

**RESOLUTION NO. 4305**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD AMENDING PERSONNEL POLICY NOS. 10, 70, 120, 311, AND 313 OF THE CITY OF SOLEDAD PERSONNEL POLICY MANUAL RELATED TO AT-WILL EXECUTIVE MANAGEMENT PERSONNEL**

**WHEREAS**, certain city polices referencing exempt employees do not differentiate between exempt professionals and at-will executive managers, and must be updated to reflect city practice and the intention of the Pay for Performance Plan; and

**WHEREAS**, staff proposes to update Personnel Policy Nos. 10, 70, 120, 311 and 313 to administer its personnel system accurately.

**BE IT HEREBY RESOLVED** by the City Council of the City of Soledad that "Exhibit A," and amended Policy # 10, #70, #120, # 311, and # 313, attached hereto and by this reference made a part of hereof, is hereby adopted.

**PASSED AND ADOPTED** by the City Council of the City of Soledad at a regular meeting duly held on the 5<sup>th</sup> day of November 2008, by the following vote:

**AYES**, and in favor thereof, Councilmembers: Martha Camacho, Juan Saavedra, Patricia Stephens, Mayor Pro Tem Christopher Bourke, Mayor Richard Ortiz

**NOES**, Councilmembers: None

**ABSENT**, Councilmembers: None

**ABSTAIN**, Councilmembers: None

  
RICHARD V. ORTIZ, Mayor

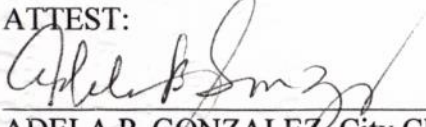
**ATTEST:**  
  
ADELA P. GONZALEZ, City Clerk

EXHIBIT A

## DEFINITIONS OF EMPLOYMENT STATUS

### I. PURPOSE

To help provide uniformity and equity in applying personnel policies and benefits.

### II. SCOPE

These definitions apply to all departments of the City.

### III. POLICY

The City maintains standard definitions of employment status and volunteers and classifies employees for purposes of personnel administration and related payroll transactions according to the following definitions:

Exempt. Employees whose positions meet specific tests established by the Fair Labor Standards Act (FLSA) and state law and who are exempt from overtime pay requirements. ~~Exempt employees are considered "at-will," serving at the pleasure of the City, and may be separated from service at any time without the right of appeal, hearing, or any grievance procedure.~~

Non-exempt. Employees whose positions do not meet FLSA exemption tests and who are paid a multiple of their regular rate of pay for overtime, as required by federal law.

Classified. Employees whose positions have been identified in the Memorandum of Understanding and who are eligible for union membership.

Confidential. Employees whose positions have been designated by the City Manager and are not eligible for union membership with other represented employees.

**Executive Management. Employees who serve under a negotiated employment contract with the City. Executive Management employees are considered at-will, serve at the pleasure of the City, and may be separated from service at any time without the right of appeal, hearing, or any grievance procedure.**

Sworn Police Officer. Employees who have completed a P.O.S.T. certified program and have been certified by the State of California for active Police duty.

Probation Sworn Police Officer. New employee with less than 12 months of service. Probationary employees may be terminated at any time without the right of appeal, hearing, or any grievance procedure.

Full-time. Employees scheduled to work 40 hours or more per week.

Regular Part-time. Employees scheduled to work less than or 30 hours per week. Those employees are ineligible for company benefits, except vacation and sick leave.

### III. POLICY cont'd...

Probation Period Employee. New employees with less than 180 days of service. Probationary employees may be terminated at any time without the right of appeal, hearing, or any grievance procedure. ~~Exempt~~ **Executive management** employees shall not ~~be required to~~ serve a probationary period.

Regular. Employees who have completed the 180-day Probationary period or those employees who are considered

Temporary Part-time. Employees who are hired on an hourly basis for a pre-established period usually during peak workloads or for vacation relief. They may work a part-time schedule and are ineligible for City benefits, overtime, compensatory time, and holiday pay. Temporary employees may be terminated at any time without the right of appeal, hearing, or any grievance procedure.

