

RESOLUTION NO. R 013 17

RESOLUTION APPROVING AGREEMENT TO PROVIDE FIREFIGHTING SERVICES AND APPROVING ISSUANCE OF CERTAIN BONDS OR NOTED BY THE MILLSBORO FIRE COMPANY

WHEREAS, the Millsboro Fire Company (the “Fire Company”) is a fire company organized and existing under the laws of the State of Delaware; and

WHEREAS, the Fire Company has provided and continues to provide firefighting services to an area within Sussex County, Delaware (the “County”) and the Fire Company and the County would like to formalize such arrangement by entering into the Agreement to Provide Firefighting Services which is attached hereto as Exhibit A; and

WHEREAS, the Fire Company has advised the County Council of Sussex County, Delaware (the “Council”) that the Fire Company proposes to issue up to \$500,000.00 of bonds or notes of the Fire Company (the “Bonds”) to (1) finance the acquisition costs of one (1) 2017 Emergency One Rescue Truck that will be housed in the Fire Company’s fire house located at 109 E. State St., Millsboro, Delaware 19966 (the “Fire House”); and (2) pay issuance costs associated therewith (collectively, the “Project”); and

WHEREAS, it is the intent of the Fire Company that the interest on the bonds qualify for exclusion from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 150 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, pursuant to Sections 103 and 147 of the Code, interest on the Bonds will not qualify for exclusion from gross income of the owners thereof for federal income tax purposes unless the issuance of the Bonds is approved by the applicable elected representative of a governmental unit with which the Fire Company has entered into an agreement, after a public hearing to consider the issuance of the Bonds has been conducted, following reasonable public notice; and

WHEREAS, the Fire Company hereby resolves and declares its intent under Treasury Regulation §1.150-2 to use tax-exempt bonds to finance the capital costs of the Project, subject to the following conditions:

- 1. The maximum principal amount of the tax-exempt bonds expected to be issued to finance the Project is \$500,000.00.**
- 2. Pending issuance of the tax-exempt bonds, the Fire Company may finance the Project with other funds which will be reimbursed with the proceeds of the tax-exempt bonds, provided that (a) with respect to the Project, the tax-exempt bonds shall not be used to reimburse any expenditure for the Project paid more than 60 days prior to the date of adoption of this Resolution (b) the tax-exempt bonds shall not be issued more than 18 months after the later of (i) the date of the original expenditure to be reimbursed with the proceeds of the tax-exempt bonds, or (ii) the date the Project is placed in service; and (c) in no event may the tax-exempt bonds be issued more than three years after the date of the original expenditure to be reimbursed with the proceeds of the tax-exempt bonds; and provided further that the limitations of this paragraph 2 shall not apply to qualified “preliminary expenditures” as permitted by Treasury Regulation §1.150-2(f)(2) “, or to a de minimis amount not to exceed the lesser of \$100,000 or 5% of the proceeds of the tax-exempt bonds, in accordance with Treasury Regulation §1.150-2(f)(1).”**
- 3. Issuance of the tax-exempt bonds shall be subject to documentation acceptable to the Fire Company providing for the tax-exempt bonds to be payable from the payments by the Fire Company.**

WHEREAS, the County and the Fire Company entered into an Agreement dated the date hereof (the “Agreement”) pursuant to which the Fire Company agreed, among other things, to provide exclusive firefighting services to the area of the County described therein and such agreement remains in effect as of the date hereof; and

WHEREAS, notice of the requisite public hearing was published in June in the *Delaware State News*, a newspaper of general circulation in the County and in June in the *News Journal*, a newspaper of general circulation in the County; and

WHEREAS, on July 18, 2017, the Council conducted a public hearing on behalf of the Fire Company for the purpose of considering the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED, THAT the County Council of Sussex County, for the sole purpose of qualifying the interest payable on the Bonds of the Fire company for exclusion from the gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Code, does hereby approve the issuance of bonds or notes by the Fire Company in a maximum aggregate principal amount of up to \$500,000 for the purpose of financing a portion of the costs of the Project, provided, that such financing closes in calendar year 2017, and that such bonds or notes shall be an obligation of the Fire Company and shall never be a debt of the County and the Council shall not be liable for any payment on such bonds or notes.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R 013 17 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF JULY 2017.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

SYNOPSIS: This Resolution approves of the issuance by the Millsboro Fire Company of up to \$500,000.00 of its bonds or notes to finance the acquisition costs of one (1) 2017 Emergency One Rescue Truck that will be housed in the Fire Company's fire house located at 109 E. State Street, Millsboro, Delaware 19966; and pay costs of issuance of the bonds.

FISCAL NOTE: The bonds and notes of the Fire Company will be the debt of the Fire Company and not of the County. The County's approval of the issuance by the Fire Company of bonds or notes of the Fire Company will have no fiscal impact on the County.