



CITY of CLOVIS

AGENDA • CLOVIS CITY COUNCIL
Council Chamber, 1033 Fifth Street, Clovis, CA 93612 (559) 324-2060
www.cityofclovis.com

In compliance with the Americans with Disabilities Act, if you need special assistance to access the City Council Chamber to participate at this meeting, please contact the City Clerk or General Services Director at (559) 324-2060 (TTY – 711). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Council Chamber.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such writings and documents may be posted on the City's website at www.cityofclovis.com.

October 8, 2018

6:00 PM

Council Chamber

The City Council welcomes participation at Council Meetings. Members of the public may address the Council on any item of interest to the public that is scheduled on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic.

Meeting called to order by Mayor Whalen
Flag salute led by Councilmember Mouanoutoua

ROLL CALL

PRESENTATIONS/PROCLAMATIONS

1. Recognition of Clovis Public Utilities staff on the installation of the new Shaw Avenue median landscaping.

PUBLIC COMMENTS - This is an opportunity for the members of the public to address the City Council on any matter within the City Council's jurisdiction that is not listed on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic. Anyone wishing to be placed on the Agenda for a specific topic should contact the City Manager's office and submit correspondence at least 10 days before the desired date of appearance.

ORDINANCES AND RESOLUTIONS - With respect to the approval of resolutions and ordinances, the reading of the title shall be deemed a motion to waive a reading of the complete resolution or ordinance and unless there is a request by a Councilmember that the resolution or ordinance be read in full, further reading of the resolution or ordinance shall be deemed waived by unanimous consent of the Council.

CONSENT CALENDAR - Items considered routine in nature are to be placed upon the Consent Calendar. They will all be considered and voted upon in one vote as one item unless a Councilmember requests individual consideration. A Councilmember's vote in favor of the Consent Calendar is considered and recorded as a separate affirmative vote in favor of each action listed. Motions in favor of adoption of the Consent Calendar are deemed to include a motion to waive the reading of any ordinance or resolution on the Consent Calendar. For adoption of ordinances, only those that have received a unanimous vote upon introduction are considered Consent items.

2. City Clerk – Approval - Minutes for the October 1, 2018 Council meeting.
3. Administration – Approval - First Amendment to Tolling Agreement with Bush Construction for the Pet Adoption Center.
4. General Services - Approval - Claim Rejection of General Liability Claim for Margaret Conway.
5. General Services – Approval - Res. 18-____, Authorizing Amendments to the Geographic Information System Analyst Classification; and Approval – Res. 18-____, Amending the City's Position Allocation Plan for FY 18-19 in the Planning and Development Services Department by adding one (1) Geographic Information System Analyst Classification and deleting one (1) Geographic Information System Specialist Classification.
6. Planning and Development Services - Approval – Final Acceptance for Tract 6082, located at the southwest corner of Bullard and La Vona Avenues (Bonadelle Homes).

PUBLIC HEARINGS - A public hearing is an open consideration within a regular or special meeting of the City Council, for which special notice has been given and may be required. When a public hearing is continued, noticing of the adjourned item is required as per Government Code 54955.1.

7. Request for the continuance of CUP2005-24A2, A request to approve a conditional use permit amending the master site plan for Portal Sierra II within the Research and Technology Park, located on the west side of Temperance Avenue, north of Alluvial Avenue, Greyhawk, LLC., owner and applicant; Centerline Design LLC., representative. Continued from the meeting of September 10, 2018.

Staff: Lily Cha, Assistant Planner

Recommendation: Continue to October 15, 2018

8. Consider Actions related to Annexation of Territory (Annexation #53-T6193-South West Corner of Ashlan and Highland, T6202-Southside of Alluvial between Fowler & Armstrong) to the City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services).

Staff: Jay Schengel, Director of Finance

Recommendation: Approve

- a. Consider Approval - Res. 18-____, A Resolution annexing territory (Annexation #53) (T6193-South West Corner of Ashlan and Highland, T6202-Southside of Alluvial between Fowler & Armstrong) to the City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services) and calling a special landowner election to annex territory (Annexation #53) to City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services)
 - b. Consider Approval - Res. 18-____, A Resolution of the City of Clovis declaring the results of a special landowner election and directing recording of the Notice of Special Tax Lien for City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services).
9. Consider Approval – Various actions required to conduct the March 2019 General Municipal Election:
Staff: John Holt, Assistant City Manager/Karey Cha, Administrative Analyst
Recommendation: Approve
 - a. Consider Approval - Res. 18-____, Calling the March 5, 2019 General Municipal Election for the purpose of electing three members of the City Council for the term of three years eight months through November 2022; and
 - b. Consider Approval - Res. 18-____, Establishing Conditions for the filing of Candidates' Statements; and
 - c. Consider Approval - Res. 18-____, Authorizing the Fresno County Elections Division to conduct the election.
10. Consider Introduction – Ord. 18-____, An Ordinance of the City Council of the City of Clovis Making Technical and Conforming Amendments to Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code Relating to the Personnel System.
Staff: Shonna Halterman, General Services Director
Recommendation: Approve
11. Consider Approval – Res. 18-____, Revisions to the City of Clovis Personnel Rules.
Staff: Shonna Halterman, General Services Director
Recommendation: Approve

CORRESPONDENCE – Correspondence is communication addressed to City Council that requests action.

12. None

ADMINISTRATIVE ITEMS – Administrative Items are matters on the regular City Council Agenda other than Public Hearings.

13. None

CITY MANAGER COMMENTS

COUNCIL ITEMS

14. Council Comments

CLOSED SESSION - A “closed door” (not public) City Council meeting, allowed by State law, for consideration of pending legal matters and certain matters related to personnel and real estate transactions.

15. Government Code Section 54956.8
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Properties: APN 555-031-11 (portion)
Located north of Gettysburg, east of DeWolf
Agency Negotiators: Dwight Kroll, Ryan Burnett
Negotiating Parties: Dr. Monte Person
Under Negotiation: Price & Terms

ADJOURNMENT

Future Meetings and Key Issues			
Oct. 15, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Nov. 5, 2018 (Mon.)	6:00 P.M.	Joint Meeting with Planning Commission	Council Chamber
Nov. 13, 2018 (Tue.)	6:00 P.M.	Regular Meeting	Council Chamber
Nov. 19, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Dec. 3, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Dec. 10, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Dec. 17, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jan. 7, 2019 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jan. 14, 2019 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jan. 22, 2019 (Tue.)	6:00 P.M.	Regular Meeting	Council Chamber

**CLOVIS UNIFIED SCHOOL DISTRICT GOVERNING BOARD/CLOVIS CITY
COUNCIL JOINT MEETING**

October 1, 2018

6:00 P.M.

Council Chamber

1. 6: 00 CALL TO ORDER – Board President Van Volkinburg / Mayor Whalen
2. PLEDGE OF ALLEGIANCE
3. 6:01 ROLL CALL

Clovis City Council - All Councilmembers present with exception of Councilmember Ashbeck.

CUSD Governing Board – All Board Members present with exception of Boardmember Casado.
4. 6:01 INTRODUCTIONS – Staff and elected officials of both agencies introduced themselves.
5. 6:04 PUBLIC COMMENTS
None
6. 6:05 CITY GROWTH PROJECTIONS. Planning and Development Services Director Dwight Kroll presented growth projections for the City of Clovis.
7. 6:28 CITY COMMUNITY INVESTMENT PROGRAM 2018 – 2019. CIP Manager Thad Avery reviewed the City of Clovis Community Investment Program work Plan for 2018-19.
8. 6:49 OPENING OF CLOVIS UNIFIED SCHOOLS REPORT – Dr. Eimear O’Farrel provided comments. CUSD accomplishment video presented.
9. 7:08 CURRENT BOND MEASURE A-FUNDED CONSTRUCTION PROJECTS UPDATE. Update provided by Kevin Peterson.
10. 7:21 CLOVIS UNIFIED’S GROWTH PLANS AND POTENTIAL FUTURE SCHOOL SITE LOCATIONS – Kevin Peterson and Michael Johnston presented CUSD growth plans and potential school site locations.
11. 7:30 POSSIBLE CUSD FACILITY BOND MEASURE 2020 – Update on potential 2020 bond measure provided by Kevin Peterson.
12. 7:35 CIF STATE CHAMPIONSHIPS RECOGNITION – Dr. Don Ulrich provided report on postvie economic impact of CUSD events on the City of Clovis.

7:39 CONSENT CALENDAR – Motion by Councilmember Flores, seconded by Councilmember Mouanoutoua, for the Council to approve the consent calendar. Motion carried 4-0-1 with Councilmember Ashbeck absent.

13. City Clerk – Approved - Minutes for the September 17, 2018 Council meeting.
14. Administration - Approved – Closure of City Administrative Offices for the In-Service Day on Columbus Day, October 8, 2018.
15. Community and Economic Development - Receive and File – Business Organization of Old Town (B.O.O.T.) First Quarter Report, July through September 2018.
16. Finance - Approved - **Res. 18-128**, Approving the 2018-2019 Local Transportation Fund Claim to the Council of Fresno County Governments.
17. General Services - Approved - **Res. 18-129**, Authorizing the General Services Manager to Execute Documents for the Fresno County Transportation Authority's (FCTA) and Fresno Council of Governments' (FCOG) FY2018-2019 New Technology Reserve Grant Program for Advanced Transit Projects.
18. Public Utilities – Approved - Waive formal bidding requirements and authorize entering into a contract with Golden Bell Products, Inc. to apply INSECTA to sanitary sewer manholes for insect control.
19. Planning & Development Services – Approved – Final Acceptance for CIP 16-21, Railroad Park Shade Structure & Helm Ranch Park Shade Structure
20. 7:40 CITY MANAGER/SUPERINTENDENT COMMENTS

City Manager Luke Serpa and Superintendent Dr. O'Farrell commented on common values of each entity and cooperation.

21. 7:41 COUNCIL/BOARD COMMENTS

Councilmembers and Boardmembers expressed gratitude to Clovis Unified School District and City of Clovis, quality of the education at Clovis Unified School District and the opportunity it offers to Clovis residents, thanked staff for presentations and the CUSD board for coming to joint meeting, importance of long term plans and quality boards, new legislation and ability of each agency being able to handle adjustments they will require, progress made on relationship between the agencies and the trust and high standards that are shared, and requested more understanding on where the City is growing and how is the City helping to create jobs in Clovis.

22. ADJOURNMENT

Meeting adjourned: 8:07 p.m.

Mayor

City Clerk



AGENDA ITEM NO: 3
City Manager: LS

CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: City Attorney's Office

DATE: October 8, 2018

SUBJECT: Approval - First Amendment to Tolling Agreement with Bush Construction for the Pet Adoption Center

ATTACHMENTS: (A) Tolling Agreement
(B) First Amendment to Tolling Agreement

CONFLICT OF INTEREST

None

RECOMMENDATION

The City Attorney requests that the Council approve the First Amendment to the Tolling Agreement with Bush Construction (the "First Amendment"), and authorize the City Manager to execute the First Amendment, so that Bush Construction may continue to work on repairs to the epoxy walls in the Pet Adoption Center without the City having to take legal action.

EXECUTIVE SUMMARY

In 2014, the epoxy coating in the kennel areas of the Miss Winkles Pet Adoption Center began to chip off in numerous locations. The contractor has been made aware of the problem and is working with the subcontractor to perform repairs. The City and Bush Construction entered into a Tolling Agreement, effective October 16, 2017, which stayed the time within which the City had to file a legal action so that the parties had the opportunity to come to a resolution on this matter without the necessity of litigation. The City and Bush Construction now desire to amend the Tolling Agreement to extend the time period within which the City must file a legal action.

PROPOSAL AND ANALYSIS

Following the completion of the Pet Adoption Center project, it was discovered that the epoxy walls in the facility were faulty due to a lack of fiberglass mesh. Bush Construction was made aware of the problem and has since begun plans for repair.

Though the City and Bush Construction at all times have been working toward resolving the matter, in the event a resolution cannot be reached, the City and Bush Construction entered into the October 2017 Tolling Agreement in an effort to toll any applicable statutes of limitations in the event the City later seeks to file an action against Bush Construction regarding the Pet Adoption Center project.

The City and Bush Construction now desire to amend the Tolling Agreement by extending the time period during which the City must bring a lawsuit against Bush Construction to the shorter of (a) October 16, 2017, through September 30, 2019, inclusive, or (b) October 16, 2017, through the "Termination Date," as defined in the Tolling Agreement. Bush Construction approved and signed the First Amendment to the Tolling Agreement on September 18, 2018.

The Council is therefore requested to approve the First Amendment to the Tolling Agreement and authorize the City Manager to execute the First Amendment.

FISCAL IMPACT

There is no fiscal impact from entering into the First Amendment to the Tolling Agreement.

REASON FOR RECOMMENDATION

The First Amendment to the Tolling Agreement will allow the City and Bush Construction to continue working on repairs to the epoxy coating on the walls without the distraction of litigation.

ACTIONS FOLLOWING APPROVAL

The City Manager will execute the First Amendment to the Tolling Agreement.

Prepared by: Arne Sandberg, Litigation Counsel

Submitted by:


David Wolfe, City Attorney

TOLLING AGREEMENT

This agreement ("Agreement") is made, and is effective, as of October 16, 2017 ("Effective Date"), by and between the City of Clovis ("City") and Bush Construction (collectively, the "Parties").

RECITALS

- A. The City entered the first of multiple construction agreements with Bush Construction for the construction of the Miss Winkles Pet Adoption Center in 2012 (the "Project").
- B. Portions of the epoxy coating in the Project have detached and flaked off. The City and Bush Construction are engaged in efforts to correct the issue.
- C. Due to potential expiration of periods of limitation, the Parties wish to enter this tolling agreement to allow the Parties to attempt to resolve the issue before commencement of litigation is necessary.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows, subject to the approval of the City Council:

1. **Tolling.** The Parties hereby agree to not assert any legal or equitable defenses based on the passage of time (including but not limited to statutes of limitations, statutes of repose, periods of limitations, or defenses regarding or related to timeliness) in any court action or other action, such as arbitration, regarding or related to the Project, if such defenses include, or are based in whole or in part upon, the passage of time from the beginning of the Tolling Period below until the end of such period. This Agreement applies to such defenses that may be made in response to any claims by any of the Parties, not just claims by the City. The Parties agree that this Agreement shall act as a complete counter-defense to any such defense based on the passage of a period of time that includes the Tolling Period. Also, in the event of future litigation or arbitration, each of the Parties agrees that no court, arbitrator, or other competent authority may include the Tolling Period in its analysis of the application of the statute of limitations, any contractual time limitations, the doctrine of laches, or any other defense based on the passage of time; and to the extent that a court, arbitrator, or competent authority does so, the parties agree to enter a stipulation and agreement that negates said action by a court, arbitrator, or competent authority.
2. **Tolling Period.** The Tolling Period shall be the shorter of (a) October 16, 2017, through September 30, 2018, inclusive, or (b) October 16, 2017, through the Termination Date discussed below, inclusive. No complaint or other legal action may

be taken by one of the Parties against another of the Parties until the Tolling Period expires, except to the extent that one of the parties must pursue emergency relief or must participate in legal actions initiated by other parties to preserve its rights (e.g., the United States Bankruptcy Court). The parties may amend the tolling agreement to extend the Tolling Period to a date beyond September 30, 2018, upon written agreement.

