



January 8, 2018

**TO:** LOCSD Board of Directors

**FROM:** Renee Osborne, General Manager

**SUBJECT: Agenda Item 11H – 1/18/2018 Board Meeting**  
Adopt Resolution Declaring Certain Volunteers as Employees for Purposes of Workers Compensation Insurance

**President**  
Jon-Erik G. Storm

**Vice President**  
Vicki L. Milledge

**Directors**  
Charles L. Cesena  
Marshall E. Ochylski  
Louis G. Tornatzky

**General Manager**  
Renee Osborne

**District Accountant**  
Robert Stilts, CPA

**Unit Chief**  
Scott M. Jalbert

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**DESCRIPTION**

Adopt a resolution to continue providing workers compensation coverage for certain individuals while they are providing their services with changes by “Special District Risk Management Authority” (SDRMA).

**STAFF RECOMMENDATION**

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motion:

***Motion: I move that the Board approve Resolution 2018-02 declaring that governing body members and volunteers shall be deemed to be employees of the District for the purpose of providing workers compensation coverage for said certain individuals while providing their services.***

**DISCUSSION**

The Board, at its November 2016 meeting, approved workers’ compensation coverage for those volunteers in its Community Emergency Response Team (CERT).

Section 3363.5 of the Labor Code allows the District, by Resolution, to have volunteers covered by workers compensation insurance if they are injured in the course of their volunteer activities.

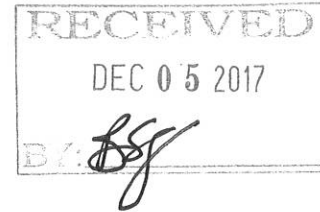
The attached resolution will cover existing CERT volunteers and in addition cover other volunteers that the District may elect to use in the future. This provides certainty of some protection against injury suffered by volunteers and reduces the expense and exposure to the District of potential civil suits in the absence of such a resolution.

A new resolution has been created the District’s insurer SDRMA coverage counsel which will allow the District to designate various categories of persons who the agency desires to “deem” employees.

Attachment

November 30, 2017

Ms. Renee Osborne  
General Manager  
Los Osos Community Services District  
Post Office Box 6064  
Los Osos, California 93412-6064



**Re: Workers' Compensation Resolution for Governing Body Member and/or Volunteer Coverage**

Dear Ms. Osborne,

Recently our excess carrier has made us aware that SDRMA Workers' Compensation (WC) members need to pass a **new Resolution** if they would like to continue (or start) covering their Governing Body members and/or volunteers.

Section 3363.5 of the California Labor Code provides that a person who performs voluntary service 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 for workers' compensation purposes. Thus, if such a resolution is adopted, and the volunteer is injured while performing duties for the agency, the volunteer is entitled to receive workers' compensation benefits and their exclusive remedy for recovery against the agency is through the Workers' Compensation system.

Such Governing Body members and/or volunteers may be covered for workers' compensation benefits only if a Resolution to that effect is adopted by the Governing Body pursuant to Labor Code § 3363.5 and a copy of the Resolution is filed with SDRMA.

A new Resolution (see attached) has been created by our coverage counsel. The Resolution permits your Governing Body to designate the various categories of persons who the agency desires to "deem" to be employees for purposes of workers' compensation. It declares, on a blanket basis, that the designated categories of volunteers are deemed employees and those categories consist of Governing Body Members, persons performing voluntary service, persons on work study, interns, and other volunteers. In addition, those so designated persons also need to be listed under our Workers' Compensation Program (which includes paying an annual contribution amount) to enable coverage.

When using the sample Resolution provided, please do not make any changes other than the areas highlighted in yellow. **To ensure accurate and timely implementation of your Resolution, please return your Governing Body approved Workers' Compensation Resolution as soon as possible by fax or email.** A Microsoft Word version of the sample Resolution can be downloaded at <http://www.sdrma.org/program-coverages/workers-compensation-program>. If your agency has any questions please contact Ellen Doughty, Chief Member Services Officer, at 800.537.7790 or [edoughty@sdrma.org](mailto:edoughty@sdrma.org).

Sincerely,  
Special District Risk Management Authority

  
Gregory S. Hall, ARM  
Chief Executive Officer

Enclosures: Sample Resolution for Covering Governing Body and/or Volunteers

**RESOLUTION No. 2018-02**

**RESOLUTION OF THE GOVERNING BODY OF  
THE LOS OSOS COMMUNITY SERVICES DISTRICT  
DECLARING THAT GOVERNING BODY MEMBERS AND VOLUNTEERS  
SHALL BE DEEMED TO BE EMPLOYEES OF THE DISTRICT FOR THE  
PURPOSE OF PROVIDING WORKERS' COMPENSATION COVERAGE FOR  
SAID CERTAIN INDIVIDUALS WHILE PROVIDING THEIR SERVICES**

**WHEREAS**, the Los Osos Community Services District utilizes the services of Governing Body Members and Volunteers; and

**WHEREAS**, Section 3363.5 of the California Labor Code provides that a person who performs voluntary service 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 the purpose of Division 4 of said Labor Code while performing such services; and

**WHEREAS**, the Governing Body wishes to extend Workers' Compensation coverage as provided by State law to the following designated categories of persons as indicated by a checkmark in the box to the left of the descriptions:

- All Members of the Governing Body of the Los Osos Community Services District as presently or hereafter constituted and/or
- All persons performing voluntary services without pay other than meals, transportation, lodging or reimbursement for incidental expenses
- Individuals on Work-study programs
- Interns
- Other Volunteers

**NOW, THEREFORE, BE IT RESOLVED**, that such persons coming within the categories specified above, including the duly elected or appointed replacements of any Governing Body Member and other designated individuals be deemed to be employees of the Los Osos Community Services District for the purpose of Workers' Compensation coverage as provided in Division 4 of the Labor Code while performing such service. However, said Governing Body Members and other designated individuals will not be considered an employee of the Los Osos Community Services District for any purpose other than for such Workers' Compensation coverage, nor grant nor enlarge upon any other right, duty, or responsibility of such Governing Body Members or other designated individuals, nor allow such persons to claim any other benefits or rights given to paid employees of the Los Osos Community Services District.

On the motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_,  
and on the following roll call vote, to wit:

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Conflicts: \_\_\_\_\_

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 18<sup>th</sup> day of January 2018.

\_\_\_\_\_  
President, Board of Directors  
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Renee Osborne  
General Manager and Secretary to the Board

\_\_\_\_\_  
Roy A. Hanley  
District Legal Counsel