

**Florida Governmental Utility Authority
Board of Directors Meeting Minutes
Thursday, April 16, 2009 - 12:00 Noon
West Pasco Government Center, Commission Chambers
7530 Little Road
New Port Richey, FL 34645**

Board Members Present

Doug Meurer, Lee County
Shane Parker, Hendry County
Michele Baker, Pasco County
Robert Knight, Citrus County
Chris Rogers, DeSoto County

Staff Present

Robert E Sheets, FGUA Systems Manager, GSG
John Pelham, General Counsel, Pennington, Moore, Wilkinson, Bell & Dunbar, PA
Heather Encinosa, Utility Counsel, Nabors, Giblin & Nickerson, PA
Faith Doyle, Board Clerk, GSG
Jon Williams, Chief Financial Officer, GSG
Tarek Fahmy, Director of Operations, GSG
Yvette Hartsfield, Community Service Manager, GSG
Stephen M. Spratt, FGUA Assistant Systems Manager, GSG
Matt Rihs, Community Service Representative, GSG
Michael Wilson, Project Manager Pasco Systems, GSG

Guests Present

Robert Edge, STES
Scott Coover, Lee County
Bart Arrington, DeSoto County
John Andrews, Resident and Chair of the Committee for Better Water Now

I - Call to Order

Acting Vice Chairman Doug Muerer called the meeting to order at 12:00 noon.

II - Invocation

The invocation was offered by Mr. Muerer.

III - Pledge of Allegiance

The audience recited the Pledge of Allegiance to the flag of the United States of America.

IV - Public Comment

Mr. John Andrews, Chair of the Committee for Better Water Now addressed the Board to express thanks on behalf of the Committee and many residents to all of the professional staff that are eager to help the community. Mr. Andrews stated the U.S. Water and the GSG staff members are professional and quickly address issues. This is very welcomed by the community and he is proud of the FGUA team that made the purchase possible.

V - Minutes

Approval of the March 19, 2009 Regular Meeting Minutes and the March 19, 2009 Budget Workshop and Strategic Planning Session Meeting Minutes

Ms. Michele Baker made a motion to approve the March 19, 2009 Regular Meeting and the March 19, 2009 Budget Workshop and Strategic Planning Session Meeting Minutes. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

VI - Consent Agenda

CA 1 Approval of Work Authorization AUS 09-04 with ARCADIS U.S., Inc. for Consulting Engineering Services for FGUA Project No. LE 031 Lehigh Acres Utility System Well Rehabilitation

Provided for consideration was Amendment No. 2 to Work Authorization AUS 09-04 with ARCADIS U.S., Inc. for the services related to the rehabilitation of the system's raw water wells. Well performance monitoring is needed on an annual basis to assure well yields, mechanical performance and water quality. Periodic well cleaning, inspection and rehabilitation is required to reduce degradation of water quality and of potential bacterial problems that could reduce the water plant's ability to produce high quality water. The Work Authorization is the continuation of the well monitoring plan begun by ARCADIS under AGM LE 031 for the FGUA Lehigh Acres Utility System Water Treatment Plant Well Field. The professional services will include design services, construction contract administration and detailed observation of construction. (A.2, A.3, A.6 and A.7 services). The lump sum cost for the services is \$16,017.00. Staff recommended approval of Work Authorization AUS 09-04 with ARCADIS U.S., Inc.

CA 2 Acceptance of the Conveyance Close-out Package for FGUA Developer Project Number 07-025 LED with Trusted, LLC for Trusted Medical Center Located in the Lehigh Acres Utility System in Lee County, Florida

Provided for consideration for acceptance was the conveyance close-out package for Trusted Medical Center in Lehigh Acres, Florida Governmental Utility Authority (FGUA) Developer Project No. 07-025 LED located in Lee County, Florida. The project is located at the intersection of Lee Blvd and Trusted Medical Lane in Lehigh Acres. The water facilities being conveyed to the FGUA consist of 40 feet of pipe, tapping sleeve, master meter assembly and associated appurtenances. The wastewater facilities being conveyed to the FGUA consist of a tapping sleeve and valve. The total value of assets being contributed to the FGUA is approximately \$94,565.00. Staff recommends approval of Work Authorization AUS 09-04 with ARCADIS U.S., Inc.

CA 3 Approval of Change Order No. 2 to the Standard Construction Agreement with Douglas N. Higgins, Inc. for FGUA Project No. GG023/GG015 Golden Gate WWTP Expansion to 1.50 MGD & Deep Injection Well Pump Station in the Golden Gate Utility System

Provided for consideration was Change Order No. 2 to the standard construction agreement with Douglas N. Higgins, Inc. for FGUA Project Numbers GG 023 and GG 015 Golden Gate WWTP Expansion to 1.50 MGD and Deep Injection Well Pump Station in the Golden Gate Utility System. The Change Order is for additional services outlined in the FGUA letter of February 13, 2009 and a no cost time extension that extends the dates of Substantial Completion and Final Completion a period of fifty nine (59) calendar days each. Staff recommended approval of the Change Order No. 2 to the Standard Construction Agreement with Douglas N. Higgins, Inc. Please see discussion of this item provided below.