3. Nothing set forth in this Agreement shall revive or reinstate any of the Parties' rights, claims, causes of action or defenses that expired, lapsed, were waived or were otherwise lost by reason of the passage of time before October 16, 2017.
4. Any of the Parties may give a termination notice to the other parties fixing a date for termination of this Agreement ("Termination Date"). The Termination Date shall be no less than thirty (30) days after the date of sending (not date of receiving) said termination notice. The termination notice shall state that the Tolling Period shall end as of the Termination Date. Any termination notice shall be given in writing and shall be delivered by overnight delivery with procedures for confirmation of delivery to the persons and addresses noted below, that when so given shall constitute the termination notice referred to above. No termination notice may expressly or implicitly set a Termination Date beyond September 30, 2018. If the Termination Date cited in a termination notice falls on a weekend or other court holiday, then the noticed Termination Date shall be extended by operation of this Agreement to the next court business day following the noticed Termination Date. Any termination notice shall be sent to the following persons and addresses:

Notice to Bush:	Jim D. Lee Griswold LaSalle Cobb Dowd & Gin LLP 111 E. Seventh Street Hanford, CA 93230
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Notice to City:	Arne B. Sandberg Alyse Pacheco Lozano Smith 2001 N. Main St., Suite 500 Walnut Creek, CA 94596
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5. No Waiver of Claims. Except for the Tolling Period provided by this Agreement, nothing herein shall be deemed or construed as a waiver of any rights, claims, demands, causes of action or defenses that any Party may have against the others or any other person or entity, or shall be deemed or construed as a release of any of the Parties or any other person from any liability that they may have to the others.
6. Recitals. The recitals set forth in this Agreement shall not constitute admissions of fact or law by any Party, nor constitute evidence of liability on the part of any Party in any later proceeding.

7. Miscellaneous.

- a. Binding Effect. This Agreement is for the benefit of and shall be binding on the Parties and their respective successors, members, member/managers, heirs, and assigns.
- b. Voluntary Agreement. The Parties each represent that they have read this Agreement in full and understand and voluntarily agree to all provisions herein. The Parties further declare that prior to signing this Agreement they each apprised themselves of relevant data, through sources of their own selection, including consultation with counsel of their choosing, in deciding whether to execute this Agreement.
- c. Ownership of Titled Claims. The Parties represent and warrant that they are the sole and lawful owner of all right, title and interest in and to every claim which it purports to toll and make subject to this Agreement, and that each of the Parties will not and has not committed or permitted or agreed to any sale, encumbrance, hypothecation, transfer, or subrogation, whether by operation of law or otherwise, of any claim, right, or cause of action to be tolled or otherwise affected pursuant to the provisions of this Agreement.
- d. Enforcement of Agreement. The prevailing party in any proceeding to enforce this Agreement shall be entitled to the reasonable attorney's fees and costs incurred in such enforcement proceeding.
- e. Modification. No modification to this Agreement shall be effective unless executed in writing by each of the Parties and approved by the City Council.
- f. Waiver. The waiver by any of the Parties of any breach of any term, covenant, or condition, or any breach of the same, shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same, or any other term, covenant, or condition herein contained.
- g. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter that have legal contacts and relationships exclusively within the State of California. Any action or proceeding regarding the Project or seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Fresno.
- h. Entire Agreement. This Agreement represents the entire agreement of the Parties with regards to the timing of any actions regarding the Project.
- i. Severability. If any portion of this Agreement is determined to be illegal or unenforceable by a court of law or by later enacted legislation, this determination shall not affect any other provision of this Agreement, and all other provisions shall remain in full force and effect.

- j. Captions. Any captions in this Agreement are included only as a matter of convenience and for reference and in no way define the scope of extent of this Agreement or the construction of any provision.
- k. Signature In Counterparts. This Agreement may be executed in any number of counterparts all of which, taken together, shall constitute one and the same instrument. A copy, original or facsimile with all signatures appended together shall be deemed a fully executed Agreement.
- l. Warranty of Authority. Each person below warrants and guarantees that s/he is legally authorized to execute this Agreement on behalf of the designated entity and that such execution shall bind the designated entity to the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement on the dates set forth opposite their names, with an Effective Date of October 16, 2017.

CITY OF CLOVIS



Luke Serpa, City Manager

As of 11/6/17

Date

BUSH CONSTRUCTION


Name: MICHAEL BUSH

[President, Vice-President, CEO, or Chairman]

10/27/17

Date

Name: _____

[Chief Financial Officer, Treasurer, or Secretary]

Date

FIRST AMENDMENT TO TOLLING AGREEMENT

This First Amendment to Tolling Agreement ("Amendment") is made, and is effective, as of September _____, 2018 ("Effective Date"), by and between the City of Clovis ("City") and Bush Construction (collectively, the "Parties").

RECITALS

- A. The City and Bush Construction entered into that certain Tolling Agreement, with an effective date of October 16, 2017 ("Agreement"), pursuant to the terms of which the Parties agreed to extend the Tolling Period to the shorter of (a) October 16, 2017, through September 30, 2018, inclusive, or (b) October 16, 2017, through the Termination Date, defined to mean the date that is no less than thirty (30) days after the date of sending (not the date of receiving) a termination notice.
- B. The Parties now desire to extend the Tolling Period as set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

- 1. **Extension of Tolling Period.** The Parties hereby agree that the Tolling Period, defined in Section 2 of the Agreement, shall be the shorter of (a) October 16, 2017, through September 30, 2019, inclusive, or (b) October 16, 2017, through the Termination Date, as defined in the Agreement.
- 2. **Amendment.** Except as amended or modified herein, all the terms of the Agreement shall remain in full force and effect. Capitalized terms not defined in this Amendment shall have the meaning set forth in the Agreement. This Amendment may not be altered, amended, modified, or otherwise changed in any respect, except by a writing executed by an authorized representative of the Parties.
- 3. **Authorization.** The undersigned, by their signatures, represent and warrant that they are authorized agents of their respective entities and are validly authorized to execute this Amendment on behalf of the entity that they purport to bind.
- 4. **Time of Essence.** Time is of the essence in this Amendment and the Agreement and each and all of their respective provisions.
- 5. **Illegality or Unenforceability.** If any provision of this Amendment shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Amendment or the Agreement, and all such other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the Effective Date first set forth above.

CITY OF CLOVIS

Luke Serpa, City Manager

Date

BUSH CONSTRUCTION

Name:

Date: 9/15/18

[President, Vice-President, CEO or Chairman]

Name:
[Chief Financial Officer, Treasurer or Secretary]

Date



AGENDA ITEM NO: 4
City Manager: LS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: October 8, 2018

SUBJECT: Approval – Claim Rejection of the General Liability Claim for Margaret Conway.

CONFLICT OF INTEREST

None

RECOMMENDATION

Reject the general liability claim filed by Margaret Conway.

BACKGROUND

On March 22, 2018, Margaret Conway alleges an unsecured City manhole cover located near the intersection of Temperance and Herndon Avenue caused damage to her vehicle and injuries to her body. On September 19, 2018, a general liability claim was filed against the City of Clovis by Ms. Conway. The claim was considered legally sufficient and timely.

Ms. Conway seeks damages for her vehicle, car rental, medical bills, and pain and suffering. This claim does not state a specific amount for damages sought; instead, the claim has been filed as a "civil unlimited case" in Fresno Superior Court.

FISCAL IMPACT

Rejection of the claim does not result in any fiscal impact.

REASON FOR RECOMMENDATION

It is recommended that the claim be rejected. The City is not liable for this claim. In addition, by rejecting this claim, the time in which lawsuits may be filed against the City will begin to run.

ACTIONS FOLLOWING APPROVAL

A letter will be sent to the claimant informing her that the claim has been rejected.

Prepared by: Charles W. Johnson, Management Analyst

Submitted by: Shonna Halterman, General Services Director





AGENDA ITEM NO: 5
City Manager: LS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: October 8, 2018

SUBJECT: Approval – Res. 18- ____; Authorizing Amendments to the Geographic Information System Analyst Classification; and Approval – Res. 18-____; Amending the City's Position Allocation Plan for FY18-19 in the Planning and Development Services Department by adding One (1) Geographic Information System Analyst Classification and deleting One (1) Geographic Information System Specialist classification.

ATTACHMENTS: (A) Resolution 18-____ Amendments to the Geographic Information System Analyst Classification
(B) Exhibit A – Revised Geographic Information System Analyst Classification
(C) Resolution 18-____ Position Allocation Plan Amendment
(D) Exhibit B – Position Allocation Adjustments by Department

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve a resolution amending the Geographic Information System Analyst Classification, and approve a resolution amending the City's Position Allocation Plan for FY 18-19 in the Planning and Development Services Department by adding one (1) Geographic Information System Analyst position and deleting one (1) Geographic Information System Specialist position.

EXECUTIVE SUMMARY

Following a classification study in the Planning and Development Services Department, reclassification of one (1) employee has been approved resulting in the need to modify the City's Position Allocation Plan. An assessment of work assignment needs was conducted in the Planning and Development Services Department and it is recommended that one (1) Geographic Information System Analyst position be added and one (1) Geographic Information System Specialist position be deleted from the Position Allocation Plan.

Staff also recommends updating the Geographic Information System Analyst classification specification to more accurately define the required education and experience sections and to include additional examples of duties, knowledge and abilities necessary to perform the job functions of the position. Modification of the City's Classification Plan requires the City Council's approval.

BACKGROUND

The Planning and Development Services Department has recently evaluated the work assignments in the department and has determined that the addition of one (1) Geographic Information System Analyst position and the elimination of one (1) Geographic Information System Specialist position will more efficiently support the current needs of the department. The desired change results in the need to modify the City's Position Allocation Plan which requires Council Approval.

In addition, a review of the Geographic Information System Analyst classification has determined that the classification specification should be updated to more accurately reflect the necessary qualifications for the position. Specifically, it is recommended that each section of the classification specification be revised. The education, experience requirements, job duties, knowledge and abilities sections are being revised to state what is required of the incumbent that is being reclassified into this classification.

The Geographic Information System Analyst classification is assigned to the Clovis Professional and Technical Association (CPTA) bargaining unit for purposes of employee representation. Representatives of the CPTA bargaining unit have been advised of the proposed revisions to the classification and are supportive of the recommended changes.

FISCAL IMPACT

The fiscal impact of salary and benefits for the remainder of FY 18-19 is approximately an additional \$10,500. There are adequate funds in the Planning and Development Services Department budget to cover the costs of this position.

REASON FOR RECOMMENDATION

The addition of one (1) Geographic Information System Analyst and the elimination of one (1) Geographic Information System Specialist will provide the advanced level technical support necessary to improve function in the department. Modifications to the City's Position Allocation Plan require the City Council's approval.

The proposed amendments to the Geographic Information System Analyst classification are recommended to identify the necessary skill sets to perform the assigned job duties and to accurately describe the job functions that will be performed. The recommended changes to the City's Classification Plan require the City Council's approval.

ACTIONS FOLLOWING APPROVAL

The updated Geographic Information System Analyst specification and the revised position allocation plan for the Planning and Development Services Department will be modified as noted in Exhibits A and B attached.

Prepared by: Lori Shively, Personnel/Risk Manager

Submitted by: Shonna Halterman, General Services Director



RESOLUTION 18-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS APPROVING
AMENDMENTS TO THE CITY'S CLASSIFICATION PLAN GEOGRAPHIC
INFORMATION SYSTEM ANALYST CLASSIFICATION**

The City Council of the City of Clovis resolves as follows:

WHEREAS, a review of the Geographic Information System Analyst classification has identified a need to update the classification specification; and,

WHEREAS, it has been determined that the classification should be amended in order to accurately define the examples of duties, education, experience, knowledge and abilities needed to perform the job functions of the classification; and,

WHEREAS, modification of the City's Classification Plan requires authorization by the City Council.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Clovis that the City's Classification Plan shall be modified to include the revised Geographic Information System Analyst classification specification (Exhibit A) attached.

* * * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018:

Mayor

City Clerk

Exhibit A

City of Clovis
Geographic Information System Analyst

DEFINITION

Under general supervision, develops and maintains the Geographic Information System (GIS) and the computerized geographic files composed of mapping layers and parcel base map elements on a City-wide basis; and performs related work as required.

CLASS CHARACTERISTICS

The Geographic Information System (GIS) Analyst is the advanced level of the series and performs the more advanced technical duties for the department; this position maintains and provides computerized geographic data for a variety of City Departments, public, and private organizations (examples of information computerized and maintained by incumbents include zoning, general and specific plans, Assessor's Parcel Map data, and the utility system); provides training, staff support, and lead supervision in system use; advises, maintains, and develops City-wide standards and procedures; and serves as the coordinator/liaison with Fresno County GIS, City of Clovis Departments, and other organizations.

EXAMPLES OF DUTIES:

Using ArcGIS and related products, creates and maintains GIS parcel level base maps; develops, maintains, and documents procedures and quality control standards for base maps, infrastructure data automation, and GIS map production; trains, coordinates, and reviews the work of assigned staff including staff responsible for data automation and maintenance of various GIS data; works in conjunction with all City of Clovis Departments on supplemental GIS analysis requests, troubleshoots all GIS related complications, uses critical thinking skills to determine particular GIS development plans; creates advanced cartographic (mapping) projects; develops procedures for interchanging data from engineering applications using CAD (AutoCad) with GIS; develops and maintains standards and procedures for accepting data from outside sources such as census data, FEMA flood zone maps, USGS quad maps photogrammetric data, GPS data, and other digital and analog sources; performs system administration duties such as installing GIS software and hardware and (AutoCad) software; operates computer and computer related software as required; and performs related work as required.

TYPICAL QUALIFICATIONS:

LICENSE REQUIRED

- Possession of a valid California Driver's License and a good driving record.

EDUCATION AND EXPERIENCE

Education:

- Graduation from an accredited college or university with a Bachelor's Degree in Geographic Information Systems (GIS), Geography, Civil Engineering, or a closely related field.

Experience:

- Two (2) years of experience in Geographic Information System (GIS) operations.

QUALIFICATIONS

Knowledge of:

- English usage, spelling, grammar, and punctuation;
- Workstation, personal computer, and peripherals usage;
- Geographic Information System (GIS) and cartographic (mapping) concepts and methods;
- Relational databases;
- Environmental Systems Research Institute (Esri), Geographic Information System (GIS) software, CAD software, ArcMap, ArcCatalog, ArcGIS, ArcGIS Pro, and similar software;
- Computer-Aided Design (CAD) - (AutoCAD);
- Basic survey principles;
- Research methods for records and maps;
- Geometry, algebra, and trigonometry;
- Nomenclature, symbols, methods, practices, techniques, and instruments used in drafting and graphic arts representations;
- Principles and practices of surveying and civil engineering;
- Spatial analysis techniques;
- Database software and design principles;
- Computer networking principles;
- Accurate record keeping;
- Techniques and general principles of training and lead supervision.

