

the pay period, whose salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deduction (including health care and insurance deductions) have priority over Union dues and service fees.

F. Religious Exemption

1. Any employee who is a member of a bona fide religious body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. As described above, an employee qualifying for this exemption employee is required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to those amounts to a non-religious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee.
2. Charitable contributions shall be by regular payroll deduction only in order to qualify as a condition of continued exemption from the requirement of financial support to the Union.

G. Records

The Union shall keep an adequate itemized record of its financial transactions and shall make available annually, to the City, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant.

H. Indemnification

The Union shall indemnify, defend and hold the City harmless against any liability arising from any claims, demands, or other action relating to the City's compliance with the agency fee obligation, including claims relating to the Union's use of monies collected under these provisions. The City reserves the right to select and direct legal counsel in the case of any challenge to the City's compliance with the agency fee obligation, and the Union agrees to pay any attorney, arbitrator or court fees related thereto.

ARTICLE 27 **DISCIPLINE**

- A. The City may take disciplinary action for just cause.
- B. Disciplinary actions, which shall include only oral and written warnings, suspension, demotion and termination, will be consistently applied.
- C. When an employee is scheduled for a meeting at which disciplinary action may result, the employee will be notified of his/her rights to representation. If disciplinary action is determined to be appropriate, the employee will be notified of the discipline in writing (except oral warnings) and will be advised that appeal procedures may be made through the Grievance Procedure.

ARTICLE 28 GRIEVANCE

A. Definition

- 1. Grievance - A dispute regarding an interpretation or application of the MOU or of the rules and regulations governing conditions of employment.
- 2. Employee - A bargaining unit member.

B. Objectives

- 1. To resolve or settle an employee's grievance fairly, expeditiously and amicably.
- 2. To provide an orderly procedure for the presentation of a grievance and for successive steps of appeal as the employee may consider warranted.
- 3. To comply with applicable state and federal laws, the City Charter and the Salary Resolution.

C. Guidelines

- 1. An employee may file a grievance without jeopardizing the employee's employment.
- 2. Allegations of unlawful discrimination shall not be processed through the grievance procedure. The employee may submit such allegations through the Human Resources Department utilizing the Discrimination Complaint Procedure, or through the appropriate state or federal agencies.

3. An employee may select one of the following methods of representation. To most effectively utilize the grievance procedure, the method selected should generally be used throughout the processing of the grievance.

The employee may:

- a. Be self-represented
 - b. Be represented by another person
 - c. Be represented by Union Business Representative
4. Once a grievance is presented and formal notification has been given to the department that the employee will be represented by another person in the grievance proceedings, then that representative shall be governed by this Memorandum of Understanding.

The representative shall be entitled to:

- a. Reasonable access to the employee's work location. If it becomes necessary for an employee/union representative who works for the City to leave his/her place of work to go to another work location to investigate a grievance, he/she shall obtain authorization from his immediate supervisor before leaving the job. Such a request shall not be unreasonably denied.
 - b. Notification of the time and place of the grievance proceedings and the opportunity to be present at such proceedings.
 - c. A copy of any written decisions or communications to the employee concerning the grievance proceedings.
5. A grievance may be discussed and processed on City time, except that no overtime or additional compensation shall be allowed if the proceedings extend beyond the employee's or the representative's workday or workweek. The employee and his representative shall cooperate with the City in such a manner that there will be a minimum of interference with the operations of the City's work.
 6. A grievance involving a discharge or layoff due to a reduction in force shall be filed at Step 2 of the Grievance Procedure within five days of the notification of discharge or layoff.
 7. A grievance may be initiated only by the employee concerned, except that a

general grievance regarding interpretation and implementation of the Memorandum of Understanding may be filed by the Union on behalf of employees represented by the Union. A general grievance shall be filed in writing with the Director of Human Resources at Step II within fourteen (14) calendar days of the action in question.

