act of 1991 (Exhibit A) shall remain in effect.

ARTICLE 9 COMMERCIAL DRIVERS LICENSE EXAMINATION

Physical examinations for First Level Managers who are required to maintain a Class A or B California driver's license as a job requirement shall have the expense paid by the City. Employees may elect to go to their own personal physician or to the medical center designated by the City. Employees electing to go to their own personal physician shall be reimbursed upon submission of an itemized receipt to the Human Resources Department. The maximum amount eligible for reimbursement is the amount the City has contracted for with the designated medical center.

ARTICLE 10 VACATION LEAVE

10.1 Accrual Rate

First Level Managers shall accrue vacation leave at the rate stated in the Yuba City Rules and Regulations for all miscellaneous category employees.

10.2 Returning Former Employees

At the City Manager's discretion, First Level Management personnel who are returning, or who have returned, to City employment may be allowed to accrue vacation leave based upon the total years of service to the City or as otherwise agreed upon, under the following guidelines:

- a. They must have worked for the City at least five years previously;
- b. They must be hired into a First Level Management position upon return;
- c. The department head must make a written request to the City Manager and the City Manager must provide written instructions to Human Resources to take this action.

10.3 Vacation Accrual and Post-Separation Contributions of Accrued Leave Hours

With respect to accrued vacation leave hours (as well as other leave hours described below) that are on the books at the time of an employee's separation, the City will make mandatory contributions of such hours as follows:

Upon separation from employment, for retirement from City service or otherwise, 100% of eligible leave, including sick, vacation, administrative and comp time, (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) shall be contributed on a mandatory basis for the benefit of the employee to the City's 457(b) plan by the City subject to the annual limitations on contributions to such plan, including catch up contribution limits if applicable. The eligible and remaining leave balance (determined in accordance with City Rules and Regulations, applicable LOU and based upon length of service) after the mandatory allocation to the 457(b) plan, shall be paid out to the employee in taxable compensation; provided that the total amount allocated to the 457(b) plan and paid as taxable compensation does not exceed the applicable limits as set forth in the LOU.

Example 1: An employee has 2500 hours of accrued sick leave and 300 hours of accrued vacation hours and is separating from service (whether to retire or otherwise). If the employee is subject to the 50% limit of total accrued sick leave based on their MOU and length of service, the employee would only have 1250 sick leave hours eligible for allocation. As such, only 1250 sick leave hours are considered eligible. The 1250 sick leave hours would be contributed to the City's 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation. 100% of accrued vacation hours are eligible for allocation. As such, 300 hours would be contributed to the City's 457(b) plan, subject to the applicable contribution limits, and any remaining hours of the 1250 would be paid out as taxable compensation.

Example 2: An employee has 2500 hours of accrued sick leave and 300 hours of accrued vacation hours and is separating from service (whether to retire or otherwise). If the employee is subject to the 30% limit of total accrued sick leave based on their MOU and length of service, the employee would only have 750 sick leave hours eligible for allocation. As such, only 750 sick leave hours are considered "eligible". All 750 sick leave hours would be contributed to the City's 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation. 100% of accrued vacation hours are eligible for allocation. As such, all 300 hours

would be contributed to the City's 457(b) plan, subject to the applicable contribution limits, and any remaining hours would be paid out as taxable compensation.

For clarification of a related note, the PERS Sick Leave Conversion is not available for the miscellaneous employees in this unit.

ARTICLE 11 CATASTROPHIC ILLNESS AND INJURY LEAVE DONATION PROGRAM

The Catastrophic Illness and Injury Leave Donation Program shall remain in effect (Exhibit B).

ARTICLE 12 ADMINISTRATIVE LEAVE

12.1 Exempt Classification

Those First Level Managers, whose job classification is declared exempt from overtime under the FLSA guideline, shall receive 80 hours administrative leave with the first payroll period of each calendar year in lieu of compensatory time and overtime. Employees may use the leave subject to the approval of their department head, except that leave cannot be used prior to separation of employment in order to delay the separation date. New hires shall receive a pro-rated amount of administrative leave for their first year based upon the month of hire.

12.2 Maximum Cash Out

FLM who receive administrative leave can elect once a year to cash out a maximum of 40 hours that will be accrued the following year. By December 1 of each year, an employee may annually make an irrevocable advance election to cash out a maximum of 40 hours of administrative leave that will be accrued in the next calendar year. The election shall be made on the form provided by the City for this purpose. The hours selected for cash-out will be paid in the first non-payroll week of January of the following year. (For example, if an employee elects in December 2018 to cash-out 40 hours that will be earned in 2019, those hours will be paid in January 2020).

12.3 Maximum Carry Over

Employees shall be allowed to carry over unused administrative leave to the next calendar year, subject to a maximum carryover balance of 80 hours.

12.4 Additional Allotment

At the discretion of the City Manager, an additional allotment of administrative leave not to exceed 40 hours per calendar year may be approved. Requests for additional leave allocation must be based on an excessive number of hours worked beyond normal management expectations during the calendar year to date of the request. Requests for additional leave must be resubmitted by the department head to the City Manager each year, if needed.

12.5 Separation of Employment

In the event of separation of employment, employees will be paid for unused administrative leave up to the maximum balance allowed Section 12.3 above.

ARTICLE 13 COMPENSATORY TIME

13.1 Maximum Accumulation

Compensatory time for non-exempt First Level Managers may be accumulated to a maximum of eighty (80) hours.