Ability to:

- Accurately perform various Geographic Information System (GIS) assignments;
- Maintain and operate networked workstations, personal computers, and their peripherals devices accurately and efficiently;
- Analyze data;
- Maintain accurate records;
- Read, understand, and apply technical materials;
- Prepare engineering calculations;
- Read, interpret, and analyze record maps, construction drawings, and survey notes;
- Understand architectural and engineering plans and drawings;
- Understand pertinent procedures and functions quickly and apply them without immediate supervision;

- Prepare graphic arts presentations;
- Understand and carry out oral and written instructions;
- Effectively communicate in writing and orally;
- Provide on-the-job supervision of subordinates;
- Establish and maintain effective relationships with those contacted in the course of work;
- Operate a vehicle observing legal and defensive driving practices.

SUPPLEMENTAL INFORMATION:

PHYSICAL DEMANDS AND WORKING CONDITIONS

- Work is primarily sedentary and conducted in an office environment;
- Good color perception;
- Incumbents may be required to attend periodic evening meetings;
- Incumbents are required to travel within and out of City on occasion.

RESOLUTION 18- ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS APPROVING
AMENDMENTS TO THE FY18-19 POSITION ALLOCATION PLAN**

The City Council of the City of Clovis resolves as follows:

WHEREAS, the FY18-19 Position Allocation Plan was approved as part of the FY18-19 City budget adoption process; and,

WHEREAS, a review of the work assignments and staffing needs in the Planning and Development Services Department indicates that it is appropriate to delete one (1) Geographic Information System Specialist position and add one (1) Geographic Information System Analyst position; and,

WHEREAS, amending the City's adopted FY18-19 Position Allocation Plan requires City Council authorization.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Clovis that the City's FY18-19 Position Allocation Plan shall be amended as noted in (Exhibit B) attached.

* * * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018:

Mayor

City Clerk

Exhibit B

POSITION ALLOCATION ADJUSTMENT BY DEPARTMENT FY18-19

<u>Department</u>	<u>Number of Positions</u>
-------------------	----------------------------

Planning & Development Services Department

Delete:	Geographic Information System Specialist	1.0
Add:	Geographic Information System Analyst	1.0



CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: October 8, 2018

SUBJECT: Approval – Final Acceptance for Tract 6082, located at the southwest corner of Bullard and La Vona Avenues (Bonadelle Homes).

ATTACHMENT: (A) Vicinity Map

CONFLICT OF INTEREST

None

RECOMMENDATION

1. Accept the public improvements for Tract 6082; and authorize recording of the Notice of Completion; and
2. Authorize release of the Performance Surety immediately and then release of the Labor and Materials Surety ninety (90) days after the recordation of the Notice of Completion, provided no liens have been filed; and release of Public Improvements Maintenance Surety upon the expiration of the one-year warranty period, and provided any defective work has been repaired to the City's satisfaction.

EXECUTIVE SUMMARY

The owner, BN 6082 LP (Bonadelle Homes), has requested final acceptance of the public improvements constructed or installed in conjunction with this tract. The public improvements include all those shown on the subdivision improvement plans approved by the City Engineer.

The construction or installation of the public improvements is complete. The owner has requested final acceptance. Staff is recommending approval of their request.

FISCAL IMPACT

The costs for periodic routine maintenance, as well as repairs needed as the improvements deteriorate with age and usage, will be incorporated into the annual maintenance budget of the Public Utilities Department as these costs are identified.


REASON FOR RECOMMENDATION

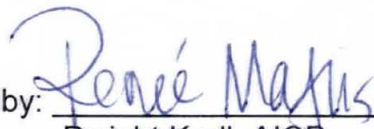

The Subdivision Map Act requires that once construction of the required improvements has been completed in compliance with all codes, plans and specifications, and all other required documents have been completed and submitted, final acceptance is required and the appropriate sureties are released.

ACTIONS FOLLOWING APPROVAL

Record the Notice of Completion and release the Performance, Labor and Materials, and Maintenance Sureties as appropriate.

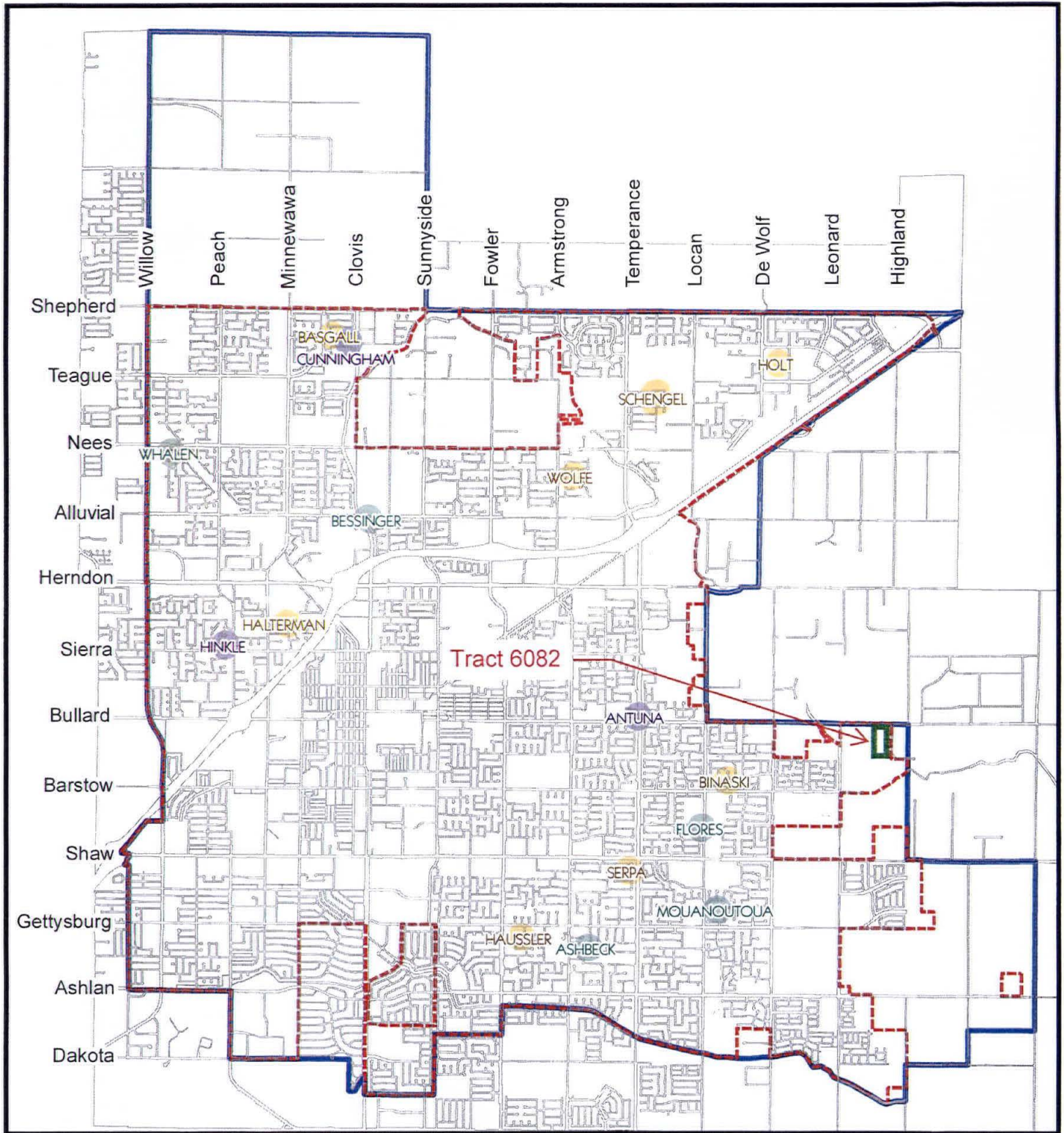
Prepared by: Gene G. Abella, DRU Assistant Engineer

Submitted by: 
Michael Harrison
City Engineer

Recommended by: 
Dwight Kroll, AICP
Director of Planning
And Development
Services 

VICINITY MAP

Tract 6082, Bonadelle Homes



ATTACHMENT A



October 2, 2018

 CITY LIMITS SPHERE OF INFLUENCE

Prepared By: Gene Abella



AGENDA ITEM NO: 7

AA

CITY *of* CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: October 8, 2018

SUBJECT: Request for the continuance of CUP2005-24A2, A request to approve a conditional use permit amending the master site plan for Portal Sierra II within the Research and Technology Park, located on the west side of Temperance Avenue, north of Alluvial Avenue, Greyhawk, LLC., owner and applicant; Centerline Design LLC., representative. Continued from the meeting of September 10, 2018.

This conditional use permit was continued from the September 10, 2018 Council public hearing to October 8, 2018 to allow the applicant opportunity to address the City Council's concerns with the site layout. Staff is requesting that the City Council continue this item to the October 15, 2018 City Council date in order to allow the applicant additional time to provide modified site plan exhibits that reflect the Council's concerns.



AGENDA ITEM NO: 8

City Manager: LS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Finance Department

DATE: October 8, 2018

SUBJECT: Consider Actions related to Annexation of Territory (Annexation #53-T6193-South West Corner of Ashlan and Highland, T6202-Southside of Alluvial between Fowler & Armstrong) to the City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services)

1. Consider Approval - Res. 18-____, A Resolution annexing territory (Annexation #53) (T6193-South West Corner of Ashlan and Highland, T6202-Southside of Alluvial between Fowler & Armstrong) to the City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services) and calling a special landowner election to annex territory (Annexation #53) to City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services)
2. Consider Approval - Res. 18-____, A Resolution of the City of Clovis declaring the results of a special landowner election and directing recording of the Notice of Special Tax Lien for City of Clovis Community Facilities District No. 2004-1 (Police and Fire Services).

ATTACHMENTS: (A) Resolution of Annexation
(B) Resolution Declaring Results
(C) Exhibit A – Canvass and Statement of Result Election
(D) Map

CONFLICT OF INTEREST

None

RECOMMENDATION

- That the Council hold a public hearing and approve actions related to the Annexation of Territory (Annexation #53) to Community Facilities District No. 2004-1.

- Consider Approval – Res. 18-____, A Resolution of annexation of territory (Annexation #53) to the Community Facilities District (City of Clovis Community Facilities District No. 2004-1) and to authorize the levy of Special Taxes therein and submitting Levy of Special Taxes to Qualified Electors.
- Call for Special Election and have Clerk announce the vote.
- Consider Approval – Res. 18-____, A Resolution of the City Council of the City of Clovis Declaring the Results of the Special Annexation Election; Determining Validity of Prior Proceedings and Directing Recording of the Notice of Special Tax Lien (City of Clovis Community Facilities District No. 2004-1) (Police and Fire Services).

EXECUTIVE SUMMARY

Since the condition to establish a CFD was imposed on the developments being processed by the City, developments proceeding after March 8, 2004, must petition to be annexed to the existing CFD. Several property owners have submitted petitions to annex territory to the Community Facilities District 2004-1 and to include their property within the District as provided by the conditions of approval of the development entitlements.

To initiate the process for annexation of territory to a CFD, the Council approved a Resolution of Intention-Annexation #53 (ROI) to annex territory to the CFD on September 4, 2018. The ROI set a public hearing for October 8, 2018. The action today finalizes the annexation to the CFD.

BACKGROUND

Since the condition to establish a CFD was imposed on the developments being processed by the City, developments proceeding after March 8, 2004 must petition to be annexed to the existing CFD. Several property owners have submitted petitions to annex territory to the Community Facilities District 2004-1 and to include their property within the District as provided by the conditions of approval of the development entitlements.

To initiate the process for annexation of territory to a CFD, the Council approved a Resolution of Intention-Annexation #53 (ROI) to annex territory to the CFD. The ROI set a public hearing for October 8, 2018. The Rate and Method of Apportionment (RMA) referred to in the ROI is the same as adopted by the Council with the Resolution of Formation adopted March 8, 2004. RMA provides, among other things, definitions, identifies what properties will be taxed, and the maximum special tax.

The conditions as provided in the Rate and Method of Apportionment will apply to territory annexed to the Community Facilities Districts to provide funding for public safety operations in new growth areas. The major conditions include:

1. The maximum annual tax will be \$248.52 for single family residential and \$214.58 for multi-family residential.
2. The maximum tax will be increased by the Escalator Factor, which is the greater of the change in CPI or percentage change in population.
3. There will be a review not later than five years of inception of the CFD.
4. The annual tax will not apply to commercially zoned property.
5. The tax will apply only to that property for which a building permit is issued after January 1, 2004.
6. The costs of salary and benefit increases funded by the CFD will be limited to the Escalator Factor.

The purpose of the hearing is to take public comment on the annexation of territory to the CFD and to accept protests from any interested person within the proposed boundaries. If no property owner protests are received, the Council may take the initial actions to annex the territory to the CFD by approving a resolution on the annexation to the CFD and calling a special property owner election. Once the election is called, the City Clerk tabulates the ballots. If the property owners of two-thirds (2/3) of the property within the proposed boundaries vote in favor of the CFD, then the Council can take action to direct the recording of Notice of Special Tax Lien. A unanimous vote is required to have the election the same night as approval of the resolution of annexation. The recording of the Tax Lien is contingent upon the property being annexed to the City. The property included within the CFD is being processed for annexation to the City and the Local Agency Formation Commission has approved the annexations.

After the annexation is complete and the Notice of Tax Lien has been recorded, any final maps within the CFD may be recorded and construction permits for homes can be issued. One of the conditions of the CFD is that the tax will only be collected on those properties where a building permit for a residence has been issued.

FISCAL IMPACT


If approved, residential units built within the boundaries of the CFD will be assessed annually according to the conditions of the CFD formation and those assessments will be utilized to fund police and fire services.

REASON FOR RECOMMENDATION

All requirements for the annexation of territory to the CFD have been completed and the Council may take action to annex territory to the CFD.

ACTIONS FOLLOWING APPROVAL

After approval of the resolution directing the recordation of the Notice of Tax Lien, the lien will be recorded.

Submitted by: Jay Schengel, Finance Director 

RESOLUTION NO. 18-__

**A RESOLUTION OF ANNEXATION OF TERRITORY TO COMMUNITY FACILITIES
DISTRICT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN AND
SUBMITTING LEVY OF SPECIAL TAXES TO QUALIFIED ELECTORS**

**CITY OF CLOVIS
Community Services District No. 2004-1
(Police and Fire Services)
Annexation No. 53**

RESOLVED by the City Council (the "Council") of the City of Clovis (the "City"), County of Fresno, State of California, that:

WHEREAS, this Council, on September 4, 2018, adopted A Resolution of Intention to Annex Territory to the Community Services District and to Authorize the Levy of Special Taxes Therein (the "Resolution of Intention") stating its intention to annex the territory to the City's Community Services District 2004-1 (the "District"), pursuant to Mello Roos Community Facilities Act of 1982, Sections 53311 and following of the California Government Code (the "Act"); and

WHEREAS, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the territory to be annexed to the District and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the District to pay for the services for the District, is on file with the Clerk of the Council and the provisions thereof are fully incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on the date hereof, this Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed annexation of territory to the District; and

WHEREAS, at such hearing all interested persons desiring to be heard on all matters pertaining to the annexation of territory to the District and the levy of said special taxes within the area proposed to be annexed were heard and a full and fair hearing was held; and

WHEREAS, prior to the time fixed for said hearing, written protests had not been filed against the proposed annexation of territory to the District by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the existing District, or (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed to the District, or (iii) owners of one-half or more of the area of land in the territory proposed to be annexed to the District; and

WHEREAS, Annexation Map No. 53 to the District, has been filed with the City Clerk, which map shows the territory to be annexed in these proceedings, and a copy thereof is on file with the City Clerk.