CA 4 Approval of Change Order No. 1 to the Standard Construction Agreement with G&G Industries, Inc. for FGUA Project No. GG 012 CT Tank Installation and Treatment Unit B Bypass in the Golden Gate Utility System

Provided for consideration was Change Order No. 1 to the standard construction agreement with G&G Industries, Inc. for FGUA Project No. GG 012 CT Tank Installation and Treatment Unit B Bypass. The Change Order is for the replacement of High Service Pumps No. 1 and No. 3 that have reached the end of their useful lives at the Golden Gate Water Treatment Plant. Staff recommended approval of Change Order No. 1 to the standard construction agreement with G&G Industries, Inc. for FGUA Project GG 012 CT Tank Installation and Treatment Unit B Bypass in the amount of \$17,706.00.

CA 5 Approval of Work Authorization AUS 09-03 with ARCADUS, U.S., Inc. for Consulting Engineering Services for FGUA Project No. GG 023 Golden Gate WWTP Expansion in the Golden Gate Utility System

Provided for consideration was Work Authorization AUS 09-03 with ARCADIS U. S., Inc. for continued basic construction administration services (A.6 Services) to complete the construction of the FGUA Project GG 023 WWTP Expansion improvements. The professional services will facilitate proper integration of the new facilities in the Golden Gate Wastewater Treatment Plant System. Staff recommended approval of Work Authorization AUS 09-03 in the lump sum amount of \$64,909.00. Please see discussion of this item provided below.

CA 6 Approval of Change Order No. 1 to the Standard Construction Agreement with Expertech Network Installation, Inc. for FGUA Project No. GG 014 Golden Gate Wastewater Transmission System Improvements in the Golden Gate Utility System

Provided for consideration was Change Order No. 1 to the Standard Construction Agreement with Expertech Network Installation, Inc. for FGUA Project No. GG 014 Golden Gate Wastewater Transmission System Improvements in the Golden Gate Utility System. The Change Order is for final reconciliation of unused contingency funds. Staff concurs with the consulting engineer, ARCADIS US, Inc. in recommending approval of Change Order No. 1 to the Standard Construction Agreement with Expertech Network Installation, Inc.

CA 7 Approval of Change Order No. 1 to the Standard Construction Agreement with Strickler Brothers, Inc. for GG 010 Golden Gate Water Distribution System Improvements in the Golden Gate Utility System

Provided for consideration was Change Order No. 1 to the Standard Construction Agreement with Strickler Brothers, Inc. for GG 010 Golden Gate Water Distribution System Improvements in the Golden Gate Utility System. The Change Order is for final reconciliation of unused contingency funds. Staff concurs with the consulting engineer, Malcolm Pirnie, Inc. in recommending approval of Change Order No. 1 to the Standard Construction Agreement with Strickler Brothers, Inc. for GG 010 Golden Gate Water Distribution System Improvements in the Golden Gate Utility System for the final reconciliation of \$25,000.00 unused contingency funds.

CA 8 Approval of Change Order No. 1 to the Standard Construction Agreement with G&G Industries, Inc. for LE 002 WTP No. 1 Miscellaneous Improvements in the Lehigh Utility System

Provided for consideration was Change Order No. 1 to the Standard Construction Agreement with G&G Industries, Inc. for LE 002 WTP No. 1 Miscellaneous Improvements in the Lehigh Acres Utility System. The Change Order is for final reconciliation of unused contingency funds. Staff concurs with Malcolm Pirnie, Inc. in recommending approval of Change Order No. 1 to the Standard Construction Agreement with G & G Industries, Inc. for LE 002 WTP No. 1 Misc. Improvements in the Lehigh Utility System for the final reconciliation of \$1,089.18 in unused contingency funds

Mr. Tarek Fahmy requested that items CA 3 and CA 5 be pulled for discussion. The Board agreed. Mr. Robert Knight made a motion to approve items CA 1, CA 2, CA 4, CA 6, CA 7 and CA 8. Mr. Shane Parker seconded the motion. All were in favor and the motion was unanimously approved.

CA 3 - Discussion

Mr. Shane Parked stated that he noticed in item CA 3 that the project items in the change order would indicate that the engineer had missed necessary project components and should ARCADIS be responsible if engineering oversights have been made. Mr. Fahmy stated that the significance of this project is that Golden Gate has only one WWTP and this work must be done before the rainy season and that the additional time is not a point to argue. However, some questionable items are being discussed. Mr. Fahmy has not finalized his discussions and would like to have all the facts before making a recommendation to the Board. At this point he recommends approving the time extension to the contract. Ms. Michele Baker asked if the contract contains standard errors and omissions provisions. Mr. Doug Muerer asked if approval was given for the change order under consideration, would it be difficult to claim there are errors in the engineering as the project nears completion. Mr. John Pelham stated that his understanding of this request is to issue contingency funds for items that have now been determined should have been part of the original bid but are less than the 10% of the total project cost. Mr. Fahmy stated that if it is later determined that the engineer failed to meet professional standards staff would be able to negotiate later and withhold payment if necessary. Mr. Parker asked that follow up information be provided if the engineer is at fault to seek damages. Mr. Shane Parker made a motion to approve item CA 3, Change Order No. 2 for FGUA Project GG023/GG015 with D.N. Higgins. Mr. Robert Knight requested that additional details on the scada upgrades be provided. Mr. Fahmy confirmed that he would provide scada information along with the follow up on the engineering concerns. Ms. Michele Baker seconded the motion. Mr. John Pelham asked if the Board would like an analysis of the issues raised concerning the liability or responsibility of the engineer. The Board concurred. With no further discussion the motion was unanimously approved.

