

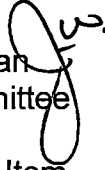


Interoffice Memorandum

**AGENDA ITEM**

July 21, 2021

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Jon V. Weiss, P.E., Chairman   
Roadway Agreement Committee

SUBJECT: August 10, 2021 – Consent Item  
First Amendment to Traffic Signal Funding Agreement Alta Avalon at  
Core Academy PD/UNP  
Avalon Road (CR 545)

The Roadway Agreement Committee has reviewed the First Amendment to Traffic Signal Funding Agreement Alta Avalon at Core Academy PD/UNP Avalon Road (CR 545) (“Agreement”) by and between Alta at Horizon West Owner, LLC and Orange County to amend the terms of the Traffic Signal Funding Agreement approved by the Board June 8, 2021 and recorded as Document # 20210351330. The First Amendment is updating Section 2(d) of the Agreement to remove the accounting line for funds received by the County for the traffic signal.

The Roadway Agreement Committee recommended approval of the Agreement on July 21, 2021. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

If you have any questions, please feel free to contact me at 407-836-5393.

**ACTION REQUESTED: Approval and execution of First Amendment to Traffic Signal Funding Agreement Alta Avalon at Core Academy PD/UNP Avalon Road (CR 545) by and between Alta at Horizon West Owner, LLC and Orange County to update Section 2(d) of the Agreement. District 1**

JVW/tc  
Attachment

BCC Mtg. Date: August 10, 2021

Prepared by and after recording return to:  
Juli Simas James, Esquire  
Shutts & Bowen LLP  
300 S. Orange Avenue, Suite 1600  
Orlando, Florida 32801

Tax Parcel I.D. No.: 32-23-27-0000-00-007

**FIRST AMENDMENT TO  
TRAFFIC SIGNAL FUNDING AGREEMENT**

**ALTA AVALON AT CORE ACADEMY PD/UNP**

**AVALON ROAD (CR 545)**

This First Amendment to Traffic Signal Funding Agreement (the “First Amendment”), effective as of the latest date of execution (“Effective Date”), is made and entered into by and between ALTA AT HORIZON WEST OWNER, LLC, a Delaware limited liability company (“Owner”), a Delaware limited liability company, whose mailing address is 636 West Yale Street, Orlando, Florida 32804, and Orange County, a charter county and political subdivision of the state of Florida (“County”), whose mailing address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

**WITNESSETH:**

WHEREAS, Avalon Real Estate Limited LLC, the predecessor-in-title to Owner, and County entered into that certain Traffic Signal Funding Agreement approved by the Orange County Board of County Commissioners (“BCC”) on June 8, 2021 and recorded as Doc. # 20210351330 in the Public Records of Orange County, Florida (the “Agreement”); and

WHEREAS, County and Owner desire to amend certain terms and provisions of the Agreement as set forth below; and

WHEREAS, in all other respects, the original terms of the Agreement shall remain unchanged and in full force and effect.

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

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Design, funding, and construction of the Improvements.** Section 2(d) of the Agreement is hereby deleted in its entirety and replaced with the following:

(d) In order to (i) promptly provide County with the funds required for the Improvements and (ii) ensure that Owner is able to develop the Project without substantial delay, the Parties agree that within ninety (90) days after the Effective Date of this Agreement, Owner shall pay an amount equal to the Impact Fees, less the amount of the Existing Credits, for a total of Eight Hundred Twelve Thousand Seven Hundred Eighty-Seven and No/100 Dollars (\$812,787.00) (the "Improvement Funds") to the Orange County Board of County Commissioners, delivered to the attention of the Orange County Public Works Fiscal & Operations Division, which the County shall use to design and construct the Improvements. Any portion of the Improvement Funds that is not expended by the County to construct the Improvements shall be applied by the County for transportation improvements in transportation impact fee zone 4.

**Section 3. Notice.** Any notice delivered with respect to this First Amendment or the Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return-receipt requested,

addressed to the person at the address set forth opposite the party's name below, or to such other address or to such other person as the party shall have specified by written notice to the other party delivered in accordance herewith.

