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OFFICE OF COMPTROLLER

INTEROFFICE MEMO

ORANGE
COUNTY
FLORIDA

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Finance and Accounting Department
Special Assessments
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Date: March 16, 2023
To: Keith Nowlin, Assistant Comptroller
Through: Cheryl Gillespie, Agenda Development
From: Eric Gassman, Chief Deputy Comptroller
Contact: Ann Dawkins, 407-836-5770
Subject: Request Number **M23-029** for an MSBU for **University Estates Units 1 and 2**

Applicant: RJ Mueller
Property Owner

Type of Hearing: To amend a Municipal Service Benefit Unit (MSBU) for streetlighting.

Hearing Required by F. S. # Florida Statute Sections 125.01 (01) (q) and 197.3632. This public hearing may be scheduled any time prior to May 31, 2023. **The resolution must be approved by May 31, 2023 to be included on the November 2023 real estate tax bill.**

Advertising Requirements / Timeframe: **Publish only one (1) time and must be published at least twenty (20) days prior to the public hearing with the tentative advertisement date as Sunday, April 9, 2023.**

Notify Abutters: Special Assessments will mail public hearing notices to all of the affected property owners.

Estimated Time Required: One (1) minute

District: Commissioner Bonilla, District 5

Hearing Controversial: No.

Legislative file 23-540

May 2, 2023 @ 2 p.m.

Report: The property owners have requested the amendment of the streetlighting MSBU for University Estates Units 1 and 2 subdivision. Three hundred seventy-one (371) ballots were mailed to property owners to determine majority opinion. Approximately 71% of the ballots returned were in favor of the amendment of the MSBU. The ballot results are as follows:

<u>In favor of the MSBU</u>	130
<u>Not in favor of the MSBU</u>	53
Returned <u>undeliverable</u>	5
Received after deadline	2
No ballots submitted	<u>181</u>
Total ballots distributed	371

The estimated cost for the amending MSBU is **\$197.38** per lot, per year. The amending MSBU would be effective **November 1, 2023**.

Materials being submitted as backup for public hearing request:

1. Resolution – one (1) copy of the proposed resolution for streetlighting.

ADDITIONAL SPECIAL INSTRUCTIONS TO CLERK:

1. Notify Special Assessments Section / Finance and Accounting Department of public hearing date to prepare public hearing notice. Special Assessments will e-mail the public hearing memo to the Clerk.
2. **Send the original adopted resolution to the Special Assessments Section / Finance and Accounting Department.**
3. Send one (1) certified copy of the adopted resolution(s) to the Special Assessments Section / Finance and Accounting Department.
4. Send one (1) tearsheet, one (1) proof of publication, and one (1) DR-413 of the public advertisement to the Special Assessments Section / Finance and Accounting Department.

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
AMENDING AND RESTATING A
MUNICIPAL SERVICE BENEFIT UNIT
FOR STREETLIGHTING
FOR

University Estates Units 1 and 2
11/2023

WHEREAS, Section 125.01 (1) (q), Florida Statutes, grants Orange County, Florida ("County") the power to establish Municipal Service Benefit Units ("MSBU") for any part of the unincorporated area of the County, and

WHEREAS, Section 197.3632, Florida Statutes, authorizes the levy, collection, and enforcement of non-ad valorem assessments in the same manner as ad valorem taxes; and

WHEREAS, the Board of County Commissioners of Orange County ("Board") is the governing board of the County; and

WHEREAS, by the Resolution dated **December 31, 1990** the Board established the **University Estates Phase One and Two** Municipal Service Benefit Unit ("MSBU") for streetlighting ("Resolution"), said Resolution being recorded in Official Records as Document Instrument Number **19913695116**, Book **4254**, Pages **1562 through 1566**, Public Records of Orange County, Florida; and

WHEREAS, the County has now received a request, in writing, from property owners to amend said Resolution to combine and include the subdivisions which are more fully described below in that portion of the unincorporated area of Orange County and to upgrade the existing streetlighting inventory from 233 – 100 watt ocala black fixtures and 233 – 20 foot decorative fiberglass poles to 233 – 50 watt LED (light emitting diode) open monticello 3K type III fixtures and 233 – 16 foot aluminum tenon black poles; and

WHEREAS, this Board has determined that the amendment and restatement of the existing MSBU, the purpose of which is to combine and include the subdivisions which are more fully described below and to upgrade the existing streetlighting inventory as requested by the property owners, together with the other information pertaining to the operation of the proposed MSBU submitted therewith, to be feasible, necessary to facilitate the services desired and in the public interest, and that the properties will be benefited, now and in the future, and that the existing MSBU should be amended and restated to combine said subdivisions and to update the existing streetlighting inventory; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

1. The foregoing "WHEREAS" clauses are presumed to be true and correct and are hereby incorporated into the text of the resolution.

