



Office of

Consent Agenda 01/09/2024

INDIAN RIVER COUNTY ATTORNEY

William K. DeBaal, County Attorney
Susan J. Prado, Deputy County Attorney
K. Keith Jackman, Assistant County Attorney

MEMORANDUM

TO: Indian River County Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: William K. DeBaal, County Attorney

DATE: December 27, 2023

SUBJECT: Fence Encroachment Agreement with Florida Power and Light

Florida Power and Light (FPL) owns a substation bordered by 27th Avenue to the west, 15th Street SW to the south and 26th Court SW to the east, located in the south part of the County in the Oslo Park subdivision. An aerial photo of the site is attached to this memorandum. The substation is surrounded by an 8-foot high chain link fence topped with barbed wire. This type of fencing is required to be installed around substations. Recent surveying done in the area shows that FPL's fence encroaches approximately 4 feet into the County's right-of-way along 26th Court SW. In its current state, 26th Court SW is a two-lane unimproved dirt road with 60 feet of right-of-way. After discovering the encroachment, staff met with FPL representatives about resolving the encroachment. After researching the issue, FPL determined that moving the fence out of the County right-of-way and on to FPL property would cause the fence to be too close to several pieces of fixed equipment inside the fence. The fixed equipment would then be nonconforming with the applicable codes for electrical substations. FPL estimated that the cost of moving the fence would not be significant but the cost of moving the equipment could exceed \$1,000,000.

Rather than move the fence and the equipment, the parties agreed to enter into Fence Encroachment Agreement (Agreement) whereby the County would allow the existing fence encroachment to remain on County right-of-way until such time as the property is needed for construction of 26th Court SW. If the cost of constructing 26th Court SW is increased by the fence encroachment, FPL has agreed to pay for any additional right-of-way acquisition and/or construction costs brought about by the encroachment.

Funding: there is no impact to County funding from this Agreement.

Recommendation: Staff recommends the Board approve the Fence Encroachment Agreement and authorize the Chairman to sign the Agreement on behalf of the Board.

Attachments: Aerial Photo
Fence Encroachment and Relocation Agreement

Copies to: Rachel Falcone, FPL Contract Siting Project Manager, Rachel.Falcone@FPL.com
Kirstin Leiendecker, Assistant Public Works Director
Chris Mora, Acting County Engineer