



**Tohopekaliga Water Authority**  
**101 North Church Street, 2<sup>nd</sup> Floor**  
**Kissimmee, FL 34741**  
[www.tohowater.com](http://www.tohowater.com)

## **Board of Supervisors**

Bruce R. Van Meter, Chairman  
John E. Moody, Supervisor  
James W. Wells, Vice - Chairman  
Robert J. Bornstein, Supervisor  
Richard L. Hord, Supervisor  
Raul S. Banasco, Supervisor

Brian L. Wheeler, Executive Director  
Mike Davis, Attorney  
Nilsa C. Diaz, Executive Assistant

## **AGENDA**

### **JANUARY 13, 2010**

### **5:00 PM**

1. MEETING CALLED TO ORDER
2. INVOCATION AND PLEDGE OF ALLEGIANCE
3. APPROVAL OF THE AGENDA
4. AWARDS AND SPECIAL PRESENTATIONS
5. PUBLIC HEARING
6. HEAR THE AUDIENCE (Anything requiring a vote will be heard at a later date)
7. CONSENT AGENDA

The Consent Agenda is a technique designed to expedite handling of routine and miscellaneous business of the Board of Supervisors. The Board of Supervisors in one motion may adopt the entire Agenda. The motion for adoption is non-debatable and must receive unanimous approval. By request of any individual member, any item may be removed from the Consent Agenda and placed upon the Regular Agenda for debate.

**A. APPROVAL OF MINUTES FROM THE DECEMBER 9 BOARD MEETING**

**B. APPROVAL OF CONSTRUCTION CONTRACT WITH C&S TECHNICAL RESOURCES, INC. FOR POINCIANA VILLAGE 7 NEIGHBORHOOD 2 EAST UNEQUIPPED LIFT STATION IMPROVEMENT PROJECT**

- C. APPROVAL OF ADDENDUM 1 TO DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT WITH STATE OF FLORIDA DEPARTMENT OF ENVIRONMENT PROTECTION FOR SIMPSON ROAD WATER MAIN EXTENSION PROJECT
  - D. APPROVAL TO AWARD THE CONTRACT TO WRIGHT EXCAVATING, INC., FOR CONSTRUCTION OF A 12" REUSE WATER MAIN EXTENSION ON MARTIN LUTHER KING JR BOULEVARD
  - E. APPROVAL OF DEVELOPER SERVICE AGREEMENT FOR BUFFALO WILD WINGS
8. INFORMATIONAL PRESENTATIONS (REQUIRING NO ACTION):
- REPORT TO THE BOARD ON THE SUSPENSION OF CONSTRUCTION OF THE CYPRESS LAKE TEST WELL NO. 2
9. UNFINISHED BUSINESS:
- A. APPROVAL OF INITIAL ASSESSMENT RESOLUTION TO SET FORTH A PROCEDURE TO ASSESS, LEVY, IMPOSE, COLLECT, AND ENFORCE SPECIAL ASSESSMENTS, CHARACTERIZED AS NON-AD VALOREM ASSESSMENTS, FOR WASTEWATER COLLECTION AND TREATMENT SERVICES
10. NEW BUSINESS:
- A. APPROVAL OF REIMBURSEMENT RESOLUTION FOR PROJECT COSTS FOR POTENTIAL FUTURE TAX EXEMPT FINANCING
11. STAFF REPORTS:
- MONTHLY FINANCIAL REPORT SEPTEMBER 2009
12. BOARD OFFICIALS

<b>Description</b>	Regular meeting of the Tohopekaliga Water Authority. Present at the meeting were Supervisor Bob Bornstein, Supervisor John Moody, Supervisor Dick Hord, Supervisor Jim Wells, Supervisor Raul Banasco, Chairman Van Meter, Executive Director Brian Wheeler, Executive Assistant Nilsa Diaz, Attorney Mark Lawson, Commissioner Jerry Gemskie and Commissioner Michael Harford.		
<b>Date</b>	12/9/2009	<b>Location</b>	City of Kissimmee Commission Chambers
<b>Time</b>	<b>ITEM</b>	<b>MINUTES</b>	
5:02:10 PM	Meeting called to order	Meeting called to order by Chairman Bruce R. Van Meter at 5:02 PM.	
5:02:24 PM	Invocation and Pledge of Allegiance	The Executive Director gave the Invocation and Supervisor Bornstein led the audience in the Pledge of Allegiance.	
5:02:31 PM	Approval of the Agenda	Supervisor Moody moved for approval of the Agenda as published. Supervisor Bornstein seconded the motion. Motion passed 6 to 0.	
5:03:43 PM	Awards and presentations	None	
5:03:50 PM	Public Hearing	<p><b>APPROVAL OF NOTICE OF INTENT RESOLUTION ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS LEVIED IN ALL OR PART OF THE TOHOPEKALIGA WATER AUTHORITY SERVICE AREA</b> – Attorney Mark Lawson with Bryant Miller Olive (BMO), counsel for the Authority, explained to the Board that this Notice of Intent Resolution would be the first step in proceeding with collection of a portion of the unpaid wastewater bills from TWA wastewater customers within the O &amp; S Water service area. The assessments will only be applied to delinquent property owners who are still residing in the home. Owners must be notified by mail and of a public hearing to be held by the board to set the assessments. The notice must state that if the owners do not pay the delinquent bill, the delinquent amount will be added to their property tax bill. Once the delinquent bill is added to the homeowner's property tax bill the full amount, property tax and delinquent sewer bill, will have to be paid together. Hardship appeals and other appeals need to be made to the Executive Director and will be dealt with individually. If the bills are not paid within 30 days of the public hearing setting finalizing the assessment roll, the unpaid bills become delinquent and</p>	

