



## Staff Report

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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of September 28, 2021

#### **ADOPTION OF THE COVID-19 VACCINATION POLICY**

***Continued from September 14, 2021***

(Deputy City Manager Angela Crespi)

#### **Recommended Action:**

Staff recommends City Council:

1. Extend the COVID-19 vaccination policy to contractors, volunteers, and commissioners;
2. Approve the adoption of the COVID-19 vaccination policy; and
3. Approve a professional service agreement with Veritas Testing for COVID-19 diagnostics testing services.

#### **Executive Summary:**

At the August 10, 2021 meeting, City Council authorized the City Manager to draft a policy requiring City staff to be vaccinated, complete weekly testing, or otherwise be compliant with the City's vaccination policy as a condition of employment. The Council further directed vaccination or testing to remain in place until the Food and Drug Administration (FDA) approved any one of the COVID-19 vaccines, at which point the requirement would transition to a mandate that staff be vaccinated within 60-days. With the motion, City Council authorized staff to commence the required meet and confer process with the City's labor associations and directed staff to return to Council with a draft policy.

Staff has commenced and participated in the required meet and confer process, discussing impacts of the mandatory vaccination policy with the City's labor groups, and made modifications to the policy and forms where possible in response to the meet and confer discussions. Additionally, staff informed contractors, volunteers, and commissioners of the recommendation to extend the policy to these groups. Staff recommends City Council confirm the recommendation to extend the policy to contractors, volunteers, and commissioners; adopt the COVID-19 policy requiring full vaccination by October 22, 2021 (60-days from FDA approval of the Pfizer vaccine on August 23, 2021); and approve a professional services agreement to secure diagnostic testing services required to implement the policy.

#### **Background:**

On July 26, 2021, the State Department of Public Health issued an executive order requiring vaccination verification, weekly and/or bi-weekly COVID-19 testing, and additional masking requirements for three categories of high-risk settings. The three categories include: A) acute

healthcare and long-term settings; B) high-risk congregate settings; and C) other healthcare settings. State and local correctional facilities and detention centers are identified in category B, which includes the jail facility operated by the Hermosa Beach Police Department.

The order requires the City to document proof of vaccination from police department personnel working in the jail setting, requires nonvaccinated staff to wear FDA-cleared surgical masks while providing respirators (N95 masks) upon request, and requires unvaccinated or partially vaccinated workers to be tested at least once weekly with either a PCR or antigen test until fully vaccinated. The State order took effect on August 9, 2021 and required full compliance by August 23, 2021. The City is in compliance with the State order and has received the appropriate documentation and commenced weekly testing for the identified group of staff in the order. **Attachment 1:** Link to the State of California Department of Public Health Executive Order for High-Risk Settings.

At the August 10, 2021 meeting, City Council authorized the City Manager to draft a policy requiring City staff to be vaccinated, complete weekly testing, or otherwise be compliant with the City's vaccination policy as a condition of employment. With the motion, City Council authorized staff to commence the required meet and confer process with the City's labor associations and directed staff to return to Council with a draft policy for review prior to implementation.

The cities of Santa Monica and Inglewood have already adopted similar COVID-19 policies and are requiring full vaccination of staff as a condition of employment by October 29, 2021 and November 1, 2021 respectively.

### ***Past Council Actions***

Meeting Date	Description
July 13, 2021 (Regular Meeting)	Under Future Agenda Items, Mayor Massey requested Council consider directing staff to bring back an item regarding two aspects of the City's response to the COVID-19 declared emergency. The request was supported by Councilmember Armato.
July 27, 2021 (Regular Meeting)	City Council directed staff to return with an item to discuss and take action regarding the format of public meetings and whether City staff should be vaccinated as a condition of employment. The item received a vote of 3 Ayes and 2 Noes.
August 10, 2021 (Regular Meeting)	City Council authorized the City Manager to draft a COVID-19 vaccination policy, begin the required meet and confer process and return to Council with a draft policy. The item received a vote of 3 Ayes and 2 Noes.

