

**RESOLUTION NO. 2021-\_\_**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF TOHOPEKALIGA WATER AUTHORITY; ESTABLISHING A UTILITY LINE EXTENSION POLICY TO CREATE A UNIFORM METHOD OF DETERMINING THE CONTRIBUTION IN AID OF CONSTRUCTION (“CIAC”) FEE TO BE PAID BY PROPERTY OWNERS FOR THE EXTENSION OF WATER, RECLAIMED WATER AND WASTEWATER UTILITY LINES TO UNDEVELOPED PLATTED RESIDENTIAL LOTS AND DEVELOPED RESIDENTIAL LOTS BEING SERVED BY SEPTIC AND WELLS; PROVIDING AUTHORITY, FINDINGS, DEFINITIONS, AND RULES OF CONSTRUCTION; PROVIDING FOR APPLICABILITY OF THE POLICY, EXCEPTIONS, THE LOCATION OF UTILITY LINES, THE DETERMINATION OF UPDATES TO AND PAYMENT OF THE CIAC FEE; PROVIDING FOR NOTICE TO BE PROVIDED TO PROPERTY OWNERS; SETTING FORTH PROCEDURES TO BE IMPLEMENTED; PROVIDING FOR LIENS AND INSTALLMENT PAYMENTS; DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR; PROVIDING FOR REVIEW HEARINGS, SEVERABILITY AND AN EFFECTIVE DATE.**

***BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF TOHOPEKALIGA WATER AUTHORITY:***

**ARTICLE I – AUTHORITY, FINDINGS, DEFINITIONS**

**Section 1.01 Authority.** This Resolution is adopted by the Board of Supervisors (the “Board”) pursuant the Tohopekaliga Water Authority Act, Chapter 2003-368, Laws of Florida, as amended.

**Section 1.02 Findings.**

- a) Tohopekaliga Water Authority (“Toho Water”) recognizes that there are undeveloped and developed platted residential lots in Toho Water’s service area that are in need of water, reclaimed water, and wastewater service.
- b) Toho Water establishes this water, reclaimed water and wastewater utility line extension policy for the purpose of creating a uniform method of determining the contribution in aid of construction (“CIAC”) fees to be paid by property owners, builders, or developers within the Toho Water territory to defray, or partially defray, the costs of on-site and/or off-site water and reclaimed water distribution systems and the wastewater collection system.
- c) Toho Water declares that this utility line extension policy has, as its goal, the establishment of a uniform method of computing or determining the contributions to the end that all such contributions be applied as practically as possible with uniformity to all customers and prospective customers included within the Toho Water utility service area.
- d) CIAC fees will be charged to property subject to this policy. The fees will be periodically examined to provide a uniform fee and reflect, as nearly as possible, the current costs of construction, to those extending water, reclaimed water and wastewater lines and connecting to Toho Water’s utility system.

**Section 1.03 Definitions.** When used in this Resolution, the following terms shall have the following meanings, unless the context otherwise clearly requires:

- a) **Building Permit** means an official document or certificate issued by the appropriate local governmental entity, under the authority of ordinance or law, authorizing the construction or siting of a Development.
- b) **Builder** means either a building contractor who offers new residential dwelling units for sale or any person who offers a new residential dwelling unit for sale.
- c) **Executive Director** means the Toho Water Executive Director or his designee.
- d) **Property** means a platted lot that is currently unserved by one or more public utilities where a residence is existing or planned for construction.
- e) **Project Area** means an area consisting of one or more platted lots that are currently unserved by public utilities where extension of public utilities is contemplated.
- f) **Lot Frontage** means the portion of a residential lot abutting a right-of-way and measured from lot-boundary to lot-boundary adjacent to the right-of-way. In the case of a corner lot, the Lot Frontage is the Property line abutting the right-of-way which will be utilized for extending the utility lines to obtain service from Toho Water.
- g) **Owner** means any person, group of persons, firm, corporation or other legal entity including a Builder having legal title to any specific lands in question, including authorized representatives thereof.

**Section 1.04. Rules of Construction.** For the purposes of administration and enforcement of this Resolution, unless otherwise stated in this section, the following rules of construction shall apply:

- a) In case of any difference of meaning or implication between the text of this Resolution and any caption, illustration, summary table, or illustrative table, the text shall control.
- b) The words “will” and “shall” are always mandatory and not discretionary; the word “may” is permissive.
- c) Words used in the present tense shall include the future and words in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- d) The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” or “occupied for.”
- e) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either ... or,” or “and/or” the conjunction shall be interpreted as follows:

- (1) And indicates that all the connected terms, conditions, provisions or events shall apply.

