

## RESOLUTION NO. 812

### A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, AMENDING RESOLUTION NO. 800 ACKNOWLEDGING AND APPROVING CERTAIN POLICIES REGARDING MANDATORY EMPLOYEE FURLOUGHS FOR 2009 AS CLARIFICATION OF THE CITY'S ANNUAL SALARY ORDINANCE.

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WHEREAS, due both to the economy and to the limited revenue sources available to local governments in the state of Washington, the City of Gig Harbor is experiencing budget shortfalls and limitations; and

WHEREAS, the Mayor and City Administrator have implemented layoffs in accordance with the 2009 adopted budget to help address that budget shortfall; and

WHEREAS, continued furloughs into 2010 are unlikely and additional layoffs are proposed for April 1, 2010; and

WHEREAS, the City Council wishes to amend the mandatory furlough policy so that Employees who have been recently notified they will be laid off between January 4, 2010 and April 4, 2010 are not subject to the remainder of the 2009 furloughs starting November 24, 2009. Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON,  
HEREBY RESOLVE AS FOLLOWS:

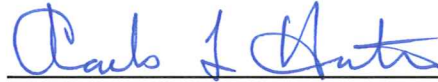
Section 1. The attached mandatory furlough policy shown as Exhibit A to this resolution, promulgated by the Mayor and City Administrator, is hereby amended as shown in Section 2.5 of the policy.

Section 2. The City Council acknowledges that this policy has been adopted in order to address unanticipated economic shortfalls and as such, these furloughs will constitute budget related furloughs within the meaning of 29 C.F.R.

§541.710 and are an integral part of the City's expenditure reduction efforts within the meaning of Chapter 430, Washington Session Laws of 2009.

RESOLVED this 24rd day of November, 2009.

CITY OF GIG HARBOR



\_\_\_\_\_  
MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:



\_\_\_\_\_  
CITY CLERK, MOLLY M. TOWSLEE

FILED WITH THE CITY CLERK: 11/18/09  
PASSED BY THE CITY COUNCIL: 11/23/09  
RESOLUTION NO. 812

## EXHIBIT A

### CITY OF GIG HARBOR

2009

### MANDATORY FURLOUGH POLICY AND PROCEDURE

**Effective:** September 1, 2009; Amendment (Res. No. 800) Effective Date: November 23, 2009.

**End Date:** December 31, 2009

The City reserves the right to revise, supplement, clarify or rescind any policy or portion of a policy when deemed appropriate by the Mayor or City Administrator.

#### 1.0 **OVERVIEW**

1.1 **INTENT OF POLICY** - This policy is in addition to the City of Gig Harbor Personnel Policies and serves as a general guide to the City's employment practices and procedures. This policy is not intended to repeal or conflict with the City's Voluntary Furlough Policy. In the event that there is a conflict between the City's Voluntary Furlough Policy and this policy, this policy shall govern. This policy is not intended to be a contract, express or implied, or any type of promise or guarantee of specific treatment upon which you may rely, or as a guarantee of employment for any specific duration.

Employees who are exempt from collective bargaining representation or otherwise deemed executive, managerial, or confidential by the City are considered at-will employees and may be terminated from City employment at any time with or without cause and with or without notice. All other employees' employment status shall be governed by the personal employment contract, collective bargaining agreement, civil service rules, City Personnel Policies, or other written document applicable to the individual case.

1.2. **SCOPE OF POLICY** - In cases where this policy conflicts with any City ordinance, Civil Service rule and regulation, the provision of a collective bargaining agreement, state or federal law, the terms of the law or agreement prevail. In all other cases, this policy applies.

1.3 **ASSIGNMENT OF FURLOUGH DATES** - A significant budget shortfall has been forecasted for 2009-2010. In order to address the shortfall, program and position cuts have been implemented. In order to preserve remaining services and reduce the need for reductions in force, the City may require mandated leave by all furlough-eligible City employees on the following days during the 2009 calendar year:

Furlough Dates  
September 4

October 12  
November 25  
December 24  
December 28  
December 29  
December 30  
December 31

The Mayor and City Administrator are authorized to close the Civic Center on the above dates. The majority of furlough-eligible employees will be taking the above dates as their designated furlough day. When needed, alternate dates may be used. In the rare occasion when a department must utilize a date other than those designated above, the date selected must be clearly communicated to payroll and approved in advance and in writing by the City Administrator. It is the responsibility of each furlough-eligible employee and their supervisor to administer this policy so that all furlough-eligible employees participate fully in the program. The City Administrator, at his discretion and subject to benefit eligibility rules, may not require regular part-time employees to take all or a portion of the above furloughs.

