RESOLUTION NO. \_\_\_\_

# RESOLUTION OF THE BOARD OF SUPERVISORS

# OF THE COUNTY OF SISKIYOU AMENDING THE INDEMNIFICATION POLICY OF SISKIYOU COUNTY FOR LAND USE PROJECTS

WHEREAS, the Board of Supervisors of Siskiyou County desires to require indemnity agreements from land use applications in order to prevent the taxpayers of the County form paying legal fees in the event that a land use decision of the County is challenged; and,

WHEREAS, enactment of a policy providing direction to the Planning Department as to the type of projects for which indemnification agreements would be appropriate; and,

WHEREAS, it is in the interests of the taxpayers of the County of Siskiyou that such legal costs associated with private projects be borne by the project proponent; and

WHEREAS, the Board of Supervisors of Siskiyou County previously approved Resolution 09-20, which adopted an indemnification agreement for use with all agreements; and

WHEREAS, many projects are smaller in scale and are not expected to require extended analysis under the California Environmental Quality Act (CEQA) and have routinely proceeded without legal challenge for many years;

WHEREAS, such agreements have been identified as being within the power of a county for offsetting potential litigation costs (see California Attorney General Opinion 01-701 (2002), 85 Cal.Op.Atty.Gen. 21);

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Siskiyou as follows:

1. Where, in the judgment of the Community Development Director or Deputy Planning Director, an application for a proposed project would reasonably be anticipated to require a Mitigated Negative Declaration or Environmental Impact Report or otherwise create a significant risk of litigation, then the Planning Department shall require the applicant(s) to execute an indemnity agreement substantively in the form attached as Exhibit A to this resolution (“Indemnity Agreement”). The County Administrator is authorized to sign the Indemnity Agreement on behalf of the County.
2. That in making a determination of whether to require an Indemnity Agreement, the Community Development Department may consult with the County Risk Manager or Office of County Counsel.
3. For projects where use of the Indemnity Agreement will not to be required, that the applicant(s) otherwise acknowledge and execute a hold harmless provision substantially in the form below as part of the application process and before the processing of the application commences:

The undersigned applicant(s) agree they shall defend, indemnify and hold harmless the County of Siskiyou, its agents and officers and employees from any claim, action, or proceeding (collectively, “Action”) against the County of Siskiyou, its agents (including consultants), officers or employees to attack, set aside, void, or annul any approvals, or any part thereof, or any decision, determination or action, made or taken approving, supplementing, or sustaining the approvals sought in the application (the “Project”) or any part of the Project thereof, or any related approvals or Project conditions imposed by the County of Siskiyou or any of its agencies, departments, commissions, agents (including consultants), officers, or employees, concerning the Project, or to impose personal liability against such agents (including consultants, officers or employees) resulting from their non-negligent involvement in the Project, which Action is brought within the time period provided by law, including any claim for private attorney general fees claimed by or award to any party from the County of Siskiyou.

PASSED AND ADOPTED by the Siskiyou County Board of Supervisors at a regular meeting of said Board, held on the \_\_\_\_ day of \_\_\_\_\_\_\_\_, by the following vote

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michael N. Kobseff, Board Chair

Siskiyou County Board of Supervisors

ATTEST:

LAURA BYNUM,

COUNTY CLERK

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Deputy