

RESOLUTION NO. 2016-59

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL
ESTABLISHING THE SALARY AND BENEFITS FOR CIVIL
SERVICE EMPLOYEES NOT COVERED BY A MEMORANDUM
OF UNDERSTANDING AND/OR NOT IN THE CLASSIFIED
SERVICE PER SECTION 2.84.030(C) OF THE BELL
MUNICIPAL CODE, RESCINDING AND REPLACING
RESOLUTION NO. 2008-05 AND RESCINDING RESOLUTION
NOS. 2015-32 AND 2016-15**

Whereas, the City of Bell has declared certain employee classifications to be excluded from the Civil Service System and designated such classifications to be unrepresented and at-will pursuant to Bell Municipal Code ("BMC") section 2.84.030(B); and

Whereas, in 2008 the then City Council adopted Resolution 2008-5 purporting to provide for the benefits of officials and employees not in the classified service which was drafted and adopted by former City officials who have subsequently been found to be self-serving or corrupt, and provisions of the resolution are contrary to the public interest, and which resolution the City Council now desires to rescind; and

Whereas, Resolution 2008-05 purported to provide for benefits to City officials and employees that were not in accordance with the requirements of law, namely that Resolution 2008-05 did the following: (i) provided for certain benefits that were not presented to Council when it approved Resolution 2008-05, (ii) did not provide for medical benefits in a manner such that the benefits provided are equivalent for all recipients, (iii) violated the Brown Act because a brief general description of the subject matter of the resolution was not provided in the agenda for the January 7, 2008 council meeting when Resolution 2008-05 was purportedly adopted, and (iv) provided indemnification for City officials beyond that provided in state law, including for criminal acts, which the former corrupt City officials attempted to utilize to require the citizens of Bell to provide for their legal defense; and

Whereas, the City challenged the legality of Resolution 2008-05 in *City of Bell v. Avila*, Los Angeles Superior Court Case No. BC 491531, and by acting to rescind Resolution 2008-05, the City in no way ratifies or affirms that said Resolution is now or was ever duly adopted in accordance with law or valid or of any legal effect whatsoever; and

Whereas, on March 3, 2015, the electorate of the City of Bell approved certain revisions to the City Charter, including the addition of language providing that indemnification for City Council members shall not be provided beyond what is required by State law (Section 502(d); and

Whereas, consistent with Section 502(d) of the City Charter, the City now desires to provide for defense and indemnification for its elected officials and unrepresented classifications only to the extent required by State law; and

Whereas, this resolution makes the following additional significant updates from Resolution 2008-05: (i) eliminates reference to City paying the entire employee's share of employee's retirement contribution; (ii) clarifies various retirement plans and updates plans to conform with requirements of the Public Employees' Pension Reform Act ("PEPRA"); (iii) controls retiree health insurance costs by clarifying that insurance benefits upon retirement are

subject to the City's Public Employees' Medical and Hospital Care Act ("PEMHCA") resolution; (iv) provides that the City will comply with the requirements of the Affordable Care Act for Miscellaneous Part-Time/Temporary employees; (v) adds a sick leave cap for Administrative Management and Management employees of 192 hours and eliminates sick leave cash out upon separation for employees hired after the effective date of the resolution; (vi) provides 40 hours of Executive Leave annually to Administrative Management and 20 hours to Management employees; (vii) provides standard severance payments for Administrative Management (3 months) and Management (1 month) contingent upon signing a settlement and release agreement; and

Whereas, pursuant to BMC section 2.84.030(B), on March 11, 2015 the City Council adopted Resolution 2015-09 pertaining to the designation of unrepresented positions, which as may be updated from time to time ("Unrepresented Employee Classification Resolution"), designates certain unrepresented employee classifications as "Elected Officials," "Executive Management," "Administrative Management," "Management," and "Miscellaneous Part-Time/Temporary" and which terms are defined in Section 2 of this Resolution; and

Whereas, Section 36506 of the California Government Code requires that the city council fix the compensation of all appointive officers and employees by resolution or ordinance; and

Whereas, BMC section 2.84.030(C) requires the City Council to establish the compensation, including benefits, to be paid to unrepresented employees of the City of Bell; and

Whereas, pursuant to BMC section 2.84.030(C), on April 13, 2016 the City Council adopted Resolution 2016-20 pertaining to unrepresented employee compensation levels and ranges, which as may be updated from time to time ("Unrepresented Employee Compensation Resolution"), establishes the compensation levels and salary ranges for all City employees; and

Whereas, the City Council now desires to establish the benefits of the foregoing officials and employees not in the classified service as provided herein; and

