

**Resolution No. 18-004**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES REVISING THE 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**, on April 25, 2018, the Board of Directors of the Lewes BPW (the “Board of Directors”) adopted a Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties (the “Utility Extension Policy”); and

**WHEREAS**, the Board of Directors desires to revise this Utility Extension Policy to better clarify the intent for the policy to apply to established, improved properties and not to open space, minimally improved, or otherwise vacant parcels that may be later improved, subdivided, or developed; 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 revise its Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Developed Properties.

**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 revised by making deletions as shown by strikethrough and additions as shown by underline, as provided in Exhibit “A” attached hereto and incorporated herein. The Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Established Properties, as revised, is provided in Exhibit “B” 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.

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

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52 I, Robert J. Kennedy, III of the Board of Public Works of the City of Lewes, do hereby  
53 certify that the foregoing is a true and correct copy of the Resolution passed by the Board of  
54 Directors of the Lewes BPW at its meeting on \_\_\_\_\_, at which meeting a  
55 quorum was present and voting throughout and the same is still in full force and effect.

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59 \_\_\_\_\_  
60 Secretary  
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EXHIBIT "A"

**Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Established Properties ~~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 Established Properties ~~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 Established Properties ~~developed properties~~ within the Lewes BPW's Service Area, subject to reimbursement by property owners consistent with the policy described herein. Established Properties shall include any lot or parcel which has been altered from a natural state by the addition of any substantial permanent improvements, such as buildings or structures, that render the property suitable for residential or commercial use, but shall exclude any lot or parcel which is being subdivided or developed under the Municipal Code for the City of Lewes and is responsible for the complete costs and expenses associated with the extension of the Lewes BPW's infrastructure.

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

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108 utility system, wastewater utility system, or both, as applicable, within three (3) years to avoid  
109 being assessed a latecomer fee. If an EDU is not connected to the applicable utility system within  
110 three (3) years following completion of construction of the utility system, in addition to the  
111 assessment for the EDU's proportional share of Extension Costs, such EDU shall be assessed a  
112 latecomer fee upon connection to the Lewes BPW utility system for each year following  
113 completion of the system. The latecomer fee shall be calculated annually based upon the EDU's  
114 proportional share of Extension Costs and is equal to the percentage annual interest rate earned  
115 on the Lewes BPW's reserve funds.