13.2 Maximum Cash Out

Upon written request, FLM who receive compensatory time can elect, once each year, to cash out a maximum of 40 hours of future compensatory time. By January 1 of each year, an employee may annually make an irrevocable advance election to cash out a maximum of 40 hours of compensatory time that will be accrued by November 30 of that calendar year. The election shall be made on the form provided by the City for this purpose. The hours selected for cash-out will be paid in the first non-payroll week in December. (For example, if an employee elects in January 2019 to cash-out 40 hours of CTO that will be accrued later that year, those hours will be paid in December 2019). An employee can only cash-out hours that are actually earned/accrued. For example, if a FLM elects, in January 2019, to cash-out 40 hours of CTO that will be earned before November 30, but only earns 32 hours in CTO in that timeframe, then only 32 hours will be paid out in December. Separate and apart from the employee's ability to make an irrevocable advance election, the City, at its option, may pay out up to 40 accrued hours of compensatory time at the end of each calendar year.

ARTICLE 14 ONE-TIME NON-PERSABLE STIPEND

In the first full pay period following City Council adoption of this Agreement, all members active on payroll on the day of City Council adoption shall receive a one-time non PERSable stipend of 2% base salary or \$1,500 whichever is greater.

ARTICLE 15 COUNSELING MEMORANDUM

The attached policy on Counseling Memos (Exhibit C) shall remain in effect.

ARTICLE 16 WATER CERTIFICATE PAY, CALLBACK, STAND BY AND SHIFT DIFFERENTIAL

16.1 Water Certificate Pay

The City's water distribution system is classified as a D4 system. Due to this D4 system classification, the Chief Operator is required to have a minimum of a D4 certificate, and shift operators are required to have a minimum of a D3 certificate. To meet the intent of this drinking water regulation, the City must have employees working in water distribution who possess water distribution certifications. Water Distribution Certificate pay is for employees who work with or have the potential to work with the City's water system, possess D-1 through D-4 certification, and is included in the employee's base hourly rate.

For this section, FLMs who are assigned to work in water distribution are referred to as "Water employees". FLMs who are not assigned to the area of water distribution are referred to as "Non-Water employees".

The chart below reflects how water distribution certificate pay is applied to Non-Water FLMs. Total amount of certification pay (when reduced to an hourly rate based on regularly scheduled hours)

cannot under any circumstances exceed 10% of the employees' base hourly rate (this includes bilingual pay).

| |
|---|
| Non-Water (i.e. Maintenance Supervisor-Streets): If multiple certification, only receive \$50 per month (cap). |
| \$50 per month (D-1) |
| \$50 per month (non-cumulative) (D-2) |
| \$50 per month (non-cumulative) (D-3) |
| N/A |

Water Treatment FLMS who are required to have a treatment (T-1 through T-4) or distribution (D1 through D-4) certificate shall have the certification pay included in their hourly rate.

16.2 Callback and Stand-by Time

This section addresses the Public Works First Level Supervisor assigned to supervise the Water Distribution staff on stand-by for after hours and weekend/holidays for a seven-day period.

- A. There are two types of stand-by time: General and Water Distribution. The General stand-by employee is responsible for any after hour's calls except for Water Distribution related calls. The Water Distribution First Level Supervisor stand-by employee is the designated Chief Operator for the water system and must respond to water distribution calls while on stand-by duty.
- B. Stand-by pay shall be \$2.45 per hour for all hours occurring between the end of the shift and the beginning of the next regular shift. A rotation stand-by list will be created and posted in January each year. Only the First Level Supervisor assigned to Water Distribution will be eligible for stand-by pay on an "as needed basis". On an "as needed basis" is dependent upon the number of qualified D-3 or D-4 certified maintenance workers in the stand-by rotation. If needed, the Water Distribution First Level Supervisor must work on stand-by for water calls until it is determined that sufficient maintenance workers staffing levels exist to respond to water stand-by calls.
- C. The Water Distribution First Level Supervisor is allowed to trade stand-by weeks or individual days to stand-by eligible maintenance workers with written notice to their supervisor for approval at least two (2) days in advance of their scheduled stand-by week. The Water Distribution First Level Supervisor is provided a designated take home vehicle for the purpose of responding to call-outs. Take home vehicles will not be driven for any purpose other than driving to and from service calls and traveling to and from work. Employees required to use their personal vehicle while on stand-by shall receive the current IRS mileage rate for personal vehicle mileage while responding to callouts. Personal vehicle usage must have pre-approval of insurance coverage in accordance with the City's policy. When the Water Distribution First Level Supervisor is called back to work he shall receive a minimum two (2) hours at time and one-half the employee's regular rate of pay. Multiple call-outs within a two (2) hour minimum period are not separately compensable. If continuous work hours exceed the two (2) hour minimum, the actual time worked is paid at time and one-half the employees' regular pay. The stand-by pay is from portal to portal or when call is received from dispatch until the employee has returned to their residence.

16.3 Personnel Eligibility for Water Distribution Stand-by

- A. The First Level Supervisor for Water Distribution stand by shall have a valid California Water Distribution D-4 or higher certification.

- B. The Water Distribution First Level Supervisor must have a minimum of a Class A California Driver's License.
- C. The Water Distribution First Level Supervisor must be within 45 minutes response time using an internet mapping site.
- D. The Water Distribution First Level Supervisor while on stand-by must remain physically able to respond within 45 minutes to the incident and refrain from the use of alcohol, medications or substances that may interfere with their ability to effectively respond to any call for service.