		<p>will be transmitted to the county tax assessor. Approximately \$24,000 of delinquent sewer charges from O&amp;S Water customers could be recovered through this assessment process. All of the O&amp;S Water customers receiving sewer service from the Authority with the exception of the Audubon Subdivision are being billed for sewer service by KUA on their electric bills. Failure to pay the full bill will result in the termination of the electric service. The Audubon Subdivision is served by Progress Energy and is presently not being billed for sewer through the electric bills. Supervisor Wells asked if this Notice of Intent was being used in Audubon and was told yes. Supervisor Hord moved for approval of the Notice of Intent Resolution 09-021 and Supervisor Banasco seconded the motion. Motion passed 6 to 0.</p>
<p>5:17:22 PM</p>	<p>Hear the Audience</p>	<p>Mr. Paul Crumpler of 917 South Street St. Cloud representing Wrights Excavating addressed the Board concerning the bid and contract for Simpson Road Water Main Improvements relative to the Authority's Local Vendor Preference policy and expiration of bids. Specifically, Mr. Crumpler requested the project be bid again because he was of the opinion that all of the bids had expired and that the Authority could not award the contract to the low bidder despite that fact that the contractor had agreed to extend the low bid. The Executive Director advised the board that FDEP had rejected the Local Vendor Policy based upon requirements of the federal funding. Additionally he advised the board that there was not adequate time to rebid the project and meet the February 17, 2010 deadline for the grant funding. The board attorney, BMO, advised the board that the extension by the low bidder of the low bid price beyond the required 90 days is acceptable. The Board discussed the FDEP rejection of their Local Preference Policy and the bid extension objection at some extent with Mr. Crumpler and staff. The Board did not understand why FDEP would not accept the Local Preference Policy and desired for staff to verify the rejection with higher level authority at FDEP. The Board decided to this item, 7F until Wednesday, December 16, 2009 at 5 PM to allow staff time to research the board's concerns and questions related to the rejection of the Local Preference Policy and the extension of the bids.</p>

		<p>Supervisor Wells stated that he would rather call a Special Meeting next week; but, was told that this meeting could be continued until next week to deal with this matter. Decision was made to pull Item 7F and take appropriate action at the appropriate time.</p>
<p>5:51:57 PM</p>	<p>Consent Agenda</p>	<p>Supervisor Moody moved for approval of the Consent Agenda with the removal of Items 7C, 7D, 7F, and 7H. Supervisor Hord seconded the motion. Motion approved 6 to 0.</p> <p><b>7C. APPROVAL OF CONTRACT CHANGE ORDERS WITH LANGHAM ASSOCIATES TO PROVIDE PROJECT MANAGEMENT SERVICES FOR THE INSTALLATION OF THE AUTOMATIC METER READING SYSTEM</b> - Supervisor Hord asked who was responsible for the delay and why? Executive Director Wheeler explained that the delay resulted from the sales tax exemption issue with VSI. Langham had continued to perform the work related to the automatic meter reading contract, some of it necessary to avoid future delays and expenses however a significant portion of the change order could have been avoided with better contract management. Staff believes that some of the unnecessary expense can be recouped through lower project management expenditures with Langham because the staff hired to manage the AMR project have had time to become more fully educated on the project during the delay. Supervisor Hord moved for approval of the change orders with Langham Associates and Supervisor Wells seconded the motion. Motion passed 4 to 2; Supervisor Bornstein and Chairman Van Meter voted against it</p> <p><b>7D. APPROVAL OF AWARD TO SEAL ANALYTICAL FOR DISCRETE ANALYZER SYSTEM</b> - Mr. Gerry Hall, Systea Scientific, addressed the Board in protest of the decision to award the bid for the discrete analyzer system to Seal Analytical. Mr. Hall said that his company submitted the low bid. Mr. Wheeler said that this was true but the Systea bid submittal lacked some required information and the equipment submitted in the bid did not meet the bid specifications. Systea's bid protest has followed the Authority's protest policy and procedure having been reviewed to data at two levels (Purchasing and Warehouse; and Executive Director)</p>

		<p>and reaching the third level (Board of Supervisors), Systema Scientific still fails to meet bid specifications. Supervisor Wells moved for approval of the award to Seal Analytical for a discrete analyzer system and Supervisor Hord seconded the motion. Motion passed 6 to 0.</p> <p><b>7F. APPROVAL OF DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT WITH STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR SIMPSON ROAD WATER MAIN EXTENSION PROJECT</b> - Supervisor Wells moved for continuance of this item till later in the meeting. Supervisor Moody seconded the motion. Motion passed 6 to 0.</p> <p><b>7H. APPROVAL FOR THE SELECTION OF CONTINUING CONSULTANT FIRMS FOR ENGINEERING SERVICES</b> – Supervisor Wells inquired as to why this thing is almost one year and a half old and only one local consultant is included. Mr. Wells stated that maybe a consultant who was not interested a year and a half ago but would be interested now. He inquired as to the term of the continuing service contract. The contracts have not had a specific term in the past and the staff has typically re-advertised after five years. There was some discussion about setting a term and the appropriate length of the term. Executive Director Wheeler recommended a term of three years. Supervisor Wells motioned to accept this but go out for an RFP in January 2011. Supervisor Wells withdrew his motion. Supervisor Wells moved for approving the list for two years. Supervisor Hord seconded the motion. Motion passed 6 to 0.</p>
6:16:09 PM	Unfinished business	<p><b>9A. APPROVAL OF MEDIATION SETTLEMENT AGREEMENT WITH O &amp; S WATER</b> - Executive Director Wheeler briefly reviewed the points of the settlement agreement: 1. O &amp; S agreed to pay the full unpaid balance of \$54,464.26 in three payments, with the last payment due on March 31, 2010. 2. Billing dispute issues raised by O&amp;S were waived and the Authority agreed not to pursue invoicing for under billing as a result of failure to implement annual contract indexing and the failure of the meter at Bellalago to register. 3. O&amp;S agreed to work with KUA to provide</p>

