

**RESOLUTION NO. 25-\_\_\_\_\_**

**RESOLUTION ADOPTING POLICY FOR LEGAL REPRESENTATION FOR COUNTY OFFICIALS AND EMPLOYEES OF POLK COUNTY.**

**WHEREAS**, Commissioners, County Employees, County Officials, County Agents, and Board Appointees are entitled to some assurance that in the performance of a public service they will not be encumbered by the expense of defending a civil, criminal, ethics, administrative, or professional licensing action predicated upon their official acts and reports and should not fear such expenses that may result from reprisals;

**WHEREAS**, Florida law entitles public officials and employees a defense of a legal matter, at the expense of the public, both civil and criminal, arising from the performance of the officer's official duties and while serving a public purpose. See *Lomelo v. City of Sunrise*, 423 So.2d 974 ( Fla. 1982) & Section 111.07, Florida Statutes (2025);

**WHEREAS**, the Board of County Commissioners finds that it is necessary to encourage continued participation in County government by alleviating the potential liability of individuals having to expend their own funds for the payment of reasonable attorneys' fees and costs when such individuals are named in a criminal, civil, ethics, administrative, or professional licensing action; and

**WHEREAS**, in following this policy, the Board may only incur or reimburse reasonable attorneys' fees and costs as allowed by Florida law.

**NOW, THEREFORE, BE RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:**

1. **RECITALS:** The above recitals are true and correct and incorporated herein as if set forth in full herein.
2. **DEFINITIONS:** For the purpose of this Resolution, the definitions contained in this Section shall apply unless otherwise specifically stated. When not inconsistent with context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender and vice versa. The word "shall" is always mandatory and not merely discretionary.
  - a. "Board" shall mean the Polk County Board of County Commissioners.
  - b. "Board Appointee" shall mean an individual appointed by the Board to serve on a lay board, advisory board, committee, planning commission, or appointed as a special magistrate or hearing officer.
  - c. "Clerk of Courts" shall mean the Clerk of the Circuit Court & Comptroller for Polk County.
  - d. "Commissioner" shall mean a commissioner of the Board.

- e. "Costs" shall mean actual and verifiable costs incurred in the provision of a defense for a County Official. Any travel expenses shall be as provided in section 112.061, Florida Statutes.
- f. "County" shall mean Polk County, a political subdivision of the State of Florida, a body corporate and politic.
- g. "County Agent" shall mean an individual who is considered agent pursuant to section 111.07, Florida Statutes. County Agent shall not include a consultant, contractor or an employee of a contractor or subcontractor of the County unless the individual is considered a county agent pursuant to section 111.07, Florida Statutes.
- h. "County Employee" shall mean all individuals employed by the Polk County Sheriff, Clerk of Courts, Tax Collector, Property Appraiser, Supervisor of Elections, Board, County, County Manager, or County Attorney.
- i. "County Official" shall mean the Sheriff, Clerk of Courts, Tax Collector, Property Appraiser, Supervisor of Elections, Commissioners, County Manager, County Attorney, Board Appointee, County Employees, or County Agent.
- j. "Property Appraiser" shall mean the Polk County Property Appraiser.
- k. "Reasonable attorneys' fees" shall mean fees earned by an attorney and/or attorneys licensed to practice law in the State of Florida, based on the customary rate whether a flat fee or per hour, for similar work performed by attorneys within Florida.
- l. "Sheriff" shall mean the Polk County Sheriff.
- m. "Successfully defend" or "prevail" shall apply to individual counts, charges and/or allegations, and shall mean dismissal, a finding of not guilty or a verdict of no liability in favor of the person covered herein as set forth below. In a civil case, a judgment of nominal damages or a judgment of 25% or less than a proposal for settlement served by the County Official pursuant to Florida Statutes and the Florida Rules of Civil Procedure, which is entered against the County Official may be considered as a successful defense or as prevailing as circumstances warrant. A failure to successfully defend or prevail against one or more counts, charges, or allegations shall not necessarily affect the application of the policy to other counts, charges, and/or allegations which were successfully defended or against which the County Official prevailed.
- n. "Supervisor of Elections" shall mean the Polk County Supervisor of Elections.
- o. "Tax Collector" shall mean the Tax Collector for Polk County.

### 3. **POLICY:**

It is the Board's policy for cases involving a current or former County Official personally named in any civil, criminal, ethics, administrative, professional licensing action, or other legal matter for any act within the scope of their duties and responsibilities that the County, subject to its right to reimbursement pursuant to Section 6, below, or by applicable law, will provide legal

representation or pay reasonable attorneys' fees and costs if the procedures in this policy are followed and if allowed by Florida Law. The failure to follow this policy shall not prevent the reimbursement of attorneys' fees and costs if required to be paid by Florida Law. Additionally, once a request is submitted and approved in accordance with this policy, attorneys' fees and costs incurred by the County Official shall be reimbursed and the County may prospectively provide legal representation in the matter. Florida law shall be followed with regards to any payment or reimbursement of legal fees or prospective retention of legal representation and shall be addressed on a case-by-case basis.

Any current or former County Official personally named in a civil, criminal, ethics, administrative, or professional licensing action and who desires the County pay for on an ongoing basis or reimburse legal fees shall follow the procedures set forth in this policy.

