

1 **RESOLUTION NO.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64 **BE IT FURTHER RESOLVED:**

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

68 **BE IT FURTHER RESOLVED:**

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

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

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

82 **BE IT FURTHER RESOLVED:**

83 The Council directs the City Manager to modify the expanded Family Medical
84 Leave Act policy to ensure that the City will pay an eligible employee 100% of their
85 regular pay rate for the number of hours the employee would otherwise be normally
86 scheduled.

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88 **ADOPTED:** _____, 2020 **ATTEST:** _____

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Jannette S. Goodall
City Clerk