8. An earnest and sincere effort shall be made by all parties to cooperate in the prompt resolution of a grievance in an amicable manner. The time limits may be extended when mutually agreed upon in writing between the appropriate parties. If the employee, or the employee's representative, fails to proceed with the grievance within any of the time limits specified herein, the grievance shall be considered settled on the basis of the last decision rendered.
9. This is the sole and exclusive method for resolving grievances.

D. Grievance Procedure

1. Step 1

- a. The employee shall orally present the grievance to the immediate supervisor within fourteen (14) calendar days following the event or events upon which the grievance is based. If the employee elects to be represented, upon notification to the immediate supervisor, the employee may be assisted by a representative in presenting the grievance.
- b. The immediate supervisor shall make whatever investigation deemed necessary and may arrange a meeting with the employee to discuss the grievance and, if possible, resolve it. In any event, the supervisor shall give an answer to the employee within fourteen (14) calendar days following the oral presentation of the grievance. If the employee has requested to be represented, the representative shall be given the opportunity to attend the meeting, and shall be informed of the immediate supervisor's decision on the grievance.
- c. If the employee is not satisfied with the decision of the immediate supervisor, appeal to Step 2 can be made in writing. The written grievance must contain a complete statement of the complaint, the facts upon which it is based, the employee's reasons for the appeal and the specific areas of disagreement, and the remedy being

requested. The grievance form shall be signed and dated by the employee.

2. Step 2

- a. If the employee desires to appeal his grievance to Step 2, the employee shall submit the grievance in writing as indicated above on forms provided to the department head, within seven (7) calendar days following receipt of the immediate supervisor's decision at Step 1. If the employee has elected to be represented, assistance by the representative can be utilized in appealing the grievance.
- b. The department head and the Director of Human Resources, or their designated representatives, shall attempt to resolve the grievance and shall arrange a meeting with the employee and appropriate representative. A decision, in writing, shall be given to the employee within fourteen (14) calendar days following the receipt of the written appeal or conclusion of the appeal meeting whichever is later.
- c. If the employee is not satisfied with the Step 2 decision, upon indicating areas of specific disagreement, appeal of the grievance to Arbitration for resolution may be made. However, oral warnings shall not be subject to appeal beyond the Step 2 level.

3. Step 3 (Advisory Arbitration)

- a. If the grievance has been properly processed and is not satisfactorily resolved at Step 2, the employee or the employer may appeal the grievance to Arbitration. The appeal shall be in writing; shall be signed by the employee, or by the appropriate representative of the City, and shall be submitted to the other party within fourteen (14) calendar days of the written decision at Step 2.
- b. If the employee is being represented, the employee may be assisted by a representative in the appeal.
- c. In the event the parties are unable to agree upon the issue, or issues, to be presented at arbitration, each party will prepare its statement of the issue, or issues, and jointly submit their statements to the arbitrator. The arbitrator shall, at the beginning of the

hearing referred to below, state his/her opinion as to what the issue, or issues are.

- d. Within seven (7) calendar days following the meeting to prepare the issue(s) statement, the parties shall either select an arbitrator by mutual agreement or request Public Employment Relations Board (PERB) to submit a list of seven (7) persons qualified to act as arbitrators. Attached to such request shall be the joint statement of the issue, or issues to be presented, or separate statements, if applicable.
- e. If the parties utilize PERB, within seven (7) calendar days following receipt of the list of arbitrators, the parties shall meet to select the arbitrators.
- f. The parties shall alternately strike one name from the list of arbitrators (the right to strike the first name to be determined by flipping a coin) until one (1) name remains, and that person shall be the arbitrators.
- g. The arbitrator shall hold a hearing on the issue or issues submitted. The arbitrator shall not hear witnesses without the presence of both parties. He shall render a written opinion within 30 calendar days following the closing of the hearing unless the period has been mutually extended in writing. The opinion, which shall be bound by the present Memorandum, shall be advisory only, shall not be binding on either party, and shall be limited to the issue, or issues, presented to the arbitrator. The opinion shall be sent to the Municipal Employee Relations Officer, with a copy to the employee.
- h. Within thirty (30) calendar days following receipt of the advisory opinion, the Municipal Employee Relations Officer shall advise the employee by letter whether or not he intends to take any further action regarding the issue, or issues, referred to in the arbiter's advisory opinion. A copy of the Municipal Employee Relations Officer's letter will be sent to the Union and union organization involved, if any.
- i. Each of the parties involved shall contribute equally to the cost of facilities, fees and expenses of the arbiter. The service of a court reporter and transcripts, which shall be determined in advance of the hearing, shall be paid by the party receiving such service, or

