

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

REGULAR AGENDA REQUEST

TO: Board of County Commissioners

FROM: Adiel McKnight, Executive Assistant

DATE: January 17, 2023

SUBJECT: Motion to Appoint/Affirm Members of the Jefferson County Risk Management Committee (RMC) Per Resolution No. 54-19 (No Expiration of Terms); Appoint Treasurer Stacie Prada

STATEMENT OF ISSUE:

It is recommended that the Jefferson County Board of County Commissioners pass a motion to appoint or affirm the following members of the Jefferson County Risk Management Committee (RMC), as configured under Jefferson County Resolution No. 54-19:

FISCAL IMPACT:

This request has no fiscal impact.

RECOMMENDATION:

Motion to Appoint/Affirm Members of the Jefferson County Risk Management Committee (RMC) Per Resolution No. 54-19 (No Expiration of Terms): 1) Affirm the Following: County Administrator Mark McCauley as Risk Manager; Human Resources Director Sarah Melancon as Risk Coordinator/Assistant Risk Manager; Emergency Management Director Willie Bence as Safety Officer; and Public Health Director Apple Martine as FLSA Exempt Employee; and 2) Appoint the Following: Treasurer Stacie Prada as Elected Official to fill the seat left vacant by the retirement of County Clerk Ruth Gordon.

REVIEWED BY:


Mark McCauley, County Administrator

1/11/23
Date

COUNTY OF JEFFERSON
STATE OF WASHINGTON

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In the Matter of Updating the }
Jefferson County }
Risk Management Policy }

RESOLUTION NO. 54-19

WHEREAS, Jefferson County has the responsibility to its taxpayers and citizens to assure that modern loss control practices are employed in the administration of the public business; and

WHEREAS, there exists a need to update the established program for the processing, handling and disposition of claims and claims lawsuits filed or brought against the County and/or County officers and employees; and

WHEREAS, there exists a further need to provide a coordinated and economically efficient means for dealing with the risks facing the County without expanding the County's liability for claims or claims lawsuits.

NOW, THEREFORE, BE IT RESOLVED, that the Jefferson County Board of County Commissioners hereby adopts the proposed, updated Risk Management Policy attached hereto as Exhibit "A" along with the following forms: *Claim for Damages, Instructions for Completing the Jefferson County Claim for Damage Form; Vehicle Collision Form; and the Authorization for Release of Protected Health Information (PHI) to Jefferson County Risk Management.*

BE IT FURTHER RESOLVED that this Resolution and Policy repeals and replaces the Risk Management Policy adopted with Resolution 36-11 and any forms used for that policy.

APPROVED AND SIGNED this 22nd day of October, 2019.



Carolyn Gallaway
Carolyn Gallaway, CMC
Deputy Clerk of the Board

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

Kate Dean
Kate Dean, Chair

David Sullivan
David Sullivan, Member

Greg Brotherton
Greg Brotherton, Member

Attachment “A”

Jefferson County Risk Management Policy

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Section 1.0 Objectives

- 1.1 To protect the people, property, and finances of Jefferson County against issues of risk in a cost effective and efficient manner.
- 1.2 The Legislative Authority recognizes the need to manage public funds wisely. The intent of this policy is to proactively preserve and protect from losses the assets of County operations in the most economical and efficient manner. Further, to provide a safe, secure, and healthful working environment for County employees.

The risk management program must function within the financial abilities of the County consistent with related legal requirements. This policy applies to all risks of accidental loss, such as fire, liability, theft, property damage, malpractice, illness, and injury, both direct and indirect, as relates to all County employees including elected officials, quasi-officials, and documented volunteers.

The success of our risk, claims and safety management program is impacted by the sincere, constant, and cooperative effort at all levels of management and the participation of all county elected and appointed officials, employees, quasi-employees, and volunteers to fully support the risk reduction efforts associated with this critical program.

Exposures to loss are either retained primarily through self-insurance or transferred through purchased insurance or contractual transfer. Insurance funds are established and maintained to pay pooling contributions/assessments, insurance premiums, bonds, deductibles, and uninsured claims.

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Section 2.0 Purpose

- 2.1 **Coordinated Program:** The purpose of this policy is to provide a coordinated program for processing, handling and disposition of claims and claims lawsuits filed or brought against the County and/or its past and present officers, employees and quasi-employees.

It is also intended to establish a procedure for the County to defend and indemnify its past and present officers, employees, or quasi-employees who, as the result of their good faith performance of County business or activities, are the subject of complaints.

- 2.2 **Bases of Liability:** This chapter shall not be construed to expand the bases of County liability for claims or claims lawsuits.

Section 3.0 Affected Parties

County departments, including elected or appointed department heads, employees, and quasi-employees (e.g. Election workers, Jurors, Advisory Board members, volunteers) and quasi-employees working under the direction of County personnel are subject to this policy.

Section 4.0 References

RCW 42.30	Washington State Open Public Meetings Act
Resolution No. 81-88	Authorization to Join the Washington Counties Risk Pool
Resolution No. 85-93	Jefferson County Loss Control Program and County-wide Safety Manual
Resolution No. 81-96	Establishing Procedures and Guidelines for the Development and Review of Contracts
Resolution No. 42-03	County Policy on the Complaint Review and Enforcement
Resolution No. 21-08	Designating members to serve on the Jefferson County Risk Management Committee
Resolution No. 25-19	Jefferson County Personnel Administration Manual
Resolution No. 53-19	Appointing the County's Representative Pursuant to the Bylaws of the Washington Counties Risk Pool
Ordinance No. 09-0806-18	Repealing and Replacing the Existing Resolution 87-86 Regarding Indemnification and Tort Representation of Jefferson County Employees and Officers and Amending the Existing Jefferson County Risk Management Policy in Resolution 36-11

Washington Counties Risk Pool Inter-local Agreement (dated August 18, 1988) and Adopted By-Laws (as provided in RCW 39.34 and 48.62)

Section 5.0 Definitions

These terms shall mean the following for the purposes of this Risk Management Policy:

- 5.1 **Claim:** A formal demand for monetary compensation as a result of injury or damages allegedly caused by the County, its officers, employees, or quasi-employees and does not include claims that have been transformed into civil lawsuits filed and/or initiated in District, Superior or U.S. District Court. (See also "Covered Claim").

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- 5.2 **Claims lawsuit:** A lawsuit alleging that the County and/or its officers, employees, or quasi-employees while acting within the scope of their official duties, have caused injury or damages to the plaintiff and the plaintiff is seeking redress.
- 5.3 **Claims Coordinator:** The employee of the County Administrator's Office that is designated to handle and process the claims and claims lawsuits for the County at the direction of the Risk Manager and to serve as the County's liaison with the Pool regarding the administration of the County's claims. This person serves as the Secretary to the Risk Management Committee. This person also manages and retains the records relating to Risk Management including, but not limited to, serving as the repository of all insurance policies and contract bonds in which the County is a named or additional insured.
- 5.4 **County:** Jefferson County, State of Washington.
- 5.5 **County Safety Officer:** A person designated by the Risk Manager to serve in the role of "County Safety Officer" as required by the Washington Counties Risk Pool. The Safety Officer shall work with the Safety Committees to consider all recommendations of the Pool concerning the development and implementation of a loss control program to prevent unsafe practices.
- 5.6 **Covered Claim:** Means a demand by a third party for monetary damages because of an occurrence as defined in the applicable Joint Self Insurance Liability Policy (JSILP). (Refer also to Item 5.1).
- 5.7 **Defense:** County indemnification and hold harmless for any County officer, employee or quasi-employee against any allegation or request for relief made against a County officer, employee or quasi-employee that seeks punitive damages against that County officer, employee or quasi-employee and/or his or her marital community.
- 5.8 **Joint Self Insurance Liability Policy (JSILP):** The coverage document which defines who is covered, the events that are covered and the extent of coverage for the named insured.
- 5.9 **Member:** Jefferson County as a member of the Washington Counties Risk Pool.
- 5.10 **Pool:** Means the Washington Counties Risk Pool.
- 5.11 **Protected Health Information (PHI):** Individually identifiable health information which is received by a municipality if a properly executed Authorization for Release of Medical Records is obtained.
- 5.12 **Quasi-Employee:** A person acting on behalf of the county who may or may not receive wages, with temporary rights and authority relevant to the situation as outlined by the quasi-employee's description of duties or verbal instructions provided by the Departmental Director, e.g., jurors, poll workers, advisory board members and volunteers.

