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CHAPTER I

GENERAL INFORMATION

Section 1. Purpose. To set forth rules governing the administration of the local government liability pool program.

Section 2. Statutory Authority. These rules are promulgated pursuant to W.S. 1-42-203(a)(vii).

Section 3. Severability. If any part of these rules is held invalid, that invalidity should not affect any other provisions or applications of these rules. These rules can be given effect without the invalid part, and to this end, the provisions are severable.

Section 4. Applicability. These rules apply to the LGLP Board and Executive Director.

Section 5. Definitions. Unless otherwise defined in the certificate or policy or these rules, words in the LGLP Act or these rules shall be given their ordinary meaning.

- (a) "Executive Director" means the director retained by the LGLP Board to administer the Local Government Liability Pool.
- (b) "Final Money Judgment" means any judgment for monetary damages after all appropriate appeals from the judgment have been exhausted or after the time has expired when appeals may be taken.
- (c) "Local Government" means cities and towns, counties, school districts, joint powers boards, airport boards, public corporations, community college districts, special districts and their governing bodies, all political subdivisions of the State, and their agencies, instrumentalities and institutions, and includes eligible senior citizens centers and governmental entities of another state but only while physically present in the state of Wyoming and while in the course of operating a cooperative public transportation program as defined by W.S. 16-1-104(f).

- (d) "Public Employee" means any officer, employee or servant of a local government including elected or appointed officials, and persons acting on behalf or in service of the local government in any official capacity, whether with or without compensation, but the term does not include an independent contractor, peace officer or judicial officer exercising the authority vested in him.
- (e) "Scope of Duties" means performing duties which a local government requests, requires or authorizes a public employee to perform, regardless of the time and place of performance.
- (f) "The LGLP Act" means W.S. 1-42-201 through 1-42-206.
- (g) "Eligible Senior Citizen Center" means a private, non-profit corporation which is providing the services to senior citizens under W.S. 18-2-105 in a geographical area which is not otherwise served by a senior citizen center which participates in the local government self-insurance program.
- (h) "Board" means Local Government Liability Pool Joint Powers Board created by W.S. 1-42-202.
- (i) "LGLP" means Local Government Liability Pool.
- (j) "Deductible" means the portion of a covered loss that ultimately will not be the responsibility of LGLP. While LGLP may pay the entire covered loss amount to a claimant, the member is responsible to reimburse LGLP the deductible amount.
- (k) "Retention" means the amount specified in LGLP coverage agreement that must be paid by the member before LGLP will respond to a loss.

CHAPTER II

ADMINISTRATION

Section 1. Creation of Joint Powers Board. The LGLP Board shall consist of seven (7) members. The Executive Director of LGLP shall be a permanent ex-officio member of the board. Nomination and election shall be held in the manner prescribed by those rules adopted by the LGLP Board. The board shall be comprised of two (2) county commissioners; two (2) elected municipal officials, two (2) representatives of special districts and one (1) at large member.

Section 2. Election and Term Limits of Board. Members of the LGLP Board will be elected from among participating local governmental entities upon the nomination and vote of the governing body of the member entities. A majority of the votes cast by the member entities shall be required for the election of a board member. In the event that no candidate receives a majority of the votes cast, the top two (2) candidates for each board vacancy shall be submitted to the vote of the member entities for election. In the event that there are no nominations for election as a board member, the Board shall nominate and fill the Board vacancy by a majority vote. In the event there are vacancies in the Board caused by the resignation or death of a board member prior to the expiration of his or her term, the Board shall nominate and fill the unexpired term of the board member vacancy by a majority vote. Board members, including board members appointed to fill unexpired terms, shall be eligible for re-election.

Board members shall serve for three (3) year terms which shall run from January 1 to December 31 of the calendar year. Board member terms shall be staggered so that at least two (2) positions are elected each year, but no more than three (3) positions are elected in any one (1) year.