shared equally by both parties receiving the service. If the arbitrator requires a court reporter and transcripts, the cost shall be shared equally by both parties.

ARTICLE 29 LAYOFF

A. Definition

Layoff is defined as any involuntary separation wherein management eliminates a job without prejudice to the incumbent. Layoff shall result only from a change in the status of a position.

B. Authority

The City Manager shall have the authority to eliminate positions within any department because of curtailment of funds, reduction in force due to technological or operational changes, or elimination or modification of any activity or service.

C. Policy

1. The City will make every effort to accommodate those employees who may be subject to layoff through the process of normal attrition. In the event of the reduction of the work force, existing vacancies shall be used to the maximum extent possible to relocate affected employees, regardless of departmental jurisdiction.
2. Within a given class, individuals will be laid off based upon seniority in that classification.
3. The layoff priority of employment categories shall be as follows:
 - a. Temporary or provisional employees.
 - b. Probationary, regular, full-time employees.
 - c. Permanent, regular, full-time employees
4. Departments which anticipate a possible reduction in staff because of the acquisition of new equipment, change in procedures, or for any other reason, shall notify the Human Resources Department and the affected employee as soon as possible in order that appropriate procedures may be initiated.

5. Employees for whom a layoff appears imminent shall be placed upon a retention list for that class.
6. All vacancies within that class shall be filled from the retention list prior to using the regular eligible or rehire lists. The conditions applying to this list shall be as follows:
 - a. If qualified, employees shall have a right to a demotion to another classification in their own department if a vacancy exists.
 - b. Employees who are subject to layoff may be considered by other departments as follows:
 - 1) The employee is physically able to perform the required duties.
 - 2) The position is not one of greater supervisory responsibility and is compensated at a rate equal to or less than the employee's present rate.
 - 3) The employee meets the minimum qualifications and physical standards of the position.
7. Employees transferred to a new position in the same class shall receive the same salary step and retain the same anniversary date as in their previous position.
8. Employees who, in order to avoid being laid off, accept voluntary demotion shall be compensated in the established salary range of the class into which they transfer at the step nearest to, but not greater than, that received in their former classification. The employee's rate of pay shall be changed at the time that the reassignment is made or new duties and responsibilities are assumed and the employee shall retain the previous employment date for purposes of step advancement.
9. Employees who accept voluntary demotion shall be eligible at any time for reappointment to their previous classification on the basis of seniority when openings occur in the department where the layoff occurred, provided that they are able to perform the duties of the job. Rejection of a reappointment offer shall terminate eligibility for future consideration.
10. Employees who are subject to impending layoff may not be transferred to a

vacant position with a higher salary range except through participation in the normal examination and selection procedures, as established by the Human Resources Department.