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- 5.13 **Risk Management Committee (RMC):** A County committee with specific purpose as defined by these policies and procedures.
- 5.14 **Risk Coordinator/Assistant Risk Manager:** An employee of the County who is designated by the Risk Manager and who has completed the required Risk Management Certification classes provided by the Washington Counties Risk Pool. He/she shall also be a member of the RMC.
- 5.15 **Risk Management:** A coordinated and continuous program for the identification, analysis, control, prevention and financing of risk and exposures to loss, including, but not limited to property and liability.
- 5.16 **Risk Manager:** The appointed County Administrator acts as the County Risk Manager and is responsible for the County risk management function and serves as the formal contact between the County and Pool (the County designee) as to risk management. The Risk Manager is also a voting member of the County RMC.
- 5.17 **Risk Pool:** Means Washington Counties Risk Pool
- 5.18 **Washington Counties Risk Pool (WCRP or Risk Pool):** A joint local government entity, known as the Washington Counties Risk Pool established under Chapters 48.62 and 39.34, RCW to provide its member counties with joint programs and services including self-insurance (see JSILP), purchasing of insurance, and contracting for or hiring of personnel to provide administrative services, claims handling and risk management.

Section 6.0 Risk Management Program and Policies

- 6.1 **Risk Manager Appointment:** Pursuant to the By-laws of the Washington Counties Risk Pool, the Board of County Commissioners has, through adoption of Resolution No. 23-07, appointed the County Administrator as the Risk Manager for Jefferson County.
- 6.2 **Risk Manager General Duties:** The Risk Manager is charged with directing, leading and implementing actions intended to minimize the County's financial loss through the identification, mitigation and/or transfer of risks. The Risk Manager shall:
 - 6.2.1 **Identification, Mitigation and Transfer of Risks:** Identify, mitigate and transfer risks that face the County and shall have authority to make recommendations to the County Commissioners concerning insurance coverage or insuring options, self-insurance, reserves, deductible levels, loss prevention, and other techniques, actions or decisions for the sound management of risk.
 - 6.2.2 **Loss Prevention Program:**
 - A) Be responsible for developing and implementing programs for the reduction of risk and exposure to loss.

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- B) Assist all legal counsel with the defense of Claims Lawsuits against the County and insure that County departments, divisions and agencies are also assisting and cooperating in said defense.

6.2.3 Insurance Policies and Information: The County Commissioners/ County Administrator's Office shall be the repository of all insurance policies and contract bonds in which the County is a named insured. Such policies shall be maintained in a current fashion and shall include all riders and endorsements.

- A) Synopsis of Insurance Policies: The Risk Manager shall prepare and maintain a synopsis of each insurance policy carried by the County. Such synopses shall, at a minimum, include: a description of coverage provided, policy term, coverage limit, deductible, premium, and the carrier's agent.
- B) Certificates of Insurance: County departments are responsible for obtaining and forwarding to the Claims Coordinator, a Certificate of Insurance from any third party, where a third-party, e.g., a vendor for the County, is contractually obligated to provide the County with proof of adequate insurance (typically names the County as an "additional insured") as a precondition to performing services or providing goods to the County, or any of its elected officials, agencies or divisions and any contract of insurance or performance bonds in which the County is the named insured or a named insured.

6.2.4 Risk Transfer/Contract Review:

- A) Implement, maintain and update the uniform system of contract review and monitoring of all County contracts, interlocal agreements and other agreements as established in Resolution No. 81-96 for risk transfer and indemnification.
- B) The contracting authority of the County is the Board of County Commissioners or Legislative Authority. No employee or agent can commit the County to a legally binding contract without the express, written consent of the Board of County Commissioners, nor can a County Elected Officer bind the County to any contract which exceeds the budgetary authority authorized by the Legislative Authority.

6.2.5 Records: Maintain, with the cooperation and assistance from the Prosecuting Attorney's office, complete and accurate records as are required by the Risk Pool. Satisfaction of the Risk Pool requirements may require retaining records with respect to insurance, claims against the County, claims lawsuits filed against the County, losses incurred by the County, all accidents or incidents giving rise to possible liability against the County, and an inventory of all property in which the County has an insurable interest. Such records shall be maintained in a fashion such that statistical data can be readily extracted from the records. Maintenance of said records by the Claims Coordinator shall satisfy the requirements of this section.

6.2.6 Claims and Claims Lawsuits: Have the duties and responsibilities with respect to claims and claims lawsuits as specified in Sections 6.5 and 6.6

6.2.7 Extraordinary Investigations or Review: Be authorized to retain an outside investigator or legal counsel (or such other person or persons having the skill or

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expertise in the opinion of the Risk Manager necessary to perform the required investigation) for preparation of a report or document regarding the County's potential liability with respect to a Claim filed with the County.

- A) Make the determination when an "Authorization for Release of Medical Records" (aka PHI) is necessary during the course of an investigation and assure that an Authorization is obtained.
- B) All investigations, whether internal or by an outside person or entity shall be conducted in anticipation of litigation and treated as attorney work product and/or, where applicable, a privileged attorney-client communication.

6.2.8 Confer and Consult with the Prosecuting Attorney's Office or "PAO": The Risk Manager and an attorney representative of the PAO, consistent with their training and job responsibilities shall:

- A) Confer with the Risk Pool as necessary to determine the legal counsel that will defend the Claims Lawsuit brought against the County or its employees, officials or representatives and to discuss the legal status of the County and the defenses, if any, available to the County.
- B) Review all contract forms utilized by the County to identify and reduce any contractual liability being assumed by the County, and attempt to transfer such liabilities.
- C) Request and receive legal advice from the PAO.
- D) Notify the appropriate County employees, representatives and officials of changes in State/Federal statutes and common law which affect municipal liability.
- E) Provide assistance to the insurer(s) in the investigation and settlement of claims against the County from both employees and the public.
- F) Provide legal assistance in the examination of insurance and bond contracts entered into by the County.
- G) File and serve Notice's of Appearance if circumstances delay formal assignment(s) of Pool-designated defense counsel.

6.2.9 Contact with the Washington Counties Risk Pool: The Risk Manager shall serve as the formal contact between the County and the Washington Counties Risk Pool on matters related to risk and loss control.

- A) The Risk Manager shall meet the requirements and perform the duties as defined as a participating County by the WCRP Membership Compact.

