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Resolution No. 22-00 §

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES TO AMEND THE LEWES BPW'S POLICY CONCERNING ADMINISTRATIVE FEES ON UTILITY INFRASTRUCTURE FOR SUBDIVISIONS, DEVELOPMENTS, AND REDEVELOPMENTS WITHIN THE LEWES BPW SERVICE AREA

WHEREAS, Section 4.1, *among other provisions*, 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 over current or 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, Section 4.20 of the Lewes BPW Charter further 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 its customers, which include the citizens of the City of Lewes (domiciled and non-domiciled) and those ratepayers residing outside of the Lewes city limits, as steward 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 Lewes BPW plays an important administrative role in coordinating and engaging consultants and professionals as part of the review, approval, inspection, and acceptance of utility infrastructure associated with new subdivision, development, and redevelopment projects; and

WHEREAS, in performing the above-referenced function, the Lewes BPW often incurs administrative expense above and beyond the amounts reflected in the invoices from the consultants and professionals assisting with this review and approval process; and

WHEREAS, on June 24, 2009, the Board of Directors (the "Board") concluded that the assessment of an administrative fee in the amount of fifteen percent (15%) of the invoices from said consultants and professionals assisting with this review and approval process was a fair and reasonable fee to cover those costs that the Lewes BPW was likely to incur in the review, approval, inspection, and acceptance of utility infrastructure associated with said projects; and

47 **WHEREAS**, at its June 29, 2022 meeting, the Board adopted Resolution No. 22-004, by
48 which the Lewes BPW's current policies and practices were incorporated into one resource (the
49 "BPW Policies"); and

50
51 **WHEREAS**, pursuant to Section 5.5 of the BPW Policies, the Lewes BPW mistakenly
52 provided that it will assess an administrative fee for all new subdivision, development, or
53 redevelopment projects in the amount of fifteen percent (15%) of the estimate costs to install utility
54 infrastructure for applicable Lewes BPW utility service; and

55
56 **WHEREAS**, the Board, as steward of the above-described utility systems, intends to
57 modify Section 5.5 to clarify its policies and expectations with respect to administrative fees,
58 which fees shall be assessed in the amount of fifteen percent (15%) of all invoices related to
59 consultants and professionals assisting with all new subdivision, development, and redevelopment
60 projects in the Lewes BPW Service Area.

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62 **NOW THEREFORE, BE IT RESOLVED** BY THE BOARD OF DIRECTORS OF THE
63 LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 7th DAY OF
64 DECEMBER, 2022, THAT:

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66 **Section 1.** Section 5.5 of the BPW Policies shall be amended as follows:

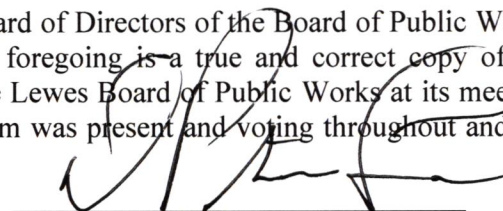
67 **5.5 Administrative Review Fee for Development Agreements**

68 The Lewes BPW will assess an administrative fee for any new subdivision, development,
69 or redevelopment of land within the Lewes BPW Service Area in the amount of fifteen
70 percent (15%) of [~~the estimated cost to install utility infrastructure~~] invoices from
71 consultants and professionals assisting with the review, approval, inspection, and
72 acceptance of utility infrastructure for Lewes BPW utility service to the subject
73 subdivision, development, or redevelopment of land. This fee will be used to offset the
74 administrative expenses incurred by the Lewes BPW in reviewing, approving, inspecting,
75 and accepting said utility infrastructure.

76
77 **Section 2.** This Resolution shall take effect immediately upon its adoption by the
78 Board of Directors of the Lewes Board of Public Works.

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

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85 I, D. Preston Lee, P.E., Secretary of the Board of Directors of the Board of Public Works
86 of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the
87 Resolution passed by the Board of Directors of the Lewes Board of Public Works at its meeting
88 on December __, 2022 at which meeting a quorum was present and voting throughout and the
89 same is still in full force and effect.

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Secretary