

RESOLUTION NUMBER R- 313797

DATE OF FINAL PASSAGE NOV 29 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO TO IMPLEMENT THE CITY'S LAST, BEST,  
AND FINAL OFFER TO THE SAN DIEGO POLICE OFFICERS  
ASSOCIATION REGARDING THE MANDATORY COVID-19  
VACCINATION POLICY.

WHEREAS, on July 30, 2021, the City of San Diego (City) provided written notice to the San Diego Police Officers Association (POA) of the proposal to implement a Mandatory COVID-19 Vaccination Policy; and

WHEREAS, on August 12, 2021, the City and POA commenced negotiations regarding the Mandatory COVID-19 Vaccination Policy; and

WHEREAS, on August 19, 2021, the City provided written clarification to POA that per *Regents of the University of California* (2021) PERB Dec. No. 2783-H [46 PERC ¶ 38], an employer's decision to adopt a mandatory vaccination policy is outside the scope of representation, and therefore, not subject to decision bargaining under the Meyers-Milias-Brown Act (MMBA). Accordingly, as communicated, the City is offering POA the opportunity to meet and confer only over any impacts that POA may identify, within the scope of representation, in accordance with the MMBA; and

WHEREAS, on October 15, 2021, the City verbally declared and notified POA that the parties' negotiations had reached impasse, as defined in Council Policy 300-06; and

WHEREAS, on October 22, 2021, the City provided written declaration and notice to POA that the parties reached impasse, a copy of which was provided to the Mayor and the Council President, in accordance with Council Policy 300-06; and

WHEREAS, on November 9, 2021, the parties conducted an impasse meeting in accordance with Council Policy 300-06, but did not resolve the impasse issues; and

WHEREAS, on November 15, 2021, the City issued to POA the City's last, best, and final offer, a copy of which is attached to this Resolution as Exhibit A; and

WHEREAS, the City Council is authorized under California Government Code section 3505.7 to implement the City's last, best, and final offer after holding a public hearing regarding the impasse; NOW, THEREFORE,

BE IT RESOLVED, that pursuant to the MMBA and Council Policy 300-06, the City Council approves and implements the City's last, best, and final offer to the POA regarding the Mandatory COVID-19 Vaccination Policy, as set forth in Exhibit A to this Resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Miguel Merrell  
Miguel Merrell  
Deputy City Attorney

MM:jvg  
11/15/21  
Or.Dept: Human Resources  
CC No. N/A  
Doc. No.: 2814352

(Note: Per Ordinance O-21178 adopted on April 7, 2020, see attached signature pages.)

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 29 2021

ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

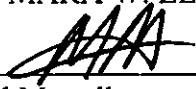
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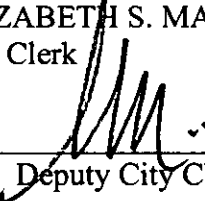
APPROVED: MARA W. ELLIOTT, City Attorney

By   
Miguel Merrell  
Deputy City Attorney

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City Clerk

By   
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

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By /s/Miguel Merrell  
Miguel Merrell  
Deputy City Attorney

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ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: 11/29/21  
(date)

[Signature]  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**CITY'S LAST, BEST AND FINAL OFFER**

**NOVEMBER 15, 2021**

**MANDATORY COVID-19 VACCINATION POLICY**

The City's Last, Best, and Final Offer (LBFO) to the San Diego Police Officers Association (POA) regarding the Mandatory COVID-19 Vaccination Policy is the following:

1. That all City employees represented by POA are required to be fully vaccinated against COVID-19 and provide proof of their full vaccination by December 1, 2021, or upon completion of any process required under the MMBA, as a condition of continued employment with the City.

2. That "fully vaccinated" means a person has received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine, or otherwise meets the criteria for full vaccination against COVID-19 as stated in applicable public health guidance, orders, or law. Acceptable COVID-19 vaccines must be approved by the U.S. Food and Drug Administration (FDA) or authorized for emergency use by the FDA or the World Health Organization.

3. That all City employees represented by POA may submit a request to the City for reasonable accommodation and medical or religious exemption from the COVID-19 vaccination requirement, which will be evaluated on a case-by-case basis as required by the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, and the California Fair Employment and Housing Act.

**ATTACHMENTS:**

1. 30 Day Option Letter
2. Draft Resolution Implementing City's LBFO

Date

**VIA U.S. MAIL AND CERTIFIED MAIL #  
RETURN RECEIPT REQUESTED**

Employee Name  
Employee Address  
Employee Address

**Reference: Mandatory COVID-19 Vaccination Policy – 30-Day Options**

Dear [Insert Name]:

In accordance with the City's Mandatory COVID-19 Vaccination Policy, all City employees are required to be fully vaccinated against COVID-19 and provide proof of full vaccination by completing the Mandatory Reporting of COVID-19 Vaccination Status form in SAP by **December 1, 2021**.

"Fully vaccinated" means you have received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Acceptable COVID-19 vaccines must be approved by the U.S. Food and Drug Administration (FDA) or authorized for emergency use by the FDA or the World Health Organization.

