

RESOLUTION NO. R 033 97

A PROJECT RESOLUTION AUTHORIZING THE ISSUANCE OF \$5,400,000 VARIABLE RATE DEMAND REVENUE BONDS (BAYWOOD, L.L.C. PROJECT) SERIES 1997

WHEREAS, the County Council (the "Council") of Sussex County, Delaware (the "County") has heretofore adopted the Sussex County Commercial, Industrial and Agricultural Revenue Bond Ordinance, Ordinance No. 80, as amended by Ordinance No. 113 (the "General Ordinance") to encourage and assist the financing of the construction, acquisition, sale or lease of industrial, commercial and agricultural facilities related to the maintenance or promotion of employment or to the redevelopment or revitalization of areas within the County; and

WHEREAS, Baywood, L.L.C. (the "Borrower"), a Delaware limited liability company, has filed an application (the "Application") with the County for the issuance of bonds for a project consisting of the acquisition and construction of facilities relating to a manufactured housing community located on Long Neck Road between Routes 298 and 24 in Sussex County to be owned and operated by the Borrower including a sewage disposal system, a central water supply system and related facilities (the "Project") an estimate of the costs of which is appended hereto as Exhibit A; and

WHEREAS, the Council adopted Resolution No. R02097 on June 17, 1997 (the "Initial Resolution") indicating the County's intent to issue its revenue bonds to finance a portion of the costs of the Project; and

WHEREAS, the Borrower has notified the County of its intent to proceed with the financing of the Project and has requested the County to adopt this final Project Resolution with respect to issuance of revenue bonds for the Project; and

WHEREAS, at the request of the Borrower, the Council desires to reaffirm its Initial Resolution, its approval of the Project, the findings and determinations required by the General Ordinance, and to authorize the issuance and sale of its Variable

Rate Demand Revenue Bonds (Baywood, L.L.C. Project) Series 1997 in the aggregate principal amount of \$5,400,000 (the "Bonds"); and

WHEREAS, the County and William Blair & Company L.L.C., (the "Underwriter") intend to enter into a Bond Purchase Contract (the "Purchase Agreement"), pursuant to which the County will issue and sell the Bonds to the Underwriter for a public offering, and pursuant to a Loan Agreement between the County and the Borrower (the "Loan Agreement") , the County will loan the proceeds from the sale of the Bonds to the Borrower to pay a portion of Costs of the Project, and the Loan Agreement will provide for payments by the Borrower of the principal of, premium, if any, and interest on the Bonds; and

WHEREAS, the Bonds will be special, limited obligations of the County, payable solely from the Revenues of the Project and as set forth in the Indenture, as required by Section 7 of the General Ordinance; and

WHEREAS, the County Administrator has delivered to the County Clerk, for the Council's review, the form of the documents referred to herein; and

WHEREAS, the Council desires to authorize the issuance, execution and delivery of the Bonds and the execution and delivery of the other documents required to accomplish the foregoing and to authorize all other necessary action in connection with the Project and the financing thereof,

NOW, THEREFORE, BE IT RESOLVED:

Section 1: Definitions. In addition to initially capitalized terms used and defined in the preamble hereto, the following words and phrases, and others evidently intended as the equivalent thereof, used in this Resolution shall, in the absence of intention to the contrary, be given the following respective interpretations herein, or, if not otherwise defined, as specified in the General Ordinance:

"Act" shall mean Title 9, Chapter 70, Section 7001, Delaware Code Annotated, and Ordinance No. 80, as amended by Ordinance No. 113, heretofore adopted by the County.

"Application" shall mean the Borrower's application to the County, dated May 28, 1997, for assistance in financing a portion of the Costs of the Project.

"Bond Counsel" shall mean Potter Anderson & Corroon, Wilmington, Delaware.

