



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Adopt Resolution Approving Affordable Care Act's Look-Back Measurement Method Safe Harbor

MEETING DATE: December 18, 2013

PREPARED BY: H.R. Management Analyst
Deputy City Manager
City Attorney

RECOMMENDED ACTION: Adopt resolution approving Affordable Care Act's Look-Back Measurement method Safe Harbor.

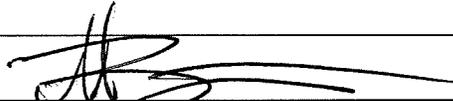
BACKGROUND INFORMATION: Under the Patient Protection and Affordable Care Act (ACA), the City could be subject to a penalty if it fails to offer affordable health coverage to an employee who averages 30 hours or more of service per week in any given month. Penalties for non-compliance are up to \$2,000 per year per ACA defined full-time employee (employees working over 30 hours/week). Because this penalty is assessed per full-time employee, not per uninsured full-time employee, Lodi's penalty exposure is roughly \$800,000 per year.

The ACA includes a Safe Harbor provision that Cities can elect to operate under. The safe harbor allows the employer to measure the hours of its employees during a given period and then gives it an opportunity to insure those employees during a follow-up stability period without incurring penalties. Because the City has many seasonal and hourly employees, the safe harbor will allow the City to measure and average the hours of service for its employees over a one-year time span. If a seasonal employee averages fewer than 30 hours of service per week over the entire year, the City will not be subject to a penalty for failing to offer health coverage. Moreover, the City will then have an opportunity to insure those employees who went over the average limit without penalty exposure. Without the safe harbor, the City could be subject to a penalty for any seasonal employee averaging 30 hours or more of service per week. Implementation of the safe harbor requires specific legal restrictions relating to timing and length of periods that must be established.

For the City, the Look-Back Measurement Safe Harbor will consist of the following:

1. A Measurement Period of 12 months for determining hours of service; beginning December 1 and ending November 30 of the following year;
2. An Administrative Period of 30 days beginning immediately after the Measurement Period and ending immediately prior to a Stability Period to allow time for enrollment and disenrollment; and
3. A Stability Period no shorter than the Measurement Period, during which health insurance coverage must be provided if an employee was found to work an average of 30 or more hours per week during the Measurement Period. Once an employee qualifies, insurance must be provided for the entire Stability Period.

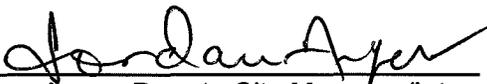
APPROVED: _____

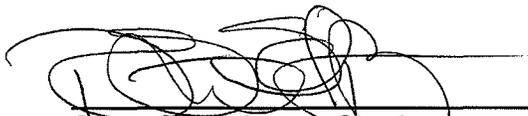

Konradt Bartlam, City Manager

Staff recommends adopting the Look-Back Measurement method Safe Harbor in order to plan for and avoid potential penalties that the City may face under the ACA starting January 1, 2015. This information is based on the most current information available to us on the ACA.

FISCAL IMPACT: Implementation of the Look-Back Measurement Safe Harbor will minimize the risk of the City having to pay penalties under the ACA.

FUNDING AVAILABLE: Not applicable.


Jordan Ayers, Deputy City Manager/Internal Services Director


Steve Schwabauer, City Attorney

RESOLUTION NO. 2013-221

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING AFFORDABLE CARE ACT'S LOOK-
BACK MEASUREMENT METHOD SAFE HARBOR

=====

WHEREAS, on March 23, 2010, the Patient Protection and Affordable Care Act (ACA) was enacted; and

WHEREAS, incorporated within these changes were mandates for employers establishing new regulations for employer-sponsored insurance health care; and

WHEREAS, Regulation § 4980 of the Internal Revenue Code establishes that effective January 1, 2015, eligible employers must provide employer-sponsored health insurance for all full-time employees, which is generally defined as employees that work 30 hours or more per week; and

WHEREAS, Notice 2012-58 of the Internal Revenue Service establishes criteria for a "Safe Harbor" that allow employers to adopt consistent and appropriate measurement standards that must be adopted prior to December 31, 2013; and

WHEREAS, this Safe Harbor allows for averaging hours worked over the span of a measurement period when determining an employee's eligibility and not simply considering hours on a month-by-month basis; and

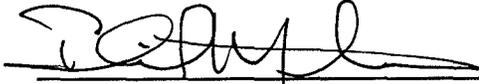
WHEREAS, it has been determined that in order to provide the City the greatest flexibility and remain compliant with the new regulations the City should adopt the Look-Back Measurement Method Safe Harbor as outlined below.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi that the following measurement standards are established to calculate hours worked as it relates to determining employee eligibility under the Patient Protections and Affordable Care Act (ACA):

Standard Measurement Period – Time frame which the City will look back at employee's previous hours worked to determine whether their employment status is considered full time under the ACA. The City will divide total hours worked in that period by 52 to determine an employee's weekly average. City of Lodi has elected to use December 1 to November 30 of each year.

Administrative Period – Time period needed to allow employees that meet the 30-hour requirement as calculated under the Standard Measurement Period to complete the enrollment process. The City of Lodi has elected to use December 1 – December 31 of each year.

Stability Period – Time period in which employees will be provided with employer sponsored health care insurance. The City of Lodi has elected to use January 1 – December 31 of each year.



PHIL KATZAKIAN
Mayor

Dated: December 18, 2013

=====

I hereby certify that Resolution No. 2013-221 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 18, 2013, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Nakanishi

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL-OLSON
City Clerk