		<p>meter readings. 4. O&amp;S releases the Authority completely on their claim of damage to their distribution system resulting from calcium carbonate deposits. Chairman Van Meter asked what would happen if they don't meet one of the four conditions and Attorney Lawson said that there are remedies in the contract. Mr. Lawson added that on these issues the mediation has been done. Supervisor Banasco asked if there is a recent issue of payment not being met. Mr. Lawson said that it has been made clear to them that non-payment will result in termination of water service. Supervisor Hord asked it if was too late to make them post a bond. Mr. Lawson said that asking for a bond would be counterproductive. Supervisor Hord stated that staff should closely monitor compliance with the payment schedule. Chairman Van Meter said that the Board wants the money collected and action taken at the first instance of non-payment. Supervisor Moody moved for approval of the Mediation Settlement Agreement with O&amp;S Water. Supervisor Wells seconded the motion. Motion passed 6 to 0.</p>
6:33:14 PM	New Business	<p><b>10A. APPROVAL OF PAYMENT TO CITY OF KISSIMMEE OF DIFFERENTIAL IN FAMILY HEALTH INSURANCE RATES FOR 2010</b></p> <p>At a workshop in July, the Board had asked staff to investigate the cost of health insurance for Authority employees separate from the City of Kissimmee employees. Research showed that the Authority would have to pay \$51.46 per month more per employee for an annual charge of \$112,388 and employees would have to pay an additional \$22.12 per pay period for dependent coverage. Remaining in the insurance plan with the City would result in City employees paying approximately \$9.28 per pay period more for dependent coverage than would be paid if the City was not combined with the Authority. The City has asked the Authority to pay the cost differential for the dependent premium so that their employees will not be penalized. The cost for the year for Authority and City employees carrying family or dependent coverage would be \$38,846. Paying the differential and remaining in the consolidated insurance plan will still provide the Authority an approximate savings of \$73,542 over providing a separate insurance plan.</p>

Supervisor Hord moved for approval of the differential in family health insurance rates for 2010. Supervisor Bornstein seconded the motion. Motion passed 6 to 0.

**10B. APPROVAL OF BUDGET FOR PURCHASE OF ART FROM THE OSCEOLA ART FESTIVAL FOR AUTHORITY ADMINISTRATIVE BUILDING** – At the November 18<sup>th</sup> Board meeting, the Chairman proposed that the Authority consider purchasing some art for the new administrative building from the Osceola Art Festival. Chairman Van Meter approached the Director of the Osceola Center for the Arts with the concept of the Authority purchasing art and sponsoring an award for the annual art festival. The Center has proposed to establish the Toho Water Authority Purchase Award, giving the Authority some wide latitude to design its own program for an art award purchase. The budget established for this purpose will be \$4500. A committee would need to be created of 3 to 5 people; at least 2 board members and 3 employees. Supervisor Bornstein suggested polling employees to see who would be interested. Supervisor Moody seconded the motion. Motion passed 6 to 0

**10C. APPROVAL OF BONUS FOR THE AUTHORITY EMPLOYEES** – The Authority's Constant Maturity swap has produced a significant level of unbudgeted revenue resulting in an anticipated accrual of about \$2 million. Because this income is not classified as operating revenue, it has flowed to the Authority's reserves and increased the reserves by an additional \$2M. The Executive Director would like to recommend that \$100,000 or 5% of the swap income be used to fund a one-time bonus for Authority employees of \$400 in addition to the budgeted \$100 Christmas bonus. Supervisor Hord moved for approval of a \$400 one-time bonus for the employees. Supervisor Moody seconded the motion. Motion passed 5 to 1 with Supervisor Wells voting against it.

**10D. APPROVAL OF INFRAMETRIX'S EVALUATION OF WATER SYSTEM AND GRAVITY SEWER SYSTEMS FOR POINCIANA VILLAGES 7, 8, AND 3.** The infrastructure in the undeveloped Poinciana Villages

		<p>7, 8, and 3 was installed over thirty years ago and has not been used. Staff has concerns about the condition of the infrastructure and its ability to provide adequate service based on some field observations, the age of the infrastructure, and the standards of construction utilized at the time of installation. An independent assessment of the condition of the infrastructure is necessary to determine what improvements are required to return the system to a functional use. The cost of the assessments is approximately \$260,000. Supervisor Wells said that one should make the assumption that everything there is defective. Attorney Lawson advised the Board to proceed with getting factual information because if you don't pay for it now, you will pay for it later. Supervisor Hord moved for approval of the evaluation of the water and gravity sewer systems for Poinciana Villages, 7, 8, and 3, Supervisor Moody seconded the motion. Motion passed 6 to 0.</p> <p><b>11A. TWA ADMINISTRATIVE BUILDING UPDATE –</b> Robert Pelham gave a PowerPoint presentation of the administrative building update. The Board was asked to decide on a sign for the building. The Board agreed on the sign like the sign at the Poinciana Customer Service office and requested staff to provide an example of the proposed sign for final approval. The Board also discussed putting a Masonic Cornerstone on the building.</p>
8:05:14 PM	Staff Reports	Mr. Wheeler reminded the Board of the Chamber table for tomorrow's event and also the employee luncheon on December 16 <sup>th</sup> .
8:07:35 PM	MEETING CONTINUANCE	Chairman Van Meter continued the meeting until December 16 <sup>th</sup> at 5:00 PM.
5:00 PM	DECEMBER 16, 2009	<p>The December 9<sup>th</sup> TWA Board meeting was continued to December 16<sup>th</sup> to discuss Item <b>7F. APPROVAL OF DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE SIMPSON ROAD WATER MAIN EXTENSION PROJECT.</b> Executive Director Wheeler reviewed the memo provided to the Board in advance of the meeting which outlined the basis upon which FDEP rejected the Authority's Local Preference Policy and supporting</p>