Attachment A

NOW, THEREFORE, IT IS HEREBY ORDERED,

1. All prior proceedings taken by this Council with respect to the District and the proposed annexation of territory thereto have been duly considered and are hereby determined to be valid and in conformity with the Act, and the District has been validly established pursuant to the Act.
2. The description and map of the boundaries of the territory to be annexed to District, as described in said Annexation Map No. 53 to the District on file with the Clerk are hereby finally approved, are incorporated herein by reference, and shall be included within the boundaries of the District, and said territory is hereby ordered annexed to the District, subject to voter approval of the levy of the special taxes therein as hereinafter provided.
3. The provisions of the Resolution of Intention and Resolution No. 18- adopted by this Council for the District on September 4, 2018, each as heretofore adopted by this Council are by this reference incorporated herein, as if fully set forth herein.
4. Pursuant to the provisions of the Act, the proposition of the levy of the special tax within the territory to be annexed to the District shall be submitted to the voters of the area to be annexed to the District at an election called therefore as hereinafter provided.
5. This Council hereby finds that fewer than 12 persons have been registered to vote within the territory proposed to be annexed to the District for each of the 90 days preceding the close of the hearing heretofore conducted and concluded by this Council for the purposes of these annexation proceedings. Accordingly, and pursuant to the Act, this Council finds that for purposes of these proceedings the qualified electors are the landowners within the territory proposed to be annexed to the District and that the vote shall be by said landowners, each having one vote for each acre or portion thereof such landowner owns in the territory proposed to be annexed to the District.
6. Pursuant the Act, the election shall be conducted by mail ballot under Section 4000 of the California Elections Code. This Council hereby determines that paragraphs (a), (b), (c)(1), and (c)(3) of said Section 4000 are applicable to this election.
7. The Council hereby calls a special election to consider the measure described in the ballot referred to below, which election shall be held on October 8, 2018, in the regular meeting place of this Council, City Council Chambers, City Hall, 1033 5th Street, Clovis, California. This Council hereby further finds that the provision of the Act requiring a minimum of 90 days to elapse before said election is for the protection of voters and that the voters have waived such requirement and the date for the election herein specified is established accordingly.
8. The City Clerk is hereby appointed as the election official to conduct the election and shall cause to be provided to each landowner in the territory to be annexed to the District. The City Clerk shall accept the ballots of the qualified electors received prior to 5:00 o'clock p.m. on October 8, 2018, whether received by mail or by personal delivery.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018 by the following vote, to wit.

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: October 8, 2018

Mayor

City Clerk

RESOLUTION NO. 18-__

**A RESOLUTION DECLARING RESULTS OF SPECIAL ANNEXATION ELECTION,
DETERMINING VALIDITY OF PRIOR PROCEEDINGS, AND DIRECTING RECORDING OF
AMENDED NOTICE OF SPECIAL TAX LIEN**

**CITY OF CLOVIS
Community Facilities District No. 2004-1
(Police and Fire Services)
Annexation No. 53**

RESOLVED by the City Council (the "Council") of the City of Clovis (the "City"), County of Fresno, State of California, that:

WHEREAS, in proceedings heretofore conducted by the Council pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), this Council has heretofore adopted a resolution calling a special election of the qualified landowner electors in the territory of land proposed to be annexed to Community Facilities District No. 2004-1 (Police and Fire Services) (the "CFD"); and

WHEREAS, pursuant to the terms of the resolution which is hereby incorporated herein by this reference, the special election has been held and the City Clerk has filed a Canvass of Votes Cast in Special Election, a copy of which is attached hereto as Exhibit A; and

WHEREAS, this Council has reviewed the Canvass and hereby approves it.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The issue presented at the special election was the levy of a special tax within the territory annexed to the CFD, to be levied in accordance with the formula heretofore approved by this Council as described in Resolution No. 18-, a Resolution of Annexation of Territory to Community Facilities District, authorizing the Levy of a Special Tax and Submitting Levy of Tax to Qualified Electors, adopted October 8, 2018.
2. Pursuant to the Canvass on file with the City Clerk, the issue presented at the special election was approved by the landowners of the territory annexed to the CFD by more than two-thirds (2/3) of the landowners voting at the special election.
3. Pursuant to the voter approval, said annexed territory to the CFD is hereby declared to be fully annexed to and part of the CFD and this Council may levy special taxes therein as heretofore provided in these proceedings.

4. It is hereby found that all prior proceedings and actions taken by this Council pursuant to the CFD and the territory annexed thereto were valid and in conformity with the Act.

Within 15 days of the date hereof, the City Clerk shall execute and cause to be recorded in the office of the County Recorder of the County of Fresno, an amendment to the Notice of Special Tax Lien as required by Section 3117.5 of the California Streets and Highways Code.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018 by the following vote, to wit.

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: October 8, 2018

Mayor

City Clerk

EXHIBIT A

**CITY OF CLOVIS
Community Facilities District No. 2004-1
(Police and Fire Services)
Annexation No. 53**

CANVASS AND STATEMENT OF RESULT OF ELECTION

I hereby certify that on this date, I canvassed the returns of the election held on this date, in the territory annexed to Community Facilities District No. 2004-1 (Police and Fire Services) of the City of Clovis which election is designated as the Special Tax Annexation Election, and the total number of ballots cast in the territory to be annexed and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

Qualified Landowner Votes	Votes Cast	YES	NO
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**City of Clovis
Community Facilities District No. 2004-1
(Police and Fire Services), Annexation No. 53
Special Tax Annexation Election,
October 8, 2018.**

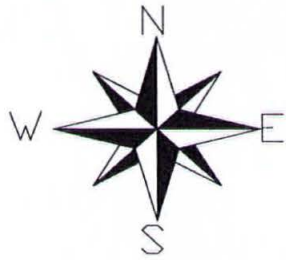
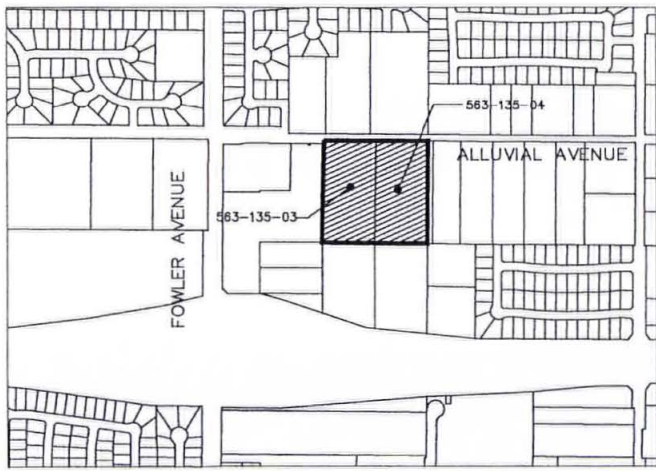
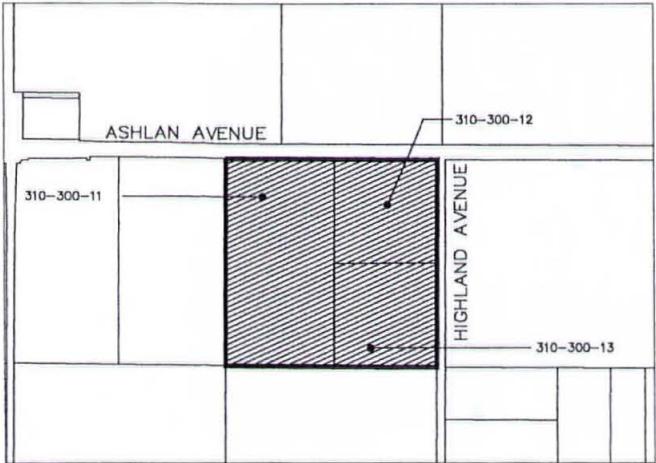
BALLOT MEASURE: Shall the City of Clovis, by and for its Community Facilities District No. 2004-1 (Police and Fire Services) (the "CFD"), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described in Resolution No. 18-___ of the City of Clovis, adopted by its Council on October 8, 2018?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this ___ day of _____ 2018.

CITY OF CLOVIS

By: _____
City Clerk

Attachment C



- LEGEND
- PARCEL
- ANNEXATION BOUNDARY
- APN 310-300-11
- APN 310-300-12
- APN 310-300-13
- APN 563-135-03
- APN 563-135-04

FILED IN THE OFFICE OF THE CITY CLERK THIS _____ DAY OF _____, 2018. I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF ANNEXATION NO. 53 TO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (POLICE AND FIRE SERVICES), CITY OF CLOVIS, COUNTY OF FRESNO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF CLOVIS AT A REGULAR MEETING THEREOF, HELD ON THE 8TH DAY OF _____, 2018, BY ITS RESOLUTION NO. 18-_____.

JOHN HOLT
CITY CLERK
CITY OF CLOVIS

FILED THIS _____ DAY OF _____, 2018, AT THE HOUR OF _____ O'CLOCK _____ M. IN THE BOOK _____ PAGE _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AND AS INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA.

PAUL A. DICTOS, C.P.A. BY: DEPUTY COUNTY RECORDER
COUNTY ASSESSOR-RECORDER
COUNTY OF FRESNO
STATE OF CALIFORNIA

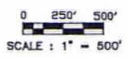
REFERENCE IS MADE TO THAT BOUNDARY MAP OF COMMUNITY FACILITIES DISTRICT NO 2004-1 (POLICE AND FIRE SERVICES) OF THE CITY OF CLOVIS RECORDED WITH THE FRESNO COUNTY RECORDER'S OFFICE ON FEBRUARY 19, 2004, IN BOOK 40 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, PAGE 57.

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE FRESNO COUNTY ASSESSORS MAPS FOR THOSE PARCELS LISTED.

THE FRESNO COUNTY ASSESSORS MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OF PARCELS.

ANNEXATION MAP NO. 53

COMMUNITY FACILITIES DISTRICT NO. 2004-1
(POLICE AND FIRE SERVICES)



CITY OF CLOVIS
COUNTY OF FRESNO
STATE OF CALIFORNIA



AGENDA ITEM NO: 9

City Manager: LS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: October 8, 2018

SUBJECT: Consider Approval – Various actions required to conduct the March 2019 General Municipal Election:

- a. Consider Approval - Res. 18-____, Calling the March 5, 2019 General Municipal Election for the purpose of electing three members of the City Council for the term of three years eight months through November 2022; and
- b. Consider Approval - Res. 18-____, Establishing Conditions for the filing of Candidates' Statements; and
- c. Consider Approval - Res. 18-____, Authorizing the Fresno County Elections Division to conduct the election.

ATTACHMENTS: (A) Resolution calling the March 2019 General Municipal Election.
(B) Resolution establishing the conditions for filing of candidates' statements.
(C) Resolution authorizing the Fresno County Elections Division to conduct the election.

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve various actions required to conduct the March 2019 General Municipal Election for the purpose of electing three members of the City Council for the term of three years eight months through November 2022.

EXECUTIVE SUMMARY

On March 5, 2019, an election will be held in the City of Clovis for three City Council seats. In accordance with the California Elections Code, several things must occur to successfully conduct the election. Approval of staff's recommendations and the attached resolutions will call the election; establish conditions for filing of candidates' statements; and authorize the Fresno County Elections Division to conduct the election. City Council approved an ordinance in 2017 changing the election dates from March of odd years to November of even years beginning in 2022 to comply with SB 415.

SB 415, effective January 1, 2016, prohibits a city from holding an election on any date other than a statewide election date (i.e. March). In doing so in the past has resulted in turnout that was at least 25 percent below the average turnout in that jurisdiction in the last four statewide general elections. The City currently conducts its elections in March of odd years which is referred to as an "off-cycle election". Turnout for the City's off-cycle election is significantly below the threshold in SB 415 requiring the City to change to November even year elections beginning with the November 2022 election. The March 2019 and 2021 elections will continue to be held as standalone elections but the term of both elections will need to be adjusted to accommodate the November 2022 election. The term of office for the March 2019 and 2021 elections will be approximately three years eight months versus the standard four year term. The standard four year term will commence with the November 2022 Election.

BACKGROUND

1. Calling the Election

In accordance with the California Elections Code, the 2019 General Municipal Election must be called prior to the opening of the nomination period. The nomination period for the March 5, 2019 Election opens on November 12, 2018 and closes on December 7, 2018. (It should be noted that City offices will be closed on November 12, 2018, for Veterans Day.) However, when an incumbent does not seek re-election, the nomination period is automatically extended five days – December 12, 2018. Therefore, the nomination period would be extended five days if Councilmembers Flores, Bessinger, or Mayor Whalen do not file by December 7, 2018. The Notice of Election listing the time and date of the election and the offices to be filled must be published no sooner than October 29, 2018 and no later than November 12, 2018.

2. Establishing Conditions for Filing of Candidates' Statements

The California Elections Code provides that the Council must establish the conditions for filing of Candidates' Statements prior to the filing for the March 2019 Election.

In previous elections the Council has established the conditions for filing of Candidates' Statements. The Council has set a limit of 200 words for the statements, provided that the candidate pays the cost of the printing. These conditions help limit the size of the sample ballot pamphlet and reduce the cost to the City for printing and mailing voter information.

3. Authorizing the Fresno County Elections Division to conduct the election

On September 14, 2007, the City issued a Request for Proposals (RFP) soliciting proposals for services in support of a General Municipal Election held for the City Council in March of each odd year alternating between two and three Council candidates. Four proposals were received by the October 26, 2007, deadline. A review of the four proposals considering references, experience, cost, and services proposed, led staff to recommend award to the Fresno County Elections Division. On December 10, 2007, City Council approved the award of election services to the Fresno County Elections Division beginning with the March 2009 Election. The 2011, 2013, and the 2015 elections were cancelled as only the incumbents had been nominated. The Fresno County Elections Division conducted the March 2009 and March 2017 election without incident. The Fresno County Elections Division is the Registrar of Voters in Fresno County and is well versed and capable of managing the election and staff is recommending Council authorize the Fresno County Elections Division to conduct the election.

FISCAL IMPACT

The City incurs a cost every other year to conduct an election. The estimated cost to conduct the election is budgeted and accounted for in the 2018-19 budget. Staff is estimating the total cost for the election will not exceed \$195,000. Beginning with the November 2022 election, staff estimates the total cost of the election will be half the cost because of cost sharing with other agencies.

REASON FOR RECOMMENDATION

To conduct the 2019 General Municipal Election, the City Clerk's Office must act in accordance with provisions of the elections law relating to General Law cities in the State of California.

