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Resolution No. 21-00__

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES PROPOSING TO AMEND THE CHARTER FOR THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, CHAPTER 10, VOLUME 77 LAWS OF DELAWARE, AS AMENDED, ENTITLED “AN ACT TO REINCORPORATE THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES,” RELATED TO THE EXTENSION OF UTILITY SERVICES AND POWER TO SUE AND BE SUED

WHEREAS, the present 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”) reincorporated the Lewes BPW when it became effective on August 7, 2009; and

WHEREAS, Section 4.1, *among other provisions*, of the Lewes BPW Charter grants the Lewes BPW authority, responsibility, supervision, and control over current and 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, the Lewes BPW desires to amend the Lewes BPW Charter as provided herein in order to promote collaboration and dialogue between the BPW Board of Directors and the City of Lewes Mayor and City Council; and

WHEREAS, the amendments proposed herein will specifically require going forward the Mayor and City Council’s prior consent for the Lewes BPW to expand utility service to any territory outside of the City of Lewes municipal limits; and

WHEREAS, the amendments proposed herein will further resolve uncertainty created by a recent Delaware Superior Court decision by expressly providing the Lewes BPW with the general power to sue and be sued, with the caveat that the Lewes BPW shall lack the ability to sue and be sued by the City of Lewes for a period of five (5) years; and

WHEREAS, the Mayor and City Council of the City of Lewes expressed its unanimous support for the amendments proposed herein as Exhibit “A” during its meeting on June 18, 2021; and

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WHEREAS, the Board of Directors deems it is in the best interests of the Lewes BPW utility system and customers, both current and future, to amend the Lewes BPW Charter related to the extension of utility services and the power to sue and be sued as provided herein.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LEWES BOARD OF PUBLIC WORKS, IN SESSION MET THIS 21ST DAY OF JUNE, 2021, THAT:

Section 1. The Lewes BPW Charter shall be further amended as provided in Exhibit “A” attached hereto and incorporated herein.

Section 2. The General Manager be and is hereby directed to send a copy of this Resolution and the Charter Amendment as provided in Exhibit “A” to the Honorable Ernesto B. Lopez, Senator for District 6, and the Honorable Stephen Smyk, Representative for District 11, for consideration and adoption by the Delaware General Assembly.

Section 3. This Resolution shall take effect immediately upon its adoption by the Board of Directors of the Lewes Board of Public Works.

Adopted by the Board of Directors
of the Lewes Board of Public Works

I, Thomas Panetta, Secretary of the Board of Directors of the Board of Public Works of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the Board of Directors of the Lewes Board of Public Works at its meeting on June __, 2021, at which meeting a quorum was present and voting throughout and the same is still in full force and effect.

Secretary