

## **MEMORANDUM**

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September 19, 2014

**TO:** Honorable Mayor and City Commissioners

**VIA:** Kenneth Fields, City Manager

**FROM:** Teresa Allen, Public/Support Services Administrator

**SUBJECT:** Duke Energy Distribution Easement

**SYNOPSIS:** The City Commission will consider granting Duke Energy Florida, Inc. a 10 foot easement for the City property located at 1000 North Lakeshore Boulevard.

### **RECOMMENDATION**

Staff recommends that the City Commission take the following actions:

1. Grant Duke Energy Florida, Inc. a 10-foot distribution easement for the City property located at 1000 North Lakeshore Boulevard (Kiwanis Park).

### **BACKGROUND**

In July 2014, the City Commission approved the contract with Cobb Site Development, Inc. for improvements to Lake Wailes Park including the repair/resurfacing of 2.5 miles of the pedestrian bike path. As part of the project a light pole has to be re-located.

Duke Energy Florida, Inc. informed the City that in order to move forward with the re-location of the light pole, they are requiring a 10-foot distribution easement.

### **FISCAL IMPACT**

None

### **OTHER OPTIONS**

None

### **ATTACHMENTS**

Easement document

Polk County, Florida  
STR: 01-30S-27E  
Work Request #: 802143  
Address: KWIANIS PARK  
LAKE WALES 33853

### EASEMENT

THIS EASEMENT ("**Easement**") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014 ("**Effective Date**"), from City of Lake Wales ("**GRANTOR**," whether one or more) to **DUKE ENERGY FLORIDA, INC., d/b/a DUKE ENERGY**, a Florida corporation and its successors, lessees, licensees, transferees, permittees, apportionees, and assigns ("**GRANTEE**");

### WITNESSETH:

THAT **GRANTOR**, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto **GRANTEE**, the perpetual right, privilege, and easement to install, operate and maintain in perpetuity, such Facilities as may be necessary or desirable for providing electric energy and for communication purposes over, under, upon, across, through and within the following described lands in Polk County, Florida, and referred to hereinafter as the Easement Area to wit:

A 10.00 foot wide Easement Area lying 5.00 feet on each side of **GRANTEE's** facilities to be installed at mutually agreeable locations over, under, across and through the following described property to accommodate present and future development:

**Lot N, Block 111, LAKE WALES RESUB, as recorded in Plat Book 4, Page 25, of the Public Records of Polk County, Florida.**

**Tax Parcel Number: 01-30-27-891500-111010**

The rights herein granted to **GRANTEE** by **GRANTOR** specifically include the right: (a) for **GRANTEE** to patrol, inspect, alter, improve, add to, repair, rebuild, relocate, and remove said facilities; (b) for **GRANTEE** to increase or decrease the voltage and to change the quantity and type of facilities; (c) ingress and egress over the Easement Area and over portions of **GRANTOR's** adjoining property for the purpose of exercising the rights herein granted; (d) to trim, cut or remove from the Easement Area, at any time, trees, limbs, undergrowth, structures or other obstructions; (e) to trim, cut or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of **GRANTEE**, might interfere with or fall upon the Facilities; (f) to allow third parties to attach equipment to the Facilities including but not limited to wires, cables and other apparatus; (g) and all other rights and privileges reasonably necessary or convenient for **GRANTEE's** safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement for the purposes described herein.

**GRANTOR** shall have the right to use the Easement Area in any manner that is consistent with the rights granted to **GRANTEE** herein; provided however, without the prior written consent of **GRANTEE**, **GRANTOR** shall not (a) place, or permit the placement of, any obstructions within the Easement Area including but not limited to, any building, house, or other above-ground or underground structure, or portion thereof; (b) excavate or place, or permit the excavation or placement of any dirt or other material upon or below the Easement Area; or (c) cause, by excavation or placement of material, either on or off the Easement Area, a pond, lake, or similar containment vehicle that would result in the retention of water in any manner within the Easement Area. **GRANTEE** shall have the right

to remove any such obstruction(s) at **GRANTOR's** expense. Excluding removal of vegetation and obstructions as provided herein, any physical damage to the surface of the Easement Area and/or **GRANTOR's** adjoining property caused by **GRANTEE** or its contractors shall be repaired to a condition reasonably close to the previous condition. The rights and easement herein granted are exclusive as to entities engaged in the provision of electric energy service and **GRANTOR** reserves the right to grant rights to others affecting said Easement Area provided that such rights do not create an unsafe condition or conflict with the rights granted to **GRANTEE** herein.

**GRANTOR** hereby warrants and covenants (a) that **GRANTOR** is the owner of the fee simple title to the premises in which the above described Easement Area is located, (b) that **GRANTOR** has full right and lawful authority to grant and convey this easement to **GRANTEE**, and (c) that **GRANTEE** shall have quiet and peaceful possession, use and enjoyment of this easement. All covenants, terms, provisions and conditions herein contained shall inure and extend to and be obligatory upon the heirs, successors, lessees and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Easement has been executed by Grantor on this \_\_\_\_\_ day of \_\_\_\_\_, 2014, and is effective as of the Effective Date herein.

**GRANTOR:**

CITY OF LAKE WALES

Name of Corporation

**ATTEST:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

**SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:**

**Grantor(s) mailing address:**

\_\_\_\_\_  
Signature of First Witness

P.O. Box 1320

Lake Wales, Florida 33859-1320

\_\_\_\_\_  
Print or Type Name of First Witness

\_\_\_\_\_  
Signature of Second Witness

\_\_\_\_\_  
Print or Type Name of Second Witness

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

The foregoing Easement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ and \_\_\_\_\_, its President and its Secretary, respectively of \_\_\_\_\_, a \_\_\_\_\_ (State) Corporation, on behalf of the Corporation who is/are personally known to me or who has/have produced \_\_\_\_\_ as identification.

CORPORATE SEAL

NOTARY SEAL

\_\_\_\_\_  
Name:  
Notary Public  
Serial Number:  
My Commission Expires: