

Agenda Memorandum

To: Honorable Mayor and City Council Members
From: Bryan Cobb, City Manager
Date: May 3, 2021
Subject: **Resolution No. 4065-21**, Duke Energy Partial Release of Easement and Amendment and Restatement of Easement

Procedure: Consent Agenda

Introduction: This is a request for City Council to approve a Partial Release of Easement and Amendment and Restatement of Easement in favor of Duke Energy.

Discussion: The Regional Stormwater Pond constructed as part of Solary Park was initially a City maintained stormwater pond located between Franklin Street and Geneva Drive (Franklin Street pond); bounded on the west by Sweetwater Creek. When FDOT constructed the SR426/CR419 Phase 1 widening project in 2016, the existing Franklin Street pond was expanded to accept FDOT drainage flows from SR434 and encumbered with a drainage easement to FDOT. With the construction of Solary Park, the existing Franklin Street stormwater pond was further expanded to the west and Sweetwater Creek was relocated along the expanded pond's western perimeter. Due to the further pond expansion, FDOT requested an additional drainage easement over the expanded pond area since the drainage from SR434 would now be conveyed into the entire expanded pond. The additional easement was conveyed to FDOT in July 6, 2020 with the adoption of Resolution No. 3927-20.

Within the expanded FDOT easement area was an existing Duke Energy easement granted by Nelson & Company in 1987. Nelson & Company was the previous property owner. The Duke Energy easement area encompassed the previous Nelson & Company owned parcels conveyed to the City on May 5, 2014, with the adoption of Resolution 2841-14. FDOT requires a subordination of the Duke Energy easement by an agreement between the two entities whenever Duke Energy has existing rights over a parcel which conveys a donation to FDOT. In this case the City donating a drainage easement to FDOT.

As the current fee simple owner of the property identified by the Seminole County Property Appraiser as Parcel ID 10-21-31-505-0B00-0030, it is necessary for the City to amend and restate the original easement in order to amend the boundaries of the easement area to enable Duke Energy to continue to operate electric facilities within the encumbered property.

The sketch and legal description which identifies the amended easement area of approximately 2,058 square feet are included with the Partial Release of Easement and Amendment and Restate of Easement document provided in Exhibit 1 of Resolution No. 4065-21. This action is associated with the City's Solary Park project. Staff reviewed the document found no negative impacts to the City by executing the document.

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Budget Impact: There are no impacts to the budget by approving the Easement.

Strategic Impact: Ensures that the infrastructure meets the capacity needs of the City and enables the City to develop quality/smart growth.

Recommendation: It is recommended that City Council adopt Resolution No. 4065-21.

Attachment(s): None

Prepared by: Susan Sheikh, Operational Resources Manager