

Resolution No. 2024-25-05
of the Mendocino Local Agency Formation Commission

Approving the
Amended Indemnification Policies 11.4.3 and 11.4.8

WHEREAS, Local Agency Formation Commissions 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) historically required indemnification agreements for all applications for reorganizations and studies as common practice prior to 2021; and

WHEREAS, on May 3, 2021 the Commission adopted Resolution No. 2020-21-05 amending its indemnification policies in response to a court case ruling (*San Luis Obispo LAFCo v. City of Pismo Beach*) that found that Local Agency Formation Commissions (LAFCos) had no statutory authority to require indemnification to process applications; and

WHEREAS, on September 28, 2024 the Governor signed Senate Bill 1209, explicitly granting LAFCos authority to require indemnification as a condition for processing changes of organization or reorganization, sphere amendments or sphere updates, or any other action or determination requested from the Commission; and

WHEREAS, at its regular meeting of December 2, 2024 the Commission publicly considered the amended policies, the report of the Executive Officer, and all oral and written comments with respect to the proposed policy amendments.

NOW, THEREFORE, the Mendocino Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE and ORDER the adoption of revised indemnification policies, as set forth below in Exhibit A, which will take effect January 1, 2025.

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

BE IT FURTHER RESOLVED that Resolution 2020-21-05 is hereby superseded by this Resolution.

PASSED and ADOPTED by the Mendocino Local Agency Formation Commission this 2nd day of December 2024 by the following vote:

AYES: Gonzalez, Christen, Ward, Horsley, Mulheren, McGourty, Crane

NOES:

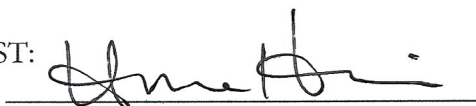
ABSTAIN:

ABSENT:



MAUREEN MULHEREN, Commission Chair

ATTEST:



UMA HINMAN, Executive Officer

Exhibit A

Amend Policy 11.4.3, as follows:

11.4.3 AGREEMENT TO PAY ~~FEES~~ AND INDEMNIFICATION

The application shall also include a signed agreement to pay costs and to defend, indemnify, and hold harmless the LAFCo, its agents, officers, and employees from and against any claim, action or proceeding, as specified, to attack, set aside, void or annul an approval by the LAFCo. The agreement to pay costs and to indemnify must be signed by the applicant for the application to be deemed complete.

Rescind Policy 11.4.8:

~~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.~~