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Resolution No. 18-001

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES ESTABLISHING A POLICY REGARDING REIMBURSEMENT OF CONSTRUCTION COSTS RELATED TO THE EXTENSION OF WATER AND WASTEWATER UTILITY SERVICES TO DEVELOPED PROPERTIES

WHEREAS, Section 4.10, *inter alia*, of the Charter for the Board of Public Works of the City of Lewes (the “Lewes BPW”), being Chapter 10, Volume 77, Laws of Delaware, as amended (the “Lewes BPW Charter”), grants the Lewes BPW authority to enact and adopt such rules and regulations as the Lewes BPW deems proper in order to supply utilities and regulate the connection and access of public utility services within the Lewes BPW’s service area, as defined by the Lewes BPW Charter (the “Service Area”); and

WHEREAS, the Lewes BPW has followed a policy whereby the construction and development of the Lewes BPW utility system has been paid for by those entities which receive the benefits of the new construction, and the Lewes BPW has not charged existing customers for construction related to the expansion of utility services to such future customers; and

WHEREAS, the Board of Directors of the Lewes BPW (the “Board of Directors”) believes this principle should continue for the extension of water and wastewater utility services to undeveloped properties, such that the owners and developers of such properties should be responsible for costs related to the construction of new infrastructure necessary to extend the Lewes BPW utility system to such properties; and

WHEREAS, although the Board of Directors believes that the above-mentioned practice should continue, it also recognizes that this practice can be cost prohibitive if applied to developed properties, where the first property requesting service bears the full burden of the cost for extension of water and wastewater utility services to an area where other properties can benefit from the service extension; and

WHEREAS, the Board of Directors believes it is in the best interests of the Lewes BPW and its customers to encourage the connection of developed properties within the Lewes BPW’s Service Area to the Lewes BPW’s water and wastewater utility systems; and

WHEREAS, to further this goal, the Board of Directors concludes that the Lewes BPW should establish a policy under which the Lewes BPW has the option to advance the costs of and support construction of infrastructure necessary to connect already developed properties to the Lewes BPW water and wastewater utility systems, subject to reimbursement for the costs of this infrastructure as new properties connect to these systems; and

WHEREAS, the Board of Directors deems it is in the best interests of the Lewes BPW utility system and customers, both current and future, to establish a Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties.

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NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS ____ DAY OF _____, 2018, THAT:

Section 1. The *Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties* shall be established as provided in Exhibit “A” attached hereto and incorporated herein.

Section 2. This Resolution shall take effect immediately upon its adoption by the Board of Directors of the Lewes Board of Public Works.

Adopted by the Board of Directors
Of the Lewes Board of Public Works

I, A. Thomas Owen, Secretary of the Board of Public Works of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the Board of Directors of the Lewes BPW at its meeting on _____, at which meeting a quorum was present and voting throughout and the same is still in full force and effect.

Secretary

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EXHIBIT "A"

Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties

There is hereby established, as hereinafter set forth, a Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties, pursuant to the lawful authority of the Lewes Board of Public Works (the "Lewes BPW").

The Lewes BPW, in its sole discretion, may choose to fund the extension of water and wastewater utility services to serve developed properties within the Lewes BPW's Service Area, subject to reimbursement by property owners consistent with the policy described herein.

The Lewes BPW Service Area, based upon engineering principles and studies, will be divided into "Project Areas" for water and wastewater utility services as the Lewes BPW deems necessary and appropriate, and as shown in Exhibit I, as may be amended. The Lewes BPW, in its sole discretion, reserves the right to revise the organization, designation and delineation of such areas for any reason, including, but not limited to, system requirements and engineering needs.

If the Lewes BPW chooses to extend water services, wastewater services, or both within a Project Area, each Equivalent Development Unit ("EDU") within the subject Project Area shall be responsible for its proportional share, based upon the total number of EDUs within the subject Project Area, of the costs of construction related to such extensions. An EDU shall be defined as any developed property located within a Project Area. The costs of construction shall include the actual costs of construction, as well as any costs related to project management, engineering, inspection, legal services, compensation for easements, and any combination thereof (the "Extension Costs").

Upon connection of an EDU to the applicable Lewes BPW water utility system, wastewater utility system, or both, the Lewes BPW shall assess the owner of such EDU an amount equal to the EDU's proportional share of Extension Costs, in addition to any other costs and fees associated with connecting the EDU to the Lewes BPW utility system, including, but not limited to, impact fees. Unpaid Extension Costs shall be subject to the same enforcement remedies available to the Lewes BPW for unpaid utility rents, fees, rates, or assessments, including the Lewes BPW's ability to place a lien on the subject property.

Upon the completion of construction of any utility extension within a Project Area, the owner of any EDU within the Project Area shall connect such EDU to the Lewes BPW water utility system, wastewater utility system, or both, as applicable, within three (3) years to avoid being assessed a latecomer fee. If an EDU is not connected to the applicable utility system within three (3) years following completion of construction of the utility system, in addition to the assessment for the EDU's proportional share of Extension Costs, such EDU shall be assessed a latecomer fee upon connection to the Lewes BPW utility system for each year following completion of the system. The latecomer fee shall be calculated annually based upon the EDU's

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121 proportional share of Extension Costs and is equal to the percentage annual interest rate earned
122 on the Lewes BPW's reserve funds.

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124 The foregoing policy shall only apply to the extension of the Lewes BPW water and
125 wastewater utility systems to developed properties within the Lewes BPW's Service Area.
126 Owners of undeveloped properties within the Lewes BPW's Service Area seeking to connect to
127 the Lewes BPW utility systems shall continue to be responsible for the complete costs and
128 expenses associated with the extension of the Lewes BPW's infrastructure necessary to provide
129 service to such undeveloped property, as well as any costs of connection to such infrastructure.