

Town of Milton
115 Federal Street
Milton, DE 19968



www.milton.delaware.gov
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RESOLUTION 2018 – 011

RESOLUTION APPROVING THE ISSUANCE OF (1) A GENERAL OBLIGATION BOND UP TO \$395,000 PRINCIPAL AMOUNT TO FUND THE WAGAMONS WATER MAIN EXTENSION PROJECT AND (2) A GENERAL OBLIGATION BOND UP TO \$500,000 PRINCIPAL AMOUNT TO FUND THE SHIPBUILDERS WELL AND TREATMENT FACILITY PROJECT, TO THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DRINKING WATER STATE REVOLVING FUND, AS REGISTERED OWNER; SETTING FORTH THE FORM AND DETAILS OF THE BONDS; DETERMINING THAT THE BONDS WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF FINANCING AGREEMENTS IN CONNECTION WITH EACH SERIES OF BONDS; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE TOWN FOR THE BONDS; AND AUTHORIZING OTHER NECESSARY ACTION

RECITALS

WHEREAS, the Mayor and Council of the Town of Milton (collectively, the “Town Council”) of The Town of Milton (the “Town”) pursuant to Section 33 of 76 Delaware Laws, Chapter 201, as amended (the “Charter”), proposed to the electors of the Town by Resolution dated May 7, 2018 (the “First Resolution”) to borrow, in the aggregate, up to Eight Hundred Ninety-Five Thousand Dollars (\$895,000) principal amount for two (2) loans: \$395,000 in order to provide funds for the installation of 1,623 feet of 10-inch main to supply drinking water and to improve fire protection flow availability on the southern side of Town (the “Wagamons Water Main Extension Project”) and \$500,000 in order to provide funds for the installation of a new production well, a small treatment building, and treatment and flow monitoring equipment for the proposed facility near the Town’s Shipbuilders elevated water storage tower located off of Mulberry Street and behind the H.O.B. Elementary School (the “Shipbuilders Well and Treatment Facility Project”), and fixed a time, date and place for a public hearing on the First Resolution. Notice of hearing on the First Resolution was properly placed as required by the Charter; and

WHEREAS, the public hearing was held in accordance with the Charter on June 4, 2018 and the Town Council by affirmative vote of its members thereafter passed a second resolution

on June 4, 2018 (the “Second Resolution,” and together with the First Resolution, the “Prior Resolutions”) in which the Town Council determined to proceed with the proposed borrowing as authorized by the Charter and ordered a special election to be held on July 21, 2018 (the “Special Election”) for the purpose of voting for or against the proposed loan; and

WHEREAS, the Special Election was held on July 21, 2018 and notice was properly given for the Special Election as required by the Charter, whereby a majority of the electors approved the borrowing by voting in the Special Election which was conducted and certified in accordance with the provisions of the Charter and whereby the results of the Special Election were ratified by Resolution of the Secretary of the Town Council on August 6, 2018; and

WHEREAS, the Delaware Department of Health and Social Services, Division of Public Health, in conjunction with the Delaware Department of Natural Resources and Environmental Control (collectively, the “Department”), has authorized two (2) loans (collectively, the “Loans”) to the Town from the Delaware Drinking Water State Revolving Fund (the “Fund”) in a total amount not to exceed (i) Three Hundred Ninety-Five Thousand Dollars (\$395,000) to fund the Wagamons Water Main Extension Project and (ii) Five Hundred Thousand Dollars (\$500,000) to fund the Shipbuilders Well and Treatment Facility Project, both such Loans to bear interest at an annual rate of two percent (2.0%) with a repayment term equal to the construction period plus twenty (20) years; and

WHEREAS, Section 33(b) of the Charter authorizes the Town to borrow sums, not exceeding in the aggregate the total sum of 5% of the assessed value of real property and improvements thereon situate within the limits of the Town as shown by the last assessment preceding the creation of the said indebtedness; and

WHEREAS, the Town Council desires to authorize the Mayor and the Town Manager or the Secretary of the Town Council to take such action on behalf of the Town as deemed necessary or desirable to effect the purposes of this Resolution and to consummate the proposed borrowing; and

