



Interoffice Memorandum

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
MAY 05 2015 NP/KH

April 20, 2015

**TO:** Mayor Teresa Jacobs  
and Board of County Commissioners

**FROM:** Raymond E. Hanson, P. E., Director  
Utilities Department

**SUBJECT: BCC AGENDA ITEM – Consent Agenda  
May 5, 2015 BCC Meeting  
First Amendment to Utility Line Construction Reimbursement  
Agreement for Latham Park  
Contact Person: Andres Salcedo, P. E., Assistant Director  
Utilities Department  
407-254-9719**

The developer, VF Horizon Investments, LLC, and Orange County entered into a Utility Line Construction Reimbursement Agreement for Latham Park on December 3, 2013, pursuant to which Orange County agreed to pay the developer for the oversizing of certain utility work. VF Horizon Investments, LLC, sold the project and assigned all rights, obligations and responsibilities under the agreement to Ashton Orlando Residential, LLC. The assignment was approved by the Orange County BCC on July 29, 2014.

The agreement requires a maintenance guarantee in the form of a letter of credit or cash escrow. This first amendment to the agreement permits the developer to submit, and Orange County to accept, a maintenance bond as a form of maintenance guarantee for the utility work.

Orange County Attorney's Office staff reviewed the first amendment to the agreement and finds it acceptable. Utilities Department staff recommends approval.

**Action Requested: Approval of First Amendment to Utility Line Construction Reimbursement Agreement for Latham Park by and between Orange County and Ashton Orlando Residential, LLC to accept a maintenance bond as a form of maintenance guarantee for utility work at Latham Park.**

**District 1.**

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**FIRST AMENDMENT  
TO  
UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR  
LATHAM PARK**

**THIS FIRST AMENDMENT TO THE UTILITY LINE CONSTRUCTION REIMBURSEMENT AGREEMENT FOR LATHAM PARK** (the “First Amendment”) is made and entered into as of the date of last execution below, by and between **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801 (the “County”), and **Ashton Orlando Residential, LLC**, a Nevada Limited Liability Company, whose principle address is 1064 Greenwood Boulevard, Suite 124, Lake Mary, Florida 32746 (the “Developer”). Hereinafter, the County and the Developer may be referred to individually as a “Party” or collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on or about December 3, 2013, the County and **VF Horizon Investments, LLC**, Florida Limited Liability Company (“VF Horizon”), entered into that certain Construction Reimbursement Agreement for Latham Park (the “Reimbursement Agreement”), wherein VF Horizon required the installation of certain diameter water and wastewater mains to serve the Property (the “Utility Work”), and wherein the County asked VF Horizon to increase the diameter of the water and wastewater mains in order to support the County’s regional transmission needs (the “Oversized Utility Work”), pursuant to which the County agreed to pay VF Horizon for the cost differential of the Oversized Utility Work and the Utility Work for the satisfactory installation of the Oversized Utility Work; and

**WHEREAS**, on or about July 29, 2014, the County, VF Horizon and the Developer executed a document entitled “Confirmation and Notice of Assignment of Utility Line Construction Reimbursement Agreement for Latham Park,” wherein the parties to that document acknowledged the assignment to and assumption by the Developer of all rights, duties and responsibilities under the Reimbursement Agreement; and

**WHEREAS**, as part of the Reimbursement Agreement, the Developer is required to provide to the County a maintenance guarantee in the form of a letter of credit or cash escrow in favor of the County; and

**WHEREAS**, the Parties agree to amend the Reimbursement Agreement to allow the Developer to submit, and the County to accept, a maintenance bond as a form of maintenance guarantee.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the County and the Developer hereby agree as follows:

**SECTION 1. RECITALS INCORPORATED.** The recitals hereof are true and correct, are material provisions of this First Amendment, and are incorporated herein by reference and made a part of this First Amendment.

**SECTION 2. MAINTENANCE GUARANTEE.** Subsection 7.2 of the Reimbursement Agreement is amended to read as follows:

“The DEVELOPER shall provide a maintenance guarantee in the form of a letter of credit, maintenance bond, or cash escrow in favor of the COUNTY in an amount equal to ten (10%) percent of the Costs of the Oversized Utility Work. The purpose of the maintenance guarantee is to guarantee the materials, workmanship, structural integrity, functioning and maintenance of the Oversized Utility Work. Prior to the COUNTY’s issuance of the certificate of completion for the Oversized Utility Work, the DEVELOPER shall deliver to the COUNTY a bill of sale in favor of

the COUNTY and a maintenance guarantee as provided herein for the Oversized Utility Work, at which time the COUNTY shall be deemed to have accepted the dedication of and the ownership and operational responsibility for the Oversized Utility Work.”

**SECTION 3. AGREEMENT IN FULL FORCE.** Except as expressly modified herein, the Reimbursement Agreement remains intact, unchanged, and in full force and effect. All capitalized words and phrases in this First Amendment have the same meaning given them in the Reimbursement Agreement.

**IN WITNESS WHEREOF**, the County and the Developer have below caused this First Amendment to be executed in manner and form and by persons and/or officers thereunto duly authorized.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: *Teresa Jacobs*  
Teresa Jacobs, Mayor

DATE: 5.5.15

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*  
Deputy Clerk

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Witness:

By: Christina M. Lee

Print Name: CHRISTINA M. LEE

Date: 4-2-15

**Ashton Orlando Residential, LLC**, a Nevada  
Limited Liability Company

By: [Signature]

Its: Pete Small  
Authorized Representative

Date: 4-2-15

Witness:  
By: [Signature]

Print Name: [Signature]

Date: 4-2-15

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 2nd day of April, 2015, by Pete Small, as Authorized Representative of Ashton Orlando Residential, LLC, a Nevada Limited Liability Company, who is  personally known to me or  who has produced \_\_\_\_\_, as identification.

Christina M. Lee  
Signature of Notary Public - State of Florida

Print, Type, or Stamp  
Commissioned Name of Notary Public



My Commission Expires \_\_\_\_\_