Temporary Full-time. Employees who are hired on an hourly basis for a pre-established period usually during peak workloads or for vacation relief. They may work a full-time schedule and may be eligible for overtime, and compensatory time, but will not be eligible for benefits and holiday pay. Temporary employees may be terminated at any time without the right of appeal, hearing, or any grievance procedure.

Volunteers. Individuals who perform hours of service for the City for civic, charitable or humanitarian reasons without any promise, expectations or receipt of compensation for such services. Volunteers may work a full, part-time or indeterminate schedule. Examples include police reserves and volunteer firefighters. Generally, speaking, volunteers are not provided with the benefits provided to the City's employees. (E.g. vacation, sick leave, overtime, compensatory time, holidays.) However, they may be entitled to expenses, reasonable benefits or nominal fees, as set forth in City policy. All volunteers are considered "at-will," serving at the pleasure of the City, and may be separated from service at any time without the right of appeal, hearing, or any grievance procedure.

Legislative Board Members. Individuals elected by the public into a position after an election. These members usually are considered employees of the City and are paid a nominal fee for services performed. Normally, these members have the authority to approve policies.

## **NEW EMPLOYEE PROBATIONARY PERIOD**

### **I. PURPOSE**

To complete the new employee selection process by providing a probationary period of on-the-job work experience by which the new employee and the City may evaluate employment suitability in terms of knowledge, skill, ability and interest.

### **II. SCOPE**

This policy applies to all job classifications in the City's Pay and Classification Plan, with the exception of ~~Exempt~~ **Executive management** employees and the City Manager.

### **III. POLICY**

#### ***\* Non-Sworn***

New employees will serve a probationary period of 180 days from the date of hire. This period is used to determine whether the employment relationship should continue.

During the probationary period, the probationary employee shall receive a written performance status report approximately every sixty (60) days, and should also receive frequent informal performance reviews. If the City determines in its sole discretion, that a probationary employee cannot achieve a satisfactory performance level through a reasonable amount of training and coaching, said employees may be released immediately.

#### ***\* New Sworn Police Officers***

New employees will serve a probationary period of 12 months from the date of hire. This period is used to determine whether the employment relationship should continue.

During the probationary period, a probationary employee shall receive a written performance status report approximately every sixty (60) days, and should also receive frequent informal performance reviews. If the City determines in its sole discretion, that a probationary employee cannot achieve a satisfactory performance level through a reasonable amount of training and coaching, said employees may be released immediately.

- A. All new employees, whenever possible, shall be hired either on the 1st or the 16th of the month. These dates are set to correspond with monthly payroll and in an effort to elevate any discrepancies with pay dealing from Annual evaluations. In cases of dire need, a new employee may be hired on dates other than noted above.
- B. Department supervisors normally will be responsible for the training and evaluation during the employee orientation period.
- C. Informal coaching and feedback should be provided on a frequent basis, in an amount deemed necessary by the employee's supervisor.
- D. Upon satisfactory completion of the probationary period, employees may be designated to regular status and are subject to the standard performance appraisal process and other City policies. The employee may be entitled to a step increase at this time.
- E. If, during the probationary period, unsatisfactory performance does not improve, the Human Resources Manager will be advised, and the employee may be released from the City.
- F. All Probationary employees, regardless of status or length of service, are required to meet and maintain City standards for job performance and behavior and are considered "at-will" employees, subject to termination without cause. ~~Exempt~~ **Executive management** employees are considered "at-will" while employed with the City.
- G. The provision of written performance status reports and/or informal performance reviews by employer to probationary employees is meant merely as a means of providing input and guidance to probationary employees, and should not be interpreted as creating a vesting right in employment or any associated due process rights. Probationary employees may be reprimanded, suspended, demoted, or terminated at any time without the right to appeal, hearing or any grievance procedures.
- H. The probationary period for all probationary employees may be extended at the discretion of the Department Manager and with the approval of the City Manager.

