

# FINANCIALLY RESPONSIBLE PARTY INFORMATION (Part I) AND AGREEMENT (Part II)

The Financially Responsible Party (FRP) is the business entity or individual that: is responsible for all fees and costs associated with the application(s); is responsible for paying for both County of San Bernardino (herein referred to as "County") staff and consultant fees and costs necessary to complete the processing of the application(s) with a trust account; is deemed the owner of funds held in the trust account; and, will receive accounting documents (invoices/receipts) during the processing of the application.

The following information sheet (Part I) and Agreement (Part II) establishes the business entity or individual to be named as the FRP and states that the business entity or individual agrees to indemnify the County against various claims, actions, lawsuits, etc., including, but not limited to, legal challenges to application approval with a trust account. For business entities, liability of the owner, partners, etc. shall be determined in accordance with the laws of the State of California.

## FINANCIALLY RESPONSIBLE PARTY INFORMATION PART I

Project Number: \_\_\_\_\_

The FRP is a (choose one and complete below):

Business Entity

Individual

### Business Entity

Business Entity Name: \_\_\_\_\_

Type, i.e. Corporation, LLC, LP, GP, LLP or Sole Proprietorship: \_\_\_\_\_

State Entity Registered In: \_\_\_\_\_ Entity Number: \_\_\_\_\_

Business Entity Representative Name: \_\_\_\_\_

If the FRP is a business entity, except for sole proprietorships, the representative must supply adequate proof that he/she may financially encumber that legal entity.

### Individual

FRP Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Does this FRP have an existing trust account(s) with the County?

If yes, provide FRP name used on existing Trust Account(s):

\_\_\_\_\_

## FINANCIALLY RESPONSIBLE PARTY AGREEMENT PART II

This agreement ("Agreement") is entered into by the County of San Bernardino (herein referred to as "County") and \_\_\_\_\_ ("Financially Responsible Party"; herein referred to as "FRP"). [If the FRP is a business entity, except for sole proprietorship, the representative must supply adequate proof that he/she may financially encumber that legal entity.] This Agreement incorporates by reference the Financially Responsible Party Information (Part I) completed by FRP.

Except as provided in Paragraph 8, "Indemnification," below, this Agreement is limited in scope to Land Use Services Department/Department of Public Works fees and costs associated with the following trust account: \_\_\_\_\_. A new trust account shall be established for each new application or applicant and will require a separate FRP agreement.

1. Deposits and Continuation of Work. The FRP will pay the trust account deposit required at the time of submittal of an application with a trust account in an amount established by the County Code or by applicable department policy; will pay invoices immediately upon receipt of invoice, subject to the department stopping work until payment is received; and agrees to be responsible for payment of all fees and costs associated with the application.
2. Consultant Fees. If it is deemed necessary by the applicable department to utilize consultant services, the FRP will pay a deposit to cover consultant fees and costs prior to County's execution of the contract with the consultant, with charges against the consultant's contract to be billed on an hourly basis against the deposit.
3. Ownership. The FRP agrees that all funds deposited in the trust account will be held by the County in an account under the name of the FRP, and that the FRP shall be considered the owner of all funds in said account. The FRP will receive accounting documents (invoices/receipts) during the processing of the application(s).
4. Clearance or Issuance. The FRP agrees that the applicable department is not required to issue any clearances or permits without receipt of full payment of fees, unless specifically waived by the County's Board of Supervisors, by Board Action.
5. Subsequent Trust Accounts and Applications. The FRP agrees that if there is an outstanding amount on any other Land Use Services Department/Department of Public Works applications with a trust account for which the FRP is the applicant or permittee, subsequent applications with a trust account will not be accepted until such amounts are paid.
6. Refunds. The FRP agrees that the County may refund any monies remaining in the trust account at the completion of work to the FRP, regardless of the source of monies deposited into the Trust Account. The County will exercise due diligence to locate the FRP based on the contact information on file. If the County is unable to locate the FRP, the County will follow all applicable provisions of the California Government Code regarding escheatment.
7. Designation. The FRP agrees that the person or entity designated as the FRP maintains that designation until the application(s) with a trust account has been approved, disapproved or withdrawn and any and all appeals and/or legal challenges have concluded.
8. Indemnification. Pursuant to County Code section 51.0113 and/or Development Code section 81.01.070, the FRP agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its "Indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), officers, and its authorized officers, employees, agents, advisory agencies or committees, appeal boards or legislative body and volunteers) from any and all claims, actions, or proceedings against the

County or its Indemnitees to attack, set aside, void, or annul an approval of the County and/or its Indemnitees concerning a map or permit or any other action, losses, damages, and/or liability arising out of this Agreement and the application(s) from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by Indemnitees on account of any claim except where such indemnification is prohibited by law.

This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. FRP's indemnification obligation applies to Indemnitees' "passive" negligence but does not apply to Indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code section 2782.

The FRP shall reimburse the County and its Indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its Indemnitees may be required by a court to pay as a result of such action.

Although the County may, at its sole discretion, participate at its own expense in the defense of any such action, such participation shall not relieve the FRP of their obligations under this condition to reimburse the County or its Indemnitees for all such expenses. County will act reasonably to promptly notify the FRP of any claim, action, or proceeding and that the County will cooperate fully in the defense.

The FRP agrees that its indemnification obligations under this Agreement remain in effect even though a court may order the County to set aside its approval of the application.

9. Transferability. This Agreement is non-transferable. In the event of a transfer of applicant or property, the FRP shall notify the County within ten (10) working days, in writing. In such event, a new Financially Responsible Party Information (Part I) and Agreement ("FRP Forms") will be required of the new applicant or property owner. Applicant shall be responsible for all costs and expenses incurred by the County through the date County receives the written notice of the transfer from Applicant pursuant to this Agreement. County shall not be responsible for any unnecessary costs or expenses incurred by Applicant due to Applicant's failure to comply with the terms of this Agreement, including the provision of written notice to the County of a transfer.

10. Termination. This Agreement shall terminate upon: a) completion of the underlying County Land Use Services Department/Department of Public Works services or County's receipt of Applicant's notice of a transfer pursuant to Paragraph 9, above; and 2) payment by Applicant of any remaining Land Use Services Department/Department of Public Works fees or refund of any fund balance by the County to Applicant after payment of all Land Use Services Department/Department of Public Works fees. Paragraph 8, "Indemnification," above, shall survive termination of this Agreement.

11. Change of Address. In the event of change of address of the FRP, the County must be notified within ten (10) working days in writing.

12. Notification. Any notification(s) shall be directed to the appropriate department as indicated below:

Land Use Department  
Attn: Administration  
385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, CA 92415-0187  
(909) 387-4000

Department of Public Works  
Attn: Administrative Services  
825 East Third Street  
San Bernardino, CA 92415  
(909) 387-7910

13. This Agreement shall be governed by and construed according to the laws of the State of California.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Financially Responsible Party (Please print and sign)