



STAFF REPORT

MEETING DATE: January 11, 2023

PRESENTER: John Jansons, City Manager

SUBJECT: Updated City Expense Reimbursement Policy (JAJ)

RECOMMENDATION: City Council by motion adopt resolution approving and adoption an updated City policy concerning expense reimbursements for the Mayor, Councilmembers, members of the Boards and Commissions, and employees for City related travel and business which shall supersede any existing City policy(ies).

EXECUTIVE SUMMARY: The City Attorney has advised that under Assembly Bill 1234, adopted in 2005 and codified as Government Code Sections 53232, et seq., all cities must adopt an expense reimbursement policy for Mayor and Council expenses. The policy must be adopted in writing by the City Council.

The proposed Resolution and policy (Attachment 'A') has been prepared by the City Attorney. It establishes a written policy for members of the City Council, members of Boards and Commissions, and employees. This will ensure uniformity in paying for expenses and for reimbursements not only to the Council, but also for board members, commission members, and employees.

The policy is very similar to the sample policy published by the Institute for Local Government, but is customized for Kerman.

Under Government Code sections 53232.2 and 53232.3, local agencies reimbursement policies must:

1. Specify the kinds of activities that will be reimbursable;
2. Require use of expense report forms (which are public records subject to disclosure);
3. Identify a "reasonable time" within which these report forms must be submitted for reimbursement; and
4. Require that all expenses be documented with receipts.

The resolution also encompasses the provisions in Government Code Section 53232.4 regarding penalties. Finally, the resolution notes that all prior Council actions and administrative directives are superseded.

FISCAL IMPACT:

There is no fiscal impact in approving and adopting this Resolution and policy.

ATTACHMENTS:

- A. Resolution w/Exhibit

Attachment 'A'

RESOLUTION NO. 23-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN ESTABLISHING AN EXPENSE AND USE OF PUBLIC RESOURCES POLICY FOR CITY COUNCIL MEMBERS, MEMBERS OF BOARDS AND COMMISSIONS, AND EMPLOYEES

WHEREAS, the City of Kerman ("City") takes its stewardship over the use of its limited public resources seriously; and

WHEREAS, public resources should only be used when there is substantial benefit to the City; and

WHEREAS, such benefits include:

1. The opportunity to discuss the community's concerns with state and federal officials;
2. Participating in a regional, state and national organizations whose activities affect the City;
3. Attending educational seminars designed to improve skill and information levels; and
4. Promoting public service and morale by recognizing such service; and

WHEREAS, i) legislative and other regional, state and federal agency business is frequently conducted over meals; ii) sharing a meal with a regional, state and federal official is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and iii) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, attendance at educational seminars to improve skill and information levels and to ensure compliance with educational requirements is beneficial to Council Members, members of Boards and Commissions, and employees which in turn benefits the City of Kerman; and

WHEREAS, this policy provides guidance to elected and appointed officials on the use and expenditures of the City's resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, this policy satisfies the requirements of California Government Code sections 53232.2 and 53233.3; and

WHEREAS, this policy supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources; and

WHEREAS, this policy also supplements the definition of necessary and reasonable expenses for the purposes of federal and state income tax laws; and

WHEREAS, the City's current policy on reimbursement of expenses needs to be updated.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kerman as follows:

SECTION 1. The City Council hereby finds that the foregoing recitals are true and correct and establish a factual basis for the City's adoption of this resolution.

SECTION 2. The City Council hereby adopts this resolution establishing an "Expense and Reimbursement Policy of the City of Kerman" as set forth in Exhibit 'A' and incorporated herein by reference.

SECTION 3. All prior Council resolutions, policies, and actions as well as administrative directives in conflict with the Expense and Reimbursement Policy adopted by this resolution are superseded and repealed.

SECTION 4. This resolution is effective upon the date of adoption.

The foregoing resolution was considered by the City Council to the City of Kerman at a regular meeting of said Council held on the 11th day of January 2023, and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Marci Reyes
City Clerk

Exhibit 'A'

**EXPENSE AND REIMBURSEMENT POLICY
OF THE CITY OF KERMAN
(Council Members, Members of Board and Commissions, and Employees)**

SECTION A: Purpose and Scope.

- a. To provide the Mayor, City Council Members, Board and Commission Members, and employees with direction on the types of City-related expenditures that can and cannot be made and the requirements that must be met for reimbursement without prior authorization of the City Council.
- b. To meet requirements of State law regarding expenses and reimbursement of City elected officials and employees.

SECTION B: Authorized Expenditures.

1. District expenses shall include, but not be limited to, the following: meeting stipends, transportation, lodging, meals, tips and registration/attendance fees for official functions.
2. District funds, equipment, supplies, and staff time shall only be used for authorized District business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses of Directors and District employees that may be reimbursed, as long as the other requirements of this policy are met.

SECTION C: Official Duties and Authorized Expenses.

City funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized City Business.

1. Types of Activities. The following types of activities generally constitute the performance of official duties for which members of the City Council, the City Manager, and City employees may receive reimbursement **so long as the other requirements of this policy are met**.
 - a. Communicating with representatives of regional, state and national government on City adopted policy positions;
 - b. Attending educational seminars designed to improve skill and information levels;
 - c. Participating in regional, state and national organizations whose activities affect the City's interests;
 - d. Attending City events;
 - e. Implementing a City-approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member.

SECTION D: Prior City Council Approval Required.

