

RESOLUTION NO. 2011- 005

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY PROVIDING FOR POLICY DIRECTION AND REGULATIONS CONCERNING PRIVATELY-OWNED LIFT STATIONS; ALLOWING FOR CONSTRUCTION OF PRIVATELY-OWNED LIFT STATIONS TO SERVE DEVELOPMENT PROJECTS IN ONLY CERTAIN SPECIFIED INSTANCES; DESCRIBING EQUIPMENT REQUIREMENTS FOR SUCH LIFT STATIONS; SETTING FORTH THE OBLIGATIONS OF AND REQUIREMENTS FOR THE OWNERS OF SUCH LIFT STATIONS; PROVIDING FOR ENFORCEMENT OF THE POLICY AND REQUIREMENTS ESTABLISHED HEREUNDER; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE TOHOPEKALIGA WATER AUTHORITY.

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to Chapter 2003-368, Laws of Florida, as amended (the "Act"), Chapter 189, Florida Statutes, and other applicable law.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared by the Board of Supervisors (the "Board") of the Tohopekaliga Water Authority ("TWA") that:

(A) Development activities necessitating small, privately-owned and maintained wastewater lift stations may initially appear more efficient and effective than requiring dedication of such lift stations and appropriate easements to TWA at the time of development. Over time experience has dictated that, in some circumstances, the developer or the developer's successors may improperly maintain such smaller and privately-owned lift stations, the transfer of responsibilities to maintain lift stations is often deferred or shifted to successors who may not be experienced, capable, or desirous of maintaining the lift stations, and that ownership of the lands and property served sometimes becomes fractured, causing relationships amongst landowner successors to the developer to become strained.

(B) In many instances where private lift stations are involved, after the initial development and the passage of time, TWA is faced with public safety problems and negative public perception arising from deferred maintenance, equipment

malfunctions, inadequate monitoring, disputes amongst landowners and developers, and unattended to environmental issues associated with privately-owned lift stations located on private property and connected to TWA's public wastewater collection and transmission systems.

SECTION 3. CONSTRUCTION OF PRIVATELY-OWNED LIFT STATIONS.

(A) Subject to compliance with the provisions of this Resolution, the owner of certain development projects may be allowed to construct privately-owned lift stations and connect to TWA wastewater facilities to serve such projects.

(B) Provided, however, (1) private lift stations shall not be allowed for residential projects (including single family, duplex, and multi-family subdivisions, apartment complexes, condominiums, townhomes, short-term rental and timeshares); and (2) private lift stations shall not be allowed for multiple owner projects, or projects which may foreseeably lead to future fractured ownership.

SECTION 4. PRIVATE LIFT STATION EQUIPMENT REQUIREMENTS.

(A) Prior to and during connection to TWA facilities, private lift stations must at a minimum be equipped with:

- (1) emergency pump out;
- (2) audible and visual alarm;
- (3) sign with responsible party and owner contact information;
- (4) auto-dialer programmed with the responsible party's 24-hour/day phone number; and
- (5) shut-off valve at the property line or in an easement dedicated to TWA, in a form satisfactory to TWA.

(B) Such equipment shall meet or exceed reasonable industry standards comparable to similar equipment used or employed by TWA.

SECTION 5. OWNER REQUIREMENTS.

(A) The owner of any private lift station shall:

(1) submit a copy of the final as-builts and operation and maintenance manuals pertaining to the lift station and promptly notify TWA of any changes thereto.

(2) obtain and continually keep in force a maintenance contract with a reputable firm which provides at a minimum annual inspections and routine maintenance. The firm must be licensed and insured and employ and use staff and employees with a minimum of five (5) years experience in lift station operations and maintenance, 24-hour 7-day a week on call availability, crane equipped service trucks and replacement pumps and parts;

(3) ensure annual inspection of the lift station by the foregoing firm and submit a copy of the annual inspection reports to TWA each year.

(4) pay an annual inspection fee each year to TWA;

(5) provide access (including any applicable easements or licenses in a form satisfactory to TWA) to the lift station for inspection purposes as provided herein; and

(6) make any repairs or equipment replacements deemed necessary to the lift station by TWA within thirty (30) days of notice to do so unless emergency attention is required.

(B) Prior to March 1 each year, the owner shall submit to TWA the annual inspection report and evidence of a current annual maintenance contract, together with an annual inspection fee of \$100 for each private lift station.

SECTION 6. ENFORCEMENT.

(A) Failure to meet the requirements provided for herein creates the potential for a public health hazard and nuisance, and may result in:

(1) 1st and 2nd Offense: Letter of Noncompliance and monetary charge as documented by TWA for any work required to investigate the offense, not to exceed \$1,000.

(2) 3rd Offense: Termination of water service.