As to Owner: ALTA at Horizon West Owner, LLC  
Attention: Bryan Borland  
636 West Yale Street  
Orlando, Florida 32804

With a copy to: Juli Simas James, Esq.  
Shutts & Bowen LLP  
300 S. Orange Avenue, Suite 1600  
Orlando, Florida 32801

As to County: Orange County Administrator  
P.O. Box 1393  
201 S. Rosalind Ave  
Orlando, Florida 32802-1393

With a copy to: Orange County Planning, Environmental,  
and Development Services Department  
Manager, Transportation Planning Division  
Orange County Public Works Complex  
4200 S. John Young Parkway  
Orlando, Florida 32839-9205

***Section 4. Covenants Running with the Land.*** This First Amendment shall run with the Property and shall be binding upon and shall inure to the benefit and burden of the parties and of the heirs, legal representatives, successors, and assigns of Owner and any person, firm, corporation, or other entity that may become the successor in interest to the Property. Notwithstanding the foregoing, however, the authority under Section 3 of the Agreement to instruct County to make deductions from Owner's road impact fee account shall remain with Owner unless expressly assigned in writing to another by Owner.

**Section 5. Recordation of First Amendment.** An executed original of this First Amendment shall be recorded, at Owner's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

**Section 6. Applicable Law.** This First Amendment and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

**Section 7. Time is of the Essence.** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this First Amendment and in the Agreement.

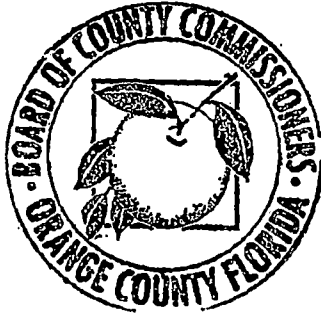
**Section 8. Further Documentation.** The parties agree that at any time following a request therefor by the other party, each shall execute and deliver to the other party such further documents and instruments reasonably necessary to confirm and/or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

**Section 9. Limitation of Remedies.** County and Owner expressly agree that the consideration, in part, for each of them entering into this First Amendment is the willingness of the other to limit the remedies for all actions arising out of or in connection with this First Amendment. Accordingly, the remedies available to each party shall be as stated in Section 10 of the Agreement.

**Section 10. Amendments.** No amendment, modification, or other change to this First Amendment or the Agreement shall be binding upon the parties unless in writing and executed by all the parties hereto.

**Section 11. Counterparts.** This First Amendment may be executed in up to three (3) counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

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



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Jerry L. Demings*

for Jerry L. Demings,  
Orange County Mayor

Date: 08/10/2021

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

By: *Katie Smith*  
Deputy Clerk

Printed name: Katie Smith

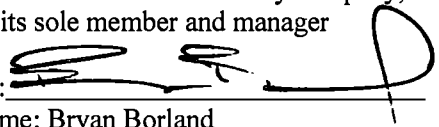
**ALTA AT HORIZON WEST OWNER, LLC,**  
a Delaware limited liability company

By: Alta at Horizon West, LLC, a Delaware limited liability company, its sole member and manager

By: Alta at Horizon West Manager, LLC, a Delaware limited liability company, its managing member


By: WS Horizon West, LLC, a Delaware limited liability company, its manager

By: WP Florida/Washington, LLC, a Delaware limited liability company, its sole member and manager

By:   
Name: Bryan Borland  
Title: Vice President

Date: 7/13/21

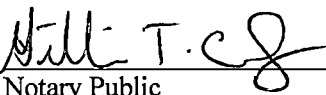
WITNESSES:  
  
Print Name: Chintan K Patel

  
Print Name: Anwar Gwyke

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization by Bryan Borland, as Vice President of WP Florida/Washington, LLC, a Delaware limited liability company, the sole member and manager of WS Horizon West, LLC, a Delaware limited liability company, the manager of Alta at Horizon West Manager, LLC, a Delaware limited liability company, the managing member of Alta at Horizon West, LLC, a Delaware limited liability company, the sole member and manager of **ALTA AT HORIZON WEST OWNER, LLC**, a Delaware limited liability company, on behalf of the companies, who is known by me to be the person described herein and who executed the foregoing, this 13 day of July, 2021. He is personally known to me or has produced \_\_\_\_\_ as identification and did did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 13 day of July, 2021.

  
Notary Public  
Print Name: GILLIAN T. CHUNG  
My Commission Expires: 02/26/2023

