

MEMORANDUM

TO: MAYOR AND CITY COMMISSION

FROM: CITY ATTORNEY'S OFFICE

DATE: July 18, 2022

RE: **Agreement with Florida Gas Transmission Company, LLC for Pipeline Capacity to Transport Natural Gas**

Attached hereto for your consideration is a Firm Capacity Agreement (Agreement) with Florida Gas Transmission Company, LLC (FGT) for the daily purchase of 1,000 MMBtus of FGT capacity to transport natural gas. Lakeland Electric's staff has been purchasing delivered Natural Gas to cover periods when its capacity is short in order to address peak load requirements. Specifically, delivered Natural Gas uses another shipper's pipeline capacity sold daily to transport Natural Gas to a utility's plant. However, due to nationwide supply chain issues with utility providers' coal units fuel supply and retirements, other shippers now have less daily capacity to sell on the aftermarket during critical consumer usage times such as summer and winter. In addition, the delivery transportation price during peak months now exceeds the cost of paying for additional firm capacity.

In order to address these issues, City staff has negotiated an Agreement with FGT to purchase 1,000 MMBtus of available capacity. Owning firm capacity rights will ensure the City has primary delivery of Natural Gas to its McIntosh and Larsen Plants. With Florida Municipal Power Pool coal units on coal conservation, the capacity factor of Lakeland Electric's units requires additional pipeline capacity. Accordingly, and pursuant to this Agreement, City staff has negotiated a rate below tariff with a term effective from August 1, 2022 to November 30, 2033, subject to City Commission approval. The annual cost of the FGT capacity for the daily 1,000 MMBtus of natural gas is \$264,625 for a total cost of \$2,999,325 during the term of the Agreement from August 1, 2022 to November 30, 2033. During the term of the Agreement, the City will be able to permanently or temporarily release the contracted capacity to another shipper to mitigate costs in the event that the City's future utility capacity needs change. The cost of the capacity on the FGT pipeline is funded through Lakeland Electric's fuel budget.

It is recommended that the City Commission approve the purchase of 1,000 MMBtus of FGT capacity and authorize Lakeland Electric's Fuels Manager to enter into an Agreement with FGT for the pipeline capacity, as well as authorize the appropriate City officials to execute all documents related to the Agreement.

Attachment

FOR INTERNAL USE ONLY
Contract No. 128594
BA Id. 4241
DUNS No. 959116302

SERVICE AGREEMENT
Firm Transportation Service - MarketArea
RATE SCHEDULE FTS-3
Contract No. 128594

THIS AGREEMENT entered into this 1st day of August, 2022, by and between Florida Gas Transmission Company, LLC, a limited liability company of the State of Delaware (herein called "Transporter"), and City of Lakeland (herein called "Shipper"),

W I T N E S S E T H

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, Transporter and Shipper do covenant and agree as follows:

ARTICLE I - Not Applicable

ARTICLE II

Quantity

2.1 The Maximum Daily Transportation Quantity ("MDTQ") is set forth on a seasonal basis, and by Division if applicable, on Exhibit B attached hereto as the same may be amended from time to time. The applicable MDTQ shall be the largest daily quantity of gas expressed in MMBtu, that Transporter is obligated to transport and make available for delivery to Shipper under this Service Agreement on any one day.

2.2 During the term of this Agreement, Shipper may tender natural gas for transportation to Transporter on any day, up to the MDTQ plus Transporter's fuel, if applicable. Transporter agrees to receive the aggregate of the quantities of natural gas that Shipper tenders for transportation at the Receipt Points, up to the maximum daily quantity ("MDQ") specified for each receipt point as set out on Exhibit A, plus Transporter's fuel, if applicable, and to transport and make available for delivery to Shipper at each Delivery Point specified on Exhibit B, up to the amount scheduled by Transporter less Transporter's fuel, if applicable (as provided in Rate Schedule FTS-3), provided however, that Transporter shall not be required to accept for transportation and make available for delivery more than the MDTQ on any day.

ARTICLE III

Payment and Rights in the Event of Non-Payment

3.1 Upon the commencement of service hereunder, Shipper shall pay Transporter, for all service rendered hereunder, the rates established in Article IV herein.

3.2 Termination for Non-Payment. In the event Shipper fails to pay for the service provided under this Agreement, pursuant to the conditions set forth in Section 15 of the General Terms and Conditions of Transporter's FERC Gas Tariff, Transporter shall have the right to suspend or terminate this Agreement pursuant to the conditions set forth in said Section 15.

