

POLK REGIONAL WATER COOPERATIVE

Resolution 2024-20

**PARCEL RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN SPECIFIED PARCELS
TO IMPLEMENT
THE SOUTHEAST LOWER FLORIDAN AQUIFER WATER PRODUCTION FACILITY AND
SOUTHEAST TRANSMISSION LINE PROJECTS**

The Polk Regional Water Cooperative (“Cooperative”), created pursuant to Section 373.713, Florida Statutes, and an Interlocal Agreement pursuant to Section 163.01, Florida Statutes, in lawful session and in regular order of business properly presented, finds that:

WHEREAS, the Cooperative as an independent special district created pursuant to Chapter 189, Section 373.713, Florida Statutes and an Interlocal Agreement entered into on June 1, 2016 pursuant to Section 163.01, Florida Statutes by Polk County and 15 municipalities within Polk County (the “Interlocal Agreement”) for the purpose of developing AWS projects to meet the future potable water needs of the citizens of Polk County; and

WHEREAS, in April 2021, the Cooperative and 15 of its member governments entered into the Implementation Agreement for the Southeast Wellfield, which obligates the Cooperative to construct and operate the Southeast Wellfield Project to supply the participating member governments 15.15 million gallons a day of potable water by 2045 (the “Implementation Agreement”); and

WHEREAS, the Southeast Wellfield Project consists of the Southeast Lower Floridan Aquifer Water Production Facility (“SELFA WPF”) and the Southeast Transmission Main (“SETM”); and

WHEREAS, the Cooperative is in the process of constructing the first phase of the SELFA WPF, which consists of a 5 raw water wells, approximately 10 miles of raw water transmission line and a water treatment plant capable of producing 7.5 million gallons a day of high quality potable water and the SETM, which consists of approximately 61 miles of water transmission pipeline to deliver the finished water from the water treatment plant to the project participants for use in their water service areas; and

WHEREAS, pursuant to Cooperative Resolution 2023-06 the Cooperative Board designated the SELFA WPF and SETM Projects as approved projects pursuant to the Interlocal Agreement and the Implementation Agreement; and

WHEREAS, pursuant to Cooperative Resolution 2023-06 the Cooperative Board approved the construction of the SEFLA WPF raw water transmission line as depicted in said resolution and the SETM finished water pipeline as depicted in said resolution as necessary, practical and in the best interest of the Cooperative and its member governments and that the acquisition of such property and property rights are needed for such construction is necessary for the performance

of its duties and for the construction, reconstruction and maintenance of said facilities for the use of the general public; and that the Cooperative is authorized to make such acquisition by gift, purchase or condemnation.

WHEREAS, the Cooperative has been granted the power of eminent domain pursuant to the Interlocal Agreement and Section 163.01(7)(f), Florida Statutes for the condemnation of private property interest for public use, and to acquire any interest in such real property as is necessary for the purpose of carrying out the Interlocal Agreement; and

WHEREAS, before exercising the power of eminent domain the Cooperative Board of Directors is required to adopt a resolution authorizing the acquisition of property for any purpose set forth in the Interlocal Agreement for the Cooperative's purpose or use subject to limitations set forth in Sections 73.013 and 73.014, Florida Statutes; and

WHEREAS, the Cooperative has bifurcated its eminent domain resolution into two separate resolutions; the Project Resolution, authorizing acquisition of property and property rights for the SELFA WPF raw water transmission line and SETM finished water pipeline projects, and the Parcel Resolution, authorizing the parcel acquisition and identifying the specific property and property rights to be acquired for the projects; and

WHEREAS, this Resolution constitutes a Parcel Resolution for the Southeast Wellfield Project; and

WHEREAS, the Cooperative has determined the need to acquire a non-exclusive permanent easement for construction of the Southeast Wellfield Project on certain lands located in Polk County, Florida, as more fully described in **Exhibit "A"** to Cooperative Resolutions 2024-01, 2024-03 and 2024-09, the nature and terms and duration of the non-exclusive permanent easement as set forth in **Exhibit "A"** hereto; and