(B) Notwithstanding that the owner is and shall remain responsible for maintaining and repairing all water, wastewater and non-potable water facilities located on the property served by such lift station, the permission to construct the lift station and ultimately connect it to TWA facilities is premised upon the owner's agreement and acknowledgement, in a form satisfactory to TWA, which provides that:

(1) TWA has an irrevocable non-exclusive license to enter the property for inspections and to make any repairs or perform any maintenance, deemed necessary by TWA, upon a privately-owned lift station connected to TWA facilities;

(2) TWA may utilize such license and make such repairs or perform such maintenance if the owner fails to perform such repairs or maintenance within twenty-four (24) hours of notice from TWA to the owner that such emergency repair and/or maintenance needs be taken, provided that in TWA's sole determination such repairs are needed on an emergency basis;

(3) if emergency repairs are otherwise required, in the sole judgment of TWA, then TWA may make the needed repairs immediately without notice to owner;

(4) the owner shall reimburse TWA for all of TWA's costs and expenses in making such repairs and/or maintenance; and

(5) the owner shall agree that it will fully indemnify and reimburse TWA for any and all liability or costs that TWA may incur as result of making such repairs and/or maintenance provided for in this Resolution.

(C) Any of the rates, fees or charges provided for in this Resolution shall be due immediately upon demand, be a lien on any parcel or property affected thereby and subject to enforcement or collection pursuant to the Act, or by any other legally available means. The owner may be required to provide written acknowledgement that the applicability of these emergency provisions also run with, touch and concern the parcel or property affected, and the regulations set forth herein shall be a prerequisite to constructing the privately-owned lift station and connecting it to TWA facilities, and the ability to continue such connection to TWA facilities.

(D) The following special condition associated with private lift stations is approved and authorized to be used with developer service agreement:

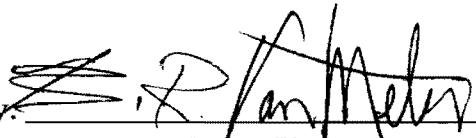
The design, construction, use and maintenance of any privately-owned and maintained wastewater lift station connected to TWA public wastewater facilities shall be contingent upon and subject to compliance with policy direction and regulations adopted by TWA concerning privately owned lift stations (including the inspection, maintenance, equipment, fees, charges, and documented access requirements, and other provisions of Resolution No. 2011- 005, concerning private lift stations, as same may be amended).

(E) A license, approved by the Executive Director or his designee in substantially the form attached hereto as Exhibit "A", is hereby authorized for use in documenting of record the inspection, maintenance, equipment, fees, charges, and access requirements and other provisions of this resolution concerning the subject matter hereof.

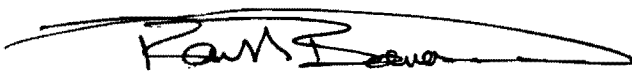
SECTION 7. APPLICABILITY AND EFFECTIVE DATE. This Resolution shall be liberally construed to affect the purposes hereof and shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED by the Board of Supervisors of the Tohopekaliga Water Authority on the 13th day of April 2011.

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

By: 
Bruce R. Van Meter, Chairman

Attest:



Raul S. Banasco, Secretary

EXHIBIT A

FORM OF PRIVATE LIFT STATION LICENSE

Grantor agrees that it will fully indemnify and reimburse TWA for any and all liability or costs that TWA may incur as result of making such repairs and/or maintenance provided for in this license.

Any such rates, fees or charges provided for herein shall be due immediately upon demand, shall be a lien on any parcel or property affected thereby, and shall be subject to enforcement or collection as a rate, fee or charge due TWA by any legally available means, including termination of water or wastewater services. The applicability of the provisions of this license also run with, touch and concern the affected parcels or property, and this license is a prerequisite to constructing any privately owned lift station on the affected parcels or property, connecting it to TWA facilities, and maintaining such connection to TWA facilities.

Grantor agrees to indemnify and hold TWA harmless from any claim occasioned by the entry or work performed on the affected parcels or property by any third party contractor. Grantor understands and acknowledges that TWA does not and cannot make any representation or warranty relative to compliance with any governmental, municipal or county code, regulation or similar provision concerning any restoration or relocation of plumbing on the affected parcels or property, but that as a result of any entering onto or access upon the affected parcels or property that TWA or any licensee hereunder upon acceptance hereof shall return the surface of the affected parcels or property to a condition equal to or better than that existing prior to entry or construction thereon.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Grantor has authorized and caused execution of this license.

GRANTOR
[Insert name of owner(s) as it appears on Deed]

WITNESSETH:

By: _____
Print Name: _____

By: _____

Date: _____

By: _____
Print Name: _____

STATE OF _____
COUNTY OF _____

The foregoing Private Lift Station License was acknowledged before me this ___ day of _____ 20___, by _____, as _____ of _____ . He/she [] is personally known to me, or [] has produced _____ as identification.

(Notary Seal)

Signature of Notary Public

Name of Notary Typed, Printed or Stamped