Section 3. Board Meetings. The Board shall meet at least quarterly, or more frequently at the call of the Chairman. Meetings are open to the public. A majority of the members constitutes a quorum for the transaction of official business. Minutes shall be kept of all meetings and signed by

the Chairman, which minutes shall be preserved by the office of the Executive Director.

Section 4. Election of Officers. The Board at the first meeting of even-numbered calendar years, shall select a chairman, vice chairman, secretary and treasurer from among its members, who shall serve until their successors are selected.

Section 5. Powers and Duties of Joint Powers Board. The Board shall establish all policies, rules and regulations for the Local Government Liability Pool Program. The Board may contract with any firm or firms to provide administrative or other services deemed necessary under the LGLP Act.

CHAPTER III

POWERS AND DUTIES OF EXECUTIVE DIRECTOR

Section 1. Powers and Duties. Except as otherwise provided in the LGLP Act, the Executive Director shall:

- (a) Administer the local government liability pool program;
- (b) Implement and administer a loss prevention program for participating local governments for the purpose of reducing risks, accidents and losses;
- (c) Administer, supervise and manage the investigation and adjustment of claims covered by the LGLP Act;
- (d) Provide legal services for the defense of claims covered by the LGLP Act through attorneys;
- (e) Approve and supervise persons employed or contracted to provide services;
- (f) Procure insurance, including reinsurance, consistent with market availability;
- (g) Purchase or procure loss prevention, actuarial and other professional services as required;

- (h) Provide evidence of insurance under the LGLP Act by issuance of a certificate or policy to each participating local government;
- (i) Establish deductibles or retentions as deemed necessary for the efficient operation of the program; and
- (j) Adopt rules governing the administration of the local government liability pool account and loss prevention program.

Section 2. Establishment of Assessments. Establish assessments as necessary to operate the account on an actuarially sound basis. Assessments shall be computed to provide for:

- (a) Expenditures authorized under W.S. 1-42-202;
- (b) Stabilization charges to develop and maintain adequate reserves, and
- (c) Apportion and collect assessments from each participating local government which, to the extent possible, shall be in accordance with actuarially sound principles based upon risk and loss experience in the State of Wyoming and, if necessary, in states contiguous thereto.

CHAPTER IV

PROCEDURES FOR ENROLLMENT IN THE LOCAL GOVERNMENT LIABILITY POOL

Section 1. Application and Determination of Eligibility.

- (a) An interested local government shall submit a letter to the Executive Director stating its interest in enrolling in the Local Government Liability Pool.
- (b) The Executive Director will determine if the interested local government is an eligible local government as required under W.S. 1-42-201(a)(v). The Executive Director may request additional

information from the local government to make this determination.

- (c) If the local government is eligible the Executive Director will forward an LGLP application.

Section 2. Establishment of Local Government Assessment.

- (a) An eligible local government must complete the LGLP application and return it to the Executive Director.
- (b) The Executive Director shall review the applications and establish appropriate assessments, deductibles, and retention amounts, in accordance with W.S. 1-42-203(a)(iv) through (a)(vi). The assessments, deductibles and retentions established must be sufficient to operate the program on actuarially sound principles, including consideration of the expenditures authorized under W.S. 1-42-201 through W.S. 1-42-206, consideration of the risk and loss experience of the program and the relevant risk and loss experience in the region, and consideration for the development and maintenance of adequate reserves. LGLP will then bill the local government for the assessment.
- (c) Upon receipt of the local government's remittance of the assessment and joint powers agreement, the Executive Director will send a certificate of participation to the local government. Coverage shall commence on the effective date shown in the certificate of participation.

Section 3. Renewal. At the end of each year the Executive Director will forward to each local government a renewal application. The Executive Director will establish a new assessment based on the information on the renewal application and on actuarially sound principles, including consideration of the expenditures authorized under W.S. 1-42-201 through W.S. 1-42-206, consideration of the risk and loss experience of the program and the relevant risk and loss experience in the region, and consideration for the development and maintenance of adequate reserves.

