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Resolution No. 24-00 1

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF
PUBLIC WORKS OF THE CITY OF LEWES ACCEPTING THE OFFSITE
AND ONSITE UTILITY IMPROVEMENTS CONCERNING THE LODGE
AT HISTORIC LEWES DEVELOPMENT**

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, on June 21, 2021, the Lewes BPW entered into a Development Agreement with Lewes Senior Living Owner, LLC (the “Developer”), Preston A. Schell, and Lewes Attainable Housing, LLC, concerning utility infrastructure supporting a proposed workforce housing development known as “Dutchman’s Harvest” and an assisted living facility known as “The Lodge at Historic Lewes” (hereinafter referred to as the “Development Agreement”); and

WHEREAS, although the Development Agreement details the site and utility infrastructure improvements for both the Dutchman’s Harvest and The Lodge at Historic Lewes, the utility infrastructure for The Lodge at Historic Lewes will be accepted prior to Dutchman’s Harvest pursuant to this Resolution; and

WHEREAS, the Development Agreement, among other things, obligated the Developer to construct the utility infrastructure for The Lodge at Historic Lewes consistent with the approved construction plans and the Lewes BPW specifications and regulations; and

WHEREAS, in October of 2023, the Developer requested that the Lewes BPW initiate the process for final acceptance of the onsite utility infrastructure for The Lodge at Historic Lewes, as specified in the Utility Plan & Profile, prepared by Davis, Bowen & Friedel, Inc., Project No. 0818R001.G01, and dated February 3, 2020 (the “Onsite Utilities”); and

WHEREAS, the Developer also requested that the Lewes BPW initiate the process for final acceptance of the offsite utility infrastructure, namely the water and sewer infrastructure extending across the southerly portion of the adjacent Dutchman’s Harvest within Walvis Court and Heyes Drive, as specified in the Utility Plan, prepared by Davis, Bowen & Friedel, Inc., Project

46 No. 0818R001.G01, and dated October 8, 2021 (the “Offsite Utilities” and, together with the
47 Onsite Utilities, the “Utilities”); and
48

49 **WHEREAS**, Section 2.5 of the Development Agreement provides that the Lewes BPW
50 will not accept any dedication of utility improvements until written approval of the condition of
51 the utility improvements is provided and an easement, if applicable, is provided to the Lewes BPW;
52 and
53

54 **WHEREAS**, consistent with Section 2.6 of the Development Agreement, the Developer
55 reimbursed the Lewes BPW for costs associated with the Savannah Road Sewer Extension project
56 and the Savannah Road Sewer Extension project in December of 2022; and
57

58 **WHEREAS**, George, Miles & Buhr, LLC (“GMB”), the Lewes BPW engineering firm,
59 provided written approval of the condition of the Utilities in a letter dated February 12, 2024 (this
60 letter is attached hereto and incorporated herein as Exhibit “A”); and
61

62 **WHEREAS**, relevant easements concerning the Utilities were approved and recorded on
63 May 17, 2022 and February 21, 2024; and
64

65 **WHEREAS**, Section 2.10 of the Development Agreement provides that the Developer
66 must provide final plans and as-built drawings in electronic AutoCad format and PDF format as
67 part of the Lewes BPW final inspection and approval process; and
68

69 **WHEREAS**, GMB confirmed in its February 12, 2024 letter that the Developer provided
70 the required final plans and as-built drawings for the Utilities; and
71

72 **WHEREAS**, the Developer has paid all required inspection and review fees related to the
73 Utilities;
74

75 **WHEREAS**, the Developer shall provide a maintenance bond in the amount of \$39,967.20
76 (i.e., ten-percent (10%) of the construction costs of the Utilities) for a period of one (1) year from
77 the date of this Resolution’s adoption, as required under Section 2.20 of the Development
78 Agreement (the “Maintenance Bond”); and
79

80 **WHEREAS**, the Developer intends to provide the Maintenance Bond in the form of an
81 amendment to the letter of credit, for which the Developer has applied and which will be furnished
82 to the Lewes BPW within two (2) days of this Resolution’s adoption; and
83

84 **WHEREAS**, the Lewes BPW desires to accept the Developer’s dedication of the Utilities
85 into the Lewes BPW utility system.
86

87 **NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE**
88 **LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 28TH DAY OF FEBRUARY,**
89 **2024, THAT:**
90