### **Discussion:**

Protecting our City workforce has been, and continues to be, a high priority in the City's COVID-19 emergency response. Workplace protocols such as facial coverings, telecommuting, and daily temperature checks, along with attestation forms, are continuously refined to meet safety and operational needs. In accordance with the City's duty to provide and maintain a workplace that is free of known hazards, these protocols are important components to safeguarding the health of the City's staff and their families, the City's visitors, and the community at large from COVID-19.

Adding to workplace protocols, the City invested significant time and effort into connecting staff with opportunities to obtain a COVID-19 vaccine. The City facilitated vaccination opportunities by connecting staff with regular and pop-up vaccination sites. To date, 77 percent of our 161 total City employees have self-attested to being fully vaccinated. To continue the City's efforts to protect the health and safety of both City staff and members of the public we serve, City Council authorized the City Manager to develop a COVID-19 vaccination policy requiring City staff to be vaccinated as a condition of employment and begin the required meet and confer process.

### ***Meet and Confer Obligations***

In accordance with the Public Employment Relations Board's ("PERB") recent decision in *Regents of the University of California* (2021) PERB Decision No. 2783-H, issued July 26, 2021, the City may

determine whether it will require its staff to be vaccinated as a condition of employment without the need to meet and confer pursuant to the requirements of the Meyers-Milias-Brown Act. However, once a draft policy is prepared, the City Attorney recommends completing the meet and confer process prior to the City's implementation of the policy, in line with this recent PERB decision which held that the University of California was required to negotiate the *effects* of the vaccination policy.

### *Policy Development Process*

Pursuant to the City Attorney's direction to conduct meet and confer meetings to discuss the effects of the proposed policy, all City labor groups were contacted to schedule meet and confer meetings and were provided with the draft policy and accompanying forms. The Management, Police Management, and Unrepresented groups declined meetings. The scheduled meet and confer meetings to discuss the impacts of the policy were attended by the City Manager, Deputy City Manager, Human Resources Manager, and the City's legal counsel. Due to the condensed timeline for policy development, edits were incorporated on an ongoing basis and latest drafts were provided to the labor groups prior to their scheduled meetings. Impacts discussed at the meetings were considered and changes to the policy and accompanying forms were made as appropriate.

Since the August 10, 2021 meeting, staff has taken the following actions to develop the recommended policy:

- Worked with City Attorneys to develop an initial draft COVID-19 vaccination policy and forms based on legal parameters and Council direction;
- Provided a high-level overview of the direction provided by Council and policy development process at the August 12, 2021 staff All-Hands meeting;
- Held a one-hour meet and confer meeting with the Professional and Administrative employees group on August 24, 2021 to discuss impacts to its members. The meeting was also attended by Justin Adrian, Labor Relations Representative with City Employees Associates. Items regarding implementation such as how booster shots would be handled and details of the religious exemption form were discussed. The management team was able to provide clarification on booster shots and make edits to the form as suggested;
- Held a one-hour meet and confer meeting with the General and Supervisory employees group on August 30, 2021 to discuss impacts to its members. The meeting was also attended by Carlos Rubio, Senior Business Representative with California Teamsters. Prior to the meeting, the union was provided with a revised draft policy incorporating changes made to date. Items regarding the conditions of employment, proposed discipline process, religious exemption process, assisting employees in obtaining vaccines, and medical considerations were discussed. The management team was able to provide clarification on details of

implementation, ensure assistance would be provided to employees to obtain the vaccine, and clarify that medical questions should be referred to one's medical provider;

- Held a one-hour meet and confer meeting with the Police Officers' Association on September 2, 2021 to discuss impacts to its members. The meeting was also attended by Corey Glave, labor attorney for the association. Prior to the meeting the association was provided with a revised draft policy incorporating changes made to date. Items regarding the policy purpose, directives from the Los Angeles County Department of Public Health, vaccine side effects, and extending the vaccination requirement to others including: City Council; members of the public; and contract staff were the primary point of discussion at the direction of the association. Discussion of confidentiality of personal and medical information and details of the policy's accompanying forms were briefly covered prior to ending the meeting as scheduled due to other engagements. The management team was able to provide clarification on the forms and confidentiality.

Given that that the group was unfortunately unable to discuss the substance of the draft policy, management team attempted to schedule a second meet and confer meeting. After several failed attempts, the City Manager offered to meet any day of the week including weekends and requested the association submit any remaining questions, comments, and recommendations on the remaining forms and the policy itself in writing, so that the management team would be fully aware of the impacts that the members wished to share.