WHEREAS, the Cooperative has determined the need to acquire a non-exclusive temporary construction easement for construction of the Southeast Wellfield Project on certain lands located in Polk County, Florida, as more fully described in **Exhibit "C"** to Cooperative Resolutions 2024-01, 2024-03 and 2024-09, the nature, term and duration of the nonexclusive temporary construction easement as set forth in **Exhibit "D"** to said Resolutions; and

WHEREAS, absent a relinquishment of the property pursuant to Section 73.013(4), Florida Statutes, land to be acquired will not be conveyed to natural persons or private entities and the land is not being acquired to abate or eliminate a public nuisance or to prevent or eliminate a slum or blight; and

WHEREAS, the Cooperative intends in good faith to construct the Southeast Wellfield Project on, under or over the described property; and

WHEREAS, the Cooperative has caused to be surveyed the line and area of construction by map or survey and location for the project; and

WHEREAS, the Cooperative shall comply with Chapters 73 and 74, Florida Statutes; and

WHEREAS, upon compliance with Chapters 73 and 74, Florida Statutes, the Cooperative is hereby authorized to exercise its power of eminent domain to acquire an interest in real property by initiating condemnation proceedings under Chapters 73 and 74, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The forgoing findings are incorporated herein by reference and made a part hereof.

Section 2. That after consideration of the factors described in the foregoing recitals, the description of the property and interests described as Parcels (10000-PE), (10000-TCE), (10001-PE), (10001-TCE) (10004-PE-A), (10004-PE-B) and (10004-TCE) in **Exhibits "A," and "C"** of Cooperative Resolution 2024-01 are ratified and confirmed and found to be reasonably necessary for the Cooperative's public purpose in constructing the Southeast Wellfield Project.

Section 3. That after consideration of the factors described in the foregoing recitals, the description of the property and interests described as Parcels (10022-PE), 10022-TCE), (10023-PE), (10023-TCE), (10024-PE), (10024-TCE), (10025-PE-A), 10025-TCE-A) (10025-PE-B) (10025-TCE-B), (10025-PE-C) and (10025-TCE-B) in **Exhibits "A," and "C"** of Cooperative Resolution 2024-03 are ratified and confirmed and found to be reasonably necessary for the Cooperative's public purpose in constructing the Southeast Wellfield Project.

Section 4. Section 3. That after consideration of the factors described in the foregoing recitals, the description of the property and interests described as Parcels (10008-PE), (10008-TCE), (10009-PE), (10009-TCE), (10011-PE), (10011-TCE), (10016-PE-A), (10016-TCE-A), (10016-PE-B) and (10016-TCE-B) in **Exhibits "A," and "C"** of Cooperative Resolution 2024-09 are ratified and confirmed and found to be reasonably necessary for the Cooperative's public purpose in constructing the Southeast Wellfield Project.

Section 5. That this Resolution shall amend Cooperative Resolutions 2024-01, 2024-03 and 2024-09 to replace **Exhibit "B"** as to Parcels (10000-PE), (10000-TCE), (10001-PE), (10001-TCE) (10004-PE-A), (10004-PE-B), (10004-TCE), (10022-PE), 10022-TCE), (10023-PE), (10023-TCE), (10024-PE), (10024-TCE), (10025-PE-A), 10025-TCE-A) (10025-PE-B) (10025-TCE-B), (10025-PE-C), (10025-TCE-B), (10008-PE), (10008-TCE), (10009-PE), (10009-TCE), (10011-PE), (10011-TCE), (10016-PE-A), (10016-TCE-A), (10016-PE-B) and (10016-TCE-B) with the attached **Exhibit "A"** to this Resolution.

Section 6. **Exhibit "D"** to Cooperative Resolutions 2024-01, 2024-03 and 2024-09 shall remain unchanged.

Section 7. That the Cooperative, its officers, employees, contractors and attorneys are hereby authorized and directed to acquire by negotiation, contract or legal proceedings, including eminent domain proceedings pursuant to Chapters 73 and 74, Florida Statutes, as may

be necessary to acquire permanent and temporary construction easements in certain lands located in Polk County, Florida described in **Exhibits "A," "C" and "D"** to Cooperative Resolutions 2024-01, 2024-03 and 2024-09 and **Exhibit "A"** hereto.

