



# Orange County Government

Orange County  
Administration Center  
201 S Rosalind Ave.  
Orlando, FL 32802-1393

## Legislation Text

---

**File #:** 25-750, **Version:** 1

---

### Interoffice Memorandum

**DATE:** April 30, 2025

**TO:** Mayor Jerry L. Demings and County Commissioners

**THROUGH:** N/A

**FROM:** Tanya Wilson, AICP, Director Planning, Environmental, and Development Services Department

**CONTACT:** Nicolas Thalmueller, AICP, DRC Chairman

**PHONE:** (407) 836-5523

**DIVISION:** Development Review Committee

**ACTION REQUESTED:**

Approval and execution of Hold Harmless and Indemnification Agreement The Place at Alafaya Student Housing by and between BW Arbour Apartments, LLC and Orange County. District 5. (Development Review Committee)

**PROJECT:** Hold Harmless and Indemnification Agreement (The Place at Alafaya Student Housing)

**PURPOSE:** The Place at Alafaya Student Housing Planned Development - The Place at Alafaya Student Housing Development Plan (DP) is located South of University Boulevard / West of Alafaya Trail.

This project, DP-24-07-177, was recommended for approval by the Development Review Committee on April 16, 2025. It proposes construction of a 1,396 bed Student Housing Development consisting of three multi-story residential buildings with two multi-level garages and associated parking and infrastructure on 25.20 acres, subject to approval of this Hold Harmless Agreement as stipulated in condition of approval #8.

Through this request, the applicant is seeking approval of a Hold Harmless and Indemnification Agreement allowing commencement of horizontal site work prior to Applicant obtaining the FEMA Conditional Letter of Map Revision for the project associated with DP-24-07-177.

This proposed agreement received a recommendation of approval from the Development Review Committee on April 30, 2025.

**BUDGET:** N/A

Instrument prepared by:

Rebecca Wilson, Esq.

Lowndes, Drosdick, Doster, Kantor & Reed, P.A. BCC Mtg. Date: June 3, 2025

Post Office Box 2809

Orlando, Florida 32802-2809

APPROVED BY ORANGE COUNTY  
BOARD OF COUNTY COMMISSIONERS

Return to:

Orange County Attorney's Office

P.O. Box 1393

Orlando, Florida 32802

**HOLD HARMLESS AND  
INDEMNIFICATION AGREEMENT  
The Place at Alafaya Student Housing**

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between BW Arbour Apartments, LLC, a Florida limited liability company, with its principal place of business at 192 Lexington Ave, Floor 9, New York, New York 10016 ("Applicant") and Orange County, a charter county and political subdivision of the State of Florida, with its principal mailing address at c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 ("County").

**WITNESSETH:**

**WHEREAS**, Applicant holds fee simple title to property located at 11600 Mackay Boulevard, Orlando, Florida 32826 in unincorporated Orange County, Florida, which property is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"); and

**WHEREAS**, Applicant is requesting County approval of a Development Plan (DP-24-07-177) in order to construct 1,396 student housing beds and associated parking garages on the Property (the "Project"); and

**WHEREAS**, Applicant understands and agrees that, if the County approves the Development Plan, Applicant's construction of the Project upon the Property before the FEMA Conditional Letter of Map Revision (CLOMR) is formally approved - is being done solely at Applicant's risk and may place such Project at risk of having to be substantially modified or

completely removed, if necessary, by Applicant in order for the Project to conform with the approved CLOMR; and

WHEREAS, in spite of these risks, Applicant desires to commence construction of the Project upon the Property, subject to the County's approval of the Development Plan.

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, Applicant and 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. **DEFINITIONS.** County and Applicant agree that the terms set forth below shall have the following meanings when used in this Agreement:
  - (a) **"Horizontal Site Work"** shall mean construction and preparation activities that occur on the existing grade of a construction site prior to the commencement of Vertical Construction (such as buildings and/or structures.) It may include construction activities such as clearing and grubbing, excavation and grading, installation of drainage structures, stormwater conveyance pipes, stormwater ponds, roadwork and paving, and the implementation of erosion sediment control measures.
  - (b) **"Vertical Construction"** shall mean any construction activity associated with a building, or structure that supports a building.
3. **ACKNOWLEDGEMENTS.** Applicant acknowledges that:
  - (a) Applicant is requesting, at its sole risk, that County allow Applicant to commence Horizontal Site Work for the Project prior to FEMA approval of the CLOMR; and
  - (b) Regardless of Applicant's request, Applicant has a continuing obligation to obtain a CLOMR for the Project; and,

(c) Applicant must obtain FEMA approval of the CLOMR prior to issuance of the first vertical building permit for the Project.