- Department directors and key staff members made contact with contractors, volunteers, and commissioners informing them of the recommendation to extend the policy to its group.
- The City Manager has urged department directors to maintain ongoing conversations with staff, commissioners, contractors, and volunteers to address questions and concerns as they arise and to communicate back to those working on policy development.

### *Policy Elements*

As directed by Council, the City Manager drafted a COVID-19 vaccination policy to require staff to be vaccinated, complete weekly testing, or otherwise be compliant with the City's vaccination policy as a condition of employment. Further, the policy directs staff to be fully vaccinated as a condition of employment within 60-days of FDA approval of any one of the COVID-19 vaccines. On Monday, August 23, 2021, the FDA provided full approval of the Pfizer vaccine for those 16 years of age and above. Therefore, the 60-day timeframe for staff to be fully vaccinated would end on October 22, 2021. The following table shows the timeline to achieve full vaccination by the October 22, 2021 deadline:

Timeline: Full Vaccination 60-days from FDA approval: August 23-October 22, 2021

<b>Vaccine Type</b>	<b>Doses</b>	<b>Timeframe between doses</b>	<b>Final Date to get first dose to be fully vaccinated by October 22, 2021</b>
Pfizer	2	21 days	September 17, 2021*
Moderna	2	28 days	September 10, 2021*
Johnson & Johnson	1	NA	October 8, 2021

*\*Two weeks must past from final dose to be considered fully vaccinated.*

In an effort to assist staff in complying with the above timeline, an onsite COVID-19 vaccination clinic offering the Pfizer vaccine is secured for Thursday, September 16, 2021 from 4:00 P.M. to 6:30 P.M. An onsite clinic for the second dose would be held on Thursday, October 7, 2021 from 4:00 P.M. to 6:30 P.M.

At the Council's August 10 meeting, it was unclear when exactly the FDA would approve any one of the COVID-19 vaccines, which have been available under emergency use authorization since December 2020 (Pfizer and Moderna) and February 2020 (Johnson & Johnson). On August 23, less than two weeks after Council directs the drafting of a COVID-19 vaccination policy, the FDA approved the vaccine that has been known as the Pfizer-BioNTech COVID-19 Vaccine, for the prevention of COVID-19 disease in individuals 16 years of age and older. If the Council feels that the timeline is too compressed, an alternative to the 60-days post FDA approval, could be starting the 60-timeline after City Council adoption of the COVID-19 vaccination policy. Should this alternative be selected, weekly testing would extend for unvaccinated and partially vaccinated staff until November 12, 2021, thereby adding three weeks of testing. The following table shows the timeline to achieve full vaccination by the possible alternative deadline of November 12, 2021:

Timeline: Full Vaccination 60-days from policy adoption: September 14, 2021-November 12, 2021

<b>Vaccine Type</b>	<b>Doses</b>	<b>Timeframe between doses</b>	<b>Final Date to get first dose to be fully vaccinated by November 12, 2021</b>
Pfizer	2	21 days	October 1, 2021*
Moderna	2	28 days	October 8, 2021*
Johnson & Johnson	1	NA	October 29, 2021

*\*Two weeks must past from final dose to be considered fully vaccinated.*

All staff would be required to complete the COVID-19 Vaccination Verification Form indicating their vaccination status. In addition to submitting the verification form, staff would be required to provide proof of vaccination by providing a copy of their vaccination card, a copy of the QR code from the State vaccination database, or a proof from their medical provider. Staff not yet vaccinated, or those requesting an exemption, would need to submit the verification form along with their exemption and testing forms.

As required by law, the City's COVID-19 vaccine policy would allow requests for medical and religious exemptions. Those requesting allowable exemptions would be required to complete the verification form and an exemption form based on their particular request. Medical/disability exemptions would require certification from a medical provider and would require recertification every 60 days. Religious exemptions would require a statement from the requestor's affiliated religious institution and would need to be recertified every six months. All requests for exemptions would be evaluated for approval on a case-by-case basis.