16.4 Assignment Period

A typical stand-by period shall be one week beginning on Thursday at conclusion of the workday and continuing to the following Thursday at conclusion of the workday.

16.5 Assignment Limits

The First Level Supervisor assigned to water distribution will be limited to two weeks stand-by at a time (in a row), however the First Level Supervisor may be required to work more than two weeks in a row should extenuating circumstances occur. In the event the Water Distribution on-call covers both General and Water Distribution shifts for on-call they will not collect any additional pay.

16.6 Exceptions

- A. The First Level Supervisor is responsible for finding qualified substitutes when necessary due to illness or a family emergency. When a substitute is found the stand-by employee must notify a supervisor and police dispatch.
- B. Stand-by is typically filled by a voluntary basis. In the event no employees volunteer to cover stand-by, the Department Director or designee will choose from the qualified personnel listing. The stand-by employee substituting for the First Level Supervisor is required to have a Water Distribution D-3 or D-4 Certification.

16.7 Shift Differential

A shift differential of 5% of base pay shall be paid to those supervisors who are assigned to work an operator shift from 7:00 p.m. to 7:00 a.m. If a supervisor who is assigned to an operator shift elects to utilize vacation, sick leave, CTO or any other paid leave time (jury duty, military duty, etc.), then they shall not be paid shift differential while on such leave.

ARTICLE 17 INTEREST BASED PROBLEM SOLVING

17.1 Philosophy

The employees and the City utilized the Interest Based Problem Solving Process philosophy to negotiate this contract. This contract represents the results of open, honest sharing of information and concerns related to issues for the employees and the City. Based on the philosophy of using this process, the employees and the City agree and understand that this is a living contract and agree to meet and discuss any items within this agreement that become of concern to either party during the course of this agreement.

17.2 Modifications

This Agreement constitutes the full Agreement between the City of Yuba City and the First Level Management Employees Association and may not be modified without the mutual consent of both parties.

ARTICLE 18 TERM OF AGREEMENT

The term of this agreement shall be July 1, 2019 through June 30, 2020.

Date: _____

Date: 9-12-19

CITY OF YUBA CITY

FIRST LEVEL MANAGERS

Michael Rock, City Manager



Brian Hansen, Senior IT Analyst

Robin Bertagna, Finance Director

Emilio Flores, Laboratory Supervisor

Natalie Springer, Human Resources Director

Jack McDaniel, Street Maintenance Supervisor

THE CITY OF YUBA CITY

Addendum to Alcohol and Drug Abuse Policy Implementing the Omnibus Transportation Employee Testing Act of 1991

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from risks posed by the use of alcohol and controlled substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. The policy incorporates those requirements of safety-sensitive employees and others when so noted.

THE CITY OF YUBA CITY recognizes that the use of alcohol and/or controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective if the City to have a work force that is free from the influence of alcohol and controlled substances.

A. Applicability

This policy applies to all safety-sensitive employees, volunteers, and contractors when they are on City property or when performing any City related business. It applies to off-site lunch periods and breaks when a safety-sensitive employee is scheduled to return to work. Visitors, vendors, and contracted employees are governed by this policy while on City premises, and they will not be permitted to conduct business if found to be in violation of this policy.

A safety-sensitive position is defined as any position requiring the use of a Class "A" or Class "B" commercial driver license. Fire safety employees will be subject to the policy in accordance with State and Federal laws. A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

This policy addendum coexists with the current Alcohol and Drug Abuse Policy except where it is intended by Federal regulations to super ceded the policy, as specified herein.

B. PROHIBITED SUBSTANCES

"Prohibited substances" addressed by this policy including the following:

Drugs:

Marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine.

Alcohol:

This use of beverages or substances, including any medication, containing alcohol such that it is present in the body at a level in excess of that stated in Department of Transportation guidelines while actually performing, ready to perform, or immediately available to perform any City business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

C. PROHIBITED CONDUCT**Manufacture. Trafficking. Possession. And Use**

Any safety-sensitive employee engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on City premises, in City vehicles or while conducting City business off the premises is absolutely prohibited. Violation will result in removal from safety-sensitive duty and referral to a Substance Abuse Professional (SAP).

Impaired/Not Fit for Duty

Any safety-sensitive employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from safety-sensitive job duties and be required to undergo a reasonable suspicion controlled substance or alcohol test. Employees failing to pass this reasonable suspicion controlled substance or alcohol test shall remain off duty and be referred to a Substance Abuse Professional (SAP). A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the Department of Transportation guidelines.

Alcohol Use

No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive employee shall use alcohol while on duty or while performing safety-sensitive functions. No safety-sensitive employee shall use alcohol within four hours of reporting for duty nor during hours that he/she is on call. Violation of this provision is prohibited and will subject the employee to removal from safety-sensitive duty and referral to a Substance Abuse Professional (SAP).

Compliance with Testing Requirements

All safety-sensitive employees are subject to controlled substance testing and breath alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be considered as having a positive test result and shall be removed from duty immediately and referred to a Substance Abuse Professional (SAP). Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test. Employees who refuse the referral to the SAP shall be subject to immediate termination from their position.