Whereas, pursuant to Resolution No. 2015-32, adopted on June 24, 2015, the City established a paid sick leave policy applicable to unrepresented Miscellaneous Part-Time/Temporary employees in conformance with the requirements of the Healthy Workplace Health Family Act of 2014; and

Whereas, the City Council now desires to incorporate the previously-established sick leave policy adopted in Resolution 2015-32 for unrepresented Miscellaneous Part-Time/Temporary employees into this resolution and rescind Resolution 2015-32; and

Whereas, on March 23, 2016, the City Council considered and approved Resolution 2016-15, establishing the benefits of the City officials and employees not in the classified service, with direction to City staff to provide clarification to certain provisions on the draft resolution presented to City Council on March 23, 2016; and

Whereas, City staff has now clarified certain provisions of Resolution 2016-15, and this resolution is intended to supersede and rescind Resolution 2016-15; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELL AS FOLLOWS:

SECTION 1. RESOLUTION 2008-05, RESOLUTION 2015-32 AND RESOLUTION 2016-15 RESCINDED

Resolution 2008-05 is hereby rescinded. Those resolutions rescinded by Resolution 2008-05-- Resolutions 2007-41, 2007-24, 2006-54, 2006-40, 2006-10, 2005-08, 2004-45, 2004-23, 2003-29, 2002-40, 2001-26, 2000-14, 98-42 and 97-01-- shall remain rescinded.

Resolution 2015-32 is hereby rescinded. The sick leave policy established in Resolution 2015-32 is incorporated into this resolution at Section 7(B)(4) below.

Resolution 2016-15 is hereby rescinded.

SECTION 2. APPLICABILITY OF THIS RESOLUTION

A. DEFINITIONS

Pursuant to the City's Unrepresented Employee Classification Resolution, as may be amended from time to time, the "Elected Officials" classification consists of City Council members.

Pursuant to the City's Unrepresented Employee Classification Resolution, as may be amended from time to time, the "Executive Management" classification consists of the City Manager.

Pursuant to the City's Unrepresented Employee Classification Resolution, as may be amended from time to time, the "Administrative Management" classification consists generally of City department heads, plus the Police Captain and Police Lieutenant.

Pursuant to the City's Unrepresented Employee Classification Resolution, as may be amended from time to time, the "Management" classification consists generally of Manager classifications, plus the City Clerk and City Treasurer.

B. APPLICABILITY

This resolution sets forth the employment benefits applicable to those full-time, unrepresented employees civil service employees not in the Classified Service per section 2.84.030(C) of the Bell Municipal Code and designated as "Administrative Management," and "Management" in the City's Unrepresented Employee Classification Resolution.

The "Executive Management" position as designated in the City's Unrepresented Employee Classification Resolution (i.e. City Manager only) shall be entitled to benefits as specifically set forth in the employment contract for this position.

"Elected Officials" as designated in the City's Unrepresented Employee Classification Resolution (i.e. City Council Members only) shall only be entitled to those benefits as specifically set forth in Section 10 below.

Those unrepresented, at-will part-time and temporary employees designated as "Miscellaneous Part-Time/Temporary" employees in the City's Unrepresented Employee Classification Resolution shall only be entitled to overtime compensation as set forth in Section 2(A)(2), sick

leave as set forth in Section 5(B)(4), and health insurance as set forth in Section 4(B) below. Otherwise, "Miscellaneous Part-Time/Temporary" employees shall not be entitled to the benefits provided to "Elected Officials," "Administrative Management," and "Management" employees pursuant to this Resolution.

Sections 11 of this resolution, entitled "Indemnification," and Section 13 of this resolution, entitled "Applicable Policies," shall apply to all unrepresented employee and official classifications, including "Elected Officials," "Executive Management," "Administrative Management," "Management," and "Miscellaneous Part-Time/ Temporary."

SECTION 3. COMPENSATION

A. BASE SALARY RANGES/ STEPS

Salary ranges and step levels for those employees who have been designated as Elected Officials, Executive Management, Administrative Management and Management shall be as provided in the City's Unrepresented Employee Compensation Resolution.

B. OVERTIME PAY

1. Administrative Management and Management

Employees who have been designated as Administrative Management and Management pursuant to the City's Unrepresented Employee Classification Resolution are declared "exempt" in accordance with the Fair Labor Standards Act and will not receive compensation for working overtime.

2. Miscellaneous Part-Time/Temporary

Those employees who have been designated as Miscellaneous Part-Time/Temporary pursuant to the City's Unrepresented Employee Classification Resolution shall be compensated for overtime in accordance with the Fair Labor Standards Act.

