**New Section in Article 3**

**Section XX - Parental Leave**

**A continuous parental leave of up to one year will be granted to any employee with six months of continuous employment with the City (or equivalent in the case of part time employees) upon the birth of a child or the legal adoption of a child who is five years or younger, providing that:**

**XX.1 Eligibility: An Employee with six (6) months or more of benefited employment with the City shall be entitled to up to one (1) year of paternal leave under the following circumstances and conditions:**

**A. Birth or Adoption: The birth of a child of the employee, or the adoption of a child who is five (5) years of age or younger, by the employee.**

**XX.2 Commencement of Leave: Leave for the birth of adoption of a child must**

**commence no later than 13 months from the date of birth or adoption and must**

**conclude no later than 25 months from the date of birth or adoption. Leave may**

**begin before the date of birth or adoption upon presentation of medical**

**certification of pregnancy, or the presentation of evidence of adoption.**

**A. Intermittent Leave: Leave may be taken intermittently upon mutual**

**agreement between the employee and their Division Manager.**

**XX.3 Notice Requirements: Employees exercising their rights under this provision must**

**provide Division Manager with at least a 30 calendar day written notice prior to the anticipated commencement date of the parental leave. If the need is such that a 30-calendar day notice cannot be provided the request must be made as soon as possible.**

**XX.4 Use of Leave: At the employee’s option, the employee may be placed on authorized**

**leave without pay or may be compensated during parental leave with his or her accumulated sick leave (up to a maximum of 200 days), and all other accrued leaves.**

**Such accrued leave balances will be paid in the same manner as if the employee were absent due to illness or on vacation during the leave. An employee who has chosen to be compensated during parental leave with his or her accumulated leave may go in and out of paid status, if each status change lasts a full pay period or longer. City contributions to the SRIP, PERS, YMCA, Commuter Checks, and all other benefits, except those outlined below under Insurance Coverage, may be affected once the employee is an unpaid status.**

**XX.5 Concurrent with FMLA/CFRA Leave: Time away from work on parental leave under this Section shall be deducted from the amount permitted for other leave (will run concurrent with FMLA/CFRA benefits).**

**XX.6 Insurance Coverage: During approved parental leave under this Section, the City will maintain life, dental, and health insurance coverage, as well as cash in lieu payments (if already in effect for an employee at the time of their request for leave) for the duration of the parental leave, subject to any regular participation requirements of the employee.**

**XX.7 Simultaneous Leave: In the event both parents are employed by the City, both**

**employees may take parental leave simultaneously, if eligible.**

**XX.8 Seniority: Approved parental leave under this Section shall not be deducted from the employee’s seniority service date. A Step Increase, if due to become effective during the leave period, shall not be denied to an employee, and shall be effective in the pay period immediately following the scheduled Step Increase, whether that pay period is part of a leave, scheduled intermittent leave, or the employee’s full return to regular service.**

**XX.9 Requirement Forms: Employees must fill out the following forms in connection with**

**Parental Leave under this Section:**

**A. “City of Berkeley Request for Parental Leave” prepared by the employee to be eligible for leave. NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST WHICH WILL SET FORTH CERTAIN CONDITIONS OF THE LEAVE.**

**B. “City of Berkeley Medical Certification of Physician” – verifying pregnancy, or legal evidence of adoption, or documentation requiring state action for foster care, medical evidence in the form of a birth certificate or official communication from an authorized care provider will also be sufficient, if also accepted by the state of California to authorize commencement of California Paid Family Leave.**

**C. Intermittent Work Schedule Memorandum: An employee requesting intermittent parental leave must detail the intermittent work schedule during the parental leave in a separate memorandum to the Division Manager.**

**XX.9.1 Supplemental Compensation: When an employee receives California Paid Family Leave compensation for the purpose of New Child Bonding, the City shall supplement the California Paid Family Leave weekly benefit amount that the employee receives by paying the employee Supplemental Compensation in an amount such that the total of the California Paid Family Leave compensation the employee receives and the Supplemental Compensation provides, but does not exceed, 100% of the employee’s current normal gross weekly wage.**

**A. If the Covered Employee’s weekly wage fluctuates, the employee’s normal gross weekly wage shall be calculated based on an average of the employee’s weekly earnings from the Covered Employer during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately preceding the start of the employee’s California Paid Family Leave period. If the employee was on unpaid or partially paid leave during any of the aforementioned pay periods, such pay period(s) shall not be counted towards the average referenced in the preceding sentence; rather, the average shall be calculated using additional earlier corresponding pay periods in order to satisfy the above designated number of pay periods, but in no case shall pay periods earlier than 26 weeks prior to the California Paid Family Leave period be considered.**

**B. If the California Paid Family Leave weekly benefit amount that the covered employee is receiving from the State is based on earnings from a calendar quarter during which the employee did not work regular hours, or during which the employee earned a higher weekly wage from the Covered Employer than the employee is receiving at the time of his or her leave, the Supplemental Compensation amount shall be calculated to provide 100% of the employee’s normal gross weekly wage in his or her current position; provided, however, that reducing a Covered Employee’s wages during the leave period or within 90 days of the employee’s having notified the City of his or her intent to apply for and/or use California Paid Family Leave shall raise a rebuttable presumption that such wage reduction was made to reduce the City’s Supplemental Compensation obligations under this Section. Unless the City rebuts the presumption with clear and convincing evidence that the reduction was solely for a reason other than reducing its obligation to pay Supplemental Compensation, the City shall be obligated to pay Supplemental Compensation during the leave period based on the employee’s prior wage rate.**

**C. Maximum Weekly Benefit Amount. In the case of a covered employee who is**

**receiving the maximum weekly benefit amount under the California Paid Family Leave law, the Supplemental Compensation shall not be calculated to reach 100% of the employee’s total normal gross weekly wage. Rather, the amount of Supplemental Compensation shall be calculated based on the gross wage that is derived from dividing the State’s maximum weekly benefit amount by the percentage rate of wage replacement provided under the California Paid Family Leave law.**

**D. Termination During Leave Period. A Covered Employer’s obligation to provide Supplemental Compensation under this Section applies only when the Covered Employee is receiving California Paid Family Leave benefits for New Child Bonding; provided, however, that if a Covered Employer terminates a Covered Employee during the leave period, the employer’s obligation to pay Supplemental Compensation shall continue for the remainder of the period the Covered Employee is receiving California Paid Family Leave benefits.**