Treatment/Rehabilitation Program

An employee with a controlled substance and/or alcohol problem may be afforded an opportunity for treatment in accordance with the following provisions:

Positive Controlled Substance and/or Alcohol Test: A Rehabilitation Program is available for safety-sensitive employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be immediately terminated on the occurrence of a second verified positive test result within 36 months and may be terminated or offered additional rehabilitation at the City's sole discretion after 36 months. The City will immediately serve a Notice of Intended Disciplinary Action in accordance with the personnel rules. The safety-sensitive employee will pay referral to the Substance Abuse Professional (SAP) and any other recovery treatment costs. In regards to probationary employees, the City reserves sole discretion in offering a one-time opportunity for rehabilitation in lieu of immediate termination. When recommended by the Substance Abuse Professional (SAP), participation and completion of rehabilitation program within the prescribed time allowed is mandatory. Failure of a safety-

sensitive employee to attend and/or complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to sign a Return-to Duty Agreement. Employees may use their accrued leave balances of CTO and vacation or be placed on an approved leave of absence. The Notice of Discipline documents shall specify the employee's leave status when discipline is imposed. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one year or longer than five years. The employee shall pay all costs associated with follow-up testing unless the City receives such services included from the program administrator Fremont-Rideout Drug Testing Services.

Voluntary Admittance: All employees who feel they have a problem with controlled substances and/or alcohol may request voluntary admission to the rehabilitation program. Requests must be submitted through the Department Head to the Director of Human Resources for review. **The safety-sensitive employee will pay rehabilitation plan development costs and any other treatment plan costs.** The City shall have sole discretion in determining any financial contribution to assist the employee. An employee failing to complete the program within the prescribed time allowed will be subject to termination from employment. An employee completing a rehabilitation program must agree to sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing for 36 months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests within a 36-month period will result in termination from employment. A positive follow-up test after 36 months may result in termination or additional rehabilitation at the City's sole discretion.

Leave Balance: Participants in a rehabilitation program may use accumulated sick leave, (provided a substance abuse professional has attested in writing for the need to use a sick leave) vacation, and CTO leave balances. Time spent in a rehabilitation program shall be counted as utilized leave time under the Federal and State Family Care Leave Act if it qualifies as a "serious health condition" under the law. Once leave balances have been exhausted, an employee will be placed on an approved leave without pay in accordance with Personnel Rule 2.11(B).

D. NOTIFYING THE CITY OF CRIMINAL DRUG CONVICTION

Pursuant to the "Drug Free Workplace Act of 1988" any employee who fails to immediately notify the City of any criminal controlled substance statute conviction shall be subject to disciplinary action, up to and including termination of employment.

E. PROPER APPLICATION OF THE POLICY

The City is dedicated to assuring fair and equitable application of the Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who

is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

F. TESTING FOR PROHIBITED SUBSTANCES

Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under the Department of Transportation guidelines. All safety-sensitive employees shall be subject to testing prior to employment, randomly, for reasonable suspicion, and following an accident, as defined in the Department of Transportation guidelines. In addition, all safety-sensitive employees will be tested prior to duty after failing a controlled substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five years, as determined by a Substance Abuse Professional (SAP). Safety-sensitive employees who perform safety-sensitive functions as defined in the Department of Transportation guidelines shall also be subject to testing on a randomly selected, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the United States Department

of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the Department of Transportation guidelines. Testing may be conducted by a mobile unit, which meets the requirements of DHHS.

The controlled substances that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substances levels present are above the minimum thresholds established in the Department of Transportation guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least twenty-four hours unless a re-test results in an alcohol concentration 0.02 or less. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of Department of Transportation guidelines and this policy.

Any safety-sensitive employee who has a pending or confirmed positive controlled substance or alcohol test will be removed from safety sensitive duties and/or his/her position, placed on unpaid leave, vacation, or CTO (at the employee's discretion) informed of educational and rehabilitation program available, and evaluated by a Substance Abuse Professional (SAP). Transfer of an employee to a non-safety sensitive position will be made at the sole discretion of the City.

The City affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

Employees in Safety-sensitive positions may be tested under any of the following circumstances:

Pre-Employment Testing

All Applicants for safety-sensitive classifications shall undergo urine controlled substance testing prior to employment. Receipt of satisfactory test results is required prior to employment and failure of a controlled substance test will disqualify the applicant from further consideration for employment.

Reasonable Suspicion Testing

All safety-sensitive employees will be subject to urine and/or breath testing when there is a reason to believe that controlled substances or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Observation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error.
4. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

Post-Accident Testing

Safety-sensitive employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident with a City vehicle that results in a fatality. This includes all safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted when the employee is cited for a moving violation and (i) any involved vehicle requires towing from the scene or (ii) any person involved requires medical treatment away from the scene of an accident.

Following the accident, the safety-sensitive employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and be subject to termination. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but also any other covered employees whose performance could have contributed to the accident.

Random Testing

Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made.

Safety-sensitive employees will be tested either just before duty, during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

Return-to-Duty Testing

All safety-sensitive employees who have previously tested positive on a controlled substance or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to duty. Employees will be required to undergo unannounced follow-up controlled substance and/or alcohol breath testing following returning to duty. The SAP will determine the duration and frequency. However, it shall not be less than 6 tests during the first 12 months, nor longer than 60 months in total, following return to duty.

