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Resolution No. 19-003

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF
PUBLIC WORKS OF THE CITY OF LEWES REGARDING PAYMENT
OF IMPACT FEES FOR UTILITIES**

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, Section 1 of the Lewes BPW Charter defines the 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, Section 4.4 of the Lewes BPW Charter grants the Lewes BPW authority to make rules regulating the public utility systems and the tapping of public utility systems, which includes requiring payment of fees; and

WHEREAS, consistent with this authority, the Lewes BPW requires payment of utility Impact Fees for property connecting into the public utility systems; and

WHEREAS, the Board of Directors of the Lewes BPW (the “Board”) adopted Resolution 18-005 on October 24, 2018 providing an opportunity for property being annexed into the City of Lewes to defer payment of Impact Fees until a certificate of occupancy is issued, after construction is complete and utility meters are in place; and

WHEREAS, the Board deems it in the best interest of the ratepayers, both current and future, to clarify when required Impact Fees must be paid and to further expand the opportunity to defer payment of Impact Fees, where doing so would promote responsible economic development or support an identifiable unique benefit to the City of Lewes, the Lewes BPW Service Area, or both.

45 **NOW THEREFORE, BE IT RESOLVED** BY THE BOARD OF DIRECTORS OF
46 THE LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 26TH DAY OF JUNE
47 2019, THAT:

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49 **Section 1.** Required Impact Fees for utilities providing service to properties within
50 the Lewes BPW Service Area shall be paid upon installation of the subject utility meter.

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52 **Section 2.** Upon consideration of a written request from the affected property owner,
53 the Board of Directors of the Lewes Board of Public Works may defer collection of any or all
54 Impact Fees for utilities providing service to a property within the Lewes BPW Service Area
55 upon finding that granting the deferral will either promote responsible economic development, or
56 granting the deferral will support an identifiable, unique benefit to the City of Lewes, the Lewes
57 BPW Service Area, or both. The Board shall require the property owner receiving such deferral
58 to execute a written agreement prior to connecting the subject utility or utilities providing
59 adequate safeguards, as determined in the sole discretion of the Lewes BPW, to secure payment
60 of said Impact Fees.

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62 **Section 3.** This Resolution shall take effect immediately upon its adoption by the
63 Board of Directors of the Lewes Board of Public Works.

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67 Adopted by the Board of Directors
68 Of the Lewes Board of Public Works
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72 I, Robert J. Kennedy, III of the Board of Public Works of the City of Lewes, do hereby
73 certify that the foregoing is a true and correct copy of the Resolution passed by the Board of
74 Directors of the Lewes BPW at its meeting on June 26, 2019, at which meeting a quorum was
75 present and voting throughout and the same is still in full force and effect.

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Secretary