## SALARY PROGRAM ADMINISTRATION

### I. PURPOSE

To maintain a program of internally and externally equitable salaries.

### II. SCOPE

This policy applies to regular full-time and regular part-time, exempt and non-exempt, employees.

### III. POLICY

The City strives to pay salaries competitive with those in our community and those cities of similar and equal size. The City will, within our budgetary constraints, recognize individual effort and contribution to the City's overall success. Determination of salary policy is the responsibility of the City Manager as approved by the City Council through the Annual Pay and Classification Plan. Administration of the Pay and Classification plan is the responsibility of the Finance Officer.

### IV. SALARY PROGRAM ELEMENTS

- A. Salary Range. Each job classification in the City has been placed in a salary range that establishes the value of the job classification.
- B. Salary Steps. Each salary range has been assigned a series of salary steps. Within this framework, an employee's salary will be related to demonstrated performance based on their annual evaluation. Employees will receive a salary that is within the step limits of the applicable range. (See Salary Range Schedule, Non-exempt, following).
  1. Range Minimum. Within the assigned job classifications, each employee may begin at step one (1) of the pay plan (See policy No. 070). An employee may move through the steps of the range by appropriate performance evaluations. Upon successful completion of the probationary period, an employee may be eligible to proceed to next step of the job classification range. An **exempt at-will executive management** employee is eligible to proceed to the next step of the job classification range after six months of employment with the City.
  2. Learner's Rate. In cases where the qualifications of a newly hired or newly promoted employee are less than those usually required in the assigned job classification, the employee may be paid below the minimum of the applicable range (but not more than 5% below minimum) while the employee acquires the necessary minimum qualifications for the job classification. This learning period will be limited to six months, after which the employee will be paid at or above the minimum of the range, if retained in the job classification.

3. Range Maximum. The maximum of a salary step normally provides an upper limit of what employees in that range may be paid. However, sometimes it may not be an absolute limit, and the condition described in Section B.4, below, may result in an employee being paid an additional one-time pay adjustment above the maximum step.
  4. "Y Step" Salary. If an employee is paid over the maximum at the time the range for the classification is established, the salary will not be reduced. Rather, the employee will ordinarily be considered ineligible for an increase in pay (Y step) in the form of a merit or cost of living allowance until an adjustment in the salary structure or a promotion to a higher grade brings the rate within the established range for the job classification. Employee will be eligible for a one-time stipend, which will not increase the base salary, equal to the COLA as approved by the City Council
- C. Salary Review Frequency. Reviews for salary increases are conducted at least once each year. Increases, if granted, are based on the percentage between each step. The first salary review after employment will occur at the end of six months' service, except for Sworn Police Officers. Subsequent salary reviews are conducted annually, based on the employee's anniversary date. (an employee's anniversary date is at time of completion of the probationary period, and/or promotion)
- The City Manager may conduct performance reviews at any time and approve step increases based on the evaluation. Salary increases are not granted automatically, but only as a result of demonstrated performance "above average" or "Outstanding", documented by job-related performance appraisal.
- D. Relationship Between Pay Rate and Level of Performance. A specific pay range has been established for each job classification and includes a five-step program for merit increases, except for ~~exempt at-will executive management~~ employees who may be eligible for a merit increase after being at the fifth step for one year. ~~An exempt employee merit increase may range from 0—5% based on performance.~~ **At-will executive management employees may be awarded, at the discretion of the City Manager each year, an amount up to the maximum of 5% (five percent) of the employee's annual base salary.** Movement within the five steps is based upon merit and performance, which a fully qualified employee is ordinarily able to achieve. A fully qualified employee is one who demonstrates sustained performance that meets and exceeds requirements of the job classification, as well as all City criteria.
  - E. Promotions Defined. A promotion may be defined as a change in status for an employee to another job classification and/or a higher range on a permanent basis.
  - F. Promotion Increases. Salary increases may be granted upon promotion. These increases are based upon moving through the steps of the assigned range for the job classification. A lesser amount may be justified if the employee has received a substantial increase within the last six months or a significant learning period is involved. The date of promotion establishes a new anniversary date for merit review.