documentation. The memo provided reasoning why Wright's Excavating assertion that the low bidder's extension of their bid after 90 days was not valid. Mr. Paul Crumpler, representing Wright's Excavation, stated that his main complaint was that the Authority had extended the bid of the low bidder beyond the mandatory period of 90 days specified in the bid documents during which all bidders must hold their bids. Mr. Mark Lawson of BMO, attorney for the Authority, explained that because the low bidder has the option to agree to or reject a request for an extension of their bid, there is no requirement that the request be made before the mandatory 90 day hold period for all bids expires. The Board, Board attorney, and Mr. Crumpler discussed 90 day requirement for bidders to hold their bid and its relation to the extension by the low bidder of its bid after 90 days. Mr. Crumpler stated that he wanted to know when a TWA bid closed. Provided there is mutual agreement between the owner or local government and the low bidder on the extension of a bid, there is no specific requirement of which the staff was aware that would limit the time for the extension. There was discussion by the Board of how this bid controversy could have been avoided and what staff should do in the future to avoid similar situations. Discussion followed with Mr. Crumpler about the timing and process for filing an appeal of the award of the contract to the overall low bidder. Mr. Crumpler expressed a desire to be notified of the award to have the opportunity to consider an appeal of the award. Supervisor Bornstein inquired about the time line on the grant money and was told that the project must be under contract by February 17, 2010 or the grant money will be lost. Based on the deadline, Staff does not have time to rebid the project. Some additional discussion ensued concerning the bidding process and the grant requirements. Mr. Crumpler said that he was coming before the Board respectfully and that the impacts of this prolonged bidding process have been detrimental to his company. Once again, Mr. Crumpler appealed to the Board for the project to be rebid. Supervisor Wells moved for adoption of Resolution 09-022. Supervisor Hord seconded the motion. Motion passed 6 to 0.

Attorney Lawson said that he would like for this issue to come to an end and suggested that any protest of

06:03:07

today's decision be brought before the Board. Mr. Crumpler further stated that he would like to leave the room knowing when the bid closed. Mr. Lawson suggested that staff provide a sheet which clarifies the bid process. Supervisor Hord moved that if any appeal action was to come out of today's decision it be brought before the TWA board. Supervisor Moody seconded the motion. Motion carried 6 to 0.

Mr. Crumpler added that he appreciated what the Board had done. Supervisor Bornstein asked if the process could be reviewed by Staff.

Executive Director Wheeler informed the Board of the sewer collapse at the intersection of 17-92 and Vine Street and that there was a similar situation last year about this time. FDOT has finally given permission for work within their right-of-way and a temporary repair could begin tomorrow. Mr. Wheeler also informed the Board of a bad sewer at the old KUA building on Main Street and a sewer collapse on Mabbette Street.

There being no further business to come before the Board, Chairman Van Meter adjourned the meeting at 6:03 PM.

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Bruce R. Van Meter, Chairman

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John E. Moody, Secretary

CATEGORY: Consent

ATTACHMENTS: Letter of Recommendation from Arcadis, Inc. to Award Construction Contract to the Low Bidder

**APPROVAL OF CONSTRUCTION CONTRACT WITH C&S TECHNICAL RESOURCES, INC. FOR POINCIANA VILLAGE 7 NEIGHBORHOOD 2 EAST UNEQUIPPED LIFT STATION IMPROVEMENT PROJECT**

**EXPLANATION:** A single family residential subdivision in Poinciana Village 7 Neighborhood 2 East (V7N2E) was constructed by the Poinciana Developer approximately 20 years ago; paved roads, and water and sewer infrastructure were constructed, including a lift station wet well and force main. The mechanical components of the lift station, including the pumps, were not installed. The residential construction was initiated but only three single family homes on the available 193 residential lots were completed and connected to the wet well. Severn Trent has been pumping out the wet well periodically utilizing a vacuum truck to provide service. Connecting services to an incomplete collection system is a violation of FDEP policy; therefore, the lift station must be completed.

This project will mechanically equip and complete the lift station construction. The construction includes lining the existing wet well, installing pumps, above ground discharge piping, electrical and telemetry components, security fencing, and an access driveway.

The project was advertised in the legal section of the Orlando Sentinel and DemandStar. Six bids were received. No local vendors meeting the requirements of the local vendor preference policy bid the project. The bids were opened on December 15, 2009 and were evaluated and tabulated by Arcadis, Inc. with whom TWA has a contract for design and construction services for this project. C&S Technical Resources, Inc. was the low bidder with the amount of \$118,430.00. The Engineer's estimated cost is \$148,600.00. Arcadis has checked the contractor's references and recommends award of the bid to C&S Technical Resources based on the low bid price and reference check. The 6 bids are as follows:

<b>Contractor</b>	<b>Total Bid</b>
C&S Technical Resources	\$118,430.00
Seavy & Associates	\$132,603.00
Atlantic Civil Construction	\$179,729.00
Censtate Contractors	\$182,930.00
Masci Corporation	\$202,622.00
Cloud 9 Services	\$250,000.00

Staff is requesting a contingency of \$10,000 for the project. The project will be funded through account 410083.

**RECOMMENDATION:** Staff recommends awarding the construction contract to C&S Technical Resources for the total bid amount of \$118,430.00 and funding a construction contingency of \$10,000 for Poinciana V7N2E lift station improvement project.