Section 8. That the proper offices of the Cooperative are hereby authorized to do all things necessary and proper under the applicable provisions of Chapters 73, 74 and 163, Florida Statutes and the Interlocal Agreement and Implementation Agreements.

Section 9. That this Resolution shall take effect immediately upon its adoption.

Section 10. That if any phrase, portion or part of this Resolution is found to be invalid or unconstitutional by a court of competent jurisdiction, such phrase, portion or part shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remainder of the Resolution.

DONE at Auburndale, Florida this 15th day of May, 2024

Southeast Wellfield Project Board of the Polk Regional Water Cooperative:

Chair

Secretary/Treasurer

Approved as to Form:

Edward P. de la Parte
Legal Counsel

EXHIBIT A

Nonexclusive Permanent Easement

[See Attached 2 Page]

EXHIBIT A
Nonexclusive Permanent Easement

[See Attached 2 Page]

The nature, terms and duration of the nonexclusive permanent easement (the "Easement") which the Polk Regional Water Cooperative ("PRWC") acquires from the property owners/interest holders ("Owner") of the real property shown and described on Exhibit "A" are:

The Easement in, upon and through the following described land in the County of Polk, State of Florida, to-wit:

SEE ATTACHED EXHIBIT "A"
(the "Easement Area")

1. The permanent perpetual water line Easement interests and rights acquired by PRWC are the perpetual right, privilege and authority to construct, install, maintain, operate, inspect, patrol, ingress and egress, test, repair, alter, substitute, relocate, resize, replace and remove the water transmission line or lines and related fixtures and/or appurtenances thereto, and vehicular and pedestrian access over the easement area, for the transmission of water and such other improvements as are reasonably necessary in connection with the water supply project for the PRWC.
2. In the event that the construction and installation of the water transmission line or lines and related fixtures and/or appurtenances thereto impact Owner's improvements, PRWC shall, to the extent practicable, relocate or replace with the same, like, or better quality and at their original locations or as near as is reasonably practicable, all fences, roads, driveways, sidewalks, parking areas, irrigation systems, wells, septic tanks and septic drain fields, that PRWC damaged or caused to be removed, relocated or replaced from the Easement before or during initial construction and installation of the water transmission line or lines and related fixtures and/or appurtenances. Furthermore subject to PRWC's acquired easement rights, PRWC will restore the surface of all disturbed areas within the Easement to its original contour and condition, as near as is reasonably practicable.
3. This Grant of Easement shall not be construed as a grant of right of way and is limited to a PRWC Easement. The Owner shall have the right to use the area subject to the Easement granted hereby, including without limitation for improved parking areas, improved driveways, and landscaping, which are not inconsistent with the use of the Easement by PRWC for the purposes granted hereby. Inconsistent improvements to the use of the Easement by Owner for the purposes granted hereby, including mounded landscaping, building foundations and overhangs, foundations for pole mounted commercial signage, and other permanent structures and related foundations shall be strictly prohibited. With the specific written approval of PRWC, the limited use of trees, walls, and mounded landscaping may be utilized within the Easement by Owner.
4. Owner reserves the right to grant permission or other easements to other parties for ingress and egress. In addition, the Owner reserves the right to grant

permission or other easements to other parties for the purpose of installing and maintaining underground utilities, including without limitation, electrical, gas, broadband, fiber optic and cable (but not other water transmission lines), with the prior written consent of PRWC. PRWC shall not unreasonably withhold, condition, or delay its decision concerning such utility easements. Owner's request to grant permission or an easement to other parties must be written and delivered 1) in person, 2) via certified or registered mail (return receipt), or 3) via nationally recognized overnight delivery service to the attention of the Executive Director of the Polk Regional Water Cooperative at the then-current address of the PRWC as reflected on the PRWC website. If after sixty (60) days, PRWC has not responded to Owner's request to grant permission or an easement to other parties, Owner may assume PRWC has granted permission for same. Any permissions or easements granted under this Paragraph prior to Owner's development of the subject property must be perpendicular to the PRWC easement.

5. In the event that PRWC performs emergency related repairs, unscheduled infrastructure adjustment activities, or scheduled community improvement projects within said Easement, PRWC shall be responsible for restoring the disturbed portions of all existing approved and permitted improvements in as good or better condition that existed prior to the disturbance activity by PRWC.