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Resolution No. 18-003

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES EXEMPTING TAX PARCEL 335-8.00-37.01 FROM THE PRE-ANNEXATION AGREEMENT REQUIREMENT WITHIN THE BOARD OF PUBLIC WORKS POLICY ON PROVIDING BOARD OF PUBLIC WORKS UTILITY SERVICES OUTSIDE OF THE LEWES CITY LIMITS

WHEREAS, Section 4.1, *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, responsibility, supervision, and control of utility systems established or to be established within the Lewes BPW Service Area; and

WHEREAS, Section 1 of the Lewes BPW Charter defines the Lewes BPW Service Area as “the corporate limits of the City of Lewes, the territory beyond such limits authorized in [the Lewes BPW Charter], and any franchised service area”; and

WHEREAS, Section 4.20 of the Lewes BPW Charter more specifically authorizes the Lewes BPW to supply utility services to properties located within two (2) miles of the corporate limits of the City of Lewes; and

WHEREAS, Section 4.20 of the Lewes BPW Charter further expressly vests authority with the Lewes BPW to “enact and adopt such rules and regulations as the [Lewes BPW] may deem proper in order to supply said utility services”; and

WHEREAS, the Lewes BPW provides an important service to the residents of the City of Lewes and those ratepayers residing outside of the corporate limits of the City of Lewes as stewards of the utility systems within its jurisdiction and, accordingly, takes care to ensure that current and future customers have access to safe, reliable, and affordable services; and

WHEREAS, the Board of Directors of the Lewes Board of Public Works (the “Board of Directors”), on March 27, 2007, adopted Resolution 07-002, titled “A Resolution of the Board of Public Works of the City of Lewes to Establish a Procedure for Application for Utility Services for areas Beyond the Limits of the City of Lewes”; and

WHEREAS, the Board of Directors, on December 4, 2013, adopted Resolution 13-004, titled “A Resolution of the Board of Public Works of the City of Lewes, Delaware, to Amend the Procedure for Application for Utility Services for Areas Beyond the Limits of the City of Lewes”; and

WHEREAS, Resolution 13-004, *inter alia*, obligates a property owner seeking utility service from the Lewes BPW to sign an agreement with the City of Lewes providing for the annexation of said property owner’s property to the City upon request by the City prior to any utility construction; and

47 **WHEREAS**, the Board of Directors deem it in the best interest of the ratepayers, both
48 current and future, to remove the requirement that the property owner of that certain real property
49 comprising approximately 3.2 acres and being further identified as having Sussex County Tax
50 Parcel Number 335-8.00-37.01 (the "Property") enter into a so-called Pre-Annexation Agreement
51 under Resolution 13-004 prior to receiving utility service from the Lewes BPW; and
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53 **WHEREAS**, in removing the requirement that the Property owner execute a Pre-
54 Annexation Agreement prior to receiving utility service from the Lewes BPW, the Board of
55 Directors is not expressing an opinion that the Property owner should not pursue or otherwise
56 welcome annexation into the City of Lewes; and
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58 **WHEREAS**, the Board of Directors acknowledges the multitude of benefits that
59 accompany annexation into the City of Lewes; and
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61 **WHEREAS**, notwithstanding its steadfast support for the benefits of incorporating new
62 territory into the City of Lewes, the Board of Directors, as a steward of the above-described utility
63 systems, deem it in the best interest of the ratepayers, both current and future, to allow the Property
64 owner to receive utility service under Resolution 13-004 without executing a Pre-Annexation
65 Agreement.
66

67 **NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE**
68 **LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 27TH DAY OF JUNE, 2018,**
69 **THAT:**
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71 **Section 1.** Notwithstanding anything within Resolution 13-004 and the Policy on
72 providing Board of Public Works utility services outside the Lewes city limits to the contrary, the
73 Property owner shall not be required to enter into an agreement with the City of Lewes providing
74 for annexation to the City upon request by the City prior to the start of utility construction.
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76 **Section 2.** All other provisions of Resolution 13-004 and the Policy on providing
77 Board of Public Works utility services outside the Lewes city limits shall remain in full force and
78 effect. By way of example and not intending to limit the forgoing, the Property owner shall be
79 responsible for the cost of all improvements of utility service lines for the subject utility extension,
80 in addition to all applicable impact fees.
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82 **Section 3.** This Resolution shall take effect immediately upon its adoption by the
83 Board of Directors of the Lewes Board of Public Works.
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93 Adopted by the Board of Directors
94 Of the Lewes Board of Public Works

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98 I, Robert J. Kennedy, III, Secretary of the Board of Directors of the Lewes Board of Public
99 Works, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by
100 the Board of Directors of the Lewes Board of Public Works at its meeting on Wednesday, June 27,
101 2018, at which meeting a quorum was present and voting throughout and the same is still in full
102 force and effect.

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107 Secretary