In addition, the City Administrator may approve voluntary furloughs upon application by individual employees. The City Administrator reserves the right to approve or deny voluntary furlough requests, based on the business needs of the City (see Voluntary Furlough Policy). Up to eight voluntary furlough days taken before September 1, 2009 may be credited against the 2009 mandatory furlough days. If the credit is taken, the employee will have to use accrued vacation or comp time on furlough day(s) or work extra hours (not to exceed 40 total compensable hours for a given work week) to make up for the credited furlough day(s).

1.4 DEFINITIONS - The following definitions are meant to clarify the language used in this policy in reference to furlough process and eligibility.

Delayed Furlough Day – A day off without pay taken in place of a designated furlough day.

Budget Shortfall Furlough – Also referred to as “mandated leave” or “furlough day” caused by a revenue shortfall requiring budget reductions and the placement of employees in a temporary status without duties and without pay. Furloughs will temporarily be administered as follows:

1. Notification of furlough is to be processed in writing at least 30 days in advance when possible; shorter notice may be provided in the event of an emergency or other unforeseen financial or scheduling complication which could impair the operations of the city.
2. During an emergency budget furlough day, furloughed employees remain City employees.
3. Outside employment for furloughed employees remains subject to the City’s policies, procedures, collective bargaining agreements, civil service rules and regulations, and other established guidelines.

4. Furloughed employees may not volunteer to do what the City otherwise pays employees to do.

FLSA-Exempt Employee – An individual designated by the City Administrator as being employed in a bona fide executive, administrative, or professional capacity, as defined by the Fair Labor Standards Act (FLSA) or the Washington Minimum Wage Act (WMWA), and who is therefore exempt from the overtime pay and minimum wage requirements of the FLSA or the WMWA.

Furlough Day – Any day in which a furloughed employee is placed in a temporary status without duties and without pay due to a financial need to reduce expenditures caused by declining revenues.

Furlough-Eligible / Must Report Person – Any position that has been identified as furlough eligible, however, due to job necessity, the employee is required to work on a designated furlough day. In this situation, the employee must take a replacement furlough day at an agreed upon later date.

Furlough-Ineligible Positions – Positions with assigned duties which must, in the judgment of the City Administrator, be performed on one or more of the scheduled furlough day(s). These positions may change throughout the furlough process, and these positions may be required to take some unpaid furlough days (or hours) and not others. Employees working in a furlough ineligible position are not required to make up furlough days.

Furloughed Employee – Any employee who is placed in a temporary status without duties and without pay due to budget shortfalls requiring expenditure reductions.

Hourly – An employee who is entitled to be paid for all actual hours that he/she is required or permitted to work at either the straight time regular hourly rate for hours worked up to and including forty (40) in the workweek or overtime hourly rate at one and one-half times the hourly employee's regular rate of pay for each hour worked in excess of forty (40) in the workweek.

Voluntary Furlough -- A furlough day or days, initiated at the request of an employee in which the employee is in a temporary status without duties and without pay due to a financial need to reduce expenditures caused by declining revenues.

Workweek – A fixed and regularly recurring period of 168 hours during seven consecutive twenty-four hour periods.

## **2.0 CLASSIFICATION**

2.1 Employment Contract Workers – Not applicable.

2.2 FLSA-Exempt Employees – All employees, including FLSA-exempt employees, who are identified as furlough-eligible, will be strictly prohibited from working on furlough days. During weeks in which a furlough occurs, FLSA-exempt employees will be converted to

hourly status. FLSA-exempt employees will be required to track their hours consistent with the standard hourly tracking practices used in their home department. During the period when FLSA-exempt employees are converted to hourly, they must subscribe to standard working hours and all other rules (e.g., rest periods and meal periods) which are required in their home department. For example, partial day absences due to medical appointments must be requested in advance and deducted from the employee's sick leave accrual balance.