**4. Procedures:**

Except as provided herein, any County Official who believes that he or she is allowed or entitled to payment or reimbursement of reasonable attorneys' fees and costs or retention of legal representation should, as a condition precedent to such payment, retention or reimbursement, submit a request in writing to the County Attorney. The request should be on a form prepared by the County Attorney's Office and contain at a minimum:

- a. The name and current address of the person making the request;
- b. A description of the entity conducting the investigation or proceeding;
- c. The case number or file number of the investigation or proceeding, if known;
- d. A description of each count, charge and/or allegation made or being investigated;
- e. The dates(s) that the alleged wrongful incidents are alleged to have occurred;
- f. The person's office or position of employment with the County on the dates described in e. above;
- g. The reasons why it is believed that the attorneys' fees and costs should be paid by the County;
- h. The name(s), address, and telephone number of the attorney(s) representing such person against the counts, charges, and/or allegations described in d. above, if applicable;
- i. A description of the fee arrangement or agreement between the person and his or her attorney(s); the amount of attorneys' fees and costs paid to the date of the written request for attorneys' fees and costs for defense against the counts, charges and/or allegations described in d. above; and the total balance due, if any, of all attorneys' fees and costs that have been incurred in defense against the counts, charges, and/or allegations described in d. above; and
- j. Such other information as the Board of County Commissioners and/or the County Attorney's Office may reasonably require.

County Officials joined as parties to litigation or other legal matters in which the County, Board, Sheriff, Clerk of Courts, Tax Collector, Property Appraiser, Supervisor of Elections, Commissioners, County Manager or County Attorney is a party are not required to complete the form and representation of the County Official by in house or outside counsel may be approved by the County Attorney as part of defending the matter. In addition, a written request is not required for the County Attorney to approve the representation by in-house or outside counsel of the Sheriff, Clerk of Courts, Tax Collector, Property Appraiser, Supervisor of Elections, Commissioners, County Manager or County Attorney when such County Officials are parties to a matter in their official capacity.

**5. Approval:**

For a request not involving the County Attorney, the County Attorney shall review request provided pursuant to section 4 of this policy and within a reasonable time shall approve or deny the request. If a request is approved, the request shall be forwarded to Risk Management Division to process payments of attorneys' fees and costs. In any case where the County Attorney believes the matter can be ethically, legally and expeditiously handled in-house, the County Attorney's Office is authorized to handle the matter in-house. In all other instances, the County Attorney shall approve the request for retention of legal representation, payment or reimbursement of reasonable attorneys' fees and costs. If a request is denied, the County Attorney shall send a denial letter to the County Official stating the reason for the denial. The County Official, within 30 days of the date of the County Attorney's denial letter, may submit a written request to the County Attorney to reconsider the request with reasons for reconsideration. If upon reconsideration, the request is denied by the County Attorney, the County Official may within 30 days of the date of the County Attorney's denial letter, request the County Attorney to place the request on the Board's agenda for Board's consideration.

For requests involving the County Attorney, the County Manager shall review requests provided pursuant to section 4 of this policy and within a reasonable time shall approve or deny the request. If a request is approved, the request shall be forwarded to Risk Management Division to process payments of attorneys' fees and costs. If a request is denied, the County Manager shall send a denial letter to the County Attorney stating the reason for the denial. If the request is denied by the County Manager, within 30 days of the date of the County Manager's denial letter, the County Attorney may request the County Manager to place the request on the Board's agenda for Board's consideration. The County Manager is authorized, if necessary, to retain appropriate counsel to assist in determining whether to approve or deny the request from the County Attorney.

For a civil action, the recommendation shall support payment, reimbursement or

retention of legal counsel unless there has been a finding or it appears clear from the relevant materials that the person is personally liable, acted outside the scope of employment, or in bad faith, with malicious purpose or wanton disregard of human rights, safety, or property pursuant to section 111.07, Florida Statutes.

For other actions, the recommendation shall support payment, reimbursement or retention of legal counsel so long as it appears the alleged misconduct arose out of or in connection with the performance of their official duties and while serving a public purpose pursuant to Florida case law.

For a recommendation regarding a criminal charge for violation of Florida's Sunshine law, the approval shall reflect that Florida law specifically authorizes reimbursement of reasonable attorneys' fees and costs pursuant to section 286.011(7), Florida Statutes (2025).

## **6. Agreement.**

In any event where the County has provided legal representation, has paid or is paying reasonable attorneys' fees and costs prior to disposition of an action or claim, the County Attorney may require the individual to execute an agreement with the County which requires reimbursement to the County in the following circumstances:

- a. In a civil action where the individual did not prevail and was found personally liable, to have acted outside the scope of employment, or in bad faith, with malicious purpose or wanton disregard of human rights, safety, or property; or
- b. In any other action, where upon disposition of the case the Board of County Commissioners determined the alleged misconduct did not arise out of or in connection with the individual's official duties or the individual was not serving a public purpose; or
- c. In any case where prevailing Florida law would not allow the County to cover the expenses of the legal representation.

Regardless of whether an agreement is entered or not, the Board may authorize legal action to recoup expenses in cases where reimbursement is due to the County based on application of either this policy or Florida law.

## **7. Grand Jury and Witness Subpoenas:**

- a. Investigation or grand jury investigation: Florida law may not allow payment or reimbursement of reasonable attorneys' fees and costs or retention of outside counsel in cases solely involving an investigation or a grand jury investigation. If a person subject to this policy believes they are entitled to relief, he or she may submit a request to the County Attorney, as set forth in this policy, and the County Attorney shall act upon the request in accordance with this Resolution.

- b. Witness Subpoena: County Officials subject to a Witness Subpoena are not entitled to attorneys' fees or costs under this Resolution.

8. **EFFECTIVE DATE**. This Resolution shall be effective upon adoption.

**ADOPTED IN REGULAR SESSION DULY ASSEMBLED THIS 4th DAY OF November 2025.**

**ATTEST:  
STACY M. BUTTERFIELD, CLERK**

**BOARD OF COUNTY COMMISSIONERS  
POLK COUNTY, FLORIDA**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_