CHAPTER V

COVERAGES UNDER LOCAL GOVERNMENT LIABILITY POOL

Section 1. Purpose of the Program. To handle claims made under the Wyoming Governmental Claims Act and claims arising under 42 U.S.C. § 1983 or other federal statutes. Coverage shall be provided only for such claims.

Section 2. Scope of Participation. Participants shall enroll in the program for all coverages offered by LGLP and no participant shall be allowed to choose only a portion of coverages.

Section 3. Authorized Expenditures from Local Government Liability Pool Account. Upon approval of the Executive Director, expenditures from the local government liability pool account shall be made for the following items under the following conditions:

- (a) For claims which have been settled or reduced to final judgment as set forth in W.S. 1-42-202 & 1-42-204.
- (b) Unless the act or omission upon which a claim is based is determined by the court or jury to be within the public employee's scope of duty, no funds shall be expended from the local government liability pool account in payment of the final judgment against the public employee. This paragraph shall not apply to cases which are settled prior to judgment.
- (c) For claims arising under the Wyoming Governmental Claims Act, LGLP shall be limited in liability to payment of no more than five hundred thousand dollars (\$500,000.00) or the amount authorized under W.S. 1-39-110(b) or W.S. 1-39-118(a)(i)(ii), plus any loss adjustment expenses, per occurrence.
- (d) For claims made under federal law, participating local governments shall be responsible for the amount of any final judgment, attorney fees and

expenses in excess of LGLP limits of liability set by statute or by the LGLP Memorandum of Coverage.

- (e) Notwithstanding any other provision of the LGLP Act, no expenditure shall be made out of the local government liability pool account in any action to pay any claim or final money judgment for exemplary or punitive damages.
- (f) Nothing under these rules or the certificate shall be deemed to:
 - (i) Increase the limits of liability under W.S. 1-39-118 for claims brought under the Wyoming Governmental Claims Act;
 - (ii) Affect the liability of a participating local government or any of its public employees on any claim arising out of the same accident or occurrence; or
 - (iii) Waive the protection of a local government or its public employees from liability where immunity has not been specifically waived.
- (g) Nothing in the LGLP Act, these rules, or the certificate of participation shall be construed as subjecting LGLP to the laws of the state regulating insurance or insurance companies.
- (h) Self-insurance provided under the LGLP Act shall not be considered a purchase of insurance coverage and shall not be deemed an increase of the limits of liability under W.S. 1-39-118(b).
- (i) If other valid or collectible insurance is procured by a participant covering a loss also covered by LGLP, the coverage provided under LGLP shall not be excess of and shall not contribute with such other insurance. Participants may procure excess insurance. Nothing contained herein shall be construed to make these policies subject to the terms, conditions, and limitations of other insurance.

CHAPTER VI

PROCEDURE FOR CLAIM FILING AND NOTIFICATION

Section 1. Claim Procedure. Nothing in these rules or the certificate of participation shall be deemed to obviate the necessity of compliance with W.S. 1-39-113 through 1-39-115.

Section 2. Local Government Responsibility.

- (a) The local government shall notify the Executive Director in writing within ten (10) days of occurrence or knowledge of occurrence of any accident, occurrence or loss which could reasonably be assumed would produce a liability claim. (See subsection (c) of this section). For accidents or occurrences involving bodily injury, the Executive Director should be notified as soon as practical by phone, followed by the required written notice.
- (b) The local government shall forward the original notice of claims or lawsuit to the Executive Director immediately following receipt, designating:
 - (i) The date received by the local government representative upon whom notice was served;
 - (ii) If personally presented, by whom and date served;
 - (iii) If by mail, date received; and
 - (iv) Any and all correspondence received from the party submitting the claim.
- (c) The local government shall also prepare and forward to the Executive Director, at the same time, a written narrative, stating:
 - (i) Time, place and circumstances giving rise to the claim or occurrence;

- (ii) Identity, address and phone number of persons involved, including any witnesses;
 - (iii) Statements of circumstances from employee(s) involved in or witness to the accident; and
 - (iv) Name, title, address and phone number of local Government representative that will be available for further contact.
- (d) No local government has the authority to obligate funds of the self-insurance account.
- (e) Notices and reports are to be sent to:

lglp@lglp.net

or

Local Government Liability Pool
P.O. Box 20700
Cheyenne, Wyoming 82003-7015

Section 3. Executive Director's Responsibility.