ARTICLE IV

Rights to Amend Rates and Terms and Conditions of Service

4.1 This Agreement in all respects shall be and remain subject to the provisions of said Rate Schedule and of the applicable provisions of the General Terms and Conditions of Transporter on file with the FERC (as the same may hereafter be legally amended or superseded), all of which are made a part hereof by this reference.

4.2 Transporter shall have the unilateral right to file with the appropriate regulatory authority and seek to make changes in (a) the rates and charges applicable to its Rate Schedule FTS-3, (b) Rate Schedule FTS-3 including the Form of Service Agreement and the existing Service Agreement pursuant to which this service is rendered; provided however, that the firm character of service shall not be subject to change hereunder by means of a Section 4 Filing by Transporter, and/or (c) any provisions of the General Terms and Conditions of Transporter's Tariff applicable to Rate Schedule FTS-3. Transporter agrees that Shipper may protest or contest the aforementioned filings, or seek authorization from duly constituted regulatory authorities for such adjustment of Transporter's existing FERC Gas Tariff as may be found necessary in order to assure that the provisions in (a), (b) or (c) above are just and reasonable.

ARTICLE V

Term of Agreement

5.1 This Agreement shall become effective on 08/01/2022 and shall continue in effect through 11/30/2033. In accordance with the provisions of Section 20 of the General Terms and Conditions of Transporter's Tariff, Shipper has elected Right of First Refusal (ROFR) option.

5.2 In the event the capacity being contracted for was acquired pursuant to Section 18.C.2 of Transporter's Tariff, then this Agreement shall terminate on the date set forth in Section 5.1 above. Otherwise, upon the expiration of the primary term and any extension or rollover, termination will be governed by the provisions of Section 20 of the General Terms and Conditions of Transporter's Tariff.

ARTICLE VI

Point(s) of Receipt and Delivery and Maximum Daily Quantities

6.1 The Primary Point(s) of Receipt and maximum daily quantity for each Primary Point of Receipt, for all gas delivered by Shipper to Transporter under this Agreement shall be at the Point(s) of Receipt on the pipeline system of Transporter or any Transporting Pipeline as set forth in Exhibit A attached hereto, as the same may be amended from time to time. In accordance with the provisions of Section 8.A of Rate Schedule FTS-3 and Section 21.F of the General Terms and Conditions of Transporter's Tariff, Shipper may request changes in its Primary Point(s) of Receipt. Transporter may make such changes in accordance with the terms of Rate Schedule FTS-3 and the applicable General Terms and Conditions of its Tariff.

6.2 The Primary Point(s) of Delivery and maximum daily quantity for each point for all gas made available for delivery by Transporter to Shipper, or for the account of Shipper, under this Agreement shall be at the Point(s) of Delivery as set forth in Exhibit B hereto, as same may be amended from time to time, and shall be in Transporter's Market Area; provided, however, that a Shipper who acquires a segment of FTS-3 capacity in the Western Division may only request new Delivery Points in Transporter's Western Division. In accordance with the provisions of Section 9.A of Rate Schedule FTS-3 and Section 21.F of the General Terms and Conditions of Transporter's Tariff, Shipper may request changes in its Primary Point(s) of Delivery provided that such new requested Primary Delivery Points must be located in Transporter's Market Area; provided, however, that a Shipper who acquires a segment of FTS-3 capacity in the Western Division may only request new Delivery Points in Transporter's Western Division. Transporter may make such changes in accordance with the terms of Rate Schedule FTS-3 and the applicable General Terms and Conditions of its Tariff. Transporter is not obligated to accept changes where the new Primary Delivery point is also a delivery point under a Rate Schedule SFTS Service Agreement and the load to be served is an existing behind-the-gate customer of a Rate Schedule SFTS Shipper as defined in Section 11 of Rate Schedule SFTS.

ARTICLE VII

Notices

All notices, payments and communications with respect to this Agreement shall be in writing and sent to Transporter's address posted on Transporter's Internet website or to Shipper's address stated below or at any other such address as may hereafter be designated in writing:

Shipper: City of Lakeland
501 E. Lemon Street
Lakeland FL 33801-5079
Attention: Tory Bombard
Telephone No. (863)834-6207
Fax No. (863)834-8393

ARTICLE VIII

Construction of Facilities

8.1 To the extent that construction of new or requested facilities is necessary to provide service under this Service Agreement, such construction, including payment for the facilities, shall occur in accordance with Section 21 of the General Terms and Conditions of Transporter's Tariff.

