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**Title:** A RESOLUTION relating to indemnification and defense of the board of supervisors of the King County Flood Control Zone District from claims against their performance of statutorily-required duties for the district.

**Sponsors:** Larry Gossett

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Clerk 12/05/2007

A RESOLUTION relating to indemnification and defense of the board of supervisors of the King County Flood Control Zone District from claims against their performance of statutorily-required duties for the district.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KING COUNTY FLOOD CONTROL ZONE DISTRICT:

**SECTION 1. Definitions.** The definitions in this section apply throughout this resolution unless the context clearly requires otherwise.

- A. "Claim" means a claim or lawsuit.
- B. "District" means the King County Flood Control District.
- B. "Supervisor" means any person who is serving or has served on the board of supervisors of the King County Flood Control Zone District.

**SECTION 2. Findings:**

A. The members of the King County council, by virtue of their office, are required by RCW 86.15.050 (1) to be ex officio members of the board of supervisors of the district.

B. The district desires to avail itself of the rights afforded municipal corporations under RCW 4.96.041 to protect its supervisors against claims arising out of their performance, purported performance or failure of performance in good faith of their duties for the district.

**SECTION 3. Legal representation.** The district shall provide to a supervisor such legal representation as may be reasonably necessary to defend any claim filed against the supervisor, arising out of the performance, purported performance or failure of performance in good faith of duties for the district. This legal representation shall be a condition of service for the district and shall be provided by the district's legal counsel or designee, except as may be provided under an insurance policy or self-insurance or joint insurance program.

**SECTION 4. Exclusions - determination of representation.**

This resolution shall not apply to any dishonest, fraudulent, criminal or malicious act, to any act outside the scope of service, to any lawsuit brought by or on behalf of the district or to any accident, occurrence or circumstance in which the district or a supervisor is insured against loss or damages under the terms of an insurance policy or self-insurance or joint insurance program.

The district's legal counsel shall determine whether a supervisor was performing duties for the district in good faith, and whether a supervisor committed a dishonest, fraudulent, criminal or malicious act. The supervisor may appeal such determination to the board of supervisors of the district.

**SECTION 5. Payment of claims - conditions of representation.**

A. At the request of a supervisor, the district's legal counsel or designee shall investigate and defend a claim which is covered by this resolution. If that claim is deemed by the district's legal counsel or designee to be a proper claim against the supervisor, the claim shall be paid by the district as long as the following requirements are met:

1. As soon as practicable after receipt of notice of a claim, the supervisor shall give the district's legal

counsel notice of the claim, specifying the names of the supervisor involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;

2. The supervisor shall cooperate with the district's legal counsel or designee and, upon request, shall assist in making settlements of any lawsuits and in enforcing any claim for subrogation against any persons or organizations that may be liable to the district because of any damages or losses arising from the incident or conduct; and

3. The supervisor shall attend interviews, depositions, hearings and trials as requested, and assist in securing and giving evidence and obtaining the attendance of witnesses.

B. If the district's legal counsel determines that a claim against a supervisor is not covered by this resolution and a court of competent jurisdiction in a final judgment finds that the claim is covered by this resolution, the district shall pay the claim and reasonable attorneys' fees.

**SECTION 6. Refusal to cooperate.** If any supervisor fails or refuses to meet the requirements of section 5 of this resolution or elects to provide his or her own representation on any claim, this resolution is inapplicable and of no force and effect with respect to that claim.

**SECTION 7. Conflict with provisions of insurance policies.** Nothing in this resolution shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this resolution and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control.

**SECTION 8. Pending claims.** This resolution shall apply to any pending claim against a supervisor and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim.