THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: September 28, 2021

Subject: Memorandum of Understanding and Right of Entry agreement with Duke Energy to explore a future property exchange facilitating the reconstruction of the existing downtown electrical substation.

Staff Resource(s): Nikki Reid, Community and Economic Development Interim Director
Rachel Taylor, Economic Development Specialist

Action Requested: Adoption of a resolution to authorize the City Manager to enter into a Memorandum of Understanding and Right of Entry agreement with Duke Energy to explore the option of a future property exchange facilitating the reconstruction of the existing downtown electrical substation.

Background:

- Duke Energy's current downtown substation located behind the Civic Center, built in the 1960s, is insufficient to provide long-term service to downtown residents and businesses.
- Duke Energy needs to replace the substation infrastructure to ensure uninterrupted service provision.
- Duke Energy contacted the City to explore options to build a new substation on City property on Rankin Avenue in exchange for removing the old substation and swapping Duke Energy's property with the City.
- The City has an interest in the property where the substation is currently located to accommodate future development of the Thomas Wolfe Auditorium.
- The attached map illustrates the substation (5355) location and the properties involved in the testing and exchange.
- The Memorandum of Understanding sets forth a good faith effort by the City and Duke Energy to conduct community engagement efforts, coordinate testing activities to minimize impact, and facilitate conversations regarding project design.
- The Memorandum of Understanding will permit Duke Energy to conduct environmental and other associated testing on the properties.
- Upon completion of site investigations by Duke Energy, Council will be approached at a later date to vote on the land exchange and associated real estate terms for the City of Asheville and Duke Energy properties.
- These real estate terms may include any environmental remediation or site preparation that may be necessary to address the findings of the environmental investigations.

Council Goal(s):

- Thriving Local Economy
- A Well Planned and Livable Community

Committee(s):

- The Planning and Economic Development Committee - (9/13/2021) - approved unanimously to move to full Council.

Pro(s):

- Continued and uninterrupted service provision by Duke Energy.
- Expanded access to the Harrah's Center through rear entrances.
- Potential to redirect power lines currently inhibiting maintenance of Harrah's Center.

- Potential to expand the auditorium and event center, allowing for larger events or convention center space.
- Potential to build along Rankin Avenue with mixed-use connected to the event center.

Con(s):
- Potential loss of parking for monthly permit holders in the Rankin Avenue lot.

Fiscal Impact:
- None noted at this time. Site Investigations permitted by the Memorandum of Understanding will be conducted by Duke Energy.

Suggested Motion:
- Motion to adopt a resolution to authorize the City Manager to enter into a Memorandum of Understanding and Right of Entry agreement with Duke Energy to explore options for a property exchange facilitating the reconstruction of the existing downtown electrical substation.

Attachment(s):
- Resolution
- Map of Properties involved in the Memorandum of Understanding
- Planning and Economic Development Committee Presentation

RESOLUTION NO. 21-_____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ASHEVILLE (CITY) AND DUKE ENERGY PROGRESS, LLC. (OBA DUKE ENERGY) TO EXPLORE THE POSSIBILITY OF A LAND EXCHANGE BETWEEN THE CITY AND DUKE ENERGY TO REPLACE THE EXISTING DOWNTOWN SUBSTATION.

WHEREAS, Duke Energy owns the following parcels of land: 36 Hiawassee Street (approximately .14 Acres, PIN: 964931443400000) and 72 Rankin Avenue (approximately .34 Acres, PIN: 964931535500000), as shown on the attached map, attached hereto and incorporated herein (hereafter the "**Duke Energy Property**"); and

WHEREAS, the City owns the following parcel of land: 57 Rankin Avenue (approximately .64 Acres, PIN: 964931629600000, as shown on the attached map, attached hereto and incorporated herein (hereafter the "**City Property**"). The City Property is currently used as an active parking lot for thirty-five (35) permitted users; and

WHEREAS, Duke Energy operates and maintains its Vanderbilt Substation (hereafter the "**Substation**") on the Duke Energy Property, which Substation serves a critical role in providing electric service to the downtown Asheville area; and

WHEREAS, the Substation was constructed in the mid 1960's and has reached the end of its useful service life, and Duke Energy desires to rebuild the Substation using a similar technology and footprint; and

WHEREAS, the City desires that the Substation be relocated to accommodate renovation and possible future expansion of the Harrah's Cherokee Center Asheville and the Thomas Wolfe Auditorium to allow for larger events or the construction of a convention center space; and

WHEREAS, the City and Duke Energy believe that the City Property may be able to accommodate the rebuild of the Substation, and if so, the Parties desire to explore the possibility of the exchange of ownership of the City Property and the Duke Energy Property pursuant to an agreement between the Parties that will document the terms and conditions of the land exchange for full and fair consideration as required by statute and any regulatory requirements of the North Carolina Utilities Commission and/or the Public Service Commission of South Carolina; and

WHEREAS, in order to determine whether the City Property will accommodate the rebuild of the Substation, Duke Energy desires to conduct certain studies and other activities on the City Property as necessary to make such determination; and

WHEREAS, the City and Duke Energy have a history of working together in partnership and desire to enter into this MOU to begin the process of exploring the possibility of a land exchange to benefit the City and Duke Energy; and

WHEREAS, any agreement for a land exchange will be subject to future review and approval by the City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Pursuant to North Carolina General Statute Sec.160A-16, the City Manager is hereby authorized to enter into a Memorandum of Understanding with Duke Energy Progress LLC. in order to explore the

possibility of the exchange of ownership of the City Property and the Duke Energy Properties for the replacement of the existing Substation. In addition, the City Manager is hereby authorized to execute any and all documents necessary to give effect to this resolution.

Read, approved and adopted this 28th day of September, 2021.

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City Clerk Mayor

Approved as to form:

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City Attorney