- (a) Upon receipt of claim, the Executive Director will review the claim. If a claim or portion of a claim is not covered by the provisions of statute or certificate of coverage, the Executive Director will notify the participant in writing.
- (b) The Executive Director reserves the right to assign claims or lawsuits to an adjuster or attorney.

CHAPTER VII

CANCELLATION POLICY

Section 1. Voluntary Cancellations.

- (a) Cancellation by a participant shall normally be allowed at the end of the coverage period set forth in the certificate of participation. The Board may allow midterm cancellations. Such cancellations shall result

in a refund on pro-rata basis minus a surcharge equal to ten (10%) percent of annual contribution.

- (b) The Entity shall give written notification of the intent to cancel thirty (30) days prior to the end of the coverage period.

Section 2. Denial or Termination of Participation. The Executive Director may deny a local government participation in or may terminate a participant from the program, for the following reasons:

- (a) Failure to pay the assessments required under the LGLP Act and established pursuant to these rules, and
- (b) The Executive Director, with the approval of two-thirds (2/3) majority of the Board, may terminate a participant from the program, for the following reasons:
 - (i) Excessive claim history;
 - (ii) Failure to adopt or implement the risk management practices recommended by LGLP for the entity;
 - (iii) Failure to cooperate in defense of a claim or Lawsuit; or
 - (iv) Failure to meet membership eligibility requirements.

CHAPTER VIII

COMPROMISE OR SETTLEMENT OF CLAIMS AUTHORITY

Section 1. Procedure for Settlement. Once a determination has been made that a claim shall be settled the Executive Director will notify the local government of the recommended settlement before a settlement offer is made.

Section 2. Compromise or Settlement of Claims. The Executive Director, in settling a claim, may require the execution and presentation of those documents required by rule and regulation including those documents which discharge

or hold harmless the local government or public employee of all liability under the claim.

Section 3. Settlement Authority. Following receipt and review of comments from the governing body of the affected participating local government, the following parties are authorized to make compromise or settlements of claims not covered by insurance in the following amounts:

- (a) Local Government up to its deductible or retention amount.
- (b) A claims adjuster employed by the Executive Director or under contract with the Executive Director is authorized to settle claims for an amount not to exceed five thousand dollars (\$5,000.00).
- (c) The Executive Director is authorized to settle claims for an amount not to exceed fifty thousand dollars (\$50,000.00).
- (d) The Executive Director, after consultation with the Chairman of the Board, is authorized to settle claims for an amount not to exceed one hundred thousand dollars (\$100,000.00).
- (e) The LGLP Board is authorized to settle claims for any amount up to coverage limits if the action arises under federal law.

The LGLP Board is authorized to settle claims brought under the Wyoming Governmental Claims Act for any amount not to exceed the maximum liability limits under the Wyoming Governmental Claims Act.
- (f) The Executive Director has final decision in settling claims beyond the retention or the deductible amount, provided the Executive Director first consults with the local government.
- (g) The Executive Director, staff and the LGLP Board have no liability, and no cause of action exists against either the Executive Director or the LGLP Board for failure to settle a claim.

Section 4. Wyoming Administrative Procedure Act. The provisions of Wyoming Administrative Procedure Act are not applicable to the payment or settlement of claims. Any person or party adversely affected in compromising or settling a claim shall pursue his remedy in district court pursuant to the Wyoming Rules of Civil Procedure.