C. ADDITIONAL DUTIES PAY

Certain Administrative Management and Management employees may be required to perform special assigned duties outside the scope of their job description. The City Manager may assign special functions to any employee in this group category as deemed necessary in the course of City business. In the event of such appointment by the City Manager, the employee shall receive an additional compensation equal to five percent (5%) of their basic pay. This compensation shall remain in effect only for the duration of the assignment.

D. JURY DUTY

Administrative Management and Management employees summoned to jury duty shall receive their regular pay up to forty (40) hours annually. In the event the employee receives any reimbursement from the pertaining judicial jurisdiction, court, and/or government agency, such reimbursement shall be reimbursed to the City excluding mileage received for said jury duty.

E. MILEAGE REIMBURSEMENT

Administrative Management and management employees who are required to drive their personal vehicles in the performance of assigned job duties at the Internal Revenue Service

("IRS") rates in effect at the time of travel. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable if determined to be reasonable and necessary.

F. TUITION REIMBURSEMENT

Management employees who successfully complete job-related classes shall be reimbursed for tuition and supplies in the manner provided below. In order to be eligible for tuition reimbursement for job-related classes, the employee must obtain written pre-approval of the City Manager prior to enrollment in such classes. Said reimbursement shall be paid subsequent to successful completion of the class with a "C" or better grade. The employee shall have six months from the date of posting of the class grade to submit the reimbursement request and supporting expense paperwork, or the right to such reimbursement hereunder shall be deemed waived.

Reimbursement shall be limited to \$600 for tuition and supplies per fiscal year for classes completed in that fiscal year. The City Manager may authorize additional reimbursement related to specifically job-related classes that would enhance or develop the current employee's position. This reimbursement shall not be considered special compensation as defined in Section 571 of the California Code of Regulations.

The employee must agree, as a condition precedent to the reimbursement, to pay back the City for the reimbursement paid to the employee for the class, including any associated fees, costs, etc., if the employee leaves City employ within one year of the end of the class

G. PROFESSIONAL CERTIFICATION/LICENSING REIMBURSEMENT

Administrative Management and Management employees, who possess a professional certification or license related with their employment with the City of Bell, shall be reimbursed for the fees associated with the renewal of the aforementioned professional licensing. Some continuing education expenses may be reimbursed at the sole discretion of the City Manager; employee shall obtain written approval of the City Manager prior to enrollment in order to be eligible for reimbursement. This reimbursement shall not be considered special compensation as defined in Section 571 of the California Code of Regulations.

H. COMPENSATION FOR INJURY ON DUTY

Employees who are disabled by injury or illness arising during the course of employment will be entitled to benefits as provided under the Workers Compensation Law of the State of California.

I. UNIFORM ALLOWANCE FOR POLICE OFFICERS IN ADMINISTRATIVE MANAGEMENT CLASSIFICATIONS

Safety officers in the Administrative Management classification shall be entitled to an annual uniform allowance in the amount of One Thousand Two Hundred and Fifty Dollars (\$1,250) per year (\$104.17 per month). The uniform allowance will be paid in approximately equally amounts between the first two pay periods each month.

J. CELL PHONE/ TECHNOLOGY ALLOWANCE- ADMINISTRATIVE MANAGEMENT

Administrative Management employees shall be entitled to a cell phone/ technology allowance of one hundred dollars (\$100.00) per month so that such employees may be available for immediate communications with the City Manager for City business. The City shall not be liable for any expenses or taxes beyond the allowance.

SECTION 4. RETIREMENT

A. CONTRIBUTION

1. The City will pay the employer portion of retirement contribution to the California Public Employees' Retirement System (CalPERS). Employees are required to pay their full member contributions of whichever plan under which they are eligible for CalPERS retirement benefits pursuant to the City's contract with CalPERS. The City's Supplemental Retirement Plan has been closed to new hire participants since July 1, 2005 and has been determined not to have been legally enacted. This Resolution shall not have any effect on the legal status of the Supplemental Retirement Plan.

B. CALPERS CONTRACT PROVISIONS

1. Tier I Miscellaneous -2.7% at 55 Plan (CalPERS) (Employee hired before January 1, 2013, or hired on or after January 1, 2013 and determined to be a "classic member" by CalPERS)
 - i. Sick Leave Conversion
 - ii. Single highest year compensation
 - iii. Military service credit
2. Tier II (PEPRA) Miscellaneous- 2% at 62 Plan (CalPERS) (Employee hired on or after January 1, 2013 and determined by CalPERS not to be a "classic member" as defined by CalPERS)
 - i. Highest thirty-six (36) consecutive months compensation
 - ii. Sick Leave Conversion
 - iii. Military service credit
3. Tier I Safety – 3% at 50 Plan (CalPERS) (Safety employee employed as of June 30, 2006)
 - i. One year final compensation
 - ii. Survivor continuance
 - iii. 1959 Survivor benefit- third level
 - iv. Military service credit
 - v. 1957 Survivor benefit
 - vi. CalPERS Health Care
 - vii. 2% annual cost of living adjustment
4. Tier II Safety -3% at 55 Plan (CalPERS) ((Safety employee hired after June 30, 2006, but before January 1, 2013, or hired on or after January 1, 2013 and determined to be a "classic member" by CalPERS)
 - i. One year final compensation
 - ii. Survivor continuance
 - iii. 1959 Survivor benefit- third level
 - iv. Military service credit

