

**DEPARTMENT OF WATER SUPPLY
COUNTY OF HAWAI‘I
WATER BOARD MEETING
AGENDA**

MEETING DATE: April 28, 2009

TIME: 10:00 a.m.

PLACE: Department of Water Supply, Operations Center, Conference Room, 889 Leilani Street, Hilo.

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- 1) CALL TO ORDER – 10:00 a.m. (*please turn cell phones off or set to silent*)
 - 2) STATEMENTS FROM THE PUBLIC
 - 3) APPROVAL OF MINUTES
 - 1) Minutes of the March 24, 2009, Public Hearing on the Proposed Operating and Capital Improvement Budgets for Fiscal Year 2009-2010
 - 2) Minutes of the March 24, 2009, Water Board Meeting
 - 4) APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA
(Note: Addendum requires Roll Call Vote)
 - 5) PRESENTATION OF AUDITED FINANCIAL STATEMENTS – JUNE 30, 2008

Copies of the Department’s Audited Financial Statements for the fiscal year ended June 30, 2008 have been distributed to Board members. Representatives from KPMG, the Department’s independent auditors from Honolulu, will be here to answer any questions Board members may have regarding the report.

6) SOUTH HILO:

A. JOB NO. 2005-863, HONOMŪ PRODUCTION WELL AND 0.3 MG RESERVOIR

Contractor requests a time extension. This request is due to delays beyond the control of the Contractor with processing the building permit (81 calendar days) as well as rain-out (25 working days). *See attached request from the Contractor.*

Staff has reviewed the request and finds that the 81 calendar days for delays due to processing the building permit and the 25 working days for rain-out are justified.

This is the first time extension request.

Original Contract completion date: May 14, 2009

Plus 81 calendar days for permit: Aug. 3, 2009
Plus 25 working days for rain-out: Sept. 9, 2009

RECOMMENDATION: It is recommended that the Water Board approve a contract time extension of eighty-one (81) calendar days, plus twenty-five (25) working days from May 14, 2009 to September 9, 2009 for JOB NO. 2005-863, HONOMŪ PRODUCTION WELL AND 0.3 MG RESERVOIR.

B. JOB NO. 2005-862, CONSTRUCTION OF THE WAIĀKEA OFFICE PLAZA AIR-CONDITIONING REPLACEMENT

Attached is a copy of a letter dated April 16, 2009, from Isemoto Contracting Company, Limited, requesting a one hundred eighty-six (186) calendar day extension to the contract time.

This is the Contractor's first time extension request for additional time to allow delivery of equipment for the new air-conditioning system. The Contractor is required to have these air-conditioning system components on hand before scheduling the installation work, as these vital components are needed to provide uninterrupted air-conditioning service to the Waiākea Office Plaza building. Staff has evaluated this request and finds that the 186-calendar day extension is justified.

RECOMMENDATION: It is recommended that the Board grant Isemoto Contracting Company, Limited, a 186-calendar day extension to the contract completion date from May 28, 2009 to November 30, 2009 for JOB NO. 2005-862, CONSTRUCTION OF THE WAIĀKEA OFFICE PLAZA AIR-CONDITIONING REPLACEMENT.

7) HĀMAKUA:

A. DRINKING WATER STATE REVOLVING FUND/AMERICAN REINVESTMENT AND RECOVERY ACT OF 2009, RESOLUTION NO. 2009-02:

(Note: Resolution requires roll call vote.)

Attached is Resolution No. 2009-02 for the project for which DWS has submitted a loan application, under the Drinking Water State Revolving Fund (DWSRF) Loan and American Reinvestment and Recovery Act of 2009 (ARRA). One of the prerequisites for the loan is a Resolution approved by the Water Board. This Resolution is specifically identified for the following project: JOB NO. 2007-923, ĀHUALOA WELL DEVELOPMENT – PHASE 2 (PRODUCTION WELL AND 1.0 MG RESERVOIR), and authorizes the Manager or Deputy Manager to execute loans and/or grants with the State Department of Health for up to \$10,000,000.00.