Employee Requested Testing

Any safety-sensitive employee who questions the result of a required controlled substance test under Department of Transportation guidelines may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second sample test invalidated the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the Department of Transportation guidelines. The safety-sensitive employee's request for a re-test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

G. EMPLOYEE ASSESSMENT

Any safety-sensitive employee who tests positive for the presence of controlled substances or whose breath alcohol concentration is above the minimum thresholds set forth in the Department of Transportation guidelines will be assessed by a Substance Abuse Professional (SAP). The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

If a safety-sensitive employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP. Referral to the Substance Abuse Professional (SAP) and any other recover treatment costs will be borne by the safety-sensitive employee. Employee will be immediately terminated on the occurrence of a second verified positive test result within 36 months and may be terminated or offered additional rehabilitation at the City's sole discretion after 36 months.

H. CONTINUOUS COMPLIANCE REQUIREMENTS

The City shall apply and interpret this policy to maintain required compliance with applicable Federal laws and regulations, including subsequent amendments and interpretive rulings.

I. CONTACT PERSON

Any questions regarding this policy should be directed to the following City representative:

Title: Director of Human Resources
Address: 1201 Civic Center Boulevard, Yuba City, CA 95993
Telephone: (530) 822-4610

J. DEFINITIONS

ACCIDENT – an unintended happening or mishap where there is a loss of human life (regardless of fault), bodily injury or property damage totaling \$4,400 or more.

ALCOHOL – the intoxicating agent in a beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

ALCOHOL CONCENTRATION – the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this regulation. For example, 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air.

ALCOHOL USE – consumption of any beverage, mixture, or preparation, including any medication containing methyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the Department of Transportation prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor filled chocolates. Prescription medications containing alcohol may have a greater impairing affect due to the presence of other elements (e.g., antihistamines).

BREATH ALCOHOL TECHNICIAN (BAT) – a person trained to proficiency in the operation of the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BAT's are the only qualified personnel to administer the EBT tests.

CHAIN OF CUSTODY – the procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

COLLECTION SITE – a place designated by the City where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

COMMERCIAL MOTOR VEHICLE – a motor vehicle, or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is designated to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

CITY – THE CITY OF YUBA CITY

CITY TIME – any period of time in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

CONFIRMATION TEST – for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas

chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines and phencyclidine).

CONTROLLED SUBSTANCE (DRUG) TEST – a method of detecting and measuring the presence of alcohol and other controlled substances, whether legal or illegal, in a person's body. A controlled

substance test may either be an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.

Controlled substances will be tested under the Department of Health and Human Services guidelines. **The primary (initial or screening) controlled substance test thresholds for a verified positive test result are those that are equal to or greater than:**

| | |
|-------------------------|-------------|
| Marijuana Metabolites | 50 ng/ml |
| Cocaine Metabolites | 300 ng/ml |
| Phencyclidine (PCP) | 25 ng/ml |
| Opiates Metabolites (1) | 300 ng/ml |
| Amphetamines | 1,000 ng/ml |

(1) 25 ng/ml if immunoassay

A confirmation drug testing is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. **The confirmatory controlled substance test thresholds for a verified positive test result are those that are equal to or greater that:**

| | |
|--------------------------------|-----------|
| Marijuana Metabolite (THC) (1) | 15 ng/ml |
| Cocaine Metabolite (2) | 150 ng/ml |
| Phencyclidine (PCP) | 25 ng/ml |
| Opiates | |
| Morphine | 300 ng/ml |
| Codeine | 300 ng/ml |
| Amphetamines | |
| Amphetamine | 500 ng/ml |
| Methamphetamine (3) | 500 ng/ml |

(1) Delta-9-tetrahydrocannabinol-9-carboxylic acid

(2) Benzoylcegonine

(3) Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml

DEPARTMENT OF TRANSPORTATION GUIDELINES – The controlled substance and alcohol testing rules (49CFR Part 199 (RSPA – Pipeline), Part 219 (FRA – Railroad), Part 382 (FHWA – Commercial Motor Vehicle), 654 (FTA – Mass Transit) and 14 CFR 61 (FAA – Aviation) et.al.) setting forth the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all transportation industries.

DRIVER – any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of, or with the consent of, an employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

DRUG (CONTROLLED SUBSTANCE) METABOLITE – the specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.

EMPLOYEE – any person who is employed by the City or who is a volunteer in a safety-sensitive position requiring a commercial driver license. A complete list of safety-sensitive employee (function and/or position) classifications is listed in Attachment B.

EVIDENTIAL BREATH TESTING DEVICE (EBT) – the device to be used for breath alcohol testing.

MEDICAL REVIEW OFFICER (MRO) – a licensed physician responsible for analyzing laboratory results generated by an employer's controlled substance (drug) testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results.

PERFORMING (SAFETY SENSITIVE FUNCTION) – a safety-sensitive employee is considered to be performing a safety sensitive function and includes any period in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform such functions.

POST-ACCIDENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING – conducted after accidents on employees whose performance could have contributed to the accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See Attachment A.

PRE-EMPLOYMENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING – conducted before applicants are hired or after an offer to hire, but before actually performing safety sensitive functions for the first time. Also required when employees transfer to a safety sensitive position.

PROHIBITED DRUGS (CONTROLLED SUBSTANCES) – Marijuana, Cocaine, Opiates, Amphetamines, or Phencyclidine.

PROHIBITED SUBSTANCES – means and is synonymous to drug abuse and/or alcohol misuse or abuse.