11. Employees who cannot be placed, and must be laid off, shall have their names placed on a reemployment list and shall be eligible as follows:
 - a. To compete in promotional examinations for which they are qualified for a period of 12 months.
 - b. To hold reemployment rights for a period of 12 months and be eligible for any vacancies which may occur during this period in the classification held by the employee in the department where the layoff occurred, provided that the employee is able to perform the duties of the job.
 - c. Employees who are laid off will be given the following considerations with regard to their other accumulated benefits:
 - 1) Employees will not continue to accumulate any longevity-based benefit during the period that they are laid off, but will retain any benefits accumulated to the date of layoff. Employee retirement benefits cease at the time of, and will not be paid during a layoff period.
 - 2) The employee may remain in a layoff status for a maximum of 12 months. If the employee is recalled during this time, reinstatement will be made and all rights and benefits will be restored as a regular employee from the date of his/her first appointment within the period of the most recent continuous service, with an appropriate adjustment for the time that was not actually worked on the job.
 - 3) Laid-off employees who are not recalled within the 12-month period will be completely separated from the City.
 - d. Employees laid off and given an opportunity to return to a job for which they are qualified shall be allowed a maximum of 14 calendar days after such notification to make themselves available. If an employee refuses such an opportunity to reemployment, the employee will be removed from the reemployment list.

12. Employees who: (a) may be transferred, (b) accept a voluntary demotion, (c) are reemployed by the City, shall meet the job requirements of the class into which they are placed.
13. Questions on seniority status, which affect retention and are influenced by previous reclassification actions, shall be adjudicated by the Director of Human Resources.
14. The terms and conditions of this layoff policy will not be used as a substitute for disciplinary action against any employee.

D. Procedure

1. Notice: Each affected employee shall receive written notice from the appointing authority, specifying the exact date when layoff is to be effective; and at least two (2) weeks notice shall be given.
 - a. The commencing date of the reemployment rights of the employee shall start from the effective date of layoff.
2. Recall List: The Personnel Department will automatically establish a recall list for a period of 12 months.
 - a. All departments where classifications exist which are on the recall list, will be notified of the employee's availability.
 - b. Individuals on the recall list will be appointed to vacancies for which they qualify in the department from which they were laid off, so long as any person in that class is on such a list, before any other names on any other eligible lists - promotional or open competitive - are used.

ARTICLE 30 **WORK HOURS**

- A. Work schedules are defined as an employee's regularly assigned hours of the day and days per week. Changes in normal work schedules shall not be made arbitrarily, but rather to meet the operational needs of the department or for other legitimate reasons. Whenever possible, at least ten (10) calendar days notice will be provided to employees affected by a change in the normal work schedule.
- B. The normal workweek is Monday 12:00 a.m. through Sunday 11:59 p.m.

ARTICLE 31 STANDBY STATUS

Employees may be required by the department to be on standby during off duty hours for the purpose of responding to City or public emergency situations arising at times other than during normal working hours. Employees who volunteer for standby status will be placed on such standby status, if qualified, before non-volunteers.

ARTICLE 32 REQUIREMENT OF CLASS B LICENSE FOR SOLID WASTE COLLECTORS

As a condition of continued employment, all Solid Waste Collectors must obtain a Class B California Driver's License. The cost of obtaining a Class B license, as well as the cost of subsequent renewals, will be borne by the City.

ARTICLE 33 CONTRACTING OUT

If the City proposes to contract out bargaining unit work, the City shall notify the Union, in writing, after a Request for Proposal is approved and received by the City. Upon written request from the Union, the City shall meet with the Union to negotiate the impact on employees of any proposed contracting out prior to contracting out any bargaining unit work. Further, during the term of the 2013-2015 MOU, the City will not layoff employees resulting from its contracting out decision.

ARTICLE 34 ROUTE ASSIGNMENTS

Management retains the right to assign employees to routes which become permanently or temporarily vacant or to fill positions based on staffing needs. However, such assignment of routes shall not be made arbitrarily, or for reasons unrelated to merit. Rather, Management agrees to consider a number of factors in assigning routes, including but not limited to, seniority in classification, performance evaluations, attendance, vehicular accidents, and knowledge of the various routes.

ARTICLE 35 LABOR-MANAGEMENT COMMITTEE

- A. During the term of this Memorandum of Understanding, the parties agree to convene a Joint Labor-Management Committee, for the purpose of discussing issues impacting employees in this bargaining unit.

