



Broward County

Legislation Text

File #: 22-1570, Version: 1

Broward County Commission Regular Meeting

Director's Name: Trevor M. A. Fisher

Department: Public Works **Division:** Solid Waste & Recycling

Information

Requested Action

A. MOTION TO APPROVE Easement granting Florida Gas Transmission Company, LLC, a perpetual, nonexclusive underground utility easement on a portion of County-owned property located at 4400 South State Road 7 in the Broward Municipal Services District for the construction, operation, and maintenance of a new natural gas pipeline to service Florida Power & Light Company's power generation facility; and authorize the Mayor and Clerk to execute the easement; and recordation of the same. **(Commission District 6)**

(A member of the public pulled this item from the Consent Agenda.)

(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the item as supplemented by the Additional Material. In addition, signature pages have been received.)

ACTION: (T-10:45 AM) Approved with Regular Meeting Additional Material, dated October 11, 2022, submitted at the request of Public Works Department. (Refer to minutes for full discussion.)

VOTE: 7-0. Commissioner Bogen voted in the affirmative telephonically. Commissioner Moskowitz was not present.

B. MOTION TO APPROVE Temporary Revocable License Agreement between Broward County and Florida Gas Transmission Company, LLC, for nonexclusive access to a temporary workspace and construction staging area to facilitate installation of a natural gas pipeline on easements within County-owned property located at 4400 South State Road 7 in the Broward Municipal Services District; and authorize the Mayor and Clerk to execute the same. **(Commission District 6)**

(A member of the public pulled this item from the Consent Agenda.)

(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the item as supplemented by the Additional Material. In addition, signature pages have been received.)

ACTION: (T-10:45 AM) Approved with Regular Meeting Additional Material, dated October 11, 2022, submitted at the request of Public Works Department. (Refer to minutes for full discussion.)

VOTE: 7-0. Commissioner Bogen voted in the affirmative telephonically. Commissioner Moskowitz was not present.

C. MOTION TO AUTHORIZE County Administrator or designee to approve and execute a Use, Perpetual Maintenance, and Repair Agreement between Broward County and Florida Gas Transmission Company, LLC for a natural gas pipeline located at 4400 South State Road 7 in the Broward Municipal Services District in substantially the form attached as Exhibit 3, including authorization on whether to include a license fee to be paid to the County, subject to final review of the agreement for legal sufficiency by the Office of the County Attorney; and recordation of the same. **(Commission District 6)**

(A member of the public pulled this item from the Consent Agenda.)

(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the item as supplemented by the Additional Material. In addition, signature pages have been received.)

ACTION: (T-10:45 AM) Approved with Regular Meeting Additional Material, dated October 11, 2022, submitted at the request of Public Works Department. (Refer to minutes for full discussion.)

VOTE: 7-0. Commissioner Bogen voted in the affirmative telephonically. Commissioner Moskowitz was not present.

Why Action is Necessary

Board of County Commissioner's approval is required for the referenced actions.

What Action Accomplishes

Provides Florida Gas Transmission Company, LLC, access on County-owned property for relocation and installation of a natural gas pipeline.

Is this Action Goal Related

No

Previous Action Taken

None

Summary Explanation/Background

THE PUBLIC WORKS DEPARTMENT/SOLID WASTE AND RECYCLING SERVICES DIVISION RECOMMEND APPROVAL OF THE ABOVE MOTIONS.

Broward County owns the property located at 4400 South State Road 7 in the Broward Municipal Services District, which is leased to WIN-Waste Innovations for the operation of a waste-to-energy facility and ash monofil. WIN-Waste Innovations has proposed an expansion project to increase the useful life of the ash monofil by extending the current footprint by approximately six acres to the north. This expansion would support solid waste processing actions through increased capacity for

incinerator ash disposal.

Construction and operation from the proposed ash monofil expansion would create a conflict to the integrity of an existing underground 16-inch natural gas pipeline owned and operated by Florida Gas Transmission Company, LLC (FGTC). The pipeline currently provides natural gas to Florida Power and Light's Dania Beach power generation facility. FGTC has been in communication with WIN-Waste Innovations and proposes to reroute the 16-inch natural gas pipeline along the perimeter of the expansion project site parallel to an existing 24-inch pipeline and within an established public oil and gas easement (map of the proposed area is attached as Exhibit 1). FGTC is requesting a 20-foot easement be granted by the County for the eastern segment of the gas line that runs north to south, and which does not fall within an established public easement.

The current proposed Revocable License Agreement ("RLA") provides for a temporary construction staging area to be used by FGTC during the pipeline work. The RLA, in its current form, includes non-standard insurance language. The proposed Use, Perpetual Maintenance, and Repair Agreement ("Use Agreement") being finalized also includes non-standard language relating to insurance provisions. Specifically, this language changes the conditions under which FGTC must provide copies of its policies. The non-standard language in both the RLA and the Use Agreement has been reviewed and approved by Risk Management Division.

In addition, both the RLA and Use Agreement include a required precondition that FGTC must obtain all necessary permits from Florida's Department of Environmental Protection prior to any activity being undertaken on the site. This precondition has not yet been met. If FGTC obtains all the necessary permits before the Board meets, County staff will advise the Board of that information prior to the meeting.

As part of the Use Agreement, FGTC has agreed to pay the County a one-time fee of \$50,000 for usage of the site for the pipeline. The proposed agreement includes non-standard language related to the Risk of Loss; specifically, it includes an exception for damages caused solely by the negligence or intentional misconduct of County's agents. This language has been reviewed by staff which has determined such language presents an acceptable business risk. It has further been reviewed and approved as legally sufficient by the Office of the County Attorney.

If approved, Motion A will grant an easement along the east side of the proposed expanded ash monofil boundary to FGTC for the relocation of a 16-inch natural gas pipeline.

If approved, Motion B would approve a Temporary Revocable License Agreement providing an onsite workspace for the purposes of the relocation project.

If authorized, Motion C will ensure perpetual maintenance of the pipeline and necessary appurtenances by FGTC.

All three documents are currently being finalized and versions executed by FGTC will be distributed as additional materials prior to the meeting, subject to final review and approval for legal sufficiency by the Office of the County Attorney. In addition, any further disclosures regarding nonstandard terms

will be provided via memo from the Office of the County Attorney as additional material. It is expected that all documents will be finalized for distribution on or about October 5, 2022. These items have been placed on the agenda prior to the agreements and easement being finalized because delay may create negative business impacts to the County and FGTC.

Source of Additional Information

Notosha Austin, Assistant Director, Solid Waste and Recycling Services (954) 474-1880
Trevor M.A. Fisher, P.E., MBA, Director, Public Works Department (954) 357-6410

Fiscal Impact

Fiscal Impact/Cost Summary

There is no fiscal impact to Broward County.