8.2 Unless otherwise agreed to by the parties, Shipper is obligated to reimburse Transporter within fifteen (15) days of receipt of invoice for the costs of the construction of new or requested taps, meters, receipt and delivery point upgrades, and supply and delivery laterals and any other construction necessary to receive gas into, and deliver from, Transporter's existing or proposed facilities. To the extent such reimbursement qualifies as a contribution in aid of construction under the Tax Reform Act of 1986, P.L. 99-514 (1986), Shipper also shall reimburse Transporter for the income taxes incurred by Transporter as a direct result of such contribution in aid of construction by Shipper; as calculated pursuant to FERC's order in Transwestern Pipeline Company, 45 FERC Paragraph 61,116 (1988). Unless otherwise agreed to, Transporter shall have title to and the exclusive right to operate and maintain all such facilities.

Article IX – Not Applicable

Article X

Pressure

10.1 The quantities of gas delivered or caused to be delivered by Shipper to Transporter hereunder shall be delivered into Transporter's pipeline system at a pressure sufficient to enter Transporter's system, but in no event shall such gas be delivered at a pressure exceeding the maximum authorized operating pressure or such other pressure as Transporter permits at the Point(s) of Receipt.

10.2 Transporter shall have no obligation to provide compression and/or alter its system operation to effectuate deliveries at the Point(s) of Delivery hereunder.

ARTICLE XI

Creditworthiness

Prior to Transporter's execution of this Agreement, Shipper must demonstrate creditworthiness satisfactory to Transporter in accordance with Section 16 of the General Terms and Conditions of Transporter's Tariff. In the event Shipper fails to establish creditworthiness within fifteen (15) days of Transporter's notice, Transporter shall not execute this Agreement and this Agreement shall not become effective.

ARTICLE XII

Miscellaneous

12.1 This Agreement shall bind and benefit the successors and assigns of the respective parties hereto; provided however, that neither party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the written consent of the other party, which consent shall not be unreasonably withheld.

12.2 No waiver by either party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future defaults of a like or different character.

12.3 This Agreement contains Exhibits A and B which are incorporated fully herein.

12.4 THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REFERENCE TO ANY CONFLICT OF LAWS DOCTRINE WHICH WOULD APPLY THE LAWS OF ANOTHER JURISDICTION.

ARTICLE XIII

Superseding Prior Service Agreements

This Agreement supersedes and replaces the following Service Agreements between Transporter and Shipper: None.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers effective as of the date first written above.

TRANSPORTER

SHIPPER

Florida Gas Transmission Company, LLC

City of Lakeland

By _____

By _____

Name Beth Hickey _____

Name _____

Title EVP - US Gas Pipelines _____

Title _____

Date _____

Date _____

**EXHIBIT A
TO
RATE SCHEDULE FTS-3 SERVICE AGREEMENT**

**BETWEEN
Florida Gas Transmission Company, LLC
AND
City of Lakeland
DATED
08/01/2022
Contract No. 128594
Amendment No. 0
Effective Date of this Exhibit A: 08/01/2022**

Date Range: 8/1/2022 to 11/30/2033

<u>Point(s) of Receipt</u>	<u>Maximum Daily Quantity (MMBtu)</u>				
<u>Point Description</u>	<u>Point</u>	<u>Apr</u>	<u>May-Sept</u>	<u>Oct</u>	<u>Nov-Mar</u>
Zone 3					
Southern Pines Citronelle (Rec)	78460	1,000	1,000	1,000	1,000
Zone 3 Total:		1,000	1,000	1,000	1,000
Total MDTQ:		1,000	1,000	1,000	1,000

(Quantities are exclusive of Fuel Reimbursement. Shipper shall provide fuel pursuant to Fuel Reimbursement Charge Adjustment provisions of Transporter's FERC Gas Tariff, General Terms and Conditions.)

**EXHIBIT B
TO**

RATE SCHEDULE FTS-3 SERVICE AGREEMENT

**BETWEEN
Florida Gas Transmission Company, LLC
AND
City of Lakeland**

DATED

08/01/2022

Contract No. 128594

Amendment No. 0

Effective Date of this Exhibit B: 08/01/2022

Date Range: 8/1/2022 to 11/30/2033

Point(s) of Delivery

Maximum Daily Quantity (MMBtu)

<u>Point Description</u>	<u>Point</u>	<u>Apr</u>	<u>May-Sept</u>	<u>Oct</u>	<u>Nov-Mar</u>
Lakeland McIntosh	55687	1,000	1,000	1,000	1,000
Total MDTQ:		1,000	1,000	1,000	1,000

(Quantities are exclusive of Fuel Reimbursement.)