RESOLUTION 2015-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, RELATING TO PAY FOR NON-REGULAR EMPLOYEES AND AMENDING RESOLUTION 2014-65.

THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

Section 1: Non-Regular Appointments

Each person employed in a classification listed in Appendix A shall be a non-regular employee. Such employees shall work on a part-time, seasonal, on-call, emergency, intermittent, substitute or other irregular basis.

Section 2: Non-Regular Appointments to Regular Classifications

An employee appointed to a regular classification on a temporary, hourly basis shall be a non-regular employee. The hourly compensation for such appointments shall be set in accordance to the City Council approved salary range for the classification as set forth in the City of Fullerton Schedule of Base Salary Rates and Allocation of Classes to Salary Ranges.

Section 3: Overtime Pay

(A) FLSA – Non-Exempt Employees

With the exception of those described in paragraph (B), non-regular employees are covered by the Fair Labor Standards Act (FLSA).

Non-exempt non-regular employees shall receive overtime pay in accordance with the FLSA for all hours actually worked in excess of 40 hours in a seven-day work period.

(B) FLSA – Exempt Employees

Any person employed by the Parks and Recreation Department to work only in recreation programs which operate no more than seven consecutive months in any calendar year, and any person employed in a professional, administrative or management capacity is not covered by the FLSA and therefore exempt from it.

(C) If the FLSA is invalidated, set aside or otherwise held inapplicable to local governments, this Section shall not apply.

Section 4: Benefits

Any person employed in a classification listed in Appendix A – Group A is excluded from CalPERS membership in accordance with the contract between the City of Fullerton and CalPERS. Such employees shall be enrolled in the City's Federal Insurance Contribution Act (FICA) replacement plan.

Any person employed in a classification listed in Appendix A – Group B or in a regular classification as a non-regular employee shall be enrolled in the City's FICA replacement plan unless or until he or she qualifies for membership in CalPERS and is required to enroll in the CalPERS retirement. Enrollment in the FICA replacement plan shall cease when CalPERS enrollment becomes effective.

Section 5: Sick Leave

In accordance with the Healthy Workplaces, Healthy Families Act of 2014, California Labor Code Sections 245 through 249, employees covered by this resolution shall be eligible for paid sick leave hours subject to the following terms:

a. Effective July 1, 2015, the City shall establish for each employee hired on or before the effective date of this change, a bank of paid sick leave hours for use subject to the terms specified in subsections c. through k. below.

b. Thereafter, a bank of sick leave for an employee hired or rehired after July 1, 2015 shall be established as follows:
   i. Upon initial hire, the sick leave bank shall be established within thirty calendar days of the hire date.
   ii. For an employee rehired after July 1, 2015 with a period greater than twelve months since separation from the City, the sick leave bank shall be established within thirty calendar days of the rehire date.
   iii. For an employee rehired by the City after July 1, 2015 with a break in service of less than twelve months, the bank of sick leave hours shall be established upon rehire in accordance with subsection k. below.

c. An employee shall be eligible to use hours within his/her sick leave bank in accordance with the following:
   i. Upon initial hire, an employee shall be eligible to use hours from his/her bank after the 90th calendar day following his/her date of hire.
   ii. For an employee rehired after July 1, 2015 with a period greater than twelve months since separation from the City, the employee shall be eligible to use hours from his/her bank after the 90th calendar day following his/her date of rehire.
   iii. For an employee rehired by the City after July 1, 2015 with a break in service of less than twelve months, the employee shall be eligible to use hours from his/her bank immediately if he/she met the 90 calendar day waiting period during his/her previous employment with the City or after the 90th calendar day following his/her date of rehire if he/she did not previously fulfill the 90 calendar day waiting period.

d. Upon initial establishment, an employee's sick leave bank shall be credited with either 24 hours or three times the employee's regularly scheduled daily work shift, whichever is greater. For an employee with regular work shifts of varying length, the sick leave bank shall be established using the length of the longest regularly scheduled work shift. To the extent possible, scheduled work shifts shall be of equivalent lengths.

e. After the 90 day waiting period described in subsection c. above and upon written or verbal request, an employee may utilize paid sick leave hours within his/her leave bank for the purpose of diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or the employee's family member as defined in Labor Code Section 245.5 or if the employee is a victim of domestic violence, sexual assault, or stalking, for the purposes described in subdivision (c) of Labor Code Section 230 and subdivision (a) of Labor Code Section 230.1.

f. The number of sick leave hours an employee may request for use during a scheduled work shift may not exceed the number of hours he/she was scheduled during the shift for which a request is made. (For example, an employee scheduled to work a four hour shift who requests sick leave for the day, may use no more than four hours of sick leave for the day.)

g. An employee absent during a scheduled work shift for reasons for which paid sick leave may be used, shall use available paid sick leave hours to cover all scheduled hours not worked to the extent hours are available. The minimum increment for use of sick leave is two hours.

