

RESOLUTION NO. 2022-24

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SEMINOLE IMPROVEMENT DISTRICT APPROVING THE TRI-PARTY AGREEMENT BETWEEN THE CITY OF WESTLAKE, THE SEMINOLE IMPROVEMENT DISTRICT, AND FLORIDA PUBLIC UTILITIES COMPANY RELATED TO PERMITTING OF FACILITIES PER CITY FRANCHISE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Seminole Improvement District (“SID”) exists pursuant to Chapter 2000-431, Laws of Florida and is the successor to Seminole Water Control District; and

WHEREAS, the City of Westlake (the “City”) is a Florida municipal corporation and is possessed of full home rule powers pursuant to Article VIII, Section 2 of the Florida Constitution; Chapter 166, Florida Statutes; and the City of Westlake Municipal Charter (the “Westlake Charter”); and

WHEREAS, Florida Public Utilities Company, a Florida corporation (the “Company”) has requested permission and a franchise agreement (the “Franchise Agreement”) from the City to erect, construct, operate, and maintain a Gas Distribution system and to import, transport, sell and distribute Gas within the City; and for these purposes to establish the used or useful facilities and equipment and to lay and maintain gas mains, service pipes, and any other appurtenances, as are used or useful in the sale, transportation and distribution of Gas within the City limits (SID, City, and Company, hereinafter collectively the “Parties”); and

WHEREAS, the Franchise Agreement provides, among other things, that the Company shall (i) obtain all required permits, approvals, licenses or consents in accordance with this Agreement prior to constructing or operating any facilities within the City; (ii) pay to SID any applicable fees in connection with the permit applications, reviews and inspections for development, and (iii) pay to the City all legally authorized fees, taxes, assessments, and costs levied, imposed or validly adopted by the City during the term of the Franchise Agreement, which shall include, but are not limited to public service taxes, ad valorem taxes (intangible, personal, real), occupational taxes, and licensing fees; and

WHEREAS, SID possesses certain powers pursuant to its enabling act and Florida Statutes, including the powers to construct, own, and maintain a number of types of public works and facilities and provide services including but not limited to public infrastructure and services related to water, sewer, drainage, irrigation, water management, parks, recreation, facilities, roadways and others more particularly described in the Enabling Act; and

WHEREAS, the City and the Company acknowledge that the rights-of-way and utility easements within the City are held by and under the jurisdiction of SID and the Company

will obtain permits from SID to construct, operate and occupy a portion of the utility easement with its facilities; and

WHEREAS, the utility easements owned by SID to be used by the Company are properties acquired and maintained by SID at expense to the property owners within the City limits, and the right to use SID's utility easements is a property right without which the Company would be required to invest capital and incur property acquisition costs; and

WHEREAS, in February 2018, SID and the City entered into that certain Interlocal Agreement Regarding the Provision of Certain Services, Infrastructure, and Public Facilities in the City of Westlake and for Assurance of Non-Duplication of Services ("Interlocal Agreement"); and

WHEREAS, pursuant to Section 16(c)(vi) of the Interlocal Agreement, the City and SID agreed that consultation is required prior to any undertakings by City or SID for tangible or physical infrastructure including gas lines; and

WHEREAS the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, encourages and empowers local government to cooperate with one another on matters of mutual interest and advantage, and provides for interlocal agreements between local governments on matters such as building permitting and inspection services; and

WHEREAS, the City has prepared a draft ordinance (the "Ordinance") to effectuate the Franchise Agreement to the Company, attached as Exhibit "A," and

WHEREAS, the Parties desire to (i) acknowledge the Franchise Agreement granted to the Company, (ii) reflect the grant by SID to the Company of the right and privilege, to erect, construct, operate, and maintain a Distribution System in, on or under any Rights-of-ways within the City Limits, (iii) confirm SID and the City have engaged in the necessary consultation under the Interlocal Agreement, and (iv) establish the process by which the City and SID will coordinate the review and processing of permits applied for by the Company for the use of the Rights-of-way as contemplated in the Franchise Agreement, and to that end, have prepared the **Tri-Party Grant Agreement Among City of Westlake, the Seminole Improvement District, and Florida Public Utilities Company Related To Permitting of Facilities Per City Franchise Agreement**, (the Agreement") attached as Exhibit "B"; and

WHEREAS, after careful review and consideration, the District Engineer has determined that the Agreement is consistent with and implements the adopted Water Control Plan of the District and that execution of the Agreement will not be harmful to, and is in the best interests of, the District.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE SEMINOLE IMPROVEMENT DISTRICT AS FOLLOWS:


1. The recitals set forth above are adopted by the Board as the findings of SID and are incorporated herein.

2. This Resolution is adopted pursuant to the Act.
3. Seminole Improvement District, on behalf of its successors and assigns, hereby consents to the Agreement in the form attached hereto as Exhibit "B."
4. SID's consent is predicated upon the City's adoption of the Ordinance largely in conformance to the draft attached as Exhibit "A", and the Agreement shall not be effective until such time as the Ordinance becomes effective, including the running of any applicable appeal periods thereto.
5. The President and Secretary/Treasurer are hereby authorized and directed to execute and deliver the Agreement any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for implementation of this Resolution, in conformance with this Resolution.
6. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and shall in no way affect the validity of any of the other provisions of this Resolution.
7. This resolution shall take effect upon its passage in the manner provided by law.

Adopted by the Board of Supervisors this 6 day of June, 2022.



Scott Massey, President



Kenneth Cassel, Assistant Secretary

Approved as to Form:



District Attorney

EXHIBIT "A"

Draft Westlake Ordinance Granting to Florida Public Utilities a Non-Exclusive Franchise