CATEGORY: Consent

Attachment(s): Addendum 1 to Drinking Water State Revolving Fund Construction Loan Agreement with FDEP

**APPROVAL OF ADDENDUM 1 TO DRINKING WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT WITH STATE OF FLORIDA DEPARTMENT OF ENVIRONMENT PROTECTION FOR SIMPSON ROAD WATER MAIN EXTENSION PROJECT**

**Explanation:** The Simpson Road Water Main Extension project has been awarded a State Revolving Fund (SRF) loan. The Board approved the Loan Agreement with FDEP on 12/16/09. The Agreement stated the total awarded SRF fund amount was \$789,605 which consisted of the Principal Forgiveness in the amount of \$671,164 (85% of total SRF fund) and a loan of \$118,441(15% of total SRF fund). These dollar amounts were awarded based on the project estimated cost included in the Request for Inclusion on the Loan Priority List submitted to FDEP in April 2009. The project was bid in August 2009 and the FDEP approved bid amount is \$553,760.60.

FDEP issued addendum 1 to Loan Agreement to revise the original awarded loan amounts to match the bid amount. The revised awarded total SRF fund amount is \$577,981(\$553,760.60 for construction and \$24,220 for Technical Services) which consists of the Principal Forgiveness in the amount of \$491,284 and a loan of \$86,697

All other terms and provisions of the Loan Agreement will remain in effect.

**Recommendation:** Staff recommends approval of the Addendum 1 to drinking Water SRF loan agreement with FDEP for Simpson Road water main extension project.

Approval of Addendum 1 to DWSRF agreement with FDEP for Simpson Road water main project 01.13.10.lz

CATEGORY: Consent

Attachment(s): Bid Award Recommendation Letter from CPH Engineers

**APPROVAL TO AWARD THE CONTRACT TO WRIGHT EXCAVATING, INC., FOR CONSTRUCTION OF A 12" REUSE WATER MAIN EXTENSION ON MARTIN LUTHER KING JR BOULEVARD**

**EXPLANATION:** The Martin Luther King Jr. Boulevard (MLK Blvd.) 12" reuse water main (RWM) extension project will construct 2,913 ft of pipe from the existing 30-inch RWM at the Airport to Thacker Ave. and 1,860 ft of pipe from John Young Parkway (JYP) to Clyde Ave. The reuse main will provide reuse service to the Authority's Administration Building in addition to properties along MLK. The reuse main from JYP to Thacker Ave. was completed in 2008 with the City's MLK Phase I project.

The project was publicly advertised in the Orlando Sentinel on November 22, 2009 and on Demand Star November 23, 2009. The bid opening was held on December 22, 2009. Seven bids were received. The bids are summarized below:

<b>BIDDER</b>	<b>TOTAL BID AMOUNT</b>
CWB Contractors, Inc.	\$304,425.00
Pospiech Contracting, Inc.	\$323,895.00
Eden Site Development	\$324,620.00
Wright's Excavating, Inc.	\$336,887.57
Masci Corp.	\$343,370.55
Phillips & Jordan, Inc.	\$413,027.66
Jr. Davis Construction Company, Inc.	\$505,372.00

Based on the bid amounts submitted the low bidder is CWB Contractors, Inc. (CWB). CPH, design engineer for the project, has reviewed the bid from CWB; contacted owners from previous projects constructed by CWB, and has received favorable references. CPH has provided the attached recommendation letter.

Wright's Excavating, Inc. (WEI) and Jr. Davis Construction Co., Inc. meet the TWA Local Vendor Preference Purchasing Policy with WEI submitting the lower bid price between the two. On December 23, 2009 TWA staff offered WEI to match the bid price of the lowest responsive bidder (CWB).

Wright's Excavating, Inc. provided a letter dated 1/7/10 stating that they will match CWB Contractors, Inc. bid amount (\$304,425.00). CPH also found WEI to be qualified and submitted a responsive bid and favorable references. As stated in their letter, CPH recommends and staff agrees to award the project to WEI.

The work will be funded by 110060

**RECOMMENDATION:** Staff recommends approval of the contract award to Wright's Excavating, Inc. in the amount of \$304,425.00 plus a five percent (5%) contingency of \$15,221.25.

CATEGORY: Consent

Attachment(s): Developer Service Agreement

## **APPROVAL OF DEVELOPER SERVICE AGREEMENT FOR BUFFALO WILD WINGS**

**Explanation:** The Buffalo Wild Wings project, developed by Maybar 106 Associates, LLC is located on the East side of Formosa Gardens Blvd. South of U.S. 192 and is required to enter into a standard Developer Service Agreement (“Agreement”) with the Tohopekaliga Water Authority (Authority) as a condition of water, reuse and wastewater service.

The standard language of the Agreement was altered and approved by Bryant Miller Olive to reflect the Property being owned by Formosa Developer’s Inc. and developed by Maybar 106 Associates, LLC as a Lessee of the property.

The Special Conditions of the Agreement contain six conditions. Five conditions are standard conditions typically approved by the Executive Director. The remaining special condition concerns the Developer participating in TWA’s commercial water impact fee credit program which requires:

1. DEVELOPER has agreed to participate in the TWA commercial water impact fee credit program for the PROJECT with stipulations outlined below:
  - a) DEVELOPER and TWA have mutually agreed upon a water conservation plan for the PROJECT. This plan includes the following water conservation measures to be executed:
    1. A 6,000 gallon cistern will be constructed to collect rainwater and cooler condensate water. This will be used for flushing toilets and urinals as well as for irrigation needs. Any needed supplement will come from TWA’s reclaimed water.
    2. Microirrigation will be used for all shrub beds.
    3. Unirrigated Bahia grass will be used along the east, west, and south edges of the parcel, and five parking lot islands.
    4. All urinals installed will use 0.125 gallons per flush.
  - b) DEVELOPER shall provide TWA with shop drawings and specifications for the water conservation mechanisms, outlined above, to ensure compliance with the mutually agreed upon water conservation plan.
  - c) DEVELOPER will receive a twenty (20) percent credit in their water impact fee. If the full amount of the water impact fee has been paid prior to the execution of this document, a refund will be granted to DEVELOPER upon recording of this document with the appropriate records keeping agency.

