

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING A MANDATORY UNPAID FURLOUGH AND BENEFIT SUSPENSION FOR FULL-TIME UNREPRESENTED CITY EMPLOYEES DURING AUGUST 2, 2009 – AUGUST 29, 2010.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the local, state and national economy is seeing unprecedented economic losses resulting in related decreases in revenues; and

WHEREAS, the City's 2009-10 Fiscal Year General Fund budgets face an estimated \$19.9 Million shortfall due to declines in projected revenues, particularly sales taxes and transient occupancy taxes, rising labor costs, and the State of California budget; and

WHEREAS, projected loss of revenues requires the City to take actions in addition to those actions taken to date, potentially including additional reductions to operating budgets, staff layoffs, reduction in employee compensation, reduction of personnel staffing requirements, application for Federal Stimulus funding, retirement incentives, suspension of benefit plans, implementation of cost recovery programs, renegotiation of contracts and further utilization of undesignated unreserved General Fund balance; and

WHEREAS, an unpaid Mandatory Furlough Plan is a viable method for achieving savings through reduction of hours paid to employees or a commensurate 5% salary reduction in compensation; and

WHEREAS, it is in the City's best interest to support and encourage such a program; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COSTA MESA that an unpaid Mandatory Furlough Plan or a commensurate 5% salary reduction in compensation and benefit reductions should be implemented during August 2, 2009 – August 29, 2010 upon the declaration by Council Resolution as follows:

1. Participation in the Mandatory Furlough Plan is required for full-time employees in the following Employee groups:
 - a. Unrepresented Executive Management employees, with the exception of Fire Battalion Chiefs and Deputy Fire Chiefs, and
 - b. Unrepresented Confidential employees.
2. The amount of the unpaid furlough for each employee shall be 5% of the employee's regular hours, which is equivalent to 104 hours.

3. The Mandatory Furlough Plan shall be conducted according to the Mandatory Furlough Plan Guidelines, attached as Exhibit A.
4. In conjunction with the Mandatory Furlough Plan, effective, August 2, 2009 through August 28, 2010, the City agrees to temporarily amend the existing vacation policy for all Executive and Confidential employees (except Battalion Chiefs and Deputy Fire Chiefs) as follows:

The current maximum levels are established are as follows:

<u>Years of Service</u>	<u>Maximum Accrual</u>
1-2	184.0
3-4	232.0
5-9	280.0
10-14	328.0
15-19	376.0
20+	424.0

Upon reaching the maximum level, the biweekly accrual of vacation leave hours will be placed in the employee's Secondary Vacation Leave Bank. The maximum levels for the Secondary Vacation Leave Bank will be established at 104 hours. Once the maximum accrual in the Secondary Vacation Leave Bank is reached, the employee will stop accruing additional vacation leave.

If an employee has a Secondary Vacation Leave Bank, hours in that bank will be used first. Effective August 29, 2010, employees will no longer accrue vacation leave beyond the maximum accrual level. It is the responsibility of the employee to manage accrued vacation time off to not exceed the cap or maximum amount allowed. If after August 29, 2010 an employee still has a Secondary Vacation Leave Bank balance, the employee will still be required to use hours in the secondary bank first.

5. The VantageCare RHS (Post Retirement Health) Plan will be suspended, which will include the suspension of both the one percent (1%) contribution from employees and the one percent (1%) match deposited by the City on behalf of each full-time employee. Plan contributions will be suspended for all Executive and Confidential employees for 26 pay periods.

PASSED AND ADOPTED this 4th day of August, 2009.

Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLICK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 09-_____ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 4th day of August, 2009, by the following roll call vote to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 5th day of August, 2009.

JULIE FOLCIK, CITY CLERK

(SEAL)

EXHIBIT A

Mandatory Furlough Program Guidelines Costa Mesa Executive and Confidential Employees

The Mandatory Furlough Program will provide for a five percent (5%) reduction in work hours (104 hours per year) with a commensurate reduction in payment for the hours not worked for all Executive and Confidential employees (excluding Battalion Chiefs and Deputy Fire Chiefs).