Exemption forms would be submitted to the Human Resources department and an interactive process would be conducted with the requestor. While under review, the staff member would be required to undergo weekly COVID-19 testing. Should recertification not be completed in a timely manner or conditions change, the staff member would be required to complete the vaccination process within a timeline provided by Human Resources as part of the exemption notification process.

The City currently offers weekly onsite testing for the jail staff in compliance with State executive orders. The weekly testing would be enhanced to accommodate staff who would need to undergo weekly COVID-19 testing while completing the vaccination process. A professional services agreement with Veritas Testing for COVID-19 Diagnostics Testing Services is included for approval **(Attachment 3)**.

If adopted by Council, COVID-19 vaccination would become a mandatory condition and, in essence, a minimum qualification for employment with the City. Should a staff member not meet the requirements (vaccine verification, weekly testing, completion of vaccination within applicable timeframe, and recertifying exemptions) of this policy, they would be subject to non-disciplinary release from employment.

As directed by Council, the initial draft policy was developed to address the vaccination status of City staff. During the policy development process, contractors, commissioners, and volunteers were also discussed. Due to the nature of interaction with staff and use of City facilities, staff recommends the policy be extended to those groups as well. If included, it would be the responsibility of the contract service provider to secure proof of vaccination, provide weekly testing, and ensure vaccination of their staff by October 22, 2021.

The policy would impact the following contracts: Los Angeles County Fire Department; McCormick Ambulance; Athens Services; Merchants; Gold Touch Janitorial; Netrix/Prosum, McCoy Communications; Best Best & Krieger; audio visual technicians; and independent contractors who provide instruction through the Community Resources Department to the community.

McCormick Ambulance is considered part of the pre-hospital care system of Los Angeles County, which required staff to provide proof of vaccination by August 27, 2021 and to be fully vaccinated by

September 30, 2021. Los Angeles County Fire Department is a department with Los Angeles County and currently working towards compliance by September 30, 2021. Currently, LACoFD is approximately 73 percent vaccinated.

At this time, staff recommends approval of the COVID-19 Vaccination Policy and approval of a professional service agreement with Veritas Testing for COVID-19 Diagnostics Testing Services. If approved, staff would move forward immediately to implement the adopted policy.

### **General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

#### *Governance Element*

#### **Goal 1. A high degree of transparency and integrity in the decision-making process.**

Policies:

- **1.1 Open Meetings.** Maintain the community's trust by holding meetings in which decisions are being made, that are open and available for all community members to attend, participate, or view remotely.

#### **Goal 7. Community sustainability and health are a priority in policy and decision making.**

Policies:

- **7.3 Health in all policies.** Integrate health, livability, and sustainability principles when adopting new policies and periodically review and evaluate adopted policies for their impact or opportunity to improve health, livability, and sustainability.

### **Fiscal Impact:**

The City would bear responsibility for the costs of weekly testing, including any overtime costs, until the vaccination deadline of October 22, 2021. The City would seek Federal Emergency Management Agency (FEMA) reimbursement for weekly testing costs as it is approved as eligible expense through December 31, 2021.

The cost of onsite testing is \$75.00 per test per week. Each testing timeframe requires a minimum of five staff members be tested or an additional fee of \$150.00 would be added to the invoice. Currently, there are 36 staff members who need to be vaccinated and would be subject to weekly testing. Therefore, weekly onsite testing would cost approximately \$2,700.00. The goal is to provide onsite testing, but should there be a logistical challenge, testing offsite can, and would, be arranged at additional costs.

The total estimated cost of testing for the five weeks from policy adoption to 60-days from FDA approval is \$13,500.00. Should the deadline date be extended to 60-days from policy adoption, the total estimated cost with the additional three weeks of testing would be \$21,600.

**Attachments:**

1. State of California Department of Public Health Executive Order for High-Risk Settings
2. COVID-19 Vaccination Policy and accompanying forms
3. Professional service agreement with Veritas Testing for COVID-19 Diagnostics Testing Services

**Respectfully Submitted by:** Angela Crespi, Deputy City Manager

**Concur:** Brandy Villanueva, Emergency Management Coordinator

**Concur:** Vanessa Godinez, Human Resources Manager

**Noted for Fiscal Impact:** Viki Copeland, Finance Director

**Legal Review:** Mike Jenkins, City Attorney

**Approved:** Suja Lowenthal, City Manager