RANDOM ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING – conducted on a random unannounced basis just before, during or just after performance of safety sensitive functions.

REASONABLE SUSPICION CONTROL AND/OR CONTROLLED SUBSTANCE TESTING – conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol or controlled substance abuse.

REFUSE TO SUBMIT (TO AN ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST) – a safety-sensitive employee fails to provide an adequate breath or urine sample for testing without a valid medical explanation after that safety-sensitive employee received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test).

REHABILITATION – The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the SAP and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.

RETURN-TO-DUTY AND FOLLOW-UP ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING – Conducted when an individual who has violated the prohibited alcohol or controlled

substance conduct standards returned to performing safety sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee

returns to duty. Follow-up testing may be extended for up to 60 months following return to duty upon the SAP recommendation.

RETURN-TO-DUTY AGREEMENT – a document agreed to and signed by the employer, safety-sensitive employee and the Substance Abuse Professional that outlines the terms and conditions under which the safety-sensitive employee may return to duty after having had a verified positive controlled substance test result or an alcohol concentration to 0.04 or greater on an alcohol test.

SAFETY-SENSITIVE EMPLOYEE (FUNCTION AND/OR POSITION) – An employee or volunteer is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions and any employee who transfers into or is assigned safety-sensitive functions.

A complete list of safety-sensitive employee (function and/or position) classifications is listed in Attachment B.

SCREENING (INITIAL) TEST – In alcohol testing, it means an analytical procedure to determine whether a safety-sensitive employee may have a prohibited concentration of alcohol in their system. In controlled substance testing, it means an immunoassay screen to eliminate negative urine specimens from further consideration.

SUBSTANCE ABUSE PROFESSIONAL (SAP) – a licensed physician (Medical Doctor or Doctor of Osteopathy), or licensed or certified psychologist, social worker (with knowledge of, and clinical experience in, the diagnosis and treatment of drug and alcohol-related disorders, the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substance-related disorders. The employee shall select a SAP from a list provided by the City.

SUPERVISOR – a person in authority who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour of training on the signs and symptoms of controlled substance abuse.

VEHICLE – a bus, electric bus, van, automobile, rail car, trolley bus, truck or vessel used for mass transportation.

PROCEDURES FOR REASONABLE SUSPICION TESTING

A. PROCEDURES - REASONABLE SUSPICION TESTING

1. A supervisor observes a safety-sensitive employee who may possibly be under the influence of alcohol and/or controlled substances.

Any employee may identify someone suspected of alcohol and/or controlled substance to any supervisor. Employees should realize, however, that it is against City policy to make false or malicious statements about other employees and doing so can result in disciplinary action being taken against the offending employee.

2. The supervisor is then obligated to insure that the matter is immediately investigated. If possible, two supervisors determine (independently or together) that the safety-sensitive employee in question may indeed be under the influence of alcohol and/or controlled substances.
3. When the supervisor(s) suspect and believe that the safety-sensitive employee may be under the influence of alcohol and/or controlled substances, the safety-sensitive employee is then immediately relieved from duty (with pay) and driven by City staff (or others designated) to the City specified collection site. Because of a testing facility requirement, the safety-sensitive employee in question must show proof of identification, such as a photo driver license or state-issued photo identification card.

Whenever practical, the Department Head and Human Resources Administrator should be notified in advance of the employee being taken to the collection site.

4. At the collection site, the safety-sensitive employee will be required to submit a urine sample in the event that controlled substances are suspected or a breath sample in the event that alcohol intoxication is suspected to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
5. The City will take precautions to prevent the safety-sensitive employee being tested from going back to work and driving their own car home. Instead, the safety-sensitive employee will be given assistance in obtaining a ride home from the collections site.
6. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be reinstated. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after the administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a City specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a recommendation for treatment which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.
7. The safety-sensitive employee whose controlled substance test results are verified negative will be reinstated. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a

recommendation for treatment, which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

B. PROCEDURES - RANDOM TESTING

1. The compliance company notifies the supervisor to send the safety-sensitive employee to the collection site or the mobile unit for alcohol and/or controlled substance testing.
2. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver license or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee will be required to submit a urine sample in the event that controlled substances are to be tested for, or a breath sample in the event that alcohol is being tested for to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be reinstated. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after the administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a City specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a recommendation for treatment which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.
5. The safety-sensitive employee whose controlled substance test results are verified negative will be reinstated. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a recommendation for treatment, which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

C. PROCEDURES-POST ACCIDENT

1. The safety-sensitive employee notifies a supervisor that an accident has occurred.
2. The supervisor determines that the circumstances of the accident warrant a post-accident test when a citation was issued or a fatality occurred. Thereafter, the supervisor directs the safety-sensitive employee to immediately go to the collection site for alcohol and controlled substance testing. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver license or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee **will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing** to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy

without compromising the integrity of the sample.

4. The Department Head and Director of Human Resources will be notified that an accident has occurred and that the safety-sensitive employee was instructed to go to the collection site.
5. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be reinstated. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after the administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a City specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a recommendation for treatment which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.
6. The safety-sensitive employee whose controlled substance test results are verified negative will be reinstated. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a recommendation for treatment, which must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

D. PROCEDURES - RETURN-TO-DUTY and FOLLOW-UP

1. The compliance company notifies the City to send the safety-sensitive employee to the collection site for alcohol and controlled substance testing.
2. The supervisor notifies the safety-sensitive employee to immediately go to the collection site for alcohol and controlled substance testing. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 or whose controlled substance test is verified positive will be terminated.