- v. 1957 Survivor benefit
 - vi. CalPERS Health Care
 - vii. 2% annual cost of living adjustment
5. Tier III (PEPRA) Safety- 2.7% @ 57 Plan (Safety employee hired on or after January 1, 2013 and determined by CalPERS not to be a "classic member" as defined by CalPERS and as limited by PEPRA)
- i. Highest thirty six (36) consecutive months compensation.
 - ii. Survivor continuance
 - iii. 1959 Survivor benefit- third level
 - iv. Military service credit
 - v. 1957 Survivor benefit
 - vi. CalPERS Health Care
 - vii. 2% annual cost of living adjustment

SECTION 5. HOLIDAYS

A. PAID HOLIDAYS

Employees will be entitled to a total of thirteen (13) holidays each fiscal year. The City's past practice has been to observe the following ten (10) holidays:

- New Year's Day
- Martin Luther King Day
- President's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

B. FLOATING HOLIDAYS

As the City's past practice has been to observe ten (10) holidays each fiscal year, each employee shall accrue three (3) discretionary, floating holidays (24 hours) every year, for a total of 13 holidays. In the event that the City Council designates more than ten holidays in a given fiscal year, each employee shall only be entitled to the number of floating holidays needed in order to bring each employee's total number of holidays per year to thirteen. (For example, if the City observes one holiday in addition to those designated in Section 5.A. above, then each employee shall only be eligible for two floating holidays.)

Floating holidays shall be taken at the employee's discretion with the approval of the employee's supervisor or the City Manager. Permission to take the floating holiday will not be unreasonably withheld. The floating holiday must be taken prior to the ending of the applicable fiscal year; it may not be carried over to the following fiscal year. Use of the floating holiday leave shall be limited to a minimum of one (1) hour increments.

SECTION 6. INSURANCE BENEFITS

Administrative Management and Management employees, as authorized in 2.84.030(C) of the Bell Municipal Code, shall be eligible for the following insurance benefits according to the group category as follows:

A. PROVISIONS OF INSURANCE DURING EMPLOYMENT WITH THE CITY.

The City shall make available medical, dental, vision and life insurance based on their designation as set forth below. Coverage shall be as follows:

1. Administrative Management

The City shall provide medical, dental, and vision insurance to the employee and his/her dependents in any City approved CalPERS Health Plan at no cost to the employee. The City shall provide a life insurance policy (for the employee only) in the amount of one hundred thousand dollars (\$100,000) for each employee in this designation.

2. Management

- a. Employees hired after October 1, 2005 shall receive medical/dental/vision insurance coverage for the employee and one dependent. Employees hired prior to October 1, 2005 shall receive medical/dental/vision insurance coverage for the employee and his/her dependents. The City shall provide a life insurance policy (for the employee only) in the amount of one hundred thousand dollars (\$100,000) for each employee in this designation.
- b. Medical coverage for Management employees shall represent any approved CALPERS health plan **except** PERS Care. Medical, dental vision, and life insurance coverage shall be effective the first of the month after initial appointment.

3. Dual Coverage

- a. Employees in the Administrative Management and Management classifications shall receive the insurance benefits described above provided that they do not have dual insurance coverage through a non-City sponsored plan. In the event of dual coverage, the employee and his/her dependents shall become ineligible for the benefits listed above.
- b. Employees in the Administrative Management and Management classifications who "opt out" of medical insurance coverage and who show evidence of medical insurance coverage elsewhere, shall be eligible to receive \$500 per month in lieu of insurance coverage for all months that they have opted out. Employees electing to cancel City health insurance coverage for themselves and all eligible family members must provide proof of other coverage. The employee must sign a document stating their desire to waive their City health insurance coverage, thereby also waiving any liability to the City for their decision to cease said coverage.

B. PROVISIONS OF INSURANCE BENEFITS FOR RETIREES

The City shall make available medical coverage for employees in the Administrative Management and Management classifications through any approved CALPERS health plan **except** PERS Care. The City's contribution to medical insurance benefits shall be only up to

the City's Public Employees Medical Hospital Care Act ("PEMHCA") resolution maximum, which currently requires that the City contribute a maximum of \$563 per month. (Resolution No. 90-27 and Resolution No. 91-34.)

