



## ARTICLE VII – INDEMNIFICATION OF DIRECTORS AND EMPLOYEES

**7.00 Indemnification.** The District will defend, save harmless and indemnify any Directors, officers, agents or employees, whether elective or appointive, against any tort or professional liability claim or demand, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of duty. The District may defend compromise and settle any such claim or suit and/or pay the amount of any settlement of judgment rendered thereon.

A. For the purpose of this Article VII only, the following definitions shall apply:

- (1) Employee. "Employee" shall refer to an officer, employee, servant or any other person employed by the District who works under the control of the District as well as any elected or appointed official, whether or not compensated. The term "employee" specifically excludes any person or organization contracting to perform services or acting for the District as an independent contractor.
- (2) Performance of Duty. The term "performance of duty" shall be interpreted as broadly as possible to include any situation in which a District employee could conceivably be deemed to be acting within the scope of his employment. It shall specifically extend to all employees who are providing service on a voluntary basis or otherwise to any private, corporate, or governmental agency other than the District when doing so with the express or implied consent or authorization from the District. The term "Performance of Duty" shall not include any act or omission constituting deliberate and intentional tortuous or criminal conduct, or malfeasance in office or willful or wanton neglect of duty.

B. The District reserves the right to designate the attorney to defend any employee in any tort or professional liability action instituted pursuant to this Section.

C. The District shall indemnify its employees as required by Title 24, Article 10, section 110 C.R.S. and as limited by the Colorado Governmental Immunity Action (Title 24, Article 10, C.R.S.

D. All claims to be paid pursuant to this Section shall be paid by the District or its insurer. Any judgment or settlement in a claim against the District shall be paid in accordance with the provisions of said Governmental Immunity Act.

E. No defense or indemnification shall be provided by the District to any employee in any of the following circumstances:

- (1) If any employee fails to use due care in reporting to the District any incident which might reasonably expect to result in a claim or tort or liability against him or the District.
- (2) If any employee fails to notify the District of any notice of claim or summons and complaint served upon him commencing a suit for damages reimbursable pursuant to this Section; such notice shall be given to the District within five (5) business days of its service upon the employee.
- (3) If any employee fails to exercise reasonable efforts to notify the District of any claim which is informally asserted against him for damages reimbursable pursuant to this Section.



- (4) If an employee refuses to cooperate with an investigation or defense of any lawsuit by the District, or its insurer, or by any attorney employed by the District to furnish the defense to said employee, or any private investigator hired by the District to investigate such tort or professional liability claim.
- F. If the District or the employee against whom a claim reimbursable hereunder is asserted has any other valid insurance, bond or indemnification plan available covering the loss or damage alleged against him, such insurance, bond or other plan will supplement the District's indemnification when payments made on any claim exceed the limitations set forth above.
- G. In the event of any payment made pursuant to this Section, the District shall be subrogated to all of the employee's rights of recovery therefore against any person or organization, and the employee shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights of subrogation. The employee shall do nothing to prejudice such rights.
- H. No assignment of indemnification to anyone other than the District shall be permitted without the written consent of the District, and signed by the President and no such assignment shall bind the District unless such written consent is given prior to assignment. If, however, the employee should die, the benefits of this Section shall be available to, and apply fully to, the employee's legal representative, but only while acting within the scope of his duties.
- I. Any defense or indemnification available to an employee under this Section shall continue to be available after the termination of his employment or term of office if the act or omission causing such liability occurred during the course of his duties while an employee of the District. Such defense and indemnification shall not be available to a former employee, however, in the event that the tort or professional liability claim against him is asserted as a counter-claim or off-set in any suit brought by the employee, except to the extent that the liability of such employee may exceed the amount of his own claim.
- J. The provisions of this Section shall be subject to and, to the extent of any inconsistency therewith, shall be modified by the Colorado Governmental Immunity Act.