2. The **University Estates Phase One and Two** Resolution for streetlighting which is recorded in Official Records as Document Instrument Number **19913695116**, Book **4254**, Pages **1562 through 1566**, Public Records of Orange County, Florida, is hereby amended as the **University Estates Units**

RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS

1 and 2 11/2023 MSBU, subject to final adjustment and approval as provided for in Section 197.3632, Florida Statutes. This MSBU is to combine and include said subdivisions, the boundaries of which appear on the recorded plats of **University Estates Unit 1, Plat Book 24, Pages 135 through 141, Lots 1 through 260, Section 01, Township 22, Range 31, and University Estates Unit 2, Plat Book 26, Pages 30 through 32, Section 01, Township 22, Range 31, Lots 261 through 374**, subdivisions, Public Records of Orange County, Florida and to upgrade the streetlighting inventory which is more fully described below. The purpose of such MSBU is to provide for collection and disbursement by the County of such funds as may be necessary to pay the annual expense of standard operation and maintenance of streetlighting equipment within the MSBU, including energy charges, streetlighting fixtures, poles, wires, conduits, and all appurtenances necessary for such streetlighting, electrical services and current used in their operation, and for payment of administrative costs and appropriate reserves for cash balance. It is the understanding of the County that **Duke Energy Florida, Inc.** is to construct, or has constructed in accordance with standards approved by the Orange County Public Works Department, all necessary streetlighting equipment at no expense to the County, prior to or during construction of those portions of University Estates Units 1 and 2 subdivisions and that Duke Energy Florida, Inc. will assume standard maintenance and operation of such equipment, subsequent to such construction, including computation of the annual and monthly charges for such standard maintenance and operation. Such equipment is to include **233 – 50 watt LED (light emitting diode) open monticello 3K type III fixtures at \$20.16 per fixture, per month, with 233 - 16 foot aluminum tenon black poles at \$3.99 per pole, per month**, for a yearly rate of **\$69,226.12**, which includes energy costs and excludes the cost of administering the district as set out below, or at a rate or rates as may be set by the properly constituted legal authorities who control, govern and set the rates for Duke Energy Florida, Inc. for the services described herein. It is further understood by the County that Duke Energy Florida, Inc. may construct such streetlighting equipment only in those portions of the MSBU as may be necessary concurrent with the development of University Estates Units 1 and 2 subdivisions and that the streetlighting district created herein will be operated only in such portions of the MSBU until such construction is completed in other portions of the MSBU; provided that if such construction is only to be in portions of such MSBU, a complete legal description of the portion or portions developed be filed with the Clerk of the Board. After presentation and approval by the Board, it is understood and agreed between the County and the Developer that (if applicable) as University Estates Units 1 and 2 subdivisions expands the additional Additions, Phases, Sections, Units and/or etc., as the case may be permitted to join into this Resolution under the same terms and conditions as represented herein, by presenting an appropriate amendatory resolution to the Board for consideration. **It is further understood that the revised contract between the County and Duke Energy Florida, Inc. for University Estates Units 1 and 2 subdivisions will not be effective until November 1, 2023.** It is further understood that only **233 – 50 watt LED (light emitting diode) open monticello 3K type III fixtures at \$20.16 per fixture, per month, with 233 - 16 foot aluminum tenon black poles at \$3.99 per pole, per month**, are approved for this MSBU.

3. Upon completion of construction of such streetlighting equipment and the placement of such equipment into operation, the Board shall determine the estimated non-ad valorem assessment amount required to pay the standard expense of maintaining and operating the streetlighting equipment in the MSBU. This non-ad valorem assessment is levied for the first time as of **November 1, 2023** and will be levied each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the assessment by twenty percent (20%) each and every year thereafter to any affected property based on the benefit, which the Board will provide or has provided to the property with the revenue generated by the assessment. The property owners within University Estates Units 1 and 2 subdivisions shall pay any cost exceeding standard operating and maintenance expense as determined by the Board. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad valorem assessments. One and one half dollars (\$1.50) for each lot

or parcel of land shall be added by the Board to cover the costs of administering the MSBU and the total amount so determined shall be specially assessed against the real property of the freeholders in the MSBU as provided hereafter. Additional amounts will be added to provide for reimbursement of necessary administrative costs incurred by the Property Appraiser and Tax Collector for the collection of non-ad valorem assessments subject to the provision of Section 197.3632, Florida Statutes, and for the establishment and maintenance of a reserve for cash balance for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenue for that year are expected to be available. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming. The County may spend from its general fund, such sums as may be necessary to operate, maintain, and administer the MSBU hereby created and the County will be reimbursed to such extent at such time as such assessments have been collected. The estimated annual cost of operating, maintaining, and administering such streetlighting equipment, including the establishment and maintenance of an appropriate reserve for cash balance, is **\$73,820.12** and the estimated annual charge to each individual freeholder is **\$197.38**. Proceeds of collection of such assessments as provided hereinafter put into a special revenue fund of the County to the credit of the MSBU, and are to be used only by the district as provided herein.