Employees in the Administrative Management and Management classifications who have terminated in good standing from the City after January 1, 1997, with not less than thirty (30) years of CalPERS service credit with the City of Bell, or Administrative Management and Management employees who were employed with the City on June 30, 2006 and who have twenty (20) years of CalPERS service credit as of June 30, 2006 and whose termination date is after July 1, 2006, will be eligible for such medical coverage.

C. MISCELLANEOUS PART-TIME/ TEMPORARY EMPLOYEES

The City of Bell shall comply with all benefit administration, record keeping, and reporting requirements of the Affordable Care Act ("ACA").

Eligible employees in the Miscellaneous Part-Time/ Temporary classification (who work an average of more than 130 hours per month) shall be offered affordable health insurance coverage, as defined by the ACA. (The City uses the Look Back Measurement Method Safe Harbor for determining eligibility for an offer of coverage for employees in the Miscellaneous Part-Time/ Temporary classification. The City of Bell's ACA Standard Measurement period is twelve (12) months.)

For the purposes of providing affordable health care to these employees, the City of Bell shall, in its sole discretion, but on a uniform and consistent basis for all employees in the Miscellaneous Part-Time/ Temporary classification, apply one of the three affordability safe harbors (Form W-2, Rate of Pay, or Federal Poverty Line) to determine the affordability of the minimum value of coverage.

SECTION 7. VACATION/SICK LEAVE

A. VACATION LEAVE

Employees are eligible for vacation leave after completing one year of full-time employment.

1. Accrual Rate

- a. The Administrative Management classifications shall accrue vacation leave at the flat rate of 6.1538 hours bi-weekly (160 hours per year).
- b. Management employees shall accrue vacation leave based on the years of service as noted below:

<u>Years of Service</u>	<u>Accrued Vacation Hours biweekly</u>
i. Less than 4	3.6960
ii. 4 and less than 6	4.6160
iii. 6 and less than 13	6.4640
iv. 13 and less than 20	8.3040
v. More than 20	9.8480

2. Accumulation

The Administrative Management and Management classifications shall not accumulate any vacation leave in excess of two hundred and eighty (280) hours, at which point vacation leave accrual will cease until the accrued hours fall below the maximum of two hundred and eighty (280) hours. The City Manager shall be authorized to advance to up eighty (80) hours of vacation leave to those employees in the "Administrative Management" classifications upon commencement of their employment with the City which shall be offset against future accruals.

3. Payment of Vacation Leave

- a. Unused accumulated vacation leave will be paid to each employee upon the date of separation from the City in accordance with Section 7(A)(2).
- b. An employee may annually cash out up to eighty (80) hours (10 days) of vacation leave provided the employee maintains a vacation leave balance of 80 hours at the time of vacation cash out. All requests for vacation leave cash out shall be subject to the review and approval of the City Manager. Approval of vacation leave cash out shall be contingent upon the fiscal ability of the City.

4. Use of Vacation Leave

- a. Requests for use of vacation leave shall be in minimum increments of one hour. However, where such request has not been made and approved in advance, vacation leave may be deducted from accruals on a minute by minute basis for time missed from normal work hours which for purposes of this section are deemed to be normal City operating hours.

B. SICK LEAVE

Except as otherwise provided below, Employees shall accrue but not be eligible to use sick leave until after completing ninety days of full-time employment as follows:

1. Sick Leave Accrual

- a. Administrative Management employees will accrue one hundred percent (100%) sick leave hours at the rate of 3.6960 hours biweekly while in employment with the City (96 hours per year), or while on approved paid leave. Sick leave may only be accrued to a maximum of one hundred ninety two (192) hours at which point sick leave accrual will cease until the accrued hours fall below the maximum of one hundred ninety two (192) hours. The City Manager shall be authorized to advance to up forty (40) hours of sick leave to those employees in the Administrative Management classifications upon commencement of their employment with the City which shall be offset against future accruals. Administrative Management employees shall be eligible to use sick leave immediately upon commencement of employment.
- b. Management employees will accrue one hundred percent (100%) sick leave hours at the rate of 3.6960 hours biweekly while in employment with the City (96 hours per year), or while on approved paid leave. Sick leave may only be accrued to a maximum of one hundred ninety two (192) hours at which point sick leave accrual will cease until the accrued hours fall below the maximum of one hundred ninety two (192) hours.

