

**Resolution No. 23-[010]**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, DELAWARE AUTHORIZING THE BORROWING OF (A) \$5,250,000 FROM THE DELAWARE DRINKING WATER STATE REVOLVING FUND, ACTING BY AND THROUGH THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND (B) \$2,945,000 FROM THE DELAWARE DRINKING WATER STATE REVOLVING FUND, ACTING BY AND THROUGH THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, FOR THE PURPOSE OF FINANCING CERTAIN DRINKING WATER PROJECTS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES; AND AUTHORIZING OTHER NECESSARY ACTION**

**WHEREAS**, the Board of Public Works of the City of Lewes (the “Board”) desires to finance (i) the installation of a new 750,000 to 1,000,000 gallon elevated water storage tank at the Jones Farm site off Kings Highway in the City of Lewes (the “City”) and to replace aging, cast iron wellfield header pipe in the vicinity of the new tank (the “Elevated Storage Tank Project”) and (ii) the replacement of an existing water main that crosses under the Lewes-Rehoboth Canal at the Savannah Road Bridge in the City (the “Savannah Road Bridge Canal Crossing Water Main Project” and together with the Elevated Storage Tank Project, the “Projects”); and

**WHEREAS**, the Board received a Binding Commitment Letter dated June 27, 2023 (the “Elevated Storage Tank Project Commitment Letter”) from the Delaware Drinking Water State Revolving Fund (the “Fund”), acting by and through the Delaware Department of Health and Social Services (“DHSS”) offering a loan (the “Elevated Storage Tank Project Loan”) in the amount of \$5,250,000, for a term of thirty (30) years, at an annualized interest rate of 2.0%, to fund the Elevated Storage Tank Project, said Elevated Storage Tank Project Loan to be secured by a revenue pledge of the Board pursuant to Section 4.14.1.1 of the Charter of the Lewes Board of Public Works, being Chapter 10, Volume 77, Laws of Delaware as amended (the “Board Charter”); and

**WHEREAS**, the Board received a Binding Commitment Letter dated June 27, 2023 (the “Savannah Road Bridge Canal Crossing Water Main Project Commitment Letter” and together with the Elevated Storage Tank Project Commitment Letter, the “Commitment Letters”) from the Fund, acting by and through DHSS offering a loan (the “Savannah Road Bridge Canal Crossing Water Main Project Loan” and together with the Elevated Storage Tank Project Loan, the “Loans”) in the amount of \$2,945,000, for a term of twenty (20) years, at an annualized interest rate of 2.0%, to fund the Savannah Road Bridge Canal Crossing Water Main Project, said Savannah Road Bridge Canal Crossing Water Main Project Loan to be secured by a revenue pledge of the Board pursuant to the Board Charter; and

**WHEREAS**, the Board desires to (i) accept the Loans under terms substantially similar to the terms provided in the Commitment Letters; (ii) enter into a financing agreement or similar loan agreement with DHSS, one for each of the Loans (collectively, the “Financing Agreements”); and (iii) issue two revenue bonds, one for each of the loans, to secure the same (collectively, the “Bonds”); and

**WHEREAS**, the Board further desires to authorize any and all actions necessary or desired to execute the Financing Agreements, the Bonds and any other documents which are deemed necessary or appropriate to carry out the intent of this Resolution; and

**WHEREAS**, pursuant to Section 4.14.1.1 of the Board Charter, the Board “shall have the authority to borrow money and issue bonds...and to secure the payment thereof by pledging the revenues derived from the operation of any project for which bonds are issued pursuant to Section 4.14 of the Board Charter” so long as the Board obtains the prior consent of the Mayor and City Council for the City of Lewes, Delaware; and

**WHEREAS**, on September 11, 2023, the Mayor and City Council will consent to the Board’s proposed borrowing under terms substantially similar to the terms provided in the Commitment Letters.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, IN SESSION MET THIS 23RD DAY OF AUGUST, 2023, THAT:**

Section 1. Authorization of Borrowing, the Financing Agreements, the Bonds and the Pledges of Revenues. The Board hereby approves and authorizes: (i) the borrowing of (a) \$5,250,000 and (b) \$2,945,000 from DHSS under terms substantially similar to the terms provided in the Commitment Letters; (ii) the execution and delivery of the Financing Agreements and the Bonds; and (iii) the pledges of revenues to DHSS pursuant to Section 4.14.1.1 of the Board Charter to secure the Board’s obligations under the Financing Agreements and the Bonds.

Section 2. Officers Authorized to Act. The President or Vice President and Secretary or Treasurer are hereby authorized and directed to execute, on behalf of the Board, and take such action deemed necessary or appropriate to effectuate the intent of this Resolution. In the event that the President or Vice President or the Secretary or Treasurer of the Board shall be absent or otherwise unavailable for the purpose of executing documents, or for the purpose of taking any other action which they may be authorized to take pursuant to this Resolution, the General Manager of the Board is hereby authorized and directed to execute documents, or otherwise to act on behalf of the Board in their stead.

Section 3. Further Action. The proper officers of the Board are hereby authorized and directed to take all such action, execute, deliver, file and/or record all such documents, publish all notices, if required, in order to consummate the transactions described in this Resolution.


**THE CITY OF LEWES  
BOARD OF PUBLIC WORKS**

**CERTIFICATION OF RESOLUTION**

The undersigned do hereby certify that the foregoing Resolution is a true and correct copy of the Resolution duly adopted by a majority of the Board of Public Works of The City of Lewes at a duly called regular meeting on August 23, 2023.

VOTE ON RESOLUTION

	<u>Aye</u>	<u>Nay</u>
Tom Panetta, President	✓	
Earl Webb, III, Vice President	✓	
D. Preston Lee, P.E., Secretary	✓	
Richard Nichols, Treasurer	✓	
Barbara Curtis, Assistant Treasurer	✓	

  
\_\_\_\_\_  
President

Attest:

  
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Secretary

Section 4. Repealer. All resolutions and parts of resolutions heretofore adopted to the extent that the same are inconsistent herewith are hereby repealed.

Section 5. Effective Date. This Resolution shall take effect on the earliest date permitted by law.

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