6.3 **Risk Management Committee (RMC) Duties:** The RMC shall be the primary mechanism by which the County manages risk, including but not limited to, the review, disposition and oversight of claims and claims lawsuits, assuring and implementing the County's compliance with the terms and obligations imposed upon it pursuant to:

- A) The Washington Counties Risk Pool Joint Self-Insurance Liability Policy and
- B) Its membership in that Risk Pool.

The RMC may make periodic recommendations through the Risk Manager to the Board of County Commissioners concerning insurance coverage, self-insurance, deductible, reserves, loss prevention, and any other technique for the sound management of risk.

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- 6.3.1 Claims and Claims Lawsuits: The RMC shall have those duties and responsibilities with respect to claims and claims lawsuits as specified in Sections 6.5 and 6.6.
- 6.3.2 Appeals of Risk Pool Decisions: The RMC shall have authority to authorize the Risk Manager or the Prosecuting Attorney's Office to file with the Risk Pool a formal appeal of any correspondence from the Risk pool, including but not limited to, any correspondence denying coverage or providing coverage with a reservation of rights.
- 6.3.3 Liability Assessment: The RMC with the assistance of the Prosecuting Attorney's Office shall as needed and with reasonable promptness convey to the Risk Pool any new information, records, testimony or other material that changes or may change the potential liability of the County with respect to either a pending claim or pending claims lawsuit.
- 6.4 **Risk Management Committee Membership/Meetings**: The RMC shall be composed of the following members:
- 6.4.1 Voting Members: The RMC shall have a minimum of five (5) or a maximum of six (6) voting members.
Risk Coordinator/Assistant Risk Manager, who shall Chair the RMC
Risk Manager
County Safety Officer
1 Elected Official other than a Commissioner
1 or 2 FLSA Exempt Employee as listed on the Exempt Wage Matrix (From a different Department than the Elected Official serving on the Committee.)
- Only appointed members will be counted to establish a quorum and vote. Alternates or designees are not recognized for that purpose.
- 6.4.2 Non-Voting Members:
Legal Advisor to the RMC: The Prosecuting Attorney or a designated Civil Deputy Prosecuting Attorney shall attend all meetings and be the legal adviser to the RMC.
- Secretary of the RMC**: The designated Claims Coordinator shall serve as the Secretary to the RMC.
- 6.4.3 Meetings: The RMC is subject to the provisions of the Washington State Open Public Meetings Act.
- A) **Regular Meetings**: The RMC shall meet regularly at a time established by the Secretary. In the event that there is no business to transact, a meeting may be canceled by the Secretary by giving notice to the remaining members and posting a notice on the door of the room where the meeting was to be held.
- B) **Quorum**: A quorum of the RMC shall be not less than 3/5th of the number of voting positions currently on the RMC, whether said positions are empty or not. A majority of the quorum is needed to approve any action of or decision by the RMC. A voting member shall abstain from voting on a claim being

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reviewed that involves a Department or Division they manage, except that this provision shall not bar the County Administrator from voting on a matter relating to one of the departments having an appointed Department Head that he or she supervises as the County Administrator.

- C) *Special Meetings:* A special meeting may be called per RCW 42.30 by the presiding officer or by a majority of the Risk Management Committee. The Secretary shall give twenty-four (24) hours advance notice to the remaining members and notify those newspapers that have a request for notification on file with the Secretary. Such notice shall specify the time, place and purpose of the special meeting and the special meeting shall be limited to discussion and action on the purpose of the meeting as stated in the required notice.
- D) *Executive Session:* In the event that the RMC is considering the disposition of or strategies for a specific claim or claims lawsuit, it may adjourn to executive session in a manner consistent with State law.

6.4.4 Records of the RMC: All records of the RMC will be maintained by the Secretary in the County Administrator/County Commissioner's Offices.

- A) *Agendas and Minutes:* The Secretary shall give notice of all the meetings of the RMC as provided in the Open Public Meetings Act. The Secretary shall prepare the agenda, record and keep the minutes of actions taken at all meetings of the RMC, the notices given thereof, the names of those present at the meetings and the proceedings.
- B) *Records:* The Secretary shall keep, in the Commissioner's/County Administrator's offices, the official RMC documents and records, including the minutes of RMC meetings and a list of all RMC members, and shall, to the extent needed, work with the attorney from the Prosecuting Attorney's office assigned to the RMC on any correspondence required by the RMC and shall have such other powers and duties as may be prescribed by the RMC.
- C) *Insurance Information:* See Section 6.2.3.

6.5 Claims - Filing - Investigation – Disposition

6.5.1 Filing Claims: Claims must be filed with the Office of the Clerk of the Board of County Commissioners. A claim form will be available upon request from that Office.

6.5.2 Transmittal of Claims: Immediately upon receipt of a claim the Claims Coordinator shall transmit a copy of the claim to the Risk Pool and to the Chief Civil Deputy Prosecuting Attorney. The Claims Coordinator shall also coordinate with the Risk Pool on who will investigate the claim. The County will comply with the mandated procedure for notifying the Risk Pool of a new claim.

6.5.3 Duties of the Claims Coordinator: Upon receipt of a claim the Claims Coordinator shall create a file, notify the Risk Manager and immediately give notice thereof to any insurance carrier providing insurance which may cover the claim and provide proof of such notice to the Risk Manager, the Risk Pool, and the Prosecuting Attorney's Office.

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6.5.4 Duties of the Risk Manager: An investigation shall be conducted into the merits of the claim and a report of the investigation will be forwarded to the Claims Coordinator. The investigation and adjustment of the claim may be contracted to an outside person or entity at the discretion of the Risk Manager and the Risk Pool.

- A) In an investigation done by the County, determine if Medical Records (aka Protected Health Information) is needed and if so assure that "Authorization for Release of Medical Records" is signed by the Claimant.

6.5.5 Duties of the Risk Management Committee

- A) The RMC shall not review the claim until an investigation or review is complete and/or the Claims Coordinator has received a written report from the agency, division or office of the County government where the allegedly tortious or unlawful action or omission occurred (or failed to occur.)
- B) The RMC shall make a recommendation on all claims to the Board of County Commissioners.
- 1) The RMC is authorized to accept the Claims in whole or in part, reject the Claim in whole or in part and/or take no action on the claim.
- 2) The RMC is authorized to direct the Risk Manager to convey that decision in writing to the claimant.
- 3) The RMC is also authorized to take any other step, including, but not limited to, requesting more information from the claimant and/or seeking further investigation (internal or external) it deems necessary for effective resolution of the claim.
- C) Effect of No Action Taken: If a claim received by the Claims Coordinator is not accepted or denied, in whole or in part, within 60 days of the receipt of same then said claim shall be deemed "Denied."
- D) All decisions of the RMC to accept a claim, in whole or in part shall be forwarded to the County Administrator as a recommendation of the RMC with final authority to approve the expenditure of County funds resting with the County Commissioners.
- E) The County Administrator will coordinate claim evaluation with the Pool including determining if the County has authority to settle a claim within its deductible level. Regardless of delegation authority, the Pool will actively monitor all claims.

6.6 **Claims Lawsuits – Service - Investigation – Disposition**

6.6.1 Service of Process: Service of process for claims lawsuits shall be made in a manner consistent with State law.

6.6.2 Transmittal by the Auditor: Immediately upon receipt of a claims lawsuit, the Auditor shall time and date stamp said claims lawsuit, state method of delivery, e.g., mail, in person or otherwise, and transmit a copy of same to the Clerk of the Board of Commissioners (on behalf of the County Commission) and the Office of the Prosecuting Attorney.