CA 5 - Discussion

Mr. Shane Parker stated that he is also concerned with the Work Authorization AUS 09-03 with ARCADIS U. S., Inc. for continued basic construction administration services to complete the construction of the FGUA Project GG 023 WWTP Expansion improvements. Mr. Parker would like staff to closely monitor the professional services that will facilitate proper integration of the new facilities in the Golden Gate Wastewater Treatment Plant System. Mr. Fahmy confirmed that staff has reviewed the work authorization and would be closely monitoring the work product. Mr. Shane Parker made a motion to approve item CA 5, Work Authorization AUS 09-03 for engineering services in the amount of \$64,909.00. The motion was seconded by Mr. Robert Knight. The motion was unanimously approved.

VII - Finance and Administration

FA 1 Presentation of the FY2008 - 09 Florida Governmental Utility Authority Audit

Mr. Terry Martin of Nowlen, Holt & Miner distributed the FY2008 Comprehensive Annual financial Report for the FGUA and presented the financial statements. Discussion ensued on the bad debt with Mr. Martin stating that the issue is being addressed by the staff. Ms. Michele Baker made a motion to accept the FY2008 CAFR. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

Mr. Robert Sheets stated that because the CAFR was provided as a supplemental item, staff would be happy to address any questions the Board has after thorough review of the CAFR via email or at the May meeting.

FA 2 Other Items

There were no other finance and administration items to be presented.

VIII - Operations

OP 1 Ratification of Work Authorization PBSJ 09-05 with Post, Buckley, Schuh and Jernigan, Inc. for Consulting Engineering Services for FGUA Project No. LE 052, Lehigh Acres WWTP Expansion in the Lehigh Acres Utility System

Provided for consideration was Work Authorization PBSJ 09-05 with Post, Buckley, Schuh and Jernigan, Inc.

(PBS&J) for the engineering services related to the permitting and contract administration of the Lehigh Acres Utility System Project No. LE 052 Lehigh Acres WWTP Expansion (Engineer of record for this FY2005 project was ARCADIS U.S., Inc.). PBS&J is Engineer of Record for the current project LE 058 Lehigh WWTP Storage, Pumping and Conveyance System to the Deep Injection Well. It was discovered in the course of permitting this project that certain items were still outstanding that prevented issuance of the permit to construct. The current project (LE 058) includes the resolution of outstanding county permitting items from the 2005 WWTP Expansion (LE 052), which was under the direction of another engineering contractor, including inspection and documentation of structural components, inspection, review and administration to direct correction of deficiencies and inconsistencies with the 2005 LDO landscape plan and inspection, documentation of electrical building deficiencies, direction of corrective efforts, and final Lee County compliance approval. It was necessary for these previously unknown issues be resolved immediately to release the permit to construct, necessitating the ratification of Work Authorization PBSJ 09-05. The professional services included in this work authorization are for permitting and contract administration (A.3 and A.6 services). As noted in the work authorization, some of the services have already been successfully completed. The lump sum cost for these services is \$13,473.60. Staff recommended approval by ratification of Work Authorization PBSJ 09-05 with Post Buckley Schuh and Jernigan, Inc.

Mr. Shane Parker made a motion to approve item OP 1. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

OP 2 Ratification of Work Authorization PBSJ 09-06 with Post, Buckley, Schuh and Jernigan, Inc. for Consulting Engineering Services for FGUA Project No. LE 058, Lehigh Acres Utility System Lehigh Acres WWTP Reclaimed Water Storage, Pumping and Deep Injection Well Conveyance System

Provided for consideration was Work Authorization PBSJ 09-06 with Post, Buckley, Schuh and Jernigan, Inc. (PBS&J) for the consulting engineering services related to the engineering, permitting and design of the Lehigh Acres Utility System Project No. LE 058 Lehigh Acres WWTP Reclaimed Water, Storage, Pumping and Deep Injection Well Conveyance System. This project includes plant modifications to accommodate the high pressure public access reuse water required for FGUA Project No. LE 017, Reuse Pipeline Expansion and conversion of the existing plant wash down water piping from potable water to reuse water. The professional services will include permitting and design services. The lump sum cost for these services is \$16,301.40. Staff recommended approval of Work Authorization PBSJ 09-06.

Mr. Robert Knight questioned if potable water was available. Mr. Fahmy confirmed that there was. Mr. Knight made a motion to approve item OP 2. Mr. Shane Parker seconded the motion. All were in favor and the motion was unanimously approved.

OP 2a Approval of Budget Amendment 2009-08 for Project LE 058

Provided for consideration was Budget Amendment 2009-08 that will reallocate \$16,301.00 from LE 053 Contingency Services to LE058 Engineering Services as directed by Tarek Fahmy.