"Costs" shall mean with respect to the Project, all costs, whether capital or otherwise, and include, without limitation, the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility or other improvement; the cost of machinery and equipment; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development necessary or useful and convenient for the Project or in connection therewith, financing costs including, but not limited to, discount on bonds, costs of issuance of bonds, engineering and inspection costs, trustee or fiscal agents fees, costs of financial, legal, professional and other estimates and advice, organization, administrative, insurance, and other expenses of the County or the Applicant prior to and during any acquisition or construction; and all such other expenses as may be necessary or incidental to the financing, acquisition, construction or completion of the Project or part thereof, including, but not limited to, capitalized interest and such provisions for reserves for payment of principal of or interest on the Bonds during or after such financing, acquisition or construction as may be provided for herein, but shall not include raw materials, work in progress, working capital, or stock in trade.

"Borrower" shall mean Baywood, L.L.C., a Delaware limited liability company.

"County Administrator" means the duly appointed and qualified County Administrator of the County.

"Indenture" shall mean the Trust Indenture, by and between the County and First Union Trust Company, National Association, relating to the issuance of the Bonds.

"Loan Agreement" shall mean Loan Agreement, by and between the County and Borrower relating to the loan of the proceeds of the Bonds.

"Official Statement" shall mean the official statement to be dated as of the date of sale of the Bonds.

"Preliminary Official Statement" shall mean the preliminary form of the Official Statement.

"Purchase Agreement" shall mean the Bond Purchase Contract, dated on or about the date of issuance of the Bonds by and among the County, the Borrower, and the Underwriter.

"Project" shall mean the Project as defined herein.

"State" shall mean the State of Delaware.

"Trustee" shall mean First Union Trust Company, National Association, or any successor Trustee under the Indenture.

Section 2. Findings and Determinations. The Council hereby ratifies and approves the findings and determinations made in the Initial Resolution.

Section 3. Authorization of Issuance and Sale of the Bonds. In order to provide funds to pay or refinance a portion of the Costs of the Project, the County hereby authorizes the execution, delivery, issuance and sale of the Bonds to the Underwriter in the aggregate principal amount of up to \$5,400,000, bearing interest at the rate or rates determined as set forth in the form of Indenture presented herewith to the County, pursuant to the Purchase Agreement. The Bonds shall be dated the date of initial authentication and delivery, shall be issued in registered form without coupons, and shall be in substantially the form as the form of Bonds presented herewith to the County, and may be issued in typewritten or printed form. The Bonds may be issued in two or more series, with a Series A providing for the sewage

disposal facilities and a Series B providing for other portions of the Project. The President of the Council and the County Administrator are hereby authorized to execute the Bonds, either by manual or facsimile signature, and the Clerk of the Council is hereby authorized to affix or imprint the official seal of the County thereto and to attest thereto, either by manual or facsimile signature, in substantially such form as presented to Council, with such changes, insertions and omissions as may be approved by the President of the Council or the County Administrator, such approval to be evidenced by the manual or facsimile execution thereof, and to cause the Bonds, after due authentication by the Trustee, to be delivered to or upon the order of the Underwriter.

Section 4. Special, Limited Obligations. The Bonds and all sums payable thereon shall be special, limited obligations of the County, and as to the County, shall be payable solely from the Revenues (as defined in the Indenture) of the Project, and any other moneys provided therefor in the Indenture and the Loan Agreement. The Bonds shall not constitute a debt or liability of the State of Delaware or of any political subdivision other than the County, and shall not create or constitute any indebtedness or obligation of the State of Delaware or any other political subdivision other than the County, either legal, moral, or otherwise.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COUNTY, THE STATE OF DELAWARE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF IS OR WILL BE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS, NOR IS THE COUNTY OR THE STATE OF DELAWARE OR ANY POLITICAL SUBDIVISION THEREOF IN ANY MANNER OBLIGATED TO MAKE ANY APPROPRIATION FOR PAYMENT THEREOF.

