



# CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt Resolution Declaring that any Person While Performing Voluntary Service(s) for the City of Lodi Shall be Deemed an Employee of the City of Lodi for Purposes of Workers' Compensation Benefits pursuant to Division 4 of the California Labor Code

**MEETING DATE:** July 18, 2007

**PREPARED BY:** Deputy City Manager

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**RECOMMENDED ACTION:** Adopt Resolution Declaring that any Person While Performing Voluntary Service(s) for the City of Lodi Shall be Deemed an Employee of the City of Lodi for Purposes of Workers' Compensation Benefits pursuant to Division 4 of the California Labor Code

**BACKGROUND INFORMATION:** The City of Lodi has long benefited from a variety of vital volunteer programs. During their course of service, some of these volunteers may be injured. California Labor Code permits the Lodi City Council to declare by adoption of a resolution that a person who performs voluntary service(s) for the City of Lodi be deemed an employee of the City of Lodi for purposes of Division 4 of the California Labor Code while performing such service. California Labor Code Section 3363.5 states: *(a) Notwithstanding Sections 3351, 3352, and 3357, a person who performs voluntary service without pay for a public agency, as designated and authorized by the governing body of the agency or its designee, shall, upon adoption of a resolution by the governing body of the agency so declaring, be deemed to be an employee of the agency for purposes of this division while performing such service. (b) For purposes of this section, "voluntary service without pay" shall include services performed by any person, who receives no remuneration other than meals, transportation, lodging, or reimbursement for incidental expenses.*

Adoption of such a Resolution is deemed a best Risk Management practice since awards for pain and suffering are not granted in Workers' Compensation settlements as they are in those of General Liability, thereby reducing the potential total cost of a claim. In addition, the Self Insured Retention rate for the City of Lodi's Workers' Compensation plan is \$250,000 less than its General Liability plan (\$500,000), thus reducing limits to any potential losses.

**FISCAL IMPACT:** Adoption of this Resolution limits coverage of volunteers to benefits provided through the Workers' Compensation program and precludes other potential claims under the California Tort Claims Act.

**FUNDING AVAILABLE:**

\_\_\_\_\_  
Kirk Evans, Budget Manager

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James Krueger  
Deputy City Manager

JRK/jlh

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**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

RESOLUTION NO. 2007-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL DECLARING THAT ANY PERSON PERFORMING VOLUNTARY SERVICE FOR THE CITY OF LODI SHALL BE DEEMED AN EMPLOYEE OF THE CITY OF LODI FOR PURPOSES OF DIVISION 4 OF THE CALIFORNIA LABOR CODE WHILE PERFORMING SUCH SERVICE

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WHEREAS, the City of Lodi has long benefited from a variety of vital volunteer programs, and volunteers may be injured in their course of service; and

WHEREAS, the California Labor Code permits the Lodi City Council to declare by adoption of a Resolution that a person who performs voluntary service(s) for the City of Lodi be deemed an employee of the City of Lodi for purposes of Division 4 of the California Labor Code while performing such service, and adoption of such a Resolution is deemed a best Risk Management practice; and

WHEREAS, the Lodi City Council desires to provide workers' compensation coverage for any city volunteers pursuant to the provision of Section 3363.5 of the Labor Code; and

WHEREAS, the City Council finds its best interests will be served by utilizing volunteers in the provision of certain city services.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby finds and determines as follows:

1. That the public interest is best served by providing workers' compensation coverage to any person performing volunteer services for the City of Lodi.
2. That the volunteers described above shall be deemed to be employees for the purposes of Division 4 of the California Labor Code while the person(s) actually performs volunteer services, provided that the rights of volunteers shall be limited to those benefits set forth in the Labor Code.

Dated: July 18, 2007

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I hereby certify that Resolution No. 2007-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 18, 2007, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2007-\_\_\_\_\_