- I. **Effective Dates of Program** – The Mandatory Furlough Program will be effective August 2, 2009 – August 28, 2010 unless otherwise specified in these guidelines.
- II. **Usage of Furlough Leave** – Employees must utilize a minimum of 26 hours of furlough leave by November 30, 2009, a cumulative total of 52 hours of furlough leave by February 28, 2010, a cumulative total of 78 hours of furlough leave by May 31, 2010 and a total of 104 hours of furlough leave by August 28, 2010. Employees may not use more than 40 hours of furlough leave within any three-week period. It is the employee's responsibility to monitor their furlough leave bank to ensure they use all of their leave time during the assigned time period. When an employee submits a timely furlough leave request and the Supervisor, Department Director, or City Manager must deny it due to the operational needs of the City and/or Department and the employee is unable to schedule alternative hours off prior to August 28, 2010, an exception may be granted by the Department Director with a written explanation from the employee's supervisor and advance approval from the City Manager. If such an exception is granted, employee will be allowed additional time to utilize the remainder of their 104 furlough leave hours, but no later than December 19, 2010.
- III. **Scheduling of Furlough Leave** – Procedures for requesting and scheduling furlough leave will be determined by the Department Director (City Manager for Department Director requests). Every effort will be made to accommodate the employee's request. However, it is recognized that business operations of the City have priority. Should a request for furlough leave be denied and the employee disagrees with the reasons for denial, the employee may submit a written petition to the Department Director (City Manager for Department Director requests) or designee for a final decision on the matter. The Department Director (City Manager for Department Director requests) or designee shall respond to any such petition within five (5) days of receiving the petition, and the Department Director or designee's decision shall be final. The grievance procedure shall not apply to disputes concerning furlough leave. Once a furlough leave request has been approved, it may not be cancelled unless there is an emergency situation or upon mutual agreement by management and the employee. Management reserves the right to assign employees to take their leave time if it is necessary to prevent a potential negative impact on Departmental operations.
- IV. **Alternate Work Week Schedules** – Alternate work week schedules will continue to be honored subject to operational need. Managers and supervisors will review alternative work week schedules and furlough days on a case-by-case basis to determine the impact on operations and if necessary will work individually with their employees to come up with alternatives to their current work schedules.
- V. **Retirement** – In most cases, unpaid furlough leave will not affect an employee's CalPERS service credit. Employees must be paid 1,720 hours within a year to earn one full year of service credit. Furlough leave would not change the payrate that is reported to CalPERS. However, it can reduce special compensation that is paid as a factor of

earnings. Therefore, in some cases, final compensation could be reduced, but only for members with earnings based special compensation whose highest 12 month period at retirement includes furlough leave.

- VI. **Cafeteria Plan Benefits** – Employees shall receive continued medical, dental, vision, life insurance and other cafeteria plan benefits including the City’s flex contribution. Employees will be responsible for the same employee contributions. If an employee’s check for a pay period which includes furlough leave is not sufficient to cover a particular deduction in its entirety, the deduction will not be taken from that check, but will be deducted from the following paycheck.
- VII. **Furlough Leave as Hours Worked**– Furlough leave will be counted as hours worked for the purposes of calculating overtime, earning and computing paid leave accrual, completion of probationary period, promotion eligibility, computing seniority and step increase eligibility. Furlough leave will not be considered hours worked for other forms of compensation.
- VIII. **Exempt Employees** – Exempt employees will be considered non-exempt employees under the Fair Labor Standards Act (FLSA) guidelines in any FLSA workweek in which one or more hours of unpaid furlough time off occurs. Such employees will be eligible for hourly pay for any work performed during that FLSA workweek, just as non-exempt employees would be. Such employees may also be eligible for overtime compensation during any such FLSA workweek according to applicable FLSA guidelines. During a week in which a furlough occurs, employees must use leave accruals for partial day absences, may not telecommute or perform services for the City outside regular working hours unless specifically authorized to do so. On actual furlough days, FLSA exempt employees may not come to work.
- IX. **New Employees** – Employees hired after August 2, 2009 will be required to participate in the Mandatory Furlough Program. The amount of furlough leave hours required will be prorated based on four (4) hours for each pay period remaining through August 28, 2010 to a maximum of 104 hours.
- X. **Separating Employees** – Employees who separate employment from the City prior to August 28, 2010 will have the number of required furlough leave hours prorated. The amount of furlough leave hours required will be prorated based on four (4) hours for each pay period worked since August 2, 2009 to a maximum of 104 hours. Employees who have not met the prorated required hours must schedule the remaining furlough leave hours prior to their separation from employment.
- XI. **Employees on Unpaid Leaves of Absences** – Employees on approved unpaid leaves of absences (excluding suspensions for disciplinary purposes) may run their furlough leave concurrently with their leave of absence.
- XII. **Employees on Medical, Military, or Administrative Leaves of Absences** – Employees on medical leaves (FMLA, PDL, CFRA or leaves due to work related injuries), military leave, or administrative leave will be required to participate in the Mandatory Furlough Program upon returning to work. The deadline to utilize furlough leave hours will be extended by the equivalent amount of time the employee was on leave since August 2, 2009, but no longer than one year. For example, if an employee is out on leave for five months, he/she will be required to utilize 104 hours of furlough leave by January 31, 2011.