Section 5. Approval of Preliminary Official Statement and Official Statement. The form of the Preliminary Official Statement (insofar as statements therein relate to the County) presented to the County herewith is hereby approved by the County

and its distribution by the Underwriter is hereby approved. The form of the Official Statement (insofar as statements therein relate to the County) when prepared in substantially the form of the Preliminary Official Statement presented herewith, with such changes and modifications as the President or County Administrator may approve and its distribution by the Underwriter in connection with the sale of the Bonds, is hereby approved.

Section 6. Authorization of Documents. The County hereby authorizes the execution and delivery by the County of the Indenture, the Loan Agreement, the Purchase Agreement, and the Official Statement (insofar as statements therein relate to the County) in substantially the forms presented to it herewith. The President and Clerk of the Council, and the County Administrator, as appropriate, are hereby authorized to execute and deliver such documents on behalf of the County with such changes, insertions and omissions as may be approved by the President of the Council or the County Administrator and to affix the seal of the County thereto. The execution of such documents by the President of the Council or the County Administrator shall be conclusive evidence of such approval.

Section 7. Further Action. In accordance with the Act, the President of the Council, the Clerk of the Council, the County Administrator, and such other officers or employees of the County as shall be appointed by the President, are hereby authorized and directed to execute and deliver such other documents, and to take such other action as may be necessary or appropriate in order to effect the execution, issuance, and delivery of the Bonds, and the execution and delivery of the Indenture, the Loan Agreement, the Preliminary Official Statement, the Official Statement, the Purchase Agreement, and the performance of the County's obligations thereunder, all in accordance with the foregoing sections hereof, including preparing or causing to be prepared, executing and filing or causing to be executed and filed on behalf of the County any applications, filings and certifications, and taking or causing to be taken such other action as they, or such

one of them, may deem necessary or advisable to provide for the issuance of the Bonds, to establish that the interest on the Series A Bonds is exempt from Federal and State of Delaware income taxes, to comply with the laws of the United States and the State of Delaware, and to implement and carry out the matters authorized or required by the General Ordinance and this Project Resolution. Approval of this Project Resolution shall not preclude the Council from independent consideration (and denial) of any application concerning land use matters relating to the Project (e.g. zoning matters).

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R 033 97 ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 21ST DAY OF OCTOBER, 1997.



Robin A. Griffith
Clerk of the County Council

SYNOPSIS: This Project Resolution authorizes the County to issue its Variable Rate Demand Revenue Bonds in the principal amount of \$5,400,000, and to loan the proceeds thereof to Baywood, L.L.C., a Delaware limited liability company (the "Borrower"), in order to pay or refinance a portion of the eligible costs of a project consisting of the acquisition and construction of facilities relating to a manufactured housing community located on Long Neck Road between Routes 298 and 24 in Sussex County to be owned and operated by the Borrower, including a sewage disposal system and a central water supply system (the "Project"). This Project Resolution sets out the detailed terms of the issuance of the Bonds and approves the execution and delivery of the Bonds and the documents involved in the transactions contemplated hereby.

This Project Resolution, inasmuch as it approves an economic development revenue bond, has no direct, fiscal impact on the County. The Bonds will be special, limited obligations of the County. The County's financial obligation under the Bonds will be satisfied solely from the proceeds of the sale of the Bonds and the payments to be made by the Borrower. The Bonds will not constitute a pecuniary liability of the County other than from the revenues of the Project, which revenues are pledged to the payment of the principal of, premium, if any, and interest on the Bonds.

EXHIBIT A
to
RESOLUTION
for
BAYWOOD, L.L.C. PROJECT

Total Estimated Costs of Project

Sewage Disposal Facilities	\$1,875,000.
Water Supply Facilities	980,000.
Land Acquisition, roads, golf course	1,713,000.
Engineering and Consulting Fees	325,000.
Contingency	218,000.
Interest During Construction	100,000.
Costs of Issuance	<u>189,000.</u>
	\$5,400,000.