City records show that you have failed to provide proof of full vaccination to the City by December 1, 2021, as required. You are therefore directed to immediately receive a COVID-19 vaccine, if you have not done so already, and provide proof of your full vaccination against COVID-19 within 30-calendar days, no later than **Monday, January 3, 2022**, to continue your employment with the City.

Within the next 30 days, it is your responsibility to pursue one or more of the following options and communicate what you have chosen:

1. **Immediately receive a COVID-19 vaccine and submit proof of full vaccination by completing the Mandatory Reporting of COVID-19 Vaccination Status form in SAP by Monday, January 3, 2022.**
  - **How to Obtain a COVID-19 Vaccine** – Please refer to the County of San Diego's Coronavirus Vaccination Locations website: [https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/community\\_epidemiology/dc/2019-nCoV/vaccines/COVID-19-VaxEvents.html](https://www.sandiegocounty.gov/content/sdc/hhsa/programs/phs/community_epidemiology/dc/2019-nCoV/vaccines/COVID-19-VaxEvents.html), or contact your health care provider.
  - City employees may receive a COVID-19 vaccine on City time, as regular working time, using pay IO code **16000039 – Vaccination**. Employees are permitted up to two hours per dose to receive a COVID-19 vaccine.

2. **Request Reasonable Accommodation (Medical or Religious Exemption).** If you have a disability or medical condition that makes it medically inadvisable for you to receive a COVID-19 vaccine, as verified by your health care provider, or if your sincerely held religious belief, observance, or practice prevents you from receiving a COVID-19 vaccine, you may submit a request for reasonable accommodation and medical or religious exemption from the COVID-19 vaccination requirement. If you select this option, you must submit your request (Attachment 1) by **Monday, January 3, 2022**. All information submitted by the employee will be kept confidential and used only for assessing the reasonable accommodation request. If you have any questions regarding the reasonable accommodation process, please contact the Human Resources Department at (619) 236-6313 or [COVID-RA@sandiego.gov](mailto:COVID-RA@sandiego.gov).
3. **Submit a Request for Special Leave Without Pay (SLWOP) and Take a Leave of Absence [Classified Employees Only].** You may request SLWOP, in accordance with Civil Service Rule X, Section 9, and Personnel Manual, Index Code I-7, and take a special leave of absence without pay until you are able to receive a COVID-19 vaccine and provide the required proof of full vaccination to the City. If you select this option, you must submit your request for SLWOP (Attachment 2) to your immediate supervisor by **Monday, December 27, 2021**, to allow your department to consider and submit your request to the Personnel Department by **Monday, January 3, 2022**. Subsequently, you must be off work, pending the Civil Service Commission's review of your application for SLWOP, beginning no later than January 4, 2022. Employees may use accrued leave for payment during this absence, until the commencement of any approved SLWOP by the Civil Service Commission. If you have questions regarding this option, you are encouraged to contact your department's Personnel Liaison Analyst in the Personnel Department (<https://citynet.sandiego.gov/sites/default/files/personnel-liaison-assignments.pdf>).
4. **Apply for Retirement.** If eligible, you may apply for disability or service retirement. If you select this option, you must apply for and receive from San Diego City Employees' Retirement System (SDCERS) a confirmed retirement date effective on or before **Monday, January 3, 2022**. You may contact SDCERS at (619) 533-4660 for more information.
5. **Resign.** You may resign from City employment (Attachment 3). If you select this option, you must submit your written resignation by **Monday, January 3, 2022**.

**You must pursue one or more of these options and respond directly to [INSERT NAME, TITLE], at (XXX) XXX-XXXX or [INSERT EMAIL], to advise which option(s) you have chosen before close of business on Monday, January 3, 2022. Failure to do so will result in the City beginning the process of terminating your City employment.**

As a reminder, you are expected to continue to report to work, and to comply with all current COVID-19 health and safety protocols and requirements in place, during the next 30 days and if you do not select an option, while the City is processing the termination of your employment for non-compliance with the City's Mandatory COVID-19 Vaccination Policy.

Page 3  
[Employee Name, Title]  
[Date]

Exhibit A

Please do not hesitate to contact me at [INSERT CONTACT INFO] if you have questions.

Sincerely,

Name with Signature Above  
Title

Attachments: 1. COVID-19 Vaccination Exemption Request Instructions  
2. Request for Special Leave Without Pay Form  
3. Resignation Form

cc: [Department Appointing Authorities in Chain of Command, Title, Department]  
[HR Department liaison, Classification, Human Resources Department]  
Department Personnel File (Payroll)  
Personnel Department Personnel File



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Passed by the Council of The City of San Diego on NOV 29 2021, by the following vote:

| Councilmembers           | Yeas                                | Nays                                | Not Present              | Recused                  |
|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Joe LaCava               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Jennifer Campbell        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Stephen Whitburn         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Monica Montgomery Steppe | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Marni von Wilpert        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate               | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Raul A. Campillo         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Vivian Moreno            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Sean Elo-Rivera          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage NOV 29 2021.

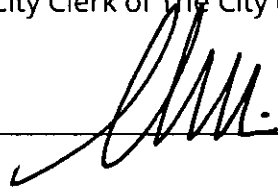
**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313797