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- 6.6.3 Duties of the Claims Coordinator: Upon receipt of a claims lawsuit, the Claims Coordinator shall create a file therefore and shall notify the Washington Counties Risk Pool.
- 6.6.4 Duties of the Prosecuting Attorney with Respect to Claims Lawsuits:
- A) The responsibility for the litigation of claims lawsuits whose allegations are such that there is **no coverage** under the Risk Pool's Joint Self-Insurance Liability Policy shall be with the Prosecuting Attorney, unless otherwise decided by the BOCC upon the recommendation of the RMC.
 - B) The responsibility for the litigation of claims lawsuits whose allegations are such that **there is coverage** provided by the Risk Pool's Joint Self-Insurance Liability Policy shall be with the attorney assigned by the Risk Pool. However, the Prosecuting Attorney's Office shall provide outside assigned counsel assistance as needed and requested.
 - C) If necessary to protect the legal position or status of the County in the claims lawsuit, the Prosecuting Attorney's Office may file pleadings, attend hearings or otherwise participate in the claims lawsuit on behalf of the County before the next meeting of the RMC.
 - D) The RMC and the County Commission shall be informed of the status of claims lawsuit litigation periodically or upon the request of either the RMC or the County Commission.
 - E) The office of the Prosecuting Attorney shall prepare each year and deliver to the Auditor a list of the pending lawsuits against the County.
- 6.6.5 Duties of the Risk Management Committee: At its first meeting following receipt of a claims lawsuit, the RMC shall review that claims lawsuit.
- 6.6.6 Disposition of Claims Lawsuits:
- A) Claims lawsuits for which the Risk Pool has provided coverage shall be disposed of by the Risk Pool and assigned counsel.
 - B) Claims lawsuits for which the Risk Pool does not or has not provided coverage shall be disposed of in accordance with the decisions of the County Commission.
- 6.7 **Self-Insurance Funds:** The County shall from time to time establish various funds to assist in the implementation of this policy. Such funds may be dedicated to and used for only those purposes as may be set forth in the resolutions establishing them.
- 6.7.1 The County will maintain a fund known as the "Risk Management Reserve" Fund for payment of claims, deductible amounts and costs incurred. The County will work with WCRP when it establishes reserves for pertinent third party liability claims. WCRP will calculate reserves to address the extent of the exposure for indemnity and defense costs.
- 6.7.2 When the County has or acquires knowledge regarding liability or damages that will affect the claim reserve determination, that information shall be conveyed promptly

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to the WCRP. The County may appeal any claim reserve determination utilizing the procedures established by the WCRP.

6.8 Duties of County Agencies, Officers and Employees:

- 6.8.1 **Cooperation:** All County officers, employees and quasi-employees shall cooperate to the fullest extent with the Risk Manager, RMC, the Prosecuting Attorney, and assigned outside counsel in defending claims, actions or lawsuits against the County and investigations by an outside agency on behalf of the County. They shall:
- A) **Assist with Information:** Providing information that will assist in the implementation and/or operation of the Risk Management program.
 - B) **Help implement the Risk Management Program.** Issuing directives to subordinate officers, employees or quasi-employees necessary to implement the Risk Management program.
 - C) **Report Accidents and Incidents:** County officers and employees shall immediately report to the County Administrator any accident or incident which a reasonable person would expect to result in the eventual filing of a claim or suit. Known traffic collisions and incidents involving County officials, employees, quasi-employees, volunteers, invitees, automobiles or property which could or do subject the County to claims for damages should be reported immediately to the County Administrator. Statements shall not be made to, or in the presence of, third parties or witnesses to the traffic collision or incident. "Fault" shall not be acknowledged. "Fault" is a legal determination that will be made within the appropriate legal forum.
 - D) **Provide Fullest Assistance:** Provide information, testimony, exhibits and documents in a timely manner in preparation for the County's defense in litigation or investigations by outside agencies. In response to notification by the Prosecuting Attorney, designate a department representative to assist the Prosecuting Attorney during discovery and, preparations for trial in claims lawsuits.
 - E) **Obtain Certificates of Insurance:** County departments are responsible for obtaining and forwarding to the Claims Coordinator, a Certificate of Insurance from any third party, where a third-party, e.g., a vendor for the County, is contractually obligated to provide the County with proof of adequate insurance (typically names the County as an "additional insured") as a precondition to performing services or providing goods to the County, or any of its elected officials, agencies or divisions and any contract of insurance or performance bonds in which the County is the named insured or a named insured.
- 6.8.2 **Prohibited Acts:** Shall not do any of the following without the prior authorization of the Risk Manager, Prosecuting Attorney or assigned outside legal counsel:
- A) **Encourage the filing of a claim or claims lawsuit against the County**

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- B) Attempt to settle a claim, or claims lawsuit or interfere in any way with an investigation of an employee who is being defended by the County by a professional oversight or regulatory entity
 - C) Make an admission of liability involving a claim or a claims lawsuit or a complaint to any person or entity; or
 - D) Discuss incidents that have led to or could lead to claims, lawsuits or complaints against the County with persons who are not employed by the County.
- 6.9 **Defense of County Officers and Employees:** Indemnification and Tort Representation of Jefferson County Employees and Officers: See **Ordinance No. 09-0806-18** as it may be subsequently amended or replaced.
- 6.10 **Safety and Loss Prevention:** Safety and Loss Prevention Policies and Procedures shall be maintained by the designated County Safety Officer. The County has designed and manages a safety and loss prevention program with the cooperation of all County Officials and Safety Committee representatives.
- 6.10.1 Records of all mandated training shall be maintained in the Office of the Clerk of the Board and approved by the Human Resource Manager.
- 6.10.2 Policies and procedures will be reviewed and updated to ensure compliance.
- 6.10.3 County Officials shall post all required safety related literature.
- 6.11 **Safety Program Purpose:** The purpose of the safety program is to reduce accidents causing injuries to County employees and the public, and to reduce the frequency and severity of all property losses.
- 6.11.1 The County will make full use of the expert services of the Pool, insurers, brokers, and departmental safety personnel whenever possible to develop better safety and loss prevention procedures.
- 6.11.2 The County's program shall comply with Washington State Labor and Industries regulations and shall include but is not limited to:
- A) Periodic inspection of facilities.
 - B) Investigation into the causes of accidents and property losses.
 - C) Development of safety training programs for employees.
 - D) Communicating safety literature to all departments.
- 6.12 All accidents and losses shall be reported promptly to the Risk Manager and in accordance with prescribed procedures.
- 6.13 The County Safety Policy designates the position that will serve as Safety Officer.

Claim #: _____

JEFFERSON COUNTY Claim for Damages

This Claim Form is provided solely as an accommodation to claimants, and the County makes no representations as to its legal sufficiency. Responsibility for complying with all requirements of State law regarding claims rests with the claimant. No County Employee is authorized to advise a claimant in completing this form or reviewing its sufficiency. The County expressly disclaims responsibility for any such advice or review. Information requested on this form may be subject to public disclosure. This claims form **must be presented with an original signature** and cannot be submitted electronically (by e-mail or fax.)