- c. For purposes of this Section, "seventy-five percent sick leave" shall mean sick leave with seventy-five percent (75%) of pay. "Fifty percent sick leave" shall mean sick leave with fifty percent (50%) of pay. During each five (5) year increment of regular employment, Administrative Management and Management employees will be entitled to accrue 75% sick leave hours and 50% sick leave hours as follows:

<u>Years of Service</u>	<u>75% Hours</u>	<u>50% Hours</u>
0-5	112	112
5-10	224	336
10-15	448	616
15-20	448	896
20-25	448	1,456

- d. Administrative Management and Management employees shall be eligible to use 75% sick leave following exhaustion of 100% sick leave. Following exhaustion of 75% sick leave, Administrative Management and Management employees shall be eligible to use 50% sick leave.
- e. At the end of each five-year increment, any unused 75% and 50% sick leave hours will expire and an employee will accrue the corresponding value of the next five-year increment.
- f. For Safety Personnel within the Administrative Management designation, sick leave shall accrue at the same rate as provided in subsection c above except that Safety Personnel with more than 25 years of service shall be entitled to 448 75% sick leave hours and 2,016 50% sick leave hours.

2. Sick Leave Use

Employees shall use their 100% sick leave accrual first, their 75% sick leave accrual second, and their 50% sick leave accrual last. Three (3) 100% sick leave days may be used each fiscal year for severe illness in the employee's immediate family. Requests for use of sick leave shall be in minimum increments of one hour. However, where such request has not been made in advance, sick leave may be deducted from accruals on a minute by minute basis for time missed from normal work hours which for purposes of this section are deemed to be normal City operating hours.

3. Payment of Sick Leave

For Administrative Management and Management employees hired prior to the effective date of this resolution, upon separation from service, such employees will be compensated for any unused 100% sick leave up to 100 hours, or at retirement from the City of Bell an unlimited amount of unused 100% sick leave may be credited toward CALPERS service credit.

For Administrative Management and Management employees hired on or after the effective date of this resolution, such employees will not be entitled to cash out any sick leave on the books then existing.

4. Miscellaneous Part-Time/ Temporary Employee Sick Leave

- a. Paid sick leave for all employees designated as Miscellaneous Part-time/ Temporary employees and who have worked for 30 or more days shall be provided in accordance with the requirements of the Act codified as Labor Code Sections 245-249 and 2810.5. Regular, benefited employees are eligible for paid sick leave under applicable Memorandums of Understanding, employment agreements and the City's Civil Service Rules and Regulations and are not eligible for additional sick leave as described in this policy.
- b. Paid sick leave for all Miscellaneous/ Part-time/ Temporary employees shall be credited at the beginning of each fiscal year on July 1 at the rate of twenty-four (24) hours for the fiscal year. New employees shall be credited twenty-four (24) hours sick leave upon eligibility to use accrued paid sick time in accordance with section c below. In accordance with Labor Code § 246(d), because the City is providing the full amount of sick leave required by law at the beginning of each year, sick leave accrual shall not carry over to the following fiscal year.
- c. An employee shall be entitled to use accrued paid sick time beginning on the 90th day of employment, defined as the number of days worked. Employees who have not worked for the City of Bell in a 12-month period shall be considered a new employee for purposes of sick leave accrual and usage.
- d. Paid sick leave shall be taken in increments of not less than one hour.
- e. Paid sick leave benefits provided pursuant to this section shall remain in effect unless modified, terminated, or rescinded by subsequent resolution of the City Council, or by changes to applicable state or federal law.

SECTION 8. OTHER LEAVES

A. LEAVES OF ABSENCE

1. Leave without pay

A conditional leave may be granted without pay not to exceed one month with the approval of the City Manager. The City Council may grant a conditional leave without pay not to exceed one year.

2. Family Care Leave

Leave shall be in accordance with all applicable state and federal statutes and regulations, including but not limited to the Family and Medical Leave Act ("FMLA") and California Family Rights Act ("CFRA").

3. Pregnancy Disability Leave

Leave shall be in accordance with all applicable state and federal statutes and regulations.

4. Military Leave

Leave shall be in accordance with all applicable state and federal statutes and regulations.

B. BEREAVEMENT LEAVE

Administrative Management and Management employees shall be entitled up-to three (3) working days paid bereavement leave due to the death of the employee's spouse, parent, brother, sister, child, grandchild, grandparent, aunt or uncle, or any person related in such capacity to the employee's spouse with approval from his/her department head.

C. PERSONAL LEAVE

Administrative Management and Management employees may use up-to three (3) 100% sick leave days per fiscal year for personal business with prior supervisor's approval.

D. PAID ADMINISTRATIVE LEAVE (sometimes known as Executive Leave)

Administrative Management employees shall be credited with forty (40) hours of paid administrative leave at the beginning of the first pay period of the payroll calendar year. Management employees shall be credited with twenty (20) hours of paid administrative leave at the beginning of the first pay period of the payroll calendar year. All employees must complete six (6) months of employment with the City to meet eligibility for paid administrative leave. Use of administrative leave is subject to City Manager approval. Paid administrative leave is capped at forty (40) hours such that any leave not used in the prior calendar year shall be deducted from the next year's accrual. Requests for use of paid administrative leave shall be in minimum increments of one hour. However, where such request has not been made and approved by the City Manager, administrative leave may be deducted from accruals on a minute by minute basis for time missed from normal work hours which for purposes of this section are deemed to be normal City operating hours. Upon termination, any remaining accrued paid administrative leave owed to Administrative Management employees or Management employees shall be paid out.

SECTION 9. PAYROLL PERIODS/ DATES/ DEDUCTIONS/ DEFERRED COMPENSATION

A. PAY PERIODS, DATES & DEDUCTIONS

Employees shall be paid every other Friday for a two-week period ending the preceding Sunday via Automatic Direct Deposit, unless other arrangements need to be made at the request of the employee. Deductions may be made from the salaries of employees as provided by law or upon their written authorization for City approved deduction programs.

B. DEFERRED COMPENSATION PLANS

Pursuant to California Government Code Section 53213, all employees shall be eligible to participate in the City's Deferred Compensation Plans with no contribution by the City.

SECTION 10. ELECTED OFFICIALS BENEFITS

Those designated as "Elected Officials" in the City's Unrepresented Employee Classification Resolution (i.e. City Council Members) shall only be entitled to health and welfare benefits as provided in this Section 10.

A. MEDICAL, DENTAL AND VISION INSURANCE

The City shall provide medical, dental, and vision insurance to Elected Officials and his/her dependents in any City approved CalPERS Health Plan at no cost to the Elected Official. The

City shall provide a life insurance policy in the amount of one hundred thousand dollars (\$100,000) for each Elected Official.

B. RETIREMENT BENEFITS

The City will pay the employer portion of retirement contribution to the California Public Employees' Retirement System (CalPERS) provided that the Elected Official files an election in writing to become a CalPERS member pursuant to Government Code section 20322. Elected Officials are required to pay their full member contributions of whichever plan under which they are eligible for CalPERS retirement benefits pursuant to the City's contract with CalPERS. Retirement plans include the following:

1. Tier I Miscellaneous -2.7% at 55 Plan (Start date before January 1, 2013, or on or after January 1, 2013 and determined to be a "classic member" by CalPERS)
 - i. Single highest year compensation
 - ii. Military service credit

2. Tier II (PEPRA) Miscellaneous- 2% at 62 Plan (Start date on or after January 1, 2013 and determined by CalPERS not to be a "classic member" as defined by CalPERS)
 - i. Highest thirty-six (36) consecutive month's compensation
 - ii. Military service credit.

C. DEFERRED COMPENSATION

Pursuant to California Government Code Section 53213, all Elected Officials shall be eligible to participate in the City's Deferred Compensation Plans with no contribution by the City.

D. DEDUCTIONS

Deductions (including Social Security and Workers' Compensation) may be made from the salaries of Elected Officials as provided by law or upon their written authorization for City approved deduction programs.

SECTION 11. INDEMNIFICATION

Consistent with Section 502(d) of the City Charter, enacted March 3, 2015 and providing that the City shall not indemnify any past or present elected official beyond what is required under State law, defense and indemnification for employees shall be provided only as required by California law. (See, e.g., Gov. Code, §§ 825 *et seq.*, 995 *et seq.*)

SECTION 12. SEVERANCE

Administrative Management and Management employees shall be entitled to severance only as provided in this Section 12. Any and all severance rights are conditioned upon and in consideration for execution of a standard agreement of separation, severance, and general release in a form approved by the City Attorney. The severance rights provided for herein shall constitute the sole and only entitlement of an Administrative Management or Management employee with respect to severance pay in the event of the termination, other than for cause.

A. ADMINISTRATIVE MANAGEMENT EMPLOYEES

In the event an Administrative Management employee is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then the City shall pay severance in an amount equal to the monthly base salary of the employee then in effect (excluding the value of any other benefits) multiplied by three (3). The severance payment shall not include the monetary value of benefit during said time, but salary only. Prior to such termination, in order to be eligible for severance as provided in this Section, an Administrative Management employee must have worked for the City a minimum of six (6) months.

Should Employee be terminated for cause, as defined in this section below, the City shall have no obligation to pay the severance provided for above. Additionally, should Employee resign or otherwise initiate termination of his or her employment with the City, then the City shall have no obligation to pay the severance provided for above.

B. MANAGEMENT EMPLOYEES

In the event a Management employee is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then the City shall pay severance in an amount equal to the monthly base salary of the employee then in effect (excluding the value of any other benefits) multiplied by one (1). The severance payment shall not include the monetary value of benefit during said time, but salary only. Prior to such termination, in order to be eligible for severance as provided in this Section, a Management employee must have worked for the City a minimum of six (6) months.

Should Employee be terminated for cause, as defined in this section below, the City shall have no obligation to pay the severance provided for above. Additionally, should Employee resign or otherwise initiate termination of his or her employment with the City, then the City shall have no obligation to pay the severance provided for above.

C. GENERAL PROVISIONS

For the purposes of this Resolution, "cause" for termination shall include, but not be limited to, the following: (1) willful or persistent material breach of duties or inattention to duties, (2) résumé fraud or other acts of material dishonesty, (3) unauthorized or excessive absence or leave, (4) conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality), (5) conviction of a felony under California law, (6) violation of the City's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a City official or employee or legally prohibited personal acts of discrimination against a City official or employee has occurred, (7) violation of state law or the City's Municipal Code or charter, ordinances, rules, and regulations, (8) use or possession of illegal drugs in violation of state law and/or the City's drug policy, to be adopted at a later date, (9) engaging in conduct tending to bring embarrassment or disrepute to the City, (10) any illegal or unethical act involving personal gain, including conviction of theft or attempted theft, (11) significant mismanagement of City finances, (12) any pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted directions or policy decisions of the City Council or City Manager, (13) gross misfeasance or gross malfeasance, or (14) any similar cause. For any of the foregoing, the City may, in its discretion, place Employee on paid or unpaid administrative leave until resolution.

Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to

the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than 18 months if the unexpired term exceeds 18 months. Accordingly, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Employee shall be reduced in the amount necessary to comply with such statute. (For example, if termination occurs with two (2) months left in the term, severance would be equal to the monthly base salary multiplied by two (2) rather than the six (6) months provided in Section 5.1(b).)

SECTION 13. APPLICABLE POLICIES

A. NEPOTISM

The City's nepotism policy is described as follows:

1. No City employee shall be appointed or promoted to a position in any department in which such City employee's relative already holds a position, when such employment would result in any of the following:
 - a. A supervisor-subordinate relationship;
 - b. The employees' job duties will require performance of shared duties on the same or related work assignment;
 - c. Both employees will have the same immediate supervisor.
2. For purposes of this section, "relative" shall mean spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law.
3. If a City employee marries another person employed by the City of Bell within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist between the two employees. For the purpose of this section, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, reward or punish another person by virtue of the duties and responsibilities assigned to his or her position.
4. The City also retains the right to refuse to place both relatives in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security, morale or involves potential conflict of interest.
5. Where the circumstances mandate that two relatives shall not work together, the Personnel Department will attempt to transfer one relative to a similar position in another City department. Although the City will attempt to give consideration to the wishes of the involved parties as to which relative is to be transferred, the controlling factor in determining which relative is to be transferred shall be the positive operation and efficiency of the City. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.
6. If continuing employment of two relatives cannot be accommodated consistent with the City's interest in promotion of safety, security, morale and efficiency, then the City retains sole discretion to separate one relative from City employment. Absent resignation by one affected relative, the less senior of the involved relatives will be subject to separation and the same shall not constitute discipline and shall not be subject to any administrative appeal.

B. TRAVEL LODGING AND EXPENSE REIMBURSEMENT

All unrepresented employee and official classifications, including "Elected Officials," "Executive Management," "Administrative Management," "Management," and "Miscellaneous Part-Time/Temporary," shall be subject to the City's existing city-wide Travel, Lodging and Expense Reimbursement policy, as may be amended from time to time.

SECTION 14. CONFLICT

Should any provision herein conflict with any employment agreement, the provision in the employment agreement will prevail. All other and former salary or benefits resolutions contrary to or inconsistent with any provisions hereof are amended to conform herewith.

SECTION 15. EFFECTIVE DATE

This resolution shall be effective as of the date it is adopted by the City Council.

SECTION 16. CERTIFICATION

The City Clerk will certify to the adoption of this resolution.

ADOPTED AND APPROVED THIS 10TH DAY OF AUGUST, 2016


Alicia Romero, Mayor

APPROVED AS TO FORM:


David J. Aleshire, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Angela Bustamante, Acting City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 10th day of August, 2016, by the following vote:

AYES: Councilmembers Quintana, Saleh, Valencia, Vice Mayor Gallardo and Mayor Romero

NOES: None

ABSENT: None

ABSTAIN: None


Angela Bustamante, Acting City Clerk