ACTIONS FOLLOWING APPROVAL

After Council approval of the resolutions and authorizing the City Clerk to conduct the election with the support of the Fresno County Elections Division, the necessary steps will be implemented, in accordance with State law, for the 2019 General Municipal Election process.

Submitted by: John Holt, Assistant City Manager / City Clerk 

RESOLUTION 18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD IN SAID CITY ON TUESDAY, THE FIFTH DAY OF MARCH 2019 FOR THE ELECTION OF CERTAIN OFFICERS OF SAID CITY AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO THE GENERAL LAW CITIES

WHEREAS, under the provisions of the laws relating to General Law Cities in the State of California, a regular general municipal election shall be held on the first Tuesday, following the first Monday in the month of March of each odd numbered year.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the law of the State of California relating to General Law Cities within said State, there shall be, and there is hereby called and ordered, held in the City of Clovis, County of Fresno, State of California, on Tuesday, the 5th day of March 2019, a regular general municipal election of the qualified electors of said City. Said Election is for the purpose of electing three (3) members of the City Council for the term of three years eight months through November 2022 to comply with SB 415.

SECTION 2. That the ballots to be used at said election shall be in form and content as required by law.

SECTION 3. That the City Clerk of said City, in working with the Fresno County Elections Division to conduct the election, is hereby authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct said election.

SECTION 4. That the polls for said election shall be open at 7:00 o'clock A.M. of the day of said election and shall remain open continuously from said time until 8:00 o'clock P.M. of the same day when said polls shall be closed.

SECTION 5. That notice of said election is hereby given and the City Clerk is hereby authorized, instructed, and directed to give such further or additional notice of said election in time, form and manner as required by law.

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018

Mayor

City Clerk

Attachment A

RESOLUTION 18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2019

WHEREAS, §13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. That pursuant to §13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Clovis on March 5, 2019, may prepare a candidate's statement on an appropriate form provided by the City Clerk or designated representative. The statement may include the name, age and occupation of the candidate and a brief description of no more than [200] words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten and electronic form in the office of the City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 4:30 p.m. of the next working day after the close of the nomination period.

SECTION 2. PAYMENT.

- a. The candidate shall be required to pay for the cost of printing the candidate's statement in English in the voter's pamphlet.
- b. The candidate shall be required to pay for the cost of translating the candidate's statement into any required foreign language pursuant to State and/or Federal law.
- c. The candidate shall be required to pay for the cost of printing the candidate's statement in a foreign language in the voter's pamphlet.

The Fresno County Elections Division shall estimate the total cost of printing, handling, translating, and mailing the candidates' statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended), and require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the clerk

is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

* * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018

Mayor

City Clerk

RESOLUTION 18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2019

WHEREAS, a General Municipal Election is to be held in the City of Clovis, California, on March 5, 2019; and

WHEREAS, On December 10, 2007, Clovis City Council selected the Fresno County Elections Division to conduct subsequent elections beginning with the March 2009 Election; and

WHEREAS, the Fresno County Elections Division successfully conducted the 2009 and 2017 elections. The 2011, 2013, and 2015 elections were cancelled due to only one candidate for each office being nominated.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLOVIS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Waive the bidding requirement, and authorize the use of the Fresno County Elections Division to conduct the March 5, 2019 election.

SECTION 2. That pursuant to the provisions of § 10002 of the Elections Code of the State of California, this City Council requests the Board of Supervisors of Fresno County to permit the County Elections Division to conduct the March 5, 2019, City of Clovis General Municipal Election for the purpose of electing three (3) members of the City Council for a term of three years and eight months through November 2022 to comply with SB 415.

SECTION 3. In working with the Clovis City Clerk, the Fresno County Elections Division is authorized to perform any and all activities necessary pursuant to the conduct of the March 5, 2019, City of Clovis General Municipal Election.

SECTION 4. That pursuant to the provisions of § 10002 of the Elections Code of the State of California, this City Council authorizes reimbursement to the County in full for the services performed and material acquired for the March 5, 2019, City of Clovis General Municipal Election upon presentation of a bill to the city after the election.

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on October 8, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018

Mayor

City Clerk



AGENDA ITEM NO: 10
City Manager: LS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: October 8, 2018

SUBJECT: Consider Introduction - Ord 18-____, An Ordinance of the City Council of the City of Clovis Making Technical and Conforming Amendments to Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code Relating to the Personnel System.

ATTACHMENTS: Attachment A: Revised Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code

CONFLICT OF INTEREST

None

RECOMMENDATION

For City Council to approve an ordinance making technical and conforming amendments to Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code relating to the Personnel System.

EXECUTIVE SUMMARY

Staff recently completed an update to the Personnel Rules for the first time since 2008. In coordination with the changes to the Rules, the ordinance was reviewed and revised for consistency, compliance with state laws, and to eliminate outdated information.

BACKGROUND

In cooperation with the City Attorney's office, staff recently completed updating and revising the Personnel Rules for the first time since 2008. In coordination with changing the Personnel Rules, the ordinance was updated to be consistent and current. The main proposed changes to the municipal code relate to the following:

- Better clarification of the role of the Personnel Officer and the Personnel Commission.
- Revised some of the specifics related to Personnel System policies and procedures by referring to the policies and procedures within the Personnel Rules.
- Clearly defines positions within the competitive service and those specifically excluded.
- Eliminated unnecessary verbiage.

FISCAL IMPACT

None.

REASON FOR RECOMMENDATION

Revisions to Article 2 Title 2 of the Clovis Municipal Code are necessary to eliminate outdated regulations, simplify the ordinance to comply with recent changes to the Personnel Rules, and bring the ordinances in compliance with state laws.

ACTIONS FOLLOWING APPROVAL

Amendments to the ordinance will return for a second reading on October 15, 2018 and if approved, go into effect 30 days thereafter.

Prepared by: Shonna Halterman, General Services Director

Submitted by: Shonna Halterman, General Services Director



ORDINANCE 18-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS MAKING TECHNICAL AND CONFORMING AMENDMENTS TO ARTICLE 2 OF CHAPTER 2.2 OF TITLE 2 OF THE CLOVIS MUNICIPAL CODE RELATING TO PERSONNEL SYSTEM

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

SECTION 1. Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code is hereby amended in its entirety to read as follows:

Article 2. Personnel System

- 2.2.201 Adopted.
- 2.2.202 Personnel Officer.
- 2.2.203 Personnel Commission: Created: Membership: Terms of office:
Vacancies: Removal from office.
- 2.2.204 Personnel Commission: Meetings: Compensation.
- 2.2.205 Personnel Commission: Powers and duties.
- 2.2.206 Administration of examinations.
- 2.2.207 Competitive service; exempt employees.
- 2.2.208 Personnel rules.
- 2.2.209 Appointments subject to personnel rules and article provisions.
- 2.2.210 Political activities prohibited.
- 2.2.211 Political activities permitted.
- 2.2.212 Soliciting contributions.
- 2.2.213 Discrimination.
- 2.2.214 Contracts for special services.
- 2.2.215 Appropriation of funds.
- 2.2.216 Violations of provisions.

2.2.201 Adopted.

In order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best and most competent persons available, to assure that appointments and promotions will be based on merit and fitness as determined by the competitive tests, and to provide a reasonable degree of security for qualified employees, a personnel system is adopted by provisions of this article.

2.2.202 Personnel Officer.

The City Manager, or his/her designee, shall be the City's Personnel Officer. The duties of Personnel Officer may be combined with those of any other office or position. The Personnel Officer shall:

- (a) Appoint an employee, which could include the Personnel Officer, to attend all meetings of the Personnel Commission and serve as its secretary;
- (b) Administer all the provisions of this article and of the personnel rules not specifically reserved to the Council or the Personnel Commission;
- (c) Prepare and recommend to the Council revisions and amendments to the personnel rules. The City Attorney shall approve the legality of such revisions and amendments prior to their submission to the Council;
- (d) Under the direction of the Council, prepare a position classification plan, including class specifications and revisions of the plan. The plan, and any revision thereof, shall become effective upon approval by the Council; and
- (e) Under the direction of the Council, prepare a plan of compensation, and revisions thereof, covering all classifications in the competitive service. The plan, and any revision thereof, shall become effective upon approval by the Council.

2.2.203 Personnel Commission: Created: Membership: Terms of office: Vacancies: Removal from office.

- (a) Created. The Personnel Commission is hereby established and shall consist of has seven (7) members who shall be residents of the City.
- (b) Terms of office. Personnel Commissioners shall serve for four (4) years each with the terms and appointments being staggered such that three positions and four positions, respectively, are appointed every two years..
- (c) Chairman. The Personnel Commission shall annually, in the month of May or as soon as practical thereafter, select a chairman from among its members who shall act as presiding officer.
- (d) Appointment. All members of the Personnel Commission shall be appointed by a majority vote of the Council.
- (e) Vacancies. Vacancies on the Personnel Commission shall be filled by appointment for the unexpired term.
- (f) Removal from office. A member of the Personnel Commission may be removed from office at any time by a majority vote of the entire membership of the Council.

2.2.204 Personnel Commission: Meetings: Compensation.

(a) Order of business. Meetings of the Commission, or any committee of the Commission, shall be conducted in accordance with such rules and procedures as may be adopted by the Personnel Commission.

(b) Time. The Personnel Commission shall meet regularly if so required by the rules, or when meetings are called by the chairman; by any two (2) members of the Personnel Commission; or by the Personnel Officer or his/her designee.

(c) Quorum. Four (4) members of the Personnel Commission shall constitute a quorum for the transaction of business except as follows:

(1) Five (5) members of the Commission shall hear an appeal of a disciplinary termination of employment. Two (2) members shall be designated by the Personnel Officer, two (2) members shall be designated by the appellant, and those four (4) designated members of the Commission shall designate the fifth member of the Commission for the termination appeal.

(2) Three (3) members of the Commission shall hear an appeal of any other appealable disciplinary action and shall hear grievances that come before the Commission. One member shall be designated by the Personnel Officer, one shall be designated by the appellant or grievant, and those two (2) designated members of the Commission shall designate the third member of the Commission for the appeal or hearing.

(3) A committee of three (3) members of the Commission shall conduct employment candidate interviews, unless otherwise determined to be unnecessary by the Personnel Officer..

(d) Compensation. Each member of the Personnel Commission shall receive as compensation for attendance at Personnel Commission meetings the sum of forty-five and no/100ths dollars (\$45.00) per meeting unless such individual is prohibited from receiving by other applicable laws.

2.2.205 Personnel Commission: Powers and duties.

The Personnel Commission shall have the following powers and duties:

(a) As provided for in this article and in the Personnel Rules and Regulations, to hear appeals required to be heard by the Commission;

(b) In any investigation or hearing conducted by the Personnel Commission, to examine witnesses under oath and compel their attendance or production of evidence by

subpoenas issued in the name of the City and attested by the City Clerk. It shall be the duty of the Chief of Police to cause all such subpoenas to be served, and the refusal of a person to attend or to testify in answer to such a subpoena shall subject such person to prosecution in the same manner set forth by law for failure to appear before the Council in response to a subpoena issued by the Council. Each member of the Personnel Commission shall have the power to administer oaths to witnesses;

(c) When requested by the Council, to hold hearings and make recommendations on any matter of personnel administration within the limits of the request of the Council; and

(d) To conduct oral interviews so designated by the Personnel Officer.

2.2.206 Administration of examinations.

All examinations shall be conducted in accordance with the processes defined in the City of Clovis Personnel Rules and Regulations.

2.2.207 Competitive service; exempt employees.

Competitive service shall be defined by the City of Clovis Personnel Rules and Regulations, and shall include all offices, positions, and employment in the service of the City, except as follows:

(a) The City Manager, the City Attorney, management personnel in the City Manager's office, department heads, and any position which is the functional equivalent of those listed in this subsection ("exempt employees"). Exempt employees may be hired, selected, promoted, demoted, receive increases or decreases in compensation, or be terminated without cause and for any reason or for no reason. The City Manager may act to complete individual employment and separation agreements with exempt employees. The City Council may, by resolution, list the positions by title or other description that are exempt from the competitive service;

(b) Temporary and hourly employees;

(c) Persons employed under contract to supply expert, professional, or technical services for a definite period of time;

(d) Volunteer personnel, including but not limited to, reserve police officers, who receive no regular compensation from the City;

(e) Elective positions;

(f) Positions on appointed boards, commissions and committees.

The provisions of this section are declarative of existing law and existing City practice.

2.2.208 Personnel rules.

Personnel rules, prepared by the Personnel Officer subject to the provisions of this article, shall be adopted by resolution of the Council and shall establish specific procedures and regulations governing the personnel system of the City of Clovis, including but not limited to, appointments, examinations, classifications of positions and classes, compensation, benefits, probation, discipline, promotions, demotions, separation of service and other provisions required by law, unless otherwise noted in this Article.

2.2.209 Appointments subject to personnel rules and article provisions.

The Council and any other officer in whom is vested the power to appoint, make transfers, promotions, demotions, reinstatements, layoffs, and suspend or dismiss employees shall retain such power subject to the provisions of this article and the personnel rules.

2.2.210 Political activities prohibited.

(a) All employees of the City. No person holding an office or employment in the City may:

(1) Become a candidate for any elective municipal office of the City unless, on or before submitting a candidate intention statement (Form 501) with the Fair Political Practices Commission, or the filing of nomination papers, whichever is earlier, such person takes a leave of absence from their position in the competitive service and remains on leave of absence until after the election at which such person is a candidate. Any such person shall be automatically placed on leave of absence on the date they submit a candidate intention statement (Form 501) with the Fair Political Practices Commission, or file nomination papers, whichever is earlier. Any person required to take leave of absence pursuant to this section shall be entitled to such leave of absence without pay, as a matter of right, and, further, such person may utilize any vacation with pay to which they might be entitled during any such period of absence; or

(2) While on duty during their regular working hours or while in any uniform denoting their status as an employee of the City:

(i) Take an active part in any political campaign; or

(ii) Seek signatures to any petition provided by law.

(b) Appointed officers, employees, and board members. No person, other than a Council member, holding an office or employment in the City under appointment by the Council, and no member of any board or commission who has been appointed to such board or commission by the Council, may seek election to the Council without first resigning his

appointive position. Any person so appointed who submits a candidate intention statement (Form 501) with the Fair Political Practices Commission or files nomination papers without first resigning their appointive position shall be automatically terminated in such appointive position on the date the candidate intention statement (Form 501) is submitted to the Fair Political Practices Commission, or the date nomination papers are filed, whichever is earlier.

2.2.211 Political activities permitted.

The provisions of this article shall not prevent any officer or employee from:

- (a) Becoming or continuing to be a member of a political club or organization;
- (b) Attendance at a political meeting;
- (c) Enjoying entire freedom from all interference in casting his vote;
- (d) Seeking or accepting election or appointment to public office while on leave of absence;
- (e) Seeking signatures to any initiative or referendum petition directly affecting his rate of pay, hours of work, retirement, civil service, or other working conditions; or
- (f) Distributing badges, pamphlets, dodgers, or handbills or other participation in any campaign in connection with such petition if the activity is not carried on during hours of work or when he is dressed in the uniform required in any department of the City.

