




**COUNTY OF EL DORADO  
DEPARTMENT OF TRANSPORTATION  
INTEROFFICE MEMORANDUM**

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**Date:** April 19, 2024  
**To:** Clerk of the Board  
**From:** Lindsay Tallman   
**Subject:** Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado for Variance 21-0001

Attached for the Board's information is a copy of the Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado for Variance 21-0001.

On January 4, 2022 (item 22), the Board adopted Resolution 002-2022 (attached) which delegated to the Director of Transportation the authority to sign Notices of Deed Restriction and Covenants to Indemnify the County of El Dorado (colloquially known as Hold Harmless Agreements) for Variances. This resolution eliminated Transportation's need to bring every such Hold Harmless Agreement before the Board in separate items, thereby reducing staff time.

At the request of the Chief Administrative Office, Transportation is providing a copy of the subject Hold Harmless Agreement, for which the Director has exercised said signature delegation authority, for the Board's information.

If you have questions or require anything further, please contact me at extension 5367.

Thank you for your assistance.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Department of Transportation  
El Dorado County  
924 Emerald Bay Road  
South Lake Tahoe, CA 96150  
APN: 021-401-004-000

Recorded in Official Records  
County of El Dorado  
Janelle K. Horne  
Recorder-Clerk

**2024-0010436**

04/16/2024  
03:32:04 PM  
PL

Titles: 2 Pages: 5

MW

Fees: \$0.00  
Taxes: \$0.00  
CA SB2 Fee: \$0.00  
Total: \$0.00



Above section for Recorder's use

## NOTICE OF DEED RESTRICTION AND COVENANT TO INDEMNIFY THE COUNTY OF EL DORADO

This Deed Restriction and Covenant to Indemnify the County of El Dorado is made and entered into by and between Michael J Danaher and Carol Lee Danaher, Trustees of The Danaher Family Trust dated June 29, 2004 ("Owner") and the County of El Dorado, a political subdivision of the State of California ("County"), with reference to the following facts:

**WHEREAS** Owner is the legal and record Owner of the real property described as El Dorado County Assessor's Parcel Number (APN) 021-401-004-000 whose legal description is as follows ("Property"):

**The land referred to is situated in the unincorporated area of the County of El Dorado, State of California, and is described as follows:**

**Beginning at a point which bears North 63 degrees 17' West 798.15 feet from the Southeast corner of Section 14, Township 12 North, Range 17 East, M.D.B.&M.; thence North 44 degrees 17' West 248.0 feet to a point on the East shore of Fallen Leaf Lake; thence along said lake shore South 45 Degrees 2' West 97.5 feet; thence leaving said lake shore South 38 degrees 08' East 227.1 feet; thence North 55 degrees 32' East 123.6 feet to the point of beginning. Being a portion of Lot 3, Section 14, Township 12 North, Range 17 East, M.D.B.&M.**

**WHEREAS**, the Property adjoins a County Maintained Road (Fallen Leaf Road, hereinafter "Road") owned by the County as shown in Exhibit A attached, and by reference made a part hereof; and

**WHEREAS**, the Owner applied to the County to reduce the minimum 20 foot front yard building setback required by Sections 130.24.210 and 130.30.050 of the El Dorado County Code to 0 feet in order to allow for the construction of a two-car garage within the setback area delineated or described on the Property as shown on Exhibit A attached, and by reference, made a part hereof; and

**WHEREAS**, the Zoning Administrator of the County granted Owner the requested setback variance (V21-0001), on the condition that Owner execute this Deed Restriction and Covenant to Indemnify the County of El Dorado. Owner acknowledges that the Property is directly benefited by the approval of Variance (V21-0001) and by the recording of this indemnity covenant. The parties intend that this indemnity covenant be recorded, be included in each subsequent conveyance of any interest in the Property and shall be binding on all successors and assigns of the Owner with regard to any interest in the Property; and

**WHEREAS**, all other setbacks and easements applicable to the Property, whether originating in the zoning code or by the subdivision map itself remain in effect; and

**NOW, THEREFORE**, for valuable consideration inclusive of the benefits conferred on the Property, the receipt of which is hereby acknowledged, Owner shall, to the fullest extent allowed by law, defend at its own expense, indemnify, and hold the County its officers, employees, agency and representatives harmless from and against any and all claims, actions, losses, injuries, damages and liability for damages, demands, actions, losses, costs, penalties and expenses of every name, kind, and description, including litigation cost and attorneys fees incurred, directly or indirectly arising out of, causally connected with, or resulting from the construction of the improvements within the reduced setback area authorized by Variance V21-0001, except for liability, claims, suits, losses, damages, or expenses arising from the sole negligence or willful acts of County, its officers and employees, or as expressly prescribed by statute. This duty to indemnify and hold County free and harmless includes the duties to defend, inclusive of this set forth in California Civil Code Section 2778. This duty of defense and indemnity shall run with the land and be binding upon any successor owner of any interest in the Property, and shall inure to the benefit of County and successor public agency providing snow removal and road maintenance services on Road.