RECOMMENDATION: It is recommended that the Water Board adopt Resolution No. 2009-02, subject to the approval of Corporation Counsel.

8) SOUTH KOHALA:

A. **ASSIGNMENT OF WATER ALLOCATION PURSUANT TO THE PARKER WELLS 3 AND 4 TRI-PARTY AGREEMENT**

(This item was deferred from the 3/24/09 Water Board Meeting.)

The Assignor, Mauna Lani Services, Inc., is intending to grant, assign, transfer and convey its rights to and allocation of water to Assignee, Tokyu Corporation, from the Lālāmilo Wells A, B, C and D, and Parker Wells 1, 2, 3 and 4. This assignment shall exclude the portions of such allocation that have been assigned to other owners of property within MLS's Development Area prior to the date of this assignment. All other terms and conditions in the Parker Wells 3 and 4 Tri Party Agreement between the Assignor, Mauna Kea Properties, Inc., and the Water Board of the County of Hawai'i shall remain unchanged.

RECOMMENDATION: It is recommended that the Water Board approve this Assignment of Water Allocation and authorize either the Chairperson or Vice-Chairperson to execute the document subject to the review and approval of the Corporation Counsel.

B. **ASSIGNMENT OF USE AND OCCUPANCY AGREEMENT BETWEEN THE STATE OF HAWAI'I, DEPARTMENT OF TRANSPORTATION AND MAUNA LANI SERVICE, INC. TO THE WATER BOARD OF THE COUNTY OF HAWAI'I**

(This item was deferred from the 3/24/09 Water Board Meeting.)

Mauna Lani Service, Inc. (MLS) constructed a 24-inch waterline within the Queen Ka'ahumanu Highway pursuant to a portion of the improvements required to serve MLS's Development Area as described in the Parker Wells 3 and 4 Tri-Party Agreement. The Department of Transportation of the State of Hawai'i (DOT) is requiring that the developer, MLS, execute a Use and Occupancy Agreement (UOA) for this installation of the waterline and make payment to DOT based upon an appraisal by the DOT. DOT and MLS intend to execute the UOA shortly, but payment will be delayed once an appraisal is completed. As part of the dedication of the water system improvements for the Parker Wells 3 and 4 project, the DOT is also requiring that the UOA be assigned by MLS to the Water Board of the County of Hawai'i.

RECOMMENDATION: It is recommended that the Water Board accept the assignment of the UOA contingent on the execution of the UOA between MLS and the DOT. It is also recommended that the Water Board authorize either the Chairperson or the Vice-Chairperson to execute the Assignment of the Agreement subject to the review and approval of the Corporation Counsel.

C. JOB NO. 2004-850, WAIMEA WATER TREATMENT PLANT SLUDGE DRYING BEDS

Contractor requests a 289 calendar-day time extension. This request is due to delays beyond the control of the Contractor with processing the building permit. *See attached request from the Contractor.*

Staff has reviewed the request and finds that the 289 calendar days are justified.

This is the first time extension request.

- Original Contract completion date: May 19, 2009
- Plus 289 calendar days for permit: March 4, 2010

RECOMMENDATION: It is recommended that the Board approve a contract time extension of two hundred eighty-nine (289) calendar days from May 19, 2009 to March 4, 2010 for JOB NO. 2004-850, WAIMEA WATER TREATMENT PLANT SLUDGE DRYING BEDS.

D. PROFESSIONAL SERVICES AGREEMENT: WAIKOLOA RESERVOIR NO. 2 FINAL DESIGN OF REPAIRS, JOB NO. 2007-043

The Consultant, Kleinfelder West, Inc., has requested to modify the Professional Service Agreement language by incorporating the following two additional provisions:

- 1) WAIVER OF CONSEQUENTIAL DAMAGES – Neither party shall be responsible to the other for any special, incidental, indirect, penal, or consequential damages (including lost profits) incurred by either Consultant or Board or for which either party may be liable to any third party.
- 2) THIRD PARTY BENEFICIARY – Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party, against either Consultant or Board.