- d) TWA will have the right to inspect the water conservation mechanisms, outlined above, at any time to monitor compliance of the mutually agreed upon water conservation plan.
- e) If DEVELOPER and/or his successors fails to maintain or comply with any portion(s) of the mutually agreed upon water conservation plan as determined by TWA, the twenty (20) percent credit will become immediately due in full by DEVELOPER and/or his successors.
- f) If payment of the twenty (20) percent credit is not provided for within 30 days from receipt of notification, DEVELOPER and/or his successors agree to water and sewer service interruption until such time as the credit is paid in full to TWA.
- g) Further, it is understood that the entity that is the current operator (initially, Maybar 106 Associates, LLC) of the Project may, from time to time, assign or otherwise transfer its rights in the Project to another entity, in which case, upon notice of same to TWA, all rights and obligations of that entity as Developer hereunder shall automatically be transferred to the assignee or transferee, who shall then become DEVELOPER under this Agreement.
- h) It is also understood that the entity that is the current OWNER (initially, Formosa Developer's, Inc.) of the Property may, from time to time, assign or otherwise transfer its rights in the Property to another entity, in which case, upon notice to TWA, all rights and obligations of that entity as OWNER hereunder shall automatically be transferred to the assignee or transferee, who shall then become OWNER under this Agreement.
- i) Further, if the Project is discontinued for any reason so that there is no significant use of water at the site, such discontinuance shall not constitute a failure of maintenance or compliance with the water conservation plan.

**Recommendation:** Staff recommends approval of the Developer Service Agreement for the Buffalo Wild Wings project.

Developer Service Agreement – Buffalo Wild Wings – 01.13.10.kd

CATEGORY: Informational Presentation

Attachments: Memo to Board on Suspension of Construction of Cypress Lake Test Well No. 2

**REPORT TO THE BOARD ON THE SUSPENSION OF CONSTRUCTION OF THE CYPRESS LAKE TEST WELL NO. 2**

**Explanation:** Staff has developed and is preparing to implement a plan to temporarily suspend construction of the second test well for the Cypress Lake wellfield. The attached memorandum outlines the status of the construction and the situation that has precipitated the decision to temporarily suspend construction of the test well. As outlined in the memorandum, the staff believes the Authority should obtain some clear indication from the SFWMD position on the potential to permit the proposed Cypress Lake wellfield before proceeding further with the construction. Results of some initial modeling performed by the WMD on the proposed Cypress Lake wellfield withdrawals have created a level of uncertainty at this time as to how the permitting of the wellfield will be evaluated and proceed. Staff believes, before proceeding, it is prudent to suspend construction temporarily and resolve the issues creating the uncertainty.

**Recommendation:** There is no action required by or requested of the Board on this issue at this time.

# MEMORANDUM



**To:** Board of Supervisors

**From:** Brian Wheeler, Executive Director

**Date:** January 13, 2010

**Re:** Cypress Lake AWS Test Well #2 – Suspension of Construction

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TWA has been pursuing the permitting and development of an Alternative Water Supply in the vicinity of Cypress Lake to draw water from the Lower Floridan Aquifer. Initially the Authority constructed a test production well at the northern limit of the proposed wellfield and conducted an aquifer performance test to develop data to be utilized in hydrogeological modeling to estimate the quantity of water that could be withdrawn from the Lower Floridan Aquifer within this area and meet the permitting criteria of the South Florida Water Management District (SFWMD). Based on the results from the test well and subsequent modeling, a Water Use Permit application was submitted to SFWMD for 30mgd in February, 2009. At that time staff was proposing to construct a second test well at the proposed southern limit of the planned wellfield to further substantiate the test results from the first well. Because the Test Well #1 data and subsequent modeling did not correspond to analysis done by the SFWMD, the Authority was advised that data from the second test well would be important for consideration of the permit application model results. The Authority has proceeded with the construction of the second test well with an anticipated completion date for the well and testing in August 2010. In the interim, while the second test well was being constructed the SFWMD proposed to conduct modeling using their existing data and establish a level of water withdrawal that could be permitted before the completion of the second test well and test results. SFWMD completed their initial modeling of the proposed Cypress Lake wellfield withdrawals using their model and data and presented their initial results to staff and the Authority's consultants on December 18, 2009.

SFWMD has been working for a number of years on developing an East Central Florida Transient (ECFT) hydrogeological model to utilize for evaluating groundwater withdrawals and water use permit applications in the Upper Kissimmee River Basin portion of the District. The WMD believes that their ECFT model is ready for use and it

