




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 

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

SUBJECT: May 18, 2021 — Consent Item
Second Amendment to Adequate Public Facilities Agreement
for Hamlin West PD/UNP
Case # APF-20-02-043
(Related to Case # CDR-20-10-297)

The Hamlin West PD/UNP was originally approved September 15, 2015 with a development program consisting of non-residential uses. The PD is currently approved for a development program of 750 dwelling units, 689,432 square feet of non-residential uses, and 54 hotel rooms. The Hamlin West PD is generally located north and south of New Independence Parkway, East of Avalon Road, and west of State Road 429.

The PD and existing Adequate Public Facilities (APF) agreement currently provide 11.24 acres of APF lands to satisfy the required 21.79 required APF acreage, creating a 10.55-acre APF deficiency.

The applicant is proposing the Second Amendment to Adequate Public Facilities Agreement for Hamlin West PD ("Second Amendment") to amend the APF agreement to reflect the correct required APF acreage and show satisfaction of the remaining APF deficit via an APF credit transfer of 10.55 acres of APF credits from the Hamlin PD, therefore satisfying the required APF acreage. The transfer and satisfaction of the required APF acreage has been reflected on the Hamlin West PD/UNP as part of CDR-20-10-297, which received a recommendation of approval from the Development Review Committee on April 28, 2021, subject to conditions and approval of the Second Amendment.

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(Case #APF-21-02-043) (Related to Case # CDR-20-10-297)

The Second 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 Second Amendment will be recorded in the Public Records of Orange County.

ACTION REQUESTED: Approval and execution of Second Amendment to Adequate Public Facilities Agreement for Hamlin West PD/UNP by and between Hamlin Retail Partners West, LLC and Orange County to accept transfer of 10.55 acres of APF credits from the Hamlin PD. District 1

JWW/EPR/nsw
Attachments

This instrument prepared by and after
recording return to:

James G. Willard, Esq.
Shutts & Bowen LLP
300 S. Orange Avenue, Suite 1000
Orlando, Florida 32801

**SECOND AMENDMENT TO
ADEQUATE PUBLIC FACILITIES AGREEMENT
FOR HAMLIN WEST PD/UNP**

THIS SECOND AMENDMENT TO ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HAMLIN WEST PD/UNP (the “**Second Amendment**”), is effective as of the latest date of execution (the “**Effective Date**”), and is made and entered into by and between Hamlin Retail Partners West, LLC, 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 address is P.O. Box 1393, Orlando, Florida 32802-1393 (“**County**”).

RECITALS:

A. Owner and County are parties to that certain Adequate Public Facilities Agreement for Hamlin West PD/UNP approved by the Orange County Board of County Commissioners on September 15, 2015, and recorded at O.R. Book 10988, Page 8089, Public Records of Orange County, Florida, as amended by that certain First Amendment recorded July 26, 2016 at Doc# 20160385936, Public Records of Orange County, Florida (such amended agreement being hereinafter collectively referred to as the “**Original APF Agreement**”).

B. The parties desire to further amend the Original APF Agreement to reflect the updated and increased APF Deficiency of 10.55 acres and the satisfaction of the same by transfer and assignment of 10.55 APF Credits from the Hamlin PD/UNP.

NOW THEREFORE, for and in consideration of the above premises, the parties hereby agree as follows:

AGREEMENT

1. **Recitals; Defined Terms.** The foregoing recitals are true and correct and are incorporated herein by reference. Capitalized terms used in this Second 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. **Increase in APF Deficiency.** Due to an increase in the net developable acres within the Hamlin West PD/UNP resulting from a decrease in the estimated stormwater management area, the APF Deficiency for the Hamlin West PD/UNP has increased from 10.35 acres to 10.55 acres.

3. Satisfaction of APF Deficiency. The parties acknowledge and agree that an affiliate of Owner, SLF IV/Boyd Horizon West JV, LLC, a Delaware limited liability company has simultaneously herewith transferred and assigned to Owner 10.55 APF Credits from the Hamlin PD/UNP, such Credits to be used and applied for the sole purpose of satisfying in full the current APF Deficiency for the Hamlin West PD/UNP. County hereby acknowledges such assignment of APF Credits and satisfaction in full of the Hamlin West PD/UNP APF Deficiency.

4. Ratification. Other than as modified by the terms of this Second Amendment, the Original APF Agreement shall remain unchanged and in full force and effect.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings,
Orange County Mayor

Date: _____

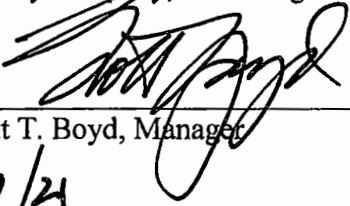
ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Printed Name: _____

HAMLIN RETAIL PARTNERS WEST, LLC

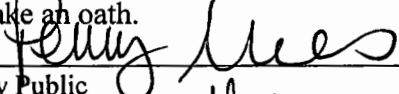
By: BK Hamlin Retail Partners West, LLC, a Florida
limited liability company, its Manager

By: 
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 BK Hamlin
Retail Partners West, LLC, a Florida limited liability company, Manager of Hamlin Retail
Partners West, LLC, 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.


Notary Public
Print Name: Penny Nunes
My Commission Expires: _____

