



## **FEE AGREEMENT and INDEMNIFICATION**

### **1. DEPOSIT**

Applicant agrees to pay the following deposit with execution of this agreement: \$\_\_\_\_\_. LAFCo charges are based upon actual staff time and other expenses incidental to processing applications including CEQA compliance as a Responsible Agency, reviewing project proposals (Pre-Application Requests), and researching matters as requested. Such charges may be incurred prior to or without the filing of an application with LAFCo. Individuals and agencies who request services, research, or review must provide a deposit toward project expenses, as listed on the current fee schedule (<http://mendolafco.org/fees/>), along with a signed copy of this agreement. All deposits are subject to increase, should the Executive Officer determine that the magnitude of the project justifies the increase. The staff time necessary to process an application or request for service cannot be easily predicted in advance. Therefore, applicants should be aware that LAFCo charges may exceed the applicable initial deposit.

The deposit will be placed in LAFCo's general account and application expenses incurred by LAFCo will be tracked separately from other LAFCo expenses. No interest will accrue on the deposit. LAFCo will keep an accounting of amounts charged against the deposit. In the event any balance of the deposit remains after subtraction of all LAFCo charges, the balance will be refunded to Applicant upon completion of application services. When the deposit is exhausted, LAFCo will request an additional deposit.

### **2. BILLING PROCEDURE**

LAFCo invoices will detail tasks, hours, current staff charge-out rates in effect at the time of billing, staff members responsible for work, and/or costs of contracted services. Invoices will also reflect the remaining balance of the initial deposit. Should the deposit be depleted, all staff work will cease until the deposit on file has been replenished. Projects with delinquent balances will not be scheduled for hearing, and the Commission will consider applicants to have waived any and all statutory deadlines.

This form must be signed by the Applicant as the person responsible for payment. Where an agency has filed a Resolution of Application, an authorized staff member must sign the application and bind the agency as the entity responsible for payment. The application must be filed with LAFCo along with the applicable deposit. Questions regarding specific billing procedures should be directed to the LAFCo Executive Officer at (707) 463-4470.

### **3. OBJECTIONS TO BILL**

Applicant agrees that any questions or disagreements Applicant may have concerning the bill or amount due shall be communicated to LAFCo prior to the end of the payment period, along with payment of any undisputed portion of the bill. If Applicant fails to communicate to LAFCo any objection to the bill prior to the end of the payment period, Applicant is agreeing that the amount stated is correct and is giving up any right to later deny payment to LAFCo.

#### **4. PAYMENT NOT DEPENDENT ON FUTURE ACTIONS**

Applicant understands and agrees that the LAFCo charges are payable regardless of whether the application is ultimately filed, withdrawn, denied or otherwise terminated prior to completion. In the event of withdrawal, Applicant shall be responsible for all charges incurred prior to the time of receipt of written notice of application withdrawal, plus LAFCo's reasonable charges for file closure.

#### **5. STAFF ASSIGNMENTS; CONFLICTS OF INTEREST**

The Executive Officer shall assign LAFCo staff members to projects as appropriate. Should the scope of a project require that outside consulting or other needed services be obtained, applicants will be responsible for the entire cost of recruitment, source selection, and payment for such outside services. Applicants are responsible for paying actual costs for any services obtained through contract, even if such costs exceed the charge-out rate of a regular staff member providing similar services.

#### **6. INDEMNITY**

Should Mendocino LAFCo or any member of its commission, staff, contractors and/or agents be named as a party in any litigation or administrative proceeding in connection with the Applicant's proposal or request for services, Applicant agrees to indemnify, save harmless, and promptly reimburse LAFCo for (1) all reasonable expenses and attorneys' fees in connection with the defense of LAFCo and (2) any damages, penalties, fines or other costs imposed upon or incurred by LAFCo, including expert witness fees, whether or not there is concurrent passive or active negligence on the part of LAFCo, its agents, officers, attorneys, employees, and contractors or consultants. Applicant agrees that LAFCo shall have the right to appoint its own counsel to defend it and conduct its own defense in the manner it deems in its best interest, and that such actions shall not relieve or limit Applicant's obligations to indemnify and reimburse defense costs. Provided however, that LAFCo shall not settle with any plaintiff without consulting with Indemnitor prior to settling. Such indemnity obligation shall include LAFCo defense costs incurred in responding to a legal challenge by the Applicant to a LAFCo decision.

#### **7. WAIVER**

LAFCo's failure to enforce any term hereof shall not be deemed to be a waiver. No delay or omission in the exercise of any remedy of LAFCo on default shall impair such right or remedy or be construed as a waiver thereof, unless waiver is set forth clearly in writing and signed by the waiving party. Such written waiver shall not be construed as a waiver of any other default concerning the same or any other agreement provision, charge, or payment of principal amount owing to LAFCo.

#### **8. COMPLIANCE WITH POLITICAL EXPENDITURE AND CONTRIBUTION DISCLOSURE REQUIREMENTS**

Pursuant to Government Code Sections 56700.1 and 57009 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and 82015 and 82025 of the Political Reform Act applicants for LAFCo approvals and those opposing such proposals are required to report to LAFCo all political contributions and expenditures with respect to the proposal that exceed \$250. LAFCo has adopted policies to implement the law (Mendocino LAFCo Policy 6.2. By your signature to this application or request for service, you are binding the applicant to abide by these disclosure requirements. You are further agreeing that should LAFCo be required to enforce these requirements against you (or if the agency is the formal applicant, the real party in interest) that you will reimburse LAFCo for all staff cost and legal fees, and litigation expenses incurred in that enforcement process.

#### **9. AUTHORITY TO SIGN**

The party executing this agreement on behalf of Applicant personally warrants that they have full authority to enter into this agreement on behalf of the Applicant for which they are signing, and that said entity will be legally bound to the agreement by their signature hereto. In the event that such authority

does not exist, the individual who has signed this agreement agrees that he or she shall be personally liable for the charges.

**10. AGREEMENT**

I certify that I have reviewed the above information, the current LAFCo fee schedule, the State Board of Equalization fee schedule, and the State Department of Fish and Wildlife related to CEQA filing fees. I agree, as project applicant or authorized representative, to pay Mendocino LAFCo for all staff services, materials, and other charges attributable to my application or request for services, including the obligation of indemnification. I understand that services may be required before LAFCo receives a formal application, and I agree to pay for such services whenever incurred and regardless of whether a formal application is submitted to LAFCo. I also understand and agree that LAFCo's charges are payable regardless of whether the application is ultimately filed, withdrawn, denied, or otherwise terminated prior to completion.

I understand that if the cost of services exceeds the deposit on file, staff work on my project will cease, and my project will not be scheduled for hearing until the requested additional funds are provided. I agree to remit the applicable State Board of Equalization filing fee, and State Department of Fish and Wildlife CEQA filing fee if applicable, when required. I agree to pay all charges within 30 days of receipt of invoice or in any case prior to the filing of the Certificate of Completion for the project.

Executed at _____, California, on _____, 20____.	
<b>APPLICANT</b> (Agency Name if Agency Submitted Resolution of Application)	<b>REAL PARTY IN INTEREST</b> (If different from Applicant)
Name (print): _____	Name (print): _____
Title: _____	Title: _____
Signature: _____	Signature: _____