

Indemnification Agreement - Instructions

This Indemnification Agreement form has been given to you to fill out and must be executed and returned on time or before the approval of your project becomes void. The purpose of the agreement is to ensure that the property owner/s, who has/have benefitted from the recent decision to approve a land use proposal, will pay legal and associated County costs that may hereafter be incurred if the decision to approve your land use proposal is challenged in a court of law. In the event of a lawsuit, your attorney will work closely with the Office of County Counsel in defending the adequacy of the environmental document prepared for your project.

In order to ensure that this Indemnification Agreement is executed correctly, please follow the following instructions.

- (1) The agreement must be signed by all the current owners of record of the affected property. If Staff does not have sufficient information in the project file to document who the owners of record are, you may be requested to supply Staff with the latest grant deeds and/or a preliminary title report which clearly documents the legal ownership of the site.
- (2) If the property owner is a corporation, a resolution from the corporation's board of directors should be submitted which authorizes the filing of the Indemnification Agreement for this particular project and which clearly indicates who has the ability to execute the agreement on behalf of the corporation. A minimum of two (2) signatures are required.
- (3) If the property owner is a limited liability company, a copy of the company's Articles of Organization must be submitted which clearly indicate who has authority to execute the agreement on behalf of the company.
- (4) If the property owner is a General Partnership, verification is required to ensure that the signatory is currently a partner.
- (5) If the property owner is a Limited Partnership, a copy of the partnership agreement must be submitted which indicates who is designated as a general partner within the partnership. Only a general partner may sign the indemnification agreement.

Please complete this Indemnification Agreement and return it, together with the appropriate documentation, to the Staff planner who processed your request at your earliest possible convenience and, in no event, later than the date specified in your project approval. Failure to file a completed agreement by that date will nullify all approvals.

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2____, by and between COUNTY OF KERN, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and _____, (hereinafter referred to as "OWNER");

WITNESSETH:

WHEREAS, in consideration of the COUNTY's approval of _____

and the related CEQA approvals granted by COUNTY thereunder, ("the Project"), the OWNER desires to indemnify the COUNTY from liability or loss connected with the Project approvals herein;

NOW, THEREFORE, IT IS MUTUALLY AGREED between COUNTY and OWNER as follows:

1. The OWNER shall defend, indemnify, and hold harmless the COUNTY and its agents, officers, and employees from any claim, action, or proceeding against the COUNTY or its agents, officers, or employees to attack, set aside, void, or annul the Project or any prior or subsequent related development approvals or Project condition imposed by the COUNTY or any of its agencies, departments, commissions, agents, officers, or employees concerning the said Project, or to impose personal liability against such agents, officers, or employees resulting from their involvement in the Project, which claim, action, or proceeding is brought within the time period provided by law, including any claim for private attorney general fees claimed by or awarded to any party from COUNTY. To the extent that COUNTY uses any of its resources responding to such claim, action, or proceeding, OWNER will reimburse COUNTY upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at their regular rate for external or non-County agencies, or any other direct or indirect cost associated with responding to the claim, action, or proceedings.

The OWNER'S obligations under this agreement shall apply regardless of whether any other permits or entitlements are issued. These obligations shall be binding on successors and assigns of the real property benefitted by approval of the project, and OWNER shall so obligate all transferees and assigns.

2. The COUNTY will promptly notify OWNER of any such claim, action, or proceeding and, if the COUNTY should fail to cooperate fully in the defense, the OWNER shall not thereafter be responsible to defend, indemnify, and hold harmless the COUNTY or its agents, officers, and employees pursuant to this condition.

3. The COUNTY may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the COUNTY defends the claim, action, or proceeding in good faith.

4. The OWNER shall not be required to pay or perform any settlement of such claim, action, or proceeding unless the settlement is approved in writing by OWNER.

5. All notices to OWNER under this Agreement shall be deemed valid and effective five (5) calendar days following deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to:

All notices to COUNTY under this Agreement shall be deemed valid and effective when personally served upon the Planning and Natural Resources Department Director or upon deposit in the United States mail, postage prepaid, by certified and/or registered mail, addressed to the Director, Kern County Planning and Natural Resources Department, 2700 "M" Street, Suite 100, Bakersfield, California 93301.

6. This Agreement represents the complete understanding between the parties with respect to matters set forth herein.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed on the date hereinabove first written.

COUNTY OF KERN

By _____
"OWNER"

By _____
Director, Planning and Natural
Resources Department

"COUNTY"

APPROVED AS TO FORM:
Office of County Counsel

By _____
Deputy