

AGREEMENT NO. \_\_\_\_\_

THIS AGREEMENT is made and entered into on \_\_\_\_\_ by and between \_\_\_\_\_, a local agency ("APPLICANT") and KERN COUNTY LOCAL AGENCY FORMATION COMMISSION ("LAFCO").

#### RECITALS

WHEREAS, APPLICANT has requested that LAFCO file, process, and approve its application purposing proceedings for \_\_\_\_\_ change of organization/reorganization) described in its Resolution of Application, Resolution No. \_\_\_\_\_ ("Proposal"); and

WHEREAS, APPLICANT is agreeable to defending and indemnifying LAFCO for (1) any acts or omissions of APPLICANT relating to or arising out of the Proposal and (2) any passive negligence of LAFCO relating to or arising out of its filing, processing or approval, or any condition of approval, of the Proposal.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. The parties hereby incorporate the foregoing recitals.
2. APPLICANT shall defend and hold harmless LAFCO, its commissioners, officers, employees, and agents (hereinafter collectively "LAFCO") from any and all claims, action, and proceedings attributed to any acts or omissions of APPLICANT relating to or arising out of the Proposal and any passive negligence of LAFCO relating to or arising out of its filing, processing, or approval, or any condition of approval, of the Proposal ("CLAIM") and shall indemnify LAFCO from all costs, expenses, attorney's fees (including a third party award of attorney's fees), judgments, liabilities, losses, and damages incurred as a result of such CLAIM.

(a) Additionally, APPLICANT acknowledges its understanding that Articles 13C and 13D of the California Constitution (Proposition 218) have been interpreted by some as

requiring approval by the voters or property owners within the area of a pending annexation of all taxes, assessments, fees, and charges which will be imposed on the area prior to the completion of the annexation. Notwithstanding the foregoing, APPLICANT has decided not to impose such a condition on the project and objects to LAFCO doing so and agrees to defend and indemnify LAFCO against same in the same manner and under the same conditions as described in Paragraphs 2 above. APPLICANT also agrees to release LAFCO from all losses, damages judgments, and attorney's fees and costs incurred or suffered by APPLICANT as a result of APPLICANT'S and LAFCO's failure to impose such a condition on the project and, with regard thereto, APPLICANT acknowledges and waives its rights under California Civil Code Section 1542 which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

3. If LAFCO is served with a CLAIM, it shall give written notice of the CLAIM to APPLICANT within a reasonable time.

4. LAFCO may, in its sole discretion, participate in the defense of any CLAIM if:

- (a) it bears its own attorney's fees and costs and
- (b) it defends the CLAIM in good faith.

5. APPLICANT shall not be obligated to pay or perform any settlement of a CLAIM unless the settlement is approved by APPLICANT.

6. All notices to either party under this agreement shall be deemed valid and effective when personally served upon the party or upon deposit in the United States Mail, postage prepaid, by certified or registered mail, addressed as follows:

LAFCO: Local Agency Formation Commission  
Attention: Executive Officer  
5300 Lennox Ave Suite 303  
Bakersfield, CA 93309

APPLICANT:

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

8. In the event action is taken by either party against the other to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

\_\_\_\_\_  
Executive Officer  
Local Agency Formation Commission

\_\_\_\_\_  
"APPLICANT"

Approved as to form:

By: \_\_\_\_\_  
Attorney for APPLICANT