

Resolution No. 2020-21-05
of the Local Agency Formation Commission of Mendocino County

Approving the
Amended Indemnification Policies

WHEREAS, Local Agency Formation Commissions (LAFCo) have been created under the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et. seq. of the Government Code, as independent agencies, with the power to adopt policies and procedures to carry out their functions, (§56300); and

WHEREAS, the Mendocino Local Agency Formation Commission (Commission) directed the Policies & Procedures Committee to revise the indemnity policies (Policies 11.4.3 and 11.4.8) to address the recent court case ruling (*San Luis Obispo LAFCo v. City of Pismo Beach*) that found that LAFCos have no statutory authority to require indemnification to process applications.

WHEREAS, the Policies & Procedures Committee (Committee) held a public meeting on April 13, 2021 to discuss best approaches to address LAFCo's inability to require indemnity agreements for applications, and at that meeting, the Committee considered the report of the Executive Officer and all oral and written comments and recommended to the Commission replacing the indemnity requirements with a voluntary indemnification agreement.

WHEREAS, this Commission held a public meeting on the proposed amendments to the indemnification policies 11.4.3 and 11.4.8, as well as a Draft Voluntary Indemnification Agreement, and at that meeting, this Commission received the recommendation of the Policies & Procedures Committee, the report of the Executive Officer, and all oral and written comments with respect to the proposed policy changes and Draft Voluntary Indemnification Agreement.

NOW, THEREFORE, the Local Agency Formation Commission of the County of Mendocino DOES HEREBY RESOLVE, DETERMINE and ORDER the adoption of the Indemnity Policies 11.4.3 and 11.4.8 and Voluntary Indemnification Agreement as set forth in Exhibit A:

BE IT FURTHER RESOLVED that the Mendocino LAFCo Policies & Procedures Manual be updated accordingly.

PASSED and ADOPTED by the Local Agency Formation Commission of Mendocino County this 3rd day of May 2021 by the following vote:

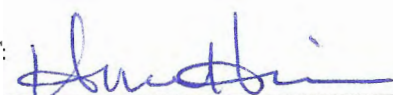
AYES: Ward, Mulheren, Gonzalez, Froneberger, Ignacio, McGourty, Orth

NOES:

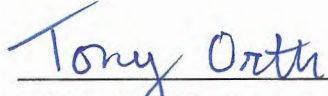
ABSTAIN:

ABSENT:

ATTEST:



UMA HINMAN, Executive Officer



TONY ORTH, Commission Chair

Exhibit A

The Mendocino LAFCo Policies & Procedures Manual shall be updated with the following revised policies:

Policy 11.4.3 AGREEMENT TO PAY FEES

The application shall also include an agreement to pay costs. The agreement to pay costs must be signed by the applicant for the application to be deemed complete.

Policy 11.4.8 VOLUNTARY INDEMNIFICATION AGREEMENT

As part of the application, applicant shall be asked to sign and submit the voluntary indemnification agreement approved by the Commission concurrent with the adoption of this policy for all reasonable expenses and attorney fees incurred from proceedings brought by a third party in connection with the application. While LAFCo retains the discretion in all cases to decide whether to defend an action, the Applicant's voluntary agreement to indemnify LAFCo will have a significant bearing on LAFCo's decision whether to defend its decision.