PLEASE TYPE OR PRINT IN INK

Mail or Deliver
Original claim to:

RISK MANAGER
JEFFERSON COUNTY COURTHOUSE
1820 JEFFERSON STREET
PO BOX 1220
PORT TOWNSEND, WA 98368

Business Hours:

Mon. - Fri. 8:30 a.m. to 4:30 p.m.
Closed on weekends and officials
State and Federal Holidays

CLAIMANT INFORMATION

I, AS THE CLAIMANT, HEREIN BELIEVE THE CONTENTS OF THIS CLAIM TO BE TRUE. I HEREBY PRESENT A CLAIM FOR DAMAGES AGAINST JEFFERSON COUNTY, WASHINGTON, BASED UPON THE FOLLOWING INFORMATION AS REQUIRED BY RCW 4.96.020 AND 36.45.010:

If more space is needed to answer any items, attach additional sheet and specify the item number.

My name, address and phone number at the time of presenting and filing this claim is:

- 1) Name _____ Date of Birth: _____
(Last) (First) Middle (mm/dd/yy)
- 2) Physical Residence Address: _____
- 3) Mailing Address (if different than residence): _____
- 4) Daytime Phone Numbers: _____
(Home) (Business) (Cell)
- 5) Physical Residential address for six (6) months immediately prior to the date of the incident (if different from current address):

- 6) Your e-mail address: _____

INCIDENT INFORMATION

- 7) Date Incident Occurred: _____ Time: _____ ☐ A.M. or ☐ P.M.
(mm/dd/yyyy)
- 8) If the incident occurred over a period of time, date of first and last occurrences:
 FROM: _____ Time: _____ ☐ A.M. or ☐ P.M. TO: _____ Time: _____ ☐ A.M. or ☐ P.M.
- 9) Location of incident: _____
(State & County) (City, if applicable) (Place where occurred)
- 10) If the incident occurred on a street or highway: _____
(Name of street/highway) (Milepost)
(at intersection with or nearest intersecting street)
- 11) The nature of the damages or injury I sustained are: _____

- 12) Jefferson County Department(s) or employee(s) allegedly responsible for damage/injury: _____

- 13) Name(s) address, and telephone number(s) of all persons involved in, or witness to, this incident: _____

- 14) Name(s), address, and telephone number(s) of all Jefferson County department(s) or employee(s) having knowledge of this incident: _____

- 15) Name(s), address, and telephone number(s) of all individuals not already identified in (12) and (13) above that have knowledge regarding the liability issues involved in this incident, or knowledge of the claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge.

16) Describe the cause of the damages or injury. Explain the extent of property loss or medical expenses. _____

17) Has the incident been reported to law enforcement, safety or security personnel? If so, when was it reported and to whom?: _____

18) Provide name(s) addresses, and telephone number(s) of treating medical providers. Attach copies of all medical reports and billings: _____

19) Please attach all documents which support your claim:

20) I claim damages from Jefferson County in the sum of \$ _____

The amount of damages sustained must be itemized

21) If you are injured, are you a Medicare beneficiary?

☐
Yes

☐
No

If Yes, please provide your Medicare # _____

22) The name of my insurance agency is: _____

23) If your claim involves a motor vehicle accident, complete, sign and include the attached vehicle collision form. Two (2) estimates of the cost of repairs must be attached to this claim with the amount of damages sustained itemized.

24) If you are presenting a personal injury claim, complete, sign and include the attached Medical Release form

This claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant to serve as the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or Guardian Ad Litem on behalf of the Claimant.

I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Signature of Claimant

Date

Place (residential address)

Print Name

Place (City & County)

Title (if Claimant is a Company)

**INSTRUCTIONS FOR COMPLETING
The JEFFERSON COUNTY CLAIM FOR DAMAGE FORM**

Before presenting a Jefferson County Claim for Damages Form please read these instructions and the Claim for Damages Form in its entirety.

Type or print clearly in ink and sign the Claim for Damages Form. The Jefferson County Claim for Damages Form must be signed by:

- * Claimant; or
- * Person holding a written power of attorney from the Claimant; or
- * Attorney in fact for the Claimant; or
- * Attorney admitted to practice in Washington State on the Claimant's behalf; or
- * A court-approved guardian or guardian ad litem on behalf of the Claimant

Provide all requested information and any available documents or evidence supporting your claim, such as medical records or bills for personal injuries, photographs, proof of ownership for property damages, receipts for property value, etc.

If the requested information cannot be supplied in the space provided, please use additional blank sheets so your claim can be easily understood.

The following are examples on how to complete the numbered items on the Claim for Damage form:

- 1) Smith, John Conner, 12/01/1910
- 2) 222 One Way Street, Apt. Z, Port Townsend, WA 98368
- 3) Post Office Box 101, Quilcene, WA 98376
- 4) 360-123-4567 360-123-4567 360-123-4567
- 5) 222 One Way Street, Apt. Z, Port Townsend, WA 99201
- 6) claimant1@comcast.net
- 7) 01/01/2009, 8:00 a.m.
- 8) From: October 31, 2009 8:00 p.m. To: November 2, 2009 7:00 a.m.
- 9) Washington, Jefferson; Chimacum County maintained road.
- 10) Center Road northbound, milepost 4.0 Egg & I Road
- 11) Please describe the incident that resulted in the injury, or damages, specifically answering the questions who, what, where, when and why.
- 12) Jefferson County Roads Department
Smith, Jenny, 222 One Way Street, Apt. Z, Port Townsend, WA 98368, (360)123-4567, riding
- 13) in the car at the time of the incident; Fitzgerald, Who sits, 3287 Wonderful Lane, Brinnon, WA 98331, (360)111-1111; witnessed the incident.
- 14) List address and telephone numbers of all County Departments and employees having knowledge about this incident.
List all other witnesses having knowledge of the incident in question, with their names, addresses, and telephone numbers that are not listed within items (12) and (13). Also include
- 15) a description of their knowledge. For example, if your sister was with you, when the alleged incident occurred, please include her name, address, and telephone number, and indicate she witnessed the incident.

Instructions for Completing Jefferson County Claim for Damages Form

16) Describe how the damages or injury was caused.

17) If you reported this incident to law enforcement, safety or security personnel, please provide the name of the person you spoke with, and the date and time you spoke to them and include a copy of the report or contact information for the person with whom you spoke.

18) Please provide a list of all your medical providers, including their names, address, telephone numbers, and the type of treatment. Please attach copies of all medical records and billings if you were treated for a personal injury under this claim.

19) Attach documents which support the claim's allegations.

20) Please provide the dollar amount for your damages, including your time loss, medical costs, property damage loss, etc. This amount should represent your opinion of total damages.

21) If you were injured, please indicate if you are Medicare eligible and provide your Medicare number. If you are presenting a personal injury claim, submit the Medical Release form.

22) Please provide the name of the company that provides you insurance for this type of claim.

23) If your claim involves vehicle accident, submit the Vehicle Collision Form

VEHICLE COLLISION FORM

PLEASE TYPE OR PRINT IN INK

Please attach this form to your standard tort claim form, if the claim involves a vehicle collision.