h. An employee who is not scheduled to work any hours during a two-week payroll period established by the City of Fullerton shall be considered to be in inactive status for the purposes of this section. An employee on inactive status shall not be eligible to use paid sick leave during the pay period or pay periods he/she is on inactive status

i. Each fiscal year, effective the pay period during which July 1 falls, an employee's sick leave bank shall be reset to the appropriate limit determined in subsection d. above Unused sick leave hours will not carryover from one fiscal year to the next.

j. Unused hours remaining in an employee's leave bank at the time of separation from the City shall have no cash value to the employee.

k. If an employee who has qualified for use of his/her sick leave bank under subsection c. above separates from employment with the City of Fullerton and subsequently is rehired within one year of his/her separation date, his/her sick leave bank shall be reestablished with the balance of hours remaining in his/her bank upon separation, if the reinstatement occurs in the same fiscal year as the employee's separation date. If the rehire date is less than one

year from his/her separation date but falls within a new fiscal year, his/her sick leave bank will be reinstated with the full fiscal year's value of sick leave as determined in subsection d. above.

Section 6: Medical Insurance – Eligibility and Employee Contributions

Any person employed in a classification listed in Appendix A – Group A or Group B, or in a regular classification as a non-regular employee who meets the definition of "full-time employee" under the Federal Patient Protection and Affordable Care Act (ACA) shall be eligible for enrollment in the City sponsored medical plan designed to meet the requirements of the ACA. The plan shall be referred to as the ACA Basic Plan.

To determine full time status, the City shall use the look back measurement period for current non-regular employees as follows:

Standard Measurement Period:	November 1 through October 31 (starting November 1, 2013 and continuing each year thereafter)
Administrative Period:	November 3 through December 31 (starting November 2, 2014 and continuing each year thereafter)
Stability Period:	January 1 through December 31 (starting January 1, 2015 and continuing each year thereafter)

The City shall establish the following look back measurement period for all new non-regular employees:

Initial Measurement Period:	Twelve months (beginning on the first of the month following the start date, unless the start date is the first of a calendar month in which cast the period will start on that date)
Administrative Period:	One calendar month (beginning the first of the month following the end of the Initial Measurement Period)
Stability Period:	Twelve months following the administrative period unless the new variable hour employee does not measure as being a full-time employee during the Initial Measurement Period, then the Stability Period associated with the Initial measurement Period must not exceed the remainder of the Standard Measurement Period (plus any associated Administrative Period)

Upon hire of a new non-regular employee, the employing Department will determine whether the employee is expected to work more than 30 hours per week. If the employee is expected to be a full-time employee, the City will offer the ACA Basic Plan within sixty (60) days.

If the employing Department does not determine if the new employee is expected to be a full-time employee, the employee's eligibility determination will be based on an analysis of the appropriate look back measurement periods described above.

All new non-regular employees will be measured over two periods: during the twelve month period beginning on the first day of the month following the date of employment and then again during the standard measurement period. The initial measurement period and the standard measurement period will be applied to all new non-regular employees.

A non-regular employee's health benefit eligibility status may change each year if they do not meet the minimum requirement of working 30 or more hours per week as defined by the ACA.

Employee premium contributions for eligible employees shall be set annually utilizing the "federal poverty line safe harbor" method. Under this method, the employee's required contribution for a calendar month for employee-only coverage shall not exceed 9.5% of 1/12th of the amount determined as the federal poverty line for a single individual for the applicable calendar year. The employee contribution amount shall be rounded to the nearest whole dollar less than the applicable federal poverty line. Eligible employees may choose to enroll eligible dependents on the plan at the employee's own cost.

Section 7: Cancellation/Effective Date

This Resolution supersedes Resolution 2014-65. It is effective July 1, 2015.

ADOPTED BY THE FULLERTON CITY COUNCIL on JUNE 2, 2015.

Gregory C. Sebourn, PLS
Mayor

ATTEST:

Lucinda Williams, City Clerk

June 3, 2015
Date

City of Fullerton
RESOLUTION CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF FULLERTON)

RESOLUTION NO. 2015-22

I, Lucinda Williams, City Clerk and ex-officio Clerk of the City Council of the City of Fullerton, California, hereby certify that the whole number of the members of the City Council of the City of Fullerton is five; and that the City Council adopted the above and foregoing Resolution No. 2015-22 at a regular meeting of the City Council held on the June 2, 2015 by the following vote:

COUNCIL MEMBER AYES:	Sebourn, Fitzgerald, Flory, Chaffee, Whitaker
COUNCIL MEMBER NOES:	None
COUNCIL MEMBER ABSTAINED:	None
COUNCIL MEMBER ABSENT:	None

Lucinda Williams, MMC
City Clerk