STATE OF COLORADO }ss COUNTY OF ELBERT }

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At a regular meeting of the Board of County Commissioners of Elbert County, State of Colorado, held at the Elbert County Courthouse in Kiowa, Colorado 80117 on Wednesday, the 27th day of January, 2016, there were present:

> County Commissioner and Chairman Larry Ross Kelly Dore County Commissioner and Vice-Chair

County Commissioner Robert Rowland

County Clerk and Clerk to the Board Dallas Schroeder

When the following proceedings, among others, were had and done, to wit:

## RESOLUTION 16-02

A RESOLUTION AUTHORIZING THE INDEMNITY OF FORMER COMMISSIONER KURT SCHLEGEL FOR ANY JUDGMENT ENTERED AGAINST HIM IN HIS INDIVIDUAL CAPACITY PURSUANT TO ANY CLAIMS MADE IN THE LAWSUIT FILED IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO UNDER CIVIL ACTION NO. 14-CV-1238

WHEREAS, former Commissioner Kurt Schlegel has been sued in his individual capacity in the lawsuit captioned Cherie Radeker v. Elbert County Board of County Commissioners, et al., in the United States District Court for the District of Colorado under Civil Action No. 14-CV-1238; and

WHEREAS, Elbert County's consideration of the events involved in this lawsuit based upon the evidence available to Elbert County at this time show that former Commissioner Schlegel was acting in good faith and within the course and scope of his duties as an elected official; and

WHEREAS, Elbert County, through its membership in the Colorado County Insurance Pool (CTSI), has agreed to and is providing a defense to former Commissioner Schlegel in his individual capacity as to all claims against him in the above referenced lawsuit; and

WHEREAS, to encourage people to run for elected office, it is in the best interest of the health, safety and welfare of the County and its residents and taxpayers to defend and indemnify its elected officers against liability for such defense and indemnification as may not otherwise be provided by Colorado law; and

WHEREAS, recognizing the uncertainty and vagaries of a potential jury trial, and possible appeals, it is also in the public interest to indemnify former Commissioner Schlegel from any judgment and attorney fees entered against him in his individual capacity as a result of the above referenced lawsuit;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners for the County of Elbert, Colorado, as follows:

- (1) That the Board of County Commissioners, based upon all evidence and information available to it at this time, has determined it is in the public interest to indemnify former Commissioner Kurt Schlegel from any judgment entered against him in his individual capacity in the above captioned lawsuit. Elbert County's insurance coverage for any act for which indemnification is provided by this Resolution shall be primary.
- (2) The purpose of this resolution is to protect elected representatives of Elbert County against personal liability for their actions taken in good faith on behalf of Elbert County. It is the intent of Elbert County that this Resolution be liberally construed in favor of the protection of its elected officials named in the Radeker litigation. By adoption of this Resolution, Elbert County does not waive its rights to claim sovereign immunity as a defense in the above-captioned lawsuit.
- (3) If any provision of this Resolution is found to be invalid by any court of competent jurisdiction, said findings shall not affect the validity of the remainder of the Resolution.
- (4) All indemnification described in this Resolution shall be effective immediately and shall be valid during the current fiscal and calendar year, and shall be considered automatically renewed on January 1<sup>st</sup> of each year thereafter unless repealed by resolution of the Board of County Commissioners within sixty days prior to the renewal date.

APPROVED AND ADOPTED this 27 day of January, 2016.

Upon a Motion duly made and seconded, the foregoing resolution was adopted by the following vote:

LARRY ROSS, CHAIRMAN

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KELLY BORE VICE-CHAIR

AYE

ROBERT ROWLAND, COMMISSIONER

ATTEST: DALLAS SCHROEDER

BY:

COUNTY CLERK

DEPUTY, CLERK TO THE BOARD

