

BCC Mtg. Date: July 7, 2020

RESOLUTION

of the

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

regarding

**DELEGATION OF AUTHORITY TO THE MANAGER OF THE
ZONING DIVISION TO APPROVE AND EXECUTE**

**CERTAIN HOLD HARMLESS AND INDEMNIFICATION
AGREEMENTS**

Resolution No. 2020-M-24

WHEREAS, from time to time, the Board of County Commissioners (Board) approves a variance application to construct a structure, sometimes including a pool, a pool deck, or a cabana, at a location closer to the normal high water elevation (NHWE) of a lake or waterbody than the required setback from the NHWE;

WHEREAS, approvals of these variance applications are typically conditioned in part on the property owner entering into a hold harmless and indemnification agreement with the County that is recorded in the Official Records of Orange County, Florida;

WHEREAS, in the past, these hold harmless and indemnification agreements have been placed on the Board's agenda for approval after the Board has conditionally approved the variance application; and

WHEREAS, in order to expedite matters and avoid needless delay, the Board desires to delegate to the Manager of the Orange County Zoning Division, or his/her authorized designee, the authority to approve and sign these hold harmless and indemnification agreements on behalf of the Board after the Board has conditionally approved the variance application.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF ORANGE COUNTY:**

Section 1. Recitals. The foregoing recitals are true and correct, and are incorporated herein by reference.

Section 2. Delegation of Authority. The Board of County Commissioners hereby delegates to the Manager of the Orange County Zoning Division, or his/her authorized designee, the authority to approve and sign hold harmless and indemnification agreements described in the recitals of this Resolution, provided that such documents are identical to or are in substantial compliance with the form document shown in **Appendix "A"** attached hereto.

Section 3. Effective Date. This Resolution shall take effect on the date of its adoption.

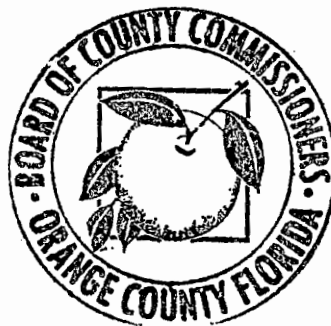
ADOPTED THIS _____ DAY OF JUL 07 2020, 2020.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk



APPENDIX "A"

Instrument prepared by:
[Property Owner's Name]
[Address]
[City, State Zipcode]

Return to:
Orange County Attorney's Office
P.O. Box 1393
Orlando, Florida 32802-1393

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT Parcel ID: [INSERT Parcel ID Number]

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between [INSERT Property Owner's Name], whose mailing address is [INSERT Mailing Address], (the "Property Owner") and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 (the "County").

WITNESSETH:

WHEREAS, the Property Owner holds fee simple title to property located at [INSERT Property Address], which is more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Property is not the homestead of the Property Owner under the laws and constitution of the State of Florida in that the neither the Property Owner nor any member of the household of the Property Owner resides thereon; and [DELETE this paragraph if the Property is the homestead]

WHEREAS, the Property is the homestead of the Property Owner under the laws and constitution of the State of Florida in that the Property Owner resides thereon; and [DELETE this paragraph if the Property is NOT the homestead]

WHEREAS, the Property Owner desires to [INSERT description of improvement] (the "Improvement") [INSERT requested distance] feet from the normal high water elevation ("NHWE") of [INSERT name of body of water], in lieu of the [INSERT fifty (50) or the required setback distance under the respective zone district requirement per Section 38-1501, Orange County Code of Ordinances] foot setback; and

WHEREAS, the Property Owner sought variances from the [INSERT description of variance requested]; and

WHEREAS, on [INSERT date of BZA decision], the County's Board of Zoning Adjustment ("BZA") recommended approval of the requested variances in Case Number VA-[INSERT BZA case number], and required the Property Owner to record a Hold Harmless Agreement, in favor of Orange County, prior to the issuance of building permits for the Improvements; and

WHEREAS, on [INSERT date of BCC meeting], the Board of County Commissioners (the "Board") approved and upheld the BZA's recommendation and granted approval of the Property Owner's requested variances subject to the conditions ratified or established by the Board; and

WHEREAS, in Resolution 2020-___, the Board delegated to the Manager of the Orange County Zoning Division the authority to approve and execute this Agreement on behalf of the Board; and

WHEREAS, the Property Owner understands and agrees that placing the Improvement within the [INSERT fifty (50) or the required setback distance under the respective zone district

requirement per Section 38-1501, Orange County Code of Ordinances] foot setback increases the risk of damage to structures, shoreline, and associated assets from flooding of [INSERT name of body of water], and, in spite of these risks, the Property Owner desires to place the Improvements within the setback area; and

WHEREAS, because this Agreement will be executed and recorded in the Official Records of Orange County, this Agreement serves as notice that the Improvement may be constructed as outlined above within the established setback from the NHWE of [INSERT name of body of water], as authorized by the variances approved with conditions ratified or established by the Board on [INSERT date of BCC approval].

NOW, THEREFORE, in consideration of these premises, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Property Owner and the County hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2. **HOLD HARMLESS AND INDEMNIFICATION.** The Property Owner, on behalf of [him/herself/themselves] and all successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assume(s) sole and entire responsibility for any and all damage to property sustained as a result of the County's granting of variance request #VA-[INSERT BZA case number] on [INSERT date of BCC approval]. The Property Owner hereby agrees to release, indemnify, defend (with legal counsel acceptable to the County), and hold harmless the County, its Board members, officers, employees, contractors, agents, and elected and appointed officials

from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever including, without limitation, damage to property arising out of or related in any way to the activities or operations on or use of the Improvement resulting from the County's granting of the variance request #VA-[INSERT BZA case number] on [INSERT date of BCC approval].

3. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with the Property, and shall be binding on all parties having any right, title, or interest in the Property described herein or any portion thereof, and their heirs, representatives, successors, and assigns.

4. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Property Owner.

5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

6. **RECORDATION.** An executed original of this Agreement shall be recorded, at the Property Owner's expense, in the Official Records of Orange County, Florida.

7. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Property Owner, whichever is later.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Hold Harmless & Indemnification Agreement
[Property Owner's Name]
Parcel ID [Parcel ID Number]

ORANGE COUNTY, FLORIDA

By: _____
Manager
Orange County Zoning Division
Planning, Environmental and
Development Services Department

Print Name: _____

Date: _____

[REMAINING SIGNATURE ON FOLLOWING PAGE]

Hold Harmless & Indemnification Agreement
[Property Owner's Name]
Parcel ID [Parcel ID Number]

Signed, sealed and delivered in our
presence as witnesses:

PROPERTY OWNER:

Signature: _____

By: _____
[INSERT Property Owner's Name]

Printed Name: _____

Signature: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me, a Notary Public, by means of physical presence, or online notarization, this ____ day of _____, 20__, by [INSERT Property Owner's Name], who, is personally known to me, or has produced _____ as identification.

Notary Public, State of Florida

Name typed, printed or stamped
My Commission Expires: _____

Hold Harmless & Indemnification Agreement
[Property Owner's Name]
Parcel ID [Parcel ID Number]

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel ID: [INSERT Parcel ID number]

[INSERT Legal Description]