



Interoffice Memorandum

April 13, 2023

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



FROM: Timothy L. Boldig, Interim Director
Planning, Environmental, and Development
Services Department

**CONTACT PERSON: Joe Kunkel, P.E., DRC Chairman
Development Review Committee
Public Works Department
(407) 836-7971**

SUBJECT: May 2, 2023 – Consent Item
Third Amendment to Adequate Public Facilities Agreement
for Hamlin West PD / UNP
Case # APF-22-11-336 **(Related to LUPA-21-11-335)**

The Hamlin West PD was originally approved September 15, 2015 with a development program consisting of residential and non-residential uses. Today, the PD is approved for a development program of 695 dwelling units, 689,432 square feet of non-residential uses, and 54 hotel rooms.

The PD and existing Adequate Public Facilities (APF) agreements provide 21.79 acres of APF acreage credits to satisfy the APF requirement. Through LUPA-21-11-335, the applicant is proposing to increase the developable acreage of the PD, creating a new 6.76-acre APF deficit. The transfer and satisfaction of the required APF acreage has been reflected on the Hamlin West PD/UNP as part of LUPA-21-11-335, which was recommended for approval by the Development Review Committee on November 16, 2022, subject to approval of the Third Amendment.

The Third Amendment received a recommendation of approval from the Development Review Committee on January 11, 2023. Upon approval by the Board, the Third Amendment will be recorded in the Public Records of Orange County.

ACTION REQUESTED: Approval and execution of Third Amendment to Adequate Public Facilities Agreement for Hamlin West PD/UNP by and between Hamlin Retail Partners West, LLC, and Orange County. District 1

TLB/nt

Attachment

This instrument prepared by and after
recording return to:

BCC Mtg. Date: May 02, 2023

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

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

THIS THIRD AMENDMENT TO ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HAMLIN WEST PD/UNP (the “**Third 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**, a Florida 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 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, and that certain Second Amendment recorded June 18, 2021 at Doc# 20210364176, Public Records of Orange County, Florida (such amended agreement being hereinafter collectively referred to as the “**APF Agreement**”).

B. Owner is currently processing an amendment to the land use plan for Hamlin West PD/UNP (LUPA-21-11-335), and in connection with processing the land use plan amendment, the parties have determined that the Hamlin West PD/UNP now has a deficiency of 6.76 acres.

C. Owner desires to further amend the APF Agreement to reflect the updated and increased APF Deficiency of 6.76 acres and to recognize the satisfaction of said deficiency through the application of APF acreage credits transferred from the Silverleaf PD/UNP to the Hamlin West PD/UNP, through the execution of the Assignment of Adequate Public Facilities Acreage Credits for Hamlin West PD/UNP between Hamlin Partners at Silverleaf, LLC, and Owner, dated April 10, 2023.

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 Third Amendment not otherwise defined herein shall have the meanings ascribed to them in the APF Agreement, which Agreement is incorporated herein by reference.

2. APF Deficiency. Section 3 of the APF Agreement is hereby amended and restated in its entirety to read as follows:

3. APF Deficiency. The Parties acknowledge an APF Deficiency for the PD Property of 6.76 acres.

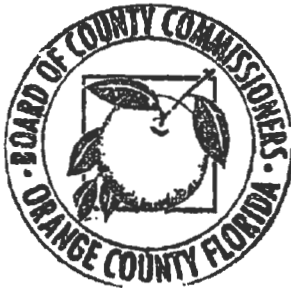
3. Satisfaction of APF Deficiency. Section 4 of the APF Agreement is hereby amended and restated in its entirety to read as follows:

4. Satisfaction of APF Deficiency. The parties agree that the execution of the Assignment of Adequate Public Facilities Acreage Credits for Hamlin West PD/UNP between Hamlin Partners at Silverleaf, LLC, and Owner dated April 10, 2023, is acceptable to transfer 6.76 APF Acreage Credits from the Silverleaf PD/UNP to the Hamlin West PD/UNP. Such transfer shall serve to satisfy the APF Deficiency in the Hamlin West PD/UNP of 6.76 acres.

4. Ratification. Other than as modified by the terms of this Third Amendment, the 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 Third 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*
for Jerry L. Demings,
Orange County Mayor

Date: May 02, 2023

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

By: *Jennifer Lara-Klimetz*
Deputy Clerk

Printed Name: Jennifer Lara-Klimetz

HAMLIN RETAIL PARTNERS WEST, LLC, a Florida
limited liability company

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

By: _____

Scott T. Boyd, Manager

Date: _____

4/10/23

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of [☒] physical presence
or [☐] online notarization, this 10th day of April, 2023, 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, , a Florida limited liability company, who is known by me to be the person
described herein and who executed the foregoing, this 10th day of April, 2023. He is personally
known to me or has produced _____ as identification and did/did not take an oath.



Notary Public

Print Name: _____

My Commission Expires: _____

Penny Nunes
Penny Nunes
8/21/25