CLAIMANT AND INCIDENT INFORMATION	CLAIMANT'S NAME (A SEPARATE FORM MUST BE COMPLETED FOR EACH CLAIMANT)				DATE OF ACCIDENT (mm/dd/yyyy)		TIME AM ☐ PM ☐					
	CURRENT STREET (RESIDENCE) ADDRESS				CITY	STATE	ZIP	PHONE HOME WORK				
	RESIDENCE STREET ADDRESS FOR SIX MONTHS PRIOR TO THE ACCIDENT				CITY	STATE	ZIP	EMAIL				
	State/County/City (if applicable) where occurred		STREET OR HWY		MILEPOST NO.		INTERSECTION OR NEAREST STREET/ROAD					
YOUR VEHICLE INFORMATION (VEHICLE #1)	YEAR	MAKE	MODEL	LICENSE PLATE NO.	WHERE CAN CAR BE SEEN?		WHEN?					
	NAME OF VEHICLE OWNER			ADDRESS		CITY	HOME AND WORK PHONE					
	NAME OF DRIVER			ADDRESS		CITY	HOME AND WORK PHONE					
	DRIVER'S LICENSE NUMBER			STATE OF ISSUANCE		DATE OF EXPIRATION						
	DESCRIBE DAMAGE				ESTIMATE \$	YOUR INSURANCE COMPANY AND POLICY NO.						
	YEAR	MAKE	MODEL	LICENSE PLATE NO.	STATE AGENCY, IF KNOWN							
OTHER VEHICLE INFORMATION (VEHICLE #2)	NAME OF OWNER			ADDRESS		CITY	PHONE					
	NAME OF DRIVER			ADDRESS		CITY	PHONE					
	DESCRIBE DAMAGE						ESTIMATE \$					
	WAS OTHER (NON-VEHICLE) PROPERTY DAMAGED? IF SO, DESCRIBE WHAT TYPE OF PROPERTY WAS DAMAGED.											
OTHER NON-VEHICLE DAMAGE	NAME OF OWNER			ADDRESS		CITY	PHONE					
	DESCRIBE DAMAGE						ESTIMATE \$					
INJURED PARTIES	NAME		ADDRESS		PHONE	INJURY	AGE	VEH 1	VEH 2	VEH 3	PED	OTH
			HOME WORK									
			HOME WORK									
			HOME WORK									
			HOME WORK									
			HOME WORK									
WITNESSES	NAME (ATTACH ADDITIONAL SHEETS IF NECESSARY)		ADDRESS		CITY	PHONE						
						HOME WORK						
						HOME WORK						
						HOME WORK						

COMPLETE ALL DETAILS

Describe conduct and circumstances causing injury or damages and explain the extent of medical, physical or mental injuries. Please identify name, address, and telephone number of treating physicians and other medical providers. Please attach property damage estimates and/or all medical bills in support of your claim. If necessary, attach additional pages containing information in this format.

- ☐ Straight Road
☐ Curve - R or L
☐ Level

- ☐ Hillcrest
☐ Uphill
☐ Downhill

- ☐ One Lane
☐ One and One-Half Lane
☐ Two Lane or Four Lane

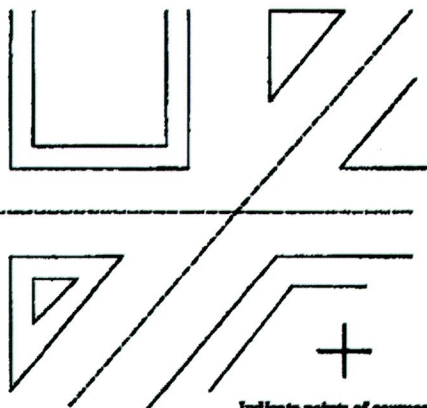
Mark Damaged Areas

Show on diagram position of each car, vehicle or injured person, indicating by arrow direction of each.

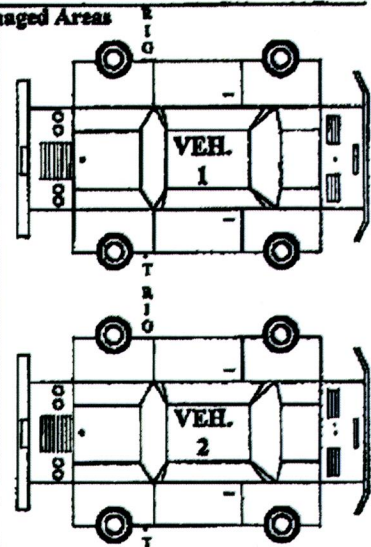
Sidewalk
 Street
 Center
 Sidewalk

IMPORTANT

If street or view was obstructed in any way, indicate where and how; also indicate any street car or tracks and traffic signals or signs.



Indicate points of compass
 N, E, S, W.



LIGHT CONDITIONS (CHECK ONE)	TRAFFIC CONTROL	TYPE OF ROAD (CHECK ONE OR MORE)	VEHICLE CONDITION (CHECK ONE OR MORE)	ROAD SURFACE (CHECK ONE)	WEATHER (CHECK ONE)
1 ☐ DAYLIGHT	VEHICLE NO. 1 NO. 2 ☐ 1 ☐ SIGNALS	VEHICLE NO. 1 NO. 2 ☐ 1 ☐ ONE WAY	VEHICLE NO. 1 NO. 2 ☐ 1 ☐ DEFECTIVE BRAKES	VEHICLE NO. 1 NO. 2 ☐ 1 ☐ DRY	1 ☐ CLEAR, CLOUDY & OVERCAST
2 ☐ DAWN	☐ 2 ☐ STOP SIGN	☐ 2 ☐ TWO WAY	☐ 2 ☐ DEFECTIVE HEADLIGHTS	☐ 2 ☐ WET	2 ☐ RAINING
3 ☐ DUSK	☐ 3 ☐ FLASHING RED	☐ 3 ☐ REVERSIBLE ROAD	☐ 3 ☐ DEFECTIVE REAR LIGHTS	☐ 3 ☐ SNOW	3 ☐ SNOWING
4 ☐ DARK STREET LIGHTS ON	☐ 4 ☐ FLASHING AMBER	☐ 4 ☐ INTER-CHANGE LOOP RAMP	☐ 4 ☐ TIRES WORN	☐ 4 ☐ ICE	4 ☐ FOG
5 ☐ DARK STREET LIGHTS OFF	☐ 5 ☐ RR SIGNAL	☐ 5 ☐ ALLEY	☐ 5 ☐ PUNCTURED OR BLOWN TIRES	☐ 5 ☐ OTHER (SPECIFY)	5 ☐ OTHER (SPECIFY)
6 ☐ DARK NO STREET LIGHT	☐ 6 ☐ OFFICER/FLAGSMAN	☐ 6 ☐ TWO WAY-LEFT TURN LANES	☐ 6 ☐ OTHER (SPECIFY)		
7 ☐ OTHER (SPECIFY)	☐ 7 ☐ YIELD SIGN	☐ 1 ☐ SEPARATED		NAME OF INVESTIGATING POLICE AGENCY: _____ INVESTIGATING AGENCY REPORT NO. _____	
	☐ 8 ☐ NO TRAFFIC CONTROL	☐ 2 ☐ DIVIDED			
	☐ 9 ☐ OTHER	☐ 3 ☐ UNDIVIDED			

A separate claim form should be submitted for each claimant.

This information is being provided to aid in resolving the claim.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signature of Claimant

Date and Place (residential address, city and county)

AUTHORIZATION to Release of Medical Records

Name: _____
Last, First, Middle Initial or Middle Name

Date of Birth: Month _____ Day _____ Year _____

INFORMATION TO BE RELEASED FROM

Name of facility or provider: _____

Address: _____
Street Address City, State, Zip Code

INFORMATION TO BE SENT TO

To the Provider or Records Custodian: Please send legible copies of all records to:

County Administrator, Jefferson County Risk Manager

C/O County Administrator's Office

PO Box 1220

Port Townsend, WA 98368

Please mark "**Confidential: Personal Health Information**" on outside of envelope.