The Department requested the Consultant to prepare a brief narrative to explain the reason for this request. The following is from their response:

“These provisions are requested due to changes in the nature of services provided by Kleinfelder during the construction phase of this project.

During the initial engineering analysis and design services, Kleinfelder had full control of the work with no third parties involved other than our sub-consultants. However, during the construction phase, Kleinfelder no longer has full control of the work and third parties, including the general Contractor and his subcontractors, are involved. The general Contractor has assumed responsibility for and control of construction activities, and these provisions should provide mutual protections for Kleinfelder West, Inc. and the Water Board of The County of Hawaii against consequential and third party liabilities.”

Although it is not mentioned in the Consultant's narrative, the Construction Manager, SSFM International, Inc. and their sub-consultant, Construction Engineering Labs, Inc., are considered third parties as well.

This is a no-cost change to the Professional Services Agreement with Kleinfelder West, Inc., and all existing provisions contained therein remain unchanged and in effect.

RECOMMENDATION: It is recommended that the Board approve the modification to the professional services agreement with Kleinfelder West, Inc., and that either the Chairperson or the Vice-Chairperson be authorized to sign the documents, subject to approval by our Corporation Counsel.

9) NORTH KONA

A. **JOB NO. 2002-806, MĀMALAHOA HIGHWAY WATERLINE IMPROVEMENTS – PHASE 2**

The Contractor, Isemoto Contracting Co., Ltd., has requested a contract time extension due to unforeseen communication problems with the existing Kona SCADA system. The SCADA subcontractor discovered that several devices installed by a previous Contractor were not functioning properly when attempts were made to communicate with and test the new improvements installed with this project. Since the malfunctioning devices are still under warranty by the previous Contractor, the SCADA subcontractor for this project must wait until the devices are repaired or replaced and functioning properly before the SCADA system improvements for this project can be completed.

Due to the unknown amount of time needed by the previous Contractor to correct the situation, it is recommended that the Contractor be granted a contract time extension of 27 calendar days to coordinate with the previous Contractor and complete the project. If the current problems cannot be resolved and the project be completed by that date, the Contractor will be required to submit another time extension request with supporting information explaining the current circumstances and an accurate estimate of the time required to complete the project.

This would be the seventh time extension to the contract. The previously approved time extensions are listed below:

- Time Extension #1: Project extended 180 calendar days to allow for revisions to the plans and specifications.
- Time Extension #2: Project extended 180 calendar days due to change in scope of work, project scheduling, and revisions to the plans.
- Time Extension #3: Project extended 90 days due to unforeseen site conditions at Hōlualoa Well and Reservoir site requiring redesign.
- Time Extension #4: Project extended 90 days due to valve control additions that were not shown on the plans and the installation of an additional valve at the Hōlualoa Well site, also not shown on the plans.

- Time Extension #5: Project extended 180 days due to unexpected problems interfacing with the Kona SCADA system.
- Time Extension #6: Project extended 130 days due to ongoing SCADA problems. Contractor was instructed to suspend SCADA work until upgrades to the existing SCADA system were completed.

RECOMMENDATION: It is recommended that the Board grant this contract time extension of 27 calendar days to Isemoto Contracting Co., Ltd., for JOB NO. 2002-806, Māmalahoa Highway Waterline Improvements – Phase 2. If approved, the contract completion date will be extended from May 4, 2009 to May 31, 2009.

10) KA'U

A. JOB NO. 2002-809, PĀHALA PRODUCTION WELL AND SUPPORTING FACILITIES:

The Contractor, Isemoto Contracting Co., Ltd., requests a 42-calendar day time extension. This time extension request is for the additional time required to return the original specified pump power cable to the mainland manufacturer, and then delivery of the larger pump power cable from the mainland manufacturer to the project site. The need for a larger pump power cable was identified and confirmed during construction. *See attached request from the Contractor.*

This is the second time extension request. The previously-approved time extension is listed below:

Time Extension #1: Project extended 97 calendar days to allow for additional time required to obtain the County Building permit.