- B. The Committee shall meet during the months of April, July and October of each year if requested by either party, during regular working hours. The Committee shall consist of an equivalent number of Union and Management representatives. Human Resources may participate in the meetings if requested by either party. Union representatives shall be designated by the Union from among bargaining

unit employees. Management representatives shall be designated by the Director of Public Works.

- C. Upon agreement, the parties can use the assistance of a Federal or State mediator in their discussions at the labor-management committee meetings.
- D. The parties agree that the Committee may make advisory recommendations to Management for consideration.

ARTICLE 36 DRUG AND ALCOHOL USE

- A. It is the responsibility of the City, the Union, and employees to maintain a safe, healthy and protective work environment. Therefore, employees shall not report for work under the influence of drugs or alcohol, or possess alcohol or illegal substances while at work, as such conduct is likely to result in reduced productivity, an unsafe work environment, poor morale, and a danger and liability to employees and the City.
- B. "Under the influence of drugs or alcohol" means the use of alcohol or any illegal substance, or misuse of a prescribed drug in a manner and to a degree that causes impairment in the employee's work performance or the ability to use City property or City equipment safely. The parties agree to take all necessary steps to fulfill these responsibilities and minimize potential dangers.
- C. The parties to this Memorandum of Understanding attach as Exhibit II an Alcohol and Drug Abuse Policy to further delineate the purpose, policy, application and responsibilities of the parties to promote a drug free work environment.

ARTICLE 37 CHILD CARE SUBSIDY PROGRAM

Employees represented by this Unit are eligible to participate in the City's Child Care Subsidy Program subject to the guidelines and parameters established by the City. Subsequent changes, if any, to the Program and/or benefit levels, are at the discretion of the City.

ARTICLE 28 GAINSHARE

The following Gainsharing provisions set forth the concept, goals, and procedures by which represented employees may share in the results of productivity improvement and cost reductions.

- A. Gainsharing Areas of Potential Savings

The City and Union have identified three areas for potential savings calling for a reduction in:

Sick Leave and time off without pay (for purposes of Gainshare, sick leave shall include all unscheduled absences and time off without pay);

Workers Compensation Claims

Preventable Vehicular

B. Calculation of Gainshare Payments

Savings will be calculated for the period of October 1st through September 30th of each year. Distribution of savings will be in the form of a one time lump sum bonus to be paid to employees in the bargaining unit as of September 30th of each year who meet the individual criteria and goals of the SEIU Gainsharing Plan. Individuals who become bargaining unit members during the calculation period of October 1st through September 30th are eligible to receive a proration of the gainshare payment for which they qualify. Gainshare payments to eligible employees will be provided by the first pay period in November, provided all data for each of the 3 incentive categories is available to be finalized.

A Cost Reduction and Productivity Improvement Program

Employees represented by SEIU Local 721, have an opportunity to receive an annual monetary incentive based upon reaching certain goals that reduce costs and improve productivity in the areas of (1) sick leave reduction; (2) vehicular accident reduction, and (3) reduction of new lost-time claims for workers compensation. The following is a sample record of claims and usage in each category:

Number of Employees	Average Number of Sick Hours Used	Average Number of Lost-Time Workers Comp Claims	Average Number of Preventable Vehicle Accidents
27	49	5	19

Employees will be assigned to one of three tiers based on their individual performance in the three areas. It should be noted that each employee's bonus is based on the

individual's overall performance. Each individual employee must reach his or her individual goal in order to be eligible for the Gainshare bonus. The table below shows the criteria for each part of the Gainsharing plan. If an employee reaches all three goals in all three categories (use of sick leave, preventable vehicle accidents, and lost time workers compensation injuries), he or she shall receive the following incentive:

Gainsharing Tier	Number of Sick Hours Used	Number of New Lost-Time Workers Comp. Claims	Number of Preventable Vehicle Accidents	Gainshare Payment Per Employee
Tier 1	0 to 16 hrs (up to 2 days)	None	None	\$2,500
Tier 2	17 to 24 hrs (up to 3 days)	None	None	\$1,000
Tier 3	25 to 32 hrs (up to 4 days)	1 or less	1 or less	\$500

SIGNATURE PAGE

The parties hereto have caused their duly-authorized representatives to execute this Memorandum of Understanding effective December 16, 2013.