During weeks in which FLSA-exempt employees are converted to an hourly status, care must be taken to ensure that hourly rules are observed. FLSA-exempt employees converted to an hourly status in a week in which a furlough occurs are specifically directed not to work hours in excess of a standard schedule without the specific authorization of their supervisor or manager. FLSA-exempt employees must observe the agreed upon starting and ending times to each work day. Such work includes being physically present in the office, working at home, working online, working on the telephone, "working lunches", working on a blackberry or working on a cell phone. All work in service of the City for which an individual does not receive compensation through the approval process, including overtime, is prohibited. Attendance at off-hour meetings such as public hearings is compensable and must be recorded during furlough-affected weeks. During weeks in which FLSA-exempt employees are converted to hourly status, they may flex their work schedules, on an hour-for-hour basis within the work week, to make up for time worked during off-hours (evening meetings, for example).

FLSA-exempt employees who are otherwise furlough-eligible but who submit an "Intent to Retire" form will not be converted to an hourly status during weeks in which a furlough occurs.

- 2.3 Interns— Not applicable—the City will have no paid interns during the duration of this policy.
- 2.4 Regular Part Time / Hourly– Regular part-time employees working 20 hours or more per week are not subject to the furlough policy. Unless business needs dictate otherwise, regular part-time employees are discouraged from working days that city buildings are closed due to furloughs, and they may be required to adjust their work schedules accordingly. Regular part-time and hourly employees will not be used to substitute for regular full-time employees who are on furlough days.
- 2.5 Employees Scheduled for Layoff – Employees who have been officially notified that they will be laid off on or before January 4, 2010 are not subject to 2009 furloughs. Employees who have been notified that they will be laid off between January 4, 2010 and April 4, 2010 are not subject to the remainder of the 2009 furloughs starting November 24, 2009.

### **3.0 PAY AND BENEFITS**

Unless otherwise provided for in an applicable collective bargaining agreement, the following applies:

- 3.1 Adjusted Service Date: An employee's adjusted service date (for leave accrual, seniority, and other purposes) shall not be changed due to unpaid furlough days.
- 3.2 Probationary Periods: Probationary periods are generally six (6) months in length. With the institution of furloughs, probationary periods will continue to be six months. Unless an employee is on more than fifteen (15) furlough days during the probationary period, furlough days will not be considered as a reason to extend a standard probationary period.
- 3.3 Meal/Rest Periods: There will be no change in meal and rest periods due to furlough days being observed in any work week.
- 3.4 Workweek: The definition of "workweek" will consist of seven consecutive 24 hour periods or 168 consecutive hours. The Mayor has determined that an equivalent of eight 8-hour furlough days (or 64 hour) per eligible employee will be observed during 2009, reducing the days worked during the weeks under which a furlough day occurs. The Department Heads will be responsible for administering workweeks affected by the furlough program.
- 3.5 Recordkeeping Requirements: Under the FLSA, the City is required to keep records on employee time. For FLSA overtime-eligible employees, this means that records must be kept for hours worked each day and the total hours worked each workweek. Recordkeeping requirements also apply to FLSA-exempt employees who are identified as furlough-eligible because they are converted to hourly employees in a week in which a furlough day occurs. During such weeks, FLSA-exempt employees will be required to conform to all of the policies normally observed by hourly employees. Attendance at off-hour meetings, such as public hearings, are compensable and must be recorded during furlough affected weeks.
- 3.6 Overtime / Compensatory Time: Those terms and conditions describing overtime and compensatory time contained in collective bargaining agreements, City policy, ordinance, or any other recognized guideline will continue to apply. When FLSA-exempt employees are converted to an hourly status during a week when a furlough occurs, hourly terms and conditions will apply to them. For example, an FLSA-exempt employee who, due to business conditions such as an emergency call out, works more than forty (40) hours in a week while in an hourly status will earn overtime payment or compensatory time.
- Compensatory time accrual for FLSA-exempt staff converted to hourly during furlough affected weeks will only be approved in rare and unusual circumstances. Managers must consult with the City Administrator prior to making such approvals.
- Mandatory unpaid leave (furloughs) will not count as hours worked toward the overtime threshold.
- 3.7 Medical, Dental, Vision Benefits: Medical, dental, vision, EAP and other insurance benefits (with the exception of life and disability insurance which is calculated based on salary) will be unaffected by the furlough, except when an employee is on unpaid status for 30 consecutive days or more.