Engineering staff has reviewed this time extension request and finds that the 42 calendar days are justified.

RECOMMENDATION: It is recommended that the Water Board approve a contract time extension to Isemoto Contracting Co., Ltd. of 42 calendar days from April 13, 2009 to May 22, 2009, for JOB No. 2002-809, PĀHALA PRODUCTION WELL AND SUPPORTING FACILITIES.

11) MISCELLANEOUS:

A. DEDICATION OF WATER SYSTEMS:

The Department received the following documents for action by the Water Board. The water systems have been constructed in accordance with the Department's standards and are in acceptable condition for dedication.

(These items were deferred from the 3/24/09 Water Board Meeting.)

1. PURSUANT TO THE TRI-PARTY AGREEMENT BETWEEN MAUNA LANI SERVICES, INC, (MLS), MAUNA KEA PROPERTIES (MKP), AND DEPARTMENT OF WATER SUPPLY. APPROVED BY THE WATER BOARD AT ITS MEETING ON FEBRUARY 28, 2006. THE FOLLOWING DOCUMENTS ARE HEREBY PRESENTED FOR ACTION BY THE WATER BOARD.

A. GRANT OF EASEMENT

Grantor: Waikoloa Village Association
TMK: (3) 6-8-002:019

B. ASSIGNMENT OF EASEMENT

Grantor Mauna Lani Service, Inc.
TMK: (3) 6-8-001:001

C. BILL OF SALE

Seller: Mauna Lani Service, Inc.
TMK: (3) 6-8-001 and (3) 6-8-002
Final Inspection Date: Pending
Water System Cost: Pending

D. DEED (Well Site 5 and Well Site 8)

Grantor: Mauna Lani Service, Inc.
TMK: (3) 6-8-001: 044 and 047

2. GRANT OF EASEMENT AND BILL OF SALE

Subdivision Application No. 2007-000524
Grantor: Hawai'i Island Community Development Corporation
TMK: (3) 5-5-008:046 portion
E.W.O. 2009-011
Lots: 26
Facilities Charge: \$138,690.00
Final Inspection Date: 4/15/09
Water System Cost: \$175,200.00

Zoning: RS 7.5
Paid: 10/31/08

3. LICENSE EASEMENT No. 722

Subdivision Application No. 2004-0217A
Lālāmilo Housing Phase I West Subdivision
TMK: (3) 6-6-012:021
EWO NO.: 2007-004 (West)
Owner/Licensors: State of Hawaii, Department of Hawaiian Home Lands
No. of Lots: 20
Final Inspection Date Issued: 3/24/2009
Facilities Charge: \$113,840.00
Water System Cost: \$130,950.00

Zoning: RS-10

Date Paid: 4/03/2009

RECOMMENDATION: It is recommended that the Water Board accepts these documents subject to the approval of the Corporation Counsel and that either the Chairperson or the Vice-Chairperson be authorized to sign the documents.

B. MATERIAL BID NO. 2009-02, FURNISHING AND DELIVERING ELECTRIC MOTORS FOR HĀWĪ BOOSTER PUMP, HONOKA‘A HOSPITAL BOOSTER PUMP AND LĀLĀMILO WELL A, DISTRICTS OF NORTH KOHALA, HĀMĀKUA, AND SOUTH KOHALA, COUNTY OF HAWAI‘I, STATE OF HAWAI‘I:

Bids were opened on April 9, 2009, and the following are the bid results:

<u>Bidder</u>	<u>Bid Amount</u>
Pacific Liquid & Air Systems	\$50,197.59
Kaman Industrial Technologies Corp.	\$53,746.00
Derrick’s Well Drilling & Pump Services, LLC	\$56,096.59
Water Resources International, Inc.	\$68,196.52
Gexpro	\$89,901.00
Associated Electro-Mechanics, Inc.	Non-Responsive

(Note: Bid included three (3) motors: 40 hp, 50 hp and 300 hp.)