2.2.212 Soliciting contributions.

No officer, agent, clerk, or employee of the City and no candidate for any City office shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, contribution, or political service, whether voluntary or involuntary, for any political purpose whatsoever from anyone on the employment lists or holding any position pursuant to the provisions of this article.

No officer or employee of the City shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution, whether voluntary or involuntary, for any purpose affecting his working conditions from any person other than an officer or employee in the City.

2.2.213 Discrimination.

No person seeking employment with the City, and no person in the employment of the City, shall be favored or discriminated against based upon a protected class or the

exercise of a protected belief nor will such person be discriminated or harassed as further described in City Policy or City Personnel Rules and Regulations.

2.2.214 Contracts for special services.

The Council may contract with any qualified person or agency for the performance of such technical services as may be desired in the establishment or operation of the personnel system. The contract may include the delegation to the person or agency so retained of all or part of the responsibilities and duties imposed in this article upon the Personnel Officer, but shall not include the delegation of powers and duties vested in the Council or Personnel Commission.

2.2.215 Appropriation of funds.

The Council shall appropriate such funds as are necessary to carry out the provisions of this article.

2.2.216 Violations of provisions.

(a) Misdemeanors. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor.

(b) Discharge from duty. The violation of any provision of Sections 2.2.210, 2.2.212, or 2.2.213 of this article shall be grounds for the discharge of any officer or employee.

SECTION 2. This Ordinance shall go into effect and be in full force from and after thirty (30) days after its final passage and adoption.

APPROVED: Date the Ordinance was introduced

_____ Mayor					_____ City Clerk				
*	*	*	*	*	*	*	*	*	*

The foregoing Ordinance was introduced and read at a regular meeting of the City Council held on October 8, 2018 and was adopted at a regular meeting of said Council held on October 15, 2018 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: October 15, 2018

City Clerk

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AGENDA ITEM NO: 11

City Manager: BS

CITY of CLOVIS

REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: October 8, 2018

SUBJECT: Consider Approval – Res. 18-____, Revisions to the City of Clovis Personnel Rules

ATTACHMENTS: Res. 18-____
Attachment A: Personnel Rules

CONFLICT OF INTEREST

None

RECOMMENDATION

For the City Council to approve Res. 18-____, revising the City of Clovis Personnel Rules.

EXECUTIVE SUMMARY

Changes to the Personnel Rules are necessary to bring the City into compliance with State and Federal regulations, improve some procedures and processes, eliminate antiquated processes that are now completed using electronic means, and to help streamline the hiring process. Staff has met with all eight (8) bargaining units regarding the changes to the Personnel Rules. Rules stated within existing Memorandum of Understanding take precedence over those in the Personnel Rules, unless prohibited by law.

BACKGROUND

The Personnel Rules define and dictate the procedures and processes related to candidates and personnel for the City of Clovis. Since the last revision to the Personnel Rules in 2008, new laws and best practices have been added or revised. Many of the changes were minor formatting changes or corrections to maintain compliance with recent laws. The following is a summary of the more substantial changes:

- Added protected classes to the anti-discrimination language in accordance with changes to California law.
- Clarifications regarding performance evaluation frequency.
- Defines methods and processes for the posting and application of new and promotional job opportunities. Identifies the reasons for rejection of an applicant and the appeal process.
- Allows for promotional examinations of current part-time or temporary employees who have been employed with the City for a minimum of six (6) months prior to opening the job opportunity to the general public.
- Allows current probationary or regular employees paid time off to take an examination for a position within the City.
- Allows for the disqualification of candidates who do not comply with examination requirements.
- Allows an existing part-time employee who has been with the City for at least a year, to be appointed to a full-time entry level position in the same class within the same department.
- Updates Veteran preference points in compliance with Federal requirements.
- Clarifies the selection process for a recruitment.
- Reaffirms the need for all employees to take an oath of office as required by the State Constitution.
- Automatically extends the probationary period for a probationary employee who is unable to complete their regular duties for 30 days or more due to medical, personal, or other leave, or who is on a light duty assignment. The probationary period is extended for the amount of time the employee is not able to perform their regular duties.
- Employees using family and medical leave are required to use their sick leave during their absence.

City staff worked closely with the City Attorney's office to ensure the changes to the Personnel Rules comply with current State and Federal laws. Staff met multiple times with all eight (8) bargaining units to discuss the changes and gain feedback. However, if the Memorandum of Understanding (MOU) for any bargaining unit has verbiage that conflicts with the Personnel Rules, the MOU takes precedence and will be adhered to for that bargaining unit, unless prohibited by law.

FISCAL IMPACT

No fiscal impact is expected with the Personnel Rule revisions.

REASON FOR RECOMMENDATION

The Personnel Rules have not been revised in over ten (10) years and were outdated. The changes bring the City into compliance with State and Federal regulations, better clarify some procedures, and help streamline the hiring process. Revision of the Personnel Rules requires Council approval per ordinance.

ACTIONS FOLLOWING APPROVAL

Revisions to the City of Clovis ordinances related to Personnel will be revised in conjunction with the Personnel Rule changes. The revised Personnel Rules will be distributed to City staff and posted on the City's website.

Prepared by: Shonna Halterman, General Services Director

Submitted by: Shonna Halterman, General Services Director 

RESOLUTION NO. 18_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
REVISING THE PERSONNEL RULES**

WHEREAS, the City of Clovis Personnel Rules set policy and procedures for candidates for hire and existing employees; and

WHEREAS, the Personnel Rules were last updated in 2008, and new laws and best practices require updating of the Personnel Rules; and

WHEREAS, revisions to the Personnel Rules will better clarify procedures, improve hiring practices, and update the document in compliance with State and Federal laws.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Clovis does hereby adopt the revised version of the Personnel Rules, specified in Exhibit A (attached) with an effective date of October 8, 2018.

The foregoing resolution was approved at the regularly scheduled meeting of the Clovis City Council on the 8th day of October, 2018, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: October 8, 2018

Mayor

City Clerk

CITY OF CLOVIS
PERSONNEL RULES AND REGULATIONS

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RULE I. DEFINITION OF TERMS

The following terms, whenever used in these rules, shall be defined as follows:

1. "Advancement": A salary increase within the limits of a pay range established for a class.
2. "Allocation": The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
3. "Appointing Authority": The City Manager, pursuant to the authority delegated by the City Council, or designee.
4. "At Will Status": The status of an employee who is appointed to a position which serves at the will of the appointing authority or the City Council. At will employees may be terminated at any time, with or without cause, or with or without advance notice. Such employees do not have appeal rights upon termination and are not subject to a probationary period.
5. "Class": All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the application of common standards of selection, transfer, promotion and salary.
6. "Class Specification": The official description of a class that includes the title, a definition, a statement of duties and responsibilities and the employment standards such as education, experience, knowledge and skills.
7. "Classification Plan": The arrangement of positions in classes, together with the title and specifications describing each class.
8. "Competitive Service": A grouping of positions that have an established set of duties and requirements as outlined in published classification specifications that are filled through competitive examination. Positions that are not considered to be part of competitive service are identified in the Clovis Municipal Code.
9. "Continuous Employment": A period of time which begins with the date of hire and ends with the effective date of termination/resignation without a break in service. A break in service shall include an extended absence from employment, except as otherwise prohibited or defined by law.
10. "Confidential Employee": Means an employee who, in the course of his or her duties, has access to confidential information relating to the City's formulation of financial, personnel, labor relations and administrative policies.
11. "Continuous Examination": An open-competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of

final scores, for a period of no more than one year.

12. "Day": Is defined and used as calendar day throughout this document unless otherwise noted.
13. "Demotion": The movement of an employee from one class to another class having a lower maximum rate of pay.
14. "Eligible": A person whose name is on an employment list and who has submitted a job application, been deemed qualified and successfully completed the examination process according to the terms of the examination announcement.
15. "Employee": A person employed by the City, excluding persons elected to office, volunteers or those appointed to serve on boards, commissions, or committees by the Mayor or Council.
16. "Employee Status": The condition of a person's present appointment such as probationary, regular, promotional probationary, transfer probationary, at will, or extra help. Employees may work on a full or part time-basis.
17. "Employment List": A list of names of persons who have taken a competitive examination for a class in the competitive service and have qualified.
18. "Entry Level Position": A full-time position that is the lowest non-management position in a class as identified in the attached management list of entry level positions.
19. "Exempt Employee": An employee who meets one or more of the duties test exemption from overtime under the Fair Labor Standards Act (FLSA) (e.g., executive, administrative, professional) and who is paid on a salary basis.
20. "Extra Help Employee": An employee who is hired usually for an indeterminate period of time that maybe limited in duration and is classified as an intern, provisional or temporary worker. Extra help employees possess at will employment status, have no right to appeal upon termination, and are only paid for hours worked.
21. "Extra Help Position": Positions not specifically allocated as a position by City Council in the budget, but is budgeted and paid for through the respective Department's Extra Help Budget. Extra Help Positions are temporary in nature and are at-will positions.
22. "Full Time Position": A position that normally works forty hours per work week, certain exceptions may apply in the police and fire departments, or as otherwise allowed by law.
23. "Interim Appointment": An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

24. "Management Employee": An employee having responsibility for formulating, administering or managing the implementation of City policies and programs.
25. "Non-Exempt Employee": An employee who is entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis.
26. Open-competitive Examination: An examination for a particular class which is open to all persons meeting the qualifications for the class.
27. "Part-Time Position": A position that normally is scheduled for than 40 hours per week.
28. "Personnel Commission": The Personnel Commission established in the ordinance creating a personnel system for the City.
29. "Personnel Ordinance": Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code which creates a personnel system for the City.
30. "Personnel Officer": The Personnel Officer is the City Manager or designee.
31. "Position": As authorized by the City Council, usually in conjunction with the adoption of a budget or budget amendment, a combination of duties and responsibilities requiring the full, part-time or temporary services of an employee.
32. "Probationary Period": The final phase of the selection process that is used by the Appointing Authority for the evaluation and effective adjustment of an employee. The usual duration of a probationary period is twelve months. This period must be completed satisfactorily before an employee is granted regular status in the assigned classification. Probationary employees can be released before completing the probationary period and the Appointing Authority may grant an extension of the probationary period. Personnel Actions subject to a probationary period of one year are appointment to a regular position, competitive promotion, reemployment, transfer to a different classification, or other change of classification where the employee has not previously completed a probationary period.
33. "Probationary Status": The status of an employee who is appointed to a regular position and who has not completed the required probationary period. An employee on probationary status serves at the pleasure of the Appointing Authority and has no appeal rights on termination.
34. "Promotion": The movement of an employee from one class to another class having a higher maximum rate of pay.
35. Promotional Examination: An examination for a particular class open only to current employees.
36. "Promotional Probationary Status": The status of an employee who has been appointed to a

regular position who has completed an initial probationary period but is now in the process of completing a new probationary period due to a promotion within City service.

37. "Regular Position": A position authorized by the City Council in the budget or by resolution as a regular position and is paid from the regular salaries line item of the budget.
38. "Regular Status": The status of an employee appointed to a regular position who has completed the required probationary period.
39. "Reinstatement": The re-employment without examination of a former permanent or probationary employee.
40. "Resignation": The voluntary action of an employee who separates from City employment. Typically, resignations are submitted in writing. Employees who do not provide at least two weeks' notice may be ineligible for reemployment. After a resignation has been accepted it may not be withdrawn without the approval of the City Manager.
41. "Supervisory Employee": An employee who participates in recommendations regarding hiring, transfers, suspensions, layoffs, recall, promotions, discharges, assignments, rewards, or disciplining other employees, or responsibility to direct them, or to adjust their grievances, or to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
42. "Suspension": The temporary separation from the service of an employee without pay, for disciplinary purposes.
43. "Temporary Assignment": The assignment of a regular employee to another position for a specified period of time which is short in duration and where the employee is expected to return to their most recently assigned role at the end of the temporary assignment.
44. "Temporary Employee": An employee appointed to a position which is not a regular position and may be either full-time or part-time.
45. "Temporary Status": The status of an employee who is hired to work temporarily in a regular, extra-help or temporary position. An employee with temporary status may be released without cause or advance notice and has no appeal rights upon termination. Temporary employees are only paid for hours worked.
46. "Termination": Any involuntary separation, other than layoff, of an employee.
47. "Transfer": A change of an employee from one position to another position in the same class or in a comparable class.
48. "Transfer Probationary Status": The status of an employee who has been appointed to a

regular position, completed an initial probationary period and is in the process of completing another probationary period due to a transfer to another classification with the same maximum salary.

49. "Vacant Position": Any position that has been authorized by the City Council and is not currently filled by an employee.
50. "Volunteer": An individual who performs work for civic, charitable, or humanitarian reasons without promise, expectation, or receipt of any compensation for work performed.

RULE II. GENERAL PROVISIONS

1. Fair Employment: The City will not discriminate in its employment practices in regard to race, color, ancestry, national origin, religious creed, sex, pregnancy or pregnancy related conditions, including but not limited to childbirth and breastfeeding, sexual orientation, gender, gender identity, gender expression, age, physical or mental disability, genetic information, military or veteran status, marital status or political opinion or affiliation.

RULE III. CLASSIFICATION

1. Preparation of Plan: The Personnel Officer, designee, or a person or agency employed for that purpose, shall ascertain and record the duties, responsibilities and requirements of all positions in the competitive service and, after consulting with appointing authorities and Department Heads affected, shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications, including the title. The classification plan shall be so developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class. The classification plan shall be adopted and may be amended from time to time by resolution of the City Council.
2. Allocation of Positions: Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan.
3. New Classifications/Positions: Notice will be provided to the applicable bargaining unit when a new classification is created. The notice will advise the unit of the salary range assignment and the opportunity to meet and confer regarding the salary range assignment before adoption of the new classification. When a new classification/position is created, before the same may be filled, the Appointing Authority shall notify the Personnel Officer, and, except as otherwise provided by Ordinance or these Rules, no person shall be appointed or employed to fill any such position until the classification plan has been amended and an appropriate classification specification has been established for such position.
4. 4. Reclassification: Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate

class, whether new or already created. The applicable bargaining unit will be advised of the reclassification action. Reclassification shall not be used as a mean to circumvent the procedures related to demotions and promotions as outlined in these rules.