Ms. Michele Baker made a motion to approve item OP 2a. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

OP 3 Approval of the Review and Recommendations Related to the First Baptist Church of Lehigh Acres FGUA Developer Project Number 07-104 LED Impact Fees

Mr. Tarek Fahmy provided the Board with background information regarding the First Baptist Church of Lehigh Acres which is currently served by the FGUA as a water customer. In September of 2007, TDM Consulting, Inc., on behalf of the Church contacted the FGUA to request a letter of availability for a building expansion and addition of wastewater service for the currently served 96 seat fellowship hall and 224 seat children's center. Based upon construction plans submitted by TDM Consulting on August 25, 2008 for FGUA review and approval, the Church would be adding a 548 seat church and a two story, 16,560 sq ft family life building for water and wastewater service, as well as connecting the 96 seat fellowship hall and 224 seat children's center

into the wastewater system. The impact fees were calculated using this information and were determined to be \$140,295.66.

On September 23, 2008 TDM sent a letter to the FGUA confirming that they would be dividing the project into two phases and that the family life center would be constructed in phase two of the project. The date of construction for phase two was undetermined at the time but, they indicated that the water and wastewater lines would be constructed and stubbed out for future connection. The impact fees were recalculated for the Church as phase 1, to include the 548 seat church for water and wastewater service and the 96 seat fellowship hall and 224 seat children's center for wastewater service only. The revised phase 1 impact fees were calculated to be \$93,164.62.

On October 27, 2008 the Church and TDM Consulting re-designated the children's center to accommodate 128 seats instead of 224 seats. This reduced the impact fees further to \$48,741.29. The attached "FGUA Project Reconciliation Sheet Lehigh Acres" was provided to the church on the same day, but the church did not come in to pay for the expansion until five (5) months later. The church sent a check for the impact fees on January 23, 2009 in the amount of \$48,741.29. The Reconciliation Sheet is not an invoice, nor a bill, but it also did not notify the Church of the potential for the fee amounts to increase. During the period between the time the church was provided its Reconciliation Sheet and the time the church paid the fees, the impact fee rates in Lehigh Acres were increased. The Board approved the revised impact fee rates at the September 18, 2008 board meeting which went into effect on January 1, 2009. A notice of the new impact fee rates was published in the Fort-Myers News Press on October 2, 2008. The revised rates assessed an additional \$8,044.71 in impact fees on the Church due to the increased impact fee rates that were in effect at the time when the church paid.

The Church is requesting the Board to waive the additional impact fees of \$8,044.71 due to the state of the economy. FGUA counsel has reviewed the conveyance and service agreement between the FGUA and First Baptist Church of Lehigh Acres and the Lehigh Capacity Impact Fee Resolution. Based upon these documents, the impact fees are due prior to connection to the FGUA's system. Based upon a reasonable reading of these documents and the notice provided of the pending impact fee rate increases, the FGUA may legally assess the additional impact fees against the Church. Staff recognizes the difficult economic conditions existing in Lehigh Acres and the valuable public works provided by the First Baptist Church to the Lehigh Acres community. According, staff offers the following options for the Board's consideration: 1) Require the Church to pay the additional \$8,044.71 or, 2) Require the Church to pay the additional \$8,044.71 through an installment payment plan over a period not to exceed six (6) months or, 3) Grandfather in the First Baptist Church development under the old impact fee rates due to current economic recession, the valuable role served by the Church in the Lehigh Acres community, and the fact that the Church may have been misled or confused about the possibility of the impact fee rates being increased.

Staff has also revised the Reconciliation Sheet to add the following disclaimer: "All fee amounts are based on the rates in effect as of the date of this statement and are subject to change. The total amounts due shall be determined as of the date of payment." Staff also recommends that the standard conveyance and service agreement be updated to include specific language regarding the timing of the impact fee payments to avoid any confusion with future developments.

Mr. Tarek Fahmy concluded his introduction of the item and discussion ensued. Mr. Doug Muerer asked when the payment was required to be made. Mr. Fahmy stated that customarily payments aren't made until construction begins. Ms. Michele Barker stated that the Board had approved the new rates in October and if additional notices were sent and the reconciliation sheet was updated and resent she has concerns of setting a president with others in the same situation. Mr. Shane Parker asked if the difference in the fees from the original plans were taken into consideration to reduce the fees. Mr. Fahmy stated that the fees were already reduced because of the plan changes. Mr. Shane Parker asked if there had been any delay in the payment. Mr. Fahmy stated per past practice there was not a delay in payment because construction has not started. Mr. Robert Knight stated that the additional language on the reconciliation sheet will remedy the issue into the future. Mr. Shane Parker made a motion to approve staff recommendation No. 3 to grandfather in the First

Baptist Church of Lehigh Acres under the old impact fee rates. Mr. Chris Rogers seconded the motion. All were in favor and the motion was unanimously approved.

