

**ORDINANCE NO. 3060**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,413,059 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WINDING CREEK VILLAGE WATER DISTRICT 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 Winding Creek Village Water District Project, consisting of the (a) installation of a water main from the existing Tidewater Utilities Meadows Pump District to a master meter at the entrance to the Winding Creek Village Subdivision (the "Subdivision"), and (b) construction of a distribution system throughout the Subdivision, along with the installation of relevant valves and fire hydrants (collectively, 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. 2650 adopted on April 30, 2019, the County authorized the issuance of its General Obligation Bond in the maximum principal amount of up to \$2,000,000 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Winding Creek Village Water District Project), Series 2019A-SRF in the maximum aggregate principal amount of up to \$2,000,000 (the "2019A Bond") on May 17, 2019 to secure a loan from the Delaware Drinking Water State Revolving Fund (acting by and through the Delaware Department of Health and Social Services) ("DHSS") to fund the Project;

WHEREAS, the County requires additional funding due to increases costs for the Project and desires to accept a supplemental loan in the amount of \$2,413,059 from DHSS to fund the increased 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 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 \$2,413,059 (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 \$1,663,059 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$2,663,059 with respect to the 2019A Bond and the Bond to reduce the combined principal amount of the 2019A Bond and the Bond outstanding to \$1,750,000 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 costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bond and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bond and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

**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 its validity and of the regularity of its 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 times, 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 DHSS (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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 3060 ADOPTED ON THE 10<sup>th</sup> DAY OF DECEMBER 2024.



Tracy N. Torbert  
Clerk of the Council

**SYNOPSIS:** This Ordinance provides for the issuance of up to \$2,413,059 of Sussex County General Obligation Bond – Supplemental in order to finance or reimburse the County for a portion of the increased costs for the design, construction and equipping of the Winding Creek Village Water District Project, consisting of the (a) installation of a water main from the existing Tidewater Utilities Meadows Pump District to a master meter at the entrance to the Winding Creek Village Subdivision (the “Subdivision”), and (b) construction of a distribution system throughout the Subdivision, along with the installation of relevant valves and fire hydrants (collectively, the “Project”), with the expectation that up to \$1,663,059 of principal forgiveness will be applied to the Bond, resulting in a total forgiveness of \$2,663,059 with respect to the 2019A Bond and the Bond to reduce the combined principal amount of the 2019A Bond and the Bond outstanding to \$1,750,000 upon Project completion.