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- (2) Or indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) Either/or indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (4) And/or indicates that the connected items, conditions, provisions or events shall apply either singly or in combination.
- (5) The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (6) All time periods contained within this Resolution shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the Board’s decision in the event of an appeal. In the event the due date falls on a Sunday or a legal holiday, the due date shall be extended to the next business day.

## **ARTICLE II – UTILITY LINE EXTENSION AND THE CIAC FEE**

### **Section 2.01. Water, reclaimed water, and wastewater line extension applicability.**

- a) Project Areas (i) with average Lot Frontage of 100 feet or less, and (ii) where Toho Water water, reclaimed water, and/or wastewater lines are located in an abutting right-of-way or easement area and connection is possible without the installation of a pump station are subject to this line extension policy and shall pay the applicable CIAC fee.
- b) Owner / Builder constructed utility extensions
  - (1) An Owner of a Property subject to this policy may design and construct utility line extensions to water, reclaimed water, and/or wastewater lines to serve the Property subject to Toho Water’s review and approval. Any such extension shall extend from the point of connection to existing Toho Water utilities to at least the next Toho Water gravity sewer manhole and/or water main valve past the Property consistent with Toho Water’s design standards.
  - (2) In the event an Owner extends the utility lines under this policy, CIAC fees will not be charged to the Property or Properties controlled by the Owner as the construction and contribution of the completed infrastructure shall be considered the Owner’s CIAC. For any Properties served by the utility extensions that are not controlled by the Owner, the Owner is entitled to reimbursement for that proportionate share of approved costs associated with serving those Properties, which will then be charged CIAC fees.
- c) Toho Water constructed utility extensions
  - (1) Toho Water may elect to design and construct all or portions of the extended water, reclaimed water and/or wastewater lines within a Project Area.
  - (2) In the event Toho Water designs and constructs such utility line extensions, the CIAC fee will be charged to each Owner of a Property that connects to Toho’s utilities.

**Section 2.02. Exceptions and application on a case-by-case basis.**

- a) The following are excluded from this policy:
  - (1) Non-residential property.
  - (2) Multifamily property consisting of more than four units under one roof.
  - (3) New residential subdivisions or residential property with development activity which results in additional platted lots which are governed by Toho Water's utility connection process and which are required to connect to Toho Water's utility system.
  
- b) On a case-by-case basis as requested by an Owner or Owners and upon determination by the Executive Director of the suitability of this policy, the following may be included in this policy subject to CIAC fees and reimbursements individually calculated based upon the specific and unique conditions for a proposed Project Area or Property and service requirements:
  - (1) Project Areas with an average Lot Frontage greater than 100 feet.
  - (2) Interim installation of a small diameter force main and on-site pump stations. This is a temporary solution and connection to the gravity sewer will be required when gravity sewer service is available.
  - (3) Project Areas where Toho Water mains are not located in an abutting right-of-way or easement area.
  - (4) When connection to Toho Water's utility system would require an Owner to install a pump station.

**Section 2.03. Determination of, and updates to, the CIAC fee.**

- a) Separate CIAC fees will be established for water, reclaimed water, and wastewater utility lines and will be computed as follows and in accordance with generally acceptable accounting principles:
  - (1) The initial CIAC fees will be established based on the estimated design and construction costs of the extension of water, reclaimed water and wastewater collection system lines divided by the number of platted lots in identified Project Areas identified by Toho Water to be subject to this Resolution.
  - (2) The CIAC fee for subsequent projects will be established based on the consideration of estimated design and construction costs of the extension of water, reclaimed water and wastewater collection system lines for future Project Areas identified by Toho Water to be subject to this Resolution and the actual extension costs incurred in certain Project Areas divided by the number of platted lots in the aggregate Project Areas.
  
- b) The CIAC fee will be updated as frequently as deemed necessary by the Executive Director, but no less than once every four years. The initial CIAC fee and revisions to the CIAC fee will be approved by the Board from time-to-time and upon approval will be attached to this Resolution as **Appendix A**. The adoption of the initial CIAC fee and revisions and updates thereto will not require an amendment to this Resolution.
  
- c) Any such review and update of the CIAC fee shall comply with applicable law.

**Section 2.04. Payment of the CIAC fee.**

- a) The CIAC fee to be paid by an Owner is the CIAC fee that has been approved by the Board and is in effect as follows:
  - (1) The CIAC fee in effect at the time that an Owner applies for connection to Toho Water's utilities.
  - (2) At another time as otherwise specified in any agreement related to extension of utilities.
- b) The Owner shall pay the CIAC fee when the Owner requests water, reclaimed water, and/or wastewater utility service from Toho Water, whichever comes first.
- c) Owners of Property utilizing a potable well and/or septic tank subject to this policy may elect to utilize the installment payment plan set forth in Section 2.08 below.