E. PROCEDURES - CHAIN OF CUSTODY FOR CONTROLLED SUBSTANCE SPECIMENS

1. At the time a specimen is collected, the safety-sensitive employee will be given a copy of the specimen collection procedures.
2. Urine will be in a wide-mouthed clinic specimen container, which will remain in full view of the safety-sensitive employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.

3. Immediately after the specimens are collected, the urine bottles will, in the presence of the safety-sensitive employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance and/or alcohol-testing laboratory, the specimens will then be placed in the transportation container. The container will be sealed in the safety-sensitive employee's presence and the safety-sensitive employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.
4. A chain of custody form will be completed by the on-duty technician during the specimen's collection process, attached to, and mailed with the specimen.

F. PROCEDURES - SPECIMEN COLLECTION OF STRANGE AND/OR UNRECOGNIZABLE SUBSTANCES

1. A safety-sensitive employee is observed with a strange and/or unrecognizable substance.
2. The supervisor in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and the witness.
3. The incident report is made and signed by both the supervisor and a witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

G. PROCEDURES - ALCOHOL CONCENTRATION

1. The safety-sensitive employee and the on-duty Breath Alcohol Technician (BAT) complete the alcohol testing form to ensure that the results are properly recorded.
2. After an explanation of how the breathalyzer works, and initial breath sample is taken.
3. If the results of the initial test show an alcohol concentration of 0.02 or greater a second or confirmation test must be conducted. The confirmation test must not be conducted less than 15 minutes after, nor more than 20 minutes after the screening test.
4. The confirmation test will utilize Evidential Breath Testing devices that print out the results, date and time, a sequential test number, and the name and serial number of the Evidential Breath Testing device to ensure the reliability of the results.

SAFETY-SENSITIVE EMPLOYEE CLASSIFICATIONS AS OF AUGUST 1, 1997

Equipment Operator:

Fleet Maintenance Supervisor

Streets Maintenance Supervisor

Water/Sewer Maintenance Supervisor

Mechanic

Parks Maintenance Workers I, II, III (only those who have a Commercial Driver License)

Public Works Maintenance Workers I, II, III

Recreation Leader

Recreation Supervisor I/II

Senior Plant Maintenance Mechanic (See Note 3)

Plant Maintenance Mechanic (See Note 3)

Temporary Positions that require a commercial driver license

NOTE:

- (1) New positions requiring a commercial license will be subject to this policy.
- (2) Any employee who possesses a commercial license and makes himself or herself available to drive for the benefit of the City is also subject to this policy.
- (3) If these employees possess a commercial license.

**CITY OF YUBA CITY
CATASTROPHIC ILLNESS AND INJURY DONATION PLAN**

Purpose

To assist employees confronting personal or family catastrophic illness or injury who need the support of City employees to avoid financial hardship.

Plan Guidelines

1. Regular and probationary employees who are on an approved leave of absence (in accordance with Human Resources Rules 2.11 (B) or (D)) may receive donated hours of vacation, sick leave, or compensatory time off (CTO) from other employees.
2. Employees seeking donations of time shall submit a written request to the Human Resources Department stating the reason(s) for the request. The Director of Human Resources shall review requests. Each request shall be evaluated solely on its merits. If approved, the Director of Human Resources will initiate efforts to notify City employees of the request for the donation of hours. The name of the employee will be identified but the City will not release confidential medical information.

If disapproved, the requesting employee may seek review of the decision by the joint labor-management committee consisting of one representative from each of the following groups:

- A) Yuba City Employees Association
- B) Firefighters' Association
- C) Police Officers' Association
- D) Middle Managers Group
- E) First Level Managers Group
- F) Human Resources Department

In the event the Committee reaches a tie decision, the decision shall be made in favor of the employee.

The decision of the labor-management committee shall be final and binding, and shall not be subject to the grievance procedure.

3. To be eligible for donated leave hours, the employee must be on an approved leave of absence for their critical illness or injury or to provide required care for a family member (spouse, child, parent) who is critically ill or injured. The guidelines of the Family Care Leave (Human Resources Rule 2.11 (D)) shall be used to determine whether the critical illness or injury qualifies for the donation of leave hours. Verification of need via physician statements will normally be required. The employee must have exhausted, or is reasonably expected to exhaust, all accumulated leave hours (vacation, sick leave, CTO) in order to receive leave.

COUNSELING MEMO POLICY

When a department head becomes aware of employee conduct, which requires documentation but does not warrant formal disciplinary action, a counseling memorandum may be issued to the employee. The purpose of a counseling memo is to provide notice to the employee of a deficiency or problem observed, document infractions, and modify behavior.

Counseling memos shall be issued on a standard form used by the City. A copy of the counseling memo shall be given to the employee and a copy shall be maintained in the employee's personnel file for a period of two years. At the conclusion of two years, the employee can ask that the counseling memo be removed from the personnel file. At that time or any time thereafter that it is discovered that a counseling memo exists in the personnel file after two years, all copies shall be removed from any file maintained by the City, including the department or supervisor, and given to the employee. No future reference to the counseling memo will be made in a subsequent disciplinary process or performance evaluation. However, should an employee receive a subsequent counseling memo, or other disciplinary action within the two year period, a counseling memo shall not be discarded until a two year period has passed in which no counseling memo or disciplinary action has been issued.

