RESOLUTION NO. 2019-05

A RESOLUTION OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA; DELEGATING A LIMITED PORTION OF THE UTILITIES COMMISSION'S AUTHORITY TO ACCEPT CERTAIN EASEMENTS GRANTED BY THIRD PARTIES TO THE GENERAL MANAGER/CHIEF EXECUTIVE OFFICER AND DIRECTOR OF ENGINEERING; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS AND INTENT. The Utilities Commission, City of New Smyrna Beach, Florida (the "Commission") makes the following findings and declares the following legislative intent:

(1) The Commission was created and made a part of the government of the City of New Smyrna Beach by Section One of the Special Act, Chapter 67-1754, Laws of Florida, incorporated as Chapter 15 of the City of New Smyrna Beach Code of Ordinances, as amended by Chapter 85-503, Laws of Florida (hereafter the "Special Act").

(2) The Special Act provides the Commission with full and exclusive authority over the management, operation and control of all the City's utilities.

(3) The Commission is further empowered to exercise the right of eminent domain to appropriate property and to acquire all such lands, waters, and lands adjacent to waters, which the Commission judges may be necessary for the full and complete construction, maintenance and operation of any utility.

(4) The Commission recognizes the necessity to efficiently operate the city's utilities and manage its business affairs with minimum liability for its rate payers.

(5) The title to all property, real or personal, owned or acquired by the Utilities Commission as "part of the government of the City of New Smyrna Beach" is vested in and owned by the City as a whole.

(6) Section 82-2 of the Code of Ordinances, City of New Smyrna Beach, Florida (the "Code of Ordinances") states it is the policy of the City to vest power in the Utilities Commission in the following manner:

It is declared to be the public policy of the city that the utilities commission established by chapter 15 of the Charter shall be in complete charge of all utilities in accordance with the resolution of intent adopted by the city commission. It is the further declaration of policy that the utilities commission shall be separate from the
city commission of the city insofar as the laws of the state and the previous ordinances and covenants will allow and that the city commission shall cooperate to the fullest extent to guarantee the separation of the operation of the utilities from the politics of the city.

(7) All assets and liabilities of the City with respect to its utilities were transferred to the Utilities Commission, City of New Smyrna Beach, at the time the Special Act was ratified by the electorate of the City.

(8) The Commission has previously adopted Resolution No. 11-1980 to establish a system and procedures for the sale lease or disposition of property for the Commission.

(9) The Commission has previously adopted Resolution No. 17-1980 to clarify that all property it holds as "Utilities Commission, City of New Smyrna Beach, Florida" are held by the Commission by virtue of the Commission being an integral part of the City of New Smyrna Beach and does in fact vest in the City of New Smyrna Beach.

(10) To expedite the approval of certain easements related to plats, the Commission has determined to conditionally delegate its power of acceptance of certain easements proffered by developing owners.

SECTION 2. LIMITED DELEGATION FOR EXPEDITED ACCEPTANCE OF CERTAIN EASEMENTS GRANTED BY THIRD PARTIES FOR UTILITY PURPOSES.
The Utilities Commission hereby delegates to its General Manager/Chief Executive Officer ("CEO") and its Director of Engineering ("Director") the authority to accept on behalf of the Utilities Commission a certain class of easements created by plat or separate easement document granted by third parties for utility services so long as the plat creating the easement or the easement document is presented to the Utilities Commission for ratification of acceptance within ninety (90) days following acceptance by the CEO or Director. No other delegation related to the acceptance or conveyance of interests in real property is authorized by this Resolution. Said third parties will not receive utility services until such time as all of the Utilities Commission's rules and regulations and associated contingencies have been completed and received.

SECTION 3. SEVERABILITY. If any provision or portion of this Resolution is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage by the Commission.
THIS RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held this 23rd day of September, 2019, by Commissioner Griffith who moved for its adoption, which motion was seconded by Commissioner Davenport, and upon roll call vote of the Commission was DULY ADOPTED as follows:

CHAIRMAN

VICE CHAIRMAN

SECY.-TREAS.

ASST. SECY.-TREAS.

COMMISSIONER

APPROVED:

William E. Biedenbach, Chairman

ATTEST:

Lilian Conrad, Secretary-Treasurer

APPROVED AS TO FORM & LEGALITY:

Thomas A. Cloud, General Counsel