4. **HOLD HARMLESS AND INDEMNIFICATION.**

(a) Applicant hereby assumes sole and entire responsibility for any and all costs associated with the need to modify or remove, if necessary, any structure, easement, dedication, or other improvement(s) constructed or placed upon the Property that may arise during FEMA's review and approval of the CLOMR.

(b) Applicant and its successors, assigns, heirs, grantees, representatives, invitees, and permittees hereby agree to release, indemnify, defend (with legal counsel acceptable to County), and hold County, its Board members, officers, employees, contractors, agents, and elected and appointed officials, harmless 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 commencement of Horizontal Site Work for the Project until such time as the CLOMR for the Property has been approved.

5. **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, their heirs, representatives, successors, and assigns.

6. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by County and Applicant. The foregoing notwithstanding, this Agreement shall automatically terminate upon FEMA approval of the CLOMR; provided, however, that Applicant's assumption of responsibility and agreement to release, indemnify, defend, and hold harmless County, as more fully set forth in paragraph 4

hereof, shall survive such automatic termination with respect to any event related to the commencement of Horizontal Site Work for the Project prior to approval of the CLOMR.

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

8. **RECORDATION.** An executed original of this Agreement shall be recorded, at Applicant's expense, in the Public Records of Orange County, Florida.

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

[Signature pages follow]

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.

**COUNTY**

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: *Jerry L. Demings*

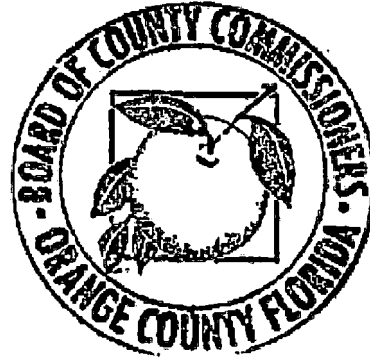
*fol* Jerry L. Demings  
Orange County Mayor

Date: June 3, 2025, 2025

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

By: *Jennifer Lara-Klimetz*  
*fol* Deputy Clerk

Print Name: Jennifer Lara-Klimetz



**BW ARBOUR APARTMENTS, LLC**, a Florida  
limited liability company

WITNESSES:

[Signature]  
Printed Name: Jackie Chiffiller

[Signature]  
Print Name: ERICA GERKMAN

By: [Signature]  
Print Name: Gideon Z. Friedman  
Title: Manager  
Date: 4/30/25

New York  
STATE OF ~~FLORIDA~~  
COUNTY OF New York

The foregoing instrument was acknowledged before me, a Notary Public, by means of ☒ physical presence or ☐ online notarization this 30<sup>th</sup> day of April, 2025, by Gideon Z. Friedman, as Manager of BW Arbour Apartments, LLC, a Florida limited liability company, on behalf of said company, who ☒ is personally known to me or ☐ has produced (type of identification) \_\_\_\_\_ as identification.

[Signature]  
Notary Public  
Printed Name Brittany Jackson

My Commission Expires: April 19, 2028

Brittany Jackson  
Notary Public, State of New York  
Reg. No. 01JA0023763  
Qualified in Nassau County  
Commission Expires April 19, 2028

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

(1 page to follow)

## LEGAL DESCRIPTION

### PARCEL A:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST, AND A PORTION OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN NORTH 0°57'41" WEST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SAID SECTION 9, 690.00 FEET TO THE POINT OF BEGINNING; THENCE RUN DUE WEST 239.54 FEET; THENCE RUN SOUTH 70°09'41" WEST, 220.02 FEET; THENCE RUN NORTH 91°34'47" EAST, 213.00 FEET; THENCE RUN NORTH 10°41'23" EAST, 566.24 FEET; THENCE RUN NORTH 88°51'55" EAST, 170.57 FEET TO THE WEST 1/4 CORNER OF THE AFOREMENTIONED SECTION 10; THENCE RUN NORTH 88°51'00" EAST, 427.95 FEET; THENCE RUN SOUTH 9°36'58" EAST, 665.92 FEET; THENCE RUN NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHERLY, HAVING FOR ITS ELEMENTS A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 7°26'54" AND A CHORD BEARING OF NORTH 86°16'33" WEST, FOR AN ARC DISTANCE OF 130.00 FEET; THENCE RUN DUE WEST 398.74 FEET TO THE POINT OF BEGINNING.

### PARCEL B:

BEGIN AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA; RUN DUE WEST, A DISTANCE OF 919.0 FEET; THENCE NORTH 27°38'39" WEST, A DISTANCE OF 295.09 FEET; THENCE NORTH 31°13'01" EAST, 190.62 FEET; THENCE NORTH 76°09'41" EAST, 734.05 FEET TO A POINT WHICH INTERSECTS WITH A LINE RUNNING EAST TO WEST 600 FEET NORTH OF THE SOUTH PROPERTY LINE.