**Section 2.05. Notice of CIAC fees.**

- a) As a courtesy to an Owner of Property subject to this policy, the Executive Director will record a notice concerning the CIAC fee and the Property to which it is applicable in the official records of the applicable county. Failure to record such notice will not excuse the requirement of an Owner to pay the CIAC fee required hereunder.
- b) As further notice to an Owner of Property, the Executive Director may elect to utilize some or all of the notice provisions adopted by the Board under Resolution 2010-021, as amended from time-to-time, for noticing system development charges.

**Section 2.06. Toho Water implementation procedures.** The Executive Director will prepare and implement procedures for:

- a) Communicating the reason for and applicability of this policy.
- b) Providing each Owner subject to this policy information regarding the locations of existing water, reclaimed water and wastewater utility lines.
- c) Review and approval of Owner extension of utilities including but not limited to construction plans, cost validation and reimbursement, construction timing and obligations, inspection, and acceptance.
- d) Prioritization of funding and areas subject to this policy. These procedures will address the selection process for platted residential lots subject to this policy and Toho Water's funding of utility line extensions and reimbursements to be made to Builders.
- e) Reimbursements to Owners. These procedures will address the costs and expenses paid by Builder for extending water, wastewater and reclaimed water lines outside the boundaries of the Property or Properties which are not owned by the Owner and the Owner's eligibility for reimbursement from Toho Water of a proportional amount of the construction costs. The procedures will establish methods for tracking outstanding commitments for reimbursement and estimated timing for reimbursement based upon budgeted funding levels.

- f) Establishment of agreements related to Owner extension of utilities.

**Section 2.07. Payment default and lien of unpaid CIAC fees.** When Toho Water determines that a CIAC fee is not timely paid, Toho Water may proceed to collect the CIAC fee by utilizing the payment default and lien process adopted by the Board under Resolution 2010-021, as amended from time-to-time, to collect system development charges not timely paid.

**Section 2.08. Installment payments.**

- a) Subject to availability of funds, Toho Water may enter into agreements to extend payment (by accepting installment payments with interest) of CIAC fees over a period not to exceed 20 years with Owners of Properties which are utilizing a potable well and/or septic system and which subsequently connects to Toho Water's utility system. Such agreements shall provide for collection of the CIAC fees through installments with interest. Such agreements may be prepared to collect the CIAC fees as special assessments or non-ad valorem assessments pursuant to the Uniform Assessment Collection Act and, in such event, shall document the Owner's consent to the imposition of such assessments. CIAC fees collected in installments shall be adjusted as necessary to account for any significant installment collection and administration costs, including but not limited to any fees imposed by the appropriate property appraiser and tax collector and statutory discounts for the early annual payment of ad valorem taxes and non-ad valorem assessments.
- b) Any agreement to extend payments of CIAC fees may be in the form of a customer surcharge on the monthly bill from Toho Water, and/or executed with the formality of a deed and be recorded in the official records of the applicable county. Such agreement shall clearly state that the lien resulting therefrom shall be superior and paramount to the interest or the subject land of the Owner or any lessee, tenant, mortgagee, or other person except for the lien of state, county, and municipal taxes and other non-ad valorem assessments and shall be on parity with the lien of all such ad valorem property taxes and non-ad valorem special assessments. Upon advice of counsel, Toho Water may also require appropriate subordinations before extending payment by installments.
- c) The Executive Director may direct and authorize the exposure to the public, for convenience only, of a searchable or other data base or other means to determine the existence of outstanding agreements to extend payment to Toho Water of CIAC fees over a period of years for the purposes of assisting buyers, mortgagees, title researchers, customers and other persons, and to advance payment to Toho Water. Provided, however, that no error or omission therein or on the part of Toho Water, its officials, employees, or agents shall excuse full payment of any amount due Toho Water.

**ARTICLE III – GENERAL**

**Section 3.01. Delegation of authority to the Executive Director.** The Board of Supervisors delegates to the Executive Director all powers and authority necessary to carry out and establish and implement this line extension policy, including but not limited to the ability to prepare, receive and approve agreements and forms and to make decisions regarding the establishment, implementation and applicability of this policy.

