




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
First Amendment to Adequate Public Facilities Agreement
for Hamlin Southwest PD/UNP
Case # APF-20-02-044
(Related to Case # CDR-20-10-297)

The Hamlin Southwest PD/UNP was originally approved August 7, 2018 with a development program consisting of residential uses. The PD is currently approved for a development program consisting of 152 dwelling units and 154,817 square feet of non-residential uses. The Hamlin Southwest PD is generally located north of Porter Road, East of Avalon Road, and west of State Road 429.

The PD and existing Adequate Public Facilities (APF) agreement currently provides 1.20 acres of APF lands to satisfy the 11.05 required APF acreage, creating a 9.87-acre APF deficiency.

The applicant is proposing the First Amendment to Adequate Public Facilities Agreement for Hamlin Southwest PD ("First Amendment") to amend the APF Agreement to update the required APF acreage; update the APF provided acreage; and reflect the transfer of 9.87 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 Southwest PD/UNP as part of CDR-20-02-034, which was approved by the Development Review Committee as a non-substantial change on April 28, 2021, subject to approval of the First Amendment.

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 Southwest PD/UNP by and between SLF IV/Boyd Horizon West JV, LLC, Hamlin Retail Partners West, LLC, and Orange County to accept transfer of 9.87 acres of APF credits from the Hamlin PD. 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 SOUTHWEST PD/UNP**

THIS FIRST AMENDMENT TO ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HAMLIN SOUTHWEST PD/UNP (the “**First Amendment**”), effective as of the latest date of execution (the “**Effective Date**”), is made and entered into 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 (“**SLF**”), **Hamlin Retail Partners West, LLC**, a Florida limited liability company, whose address is 14422 Shoreside Way, Suite 130, Winter Garden, Florida 34787 (“**Hamlin West**”), both SLF and Hamlin West hereinafter jointly referred to as “**Owners**”, 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. Owners and County are parties to that certain Adequate Public Facilities Agreement for Hamlin Southwest PD/UNP approved by the Orange County Board of County Commissioners on August 7, 2018 and recorded at Doc# 20180482219, Public Records of Orange County, Florida (the “**Original APF Agreement**”).

B. The remaining party to the Original APF Agreement, West Orange/Avalon Road Land, LLC, a Delaware limited liability company, was a wholly owned subsidiary of SLF, has been voluntarily dissolved as a legal entity and all assets and other entitlements of such company are now solely owned by SLF.

C. The parties desire to amend the Original APF Agreement to reflect the current, updated APF Deficiency and to recognize the satisfaction of said deficiency through the application of APF Credits transferred from the Hamlin PD/UNP.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants and agreements set forth herein, 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 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. Amendment to Section 3, "APF Deficiency". Due to a reduction in the net developable acres in the Hamlin Southwest PD/UNP resulting from the increase in the estimated stormwater management area, the parties acknowledge the APF Deficiency for the PD Property has been reduced from 10.9 acres to 9.87 acres (the "APF Deficiency").

3. Satisfaction of APF Deficiency. Owners hereby acknowledge that 9.87 acres of surplus APF land has been transferred from the Hamlin PD/UNP to the Hamlin Southwest PD/UNP for the purpose of satisfying in full the current Hamlin Southwest PD/UNP APF Deficiency. County hereby acknowledges such transfer and assignment and the resulting satisfaction of the APF Deficiency for Hamlin Southwest PD/UNP.

4. Ratification of Original APF Agreement. Other than as modified pursuant to the terms of this First 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 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: _____

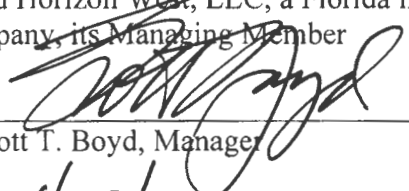
ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Print: _____

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

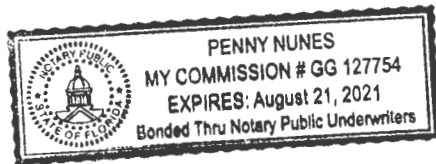
By: Boyd Horizon West, LLC, a Florida limited liability
company, its Managing Member

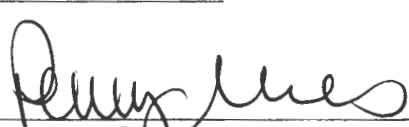
By: 
Scott T. Boyd, Manager

Date: 4/29/21

STATE OF FLORIDA
COUNTY OF ORANGE

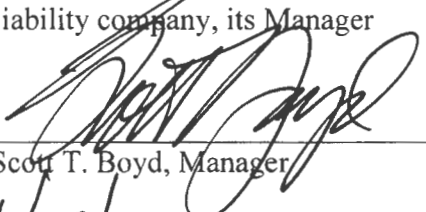
The foregoing instrument was acknowledged before me by means of physical presence or
 online notarization, this 29th day of April, 2021, by Scott T. Boyd as Manager of Boyd
Horizon West, LLC, a Florida limited liability company, Managing Member of SLF IV/Boyd
Horizon West JV, LLC, a Delaware limited 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.




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

HAMLIN RETAIL PARTNERS WEST, LLC

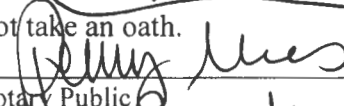
By: BK Hamlin Retail Partners West, LLC, a Florida
limited liability company, its Manager

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: _____

