

Fair Labor Standards Act **“Executive”** Exemption Test (updated 2020)

Employee Name/Title: _____ Date: _____

Person(s)/Titles completing this form: _____

1. Is the employee “salaried” (that is, does the employee regularly receive each pay period a predetermined amount constituting all or part of his/her compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed)?

_____ Yes _____ No

2. Does the employee make at least \$684 per week (\$35,568 annually)?

_____ Yes _____ No

3. Does the employee’s primary duty consist of the management of the City organization or of a customarily recognized department or subdivision of the city organization?

AND,

Does the employee customarily and regularly direct the work of at least two or more other full-time employees or their equivalent?

AND,

Does the employee have the authority to hire or fire or otherwise change the status of other employees, including promotion, demotion, etc. (or are their recommendations on such issues given “particular weight” by decision makers)?

_____ Yes _____ No

Based on this information the employee is considered (note: all numbered questions must be answered “yes” for the employee to be considered exempt):

_____ Exempt

_____ Non-exempt

Fair Labor Standards Act “Professional” Exemption Test (updated 2020)

Employee Name/Title: _____ Date: _____

Person(s)/Titles completing this form: _____

1. Is the employee “salaried” (that is, does the employee regularly receive each pay period a predetermined amount constituting all or part of his/her compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed)?

_____ Yes _____ No

2. Does the employee make at least \$684 per week (\$35,568 annually)?

_____ Yes _____ No

3. Is the employee’s primary duty the performance of work requiring advanced knowledge (that is, work which is predominantly intellectual in nature) in a field of science or learning, in which the knowledge was acquired by a prolonged course of specialized instruction?

_____ Yes _____ No

4. Does the employee’s job require the consistent exercise of discretion and independent judgement?

_____ Yes _____ No

Based on this information the employee is considered (note: all numbered questions must be answered “yes” for the employee to be considered exempt):

_____ Exempt _____ Non-exempt

Fair Labor Standards Act **“Computer Employee”** Exemption Test (updated 2020)

Employee Name/Title: _____ Date: _____

Person(s)/Titles completing this form: _____

1. Is the employee “salaried” (that is, does the employee regularly receive each pay period a predetermined amount constituting all or part of his/her compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed)? OR, does the employee work on a “fee” basis (an agreed sum for a single job, regardless of the time required - as long as the payment is at least equivalent to #2 below)?

_____ Yes _____ No

2. Does the employee make at least \$684 per week (\$35,568 annually)? OR, if compensated on an hourly basis is the employee paid at least \$27.63 per hour?

_____ Yes _____ No

3. Does the employee work as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field?

_____ Yes _____ No

4. Is the employee’s primary duty:

- The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications?
- The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, based on and related to user or system design specifications or machine operating systems?
- A combination of these duties, the performance of which requires the same level of skills?

_____ Yes _____ No

Based on this information the employee is considered (note: all numbered questions must be answered “yes” for the employee to be considered exempt):

_____ Exempt

_____ Non-exempt

Factors to Consider When Determining Discretion and Independent Judgment

The *Fair Labor Standards Act* provides the following list of factors to be considered when determining if an employee exercises “discretion and independent judgment” with respect to matters of significance in the operation of the organization. A majority of these factors (i.e. at least 5) should be answered “yes” in order for the employee to be considered one who exercises “discretion and independent judgment.”

1. Does the employee have the authority to formulate, affect, interpret, or implement management policies or operating practices?
2. Does the employee carry out major assignments in conducting the operations of the city organization?
3. Does the employee perform work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the city?
4. Does the employee have the authority to commit the employer in matters that have significant financial impact?
5. Does the employee have authority to waive or deviate from established policies and procedures without prior approval?
6. Does the employee have authority to negotiate and bind the company on significant matters?
7. Does the employee provide consultation or expert advice to management?
8. Is the employee involved in planning long or short term objectives for the city?
9. Does the employee investigate and resolve matters of significance on behalf of management?
10. Does the employee represent the city in handling complaints, arbitrating disputes or resolving grievances?