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**Resolution No. 21-004 A**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES PROPOSING TO AMEND THE CHARTER FOR THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, CHAPTER 10, VOLUME 77 LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES," RELATED TO THE EXTENSION OF UTILITY SERVICES AND POWER TO SUE AND BE SUED**

**WHEREAS**, the present 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") reincorporated the Lewes BPW when it became effective on August 7, 2009; and

**WHEREAS**, Section 4.1, *among other provisions*, of the Lewes BPW Charter grants the Lewes BPW authority, responsibility, supervision, and control over current and future utility systems 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**, the Lewes BPW desires to amend the Lewes BPW Charter as provided herein in order to promote collaboration and dialogue between the BPW Board of Directors and the City of Lewes Mayor and City Council; and

**WHEREAS**, the amendments proposed herein will specifically require going forward the Mayor and City Council's prior consent for the Lewes BPW to expand utility service to any territory outside of the City of Lewes municipal limits; and

**WHEREAS**, the amendments proposed herein will further resolve uncertainty created by a recent Delaware Superior Court decision by expressly providing the Lewes BPW with the general power to sue and be sued, with the caveat that the Lewes BPW shall lack the ability to sue and be sued by the City of Lewes for a period of five (5) years; and

**WHEREAS**, the Mayor and City Council of the City of Lewes expressed its unanimous support for the amendments proposed herein as Exhibit "A" during its meeting on June 18, 2021; and