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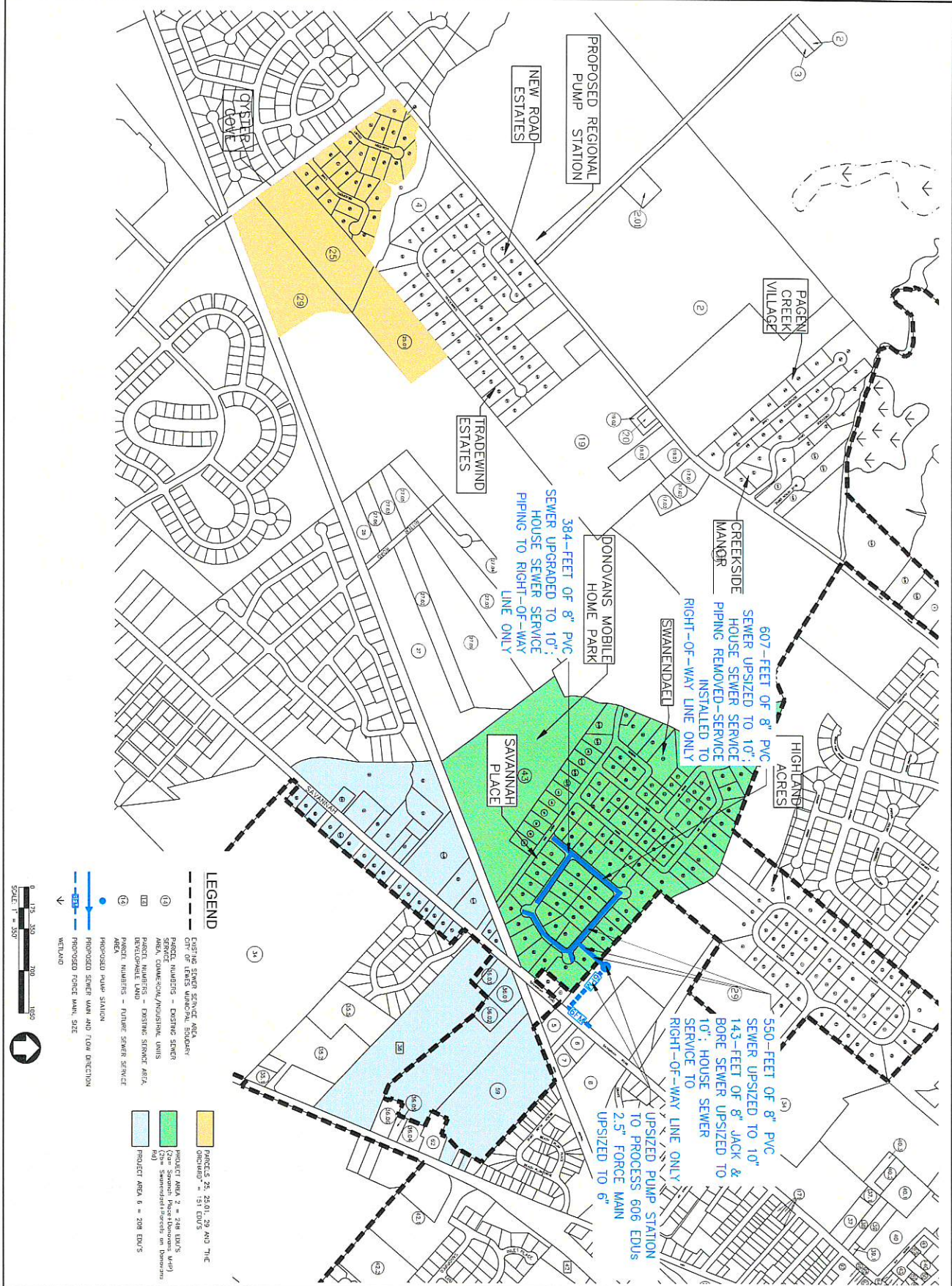
117 The foregoing policy shall only apply to the extension of the Lewes BPW water and  
118 wastewater utility systems to Established Properties ~~developed properties~~ within the Lewes  
119 BPW's Service Area. Owners of any lot or parcel not considered to be an Established Property  
120 herein that is located ~~undeveloped properties~~ within the Lewes BPW's Service Area seeking to  
121 connect to the Lewes BPW utility systems shall continue to be responsible for the complete costs  
122 and expenses associated with the extension of the Lewes BPW's infrastructure necessary to  
123 provide service to such lot or parcel undeveloped property, as well as any costs of connection to  
124 such infrastructure.

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**EXHIBIT I**



PROPOSED SEWER

DATE	DATE	DATE	DATE

SHEET NO. **EX-1**  
 PROJECT NO. 150701  
 DATE 07/13/2011  
 PLOT NO. 150701

**SAVANNAH PLACE SEWER EXTENSION**  
  
 LEWES, DELAWARE

**GMB**  
 GEORGE, MILES & BUHR, LLC  
 ARCHITECTS & ENGINEERS  
 208 WEST MAIN STREET  
 SALISBURY, MARYLAND 21551  
 410-742-2115 FAX 410-742-2879  
 www.gmbus.com

PRINTED FOR REVIEW

NO.	REVISIONS	DATE

**EXHIBIT "B"**

**Policy Regarding Reimbursement of Construction Costs Related to the Extension of Water and Wastewater Utility Services to Established 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 Established 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 Established Properties within the Lewes BPW's Service Area, subject to reimbursement by property owners consistent with the policy described herein. Established Properties shall include any lot or parcel which has been altered from a natural state by the addition of any substantial permanent improvements, such as buildings or structures, that render the property suitable for residential or commercial use, but shall exclude any lot or parcel which is being subdivided or developed under the Municipal Code for the City of Lewes and is responsible for the complete costs and expenses associated with the extension of the Lewes BPW's infrastructure.

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

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177 assessment for the EDU's proportional share of Extension Costs, such EDU shall be assessed a  
178 latecomer fee upon connection to the Lewes BPW utility system for each year following  
179 completion of the system. The latecomer fee shall be calculated annually based upon the EDU's  
180 proportional share of Extension Costs and is equal to the percentage annual interest rate earned  
181 on the Lewes BPW's reserve funds.

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183 The foregoing policy shall only apply to the extension of the Lewes BPW water and wastewater  
184 utility systems to Established Properties within the Lewes BPW's Service Area. Owners of any  
185 lot or parcel not considered to be an Established Property herein that is located within the Lewes  
186 BPW's Service Area seeking to connect to the Lewes BPW utility systems shall continue to be  
187 responsible for the complete costs and expenses associated with the extension of the Lewes  
188 BPW's infrastructure necessary to provide service to such lot or parcel, as well as any costs of  
189 connection to such infrastructure.