WHEREAS, pursuant to this Resolution, the Mayor and the Town Manager or the Secretary of the Town Council are authorized and directed to enter into all agreements on behalf of the Town as they shall determine are necessary or appropriate to carry out the intent of this Resolution; and

WHEREAS, the Town now proposes to issue its general obligations bonds as follows: (i) up to \$395,000 General Obligation Bond (Wagamons Water Main Extension Project), Series 2018A-SRF (the “2018A Bond”) and (ii) up to \$500,000 General Obligation Bond (Shipbuilders Well and Treatment Facility Project), Series 2018B-SRF (the “2018B Bond” and together with the 2018A Bond, the “Bonds”). The Bonds will finance the Wagamons Water Main Extension Project and the Shipbuilders Well and Treatment Facility Project, as both such projects were approved by the electors in the Special Election, and to pay the costs associated with issuing the Bonds (collectively, the “Projects”); and

WHEREAS, the Bonds will be issued under, and subject to, the terms and conditions contained in the Financing Agreements (one such agreement for each series of Bonds) dated as of the date of closing, by and between the Town and the Fund (collectively, the “Financing Agreements”); and

WHEREAS, the Town Council desires to formalize, ratify and confirm such action by adoption of a formal written resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND DETERMINED by the Town Council of The Town of Milton, as follows:

Section 1. Authorization of the Incurrence of Indebtedness as Approved by the Special Election. The Town Council shall borrow the sum of up to Eight Hundred Ninety-Five Thousand Dollars (\$895,000) principal amount for two (2) loans (\$395,000 in order to provide funds for the Wagamons Water Main Extension Project and \$500,000 in order to provide funds for the Shipbuilders Well and Treatment Facility Project), as approved by referendum of the Board of Special Election in the Special Election held on July 21, 2018, by the issuance of the Bonds, which, together with other indebtedness of the Town, does not exceed in the aggregate 5% of the assessed value of real property and improvements thereon situate within the limits of the Town as shown by the last assessment preceding the creation of the said indebtedness.

The interest rate for the Loans is two percent (2.0%), payable semi-annually during project construction. Upon project completion, semi-annual principal and interest payments will be paid in an amount sufficient to amortize the outstanding principal balance over the 20-year term at the rate of 2.0%.

Section 2. Authorization of Issuance of the Bonds. The Town shall issue, pursuant to the Charter, the Prior Resolutions and this Resolution, (a) up to \$395,000 aggregate principal amount of its General Obligation Bond (Wagamons Water Main Extension Project), Series 2018A-SRF and (b) up to \$500,000 aggregate principal amount of its General Obligation Bond (Shipbuilders Well and Treatment Facility Project), Series 2018B-SRF, for the purpose of financing the Projects.

Section 3. Form and Terms of the Bonds. The Bonds shall be substantially in the Form of Bonds provided in **Exhibits A and A-1**, attached hereto, with appropriate omissions, insertions and variations. The actual Bonds will contain the terms of the Bonds as required by Section 33(a)(8) of the Charter. The Bonds shall bear interest at an annual interest rate of 2.00%

Section 4. Sale of Bonds. The Bonds shall be sold at a private sale by negotiation to the Delaware Department of Health and Social Services, in conjunction with the Delaware Department of Natural Resources and Environmental Control, Delaware Drinking Water State Revolving Fund pursuant to the terms of the Bonds and the Financing Agreements, as herein defined.

Section 5. Covenant to Pay Debt Service - Pledge of Full Faith, Credit and Taxing Power. The Town hereby covenants with the Department, as registered owner of the Bonds, pursuant to this Resolution as follows: (a) that the Town will include in its budget for each fiscal year during the life of the Bonds, the amount of the debt service on the Bonds issued hereunder which will be payable in each such fiscal year so long as the Bonds shall remain outstanding; (b) that the Town shall appropriate such amounts from its general revenues to the payment of such debt service; (c) that the Town shall duly and punctually pay or cause to be paid

the principal of the Bonds at the dates and places and in the manner stated in the Bonds according to the true intent and meaning thereof; and (d) for such budgeting, appropriation and payment the Town hereby pledges its full faith, credit and taxing power.

