



## REPORT TO CITY COUNCIL

**Approved by:**

Wendy Silva

Wendy Silva, Director of Human Resources

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

**Council Meeting of:** March 17, 2021

**Agenda Number:** B-6

**SUBJECT:**

Ratification of COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay and revisions to COVID-19 Emergency Policy No. 2: Families First Coronavirus Response Act

**RECOMMENDATION:**

Adopt a Minute Order ratifying issuance of the following by the City Manager in his role as Director of Emergency Services:

1. COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay
2. Revised COVID-19 Emergency Policy No. 2: Families First Coronavirus Response Act

**SUMMARY:**

In his role as Director of Emergency Services, the City Manager has issued COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay. Under this policy, employees who receive a complete COVID-19 vaccine series will receive a one-time incentive payment of \$200. Additionally, the City first issued COVID-19 Emergency Policy No. 2: Families First Coronavirus Response Act (FFCRA) in March 2020 to provide Emergency Paid Sick Leave (EPSL) and Emergency Family Medical Leave Act Public Health Emergency Leave (E-FMLA) for employees pursuant to the FFCRA. As the global pandemic continues, the policy's original expiration date has passed and a revised policy has been issued extending the availability of EPSL and E-FMLA, as well as adding side effects from receipt of the COVID-19 vaccine as an eligible reason for requesting EPSL. The requested action is for Council to ratify these policies in support and recognition of the City's dedicated workforce.

**DISCUSSION:**

*COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay*

As the world continues to navigate the global COVID-19 public health pandemic, one of the newest aspects is the availability of COVID-19 vaccination. Upon initial polling of City employees

in December 2020 regarding their desire to receive the vaccine, approximately 56% of employees indicated they would be willing to receive the vaccine. In order to support a safe and healthy workplace, the City explored options to increase the employee vaccination rate. After review of available options, including the potential for mandating vaccination, the City Manager issued COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay. Under the policy, employees who complete a COVID-19 vaccine series approved for use by the Food and Drug Administration are eligible to receive a one-time payment of \$200. The policy applies to all employees, full time and part time. Under the policy as issued, the incentive pay will be offered until sixty (60) days after general government workers become eligible to receive the COVID-19 vaccine in Madera County as determined by the Madera County Department of Public Health. This term may be extended up to two (2) times by the City Manager for a maximum of thirty (30) days each extension should vaccine supply affect availability.

*COVID-19 Revised Emergency Policy No. 2: Families First Coronavirus Response Act*

COVID-19 Emergency Policy No. 2 recognizes the two federal paid leave provisions enacted by the FFCRA, EPSL and E-FMLA. As originally adopted, EPSL and E-FMLA provided the following paid leave options for employees:

1. EPSL

- Any employee is eligible for 2 weeks of paid Emergency Sick Leave starting their first day of work
- Full pay for those:
  - In isolation
  - Health-care provider places in self-quarantine
  - Employee is experiencing symptoms of COVID-19 and seeking medical diagnosis
- 2/3 pay for those:
  - Caring for an individual who is quarantined or in isolation
  - Caring for a child whose school or child care is closed because of COVID-19 precautions
  - Any other substantially similar situation

2. E-FMLA

- Eligibility: Employee has been employed for at least 30 days and has not already exhausted FMLA leave
- Employee is eligible for up to 12 weeks of leave if they cannot be at work or telework due to a school or child care closure caused by a public health emergency
- 10 day waiting period where an employee may use their own leave banks or E-PSL
- After waiting period, up to 10 additional weeks of leave at 2/3 pay, not to exceed \$200/day and \$10,000 total

Under the original FFCRA regulations, the above mandatory leave types expired December 30, 2020. The City Manager extended the leave types through the end of February pending action on the stimulus bill proposed by President Biden. At this time, the stimulus bill is still pending and new guidance on mandatory leave types has not yet been provided. For this reason, the City Manager has updated the policy to indicate the leave types will continue to be offered until either

(1) the City Council ends the local emergency declaration related to COVID-19, or (2) the federal government passes a different mandatory leave provision, whichever occurs first. In his revision, the City Manager has also added side effects from the COVID-19 vaccine as an eligible reason to use EPSL in continued support of our employees obtaining the vaccine.