4. Upon completion of construction of such streetlighting equipment and the placement of such equipment into operation, and for each and every year thereafter, a non-ad valorem special assessment roll setting forth a description of each lot or parcel of land subject to the non-ad valorem special assessments in the MSBU as provided herein, including homesteads, shall be prepared by the Property Appraiser and delivered to the Board, which shall levy a non-ad valorem special assessment upon such lots or parcels as may be owned by individual freeholders, according to the recorded plats of University Estates Unit 1, Plat Book 24, Pages 135 through 141, Lots 1 through 260, Section 01, Township 22, Range 31, and University Estates Unit 2, Plat Book 26, Pages 30 through 32, Section 01, Township 22, Range 31, Lots 261 through 374, such sums as shall be necessary to pay the estimated expense of the annual operation and maintenance of such streetlighting equipment and administration of the district and appropriate reserves for cash balance for paying expenses, provided that such sums shall be assessed against the real property of each individual freeholder on a pro rata basis, and not on an ad valorem basis, so that each freeholder shall, at all times, pay an equal amount towards such cost. After the adoption of the non-ad valorem special assessment by the Board, the Property Appraiser shall extend the assessment upon the non-ad valorem assessment roll, which roll shall be fully completed prior to the time said Board sits as the Board of Tax Adjustment, during which time such assessments may be protested, reviewed, equalized, and adjusted to conform to the provisions of Sections 197.3632 and 197.3635, Florida Statutes. After adjournment as the Board of Tax Adjustment, said Board shall certify the non-ad valorem special assessment roll in the same manner and at the same time as the County Tax Roll is certified and delivered to the Tax Collector, and the said non-ad valorem special assessments shall be collected in the same manner and shall have the same priority rights, discounts for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for non-payment, and be subject to the same delinquent interest and penalties, and be treated in all respects the same as County ad valorem taxes. Said non-ad valorem special assessments, when collected by the Tax Collector shall be remitted to the Board, who shall deposit the same in such depository as shall be designated by the Board who shall apply the same to monthly bills rendered by Duke Energy Florida, Inc., related administrative costs, and to the establishment and maintenance of an appropriate reserve for cash balance. From the proceeds of said non-ad valorem special assessments, the Board shall pay the costs for having a non-ad valorem special assessment roll made and extended. The Tax Collector's office shall receive all fees and costs of sale as provided by law for the collection of ad valorem taxes, advertising, sale of lands, and issuance and sale of certificates. The Uniform Method for the levy,

collection, and enforcement of non-ad valorem assessments, Section 197.3632, Florida Statutes, will be used.

5. The Board intends that non-ad valorem special assessments authorized by this resolution be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes. The Board authorizes utilization of this Uniform Method of collection for all affected parcels. The non-ad valorem special assessment will be listed on the assessment roll for all affected parcels and will be included in the notice of proposed property taxes and the tax notice for each affected parcel. These non-ad valorem special assessments will be subject to all collection provisions applicable to ad valorem taxes, including discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, issuance of and sale of tax certificates and tax deeds for non-payment, and commissions of the Property Appraiser and the Tax Collector as provided by Florida Law.

6. In the event of division or splitting of any of the tax parcels or lots assessed herein, any such newly subdivided or split parcels shall be included in the MSBU assessments.

7. Each property owner affected by this resolution has been provided first class mail notice of the potential for loss of his or her title when the Uniform Method of collection is used and that all affected property owners have a right to appear at the hearing and to file written objections with the Board. Each property owner affected by this resolution has been provided first class mail notice of the time and place of the public hearing at which this resolution was adopted. However, under Section 119.07, Florida Statutes, certain records may be noted as exempt and confidential. This public record exemption may cause certain property owners not to receive the above first class mail notice, however, a public hearing notice conforming to the provisions of Section 197.3632, Florida Statutes, has been published in a newspaper of general circulation within Orange County.

8. The Board of County Commissioners shall be the governing board of said Municipal Service Benefit Unit.

9. This resolution which amends and restates the resolution recorded in Official Records as Document Instrument Number 19913695116, Book 4254, Pages 1562 through 1566, is controlling and supersedes the resolution recorded in Official Records as Document Instrument Number 19913695116, Book 4254, Pages 1562 through 1566, Public Records of Orange County, Florida.

ADOPTED THIS _____ DAY OF _____, 2023

ORANGE COUNTY, FLORIDA

BY: _____
ORANGE COUNTY MAYOR

DATE: _____

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

BY: _____
DEPUTY CLERK