- 3.8 401(a) and 457 Retirement Plan Contributions: The City's 401(a) defined contribution retirement plan is based on earnings. Furloughs will reduce earnings and therefore reduce the City's and the employee's contribution to the 401(a) plan. Employee participation in other plans such as the 457 deferred compensation plan which ~~are~~ may be contributed as a percentage of income will also be reduced accordingly.
- 3.9 Paycheck Averaging. For employees affected by the scheduled furloughs, the City will spread the reduction in pay caused by the eight furlough days across all pay periods starting from the August 23-September 5, 2009 pay period to the December 27-January 9, 2010 pay period. If an employee subject to furloughs and paycheck averaging leaves the employment of the City for any reason before the end of the paycheck averaging, said employee shall receive any back pay due to them with their last paycheck. Employees scheduled for layoff as per section 2.5 will not be subject to paycheck averaging. Merit increases and bonuses will be calculated on the full-time salary before the adjustment for furloughs is made. Base pay for the calculation of Union or FLSA overtime shall be based on the contract rate of pay or the FLSA unadjusted rate and not on the hourly rate established through the pay check averaging process.

#### **4.0 ALTERNATIVE WORK ARRANGEMENTS**

- 4.1 Alternate Workweeks: Individuals working a compressed workweek (e.g., 9/80 or 4/10 hour workweeks) will be required to observe unpaid furlough days. The amount of unpaid furlough hours for 2009 will be equivalent to eight (8) unpaid eight hour furlough days (or 64 hours). Individuals on compressed workweeks must work collaboratively with their managers and supervisors to establish a 2009 schedule of observed, unpaid furlough days consistent with their department furlough days. When a flex day falls on a furlough day, the preferred approach when identifying an alternate day to be observed as a furlough day is to schedule the furlough day within the same week. The less preferred approach is to schedule the alternate furlough day within the same pay period. These employees will need to either take vacation or work extra hours during the same work week to compensate. Compressed work week employees whose furlough day (eight hours) is shorter than they would otherwise be required to work for that day (nine hours for example) must make up for the extra hour(s) by either taking vacation time or working extra hour(s) in the same work week as the furlough day.
- 4.2 Timekeeping: Each department is responsible for establishing methods to ensure furlough days are observed by each furlough-eligible employee.
- 4.3 Telecommuting: Not applicable.

#### **5.0 LEAVE ADMINISTRATION:**

- 5.1 Vacation and Leave Accruals: The accrual of vacation, sick leave, holidays, floating holidays, and other leave (jury duty, bereavement, etc.) will not be affected by the 2009 scheduled furlough days, unless the employee is in unpaid status for 30 consecutive days or more.



5.2 Vacation. Employees may not use their paid vacation benefit on a day they would not normally be paid. Furlough days are not paid. Some City employees, who would otherwise be furlough-eligible, will be allowed to use vacation on emergency budget furlough days. They include employees who intend to retire on or before April 1, 2010, employees who are scheduled for layoff on or before January 4, 2010, and furlough-ineligible employees.

5.3 Vacation Carryover. Failure to use vacation leave beyond the maximum accrual amount results in forfeiture of the vacation leave unless specific “carryover” authorization has been provided by the City Administrator. This authorization will generally be granted in instances where, due to the direct result of the furlough, vacation use was either denied or, due to the furlough, no opportunity was available to schedule or reschedule before the end of the year. It is the responsibility of employees and managers to plan their vacations and workload during the year in order to avoid maximum vacation accrual issues. Departments have the obligation to ensure that the necessary adjustments to employee schedules are made prior to the end of year.

5.4 Family Medical Leave (FMLA). Employees will continue to have 12 weeks of protected Family Medical Leave as allowed under the Family Medical Leave Act (FMLA). Employees will not have a right to be paid on any day for which they would not normally be paid. In other words, employees on FMLA are not entitled to a paid day on a furlough day. Employees on FMLA leave will have the equivalent number of protected days for each furlough day added to the end of the 12 weeks of protected FMLA leave.

Eligibility. A furlough day is considered to be a regular day off and should not be counted when calculating leave eligibility. For example, when calculating whether the employee worked 1,250 hours in the previous 12 month period under FMLA, one would not count any furlough days as earned or hours worked.

5.5 Military Leave. The Washington State Legislature changed the number of paid military leave days from 15 to 21 in 2008. Managers and supervisors will continue to grant military leaves in accordance with the law. The annual leave periods are not to exceed 21 work days during each year. Such leaves are made with pay to employees eligible for leave benefits for the purpose of taking part in active duty or military training. Employees are not eligible to be paid for military leave on days when they would not normally be paid. Unless identified as “furlough-ineligible,” employees on military leave are not paid on furlough days. Persons taking military leave will continue to receive 21 paid work days per year to take part in active duty or military training. The requirements to submit a written request for military leave to the employee’s supervisor and attach copies of military documents that order the active duty will continue to be required.

5.6 Active Military Duty. USERRA provides that employees on a furlough or a leave of absence are to be given the same rights of employees on other types of leave. In the case of a furlough, active military employees do not have any more rights than other employees to use paid leave accruals while on leave for military service. For employees receiving supplemental military pay, furloughs will impact their regular differential pay. Employees will not receive supplemental pay for furlough days.

- 5.7 Domestic Violence Leave. Effective April 1, 2008, under Washington State law, employees who are victims or who are family members of victims of domestic violence, sexual assault or stalking may take a reasonable period of leave to receive medical treatment, attend legal proceedings or address safety concerns. The employee may elect to use sick leave, other paid time off, compensatory time or unpaid leave time. Managers and supervisors must continue to approve paid or unpaid leave time for domestic violence leave; however, they may not approve the use of paid leave time for those days for which an employee would not normally be paid. Managers and supervisors may not approve the use of paid domestic violence leave for scheduled unpaid furlough days.
- 5.8 Bereavement Leave. Employees are not eligible to be paid for bereavement leave on days when they would not normally be paid. Managers or supervisors will continue to approve bereavement leave within the limitations established. Managers or supervisors may not approve the payment of bereavement days for scheduled unpaid furlough days.
- 5.9 Jury Duty. Employees are not eligible to be paid for jury duty on days when they would not normally be paid. Employees called to jury duty during a furlough day would not be eligible to receive their regular compensation on that day but may be eligible to keep their court provided jury duty pay for that day which would otherwise be returned to the City.
- 5.10 Washington Family Care Act (WFCA). The furloughs should have no impact to WFCA leaves of absence. The WFCA provides that an employee may use paid leave accruals when caring for a qualifying family member with a serious health condition. The WFCA does not overrule a collective bargaining agreement or employer policies regarding the use of paid leaves. As a result, employees are not entitled to paid leave under the WFCA on a furlough day.
- 5.11 Pregnancy, Childbirth or Pregnancy Related Conditions (PCPRC). Furlough days do not impact PCPRC leave. The City will continue to treat female employees on PCPRC in the same manner as other employees on leave for sickness or other temporary disabilities. PCPRC paid leave may not be taken on an unpaid furlough day.
- 5.12 Sick Leave Use. Employees may not use sick leave for furlough days. Employees may use paid leave benefits only on those days they are normally scheduled to work. Employees are not eligible to be paid for sick leave on days when they would not normally be paid.
- 5.13 Compensatory Time. Compensatory time, like overtime, should not accrue as a direct or indirect result of furlough days. In other words, except in rare circumstances, furlough days should not cause employees to work extra hours on non-furlough days. Employees are not eligible to be paid for compensatory time on days when they would not normally be paid. Compensatory time will not be used in place of designated unpaid furlough days.

Employees who are required to work evening meetings should flex that time, hour for hour, within the same work week. For example, an employee who works two hours at a night meeting may come into work two hours late that same day or any other day within

that same work week. Employees must work with their supervisor to determine when to flex their hours within the work week.

FLSA-exempt employees who are permitted to earn compensatory time during a furlough week in which they are designated as hourly must also use compensatory time during a furlough week in which they are designated as hourly. Managers and supervisors must consider very carefully (in advance) whether compensatory time will be approved in lieu of overtime payments. The recommended approach is that all hourly employees work within the adjusted hour workweek structure and not incur compensatory time or overtime during a designated furlough week. Any furlough-eligible employee incurring unapproved compensatory time or overtime during a designated furlough week will be subject to discipline. On call out emergencies, employees are required to call a supervisor for approval to call out additional employees. If the employee is unable to contact a supervisor in a timely manner, the employee has the discretion to call out additional employees to assist with emergencies. If an employee is called in to work without 24 hours advance notice, the employee is not required to take alternate furlough time.

- 5.14 Holiday Pay. The requirement to be in paid status the day before and the day after a holiday in order to be paid for the holiday will be waived in those circumstances where the unpaid day is a furlough day (this includes make up furlough days and alternate furlough days). If an individual is in an unpaid status on a day before or a day following a holiday not caused by a furlough day, the employee will not be paid for the holiday.