OP 4 Ratification of Work Authorization PBSJ 09-01 Amendment No. 1 with Post Buckley, Schuh and Jernigan, Inc. for Consulting Engineering Services for FGUA Project No. LE 055, Biological Monitoring in the Lehigh Acres Utility System

Provided for consideration was Work Authorization PBSJ 09-01 Amendment No. 1 with PBS&J for the engineering services associated with the professional biological monitoring of Bald Eagle Nest LE-055 during project activities at the Lehigh Acres WWTP in the Lehigh Acres Utility System. This work authorization amendment will provide supplemental professional field survey and biological monitoring of eagles nest (LE-055) along with the necessary reporting to the Eagle Technical Advisory Committee (ETAC) to address Chapter 14 of Lee County Land Development Code (LDC). Staff recommended approval of Work Authorization PBSJ 09-01 Amendment No. 1 in the amount of \$6,933.16.

OP 4a Approval of Budget Amendment 2009-07 for Project LE 055

Provided for consideration was Budget Amendment 2009-07 that reallocates \$6,933.00 from LE 052 Engineering Services to LE055 Engineering Services as directed by Tarek Fahmy.

Mr. Fahmy introduced items OP 4 and OP 4a. Mr. Shane Parker made a motion to approve items OP 4 and OP 4a. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

OP 5 Granting of an Easement at the Golden Gate Wastewater Treatment Plant to Florida Power and Light Company in the Golden Gate Utility System for FGUA Project No. GG015/GG023 Deep Injection Well Pump Station

Provided for consideration was an easement to be granted to Florida Power and Light Company to construct and maintain primary electrical distribution lines and related equipment to serve FGUA Project No. GG 015/GG 023 Deep Injection Well Pump Station at the Golden Gate Wastewater Treatment Plant. Staff recommended granting the easement to Florida Power and Light Company.

Ms. Michele Baker stated that she was concerned that the document was not the standard FGUA form and did not include any timeliness language. Mr. John Pelham stated that the document presented included revisions requested by staff to meet the FGUA standards. Mr. Fahmy stated that for this project the relocate is at the FGUA's facility and therefore we have control of the timeliness in this situation. Mr. Pelham stated that for relocation easement requests into the future staff would clarify the need for timely relocations. With no further discussion, Ms. Michele Baker made a motion for approval of the item. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

OP 6 Other Items

Mr. Tarek Fahmy stated that there several emergency projects have been identified in the Pasco Systems totaling approximately \$400,000. U.S. Water was requested to proceed with repairs immediately. Most significant are point repairs, hydro tank failures and other vital lift station components. Investigation continues concerning if these were items that were not maintained or repaired prior to closing.

IX - Information Items

IN 1 Status Update on the Florida Governmental Utility Authority (FGUA) Capital Improvement Project (CIP) Program

The status update on the Florida Governmental Utility Authority (FGUA) Capital Improvement Project (CIP) Program was provided to the Board.

IN 2 Status Update on the Florida Governmental Utility Authority (FGUA) Community Outreach Program

The status update on the Florida Governmental Utility Authority (FGUA) Community Outreach Program was provided to the Board.

The Board requested an update on the first Golden Gate Utility Advisory Committee meeting. Ms. Yvette Hartsfield stated that the meeting held on April 1, 2009 was interesting and there are many motivated individuals who wish to work with the utility. Many questions answered in the 2 hour meeting. Mr. Robert Sheets stated that the FGUA had worked with Civic Association but the UAC is better suited to address only utility issues.

Ms. Hartsfield provided an update on the Pasco UAC. Mr. Steve Spratt stated that with initial talks with members of the Committee for Better Water Now (CFBWN) and because it has been in existence for some time and is already organized staff is concerned with changing to the mix if a UAC was established at this time. Ms. Michele Baker asked if staff envisioned a separate UAC for Aloha Gardens and Seven Springs. Mr. Spratt stated that they are two service areas but only one UAC was being explored. Mr. Robert Knight asked if the UAC falls under the Sunshine laws. Mr. John Pelham stated that as an advisory board the Sunshine laws apply. Mr. Robert Knight asked if members would then be required to file a "form one". Mr. John Pelham stated that he believes an exemption is available but will verify that fact for the Board.

Mr. Robert Sheets introduced the Pasco Systems Project Manager, Mr. Michael Wilson, and the Pasco Systems Community Service Representative Mr. Matt Rihs.

IN 3 FGUA Quarterly Financial Reports for the Second Quarter of FY2009-10

The FGUA Quarterly Financial Reports were provided to the Board.

IN 4 FGUA Inspections Report for the Second Quarter of FY2009-10

The FGUA Quarterly GSG Capital Project Inspection Report was provided to the Board and at the Board's request Mr. Tarek Fahmy provided a brief review of the information provided. Mr. Robert Sheets stated that inspection fees are not-to-exceed amounts that are billed by actual hours recorded by the inspectors.

IN 5 FGUA Work Authorizations Under \$100,000 Report for the Second Quarter of FY2009-10

The FGUA Quarterly Work Authorizations Under \$100,000 Report was provided to the Board.

Ms. Michele Baker asked if the upgrades for the document imaging and server will lead to an electronic agenda for the FGUA. Mr. Steve Spratt stated that an electronic agenda was not being looked into at this point in time. Mr. Robert Sheets stated that four years ago an electronic agenda was being explored but at that time the FGUA only consisted of three member governments. Moving forward, Mr. Sheets would be excited to bring a plan for a paperless agenda as part of the FY09-10 budget. Mr. Spratt stated that there would need to be an investment in hardware and software to make it a reality.

IN 6 Presentation of American Water Works Association Honorable Mention for Best Tasting Drinking Water

Ms. Yvette Hartsfield stated that Ms. Barbara Kerby attended the AWWA convention and submitted the FGUA's water samples for consideration. Bonita Springs was awarded the best tasting drinking water award and the FGUA received an honorable mention and was invited back to participate in next year's contest.

X - System Manager

SM 1 Approval of Work Authorization GSG 09-16 with Government Services Group, Inc. (GSG) for Development of an Assessment Program for Wastewater Improvements for the FGUA Lehigh Acres Utility System

Provided for consideration was Work Authorization GSG 09-16 that includes twelve tasks and implementation schedule for an assessment program to fund the proposed wastewater improvements in the first phase of the mandatory connection program within the Lehigh Acres Utility System. Phase One of Work Authorization GSG 09-16 includes tasks associated with the development of preliminary proforma assessment rates and an Assessment Memorandum that will be presented at the conclusion of task seven to assist the Board in making an informed decision regarding proceeding with the implementation of the assessment program, tasks eight through twelve. Should the Board implement the assessment program for FY2010-11 it would be collected on the tax bill mailed in November 2010. Staff recommended approval of Work Authorization GSG 09-16 for a lump sum fee of \$12,000 for Phase One. Contingent upon the Board's approval to move forward with Phase Two a lump sum fee of \$5,000 will be payable. Additional services performed on behalf of the FGUA will be billed as incurred, based on the GSG contractual rates in the FGUA/GSG Management Services Contract. Travel will be billed based on F.S. § 112.61, as provided in the contract.

SM 1a Approval of Budget Amendment No. 2009-06

Provided for consideration was Budget Amendment 2009-06 that will reallocate \$16,608.00 from the General Operation Miscellaneous line item to fund the Lehigh Acres Environmental Assessment account for this special project as directed by Robert Sheets.

Please see item SM 5 for the discussion and motion for this item.

SM 2 Approval of Engagement of Nabors, Giblin & Nickerson (NGN) as Acquisition Council for Final Utility Acquisition Due Diligence for the FGUA's Purchase of the Assets of the Pasco System (Lindrick Service Corporation, Consolidated System and Mad Hatter utilities, Inc.)

Mr. Robert Sheets stated that the FGUA is moving forward with initial discussions regarding the acquisition of three additional systems in Pasco County. They are the Lindrick Service Corporation, Mad Hatter Utilities, Inc. and the Consolidated System acquisitions. There were three agreements provided for "acquisition counsel services" with Nabors, Giblin and Nickerson, P.A. one for each system. The agreements presented were for all acquisition counsel services similar to those carried out and successfully completed with the Aloha System. The fees for the three systems are as follows: Lindrick Service Corporation, \$250,000; Consolidated System, \$200,000; Mad Hatter Utilities, Inc., \$250,000; for a total of \$700,000. As with previous agreements, all work performed under this agreement is "at risk". The fees outlined for each system will only be paid upon the successful completion of the acquisition by the FGUA. Staff recommended that the Board approve the work orders from Nabors, Giblin & Nickerson for acquisition counsel services.

Ms. Michele Baker made a motion to approve item SM 2. Mr. Shane Parker seconded the motion. All were in favor and the motion was unanimously approved.

SM 3 Approval of Work Authorization PBSJ 09-07 with Post, Buckley, Schuh & Jernigan for Final Engineering Due Diligence for the FGUA's Purchase of the Assets of the Pasco System (Lindrick Service Corporation, Consolidated System and Mad Hatter utilities, Inc.)

Provided for consideration was Work Authorization PBSJ 09-07 with Post Buckley Schuh & Jernigan (PBS&J) to perform all final engineering due diligence currently being reviewed by the FGUA. The work orders attached and outlined are identical to that approved by the FGUA for the Aloha acquisition. The fees paid to PBS&J are as follows: Mad Hatter Utility, Inc., \$90,000; Lindrick Service Corporation, \$90,000; Consolidated System, \$60,000; for a total of \$240,000. Consistent with the Aloha agreement entered into between the FGUA and PBS&J, all fees outlined are contingent upon a successful acquisition by the FGUA. In the event that a successful acquisition is not accomplished, no fees will be paid to PBS&J for the work as described. Staff

recommended that the FGUA Board approve the Work Authorization PBSJ 09-07 with PBS&J for final engineering due diligence for Lindrick, Mad Hatter and the Consolidated System.

Ms. Michele Baker made a motion to approve item SM 3. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

SM 4 Approval of Work Authorization BC 09-01 Brown and Caldwell for Detailed Financial Analysis for the FGUA's Purchase of the Assets of the Pasco System (Lindrick Service Corporation, Consolidated System and Mad Hatter utilities, Inc.)

Provided for consideration was Work Authorization BC 09-01 with Brown and Caldwell to perform the financial due diligence for the acquisitions of Mad Hatter, Lindrick and the Consolidated System. The scope and tasks outlined in the Brown and Caldwell agreement are consistent with the services provided by them for the FGUA's acquisition of the Aloha system. The fees for each system are described below: First Acquisition, \$98,000; Second Acquisition, \$52,000; Third Acquisition, \$75,000; for a total of \$225,000. All work performed by Brown and Caldwell will be "at risk" and will only be paid based on a successful acquisition by the FGUA of each respective system. Staff recommended that the FGUA Board approve the agreements with Brown and Caldwell for the financial due diligence of the Mad Hatter, Lindrick and Consolidated System.

Ms. Heather Encinosa stated that the item presented in the book required a correction. The references to specific systems should be replaced with first, second and third acquisition and the work authorization should specify that Brown and Caldwell will be providing financial feasibility due diligence. Ms. Michele Baker made a motion to approve item SM 4 with the amendments. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

Mr. Robert Sheets stated that the work authorizations presented today are for Phase II due diligence for the Mad Hatter, Consolidated and Lindrick systems. All firms are working at risk and no funds will be disbursed unless there is a satisfactory conclusion resulting in acquisition of a system.

Mr. Shane Parker asked how these specific systems were located for due diligence and possible acquisition. Mr. Robert Sheets stated that approximately two years ago the FGUA met with Pasco County to look at investor owned systems that the County had planned to move to government ownership in the future. Mr. Parker asked if there are similar issues with these systems as are facing Aloha Gardens and Seven Springs. Ms. Michele Baker stated that some are very good and that none have serious problem and that the main purpose is to consolidate the utilities. Mr. Sheets stated that the current owners wanting to sell these utilities and the County would like to keep them from continuing to be privately held utilities. Mr. Parker asked the request for payment on a 1st, 2nd and 3rd third acquisition along with success fees were customary. Ms. Heather Encinosa stated that it was not unusual and not naming specific systems is advantageous when working on more than one system at a time and if only one acquisition goes through. Mr. Sheets stated that if all three acquisitions are completed then no success fee is paid.

SM 5 Approval of Work Authorization GSG 09-17 with Government Services Group, Inc. (GSG) for the Development and Implementation of the Lehigh Acres Mandatory Connection Plan

Provided for consideration was Work Authorization GSG 09-17, which outlines the scope of services and compensation for GSG to complete and implement the mandatory wastewater connection program in Lehigh Acres. The attached work authorization contemplates that GSG will complete eleven (11) tasks related to the mandatory wastewater connection project. In addition, the scope will include the preparation and outline of a process for moving forward with an overall utility expansion plan for Lehigh Acres. It is anticipated that this work authorization would be sufficient to cover the costs of administering the connection program to its completion in the summer of 2010. The work authorization utilizes a time and materials compensation approach with a not-to-exceed amount of \$33,245.00. The not-to-exceed amount is based upon the estimated hours to complete each of the tasks. Staff recommended approval of Work Authorization GSG 09-17 with Government Services Group, Inc. for completion and implementation of the Lehigh Acres Mandatory Wastewater Connection Program.

SM 5a Approval of Budget Amendment No. 2009-09

Provided for consideration was Budget Amendment 2009-09 that will reallocate \$33,245.00 from the fund balance to the Mandatory Wastewater Connection Program as directed by Robert Sheets.

Mr. Robert Sheets stated that Items SM 1, SM 1a and SM 5 and SM 5a are to provide the assessment methodology and final plan for the Lehigh Acres Mandatory Connection Program implementation plan. The assessment item is two phase with the Board approving the first phase before staff would implement the second. The implementation plan work authorization is a not-to-exceed and invoicing would only be for actual hours worked. Mr. Sheets stated that several funding options would be brought to the Board for consideration in May. Ms. Michele Baker asked if the Lee County Comprehensive Plan had been adopted. Mr. Doug Meurer stated that it had.

Ms. Michele Baker made a motion to approve items SM 1, SM 1a, SM 5 and SM 5a. Mr. Robert Knight seconded the motion. All were in favor and the motion was unanimously approved.

SM 6 Status Update on the Metering and Billing Issues at the Heritage Apartment Complex Located in the Golden Gate Utility System

Mr. Steve Spratt provided the Board with background information on the Heritage Apartment Complex which is a 20 building, 320 unit complex in our Golden Gate service area. The complex was built with individual unit water meters inside the rental units connected to the water heaters with remote exterior radio read devices. This configuration has been a service accountability and billing problem for the FGUA for several years. The interior units are inaccessible to the FGUA and the exterior devices are unreliable. Since accounts are established in the name of the tenants, action against the owner to affect repairs to the meter devices and recover service charges has not been effective. Large account delinquencies have developed as a result.

With a history of limited cooperation from the property owner, in July 2008, FGUA staff received permits and installed two master meters to the complex in the public right of way adjacent to the property. We then contacted the owner and advised them of our intention to convert from individual unit billing to complex-wide billing. We also advised them that we were prepared to discontinue service if the utility was not fully paid for water service. At this point, we learned that due to restrictions associated with federal tax credits extended to the property, the owner was precluded from allocating estimated charges to individual units from master meters. As a result, the owner consented to install sub-meters and assist the FGUA in reconciling their rent rolls with our utility accounts and in enabling our inspection of the present meter equipment. Our inspections confirmed inoperable devices and that 46 tenants had not established accounts with the FGUA and that 56 had past due accounts. We allowed the owner time to install the sub-metering system and are pleased to report that this has occurred ahead of schedule and was completed on April 1, 2009.