The following expenses require prior City Council approval:

1. Any expenditure which does not fall under Section C above;
2. International and out-of-state travel.

SECTION E: Prior City Manager Approval Required.

With respect to the activities listed in Section C above, all activities by City employees must be pre-approved by the City Manager.

SECTION F: No Reimbursement Allowed.

Examples of personal expenses that the City will not reimburse include, but are not limited to the following:

1. The personal portion of any trip;
2. Political or charitable contributions given;
3. Family expenses, including spouse's or domestic partner's expenses when accompanying official on agency-related business, as well as children- or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf-related expenses), or other cultural events;
5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline;
6. Personal losses while incurred on City business. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred; and
7. Alcohol and personal bar expenses.

SECTION G: Cost Control Guidelines.

To conserve City resources and keep expenses within community standards, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. Transportation.

- a. Airfare: Airfares that are equal or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities (www.cacities.org) and the State of California (www.dgs.ca.gov/travel/programs/airfare.aspx) are presumed to be the most economical and reasonable for purposes of reimbursement under this policy.
- b. Automobile:
 - i. City Vehicles. Whenever possible, a City vehicle should be the choice for transportation for City employees traveling to a conference, seminar, or meeting that is within surrounding areas. To drive a City owned vehicle, an official or employee must possess a valid California driver's license. No City vehicle may be left overnight at any personal residence without the authorization of the City Manager.
 - ii. Use of a personal vehicle. If a City vehicle is not available, use of a personal vehicle is allowed. City employees traveling by personal automobile on City business are required to possess a valid California driver's license, carry, at the employee's expense, public liability and property damages insurance at the minimum required by law. Mileage reimbursement will be provided in accordance with the City Personnel Rules. If carpooling, only vehicle owner should be claiming a reimbursement or advance for mileage actually incurred (other passengers are not eligible for mileage reimbursement or advance). Any damage to a personal vehicle, required service or repairs occurring on the trip will be the employee's responsibility.
 - iii. Mileage Reimbursement. Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect (www.irs.gov). For 2023, the rate is 65.5 cents per mile. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating a vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
 - iv. Car Rental. The use of a rental car is permitted when it is in the interest of the City to do so and all other methods of transportation have been exhausted. Personal medical insurance should already be covered under workers' compensation insurance when renting a vehicle for the City's business. If a rental car is retained over a weekend, such expenses are personal, except when used to travel on a weekend to another location on City business or the rental is part of a multiple-week training, seminar or conference and it is not feasible to return home. Rental rates that are equal to or less than those available through the State of California per website (www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx) shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
 - v. Taxis/Shuttles. Taxi or shuttle fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car

rentals, gasoline and parking combined, or when such transportation is necessary for time efficiency.

2. Lodging.

Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.

- a. Conferences/Meetings: If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.
- b. Other Lodging: Travelers must request government rates, when available. A listing of hotels offering government rates in different areas is available at the United States General Service Administration federal per diem rates (www.gsa.gov/portal/category/100120). Lodging rates that are equal to or less than government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.

3. Meals.

When attending a conference or other authorized activity and a meal or meals are provided as part of the activities, the City will not reimburse for separate meals unless dietary/medical needs require the purchase of a different meal and/or City-related business necessitates that the individual miss the meal provided. Reimbursement for meals shall be at a flat rate up to the maximum established in accordance with United States General Service Administration federal per diem rates (www.gsa.gov/portal/content/100120). When requesting reimbursement for less than three meals per day, the per diem for each meal claimed shall be paid.

4. Telephone/Fax/Cellular.

The City will make reimbursement for actual telephone and fax expenses incurred on City business. Telephone bills shall identify which calls were made on City business for persons without a City-issued telephone. For cellular calls when the official has a particular number of minutes included in the official's plan, the official can identify the percentage of calls made on public business.

5. Internet.

The City will make reimbursement for Internet access connection and/or usage fees away from home, not to exceed \$15.00 per day, if Internet access is necessary for City business and if Internet access for City business is actually used.

6. Airport Parking.

Long-term parking must be used for travel exceeding 24 hours.

7. City Credit Card.

Expenses charged to the City credit card shall be subject to eligibility for approval based on the policies established herein.

SECTION H: Cash Advance Policy.

From time to time, it may be necessary to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager 10 days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
3. The dates of the expenditure(s).

Any unused advance must be returned to the City treasury within two business days after return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

In the event the City Manager and Finance Director are uncertain as to whether a request complies with this policy, such individual must seek resolution from the City Council.

SECTION I: Expense Report Content and Submission Deadline.

All cash advance and expense reimbursement requests must be submitted on an expense report form provided by the City. This form shall include the following advisory:

All expenses reported on this form must comply with the City policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability.

Expense reports must document that the expense in question met the requirements of this policy. For example, if a lunch meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.

Officials must submit their expenses within 15 days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

SECTION J: Audits of Expense Reports.

All expenses are subject to verification that they comply with this policy.

SECTION K: Reports to City Council.

At the following City Council meeting, Council Members shall briefly report on any Brown Act meetings attended at City expense as well as any conferences, educational seminars or meetings with legislators or other government officials.

SECTION L: Compliance with Laws.

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other laws.

SECTION M: Violation of This Policy.

Under Government Code Section 53232.4, penalties for the misuse of public resources or for falsifying expense reports in violation of this policy may result in any or all of the following: (i) loss of reimbursement privileges, (ii) restitution to the City, (iii) civil penalties of up to \$1,000 per day and three times the value of the resources used under Government Code Section 8314, and (iv) prosecution for misuse of public resources.