

INDEMNIFICATION OF ELECTED AND APPOINTED OFFICERS

Section 1. Authority

- 1.01 Section 157.903 of the Texas Local Government Code provides that the Commissioners Court may, by order, provide for the indemnification of an elected or appointed county officer against personal liability for the loss of County funds, or loss of or damage to personal property, incurred by the officer in the performance of their official duties if the loss was not the result of the officer's negligence or criminal action.

Section 2. Purpose of Policy

- 2.01 The purpose of this policy is to prescribe a procedure wherein an elected or appointed county officer may request and either be granted or denied indemnification for such loss or damage. This policy shall not be construed to be a waiver of the County's authority to recover its lost funds or its damages from any party other than the elected or appointed county officer making the request for the indemnification.

Section 3. Procedures

- 3.01 The elected or appointed county officer will:
- (a) notify the Criminal District Attorney of the situation in the event the officer has reason to believe there has been a criminal action involved in the loss of funds or damage to personal property;
 - (b) submit to the County Auditor a properly and fully completed and executed County Funds Indemnification Request Form, a copy of which is attached to this Policy;
 - (c) attach copies of all documentation describing and detailing the loss or damage; the policies, controls and procedures in place at the time of the loss; and the basis for the officer's determination that the loss was not the result of the officer's negligence or criminal action;
 - (d) attach copies of any documentation showing attempts to recover the funds such as returned item notices, investigative reports, credit card charge back notices, and all correspondence from credit card providers or other parties;
 - (e) provide a description of all efforts undertaken to minimize the damage to personal property belonging to the County;
 - (f) attach a copy of any investigative reports conducted by any law enforcement agency or other investigator or party;

- (g) furnish the County Auditor with copies of any insurance policies or bonds which may be applicable and describe and document any claims made on such policies or bonds and related correspondence there to; and
- (h) upon receipt of notice of denial of their request for indemnification, reimburse the County by tendering sufficient monies to account for the lost funds or damage to personal property to the County Clerk along with the appropriate deposit warrant.

3.02 The County Auditor will:

- (a) receive and review the Funds Indemnification Request Form and other documentation and related materials, investigate the circumstances of the loss including prior internal control audits, control procedures and actions taken of and by the requesting officer. In making its review of the request, the County Auditor will, among other things, determine whether;
 - (A) the documentation and submissions are true and accurate;
 - (B) the officer has complied with the accounting policies established from time to time by the County Auditor for the office of the officer;
 - (C) the officer has maintained written documentation of all receipts of County funds received by the office of the officer;
 - (D) the officer has fully cooperated and made available for inspection and/or duplication of all documentation applicable to the loss by the County Clerk, County Auditor or other official(s) appointed by the County to review same; and
 - (E) whether there has been any finding by the Texas Rangers and/or other law enforcement agency with jurisdiction over such matters determining whether the loss was the result of the officer's criminal action;
- (b) upon completion of the investigation forward the Funds Indemnification Request Form along with a recommendation for or against approval of the request to the Commissioners Court for its consideration and determination.
- (c) upon receipt of the Commissioners Court's approval of a request to indemnify an office, prepare and process the necessary entries to record the indemnification transaction and credit the applicable account of the officer for the amount indemnified. Such event shall not terminate efforts to recover the lost funds or property.
- (d) upon receipt of the Commissioners Court denial of a request, notify the County Clerk of such determination, and forward all related documentation to the both the County Clerk and to County legal authorities to enable them to continue to pursue efforts to recover the lost funds or monetary damages for the lost or destroyed personal property.

3.03 The Commissioners Court will:

- (a) receive the recommendation of the County Auditor and after review of the recommendation and documentation either approve or deny the request for indemnification by the officer;
- (b) advise both the County Auditor and the requesting officer of its determination;
 - (i) the Commissioners Court's Order approving the officer's indemnification should contain:
 - (A) an explicit, unambiguous, statement stating the specified officer is indemnified against his/her personal liability for the loss of County funds, or loss of or damage to personal property, incurred by the officer in the performance of his or her official duties;
 - (B) a finding that the loss was not the result of the officer's negligence; and
 - (C) a finding that the loss was not the result of the officer's criminal action.

3.04 The County Clerk will in the event of notification of denial of the request for indemnification:

- (a) receive funds from the officer;
- (b) make certain the correct fund account is credited for the reimbursement;
- (c) provide the County Auditor's accounts receivables division with all necessary deposit information to clear the receivable; and
- (d) coordinate collection efforts with the County's legal counsel to recover the lost funds or damages.

3.05 The County's legal counsel, together with the County Clerk, will:

- (a) pursue collection of the lost funds or other monetary damages from the officer or his/her bond and/or insurance policy using such methods as are determined necessary; and
- (b) periodically advise the Commissioners Court on the success of its efforts to recover the lost funds or damages.

County Judge Signature