

Policy for the Indemnification of OC LAFCO by Applicants

I. PURPOSE

To establish a policy requiring that all applicants to OC LAFCO, as real parties in interest, indemnify the Commission, its agents, officers, attorneys, and employees from suits brought to challenge the discretionary approvals of proposals by the Commission.

II. BACKGROUND

Applicants to the Commission for discretionary approvals of proposals for changes of organization are typically the real parties in interest and therefore have financial interest in the Commission's decisions on their applications. Applicants to OCLAFCO who are not the real parties in interest also have interest in the outcome of their applications. Therefore, OC LAFCO believes that it is fair and equitable for applicants and real parties in interest to indemnify OC LAFCO from suits brought to challenge the discretionary approvals of their applications by the Commission. OC LAFCO also believes that the indemnification of OC LAFCO furthers good government practices and public policy by providing applicants and real parties in interest incentive to assist the Commission in complying with all laws, including those intended to ensure public rights.

III. POLICY STATEMENT

To further the good government practices and policies of the Commission and protect the integrity of the Commission's ability to make good government decisions, it is the policy of this Commission that:

- A. As part of any application submitted to the Commission, the applicant shall be required to submit a signed agreement to indemnify the Commission, its agents, officers, attorneys, and employees from suits brought to challenge the discretionary approval of their application by the Commission in the form prescribed in "Exhibit A."
- B. In the event that a suit is brought to challenge the discretionary approval of a proposal by the Commission, the Commission shall promptly notify the applicant and real party(ies) in interest of the existence of the legal challenge.

- C. The Executive Officer shall not issue a Certificate of Filing for an application if an indemnification agreement in the form prescribed in “Exhibit A” has not been executed and submitted to the Executive Officer by the applicant.

Originally Adopted: 2/10/1999

Last Reviewed: 3/8/2023

Last Revised: Not Applicable

“EXHIBIT A”

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, hold harmless, and release the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, attorneys, or employees.

Executed at _____, California on the day of _____, _____.

APPLICANT

By: _____

Title: _____

Mailing Address:

REAL PARTY IN INTEREST
(If different from Applicant)

By: _____

Title: _____

Mailing Address:

