MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA ACTION FORM

DEPARTMENT: County Counsel
BY: Jeffrey G. Green
PHONE: 966-3222

DATE: June 18, 2002
AGENDA ITEM NO.: #

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X__  No__)

K) Waive first reading and introduce Ordinance 23. Waive second reading and adopt Ordinance creating Chapter 16.36 entitled "Indemnification Agreements" to the County Code.

Staff recommends a process whereby the Board of Supervisors can require indemnity agreements from land use applicants in order to prevent the taxpayers of the county from paying legal fees in the event a land use decision of the county is challenged.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this action.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

➢ Adopt Ordinance as drafted.
➢ Revise Ordinance as the Board desires and adopt.

COSTS:

A. Budgeted current FY
B. Total anticipated costs
C. Required additional funding
D. Internal transfers

SOURCE:

A. Unanticipated revenues
B. Reserve for contingencies
C. Source description: Balance in Reserve for Contingencies, if approved:

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Ordinance,
Memo to Board

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended
Not Recommended
For Policy Determination
Submitted with Comment
Returned for Further Action

Comment:

A.O. Initials:

12-150SA Action Form Revised 5/92

CLERK'S USE ONLY:
Res. No.: 23
Ord. No. 976

Vote - Ayes: 
Noes:
Absent: 
Abstained: 

Approved
Denied

Minute Order Attached
No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date:

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By:
Deputy
MARIPOSA COUNTY ORDINANCE NO. 976

AN ORDINANCE CREATING CHAPTER 16.36
ENTITLED “INDEMNIFICATION AGREEMENTS”
OF THE MARIPOSA COUNTY CODE

WHEREAS, the Board of Supervisors of the County of Mariposa desire to create a new Chapter 16.36 entitled “Indemnification Agreements” to the Mariposa County Code; and

WHEREAS, the creation of Chapter 16.36 will allow the Board of Supervisors the ability to require indemnity agreements from land use applicants in order to prevent the taxpayers of the county from paying legal fees in the event a land use decision of the county is challenged;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, a political subdivision of the State of California, does ordain as follows:

SECTION I:

16.36.010 Purpose.
This chapter is enacted to ensure the taxpayers of the County of Mariposa do not pay legal costs associated with private projects.

16.36.020 Citation and authority.
This section is adopted pursuant to California Government Code Sections 66474.9 and 66499.37.

16.36.030 Authority.
The Mariposa County Board of Supervisors, or Planning Commission may require, as a condition for a land use entitlement, including a tentative, parcel, or final map application or approval, that the applicant defend, indemnify, and hold harmless Mariposa County or its agents, officers, and employees from any claim, action, or proceeding against Mariposa County or its agents, officers, or employees to attack, set aside, void, or annul an approval, or any proceedings, acts or determinations taken, done or made prior to the approval by Mariposa County, any advisory agency, appeal board, legislative body or Planning Director. Any requirement by the Planning Commission for an indemnity agreement pursuant to this Chapter shall have an automatic review for approval by the Board of Supervisors.

16.36.040 Notification.
In the event of any claim, action, or proceeding against Mariposa County as described in Section 16.36.030, Mariposa County shall promptly notify the applicant or permit holder of such claim, action, or proceeding and Mariposa County shall fully cooperate with the applicant in the defense of the action.

16.36.050 County Participation.
Nothing contained in this Chapter shall prohibit Mariposa County from participating in the defense of any claim, action, or proceeding if Mariposa County bears its own attorney’s fees and costs and Mariposa County defends the action in good faith.

SECTION II: This Ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.
PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 23rd day of July 2002 by the following vote:

AYES: Reilly, Stewart, Balmain, Pickard
NOES: None
ABSENT: Parker
ABSTAINED: None

ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS
Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

JEFFREY G. GREEN
County Counsel
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Ordinance Entitled "Indemnification Agreements"

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 9, 2002

ACTION AND VOTE:

A) Waive First Reading and Introduce Ordinance Creating Chapter 16.36 Entitled "Indemnification Agreements" to the County Code (Continued from June 18, 2002)

BOARD ACTION: Discussion was held with Jeff Green, and he advised of a requested revision from Supervisor Balmain to add language to Section 16.36.030 to state that any requirement by the Planning Commission for an indemnity agreement shall have an automatic review for approval by the Board of Supervisors. Eric Toll, Planning Director, provided input relative to the request. (M)Pickard, (S)Parker, first reading was waived and the Ordinance was introduced with the additional language as requested/Ayes: Unanimous.

cc: File