

**INDIAN RIVER COUNTY, FLORIDA  
MEMORANDUM**

**TO:** Jason E. Brown, County Administrator

**FROM:** Richard B. Szpyrka, P.E., Public Works Director

**SUBJECT:** Approval of the First Amendment to the Developers Agreement Between Indian River County and Florida Power & Light

**DATE:** November 23, 2021

**DESCRIPTION AND CONDITIONS**

On November 10, 2020 the Indian River County Board of County Commissioners approved a Developers Agreement between the County and Florida Power & Light (FPL) for the County to participate in funding off-site improvements on 98<sup>th</sup> Avenue south of State Road 60. The Developers Agreement include the following off-site improvements:

- 20' Right-of-Way Dedication for 16th Street without compensation for Phase 1.
- 60' Right-of-Way Dedication for 98th Avenue without compensation for Phase 1.
- Construction of 16th Street from the first driveway connection to 98th Avenue is to include the westbound left turn lanes for both entrances and an eastbound left turn lane at 98th Avenue, prior to issuance of a certificate of occupancy (C.O.) for Phase 1. Construction of the remainder of 16th Street from the west property line to the first driveway connection to the site is to occur prior to issuance of a C.O. for Phase 2.
- Reconstruction of 98th Avenue from the southern property line to SR 60 is to include 12-foot travel lanes, and five (5)-foot bike lanes and a southbound right turn lane on 98th Avenue at 16th Street, prior to issuance of a C.O. for Phase 2.
- 16th Street Sidewalk: A 5' wide sidewalk is to be constructed with associated ROW improvements as shown on the project's site plan. The final design of the 16th Street sidewalk will be reviewed and approved by the Public Works Department via the County right-of-way permitting process, and must be constructed prior to the issuance of a C.O. for Phase 2.
- 98th Avenue Sidewalk: A 5' wide sidewalk is required along the site's entire 98th Avenue frontage. The final design of the 98th Avenue sidewalk will be reviewed and approved by the Public Works Department via the County right-of-way permitting process, and must be constructed prior to the issuance of a C.O. for Phase 2.
- Streetlighting: Streetlights are required and will be maintained by FPL. The proposed streetlight locations and details are depicted on the project's site plan, and those streetlighting improvements must be installed, prior to the issuance of a C.O. for each respective phase.

As part of the original Developers Agreement FPL constructed roadway improvements at a cost of \$1,683,369.62 and as part of the agreement the County will reimburse FPL for the design, engineering and construction of improvements that would have been performed by the County in the near future. The improvements included the addition of 5-foot paved shoulders, drainage improvements, and asphalt paving on the roadway section north of the project's north property line. The cost of the County's portion of the said improvements was not to exceed \$378,689.52.

During the project, unforeseen conditions arose during the construction process on 98<sup>th</sup> Avenue that necessitated addressing conditions which were not the responsibility of the Developer. If the County had undertaken the original improvements specified above, the County would have been responsible for the cost of addressing these unforeseen conditions in the amount of \$54,501.10. FPL is requesting reimbursement of \$54,501.10 for the unforeseen conditions encountered during construction as outlined in the attached First Amendment to the Developers Agreement.

**FUNDING.**

Funding is available in Optional Sales Tax/FPL Indian River Service Center Road Improvements, Account # 31521441-066510-21001 in the amount of \$54,501.10.

**RECOMMENDATION.**

Staff recommends that the Indian River County Board of County Commissioners approve the First Amendment to the Developer's Agreement with FPL, approve additional funding in the amount of \$54,501.10 for additional improvements, and authorize the Chairman to execute the Agreement.

Attachment: First Amendment to Developer's Agreement  
Exhibit A  
Exhibit B

Richard B. Szyrka, P.E., Public Works Director  
Jon Rosenthal, Manager – Construction, FPL via email [Jon.Rosenthal@fpl.com](mailto:Jon.Rosenthal@fpl.com)

**APPROVED AGENDA ITEM FOR: December 7, 2021**