

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

**RESOLUTION 16-002**

AUTHORIZING THE BORROWING OF UP TO \$750,000 FROM THE DELAWARE DRINKING WATER STATE REVOLVING FUND, ACTING BY AND THROUGH THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, FOR THE PURPOSE OF FINANCING THE HIGHLAND ACRES WATER EXTENSION PROJECT; AND AUTHORIZING OTHER NECESSARY ACTION.

**WHEREAS**, The City of Lewes Board of Public Works (the “Board”) desires to undertake a project to extend its water utility into the Highland Acres subdivision (the “Water Project”), which was recently annexed into the corporate boundaries of the City; and

**WHEREAS**, the Board anticipates receiving a Binding Commitment Letter (the “Commitment Letter”) from the Delaware Drinking Water State Revolving Fund, acting by and through the Delaware Department of Natural Resources and Environmental Control (“DNREC”), offering a loan in the amount of up to \$750,000, for a term of thirty (30) years, at an annualized interest rate of 2% to fund the Water Project, such 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 desires to (i) accept the DNREC loan under terms substantially similar to the terms described above and anticipated to be recited in the Commitment Letter; (ii) enter into a loan agreement or similar financing agreement (the “Loan Agreement”) with DNREC; and (iii) to issue its revenue bond to secure the same (the “Bond”); and

**WHEREAS**, the Board further desires to authorize any and all actions necessary or desired to execute the Loan Agreement, the Bond 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**, the Board anticipates obtaining the consent of the Mayor and City Counsel to the Board’s proposed borrowing under terms substantially similar to the terms described herein and anticipated to be recited in the Commitment Letter.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES and IT IS HEREBY RESOLVED,** as follows:

Section 1. Authorization of Borrowing, the Loan Agreement, the Bond and the Pledge of Revenues. The Board hereby approves and authorizes: (i) the borrowing of up to \$750,000 from DNREC for a term of thirty (30) years, at an annualized interest rate of 2% to fund the Water Project, such loan to be secured by a revenue pledge of the Board pursuant to Section 4.14.1.1 of the Board Charter, and under such other terms substantially similar to the terms to be recited in a Commitment Letter; (ii) the execution and delivery of the Loan Agreement and the Bond; and (iii) the pledge of revenues to DNREC pursuant to Section 4.14.1.1 of the Board Charter to secure the Board's obligations under the Loan Agreement and the Bond.

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.

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, but in any event not sooner than (i) the receipt by the Board of the Commitment Letter with terms substantially similar to those described herein, and (ii) the obtainment of the consent of the Mayor and City Council to the Board's proposed borrowing under terms substantially similar to the terms described herein and anticipated to be recited in the Commitment Letter.

**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 February 17, 2016.

VOTE ON RESOLUTION

	<u>Aye</u>	<u>Nay</u>
C. Wendell Alfred, President	✓	
D. Preston Lee, P.E., Vice President	✓	
Jack Leshner, Treasurer		
A. Thomas Owen, Secretary	✓	
Nancy Levenson, Assistant Treasurer	✓	

  
\_\_\_\_\_  
President

Attest:   
  
\_\_\_\_\_  
Secretary



Approved: February 24, 2016

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LEWES, DELAWARE, APPROVING THE BORROWING OF UP TO \$750,000 FROM THE DELAWARE DRINKING WATER STATE REVOLVING FUND, ACTING BY AND THROUGH THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, FOR THE PURPOSE OF FINANCING THE HIGHLAND ACRES WATER EXTENSION PROJECT; AND AUTHORIZING OTHER NECESSARY ACTION.**

**WHEREAS**, Section 29, Subsection 2, Chapter 170, Volume 57 of the Laws of Delaware, Charter of the City of Lewes, as amended, provides authority for the City to “provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the city and its inhabitants”; and

**WHEREAS**, Section 29, Subsection 12, Chapter 170, Volume 57 of the Laws of Delaware, Charter of the City of Lewes, as amended, provides authority for the City to “provide an ample supply of pure water for the city and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in and about the collection, storage, purification, conveyance, distribution or sale of water”; and

**WHEREAS**, the City of Lewes Board of Public Works (the “Board”) desires to undertake a project to extend its water utility to the Highland Acres subdivision (the “Water Project”), which was recently annexed into the corporate boundaries of the City; and

**WHEREAS**, the Board anticipates receiving a Binding Commitment Letter (the “Commitment Letter”) from the Delaware Drinking Water State Revolving Fund, acting by and through the Delaware Department of Natural Resources and Environmental Control (“DNREC”), offering a loan in the amount of up to \$750,000, for a term of thirty (30) years, at an annualized interest rate of 2% to fund the Water Project, such 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 desires to (i) accept the DNREC loan under terms substantially similar to the terms described above and anticipated to be recited in the Commitment Letter; (ii) enter into a loan agreement or similar financing agreement (the “Loan Agreement”) with DNREC; and (iii) to issue its revenue bond to secure the same (the “Bond”); and

**WHEREAS**, pursuant to Section 4.14.1.1 of the Board Charter, the Board “shall obtain the prior consent of the Mayor and City Council” to accept the DNREC loan; and

**WHEREAS**, the Mayor and City Council of the City of Lewes desire to approve and authorize the Board’s plan to finance the Project with the DNREC loan, to enter into a loan agreement, or similar financing agreement (the “Loan Agreement”), with DNREC, and to issue its revenue pledge; and,

**WHEREAS**, the Mayor and City Council of the City of Lewes further desire to approve and authorize the City of Lewes Board of Public Works to take any and all actions necessary or desired to execute the Loan Agreement and any related documents with respect to the DNREC loan.

**NOW, THEREFORE, BE IT RESOVED** by the Mayor and City Council of the City of Lewes, Delaware in session met this 24<sup>th</sup> day of February 2016, that:

**Section 1.** The Board shall be and is hereby authorized to take any and all actions necessary or desired to execute a Loan Agreement, issue its revenue pledge to secure the DNREC loan, in the **amount of up to \$750,000, for a term of thirty (30) years, at an annualized interest rate of 2% to fund the Water Project**, and to execute any related documents, with terms substantially similar to those anticipated to be recited in the Commitment Letter.

**Section 2.** This Resolution shall be effective upon its adoption by the elected members of the City Council of the City of Lewes.

I, Dennis Reardon, Secretary of the City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the Mayor and City Council at its meeting on February 24, 2016 at which a quorum was present and voting throughout and the same is still in full force and effect.



Secretary of the City Council  
of the City of Lewes