



Interoffice Memorandum

**AGENDA ITEM**

DATE: April 29, 2021

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

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental and Development  
Services Department *JVW.*

**CONTACT PERSON: Eric Raasch, DRC Chairman  
Development Review Committee  
Planning Division  
(407) 836-5523**

SUBJECT: May 18, 2021 — Consent Item  
First Amendment to Adequate Public Facilities Agreement  
for Hamlin PD  
Case # APF-20-02-042  
(Related to Case # CDR-20-10-297)

The Hamlin PD/UNP was originally approved on March 12, 2013, and is located in the Town Center Special Planning Area of Horizon West. The PD is currently approved for a development program consisting of 2,011 residential dwelling units, 1,708,545 square feet of non-residential uses, and 200 hotel rooms. The Hamlin PD is generally located north and south of New Independence Parkway and east of State Road 429.

The PD and existing Adequate Public Facilities (APF) agreement currently provide 92.16 acres of APF lands to satisfy the 63.73 required APF acreage, creating a 28.43-acre APF surplus.

The applicant is proposing the First Amendment to Adequate Public Facilities Agreement for Hamlin PD ("First Amendment") to amend the APF agreement to revise the APF surplus acreage; document the previous transfer of 7.0 acres of APF credits to the Orlando Health Central Porter Road Medical Campus PD; and reflect the proposed transfer of 9.87 acres of APF credits to the Hamlin Southwest PD and 10.55 acres of APF credits to the Hamlin West PD, resulting in a 1.01-acre APF surplus. The proposed transfer and reduction of the surplus APF acreage has been reflected on the Hamlin PD/UNP as part of CDR-20-02-033, which was approved by the Development Review Committee as a non-substantial change on April 28, 2021, subject to approval of the First Amendment.

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(Case #APF-21-02-042) (Related to Case # CDR-20-10-297)

The First Amendment received a recommendation of approval from the Development Review Committee on April 28, 2021, and has been placed on the May 18, 2021 consent agenda to be pulled for consideration with the associated PD Change Determination Request for the Hamlin West PD (CDR-20-10-297). Upon approval by the Board, the First Amendment will be recorded in the Public Records of Orange County.

**ACTION REQUESTED: Approval and execution of First Amendment to Adequate Public Facilities Agreement for Hamlin PD by and between SLF IV/Boyd Horizon West JV, LLC and Orange County to transfer 9.87 acres of APF credits to the Hamlin Southwest PD/UNP and 10.55 acres of APF credits to the Hamlin West PD/UNP. District 1**

JVW/EPR/nsw  
Attachments

This instrument prepared by and after  
recording return to:  
JAMES G. WILLARD, ESQ.  
SHUTTS & BOWEN LLP  
300 S. ORANGE AVENUE, SUITE 1600  
ORLANDO, FLORIDA 32801

**FIRST AMENDMENT TO  
ADEQUATE PUBLIC FACILITIES AGREEMENT  
FOR HAMLIN PD**

**THIS FIRST AMENDMENT TO ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HAMLIN PD** (the **“First Amendment”**) is effective as of the latest date of execution (the **“Effective Date”**) and is made and entered into by and between SLF IV/Boyd Horizon West JV, LLC, a Delaware limited liability company, whose address is 14422 Shoreside Way, Suite 130, Winter Garden, Florida 34787 (**“Owner”**) and Orange County, a charter county and political subdivision of the State of Florida whose mailing address is P.O. Box 1393, Orlando, Florida 32802-1393 (**“County”**).

**RECITALS:**

A. Owner and County are parties to that certain Adequate Public Agreement for Hamlin PD approved by the Orange County Board of County Commissioners and recorded April 18, 2018 at Doc# 20180233447. Public Records of Orange County, Florida (the **“Original APF Agreement”**).

B. The affiliates of Owner identified in the Original APF Agreement have assigned to Owner all of their right, title and interest in the Original APF Agreement, including the APF surplus described therein by Assignment dated April 27, 2021, in recognition that Owner dedicated all of the APF lands and constructed the APF facilities that generated the APF surplus. A copy of such Assignment has been provided to County.

C. Owner and County desire to amend the Original APF Agreement to reflect the transfer of certain APF credits from the existing APF surplus for Hamlin PD to other Planned Developments within the Town Center of Horizon West in accordance with paragraph 4 of the Original APF Agreement.

**NOW THEREFORE**, in consideration of the premises and the covenants and conditions hereinafter set forth, the parties agree as follows:

### **AGREEMENT**

1. **Recitals; Defined Terms.** The above recitals are true and correct and are hereby incorporated by reference. Capitalized terms used in this First Amendment not otherwise defined herein shall have the meanings ascribed to them in the Original APF Agreement, which Agreement is incorporated herein by reference.

2. **APF Credit.** For purpose of this First Amendment, a “**APF Credit**” or “**Credit**” shall mean the equivalent of one (1) acre of APF surplus land.

3. **Confirmation of APF Surplus.** Paragraph 3 of the Original APF Agreement is hereby revised in its entirety to read as follows:

“3. **APF Surplus.** The APF ratio requires the Owner to convey to County a total of 63.73 acres of APF lands. The Hamlin PD has provided a total of 92.16 acres thereby creating a 28.43 acre APF surplus. Furthermore, as reflected in the current Hamlin PD/UNP/LUP, Table 7.0, 7 APF acres have been transferred to Parcels CCM-5 and CCM-6 within the Horizon West Town Center, resulting in a remaining APF surplus of 21.43 acres.”

4. **Allocation of APF Surplus to Other Planned Developments within the Town Center.** In accordance with paragraph 4 of the Original APF Agreement, Owner hereby transfers and assigns, from the existing APF surplus of 21.43, the following APF Credits to the Hamlin Southwest PD and the Hamlin West PD:

- 9.87 APF Credits to the Hamlin Southwest PD in satisfaction of the APF deficiency for the Hamlin Southwest PD.
- 10.55 APF Credits to the Hamlin West PD in satisfaction of the APF deficiency for the Hamlin West PD.

The foregoing transfers result in a remaining APF surplus for the Hamlin PD of 1.01 Credits.

5. **Ratification of Original APF Agreement.** Other than as amended pursuant to the terms of this First Amendment, the Original APF Agreement shall remain unchanged and in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this First 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,  
Orange County Mayor

Date: \_\_\_\_\_

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

By: \_\_\_\_\_

Deputy Clerk

Printed Name: \_\_\_\_\_

SLF IV/BOYD HORIZON WEST JV, LLC, a Delaware  
limited liability company

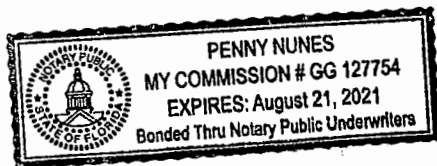
By: Boyd Horizon West LLC, a Florida limited liability  
company, its Managing Member

By: [Signature]  
Scott T. Boyd, Manager

Date: 4/29/21

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  
 online notarization, this 29th day of April, 2021, by Scott T. Boyd as Manager of Boyd  
Horizon West, LLC, a Florida limited liability company, Managing Member of SLF IV/Boyd  
Horizon West JV, LLC, a Delaware limited liability company, who is known by me to be the  
person described herein and who executed the foregoing, this 29th day of April, 2021.  
He is personally known to me or has produced \_\_\_\_\_ as identification and  
did/did not take an oath.



[Signature]  
Notary Public  
Print Name: Penny Nunes  
My Commission Expires: \_\_\_\_\_