

POLK REGIONAL WATER COOPERATIVE

Resolution 2024-12

**RESOLUTION AMENDING RESOLUTIONS 2022-12 AND 2023-05
APPROVING LAND ACQUISITION PROCESS
FOR THE SOUTHEAST WELLFIELD PROJECT**

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, in 2016 the Cooperative, the City of Auburndale, the City of Bartow, City of Davenport, City of Eagle Lake, City of Fort Meade, the City of Frostproof, the City of Haines City, the Village of Highland Park, the City of Lake Alfred, the City of Lake Wales, City of Lakeland, City of Mulberry, Polk City, City of Winter Haven, Town of Dundee, Town of Lake Hamilton and Polk County entered into the Interlocal Agreement Relating to the Establishment of the Polk Regional Water Cooperative (“Formation Agreement”) with an effective date of May 1, 2016; and

WHEREAS, on July 13, 2022 the Cooperative, the City of Auburndale, the City of Bartow, City of Davenport, City of Eagle Lake, City of Fort Meade, the City of Haines City, the City of Lake Alfred, the City of Lake Wales, City of Lakeland, City of Mulberry, Polk City, City of Winter Haven, Town of Dundee, Town of Lake Hamilton and Polk County entered into the Second Amended and Restated Implementation Agreement – Southeast Wellfield (“Implementation Agreement”); and

WHEREAS, the Implementation Agreement requires the Cooperative to move forward with final design, permitting, bidding and construction of the first phase of Southeast Wellfield Project (“Project”) and

WHEREAS, Phase 1 of the Project will consist of a 7.5 MGD reverse osmosis facility, raw water wellfield, injection well and transmission pipeline; and

WHEREAS, the raw wellfield alignment will include approximately 10 miles of raw water pipeline and 61 miles of finished water transmission pipeline; and

WHEREAS, it is currently estimated in order to complete construction of these project elements approximately 329 easement parcels will need to be acquired; and

WHEREAS, given the extraordinary number of parcels that will have to be acquired and the fact that the Cooperative Board of Directors only meets every other month, a streamlined land acquisition process will need to be established; and

WHEREAS, on September 21, 2022 the Southeast Wellfield Project Board of Directors approved Cooperative Resolution 2022-12 establishing a three-tier process to facilitate the land acquisition process; and

WHEREAS, the approved process consists of delegating authority to the Executive Director to approve land acquisition with certain limits, establishing an executive committee composed of three board members and alternate to approve land acquisitions above the Executive Director's limits and reserving to the Board of Directors the authority to approve land acquisitions beyond the limits delegated to the executive committee; and

WHEREAS, on March 22, 2023, the Southeast Wellfield Project Board of Directors approved Cooperative Resolution 2023-05 amending Cooperative Resolution 2022-12; and

WHEREAS, the process, as modified, was expanded to include the approval of the Owner's attorney's fees and other costs separate from the land acquisition limits;

WHEREAS, the currently approved process did not take into account Florida Department of Environmental Protection ("FDEP") Grant Agreement LPA0212, as amended ("Grant Agreement"), which is being used to fund the majority of the acquisition of real property interests for Southeast Wellfield Project; and

WHEREAS, the Grant Agreement requires the Cooperative to record a Declaration of Restrictive Covenants with regards to each recordable property interest acquired by the Cooperative guaranteeing the property shall be subject to the terms and conditions of the Grant Award in perpetuity, with FDEP having the right to enforce the Restrictive Covenants in court; and

WHEREAS, the Cooperative's land acquisition consultant and eminent domain consultant recommend amending the approved land acquisition process to delegate to the Executive Director the authority to execute and record said Declarations of Restrictive Covenants on the Cooperative's behalf, as needed ,to satisfy the Grant Agreement; and

WHEREAS, Section 2.02 of the Formation Agreement authorizes the Board of Directors to delegate any and all executive, administrative and ministerial powers; and

WHEREAS, Section 2.03(A) of the Formation Agreement authorizes a project board to delegate any and all executive, administrative and ministerial powers regarding a specific Approved Water Project.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The Southeast Wellfield Project Board of Directors does hereby amend Cooperative Resolutions 2022-12 and 2023-05 to approve the following modified procedure to handle land acquisition associated with implementation of Phase 1 of the Southeast Wellfield Project and delegate to the Executive Director and the Land Acquisition Executive Committee all powers necessary to effectuate such land acquisition as follows:

(a) Delegate to the Executive Director the authority to approve all land acquisitions up to 50% above the appraised value of the property or \$100,000, whichever is higher and to approve all attorney's fees and other costs up to and including \$150,000; and

(b) Create a Land Acquisition Executive Committee composed of three Board Members and one alternate Board Member appointed by the Board Directors and delegate to this Committee the authority to approve all land acquisitions greater than 50% up to 100% of the appraised value of the property or greater than \$100,000 up to \$500,000, whichever is higher and to approve all attorney's fees and other costs above \$150,000 up to and including \$300,000; and

(c) Reserve to the Southeast Wellfield Project Board the approval of land acquisitions above 100% of the appraised value of the property or above \$500,000, whichever is higher and to approve all attorney's fees and other costs greater than \$300,000; and

(d) Delegate to the Executive Director the authority to execute and record Declarations of Restrictive Covenants as required by the Grant Agreement.

DONE at Auburndale, Florida this 20th day of March, 2024

Southeast Project Board of the Polk Regional Water Cooperative:

Chair

Secretary/Treasurer

Approved as to Form:

Edward P. de la Parte
Legal Counsel