was utilized in conducting their initial modeling of the proposed Cypress Lake wellfield utilizing their data. These were the model results presented at the December 18, 2009 meeting with consultant representatives for TWA and the STOPR group. The presentation included a brief description of the SFWMD measures used to improve model accuracy, as well as the results of simulations performed to include the proposed Cypress Lake wellfield operating at total pumpage rates that escalated from 5 to 30 MGD. Two potentially adverse outcomes were presented: water table drawdown impacts on portions of the Lake Wales Ridge of nearly 0.5 feet and decreases in groundwater inflows to a portion of the Kissimmee River system of 4 MGD (at pumpage of 30 MGD). The Southwest Florida Water Management District (SFWMD) permitting criteria does not allow any proposed groundwater withdrawals to produce any drawdown effects on the Lake Wales Ridge. Reductions in groundwater inflows to the Kissimmee River may be affected by the SFWMD Reservation Rule presently under development by SFWMD. The results of the SFWMD ECFT model are not consistent with the results of the model based on the then current SFWMD ECFT model Tetra Tech prepared and submitted with the Cypress Lake WUP. If the results of the most recent SFWMD ECFT modeling are utilized, then the permitted withdrawal from the Cypress Lake wellfield may be significantly less than 30 MGD, and the WUP may be conditioned with significant monitoring requirements. After reviewing the SFWMD presentation of the ECFT model TWA's and STOPR's Hydrogeology Consultants, TetraTech and PB Water, view the ECFT model calibration and simulation results as inconsistent with observations of the initial testing completed at the Cypress Lake wellfield Bronson site and have significant concerns with the model. The STOPR group is in the process of scheduling a meeting with Executive Management at the SFWMD to present a case for its ECFT model concerns and to request that these concerns be addressed. Adjusting the model to address the consultants' concerns will modify the model results and may significantly mitigate the impacts outlined above. While the Authority staff, legal counsel, Silvia Alderman, and consultants attempt to deal with the present modeling issues with the WMD, staff is planning to suspend further construction of the Cypress Lake Test Well #2.

The test well #2 construction program is approximately 50% complete. The project consists of eight wells: one Lower Floridan Test Production Well and seven monitoring wells and associated aquifer testing and modeling. The Lower Floridan Test Production Well is intended to be utilized as a future production well. The seven monitoring wells will be used to collect data and document impacts to the surficial water table, Upper Floridan Aquifer, Lower Floridan Aquifer, and intermediate and lower producing zones during the testing that will be conducted upon completion of construction. The seven monitoring wells consist of the following: one Upper Floridan Monitoring Well; three surficial monitoring wells; two remote Lower Floridan Monitoring Wells; and one Dual Zone Monitoring Well. Completion of the Test Well #2 construction and testing program will provide data to assist in evaluating the quantity and quality of water that can be pumped from the Lower Floridan Aquifer by the future wellfield. The withdrawal rate from the Test Production Well #2 is anticipated to be approximately 5 MGD. Below is a table summarizing the construction status:

Well	No.	Status	Construction Status Summary
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Upper Floridan Monitoring Well	1	Completed	Depth of 600'. Pump installed for construction water use.
Surficial Monitoring Wells	3	Completed	Depth of 20'. Water level monitoring instrumentation installed.
Test Production Well (future production well)	1	In progress	Pit casing installation completed. Surface casing installation completed to 315'. Intermediate casing installation completed to 1012'. Exploratory drilling has been completed to 2360'. <b>For Completion:</b> Requires final casing installation to approximately 1300' and back plugging of open hole to approximately 1700' to isolate Lower Floridan Production zone. Geophysical and video logging is required to determine appropriate depths for final casing and back plugging.
Dual Zone Monitoring Well	1	In progress	Pit casing installation completed. Surface casing installation to 300' completed. <b>For Completion:</b> Requires drilling to lower Floridan production zone.
Lower Floridan Monitoring Wells	2	In progress	Pit casing installation completed, Surface casing to approximately 300' is completed. <b>For Completion:</b> Requires Drilling to lower Floridan production zone.

The award contract amount for the construction was \$2,416,280.00. To date approximately \$1,153,940.00 of the contract has been expended. Suspension of the construction of Test Production Well #2 will require some additional work to meet SFWMD well construction permit requirements and to insure the condition of the well will be maintained to facilitate construction when the project is re-started. Approximately \$200,000 will need to be expended to complete the geophysical and video logging of the open hole from 1012' to 2200' to determine the appropriate depths to set the final casing and back plug the open hole to isolate the most productive zone in the Lower Floridan Aquifer, and the physical installation of the final casing. The Dual Zone Monitoring Well and the two Lower Floridan Monitoring Wells are drilled and cased to 300' and require no additional action at this time to secure. Suspending the project at this point will result in approximately \$1.06 million in construction remaining plus some additional charges for remobilization.

Staff believes it is prudent to suspend construction of Test Production Well #2 at this time due to the uncertainty of the SFWMD position on the initial ECFT model results for the proposed Cypress Lake Wellfield. Without some indication from the WMD that the data developed from the Authority's two test wells (No. 1 completed and No.2 under construction) will be incorporated into the ECFT model and that the concerns of the Authority's and STOPR's consultants with the model are addressed continuation of

construction would pose some risk to the Authority that the continued investment may not result in an acceptable return.

Category: Unfinished Business

Attachment(s): Initial Assessment Resolution No. 2010-001

**APPROVAL OF INITIAL ASSESSMENT RESOLUTION TO SET FORTH A PROCEDURE TO ASSESS, LEVY, IMPOSE, COLLECT, AND ENFORCE SPECIAL ASSESSMENTS, CHARACTERIZED AS NON-AD VALOREM ASSESSMENTS, FOR WASTEWATER COLLECTION AND TREATMENT SERVICES**

**Explanation:** To continue to set forth the process of collecting unpaid, rates, fees and charges the next step in the process is to adopt an Initial Assessment Resolution. The purpose of the initial assessment resolution is to set the procedure for imposition of special assessments in the wastewater service areas that are currently served water by O & S Water Company and wastewater services by Toho Water Authority. A public hearing is to be held to consider imposition of the foregoing special assessments and adoption of a final assessment resolution then or at any subsequent meeting of the board, confirming and imposing same. The final assessment resolution is to establish and confirm the amount of the non-ad valorem special assessments; approve the assessment roll, with such amendments as it deems just and right; and confirm and determine the method of collecting the non-ad valorem special assessments.