**Section 3.02. Review hearings.**

- a) An Owner who is required to pay or seeks a reimbursement of a CIAC fee pursuant to this Resolution shall have the right to request a review hearing before the Executive Director. Such hearing shall be limited to the review of the following:
  - (1) The application of the CIAC fee to a Development pursuant to this Resolution.
  - (2) The computation of the CIAC fee for a Development pursuant to this Resolution.
  - (3) Any dispute concerning reimbursements.
- b) Except as otherwise provided in this Resolution, such hearing shall be requested by the Owner within twenty days of the written or other reasonable notice of the determination by the Executive Director. Failure to request a hearing within such period shall constitute a waiver of the right to a review hearing.
- c) The request for hearing shall be filed with the Executive Director and shall contain the following:
  - (1) The name and address of the Owner;
  - (2) The legal description of the property in question and the recorded instrument under which the Owner holds record title;
  - (3) If issued or applicable, the date the Building Permit was issued;
  - (4) A brief description of the nature of the Development, or applicable construction being undertaken pursuant to the Building Permit;
  - (5) If paid, the date the CIAC fee was paid; and
  - (6) The nature of the determination sought to be reviewed (see subsection (a) above) and a detailed statement of the reasons why the Owner is requesting the review hearing, the relief sought, and a detailed justification for such relief.
- d) Upon receipt of such request an informal meeting between the Executive Director, and the Owner shall be scheduled in an attempt to first resolve the objections of the Owner. Failing an informal resolution, a review hearing shall be scheduled before the Board at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the Owner written notice of the time and place of the hearing. Such hearing shall be held within sixty days of the date the request for hearing was filed, unless the Owner and the Executive Director agree otherwise.
- e) Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence. A determination may be in writing, but shall be issued within thirty days of the hearing to the Owner, unless the Owner and the Board agree otherwise.
- f) In the alternative the Board may appoint the Executive Director, a member of the Board, a committee of members of the Board, or a special master to conduct the public hearing or hearings on its behalf relating to rates, fees, and charges or such other matter or issue as the Board determines. The Executive Director, member of the Board, committee of members of the Board, or designated special master may be designated to act as a hearing officer or hearing

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officers and report to the Board its findings relating to such hearing. However, only the Board may set or revise the recommended CIAC fee or adopt with finality other recommended determinations.

- g) The Board's determination shall be the final adjudication of the issues presented in any review hearing unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty days from the date of the Board's determination.
- h) Any Owner who requests a hearing pursuant to this Section and desires the immediate issuance of a Building Permit, or if a Building Permit has been issued without the payment of the CIAC fee, shall pay the applicable CIAC fee prior to or at the time the request for hearing is filed. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights.
- i) An Owner may request a hearing under this Section without paying the applicable CIAC fee, but no Building Permit shall be issued until the CIAC fee is paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

**Section 3.03. Future modification of resolution.** This Resolution has been prepared with an eye toward necessary and required future modification from time-to-time and anticipates that such substantive modifications can be in the form of updated and/or revised Appendices.

**Section 3.04. Severability.** If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not be incorporated herein.

**Section 3.05. Conflicts.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3.06. Effective date.** This Resolution shall take effect immediately upon its adoption.

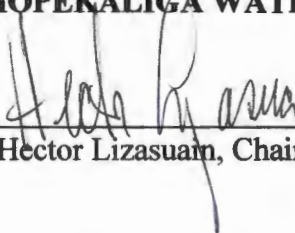
**PASSED AND DULY ADOPTED** by the Board of Supervisors of the Tohopekaliga Water Authority on \_\_\_\_\_, 2021.

*[signatures on the following page]*

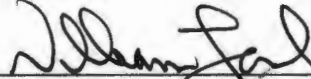


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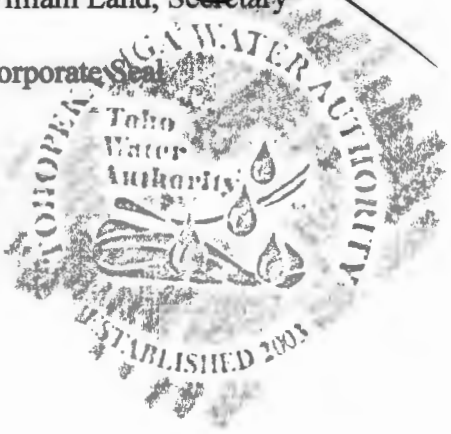
**BOARD OF SUPERVISORS OF THE  
TOHOPEKALIGA WATER AUTHORITY**

By:   
Hector Lizasuain, Chairman

**ATTEST:**

  
William Land, Secretary

Corporate Seal



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**APPENDIX A**

**CIAC Fee Calculations**

*[to be attached when approved and/or amended by the Board]*