Section 6. Authorization of the Financing Agreements. The Mayor and the Town Manager or Secretary of the Town Council are hereby authorized to execute and deliver the Financing Agreements by and between the Town and the Department setting forth the terms of the Loans and the Town's obligation to repay the Loans, which will be evidenced by the execution of such Financing Agreements and the delivery of the Bonds.

Section 7. Further Action. The proper officers of the Town are hereby authorized and directed to take all such action, execute, deliver, file and/or record all such documents, publish all notices and otherwise comply with the provisions of this Resolution and the Charter in the name and on behalf of the Town.

Section 8. Charter Applicable to Bonds. This Resolution is adopted pursuant to, and the Bonds issued hereunder shall be subject to, the provisions of the Charter and all of the mandatory provisions thereof shall apply hereunder whether or not explicitly stated herein.

Section 9. Contract with Bondholders. This Resolution constitutes a contract with the Department as registered owner of the Bonds and shall be enforceable in accordance with the provisions of the laws of the State of Delaware.

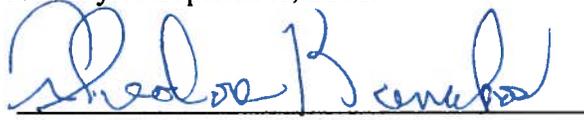
Section 10. Severability. In case any one or more of the provisions contained in this Resolution or in the Bonds issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Resolution or of said Bonds and this Resolution or said Bonds shall be construed and enforced as if such invalid, illegal or unenforceable provisions had never been contained therein.

Section 11. Repealer. All Resolutions and parts of Resolutions heretofore adopted to the extent that the same are inconsistent herewith are hereby repealed.

Section 12. Effective Date. This Resolution shall become effective immediately upon its approval by the Town Council.

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ADOPTED AND RESOLVED this 10th day of September, 2018.



Theodore Kanakos
Mayor

(TOWN SEAL)

Attest:

Richard Baty
Secretary of the Town Council

Exhibit A
Form of Bond

REGISTERED
R-1

\$395,000

UNITED STATES OF AMERICA
STATE OF DELAWARE
TOWN OF MILTON

GENERAL OBLIGATION BOND
(WAGAMONS WATER MAIN EXTENSION PROJECT),
SERIES 2018A-SRF

Final Maturity Date: _____, 20__

REGISTERED OWNER: Delaware Drinking Water State Revolving Fund, acting by and through the Delaware Department of Health and Social Services, Division of Public Health

PRINCIPAL AMOUNT: Three Hundred Ninety-Five Thousand Dollars (\$395,000)

THE TOWN OF MILTON, DELAWARE, a municipal and political subdivision of the State of Delaware (hereinafter referred to as the "Borrower" or the "Town"), for value received hereby acknowledges itself indebted and promises to pay, as hereinafter set forth if necessary, to the DELAWARE DRINKING WATER STATE REVOLVING FUND, or to any other registered owner hereof, the principal sum of THREE HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$395,000) or so much thereof as shall actually be advanced to the Borrower by the Drinking Water State Revolving Fund, acting by and through the Delaware Department of Health and Social Services, Division of Public Health (the "Department") pursuant to the Financing Agreement dated _____, 2018 (the "Financing Agreement") between the Borrower and the Department.

This Bond is being issued in order to provide funds to finance the installation of 1,623 feet of 10-inch main to supply drinking water and to improve fire protection flow availability on the southern side of Town, as more fully described in Exhibit A to the Financing Agreement (the "Project") and pay certain administrative costs and costs of issuing this Bond.

The Borrower shall pay to the Department, on the principal amount drawn down and outstanding hereunder from the date(s) drawn, interest at the rate of 1.00% per annum and an administrative fee at the rate of 1.00% per annum (collectively, interest and the administrative fee are referred to herein as "Fee"). Such Fee shall accrue starting on the date principal is drawn hereunder through the completion of the Project or through the final maturity date or prepayment in full hereof. The Borrower shall pay Fee hereunder initially on _____, 2018 and

semiannually thereafter on each _____ 1 and _____ 1 (each, a "Payment Date"). The Borrower shall pay only Fee and no principal during the period commencing with the date hereof (the "Closing") through the earlier of (i) the Payment Date next succeeding the date on which the Project is actually completed and (ii) _____, 20__ (which, as of the Closing, is the date by which the Project is projected to be completed) (the date which is the earlier of (i) and (ii) is herein referred to as the "Amortization State Date").

