

**ORDINANCE NO. 2948**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,036,840 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the "County") has "all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute" (the "Home Rule Power");

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Long Neck Communities Septic Elimination Project, which will finance the installation of a gravity sewer collection system for the Long Neck Communities along Branch, Autumn and Tucks Road and in the Sherwood Forest North community (the "Project");

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bond and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9;

WHEREAS, pursuant to Ordinance No. 2840 adopted on March 22, 2022, the County authorized the issuance of its General Obligation Bond in the maximum principal amount of up to \$7,788,761 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Long Neck Communities Septic Elimination Project) Series 2022C-SRF in the maximum aggregate principal amount of up to \$7,788,761 (the "2022C Bond") on April 14, 2022 to secure a loan from the Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources & Environmental Control) ("DNREC") to fund the Project;

WHEREAS, the County requires additional funding due to increased construction and design costs of the Project and desires to accept a supplemental loan in the amount of \$2,036,840 from DNREC to fund the increased construction and design costs of the Project; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the increased construction and design costs of the Project and for the other purposes described herein

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bond. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$2,036,840 (the "Bond") to finance or reimburse the County for a portion of the increased cost of the design, construction and equipping of the Project, with the expectation that up to \$2,036,840 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$5,896,840 with respect to the 2022C Bond and the Bond, to reduce the combined principal amount of the 2022C Bond and the Bond outstanding to \$3,928,761 upon Project completion.

The monies raised from the sale of the Bond (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the cost of funding of the construction budget shortfall and additional design services associated with the unexpected design changes required by DelDOT in the permitting process.

Section 2. Security for the Bond. The principal, interest and premium, if any, on the Bond may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bond shall contain a recital that it is issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bond is backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the subdivision.

Section 3. Terms of the Bond. The Bond shall be sold at such price and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bond shall bear interest at such rate and shall mature in such amount and at such time, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bond. The Bond may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bond will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through DNREC) (or any successor agency).

Section 5. Details of the Bond. The County Administrator is authorized to determine the details of the Bond including the following: the date or dates of the Bond; provisions for either serial or term Bond; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bond; the denomination and designation of the Bond; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bond; provisions for the replacement of lost, stolen, mutilated or destroyed Bond; and provisions for issuing uncertificated obligations and all procedures

appropriate for the establishment of a system of issuing uncertificated debt. The Bond shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bond.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bond is within the legal debt limit of the County.


Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bond and to provide for its security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

SYNOPSIS: This Ordinance provides for the issuance of up to \$2,036,840 of Sussex County General Obligation Bond in order to finance or reimburse the County for a portion of the increased costs for the design, construction and equipping of the Long Neck Communities Septic Elimination Project, which will finance a gravity sewer collection system for the Long Neck Communities along Branch, Autumn and Tucks Road and in the Sherwood Forest North community (collectively, the "Project"), with the expectation that up to \$2,036,840 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$5,896,840 with respect to the 2022C Bond and the Bond, to reduce the combined principal amount of the 2022C Bond and the Bond outstanding to \$3,928,761 upon Project completion.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2948 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15<sup>TH</sup> DAY OF AUGUST 2023.

  
Tracy N. Torbert  
Clerk of the Council