RULE IV. COMPENSATION

1. Compensation Policy: The City Council shall, by resolution or Memoranda of Understanding, establish wage rates or salary schedules for each classification. The City Manager is responsible for recommending such rates or schedules to the City Council and may use data from a variety of sources when developing such recommendations.
2. Five Step Salary Range Plan: Regular employees in the competitive service, except for management employees, shall be placed within a five step salary range as follows:
 - a. The first step shall be the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel, or if a person of unusual qualifications is engaged, appointment may be made by the Appointing Authority at the second or third step. Initial appointments above step three must be authorized by Council action.
 - b. The second step is an incentive advancement to encourage an employee. An employee may be advanced to the second step by the Appointing Authority after the completion of one year of actual, continuous employment, and satisfactory service. There is no guarantee of advancement to this step after one year of employment. Advancement to this step must be earned.
 - c. The third step represents the middle value of the salary range and is the rate at which a fully qualified, experienced and ordinarily conscientious employee may expect to be paid after a reasonable period of satisfactory service. The Appointing Authority may advance an employee to the third step after the completion of not less than one year of actual, continuous employment, and satisfactory service at the second step of the salary range. There is no guarantee of advancement to this step after one year of employment. Advancement to this step must be earned.
 - d. The fourth step is for an employee whose work is above standard for the classification/position. The Appointing Authority may advance an employee to the fourth step at the completion of not less than one year of actual and continuous employment at the third step and upon satisfactory evidence that the employee's work is above standard.
 - e. The fifth step is for an employee whose work is consistently above standard service. The Appointing Authority may advance an employee to the fifth step after completion of not less than one year of actual and continuous employment at the fourth step upon satisfactory evidence that the employee's work has been consistently above standard.

- f. In any case where, by reason of unusual circumstances, rigid adherence to the foregoing principles relating to salary adjustments would cause a manifest injustice, the Appointing Authority may make a salary adjustment based upon the unique qualifications/experience of the employee and the circumstances.
 - g. Notwithstanding the foregoing provisions of this Section, when an employee is promoted or reclassified from one class to another having a higher overlapping salary range, or when a given classification is assigned to a new salary range, such employee shall be adjusted to the minimum of the new range if the increase is at least 5% or to the next higher rate than that attained in the former position, whichever is higher, but thereafter shall be governed by this Section; provided, however, that such adjustment made by assigning a given classification to a new salary range shall not alter the anniversary date or the eligibility of the employee for consideration for a regular increase under this Section unless the employee is required to complete a probationary period in the new classification.
 - h. Rates of compensation provided for by this Section or Memorandum of Understanding, unless otherwise shown, are fixed on the basis of dollars per month for full time service in full-time positions. If any position provided for is by appropriate language specified or indicated as being for less than full time service, the rate of compensation provided for such position shall be proportionately reduced.
 - i. A permanent employee may fill a position in a higher classification on a temporary basis. While filling the position on a temporary basis the employee shall be paid the minimum rate of the new pay range of the position being filled temporarily or the next higher rate above his/her regular salary, whichever is higher. Nothing in this section will give the employee a right to the higher classification position. Nothing in this section will give the employee a right to the higher classification position.
- 3. Management Employees: The first through third steps are considered entry level dependent upon experience and qualifications. The fourth step is considered the mid-range representing a highly qualified and experienced level. The remaining steps require sustained above standard or better performance for advancement to and maintenance of these levels.
 - 4. Temporary Employees: Temporary employees shall be appointed and compensated in accordance with administrative directives issued by the City Manager for actual hours worked. An employee with temporary status may be released without cause or advance notice and has no appeal rights upon termination. Temporary employees are only paid for hours worked.
 - 5. Performance Evaluations: It is the responsibility of the immediate supervisor to observe and evaluate the job performance of assigned staff as well as to provide appropriate orientation to the job. Failure of the immediate supervisor to conduct an evaluation, could subject the supervisor to discipline. The purpose of the performance evaluation is to encourage open

communication between the employee and immediate supervisor regarding expectations and performance, identify opportunities for professional development and establish goals and objectives for future progress and development.

- a. All newly hired and promoted full-time employees will be evaluated after 6 months of employment. After successful completion of a probationary period, the performance evaluation is conducted on an annual basis, or more frequently, if appropriate. The performance evaluation should be conducted prior to the employee's anniversary date. The anniversary date is the date of a personnel action, such as promotion, demotion, transfer to a different class, or reclassification.

RULE V. APPLICATIONS AND APPLICANTS

1. Job Announcements: All notices for vacant positions in the competitive service shall be publicized by posting announcements on the City Web page and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making application; and other pertinent information.
2. Filing of Application: Application for employment shall be submitted as prescribed on the job announcement in a form or format acceptable to the Personnel/Risk Management Division. Unless otherwise specified on recruitment announcements, resumes will not be accepted in lieu of the required application. Applications will be accepted only during the posted recruitment filing period for that position.
 - a. Applications must be completed in full. It is the responsibility of applicants to demonstrate that they meet the minimum requirements for the position. The applicants shall certify to the correctness of all statements made on the application. Knowingly providing false or incorrect information on an application is grounds for disqualification from the recruitment process and/or immediate discipline, up to and including termination of employment attained at any time after the application has been filed.
 - b. A separate and complete application is required for each recruitment unless otherwise specified in the job announcement. Applications, whether accepted or rejected, are the property of the City of Clovis and will not be returned.
 - c. Applications must be received by the Personnel/Risk Management Division no later than the closing time of the filing period posted in the job announcement.
 - d. The application deadline may be extended by the Personnel/Risk Management Division as circumstances warrant.

3. Disqualification: The Personnel Officer may reject an application which indicates that the applicant does not possess sufficient qualifications required for the position. If an application is rejected for failure to meet the minimum qualifications, the applicant can appeal by contacting the Personnel/Risk Management Division within 3 working days of the date of notice of rejection. The Personnel Officer, or designee, shall make the final decision regarding any appeal received. An application may be rejected or the applicant may be disqualified from the examination if the application is not complete; if the application indicates facts showing that the applicant is unable to perform the job applied for; if the applicant uses illegal drugs, or currently uses drugs or alcohol habitually and excessively; if the applicant has been convicted of a crime that is related to the job applied for and future job performance; if the applicant has made any false statement of a material fact or practiced any deception or fraud in an application. Whenever an application is rejected, the Personnel Officer shall mail or electronically serve notice of the rejection to the applicant. If Applicant is a qualified individual with a disability and identifies the need to be accommodated for such disability during the application process or thereafter, the City will engage in the interactive process and provide reasonable accommodations. However, the Applicant must engage in the interactive process in good faith with the City or such application may be rejected.
4. Nepotism: In order to ensure that relatives of employees or elected official are not given preferential employment treatment, minimize the potential for adverse impact on supervision, safety, security or morale, the following shall apply:
 - a. No person shall be assigned, appointed, promoted or demoted to a position in any department in which such person's relative already holds a position when such employment would result in any of the following: (1) a regular and reoccurring supervisor-subordinate relationship; or (2) both employees having the same immediate supervisor. For the purpose of this Section, a supervisor-subordinate relationship shall be defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position. For purposes of this section a distinction is made regarding the length of the supervisor-subordinate relationship to note that an exception is made for short term acting assignments of a few shifts.
 - b. For purposes of this Section, "relative" means spouse, registered domestic partner, child/step, parent/step, grandparent, grandchild, brother/step, sister/step, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law and legal dependents of the employee.
 - c. If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisor subordinate relationship shall exist between the two employees.

RULE VI. EXAMINATIONS

1. Nature and Types of Examination: The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as but not necessarily limited to achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests.
2. Promotional Recruitment: Promotional recruitments are limited recruitments. Applicants must be currently employed with the City in a regular, probationary or contract status. Temporary and Part-Time employees or those working for the City through an authorized temporary agency who have been employed on a continuous basis for a minimum of six (6) consecutive months preceding the final filing date are eligible to apply. Individuals who have been laid off and whose name is on an active re-employment list are also eligible to apply.
3. Continuous Examination: Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Rule VII.
4. Conduct of Examination: The Personnel Officer shall administer, delegate or contract with any competent agency or individual for the preparation and/or administration of examinations.
5. Scoring Examinations and Qualifying Scores: A candidate's performance in a given examination shall be scored on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination. The Personnel Officer, may, include as a part of the examination tests which are qualifying only.
6. Notification of Examination Results and Review of Papers: Each candidate in an examination shall be given written notice by email communication of the results thereof, and if successful, of his final earned score on the employment list. Any candidate shall have the right to inspect their own examination papers within ten (10) working days after the notice of examination results were emailed, unless the test is copyrighted, in which instance the employee will have the right to review the score if feasible. Any error in computation, if called to the attention of the Personnel Officer shall be corrected. Such correction shall not, however, invalidate any previously made appointments.
7. Time Off to Take Examinations: When employees of the City are candidates for examinations administered by the City, the employees shall be granted necessary time off from their normal duties to take such examinations. Time off granted for examination

purposes shall be with pay for probationary or regular status employees. Employees participating in examinations while off duty are not paid for attendance.

8. Examination Security: Any candidate who receives or gives unauthorized assistance designed to aid a candidate in the examination process will be disqualified from the examination and may be barred from future examinations. Examination material shall not be removed by applicants from the examination area. Photo identification with a signature may be used as a positive means of identifying applicants.
9. Veterans Preference Points: In any open competitive examination a veteran shall be allowed an additional credit on the eligibility list after having attained the passing mark(s) established for the examination. Veterans Preference Points will not be given for positions recruited through a promotional process.
 - a. For the purposes of this section, “veteran” shall mean an individual who meets the eligibility requirements in section 2108 of title 5, United States Code.
 - b. Five points will be added to the passing examination score or rating of a veteran who served, during a war; during the period April 28, 1952 through July 1, 1955; for more than 180 consecutive days, other than for training, any part of which occurred after January 31, 1955, and before October 15, 1976; during the Gulf War from August 2, 1990, through January 2, 1992; for more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last day of Operation Iraqi Freedom; In a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Expeditionary medal or campaign badge, including El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti, qualifies for preference. A campaign medal holder or Gulf War veteran who originally enlisted after September 7, 1980, (or began active duty on or after October 14, 1982, and has not previously completed 24 months of continuous active duty) must have served continuously for 24 months or the full period called or ordered to active duty. The 24-month service requirement does not apply to 10-point preference eligibles separated for disability incurred or aggravated in the line of duty, or to veterans separated for hardship or other reasons under 10 U.S.C. 1171 or 1173.
 - c. Ten points will be added to the passing examination score of a veteran who served any time and who (1) has a present service- connected disability or (2) is receiving compensation, disability retirement benefits, or pension from the military or the Department of Veterans Affairs. Individuals who received a Purple Heart qualify as disabled veterans, an unmarried spouse of certain deceased veterans, a spouse of a veteran unable to work because of a service-connected disability, and mother of a veteran who died in service or who is permanently and totally disabled.

RULE VII. EMPLOYMENT LISTS

1. Employment Lists: As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an employment list consisting of the names of the candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.
2. Duration of Lists: Employment lists other than those resulting from a continuous examination shall remain in effect for one (1) year, unless sooner exhausted, and may be extended, prior to their expiration dates, by action of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years. Employment lists created as the result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination, unless sooner exhausted. Names placed on such lists shall be merged with any others already on the list in order of final scores and shall remain on the list for not more than one year.
3. Re-employment Lists: The names of probationary and regular employees who have been laid off shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in probationary and permanent status. Such names shall remain thereon for a period of one (1) year unless such persons are sooner re-employed. When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list the number of names equal to the number of vacancies to be filled, and the appointing authority shall appoint such qualified persons to fill the vacancies.
4. Removal of Names From List: The name of any person appearing on an employment, re-employment or promotional list shall be removed by the Personnel Officer if the eligible requests in writing that their name be removed, if the person fails to respond to a notice of certifications mailed to the last known address, or for any of the reasons specified in the Disqualification section of Rule V, of these Rules. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

RULE VIII. METHOD OF FILLING VACANCIES

1. Types of Appointment: All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, reinstatement or from eligibles certified by the Personnel Officer from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, interim appointments may be made in accordance with the Personnel Ordinance and these Rules.
2. Certification of Eligibles: If the Appointing Authority does not consider it in the City's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, the Appointing Authority has the ability to fill the position from an appropriate employment list, provided eligibles are available. When the Appointing Authority requests a vacancy filled by appointment from a promotional employment list or from an open employment list, the Personnel Officer has discretion to

certify sufficient numbers of names to fill the vacancies. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotional employment list or an open employment list, the Appointing Authority may make an appointment from among such eligibles or may request the Personnel Officer to establish a new list. When so requested, the Personnel Officer shall hold a new examination and establish a new employment list.

- a. If a promotional or open eligible list is to be used, the Personnel/Risk Management Division shall determine which score levels from an eligible list are to be referred to the Appointing Authority. The Personnel/Risk Manager should consider, in making such determination, the number of vacancies available, the availability of eligible at various score levels, and other factors specific to the appointment. Whenever possible, at least the top three (3) available candidates should be certified and referred to the Appointing Authority for consideration in filling of to the vacancy. The specific number of candidates to be certified shall be determined by the Personnel/Risk Management Division.
 - b. In addition to, or in lieu of, a certification of names from an open or promotional eligible list, the Appointing Authority may request certification of any or all eligible candidates on rehire, reinstatement, and/or transfer lists.
3. Appointment: After interview and investigation, the Appointing Authority shall make appointments from among those certified. The person accepting appointment shall appear before the Personnel Officer, for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty within such period of time as the appointing authority shall prescribe, the applicant shall be deemed appointed; otherwise, the applicant shall be deemed to have declined the appointment.
 4. Oath: No appointment shall be completed until the applicant has subscribed to an oath of allegiance of affirmation as required by the State Constitution and the Government Code and such oath or affirmation has been subscribed to in written document constituting the applicants agreement.

RULE IX. PROBATIONARY PERIOD

1. Probationary Period: All original and promotional appointments shall be tentative and subject to a probationary period of not less than one (1) year's actual paid service. The Appointing Authority may extend the probationary period for not more than an additional six (6) months. If an employee is on a leave of absence or light duty in another position, due to medical, personal, or other applicable leave as allowed by law, for 30 calendar days or more, the employee's probation will automatically be extended for an equal amount of time as the leave of absence, in order to allow the fair evaluation of the employee for regular status. Department heads shall seek approval from the Appointing Authority and notify the probationer concerned prior to the release from probation or extension of a probationary period.

2. Objective of Probationary Period: The probationary period shall be regarded as a part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position.
3. Rejection of Probationer: During the probationary period, an employee may be released from employment at any time by the Appointing Authority with or without cause. An employee on probation does not have a right to appeal the decision to release them from employment. Notification of release from probation shall be reduced to writing and served on the probationer and a copy filed with the Personnel Officer.
4. Rejection Following Promotional Probation: An employee rejected during the probationary period following a promotional appointment shall be reinstated to the position, or a like position, from which they were promoted, unless otherwise discharged in the manner provided for by these Rules or the employee's former or like position has been permanently filled.

RULE X. ATTENDANCE AND LEAVES

1. Annual Vacation Leave: Annual vacation leave shall be provided in accordance with the respective Memoranda of Understanding and in accordance with administrative policies.
2. Sick Leave: Sick leave shall be granted in accordance with the respective Memoranda of Understanding and in accordance with administrative policies. A department head may require, at any time, an employee who reports sick to submit a written statement by a physician certifying the length of the employee's absence and specific limitations or restrictions, if any, for the employee. The department head also may require a written physician's statement to verify that an employee is able to resume normal duties or may require an employee to participate in a fitness for duty examination/evaluation as allowed by law or the Memoranda of Understanding.
3. Family and Medical Leave: Family and medical leave will be administered and granted in accordance with federal and state law and/or in accordance with administrative policies. It is the stated practice of the City that employees using family and medical leave and which have available sick leave, will be required to use such sick leave during the leave period, as allowed by law.
4. Military Leave: Military leave shall be granted in accordance with the provisions of state and federal law. All employees entitled to military leave shall give the Appointing Authority an opportunity within the limits of military regulations to determine when such leave shall be taken.
5. Leave of Absence Without Pay: The City Manager may grant a regular or probationary employee leave of absence without pay or accrual of seniority, based on the totality of the circumstances. No such leave shall be granted except upon written request of the employee,

setting forth the reason for the request, and the approval shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty shall be cause for discharge. Any leave of absence without pay shall be limited to three months, but may be renewed for additional similar time periods by the City Manager.