During the two-year period the counseling memo may be used by a supervisor to support disciplinary action. The fact that a counseling memo has been issued shall not be referenced in a performance evaluation, however the substance of the counseling memo may be referenced in a performance evaluation if the supervisor deems it necessary.

Counseling memos used prior to the adoption of this Memorandum of Understanding are subject to this policy.

**SIDE LETTER TO THE
MID-MANAGERS, AND FIRST LEVEL
MANAGERS
TO THE LETTER OF UNDERSTANDINGS
FOR
CITY HALL HOLIDAY CLOSURE:
DECEMBER 23, 2019 through
DECEMBER 27, 2019**

The purpose of this Side Letter Agreement is to provide for the closure of City Hall and other non-safety or critical City services for the holiday period from December 23, 2019 through December 27, 2019 (Holiday Closure).

Representatives of the First Level Managers (FLM), Mid-Managers (MM), and the City of Yuba City agree to the follow terms regarding the City Hall Holiday Closure:

A. Holiday Closure

This Agreement provides for the closure of City Hall (and other select offices) for the predetermined time period listed below. Some of these days contained within the holiday period are holidays defined by the City in accordance with the Personnel Rules and Regulations, Section 2.10, B.

i. Holiday Schedule

- The Christmas Floating Holiday falls on Tuesday, December 24, 2019.
- The New Year’s Eve Floating Holiday falls on Tuesday, December 31, 2019.
- City Hall and other select offices will be closed on Monday, December 23, 2019 and open on Monday, December 30, 2019.
- Employees choosing to take their floating holiday on December 24th will utilize three (3) days of non-sick leave bank time (Dec. 23rd, 26th, and 27th).
- Employees choosing to take their floating holiday on December 31st will utilize four (4) days of non-sick leave bank time (Dec. 23rd, 24th, 26th, and 27th).

| <i>Weekend</i> | | <i>Work Week</i> | | | | <i>Weekend</i> | | <i>Work Week</i> | | | |
|-----------------------------|-------------------------|-----------------------------|-------------------------|---------------------------|-------------------------|-----------------------------|-----------------------------|-------------------------|--------------------------|------------------------|--------------------------|
| <i>Sun. Dec. 22</i> | <i>Mon. Dec. 23</i> | <i>Tues. Dec. 24</i> | <i>Wed. Dec. 25</i> | <i>Thurs. Dec. 26</i> | <i>Fri. Dec. 27</i> | <i>Sat. Dec. 28</i> | <i>Sun. Dec. 29</i> | <i>Mon. Dec. 30</i> | <i>Tues. Dec. 31</i> | <i>Wed. Jan. 1</i> | <i>Thurs. Jan. 2</i> |
| | Closure | Float Holiday Closure | Holiday Closure | Closure | Closure | | | Open | Float Holiday Open | Holiday Closure | Open |

ii. Other

- City Hall and other select offices (non-critical/non-safety service offices) are the only City buildings affected by the Holiday Closure. If other City departments or buildings would like to participate in the Holiday Closure, the department head is the point of contact.
- City Hall employees and other select office employees will not report to work during the designated Holiday Closure.
- The City may require or permit, at the discretion of the department head, certain employees to work a regular, partial or on-call schedule on one or more of the Holiday Closure days.

iii. Payroll

- Employees are required to account via payroll for the appropriate time associated with the Holiday Closure.
- The payroll accounting of the Holiday Closure will include use of floating holiday time, vacation, administrative leave (if applicable) or compensation time (if applicable). Payroll accounting for the Holiday Closure not specifically listed herein must be approved by the City Manager or designee.
- Employees required or permitted to work on a non-observed holiday (For example: December 26, 2019) of the Holiday Closure will be paid their regular salary for the hours worked, and will be required to account for all remaining Holiday Closure hours via floating holiday time, vacation, administrative leave (if applicable) or compensation time (if applicable). All other time worked during the days designated as observed holidays will be paid in accordance with Section 2.10, E of the Rules and Regulations.
- Employees without adequate leave accruals may borrow against future vacation accruals or go into an unpaid status only with the approval of the City Manager or designee.

iv. Miscellaneous

- The Holiday Closure shall not impact seniority, probationary periods or health or retirement benefits unless the employee is in an unpaid status.
- All subsections of Section 2.10, Holidays, of the Personnel Rules and Regulations remain in effect during the Holiday Closure. Note: In accordance with the Rules and Regulations, holidays are paid on an eight (8.0) hour basis and an eligible employee shall be entitled to holiday with pay only if the employee is in a paid status on the date immediately preceding or succeeding the holiday.
- Bargaining groups agree that policy decisions made by the City Council and discretionary decisions made by management related to this section and implementation of the Holiday Closure will not be subject to the City's Personnel Rules and Regulations, Section 3.09, Grievance Policy.
- If the City Manager declares an emergency the Holiday Closure is suspended and all employees are subject to emergency procedures.

SIGNATURES CONTINUED ON NEXT PAGE

CITY OF YUBA CITY

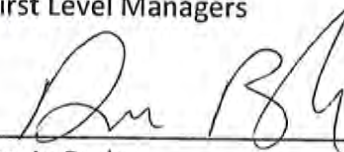
Michael Rock
City Manager

Natalie Springer
Human Resources Director

BARGAINING UNITS



Brian Hansen
First Level Managers



Devin Barber
Mid-Managers