## **6.0 RESCISSION OF APPROVED LEAVES.**

There are many circumstances under which employees may have requested and have already received approval for vacations falling on what have become furlough days. In general terms, City employees are not eligible to be paid for any days when they would not normally be paid . One may not, for example request and have approved vacation day payments for weekends unless the weekend is a normally scheduled work day for the employee. Unpaid furlough days are not normally scheduled work days. Rescinding leaves, rescheduling leaves or other solutions consistent with City Policy, collective bargaining agreements, or other guideline will be required to address the issue.

Unless an employee has been specified as furlough-ineligible for a mandated leave day, he or she must take the furlough day as time without pay unless an alternative furlough day has been previously arranged with the appropriate supervisor and approved by the City Administrator. In some cases, leave days are pre-approved months in advance. That is especially true if an individual has requested and had approved a lengthy vacation. Managers and supervisors should examine all leaves which received approval prior to July 1, 2009. If a paid leave day that had been approved for 2009 is now scheduled to be an unpaid furlough day, the director, manager or supervisor will engage the matter and resolve the situation as outlined in this document. Unpaid furlough days may occur during a multi-day vacation or a multi-day sick leave occurrence.

Employees must be provided the furlough schedule. Employees must be informed that the day has been identified as an unpaid furlough day. When rescinding previously approved leaves, a supervisor, manager or director should consult with the City

Administrator to make sure that all appropriate steps have been followed. When rescinding previously approved paid leaves, the employee should receive appropriate written notice.

## **7.0 RETIREMENT**

In accordance with the provisions of the recently enacted SB 6157, any compensation foregone by a member of the State Retirement System applicable to municipal employees shall include any compensation foregone by a member during the 2009 to 2011 fiscal biennium as a result of reduced work hours, voluntary leave without pay or temporary furloughs. These rules shall be interpreted in accordance with the state of Washington's DRS rules which are anticipated to be issued on or about July 1, 2009.

## **8.0 COMMUNICATION.**

8.1 New Hires. In the unlikely event that a new employee is hired in 2009, all job offer letters must include a notification of furlough days. Employees who are furlough-eligible will not be paid for designated furlough days. Employees hired on a schedule which calls for those dates to be a regularly scheduled work day must arrange an alternative furlough day with their supervisor. In addition, 2009 job postings should include the following: "This position may be subject to up to eight (8) days of unpaid furlough leave in 2009."

8.2 All City Communication. Furlough-eligible employees will be notified in broadcast e-mails or by other forms prior to the onset of mandatory furloughs.

## **9.0 ADDITIONAL.**

9.1 Grievance Procedures/Timelines. Grievance procedures typically specify the number of days for each step of a grievance. The number of days is typically specified as "days," "calendar days," or "business days." The terms and conditions of all collective bargaining agreements will be observed unless specifically overridden by a Memorandum of Understanding. Where a collective bargaining agreement specifies "calendar days," furlough days will generally be considered calendar days. Where the collective bargaining agreement specifies "business days," furlough days will be considered business days if the employee is furlough-ineligible and non-business days if the employee is furlough-eligible. Where the collective bargaining agreement specifies "days," the parties will agree on the meaning of the term upon notification of the grievance.

There is no property right to scheduled or substituted furlough days. There is no requirement to hold Loudermill hearings on furloughs for employees who are identified as furlough-eligible.

9.2 Unemployment Compensation. Eligibility is determined by the Washington State Department of Employment Security.

9.3 Emergency Procedure. In those cases where an emergency call out occurs on a furlough day or during a furlough week, employees may be called back to work. Such employees

are compensated in accordance with standard compensation procedures and in conformance with the applicable collective bargaining agreement. FLSA-exempt employees may be called back to work on a furlough day. FLSA-exempt employees are compensated on an hourly basis for all time worked within a furlough affected week. FLSA-exempt employees are required to track their time during a furlough affected week consistent with the practices in their department. Overtime pay is paid to such non-represented employees for all hours worked in excess of forty (40) hours within that week including weekend days within the same week. If such employees are represented, they are paid in accordance with their collective bargaining agreements for calculation of overtime.

In the case of an employee being called to work on an unpaid furlough day due to emergency situations, the employee is not required to make up the furlough day at a later date.

#### **10.0 PUBLIC DISCLOSURE ACT.**

The term “business day” is not defined under the Public Records Act. When considering whether one should count a furlough day as a business day, one should keep in mind that the act is to be liberally construed. Recognizing that some parts of the city will be open on furlough days, the recommended course of action is to regard all furlough days as business days for public disclosure request purposes.