- G. Other Compensation. Employees receiving any form of compensation other than their salary, as outlined in the Annual Pay and Classification Plan, are required to perform such services for the full term of the pay period. Employees not fulfilling their obligations for the full term of the work period will not be entitled to such compensation. Examples of other compensation include bilingual pay, uniform allowance, vacation and sick accruals, incentives (as listed in the MOU and SPOA agreements) etc.
- H. Out of Class Compensation. An employee shall not be required to perform duties not a part of the employee's classification except as provided in this section. Whenever an employee is assigned duties and responsibilities of a higher classification and such assignment is for a period of at least ten (10) days, the employee shall receive the pay equal to the lowest step of the range of the duties being performed. The employee salary increase should be above their salary for all time in excess of the ten days. At no time should any employee work out of class for a period of more than ninety (90) days.

#### V. **MAINTENANCE OF SALARY STRUCTURE**

Salary ranges of the City's Pay and Classification Plan will be adjusted annually based on the cost of living allowance approved by the City Council. The City Manager and the Finance Officer in order to determine the City's financial ability to fund the Pay and Classification Plan may evaluate the plan occasionally. Adjustments will be made to the Pay and Classification Plan, as required, but salaries paid to individuals will not be adjusted at that time. (See Pay and Classification Plan)

## VACATION LEAVE

### I. PURPOSE

To provide a traditional paid-time-off benefit that may provide a restful break in year-round routine and support the City's goals to attract and retain quality employees.

### II. SCOPE

This policy applies to all regular full-time employees and regular part-time employees when designated by the City Manager.

### III. POLICY

The City encourages and requires employees to take an annual vacation entitlement as paid time off away from work. The City does not provide vacation pay unless vacation time is actually taken as time off from work, or upon separation.

### IV. ELIGIBILITY

- A. An employee's entitlement to earn vacation is based on the employment anniversary date.
1. Less Than Three Years Service. After six months of service, and upon completion of each additional year up to three years of service, an employee is eligible to take ten days of earned vacation each year, computed from the date of hiring at a rate of 6.67 hours per month. **Exempt At-will executive management** employees are eligible to take fifteen (15) days of earned vacation each year, computed from the date of hiring at a rate of 10 hours per month.
  2. More Than Three But Less Than Ten Years Service. After continuous service of three years but no more than ten years of service, an employee is eligible to take 15 days of earned vacation each year, computed at a rate of 10 hours per month. **Exempt At-will executive management** employees are eligible to take twenty (20) days of earned vacation each year, computed from the date of hiring at a rate of 13.33 hours per month.
  3. More Than Ten But Less Than Fifteen Years Service. After continuous service of ten years but no more than fifteen years of service, an employee is eligible to take 17 days of earned vacation each year, computed at a rate of 11.333 hours per month. **Exempt At-will executive management** employees are eligible to take twenty-five (25) days of earned vacation each year, computed from the date of hiring at a rate of 16.67 hours per month.

4. More Than Fifteen Years Service. After more than fifteen years of continuous service, an employee is eligible to take 20 days of earned vacation each year, computed at a rate of 13.33 hours per month. **Exempt At-will executive management** employees are eligible to take thirty (30) days of earned vacation each year, computed from the date of hiring at a rate of 20 hours per month.