INFORMATION TO BE RELEASED (check one)

I hereby authorize disclosure of my protected health information to Jefferson County for the purpose of investigating my claim for damages. I understand that by signing this document, I authorize the release of the following information:

____ The most recent 2 years of pertinent information (chart notes, labs, x-rays and special tests)

____ All medical records

____ Specific information (please specify): _____

I understand the purpose for which this disclosure is being made is a Claim I filed with Jefferson County. I also understand the following: (Please Read and Initial All Statements)

	<i>I understand</i> that my records are protected under HIPAA/PHI regulations (federal law) and the Washington State Health Care Information Act (RCW 70.02).
	<i>I understand</i> that my health information may be subject to re-disclosure by Jefferson County and not protected for purposes of evaluating and investigation of the claim I have filed with Jefferson County.
	<i>I understand</i> that the specific information to be disclosed in my medical record may include information regarding alcohol, drug or other controlled substance use, counseling referrals and/or a history of testing or treatment of acquired immune deficiency syndrome.
	<i>I understand</i> that I may revoke this authorization at any time by notifying Jefferson County in writing, and that revocation will be effective as of the date Jefferson County receives it. Any records obtained pursuant to this Authorization for Release of PHI prior to the revocation will be deemed authorized by me for release and use by Jefferson County.
	<i>I understand</i> that this Authorization for Release will expire 90 days from the date signed or on _____ (date) for the release to be valid.

Authorization to Release Medical Records to Jefferson County Risk Management

A Photostat of this Authorization carries the same authority as the original for purposes of releasing my records to Jefferson County.

PATIENT AUTHORIZATION

I understand that my records may contain information regarding the diagnosis or treatment of HIV/AIDS, sexually transmitted diseases, drug and/or alcohol abuse, mental illness, or psychiatric treatment. I give my specific authorization for these records to be released.

* **EXCLUDE** the following information from the records released (*please initial*)

- _____ Drug/Alcohol abuse/treatment & diagnosis
- _____ Sexually transmitted disease
- _____ HIV/AIDS diagnosis/treatment/testing
- _____ Mental illness or psychiatric diagnosis/treatment

MY RIGHTS

I understand I do not have to sign this authorization. I may revoke this authorization in writing. The process for revoking this authorization is listed above. I understand that once the health information I have authorized to be disclosed reaches the noted recipient, that person or organization may re-disclose it, at which time it may no longer be protected under Privacy laws.

Signature: _____
(Patient, Guardian*, or Authorized representative*)

Date of Signature: _____ Telephone number _____

Where the signer is not the subject of the records:

I am authorized to sign this because I am the (Check what applies and attach proof of authority):

☐	Parent of minor
☐	Legal Guardian
☐	Personal Representative
☐	Other – Explain

cc: And.
RM
PA } 8-6-18

**COUNTY OF JEFFERSON
STATE OF WASHINGTON**

**An Ordinance Repealing and Replacing
the Existing Resolution 87-86 Regarding
Indemnification and Tort Representation
of Jefferson County Employees and
Officers and Amending the Existing
Jefferson County Risk Management
Policy in Resolution 36-11.**

ORDINANCE NO. 09-0806-18

WHEREAS, in 1986, the Jefferson County board of commissioners determined in its Resolution 87-86 that it was necessary to make orderly provision for the legal and financial protection of Jefferson County officers, employees and their material communities from personal liability for acts or omissions committed by such officers and employees while within the scope of their official county duties; and

WHEREAS, in 1988, the Jefferson County joined the Washington Counties Risk Pool (WCRP) by joining an Interlocal agreement with the passage of Resolution 81-88; and

WHEREAS, in 1993, the legislature of the State of Washington passed House Bill 1218 which amended RCW 36.16.134 upon which Resolution 87-86 was based, authorizing local government entities to indemnify volunteers for acts or omissions that were, or in good faith purported to be, within the scope of the volunteer's official duties; and

WHEREAS, in 2011, Jefferson County updated the Jefferson County Risk Management Policy in Resolution 36-11 in an effort to comply with WCRP risk management requirements; and

WHEREAS, Jefferson County provides its officers, employees, and volunteers liability coverage through its association with the WCRP and workers compensation insurance through the Washington State Department of Labor and Industries; and

WHEREAS, volunteers perform valuable services on behalf of Jefferson County; and

WHEREAS, RCW 36.16.134 was re-codified to RCW 4.96.041 and now provides that Jefferson County may protect volunteers, as well as employees and officers; and

WHEREAS, Resolution 87-86 has never been updated to include volunteers, even though Jefferson County, through the WCRP memorandum of liability coverage, provides liability coverage for volunteers; and

WHEREAS, Resolution 87-86 also does not take advantage of RCW 36.27.040 which can be used to limit Jefferson County's exposure for legal fees, where a conflict of interest

exists such that Jefferson County prosecuting attorney is precluded from defending an employee or officer of Jefferson County.

WHEREAS, the Jefferson County board of commissioners has determined that Resolution 87-86 should be updated to reflect the changes made by the legislature to the authorizing statute; and

WHEREAS, the Jefferson County board of commissioners has determined that volunteers should be provided the same indemnity protection as officers and employees.

THEREFORE, BE IT ORDAINED, that:

Section 1. Chapter 2.05 of the Jefferson County Code shall be added as set forth in Appendix A.

Section 2. Resolution 36-11 is amended to delete section 6.9 in its entirety.

Section 3. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or Chapter 2.05 JCC adopted by it be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or Chapter 2.05 JCC.

Section 4. This ordinance is effective immediately upon passage by the Jefferson County board of commissioners.



DATED this 6th day of August, 2018.

JEFFERSON COUNTY BOARD OF
COMMISSIONERS

David Sullivan
David Sullivan, Chair

Kathleen Kler
Kathleen Kler, Member

Kate Dean
Kate Dean, Member

ATTEST:

Carolyn Gallaway
Carolyn Gallaway
Deputy Clerk of the Board

Approved as to form only:

P.C. Hunsucker 8/6/18
Philip C. Hunsucker Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A

Chapter 2.05

INDEMNITY OF EMPLOYEE LEGAL DEFENSE COSTS – CLAIMS FOR DAMAGES

Sections:

- 2.05.010 Purpose.
- 2.05.020 Procedure for findings and determination and right of appeal.
- 2.05.030 Payment of defense costs and settlements.
- 2.05.040 Procedure for approval and payment of judgment.
- 2.05.050 Duties of employees.

2.05.010 Purpose.

The purpose of this chapter is to make orderly provision for the legal and financial protection, as authorized by RCW 4.96.041, of all past and present employees, officers, agents, elected and appointed officials and volunteers and their marital communities from personal liability and defense costs for acts or omissions committed by such persons while acting or in good faith purporting to act within the scope of their official county duties.

2.05.20 Definitions. For purposes of this Chapter the following definitions apply:

- (1) "Appointment" means appointment of a deputy prosecuting attorney or special deputy prosecuting attorney pursuant to RCW 36.27.040 to defend an employee.
- (2) "Claim" means a demand for monetary compensation as a result of injury or damages allegedly caused by the county, its officers or employees, agents, or volunteers and does not include claims that have been transformed into civil lawsuits filed in state or federal court.
- (3) "Claims Coordinator" means the person in the county administrator's office that is designated by the risk manager to handle and process the claims and lawsuits for the county and to serve as the county's liaison with the provider of liability coverage regarding the administration of the county's claims.
- (4) "Employee" means a past or present employee, officer, agent, elected, appointed official or volunteer (for purposes of this chapter) who seeks to have Jefferson County or its provider of liability insurance defend or indemnify him or her from a claim. "Employee" includes

the marital community of a past or present employee, officer, agent, elected, appointed official or volunteer.