**FINANCIAL IMPACT:**

With regard to the Vaccine Incentive Pay, the City currently employs 261 individuals. If all employees obtain the vaccine within the defined timeline, the maximum exposure to the City is \$52,200.

With regard to EPSL and E-FMLA leave, any financial impact will not be an additional expense, but be through loss of work time for the City. Table 1 below shows use of EPSL and E-FMLA by employees since the inception of these leave types in March 2020.

<b>Table 1. COVID-19 Leave Type Usage, March 2020 to present</b>			
<i>Leave Type</i>	<i>Employee Count</i>	<i>Hours</i>	<i>Equivalent Dollars</i>
EPSL	82	4,852	\$127,384
E-FMLA	2	64	\$1,695

**CONSISTENCY WITH THE VISION MADERA 2025 PLAN:**

The information contained herein is not addressed by the Vision Madera 2025 plan, nor is the information in conflict with that plan.

**ALTERNATIVES:**

Council could direct staff to revise the policies. Any revisions not required by law would potentially be subject to meet and confer with represented bargaining units.

**ATTACHMENTS:**

1. COVID-19 Emergency Policy No. 4: Vaccine Incentive Pay
2. Revised COVID-19 Emergency Policy No. 2: Families First Coronavirus Response Act

<b>CITY OF MADERA</b> <b>COVID-19 Emergency Policy</b>	<b>Policy No. 4</b>
	<b>Date Adopted: 2/11/2021</b>
	<b>Date(s) Revised:</b>
<b>SUBJECT: COVID-19 VACCINE INCENTIVE PAY</b>	

**I. PURPOSE:**

The purpose of the City of Madera’s (City) COVID-19 Vaccine Incentive Pay Policy is to support a healthy and safe workplace by encouraging vaccination against COVID-19.

**II. SCOPE:**

This policy applies to all active full time and part time employees of the City of Madera during the applicable term of this policy.

**III. TERM:**

This policy will be effective upon issuance by the City Manager as of the date noted above (“Date Adopted”) and will remain in effect until sixty (60) days after general government workers become eligible to receive the COVID-19 vaccine in Madera County as determined by the Madera County Department of Public Health. The term may be extended up to two (2) times by the City Manager for a maximum of thirty (30) days each extension should vaccine supply affect availability.

**IV. INCENTIVE PAY PROGRAM:**

All employees who receive the recommended dosage of COVID-19 vaccine will receive a one-time payment of \$200. Depending on vaccine manufacturer, this may be a two-dose vaccine or single dose vaccine; employees must complete the recommended dosage to receive the vaccine incentive pay. Such payment is subject to applicable taxes and deductions. The COVID-19 vaccine incentive pay does not meet the definition of compensation earnable and it will not be reportable as special compensation to CalPERS.

**V. PROCESS FOR REQUESTING INCENTIVE PAY:**

Employees must submit the Incentive Pay Request Form (Attachment A) along with proof of vaccination to the Human Resources Department in order to receive the pay incentive. Such proof of vaccination must document the date the vaccination dosages were received, the vaccine manufacturer, and the provider that administered the vaccine. Only vaccines approved by the United States Food and Drug Administration for use and administered by a source authorized to administer the vaccine by State or Federal authorities will be considered for incentive pay. After receipt of proper documentation, incentive pay will be paid in the next regular pay cycle for which time sheets have not yet been submitted. No incentive will be paid without a completed Incentive Pay Request Form, nor for failure to submit an Incentive Pay Request Form prior to the termination of the policy per Section III. Only employees following these requirements are eligible to receive Incentive Pay. Failure to follow these requirements will be considered a declination of the Incentive Pay.