**IV. ELIGIBILITY...cont'd**

- B. An employee is first eligible for the benefit upon completion of the new employee probationary period. Once probation is complete, Employee's vacation leave base will be adjusted at a rate of 6.67 hours per month back to the date of hire except for **Exempt at-will executive management** employees who shall not serve a probationary period and shall accrue leave upon hire at the rates established in Section IV G of this Policy.
- C. Newly hired employees do not accrue vacation entitlement during the probationary period. However, at the completion of this period vacation accrual is retroactive to the date of hire.
- D. Regular part-time employees accrue their vacation allowance at half that of full-time employees. Part time employees will continue to accrue at a rate of ½ that of full time employees regardless of the number of hours worked in excess of 30 a week.
- E. Vacation time is not earned or accrued during an unpaid leave of absence. Vacation time is not earned during sick leave that exceeds 60 calendar days. Earning resumes upon return to active status.
- F. Unused vacation entitlement may be paid to employees upon separation provided they have completed at least six months of continuous service. Pay may be computed based on the rate earned upon separation.
- G. The following schedule specifies the amount of vacation earned for a corresponding period of continuous service:

<u>Length of Service Completed</u>	<u>Employee Hours Earned Per Month</u>	<u>Exempt At-Will Employee Hours Earned Per Mth</u>
Less than three years	6.67	10.00
Three years to ten years	10.00	13.33
Ten year to fifteen years	11.33	16.67
Fifteen years or more	13.33	20.00

- H. Employees who have terminated employment with the City in any capacity prior to completion of a full pay period are not entitled to accrue for that period.

**V. SCHEDULING**

- A. Vacation leave may be taken by separate days or by weeks.
- B. Vacation time may be accrued from year to year, but is limited to a maximum accrual equal to the amount of vacation that could be accrued by a given employee depending on the length of service during a two year period. Once the maximum vacation accrual is reached vacation time will not be accumulated or be accounted for until the bank of vacation hours has been reduced below the two-year limit.
- C. Selection of vacation dates is subject to approval of the employee's supervisor and/or Department Manager. The City reserves the right to cancel a previously approved request for vacations.
- D. If a City-paid holiday falls during an employee's vacation, the holiday may not be counted as vacation taken.
- E. Each Supervisor and/or Department Manager should maintain a department schedule and record of the vacation time taken by each employee.
- F. Vacation periods must be scheduled and approved by the employee's Supervisor and/or Department Manager, then submitted to the City Manager or his/her designated representative before becoming effective.

## SICK LEAVE

### I. PURPOSE

To provide income protection for employees who, because of illness or accident, are temporarily disabled and absent from work for limited periods.

### II. SCOPE

This policy applies to all regular full-time employees. Regular part-time employees will receive half the sick leave benefit provided to a full-time employee.

### III. DEFINITION

“Sick Leave” is an accrued leave benefit provided to employees on a bi-monthly basis for the purpose of time off due to illness, medical or dental appointments. Leave is reduced and paid when time off is requested.

“Sick leave benefit” is cash compensation which, when combined with amounts for which an employee is eligible under Workers' Compensation, is equivalent to the employee's regular rate of pay. Sick leave benefits is an addition to workers' compensation may be allowed for only up to 30 continuous days. If an employee is off duty for more than 30 continuous days, sick leave benefit will not be allowed as a substitute to workers compensation to equal employee's regular rate of pay. The City Manager after discussion with our Workers Compensation Administrators may extend the time period allowed for sick leave use.

### IV. POLICY

- A. Amount of Benefit. During absence from work caused by personal illness, family illness or accident, an eligible employee's wage or salary may be continued for the amount of time accrued in the employee's sick leave account according to the policy.

A maximum of 90 days or 720 hours is allowed to be accrued. Sick leave may not be accumulated or accounted for over the limit of 720 hours.

Regular part-time employees may accrue at half, 4 hours per month or 48 hours per year; the rate regular full-time employees accrue. Regular part time employees will continue to accrue at a rate of ½ that of full time employees regardless of the number of hours worked in excess of 30 a week. A maximum of 45 days or 360 hours is allowed to be accrued. Sick leave may not be accumulated or accounted for over the limit of 360 hours.