THENCE DUE EAST 234.31 FEET TO A POINT INTERSECTING THE SECTION LINE BETWEEN SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST AND SECTION 10, TOWNSHIP 22 SOUTH, RANGE 31 EAST; THENCE SOUTH 0°57'41" EAST, 600.00 FEET

ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

### PARCEL C:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST, AND A PORTION OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA; BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN DUE WEST ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE AFOREMENTIONED SECTION 9, 919.00 FEET; THENCE RUN NORTH 27°38'39" WEST, 295.09 FEET; THENCE RUN NORTH 31°13'01" EAST, 190.62 FEET TO THE SOUTHWEST CORNER AND THE POINT OF BEGINNING OF THE TRACT ABOUT TO BE DESCRIBED; THENCE RUN NORTH 51°13'01" EAST, 70.78 FEET; THENCE RUN NORTH 76°09'41" EAST, 690.00 FEET; THENCE RUN DUE EAST, 638.28 FEET TO THE P.C. OF THE CURVE CONCAVE SOUTHERLY; THENCE RUN EASTERLY ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 1000.0 FEET AND A CENTRAL ANGLE OF 1°57'01", FOR AN ARC DISTANCE OF 267.84 FEET TO THE P.R.C. OF A CURVE CONCAVE NORTHERLY; THENCE RUN EASTERLY ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 1000.0 FEET AND A CENTRAL ANGLE OF 1°43'48" FOR AN ARC DISTANCE OF 167.27 FEET; THENCE RUN SOUTH 85°25'47" EAST, 189.17 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ALAFAYA TRAIL; THENCE RUN SOUTH 17°17'20" EAST, 96.20 FEET; THENCE RUN NORTH 85°25'47" WEST, 252.27 FEET TO THE P.C. OF A CURVE CONCAVE NORTHERLY; THENCE RUN WESTERLY ALONG SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 2000.0 FEET AND A CENTRAL ANGLE OF 20°41'23" FOR AN ARC DISTANCE OF 72.22 FEET TO THE P.R.C. OF A CURVE CONCAVE SOUTHERLY; THENCE RUN WESTERLY ALONG SAID CURVE HAVING FOR ITS ELEMENTS, A RADIUS OF 800.00 FEET AND A CENTRAL ANGLE OF 23°15'36", FOR AN ARC DISTANCE OF 152.70 FEET; THENCE RUN DUE WEST, 632.21 FEET; THENCE RUN SOUTH 76°09'41" WEST, 734.05 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT PARCEL 184 CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY DEED RECORDED IN OFFICIAL RECORDS BOOK 4050, PAGE 2221, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF MCKAY BOULEVARD, A PRIVATE ROAD IN SECTION 9 AND 10, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, FURTHER DESCRIBED AS PARCEL C IN EXHIBIT A OF WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 3838, PAGE 3738, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 22 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, LYING 911.56 FEET NORTH 88°57'33" EAST OF THE NORTHWEST CORNER THEREOF; SAID POINT BEING IN THE CENTERLINE OF SURVEY OF STATE ROAD 434 (ALAFAYA TRAIL) AND BEING THE BEGINNING OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1910.00 FEET; THENCE FROM A CHORD BEARING OF SOUTH 10°47'52" EAST, RUN SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°04'37", A DISTANCE OF 402.60 FEET TO THE END OF SAID CURVE; THENCE CONTINUING ALONG SAID SURVEY LINE, RUN SOUTH 16°50'19" EAST, 372.40 FEET; THENCE NORTH 84°56'02" WEST, 83.89 FEET TO THE INTERSECTION OF THE WESTERLY EXISTING RIGHT OF WAY LINE OF STATE ROAD 434 AND THE NORTH RIGHT OF WAY LINE OF MCKAY BOULEVARD; FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 84°56'02" WEST ALONG SAID NORTH RIGHT OF WAY LINE 21.01 FEET; THENCE SOUTH 06°30'39" WEST, 79.86 FEET TO THE SOUTH RIGHT OF WAY LINE OF MCKAY BOULEVARD; THENCE SOUTH 84°56'51" EAST ALONG SAID SOUTH RIGHT OF WAY LINE 55.16 FEET TO THE WESTERLY EXISTING RIGHT OF WAY OF STATE ROAD 434; THENCE NORTH 18°50'10" WEST ALONG SAID RIGHT OF WAY LINE 86.14 FEET TO THE POINT OF BEGINNING.

CONTAINING 25.41 ACRES OF LAND, MORE OR LESS.