**ATTACHMENT A  
City of Madera  
COVID-19 Vaccine Incentive Pay Request Form**

I am requesting COVID-19 Vaccine Incentive Pay be paid in my next regular pay check for which timesheets have not yet been submitted. By signing below, I am acknowledging and certifying the following:

1. I have voluntarily received a complete COVID-19 Vaccine series. A complete series consists of receiving the number of doses recommended by the specific vaccine manufacturer.
2. The vaccine I received is approved by the United States Food and Drug Administration for use in the United States.
3. The vaccine was administered by a source authorized to administer the vaccine by State or Federal authorities.
4. I have attached proof of vaccination that includes the date the vaccination(s) was/were administered, the vaccine manufacturer, and the provider who administered the vaccine.

\_\_\_\_\_  
Employee Name (please print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee ID Number

\_\_\_\_\_  
Date

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*For use by Human Resources Staff Only*

*Date Received:* \_\_\_\_\_

*Proof of vaccination was provided supporting criteria #1-4* \_\_\_\_\_  
Staff Initials

*Forward this form only to Payroll for processing of incentive pay. Documentation of vaccination will be maintained as a confidential medical document in the Human Resources Department.*

<b>CITY OF MADERA</b> <b>COVID-19 Emergency Policy</b>	<b>Policy No. 2</b>
	<b>Date Adopted: 3/25/2020</b>
	<b>Date(s) Revised: 2/10/2021; 3/5/2021</b>
<b>Subject: Families First Coronavirus Response Act</b>	

**Introduction**

The emergence of the novel coronavirus (COVID-19) in December 2019 has elicited a major, worldwide response, and it was deemed a pandemic by the World Health Organization on March 11, 2020. The City Council of the City of Madera declared a local state of emergency March 18, 2020. The Federal government has also responded to COVID-19 and on March 18, 2020, the US Senate passed the Families First Coronavirus Response Act (the Act) and President Trump signed the bill into law a few hours later. Among other things, the Act (1) amends the Family Medical Leave Act (FMLA) by providing FMLA Public Health Emergency Leave and (2) provides Emergency Paid Sick Leave to assist employees for certain COVID-19 related reasons. The intent of this policy is to confirm the provisions of the Act related to these two new leave types and their application to City employees.

**The Families First Coronavirus Response Act**FMLA Public Health Emergency Leave (E-FMLA)*Summary*

Public Health Emergency FMLA (E-FMLA) is an expansion of FMLA to include leave for employees who are unable to work or telework because he/she needs to care for his/her child due to a school or day care closure related to a public health emergency.

*Applicability*

As a government employer, the City of Madera is required to provide benefits under this new law.

*Term*

The Act goes into effect April 2, 2020, unless enacted sooner by the Department of Labor, and will sunset December 31, 2020. The benefits granted by the Act apply prospectively upon the effective date of the Act. The City of Madera will continue to provide E-FMLA leave to employees following the sunset of the benefits provided by the Act. E-FMLA shall remain in effect (1) for the duration of the City's local COVID-19 emergency declaration and shall sunset at such time that the City Council terminates the local emergency, or (2) until the Federal or State government enacts new or revised mandatory paid leave provisions related to the COVID-19 pandemic, whichever occurs first.

### *Eligibility and Use of Leave*

City of Madera employees who have been employed for at least 30 calendar days are eligible for E-FMLA leave.

E-FMLA leave is subject to that employee having FMLA leave available. If an employee has exhausted their FMLA leave within the last 12 months, they do not qualify for E-FMLA leave. However, once the employee is eligible for FMLA leave again, they would be eligible for the E-FMLA leave if they experience a qualifying coronavirus-related event. If an employee has used part of their FMLA leave within the last 12 months, they are entitled to use the remaining balance of their 12-week FMLA entitlement for a qualifying coronavirus-related reason as E-FMLA leave.

An employee may take E-FMLA leave if the employee is unable to work, or “telework,” due to a need for leave to care for a son or daughter under 18 years of age if their school or place of care has been closed, or if the child care provider of such son or daughter is unavailable, due to a public health emergency.

Employees have the right to take up to 12 weeks of job-protected E-FMLA leave. The initial 10 days of leave may consist of unpaid leave. However, an employee may elect to substitute any accrued vacation leave, sick leave, compensatory time off, administrative leave, holiday leave, or floating holiday leave for unpaid leave during the initial 10 days of leave. The employee may also elect to substitute the two weeks of unpaid leave with the Emergency Paid Sick Leave provided under the Act, as further explained later in this Policy.

From the eleventh day of an employee’s E-FMLA leave thereafter, the City will provide paid leave in an amount not less than two-thirds of an employee’s “regular rate of pay” for the number of hours the employee would otherwise be normally scheduled to work during the leave time, not to exceed the Limits as outlined below. If the employee’s schedule has varying hours from week to week, including part-time employees, the hours used for this calculation would be a number equal to the average number of hours that the employee was scheduled per day over the six-month period ending on the date which the employee takes the E-FMLA leave, including hours used by the employee for leave of any type. The Act permits employees to supplement the two-thirds pay with their accrued leaves to achieve 100% of their regular rate of pay.

### *Limits*

Consistent with the Act, there is a cap on the paid portion of the E-FMLA leave and it will not exceed \$200 per day and \$10,000 in total.

### *Employee Responsibilities*

Employees desiring to take E-FMLA leave must make the request in writing on forms provided by the Human Resources Department.

## Emergency Paid Sick Leave Act (E-PSL)

### *Applicability*

As a government employer, the City of Madera is required to provide benefits under this new law.

### *Term*

The Act goes into effect April 2, 2020, unless enacted sooner by the Department of Labor, and will sunset December 31, 2020. The benefits granted by the Act apply prospectively upon the effective date of the Act. The City of Madera will continue to provide E-PSL to employees following the sunset of the benefits provided by the Act. E-PSL shall remain in effect (1) for the duration of the City's local COVID-19 emergency declaration and shall sunset at such time that the City Council terminates the local emergency, or (2) until the Federal or State government enacts new or revised mandatory paid leave provisions related to the COVID-19 pandemic, whichever occurs first.

### *Eligibility and Use of Leave*

City of Madera employees are eligible for E-PSL regardless of how long the employee has worked for the City. The Act that was signed into law includes an addition that requires the Secretary of Labor to issue regulations to exclude certain health care providers/emergency responders from the definition of "employee" under the Act. The City will follow any regulations issued by the Department of Labor in administering E-PSL.

Employees are entitled to E-PSL at their regular rate of pay, subject to limits as identified below, if they are unable to work or telework for the following reasons:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) The employee is experiencing side effects from receiving the COVID-19 vaccine.

Employees are entitled to Emergency Paid Sick Leave at two-thirds of the employee's regular rate of pay, subject to limits as identified below, if they are unable to work or telework because:

- (5) The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.



- (6) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
- (7) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

The Act permits employees to supplement the two-thirds pay with their accrued leaves to achieve 100% of their regular rate of pay.

E-PSL is provided in addition to any other City-provided paid time off.

#### *Limits*

Consistent with the Act, E-PSL is subject to the following monetary caps:

#### \$511/Day and \$5,110 in the Aggregate for the Following Employee-Related COVID-19 Absence Reasons

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

#### \$200/Day and \$2,000 in the Aggregate for the Following Reasons Related to the Employee Taking Leave to Care for an "Individual" or "Son or Daughter"

4. The employee is caring for an individual who is subject to an order by a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

As defined in the Act, "Son or Daughter" has the same definition as it does under the FMLA, and means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or physical disability.

If an employee seeks to care for an “individual” as stated above, the employee shall provide the type of relationship when certifying the need for leave.

*Interaction with E-FMLA Leave*

E-PSL will run concurrently with E-FMLA leave if the employee has such leave available.

*Employee Responsibilities*

Employees desiring to take E-PSL leave must make the request in writing on forms provided by the Human Resources Department.