Any employee who has terminated employment with the City in any capacity prior to completion of a full pay period is not entitled to accrue for that period. Amounts paid to an employee under Workers' Compensation Insurance may be deducted from these payments. (see Policy # 730)

**SICK LEAVE...cont'd**

**IV. POLICY...cont'd**

- B. Eligibility. An employee is first eligible for the benefit upon completion of the new employees' probationary period. Once probation is complete, Employees sick leave base will be adjusted at a rate of 1 day per month back to the date of hire. ~~Exempt At-will executive management~~ employees shall **do not be required** to serve a probationary period and shall accrue sick leave upon employment with the City.
- C. Physician's Certificate. On any sick leave absence, the City may require a physician's certificate. Any request for a certificate shall be paid by the employee. The City may require an employee to support a request for sick leave benefits with medical certification of disability upon the third day of illness or leave. Failure to obtain a physician's certificate justifying the involved absence may result in the denial of the use of sick leave in that specific incidence.
- D. Separation. If a regular full-time employee separates in good standing, sick leave may be paid up to the amount accrued but not to exceed 15 days. If a regular part-time employee separates in good standing, sick leave may be paid up to the amount accrued but not to exceed 7.5 days.

**V. PROCEDURE**

Supervisors and/or Department Managers in administering sick leave should follow these guidelines:

- A. Minimum Unit. Sick leave benefits may be taken in increments of less than one-half day per occasion for non-exempt and exempt employees.
- B. Maintenance of Contact. During sick leave, an employee must maintain daily contact (before 9:00 a.m.) with the supervisor (or make other suitable arrangements) in order for the supervisor and/or Department Manager to know the employee's estimated date of return to work. Sick leave benefits are contingent upon maintenance of regular contact.
- C. Physician's Release Upon Return. Depending on the length and circumstances of an employee's disability, the supervisor may require a physician's written release before the employee may return to work. The length of time currently in effect is three (3) continuous sick days.
- D. Termination of Benefits. If an employee's disability absence continues beyond the period covered by sick leave, (90 days) the employee may be placed on family and medical leave of absence status without pay. At the employee's request and with the City Manager's approval, unused vacation entitlement may be used for up to 90 days before transferring to family and medical leave of absence status.

## **VI. USE OF SICK LEAVE TO CARE FOR MEMBERS OF IMMEDIATE FAMILY.**

Notwithstanding policy statements or language to the contrary set forth in this or other policies, in any in any calendar year, an employee may use accrued and available sick leave, in an amount up to that which would be accrued during six months at the employee's then current rate of sick leave accrual, to attend to the illness of the employee's child (biological, foster or adopted child, stepchild, legal ward, or a child of an employee standing in loco parentis), parent (biological, foster, or adoptive parent, step parent or legal guardian) or spouse (by way of legal martial relationship or other relationship, which in the City Manager's judgement, is characterized by the permanence, duration and stability normally associated with marriage).

All conditions and restrictions established by this policy for the use of sick leave, including but not limited to the maintenance of contact and physician's certification requirements set forth in Sections IV. And V. shall apply to the use of sick leave to attend to the illness of an employee's child, parent or spouse.

Use of sick leave pursuant to this section shall not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government Code or under the federal Family and Medical Leave Act of 1993. City expressly agrees that it will not deny an employee the right to use sick leave in accordance with this Section, or discharge, threaten to discharge, demote, suspend or in any manner discriminate against an employee for using or attempting to exercise the right to use sick leave in a manner set forth herein.

For purposes of record keeping employees are required to indicate on timecards "FL" when use of family sick leave is taken. When an employee uses sick leave other than family sick leave an "S" is required to be indicated on the timecard.

## **VII. SICK LEAVE AWARD**

The City will implement a policy whereby it rewards regular full time non-exempt employees on the time-and-attendance system who have achieved less than 4 days of sick leave within a calendar year. Attendance status will be checked on a periodic basis by reviewing the attendance records in the payroll department.