As previously stated, in order to effect the establishment of non-ad valorem special assessments, TWA must carefully follow statutory requirements. A preliminary assessment roll is required and has been developed and is on record at the Toho Water Authority offices for review by the public. Following the adoption of the Initial Assessment Resolution, the following processes will be followed:

Letters mailed to all affected property owners concerning a public hearing to establish special assessment liens and adopt a Final Assessment Resolution for the collection of delinquent wastewater charges. (This will also give these delinquent owners another opportunity to bring their account current and avoid the assessment.)

Publication of notice of public hearing to confirm the special assessments and adopt the Final Assessment Resolution.

Staff presentations and public comment concerning the Final Assessment Resolution at the public hearing.

30 days following the adoption of the Final Assessment Resolutions any unpaid assessments are delinquent and a notice is placed in the Official Records.

Any unpaid assessments will then be sent to the property appraiser/tax collector by September 15 and are placed on the property tax bills.

**Recommendation:** Staff recommends approval of the Initial Assessment Resolution and advertising for the public hearing to complete the Final Assessment Resolution electing to use the Uniform Method of Collecting Non-Ad Valorem Assessments levied in all or part of the service area of the Authority.

INITIALASSESSMENTRESOLUTION.01.13.10.BA

Category: New Business

Attachments: Reimbursement Resolution – Resolution No. 2010-002

Memorandum - Toby Wagner, TWA Finance Advisor

**APPROVAL OF REIMBURSEMENT RESOLUTION FOR PROJECT COSTS FOR POTENTIAL FUTURE TAX EXEMPT FINANCING**

**EXPLANATION:** The Authority's financial advisor, Toby Wagner of Southeast Investment Securities, and Bryant Miller Olive have recommended that TWA adopt a Reimbursement Resolution stating the intent to reimburse certain capital project costs from proceeds from a future tax exempt financing. The resolution does not obligate and is not a commitment to finance any specific project. There is an exhibit (A) to the resolution which generally describes types of projects which may be financed and may have costs which would be eligible for reimbursement. If the Authority did choose to issue financing for a project that would fit within the categories listed in the resolution exhibit and the Authority had incurred some costs for the project prior to the financing, those pre-financing costs could be reimbursed as part of the financing. Projects potentially to be covered by the resolution are listed in Exhibit A to the resolution. The exhibit contains descriptions of categories of projects taken from the Authority's five year capital improvement plan/budget. For costs to be eligible for reimbursement they must have been incurred not later than three years before the financing and/or within 18 months of the project being placed in service. The most notable project is the alternative water supply project. As the board is aware, the Authority has incurred and may continue to incur costs associated with the permitting and development of the Cypress Lake wellfield project. Including this project in the resolution exhibit would permit the Authority to include those costs incurred this year, subsequent to the resolution, in a future financing of the project.

A memorandum from Toby Wagner is attached that provides a summary of the resolution. A reimbursement resolution is being recommended at this time primarily due to the on-going expenditures for AWS projects. The Authority can and should adopt a reimbursement resolution periodically if it anticipates there may be some capital project financing within the next three years.

**Recommendation:** Staff recommends approval of Resolution No. 2010-002 establishing the intent to reimburse certain project costs from proceeds from tax exempt financing.

REIMBURSERESOLUTION01.13.10BLW

10A

RESOLUTION NO. 2010-002

A RESOLUTION OF THE TOHOPEKALIGA WATER AUTHORITY FLORIDA, ESTABLISHING ITS INTENT TO REIMBURSE CERTAIN PROJECT COSTS INCURRED WITH PROCEEDS OF FUTURE TAX-EXEMPT FINANCING; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Tohopekaliga Water Authority Florida (the "Authority") has determined that the need exists to construct and replace certain capital improvements to the Authority's water and sewer system together with engineering work regarding the water and sewer facilities, more particularly set forth on Exhibit A attached hereto (collectively, the "Project");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF TOHOPEKALIGA WATER AUTHORITY THAT:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of Chapter 2003-368, Laws of Florida (Tohopekaliga Water Authority Act), as amended and other applicable provisions of law.

SECTION 2. DECLARATION OF INTENT. The Authority hereby expresses its intention to be reimbursed from proceeds of a future tax-exempt financing for capital expenditures to be paid by the Authority in connection with the construction of the Project. Pending reimbursement, the Authority expects to use funds on deposit in its water and sewer utility funds, reclaimed water funds, stormwater funds and other funds legally available to pay a portion of the cost of the Project. It is not reasonably expected that the total amount of debt to be incurred by the Authority to reimburse itself for expenditures paid with respect to the Project will not exceed \$200,000,000. This

Resolution is intended to constitute a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations.

SECTION 3. SEVERABILITY. If any one or more of the provisions of this Resolution shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, but this Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

SECTION 4. REPEALING CLAUSE. All resolutions or orders and parts thereof in conflict herewith to the extent of such conflicts, are hereby superseded and repealed.

SECTION 5. EFFECTIVE DATE. This resolution shall take effect immediately upon its adoption.

**DULY PASSED AND ADOPTED** this \_\_13TH\_\_ day of January 2010, at a regular meeting duly called and held.

(SEAL)

**TOHOPEKALIGA WATER AUTHORITY**

ATTEST:

\_\_\_\_\_  
Bruce Van Meter, Chair  
Board of Supervisors

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John E. Moody, Secretary  
Board of Supervisors

RESOLUTION NO. 2010-002

EXHIBIT A

PROJECT DESCRIPTION  
CAPITAL IMPROVEMENTS TO THE TOHO WATER AUTHORITY  
WATER AND SEWER FACILITIES

1. Development of Alternative Water Supplies and associated infrastructure.
2. Construction of Biosolids processing facilities
3. Rehabilitation of sewage collection and transport facilities
4. Construction of potable and reclaimed water distribution system improvements
5. Construction of water and sewer system improvements in association with City, County, and State road improvement projects.
6. Construction of improvements and expansions of the Authority's potable water treatment and water reclamation facilities.