This indemnity covenant is in effect from the date it is fully executed and continues in perpetuity.

Any dispute resolution action arising out of this instrument, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. In the event that there is any controversy, complaint, cause of action, or claim arising out of or relating to this indemnity covenant, or to the interpretation, breach or enforcement thereof, and any action or proceeding is commenced to enforce the provisions of this indemnity covenant or in enforcing or defending the security obligations provided herein, the prevailing party shall be entitled to reasonable attorney's fees, including reasonable County Counsel fees, and costs if so incurred, costs and expenses.

Owner agrees to include this indemnity covenant in its entirety in any grant, deed, or other real estate instrument that grants a successor owner any interest, in whole or in part, in the Property. Owner shall require the successor owner to agree to all of the provisions of this indemnity covenant, and shall record any subsequent grant, deed, or other real estate instrument in the Office of the El Dorado Recorder-Clerk. If Owner does not comply with this paragraph, County reserves the right to revoke the Variance or to require Owner to indemnify the County for any costs incurred to enforce this indemnity covenant with regard to a successor owner.

Owner shall record this instrument in the Office of the El Dorado County Recorder-Clerk as provided in Civil Code Section 1468.

IN WITNESS WHEREOF, the parties have fully executed this indemnity covenant on the date signed by County below.

-- COUNTY OF EL DORADO --

By: Rafael Martinez Dated: 4/4/24  
Rafael Martinez Director of Transportation "County" Rafael Martinez Director of Transportation US

-- Owner --

By: Michael J. Danaher Dated: 4/13/2024  
Michael J. Danaher Trustee, The Danaher Family Trust dated June 29, 2004 "Owner"

(All signatures must be acknowledged by a Notary Public)

Unofficial Copy

### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Santa Clara

On April 13, 2024 before me, Vikal Patel, Notary Public  
(here insert name and title of the officer)

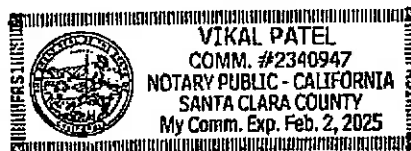
personally appeared  
Michael J. Danaher

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



(Seal)





**RESOLUTION NO. 002-2022**

**OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO**

**Resolution Authorizing the Director of Transportation to Execute a Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado to Satisfy the Conditions of Approval for a Variance**

**WHEREAS**, each zone district within El Dorado County establishes development standards for building height, setbacks, lot area, building coverage, etc., but in some cases the shape of the parcel, topography, or other natural features constrain the development of the site so that one or more of these standards cannot be met; and

**WHEREAS**, per County Code 130.60.030, the Planning and Building Department Director (or a designee) serves as the Zoning Administrator, and is assigned the review authority of original jurisdiction to consider and approve or deny applications for development applications, including but not limited to variances from development standards due to special circumstances; and

**WHEREAS**, under certain conditions for parcels with an elevation over 3,000 feet located on County-maintained roads, the Department of Transportation requires property owners who are granted a variance from setbacks along the County right of way to execute a hold harmless and indemnification agreement to ensure that the County is protected if any structures constructed in the reduced setback are damaged; and

**WHEREAS**, the Department of Transportation worked in conjunction with County Counsel to draft a standard Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado (indemnity covenant) to satisfy the variance condition, and currently the Board of Supervisors is required to approve each indemnity covenant; and

**WHEREAS**, the County cannot issue a building permit for a project that was granted a variance as described above until the indemnity covenant is executed; and

**WHEREAS**, the Department of Transportation requests the Board of Supervisors delegate signatory authority to the Department Director to approve such agreements, allowing them to be processed more quickly and efficiently;

**NOW, THEREFORE, BE IT RESOLVED** that the Director of Transportation is hereby authorized to accept and sign any Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado as required for a variance, subject to approval by County Counsel as to form.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 4th day of January, 2022, by the following vote of said Board:

Ayes: Parlin, Thomas, Hidahl, Turnboo, Novasel  
Noes: None  
Absent: None

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: [Signature]  
Deputy Clerk

[Signature]  
Chair, Board of Supervisors  
Lori Parlin