CITY OF PASADENA

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL UNION NO. 721**

Michael J. Beck, City Manager

Victor Holloway, SEIU President

Kristi Recchia, Director of Human Resources

Jose Rivera, SEIU Vice-President

Peter J. Brown, Liebert Cassidy Whitmore

Renee Anderson, SEIU Representative

Jaime Arellano, Management Analyst

Paul Kim, SEIU Representative

Siobhan Foster, Director of Public Works

Thanos Gauthier, PW Superintendent

EXHIBIT I

**SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU)
SCHEDULE OF COMPENSATION RATES**

Effective the beginning of the pay period following City Council approval:

<u>Classification</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
Solid Waste Truck Operator I	17.3607	17.9960	19.0391	20.2381	21.4010
Solid Waste Truck Operator II	21.4130	22.4082	23.4753	24.5063	25.5733

Effective the beginning of the pay period that includes July 1, 2014:

<u>Classification</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
Solid Waste Truck Operator I	17.5343	18.1759	19.2295	20.4405	21.6150
Solid Waste Truck Operator II	21.6271	22.6323	23.7101	24.7514	25.8291

EXHIBIT II

**City of Pasadena and SEIU
ALCOHOL AND DRUG USE POLICY**

A. PURPOSE

It is the purpose of this policy to ensure that unit members who perform their job do so free of the effect of alcohol or any substances (whether illegal or not), and to ensure that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves.

B. POLICY

It is the City's policy that employees shall not be under the influence of or in possession of alcohol or drugs while on City property, at work locations, while on duty, or before reporting for duty; shall not utilize such substances when they have a reasonable expectation of call in for duty; shall not possess, provide or sell illegal drugs to any other employees or to any person while on or off duty; nor have their ability to work impaired as a result of the use of alcohol or any drugs or substances.

While use of medically prescribed medications and drugs is not per se a violation of this policy, the employee must notify his/her supervisor, before beginning work, when taking medications or drugs (including the possible effects of taking such medication and drugs) which could foreseeably interfere with the safe and effective performance of duties or operation of equipment. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

If the City has a reasonable suspicion that an employee may have alcohol or drugs on City property, the City may search, without employee consent, all areas and property in which the City maintains control or joint control with the employee, such as desks, file cabinets, City vehicles, etc. Otherwise the City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City, such as lockers assigned exclusively for the employee's personal use.

Employees reasonably believed to be under the influence of alcohol or drugs (the use of alcohol or any illegal substance or use of a prescribed drug in a manner and to a degree that causes any impairment in the employee's work performance or the ability to use City property or equipment safely) shall be prevented from engaging in further work and may as addressed below in this policy, be ordered to submit to a drug and/or alcohol test and

shall, for safety purposes be provided transportation from the work site, whether that is to a drug and/or alcohol test or if no test is administered, to the employees' residence or other similar location.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help from alcohol or drug problems. Employees should contact their supervisors or the Human Resources Department for additional information.

Employees who voluntarily seek treatment for alcohol consumption, abuse, or alcoholism or substance abuse requiring an absence from work may, with department head approval, be allowed to use earned sick leave and/or vacation during such absence. The employee is also entitled to use Family and Medical Care Leave/California Family Rights Act Leave in accordance with the law.