RECOMMENDATION: It is recommended that the Water Board award the contract for MATERIAL BID NO. 2009-02, FURNISHING AND DELIVERING ELECTRIC MOTORS FOR HĀWĪ BOOSTER PUMP, HONOKA‘A HOSPITAL BOOSTER PUMP AND LĀLĀMILO WELL A, to the lowest responsible bidder, Pacific Liquid & Air Systems, at a cost of \$50,197.59, and that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to approval of the contract, as to form and legality of the contract by Corporation Counsel.

C. MONTHLY PROGRESS REPORT:

Submission of Progress Report of Projects by the Department (see attached). Department personnel will be available to respond to questions by the Board regarding the status/progress of any project.

D. DEPARTMENT OF WATER SUPPLY PROPOSED OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR FISCAL YEAR 2010:

A Public Hearing on the proposed Operating and Capital Improvement Budgets for Fiscal Year 2009-2010 was held on March 24, 2009. Public Hearing Notice was published in the Hawai‘i Tribune-Herald and in the West Hawai‘i Today on March 13 and 15, 2009. The first reading of the Budgets took place at the Water Board Meeting on March 24, 2009.

This is the **second reading** of the Budgets.

Action to be taken by the Water Board on the adoption of the Fiscal Year 2009-2010 Operating and Capital Improvement Budgets.

E. REVIEW OF MONTHLY FINANCIAL STATEMENTS:

Submission of financial statements and information relating to the financial status of the Department. Department personnel will be available to respond to questions by the Board relating to the financial status of the Department.

F. WATER RATE STUDY:

Discussion on the new water rate study that the Department is planning to conduct, to address the shortage of funds being generated from water sales.

G. MANAGER'S REPORT:

The Manager will provide an update or status on the following:

1. Update on use agreement on KIC wells
2. Palani Road Transmission Project
3. AWWA ACE 09
4. AWWA Hawai'i Section Conference
5. Waiākea Office Plaza Building status
6. Hawai'i County Green Team
7. Employee of the Quarter Award (1st quarter of 2009)

H. CHAIRPERSON'S REPORT:

Chairperson to provide comments and/or information relating to matters of concern to the Water Board.

1. Clarification on Water Board Travel Report Submittal -- (Board members will have received from Chairperson a sample form to report on conference attendance).
2. Proposed dates and locations for the remainder of 2009 Water Board meetings for review and approval: *(The venues for the remainder of 2009 Water Board meetings were proposed, but not decided, at the 3/24/09 Water Board Meeting).*

May 26	KONA
June 23	WAIMEA
July 28	HILO
August 25	KONA
September 22	WAIMEA
October 27	HILO
November 24	KONA
December 15	HILO

12) ANNOUNCEMENTS:

1. **Next Meeting:**

The next meeting of the Water Board will be held on May 26, 2009, 10:00 a.m. in Kona. Venue to be announced.

2. **Following Meeting:**

The following meeting of the Water Board will be held on June 23, 2009. Chairperson Smith has proposed holding this meeting in Waimea.

13) STATEMENTS FROM THE PUBLIC:

14) ADJOURNMENT

The meeting place is accessible to persons with disabilities. If you require use of an auxiliary aid or other access accommodation, please contact Doreen Shirota at 961-8050 as soon as possible or at least 5 days prior to the meeting.

The Department of Water Supply is an Equal Opportunity provider and employer.

Notice to Lobbyists: If you are a lobbyist, you must register with the Hawai'i County Clerk within five days of becoming a lobbyist. {Article 15, Section 2-91.3(b), Hawai'i County Code} A lobbyist means "any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials." {Article 15, Section 2-91.3(a)(6), Hawai'i County Code} Registration forms and expenditure report documents are available at the Office of the County Clerk-Council, Hilo, Hawai'i.