6. Jury Leave: Every employee of the City who is called or required to serve as a trial juror shall be entitled to be absent from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, employees shall be paid the difference between their full salary and any payment received by them, except travel pay, for such duty.
7. Bereavement Leave: Bereavement leave shall be granted in accordance with respective Memoranda of Understanding and in accordance with administrative policies.
8. Attendance: Employees shall be in attendance at their job in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to Payroll on the form and on the dates specified by the Finance Director.
9. Holidays: The holidays to be observed are set forth in the respective Memoranda of Understanding and in the administrative policies.

**RULE XI. TRANSFER, PROMOTION,
LAY-OFF, RESIGNATION, REINSTATMENT
AND SEPARATION**

1. Transfer: No person shall be transferred to a position for which they do not possess the minimum qualifications. The Director or Chief of a Department may request a transfer of a part-time or temporary employee who has been continuously working for the City for not less than 1 year, to a full-time entry level position in the same Department, provided the full-time vacancy is in the same class and has similar job duties. Upon notice to the affected employee, the Appointing Authority may transfer an employee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications. Additional transfer procedures may be found in a Memorandum of Understanding with a recognized bargaining unit.
2. Promotion: Insofar as consistent with the best interests of the service, vacancies in the competitive service may be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established. If, in the discretion of the Personnel Officer, a vacancy in the position could be filled better by an open-competitive examination instead of promotional examination, then such an examination

shall be arranged.

3. Lay-Off: The Appointing Authority may lay-off an employee in the competitive service because of material change in duties or organization or shortage of work or funds. At least ten (10) working days before the effective date of lay-off, the Appointing Authority shall notify the Personnel Officer of the intended action with reasons therefore, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected. Additional layoff procedures may be found in a Memorandum of Understanding with a recognized bargaining unit.
4. Resignation: An employee wishing to leave the competitive service in good standing shall file with the Appointing Authority, a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer. Failure to give notice as required by this Rule may be cause for denying future employment by the City. After a resignation has been accepted, it cannot be withdrawn without the approval of the Personnel Officer and the City Manager.
5. Reinstatement: With the approval of the Appointing Authority and the Personnel Officer, a full-time permanent or probationary employee who has resigned with a good record may be considered for reinstated within one (1) year from the effective date of resignation to a vacancy in the same position provided the employee meets all eligibility requirements the same as any newly hired employee would be required to meet. Upon reinstatement, the employee, for all purposes, shall be in the status as a new employee without credit for any purpose for time previously served in the employment of the City.
6. Separation: Separation shall include actions which severs the employment relationship as outlined in these rules, including but not limited to Rule XI and Rule XII.

RULE XII. DISCIPLINARY ACTION

1. Authority to Impose Discipline: A department head may take disciplinary action against an employee under his/her authority for one or more of the causes for discipline specified below. A department head may delegate to a supervisory employee the authority to impose disciplinary action up to suspension without pay for up to five (5) days. Disciplinary action may include, but does not have to include any or all of the following, counseling, verbal warning, written reprimand, suspension without pay, reduction in pay, demotion, discharge, or other action as determined by the department head or designee. The City is not required to follow any progressive discipline process.
2. Causes for Disciplinary Action: Causes for disciplinary action include but are not limited to the following:
 - a. Fraud in securing appointment, including falsifying or omitting information on the

employment application.

- b. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of *nolo contendere* to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this Section.
- c. Consumption of intoxicating beverages, use of controlled substances, or being intoxicated while on duty or while off duty if such consumption or use affects the City or an individual's ability to provide service if called.
- d. Insubordination, willful disobedience, dishonest, or failure to comply with a City policy, rule or regulation.
- e. Discourteous or offensive conduct or language toward the public or another employee.
- f. Other failure of good behavior, either during or outside of duty hours, that bears a rational relationship to the employee's employment, which is of such a nature that it:
 - (1) causes discredit to the City;
 - (2) causes discredit to the employee's employment;
 - (3) impairs or disrupts the employee's public service;
 - (4) impairs the employee's fitness to perform the employee's duties required by the position; or
 - (5) impairs the employee's fitness for efficient service.

The failure of good behavior need not be publicly known.

- g. Inefficiency or incompetence.
- h. Inattention to or willful neglect of duty, excessive or repeated tardiness, indolence, carelessness, misuse of or damage to, or negligence in the care and handling of City property.
- i. Inability to perform assigned duties due to failure to meet or retain job qualifications (including, but not limited to failure to possess required licenses or failure to pass required tests).
- j. Unauthorized absence from duty or duty station.
- k. Improper or unauthorized use of City vehicles or equipment.
- l. Abandonment of position or excessive absenteeism.

- m. Claim of sick leave under false pretenses, malingering or other misuse of sick leave.
 - n. Engaging in outside employment not specifically authorized by the Department Head and City Manager, or engaging in other employment that is incompatible with City employment or detrimental to the efficiency of his/her regular work with the City.
 - o. Absence from duty without leave, or failure to return to work after leave of absence has expired or has been disapproved, revoked or canceled.
 - p. Willful violation of any of the provisions of federal law, state law, City ordinances, these Rules, or any rules or regulations which may be prescribed by the City Manager or a department head.
 - q. Acceptance of a personal gift or other form of remuneration in addition to regular compensation, by an employee for the performance of his/her City duties in violation of City policy. Solicitation in an official capacity or as an employee of the City of the public for money, goods, or services not specifically authorized by the City Manager.
 - r. Violation of the Safety Policy.
 - s. Unsatisfactory work performance.
 - t. Behavior which constitutes unlawful discrimination or harassment.
3. Applicability: The procedures and appeal rights set forth in this Rule do not apply to the discipline of verbal or written warnings or reprimand or of discipline which results in a loss of salary of five (5) days or less except where the Memorandum of Understanding, Firefighters Procedural Bill of Rights or Police Officers Bill of Rights specify otherwise. This Rule applies only to an employee in a regular competitive service position.
 4. Suspension or Relief of Duty: A department head may suspend or relieve from duty an employee for disciplinary reasons in accordance with this policy, the Memorandum of Understanding or other state and federal laws. Notice of such action must be provided to the Personnel Officer prior to the action being taken.
 5. Notice of Proposed Discipline: The department head shall give written notice of the proposed disciplinary action to the employee. The notice shall include the action being considered; the reasons for the proposed action and the nature of the charges; copies of or reference to the materials upon which the action is based; notice of the opportunity to respond in writing or orally at a particular time and place; the right of the employee to be represented by an attorney or other representative at any disciplinary proceeding; and the fact that the failure of the employee to respond is conclusively presumed to be a waiver of his or her objection to the discipline and the procedure.
 6. Employee Response: An employee notified of proposed disciplinary action may respond by submitting a written response and/or appearing at the appointed place and time. The meeting

shall be held at least five (5) days after the notification of the proposed disciplinary action. The purpose of the meeting is to hear the response of the employee to the charges. This meeting is not an evidentiary hearing and the employee is not entitled to present witnesses. During this meeting, the employee may be represented by a person of their choosing that is not a witness in the disciplinary matter.

7. **Imposing Discipline:** As soon as practicable after the employee has had an opportunity to respond, the department head shall notify the employee and the Personnel Officer in writing of the nature and extent of the discipline, if any, and the effective date. The notification will also advise the employee of the right of appeal as per these rules.
8. **Procedures for Appeal of Disciplinary Action:** The following procedures shall apply unless the applicable Memorandum of Understanding, Firefighters Procedural Bill of Rights or the Peace Officer Bill of Rights specify different processes.
 - a. **Method of Appeal.** An appeal of imposed discipline shall be in writing, signed by the appellant, and filed with the Personnel Officer within five (5) calendar days of the effective date of the disciplinary action. The appeal shall set forth the matter appealed from, the detailed basis of appeal, and a statement of the action desired by the appellant with supporting reasons. The formality of a legal pleading is not required. The failure to file an appeal within the five (5) day period is deemed a waiver of the right to appeal.
 - b. **Notice.** Upon the filing of an appeal, the Personnel Officer shall set a date for a hearing on the appeal no more than ninety (90) days from the date of filing. The Personnel Officer shall notify the appellant in writing of the date, time and place of the hearing.
 - c. **Hearings.** The appellant shall appear personally before the, Personnel Commission or an Administrative Law Judge as agreed to by the appellant and the City, at the time and place of the hearing. The appellant may be represented by a person of his or her choosing and may produce relevant oral or documentary evidence at the hearing. The City's case shall be presented first. Cross-examination of witnesses shall be permitted. Rebuttal matter not repetitive may be allowed in the discretion of the Personnel Commission. The conduct and decorum of the hearing shall be under the control of the Personnel Commission Chairman. The Commission in its discretion may continue the hearing from time to time. Hearings need not be conducted according to technical rules of evidence. Hearings shall be closed unless the appellant, in writing, requests an open hearing.
 - d. **Findings and Recommendations.** The Personnel Commission shall, within thirty (30) days after the conclusion of the hearing, certify its findings and decision in writing to the appellant and to the City Manager. The Personnel Commission may recommend affirming, revoking, or modifying the discipline. Any member of the Personnel Commission may submit a minority or supplemental finding and recommendation.

The City Manager shall review the findings and recommendations of the Personnel Commission and may then affirm, revoke or modify the action. The City Manager's decision shall be issued within sixty calendar days after receipt of the Commission's findings and recommendations. The City Manager's decision shall be final and binding.

- e. Any time limit or stage of procedure in this chapter may be waived for good cause and with the consent of both parties.
9. Effect of Disciplinary Actions:
- a. Suspension. An employee suspended from the City service forfeits all rights, privileges and compensation during the period of suspension.
 - b. Discharge. An employee who has been discharged shall be paid salary accumulated to the effective date of termination; any compensatory time accumulated, and accrued vacation time.
 - c. Reduction in Pay. Reduction in pay becomes effective at the beginning of the next payroll period following the effective date of the disciplinary action.
 - d. Written Reprimand. An official reprimand is in the form of a written notice to the employee and is placed in the employee's personnel file. No employee shall have a written reprimand entered in his or her personnel file without the employee having first read and signed the document, indicating he or she is aware of the reprimand; except that the reprimand may be placed in the file if after reading the document, the employee refuses to sign it. In that case, the refusal shall be noted and signed by the supervisor.
10. Management and Exempt Employees: Any employee in a management position, or any other position that is exempt from the overtime pay and/or minimum wage provisions of the Fair Labor Standards Act of 1938, may not be suspended without pay for less than one (1) full day.

RULE XIII. GRIEVANCE PROCEDURES

1. Purpose of Rule: The purpose of the grievance procedures is to promote improved employer-employee relations by establishing grievance procedures and to afford employees individually or through qualified employee organizations, collectively herein after referred to throughout this rule as "employee", a systematic means of obtaining further considerations of problems after every reasonable effort has failed to resolve them through discussions. Additionally, the procedure provides a mechanism that allows grievances to be settled as near as possible to the point of origin and to provide that appeals shall be conducted as informally as possible.

2. **Matters Subject to Grievance Procedure:** Any employee in the competitive service shall have the right to grieve, under this rule, a decision affecting their employment over which the Appointing Authority has partial or complete jurisdiction and for which appeal is not provided by other regulations or is not prohibited. The grievance procedures in this chapter do not apply to disciplinary actions, the determination of the contents of a job classification or a decision to reclassify a position, the determination of procedures and standards of selection for employment and promotion, the evaluation process, the contents of an evaluation, items which require capital expenditures, items subject to the meet-and-confer process as defined in the California Government Code, and all City rights reserved in the City's employer-employee relations resolution.
3. **Form of Grievance:** An employee (the grievant) shall present his/her grievance in writing to his/her supervisor or department head. The supervisor, department head or Personnel Officer shall respond in writing.
4. **Grievance Procedure - Department Level:** A grievance should be considered within the department whenever possible. An employee should bring the grievance to the attention of the immediate supervisor as soon as possible. If the employee does not bring the grievance to the attention of the supervisor within fifteen (15) calendar days of the date of the action or incident causing the grievance, it is considered a waiver of the employee's right to submit the grievance (unless the action or incident is part of an on-going pattern of behavior). The supervisor shall consider the grievance and notify the grievant of the supervisor's action or decision in writing within fifteen (15) calendar days from the date the grievance was submitted. If the matter cannot be adjusted or settled by the immediate supervisor within fifteen (15) calendar days from the date of submission, or if the grievant is still dissatisfied after the supervisor's decision, the employee may submit the grievance in writing to the department head.
5. **Department Head Review:** The grievance shall be submitted to the department head within ten (10) calendar days from the date of the supervisor's decision if the employee is dissatisfied with the supervisor's decision. The department head shall confer with the grievant, the supervisor and such other persons as may be necessary to gather all the facts and to find a solution. The department head must take action and so notify the grievant in writing within fifteen (15) calendar days.
6. **City Manager Review:** If the grievant is not satisfied after informal discussion(s) and the department head's decision, he/she may, within ten (10) calendar days of the date of the department head's decision, submit a written grievance to the City Manager. If the grievant does not submit a written grievance within the ten (10) calendar days, the grievance procedure ends. Upon receiving a written grievance, the City Manager or designee, shall within fifteen (15) calendar days discuss the grievance with the grievant, their representative, if any, and any other persons involved. The City Manager/designee may make any inquiry, investigation or compilation of facts deemed necessary in reaching a decision. The City Manager/designee shall render a decision in writing to the grievant, with a copy to the department head, within thirty (30) calendar days from the date the City Manager/designee

met with the grievant to discuss the matter. The decision of the City Manager/designee is final.

7. Extension of Time Limit: Any time limit or stage of procedure in this Rule may be waived for good cause and with the consent of both parties.

RULE XIV. MEMORANDA OF UNDERSTANDING AND SAFETY OFFICERS' BILL OF RIGHTS

1. Memoranda of Understanding: In the event the terms of an applicable memorandum of understanding, entered into pursuant to the Meyers-Milias-Brown Act, conflict with the terms of these rules, the terms of the memorandum of understanding shall prevail.
2. Peace Officers' Bill of Rights: In the event the requirements of the Public Safety Officers' Procedural Bill of Rights Act (California Gov. Code, §§ 3300, et seq.) conflict with the terms of these rules, the requirements of the Public Safety Officers' Procedural Bill of Rights Act shall prevail.
3. Firefighters Procedural Bill of Rights: In the event the requirements of the Firefighters Procedural Bill of Rights (California Gov. Code, §§ 3250, et seq.) conflict with the terms of these rules, the requirements of the Firefighters Procedural Bill of Rights shall prevail.