Staff intended to begin billing based upon the master meter readings effective May 2009. As a new account, this will require a \$16,000 deposit from the property owner. In order to recover their sub-metering cost and given the time required to obtain payments from tenants, the owner has requested a four payment installment plan for making the required deposit. Staff concurs with the request and recommends approval.

At this time, using estimated unit consumption (since meters were inoperative and/or presenting inaccurate reads); we estimate the account receivables from current tenant account holders and those currently under lease who did not open accounts to be \$161,515, as of March 30, 2009. This would not include amounts attributed to tenants who are no longer on the rent roll. On January 26, 2009 letters were sent to these tenants demanding payment or face service loss. As a result, 12 tenants came in and either opened accounts or paid past due amounts. Staff has not proceeded to shut off service to non-compliant tenants since the owner, in this highly stressed economy, is concerned about significant tenancy loss should this occur. The complex currently has a 23% vacancy rate and a predominantly lower income tenant character. We would prefer not to lose customer water sales. In view of this situation, we would request your approval to offer installment payment plans to existing delinquent tenants to moderate the impact of settling these accounts. The recommended plan parameters will be presented to you for consideration at a future meeting. Should they decline reasonable terms, we would proceed to, in cooperation with the Landlord, discontinue service

immediately and lock valves in the units. If required, we expect the owner to formally and legally join us in these actions based upon enforceability by their tenant leases.

The commencement of billing on the master meters will resolve the water service accountability problem for the future and ensure proper payment to the utility for service to this property. We will keep you advised of our progress. Staff recommended authorization for a four payment installment plan for the property owner beginning in April of 2009.

Mr. Steve Spratt stated that to keep progress moving with this situation staff is seeking approval for the owner's payment plan and will return with a customer payment plan at a future meeting. Mr. Doug Muerer asked if the master meter would generate a single bill to the owner. Mr. Spratt confirmed that it would.

Mr. Robert Knight said he would entertain a motion to approve the payment plan for the deposit required for the owner and would like to approve the framework to take payments over time from the tenants. Mr. Knight suggested using the following formula: divide the tenants amount due by twelve; if the amount is \$100 or less accept that amount monthly for twelve months; if the amount is over \$100 then a longer than twelve month plan can be worked out. Mr. Tarek Fahmy stated that many of the past due tenants have moved out. Mr. Spratt stated that the suggested policy was appreciated. Mr. Robert Knight made a motion to approve the recommended payment plan for the Heritage Apartment's owner. Mr. Chris Rogers seconded the motion. All were in favor and the motion was unanimously approved.

Mr. Steve Spratt stated that MacDill Air Force Base has provided notice that they will negotiate a contract with the FGUA. Staff will work with U.S. Water/Wade Trim to provide a revised proposal. Mr. Robert Sheets stated that as a result staff may need to take action prior to the next meeting on contract approach because the current general terms and conditions contract has no small business enterprise program included to be part of the proposal. Mr. Sheets stated that if secured this transaction would be for a fifty-year contract and that Hillsborough County had been asked if they were interest in operating the system or FGUA membership. Hillsborough County was not interested in either.

Mr. Robert Sheets stated that staff had attended the Citrus County Board of County Commissioners meeting on April 14, 2009 and by unanimous action requested that the FGUA look at the Rolling Oaks Utility System for possible acquisition.

Mr. Robert Sheets announced that for the FGUA's 10th anniversary there would be a reception held in the Commissioner's conference room immediately following the meeting.

XI - Utility Counsel

UC 1 Other Items

There were no utility counsel items to be presented.

XII - General Counsel

GC 1 Other items

There were no general counsel items to be presented.

XIII - Board Items

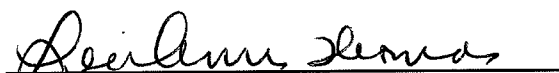
BD 1 Appointment of Primary and Alternate Representatives to the Southwest Florida Water Management District's Public Supply Advisory Committee

At the March 19, 2009 meeting the Board gave direction to staff to contact the Southwest Florida Water Management District (SWFWMD) regarding their Public Supply Advisory Committee (PSAC). Provided for your review and consideration is a letter of invitation from SWFWMD to the FGUA requesting that the Board appoint a primary and alternate representative to the Southwest Florida Water Management District's Public Supply Advisory Committee. Staff recommends the primary representative be the Vice President of Water Resources of GSG and the alternate representative be the Assistant Systems Manager of the FGUA. The personnel currently holding these positions are Mr. Charles L. Sweat and Mr. Stephen M. Spratt, respectively. This committee and its members are subject to the Florida Sunshine Law. Staff recommended the Board appoint the Vice President of Water Resources of GSG and the Assistant Systems Manager of FGUA as the Primary and Alternate Representative to the Southwest Florida Water Management District's Public Supply Advisory Committee.

Mr. Robert Knight made a motion to appoint the primary representative be the Vice President of Water Resources of GSG and the alternate representative be the Assistant Systems Manager of the FGUA. Mr. Shane Parker seconded the motion. All were in favor and the motion was unanimously approved.

BD 2 Other Items

With no other Board items to be presented the meeting was adjourned at 1:30 p.m.



Lea Ann Thomas, Chair