- (5) "Lawsuit" means a civil lawsuit filed in state or federal court;
- (6) "Liability coverage" means liability coverage provided to the county by a provider of liability coverage.
- (7) "Prosecuting attorney" means the county prosecuting attorney, unless the claim is against the prosecuting attorney, or the county prosecuting attorney's deputies or employees, in which case prosecuting attorney means the prosecuting attorney of an adjoining county selected by the risk manager.
- (8) "Provide fullest assistance" means provide information, testimony, exhibits and documents in a timely manner. In response to notification by the prosecuting attorney, designate a department representative to assist the prosecuting attorney during discovery and, preparations for trial in lawsuits.
- (9) "Provider of liability coverage" means the party to an agreement with the county who provides, on behalf of the county, a defense or indemnity from claims covered or potentially covered by the agreement, including but not limited to an insurance policy issued by and insurance company or a memorandum of liability insurance issued by a risk pool.
- (10) "Risk manager" means the county's appointed risk manager. If no risk manager has been appointed, then risk manager means the county administrator.

2.05.030 Procedure for findings and determination whether a defense is due and right of appeal.

- (1) The board of county commissioners delegates the determination and making of the finding of whether the acts or omissions of the employee complained of were, or in good faith purported to be, within the scope of their official duties to the risk manager with the concurrence of the prosecuting attorney.
- (2) If the risk manager determines to grant a request for defense but the prosecuting attorney disagrees, the decision of the risk manager shall control, and the county shall proceed to defend and indemnify the employee at its own expense. However, nothing in this section shall inhibit the prosecuting attorney from his right to appoint a special deputy prosecuting attorney pursuant to RCW 36.27.040.

- (3) The prosecuting attorney shall promptly inform the employee, in writing, by delivery of the findings and determination, such findings and determination shall be sent by first class mail return receipt requested.
- (4) If deemed appropriate by the risk manager, findings and a determination may be subject to a reservation of rights.
- (5) If the risk manager decides to deny a request for defense, the employee may appeal such determination to the board of county commissioners by filing a written request for appeal within 10 days after receipt of the findings and determination.

2.05.40 Payment of defense costs and settlements.

- (1) Where no conflict of interest exists that prohibits the prosecuting attorney from representing the employee, the defense of the employee shall be by the county prosecuting attorney, unless a special deputy is appointed pursuant to RCW 36.27.040.
- (2) Where a conflict of interest exists that prevents the prosecuting attorney from representing the employee, the prosecuting attorney shall appoint a special deputy pursuant to RCW 36.27.040.
- (3) Pursuant to the authority granted by RCW 4.96.041 the county shall expend funds for the payment of necessary legal fees and costs of defense, settlements and judgments resulting from claims against such employee upon an granted by findings and determination as provided in JCC 2.05.030 and to purchase liability coverage for such claims and expenses pursuant to the authority granted by RCW 36.16.136 and 36.16.138.

2.05.050 Procedure for approval and payment of judgment.

Where a request for defense has been granted by findings and determination as provided in JCC 2.05.030, and the judgment is covered by and within the limits of the insurance purchased by the county, payment by the provider of liability coverage is hereby approved and any deductible shall be paid by the county on receipt of billing from the provider of liability coverage. If liability coverage is unavailable, insufficient, or the judgment against the employee is for punitive damages, then approval for payment of judgment, interest, costs, and attorney fees thereon shall be by resolution of a majority of the board of county commissioners.

2.05.60 Duties of employees.

- (1) Any employee contacted or served with a claim, demand, summons or complaint shall immediately notify and deliver any documentation received to the prosecuting attorney and the risk manager, together with a written request for defense.
- (2) In response to a request by the county risk manager or the prosecuting attorney, and forwarding to the claims coordinator, a certificate of insurance from any third party, where a third-party, e.g., a vendor for the county, is contractually obligated to provide the county with liability coverage (typically names the county as an "additional insured") as a precondition to performing services or providing goods to the county, or any of its elected officials, agencies or divisions.
- (3) The employee shall provide fullest assistance to the county and its provider of liability coverage and assist in the conduct of lawsuits, the investigation of claims, and in enforcing any right of contribution or indemnity and shall attend pre-trial hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
- (4) In response to notification by the prosecuting attorney, the employee shall designate a department representative to assist the prosecuting attorney during discovery and, preparations for trial.
- (5) Except as specifically directed by the prosecuting attorney, no county officer, employee, or volunteer being defended pursuant to this chapter may engage in any of the following acts with respect to actions or proceedings for damages defended arising out of the occurrence that is the subject of the defense being provided to the officer, employee or volunteer pursuant to this chapter:
 - (a) Engage or retain legal counsel at county expense;
 - (b) Encourage the filing of a claim or lawsuit arising out of the same occurrence against the County against the County or against another officer, employee or volunteer of the County;
 - (c) Attempt to settle such a claim, or lawsuit or interfere in any way with an investigation of an employee who is being defended by the county by a professional oversight or regulatory entity;
 - (d) Negotiate or otherwise affect the settlement of such a claim or a lawsuit for damages against the county;

- (e) Make an admission of fault or liability involving such a claim or a lawsuit for damages against the county; or
- (f) Discuss with persons who are not county employees or collective bargaining unit representatives, facts, and circumstances of the claim.

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST**

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Leslie Locke, Executive Assistant

DATE: October 21, 2019

SUBJECT: Resolution Updating the Jefferson County Risk Management Policy

STATEMENT OF ISSUE: The Board of County Commissioners will consider passing a resolution updating the Jefferson County Risk Management Policy. As amended, the county's Risk Management Committee will have a minimum of five (5) or a maximum of six (6) voting members, depending on if the Commissioners appoint one or two FLSA Exempt Employees to the Committee. The updated Policy also adds a reference to Ordinance No. 09-0806-18 for indemnifying County employees or officers, as that ordinance exists now or may be subsequently be replaced or amended.

ANALYSIS: The Risk Management Policy is a document that identifies how claims against the County will be received, and processed. The intent of this policy is to pro-actively preserve and protect from losses the assets of County operations in the most economical and efficient manner while at the same time provide a safe, secure, and healthful working environment for County employees. The risk management program must function within the financial abilities for the County consistent with related legal requirements.

This policy applies to all risks of accidental loss, such as fire, liability, theft, property damage, malpractice, illness, and injury, both direct and indirect, as it relates to all County employees including elected officials, quasi-officials, and documented volunteers.

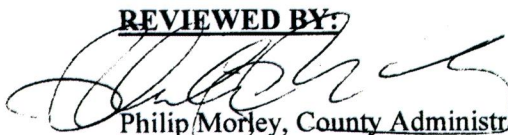
The following updates have been made to the draft resolution:

- Section 6.4.1 Voting Members - The Risk Management Committee shall have a minimum of five (5) or a maximum of six (6) voting members. The membership shall consist of 1 or 2 FLSA Exempt Employee as listed on the Exempt Wage Matrix (from a different department than the Elected Official serving on the Committee).
- Section 6.9 Defense of County Officers and Employees: Indemnification and Tort Representation of Jefferson County Employees and Officers. This section references the current Ordinance and any subsequent ordinance that may be approved.

FISCAL IMPACT: None.

RECOMMENDATION: Approve the proposed Resolution updating the Jefferson County Risk Management Policy.

REVIEWED BY:


Philip Morley, County Administrator

10/17/19

Date

1. Repeals & Replaces Resolution No. 36-11