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Resolution No. 24-00 2

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES ACCEPTING THE ONSITE UTILITY IMPROVEMENTS FOR PHASES 6 AND 7 CONCERNING THE TOWER HILL 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 September 24, 2020, the Lewes BPW entered into a Development Agreement with CMF Tower Hill, LLC “CMF” concerning utility infrastructure supporting a proposed residential development to be known as “Tower Hill” (this Development Agreement hereinafter referred to as the “Tower Hill Development Agreement”); and

WHEREAS, the Tower Hill Development Agreement, among other things, obligated CMF to construct the utility infrastructure consistent with the approved construction plans and the Lewes BPW specifications and regulations; and

WHEREAS, CMF has requested that the Lewes BPW initiate the process for final acceptance of the onsite utility infrastructure for Phases 6 and 7 of the Tower Hill Development, all as specified in the approved plans known as “Roadway, Stormdrain, Sewer, Water, & ESC for Tower Hill” and dated May 20, 2021 (the “Phases 6 and 7 Onsite Utilities”); and

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

WHEREAS, George, Miles & Buhr, LLC (“GMB”), the Lewes BPW engineering firm, provided written approval of the condition of the Phases 6 and 7 Onsite Utilities in a letter dated July 18, 2024 (GMB’s July 18, 2024 letter is attached hereto and incorporated herein as Exhibit “A”); and