

RESOLUTION NO. 20200409-079

WHEREAS, on March 18, 2020, the Families First Coronavirus Response Act (FFCRA) was passed by Congress, which expands the Family and Medical Leave Act (FMLA) and provides for emergency paid sick leave coverage for eligible employees; and

WHEREAS, the FFCRA became effective on April 1, 2020 and expires on December 31, 2020; and

WHEREAS, the FFCRA provides various considerations for covered employers, including an implementation date on or before April 1, 2020, consideration to pay above a minimum 2/3 wage rate for emergency paid sick leave, and consideration to pay a minimum 2/3 wage rate requirement for expanded FMLA; and

WHEREAS, Travis County and the City of Austin have retroactively implemented the emergency paid sick leave policy and expanded FMLA policy to provide coverage to impacted employees; and

WHEREAS, Travis County will retroactively implement these policies beginning on March 22, 2020 and the City of Austin will retroactively implement these policies beginning on March 15, 2020; and

WHEREAS, City of Austin employees who utilized accrued leave due to the impacts of COVID-19 between March 15 and March 31 may now request that the

leave be recoded as paid emergency sick leave, and that hours deducted from their leave balance will be retroactively replenished; and

WHEREAS, the City of Austin has determined that emergency paid sick leave will be made available for all employees (full time, part time, temporary, retiree, seasonal, paid intern, and public safety) if the employee is unable to work or telework due to certain issues related to COVID-19 and they meet certain criteria; and

WHEREAS, the City Manager's March 27, 2020 memorandum made clear that employees are not required to exhaust other accrued leave to use the emergency paid sick leave, and employees can receive up to 80 hours of leave, depending on their scheduled work week; and

WHEREAS, in addition to the emergency expanded paid sick leave policy, the FFCRA expands the FMLA to provide up to 12 weeks of protected family leave to care for a child under certain circumstances related to COVID-19; and

WHEREAS, the City of Austin has determined that this expanded FMLA leave will be made available to all City of Austin employees (full time, part time, temporary, retiree, seasonal, paid intern, and public safety) who have been employed by the City for at least 30 calendar days; and

WHEREAS, under this policy, the first 10 days of expanded FMLA leave may be unpaid and during this time employees can use accrued leave, emergency paid sick leave if eligible, or may take the time without pay; and

WHEREAS, the memo states that for the following weeks of eligible expanded FMLA leave the City will pay eligible employees two-thirds of the employee's regular pay rate for the number of hours the employee would otherwise be normally scheduled; and

WHEREAS, under the policy as written, an employee would be responsible for using accrued leave (if available) for the remaining one-third of hours; and

WHEREAS, on March 31, 2020, the Travis County Commissioners' Court modified the FFCRA's expanded FMLA leave policy to provide 100% pay, rather than two-thirds pay, for eligible employees who utilize the expanded FMLA leave policy; and

WHEREAS, per Travis County's assessment, "the Internal Revenue Service will be issuing guidelines on tax credits, but currently, the FFCRA is an unfunded mandate for governmental entities and that other tax relief may be forthcoming, as the Department of Labor and the Internal Revenue Service IRS issue new guidance almost daily;" and

WHEREAS, COVID-19 has catalyzed employees to adapt their lives to continue service to the City of Austin, and the City Council regards it as important

to provide full pay for employees who meet the criteria of the expanded FMLA policy and choose to utilize it; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Council affirms and supports the City Manager's decision to offer emergency paid sick leave to eligible employees at the employee's full rate of pay.

BE IT FURTHER RESOLVED:

The Council affirms and supports the City Manager's decision to retroactively apply emergency paid sick leave and expanded FMLA benefits to eligible employees beginning on March 15, 2020.

BE IT FURTHER RESOLVED:

The Council affirms and supports the City Manager's decision to apply both policies to all employees regardless of classification status as operationally feasible. Nothing in this resolution should be interpreted to impair the Manager's ability to ensure the continuation of critical operations and services. To that end, the City Council directs the City Manager to do the following:

- Return to Council with proposed exemptions from these policies for City employees in positions other than front-line essential services.
- Provide weekly reports to City Council about exemptions from these policies for City employees performing front-line essential services. It is City Council's intention that such exemptions should occur only after

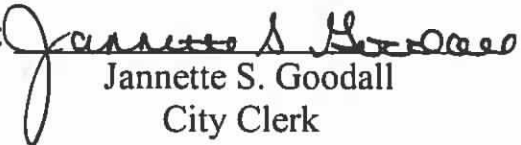
the City Manager has exhausted other measures (including intermittent work schedules and part-time coverage) designed to balance employee needs with operational continuity.

BE IT FURTHER RESOLVED:

The Council expresses its intent to modify the expanded Family Medical Leave Act policy to ensure that the City will pay an eligible employee 100% of their regular pay rate for the number of hours the employee would otherwise be normally scheduled. The City Manager is directed to return to Council no later than April 17, 2020, with a recommendation that details operational procedures to accommodate this intent.

ADOPTED: April 9, 2020

ATTEST:


Jannette S. Goodall
City Clerk