91 **Section 1.** The Lewes BPW hereby accepts the Developer’s dedication of the Utilities
92 into the Lewes BPW utility system and assumes all operational and routine maintenance costs
93 thereof subject to the Developer’s continuing obligations under the Development Agreement.
94

95 **Section 2.** The Developer shall provide the Maintenance Bond to the Lewes BPW
96 within two (2) days of the date of this Resolution’s adoption by the Board of Directors of the
97 Lewes Board of Public Works.
98

99 **Section 3.** The Maintenance Bond must remain in place for a period of one year from
100 the date of this Resolution’s adoption by the Board of Directors of the Lewes Board of Public
101 Works.
102

103 **Section 4.** Pursuant to Section 2.20 of the Development Agreement, the Developer is
104 obligated to provide a construction guarantee for the Utilities for a period of one year from the
105 date of this Resolution’s adoption by the Board of Directors of the Lewes Board of Public Works.
106

107 **Section 5.** This Resolution shall take effect immediately upon its adoption by the
108 Board of Directors of the Lewes Board of Public Works.
109

110 Adopted by the Board of Directors
111 of the Lewes Board of Public Works
112
113
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115

116 I, Thomas S. Panetta, President of the Board of Directors of the Board of Public Works
117 of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the
118 Resolution passed by the Board of Directors of the Lewes BPW at its meeting on February 28,
119 2024, at which meeting a quorum was present and voting throughout and the same is still in full
120 force and effect.
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President

Exhibit "A"

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GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS
ENGINEERS

110 ANGLERS ROAD
UNIT 102
LEWES, DE 19958
PH: 302.628.1421
PH: 800.789.4462
lewes@gmbnet.com

SALISBURY
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www.gmbnet.com

■ ■ ■ ■

JAMES H. WILLEY, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. BURNS
CHRISTOPHER J. PFEIFER, P.E.
BENJAMIN K. HEARN, P.E.

February 12, 2024

Board of Public Works
107 Franklin Avenue
Lewes, DE 19958

Attn: Austin Calaman
General Manager

Re: The Lodge at Historic Lewes
Water and Sanitary Sewer Infrastructure Acceptance
Lewes, Delaware
GMB File No. R210148

Dear Mr. Calaman:

This letter is issued to recommend Final Acceptance of the water and sanitary sewer infrastructure at The Lodge at Historic Lewes.

GMB can confirm that all punchlist items, specific to the Lodge water and sewer infrastructure, have been completed and the water and sewer utilities have been installed per the LBPW standard specifications, inspected, and are deemed ready for Final Acceptance.

GMB can also confirm that all final plans and as-built drawings, specific to the Lodge water and sewer infrastructure, required under the Development Agreement have been submitted, reviewed, and approved. All as-builts have been submitted in digital format as required. GMB has confirmed that the as-built infrastructure the BPW will maintain is inside the revised easement plan limits.

Therefore, GMB recommends final acceptance of the water and sewer infrastructure for The Lodge at Historic Lewes. GMB also recommends acceptance of a portion of the off-site 8-inch water/sewer mains and associated appurtenances installed on Sussex County Tax Map & Parcel 335-8.00-36.07, owned by Attainable Housing, LLC, commonly known as the Dutchman's Harvest project site. The acceptance of the noted Dutchman's Harvest water and sewer infrastructure is only for the sections being utilized by The Lodge at Historic Lewes, extending from The Lodge parcel through Heyes Drive and Walvis Court to their connection points in the vicinity of Savannah Road and located within a portion of the easements identified on the Dutchman's Harvest Record Plan. Acceptance of this portion of the Dutchman's Harvest water and sewer infrastructure does not represent the final acceptance of the entire Dutchman's Harvest infrastructure. A final inspection will be required on the remaining Dutchman's Harvest infrastructure once requested by the owner or developer of the Dutchman's Harvest project.

Per GMB's understanding, the BPW will now work with legal counsel on the documentation associated with acceptance and utility easement recording with Sussex County. The BPW requires a 10% maintenance bond from the Developer, which should be in the amount of \$39,967.20.

Austin Calaman
The Lodge at Historic Lewes
February 12, 2024
Page 2

If you have any questions or comments, please contact me at codonnell@gmbnet.com
or 410.430.7056.

Sincerely,



Charles M. O'Donnell, P.E.
Senior Project Director

cc: Tarabicos Grosso, LLP
Attn: Michael J. Hoffman
Attn: Peter Yingst
GMB, LLC
Attn: Derek Adams, RPR
Attn: Dean Culver, Construction Group Leader