

**RESOLUTION DISCONTINUING COVID-19 SURVEILLANCE TESTING
REQUIREMENTS IMPLEMENTED PURSUANT TO
ORDINANCE NO. 187134 (“COVID-19 VACCINATION REQUIREMENT FOR ALL
CURRENT AND FUTURE CITY EMPLOYEES”)**

WHEREAS, on March 6, 2020, the Los Angeles City Council ratified the Mayor’s Declaration of Local Emergency, dated March 4, 2020, wherein he declared that conditions of disaster or extreme peril to the safety of persons have arisen both internationally and within the United States, including the City of Los Angeles, as a result of the introduction of the novel coronavirus (COVID-19), a novel communicable disease first detected in China in December 2019;

WHEREAS, the City Council has repeatedly renewed the Mayor’s March 4, 2020 Declaration of Local Emergency, most recently on December 13, 2022;

WHEREAS, extensively during the period of this local emergency, the Mayor of Los Angeles has exercised emergency authority under Los Angeles Administrative Code Section 8.29 by issuing Public Orders and Directives to City Departments in furtherance of the ongoing need to preserve life and property of individuals living and working in the City;

WHEREAS, as the situation and circumstances of the COVID-19 pandemic continue to change and evolve, so do the City’s emergency orders, workplace safety precautions, and employee requirements;

WHEREAS, on August 18, 2021, the City Council adopted Ordinance No. 187134 (“COVID-19 VACCINATION REQUIREMENTS FOR ALL CURRENT AND FUTURE CITY EMPLOYEES”);

WHEREAS, the Ordinance, which became legally effective August 24, 2021, requires all current and future City employees, as a condition of City employment, to report their vaccination status no later than October 19, 2021, and to be fully vaccinated for COVID-19 or request an exemption for medical or religious reasons by October 20, 2021 (“Mandatory Reporting and Vaccination conditions of employment”);

WHEREAS, under the Ordinance, employees with medical or religious exemptions are subject to weekly COVID-19 testing, at no cost to the employees during their work hours;

WHEREAS, between August 18, 2021 and October 18, 2021, the City Administrative Officer ("CAO"), pursuant to bargaining instructions received from the City's Executive Employee Relations Committee ("EERC"), met and conferred with City labor organizations over the impacts of the Ordinance, including consequences for employees' non-compliance with the Mandatory Reporting and Vaccination requirements;

WHEREAS, on October 14, 2021, the CAO presented to the City labor organizations the City's last, best, and final offer ("LBFO") regarding consequences for non-compliance with the Mandatory Reporting and Vaccination requirements;

WHEREAS, under the LBFO, unvaccinated City employees with pending exemption requests or appeals are required to undergo twice weekly COVID-19 testing at their own expense, on their own time, with a testing vendor of the City's choice;

WHEREAS, on October 26, 2021, the City Council adopted a Resolution Implementing Consequences For Non-Compliance With The Ordinance's Requirements, to instruct the Mayor to implement the LBFO and to further support the Mayor's Declaration of a Local Emergency imposed by the ongoing COVID-19 global pandemic;

WHEREAS, the provisions contained in the City's LBFO were intended to align the Ordinance's implementing procedures with the then current guidance issued by federal, State and local public health authorities, such as the Center for Disease Control ("CDC"), the State of California Department of Public Health ("CDPH"), and the Los Angeles County Department of Public Health ("LADPH"), with the goal of protecting the City's workforce and the public that it serves, by slowing or preventing the spread of COVID-19, and limiting COVID-19 related hospitalizations and deaths;

WHEREAS, as of October 2021, various public health authorities and organizations maintained that, as an alternative to vaccination, surveillance testing for unvaccinated individuals was an effective strategy for identifying people who had been infected with COVID-19 as a means of monitoring the spread of the disease in order to prevent severe outbreaks;

WHEREAS, between February and May 2022, to address operational and costs constraints, the EERC authorized changes to the City's LBFO regarding the testing of unvaccinated employees, including reducing the frequency of required testing to once a week, and allowing employees to test through a vendor of their choosing on their own time;

WHEREAS, on July 13, 2022, in *Los Angeles Police Protective League v. City of Los Angeles*, Los Angeles Superior Court Case No. 21STCV39987 (“LAPPL decision”), the trial court ruled that Labor Code Section 2802 prohibited the City from charging employees for the costs of required COVID-19 testing or requiring employees to test on their own time, with a written statement of decision on September 30, 2022, such that no City employee will be charged for the cost of testing and any employee so charged will be reimbursed and any time used to test will be restored, provided, however, that an employee will be required to test prior to returning to the workplace if they test positive for COVID;

WHEREAS, since the height of the pandemic and over the past year, guidance issued by the CDC, CDPH and LADPH regarding the use of surveillance testing of unvaccinated employees as a strategy for preventing the spread of COVID-19 has changed significantly in response to a decreasing number of COVID-19 cases statewide, with updated guidance no longer requiring surveillance testing the wearing of face masks in areas with a low to medium COVID-19 Community Level;

WHEREAS, effective October 1, 2022, the County of Los Angeles discontinued its mandatory weekly COVID-19 surveillance testing requirement for unvaccinated County employees;

WHEREAS, on September 30, 2022, the EERC adopted the CAO’s recommendation to modify the Ordinance’s implementing procedures and the LBFO, as reflected in this Resolution, to align with public health recommendations promulgated by the County of Los Angeles by discontinuing the COVID-19 surveillance testing requirements for unvaccinated City employees, and to rely on the County’s testing infrastructure for exposure-based and symptomatic testing of City employees;

NOW, THEREFORE, the Los Angeles City Council, RESOLVES that:

1. Effective immediately, the LBFO’s mandatory testing requirements for unvaccinated City employees, as modified by the EERC in February and May 2022 and the LAPPL decision, will no longer be in effect;
2. The LBFO’s modified mandatory testing requirements for unvaccinated City employees may be reassessed and reinstituted at a later time as the COVID-19 situation evolves and in accordance with guidance issued by the U.S. Equal Employment Opportunities Commission, with City employee organizations and employees notified in advance of any changes with an opportunity to meet and confer on effects; and

3. Pursuant to the LAPPL decision, any and all City employees who incurred costs related to the LBFO's mandatory testing requirements, or were required to use their own time to undergo required testing, shall be reimbursed for such costs and/or time. Effective immediately, no City employee shall be charged for the costs of any required testing, or required to test on their own time.