C. APPLICATION

This policy applies to all employees of the City of Pasadena. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

D. EMPLOYEE RESPONSIBILITIES

An employee must:

1. Refrain from the use of, or possession of, illegal drugs, substances, or narcotics while on duty or off duty;
2. Not report to work while his/her ability to perform job duties is impaired due to off duty alcohol or drug (whether illegal or legal)use;
3. Not possess or use alcohol during working hours, when there is a reasonable expectation of being called to duty, when on breaks, during meal periods or at anytime while on City property;
4. Not possess or use illegal drugs or substances or prescription drugs without a prescription.
5. Not directly or through a third party sell or provide illegal drugs or substances to any person, including any employee, while either employee or both employees are on duty or off duty;
6. Submit immediately to a urine, breath or blood test, or other test as deemed

appropriate, when ordered by a supervisor or manager;

7. Notify his/her supervisor, before beginning work, when having consumed alcohol or when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of equipment;
8. Provide within 24 hours of request bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name; and
9. Report to the supervisor or take other appropriate action when it is believed other employees may be under the influence of drugs or alcohol or engaging in illegal drug related activities.
10. Employees who believe they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program or other resources available in the community. The City will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

E. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

1. Managers and supervisors are responsible for reasonable enforcement of this policy, and for the administration of discipline as deemed appropriate, consistent with the Discipline Section (B-XV). Managers and supervisors will be provided training regarding their responsibilities.
2. Managers and supervisors may request and, if necessary, subsequently order that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called. "Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

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

- a. Slurred speech;
- b. Odor of an alcoholic beverage on breath;

- c. Unsteady walking and movement;
 - d. An accident involving the employee and/or equipment or property where the cause may be symptomatic of suspected use;
 - e. Physical altercation;
 - f. Verbal altercation;
 - g. Unusual behavior where the cause may be symptomatic of suspected use;
 - h. Possession of alcohol or drugs; or
 - i. Information obtained from a reliable person with personal knowledge. The supervisor shall make reasonable attempts to verify or corroborate such information prior to requesting or ordering an employee to submit to a drug test.
3. If the manager or supervisor reasonably believes that an employee is under the influence, and wants to talk to the employee before sending him/her to a test, the employee shall be advised of his/her right to representation. Upon the employee's request for representation, any interrogation or testing shall cease until representation is present, unless representation is not immediately available. However, if based on the reasonable suspicion, the manager or supervisor wants to send the employee to the test without interrogating the employee, he/she may do so.
4. Any manager or supervisor requesting or ordering an employee to submit to a drug and/or alcohol test shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. When possible, the supervisor shall seek the opinion of a person such as a police officer who is trained to recognize persons under the influence prior to ordering an employee to submit to a drug test.
5. Any manager or supervisor encountering an employee who refuses an order to submit to a drug and/or alcohol analysis shall remind the employee that failure to comply is insubordination and will result in disciplinary action. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor shall, for safety purposes, provide the employee transportation from the work site to the collection facility to submit to the test.
6. Managers and supervisors shall not physically search the person or employees, nor shall they search the personal possession(s) of employees without the consent of the employee.
7. Managers and supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession, or when the supervisor is unable to reasonably

control a situation where the employee poses a potential liability to himself/herself, or others.

F. PHYSICAL EXAMINATION AND PROCEDURE

The urine, breath, blood, or other appropriate test (as determined by the lab) may test for any substances which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, PCP, methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Any positive drug test must be confirmed by a reliable test. The confirming test must be at the same or better level of accuracy as a Gas Chromatography/Mass Spectrometry (GC/MS) test. Employees who are being tested shall have the right to request a sample split for analysis by an independent laboratory.

G. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

1. A positive result with confirmation from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge. However, consideration may be given to postpone, reduce or cancel pending disciplinary action when an employee voluntarily obtains treatment for a substance abuse problem. All relevant facts will be taken into consideration in determining if discipline is appropriate and if so, at what level.
2. If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.
3. If an alcohol or drug test is positive for alcohol or drugs, the City shall immediately conduct an investigation to gather all facts. Any decision to discipline or discharge will be made at the earliest possible time and shall be carried out in conformance with applicable discipline procedures.
4. Any employee who tests positive for drugs and/or alcohol is subject to follow-up random testing over the 12 month period following the positive test. There will be at least two random follow-up tests during the 12 month period.

H. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Director of Human Resources. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.