CHAPTER IX

REPORTS

Section 1. Annual Report. The Board shall make an annual report to the Department of Audit as provided in W.S. 9-1-507(a) and W.S. 16-4-125(c) and the rules promulgated by the Department of Audit.

CHAPTER X

PAYMENTS FROM ACCOUNT AND INVESTMENT OF FUNDS

Section 1. Payments from Account. Any and all checks issued for payment of expenses authorized under these rules shall be signed by the Executive Director and the Treasurer or one other board member.

Section 2. Investment of Funds. The LGLP Board shall invest any portion of the funds in the account, including reserves, which the Executive Director determines is not needed for immediate use. Investments shall be made in the WYOSTAR accounts administered by the State Treasurers office or in accordance with W.S. 9-4-831.

Section 3. Investor's Duties. Before any person effects any investment transaction on behalf of the Board or offers any investment advice to the Board, that person shall sign a statement indicating that he has read the investment policy of the Board and agrees to abide by applicable state law with respect to advice he gives and the transactions he undertakes on behalf of the Board.

CHAPTER XI

APPLICABILITY

Section 1. Applicability. Coverage under the LGLP Act applies to claims against a local government or its public employees based upon acts, errors or omissions occurring on and after the date the Executive Director issues a certificate certifying the local government has completed all acts necessary for participation in the account including payment of the initial assessment.

CHAPTER XII

CONFIDENTIAL INFORMATION

Section 1. Claim Files Confidential. The claim files maintained by the Executive Director shall be considered privileged and confidential and shall be for the use of the Executive Director, LGLP staff and the LGLP Board only.

CHAPTER XIII

CHANGES TO RULES AND REGULATION

Section 1. Changes. Any new legislation, adopted after the effective date of these rules and regulations, which either changes or adds to these rules and regulations shall automatically form a part of these rules and regulations.

Section 2. Notification of Changes. The Executive Director shall notify participants in writing of any new legislation which changes or affects these rules and regulations.

CHAPTER XIV

GRIEVANCE PROCEDURE

Section 1. Purpose. To establish a procedure for local governments participating in the local government liability pool to obtain review of decisions by the LGLP staff or Executive Director.

Section 2. Applicability. These rules apply to past and present participants in LGLP and local governments seeking participation in LGLP.

Section 3. Exclusive Procedures. These rules provide an exclusive procedure for resolving disputed decisions made by the LGLP staff or Executive Director. These rules are intended to and shall be construed to provide resolution in a manner that is as speedy and inexpensive as is consistent with full and fair resolution and appropriate deliberation. These rules are not available to contest the payment or settlement of claims or to contest coverage issues.

Section 4. Appeal Process.

- (a) All correspondence prescribed in this section may be sent by email, regular or other mail.
- (b) A participant may appeal any decision by the LGLP staff or Executive Director, except decisions pertaining to payment or settlement of claims or to contest coverage issues. The participant shall send the appeal request, in writing, to the Executive Director within thirty (30) days following the decision being appealed. The appeal request shall include the following information:
 - (i) Name, title, address and phone number of a representative of the local government unit;
 - (ii) A brief description of the decision being appealed;
 - (iii) The reason for the LGLP staff or Executive Director's decision, as understood by the participant, and a copy of any documents pertaining to the decision received by the participant; and
 - (iv) Copies of any other relevant documents.

- (c) Upon receipt of the appeal request, the Executive Director shall review the request. The Executive Director shall return a decision, in writing, within forty-five (45) days.
- (d) If the Executive Director's decision is adverse to the participant, a written appeal may be submitted to the LGLP Board within thirty (30) days.
- (e) The LGLP Board shall review the appeal at its next scheduled meeting. A majority of the members present shall decide the appeal. The LGLP Board will then notify the participant and Executive Director of its decision, in writing, within a reasonable time after the meeting.
- (f) The LGLP Board's decision will be final and binding administrative action on the dispute.