After the Amortization Start Date, (a) Fee shall be payable on the outstanding principal amounts drawn hereunder semiannually, on each Payment Date, commencing on the Payment Date next succeeding the Amortization Start Date and continuing on each of the next 39 following Payment Dates, in an amount sufficient to amortize all interest due on the principal drawn with substantially equal semiannual payments of Fee over twenty (20) years, and (b) principal shall be payable on the outstanding principal amounts drawn hereunder semi-annually on each _____ until the Final Maturity Date in an amount sufficient to amortize all principal due hereunder with substantially equal semi-annual payments of principal over twenty (20) years.

If by _____, 2019, which is one year from the date of Closing, (i) the Borrower has not drawn down the principal amount of this Bond by more than ten percent (10%) of the Capital Project costs, and (ii) the Department has not received a Notice to Proceed as required by the Financing Agreement, the Department may in its discretion assess a penalty of one percent (1%) of the total principal amount authorized by this Bond (the "Penalty"). Such Penalty may be drawn by the Department from the principal amount allocated to this Bond. It is within the Department's complete discretion whether to impose the Penalty based upon its review of affirmative steps taken by the Borrower to complete the Capital Project and the totality of the circumstances surrounding any such delay in making draws on the principal amount of this Bond.

Notwithstanding the foregoing, all unpaid principal shall be paid in full on _____, 20__. The Fee hereon shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Both the principal of and Fee on this Bond is payable in lawful money of the United States of America. Principal and Fee on this Bond shall be paid by check or draft mailed or remitted electronically on the payment date to the Registered Owner, as shown on the books and records of the Borrower.

This Bond is authorized and issued pursuant to the Laws of the State of Delaware, including Section 33 of 71 Delaware Laws, Chapter 326, as amended, and resolutions adopted by the Town Council on May 7, 2018 and June 4, 2018, a public hearing held on June 4, 2018, favorable results of a special election conducted on July 21, 2018 and a resolution adopted by Town Council on September 10, 2018.

At the option of the Borrower and upon providing prior written notice to the Registered Owner hereof, as shown on the books and records of the Borrower, this Bond may be prepaid or redeemed in whole or in part, without penalty, at any time, and any prepayment in part of this Bond shall be applied to all or a portion of the principal installments then outstanding as shall be specified by the Borrower. If all or a portion of this Bond is called for redemption, it or the portion so

called will cease to bear Fee on the specified redemption date provided that funds for the payment of the principal amount of the portion of this Bond so called for redemption and the accrued Fee thereon to the redemption date are on deposit at the place of payment on the redemption date.

It is hereby certified and recited that all conditions, acts, and things required by the Constitution, statutes or laws of the State of Delaware to exist, be performed or happen, precedent to or in the issuance of this Bond, do exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution, statutes or laws.

This Bond is a valid and legally binding general obligation of the Borrower and, unless paid from other sources, the principal payable hereon will be paid from ad valorem taxes levied upon all real property subject to taxation by the Borrower. The full faith and credit of the Borrower are hereby pledged to the punctual payment of the principal of this Bond according to its terms.

This Bond may be transferred by the Registered Owner hereof in person or by its attorney duly authorized in writing. The Borrower may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and for all other purposes.

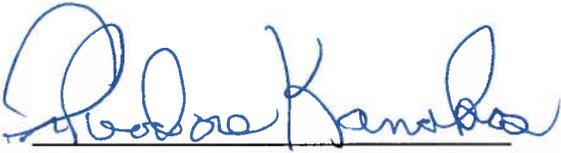
The provisions of this Bond shall be construed and enforced under the laws of the State of Delaware.

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IN WITNESS WHEREOF, the Town has caused this Bond to be signed by the Mayor and attested by the Secretary of Town Council of the Town, and the official corporate seal of the Town to be imprinted or impressed hereon, and this Bond to be dated _____, 2018.

(TOWN SEAL)

THE TOWN OF MILTON, DELAWARE

By: 
Theodore Kanakos
Mayor

Attest:

Richard Baty
Secretary of the Town Council

[END OF FORM OF BOND]

Exhibit A-1
Form of Bond

REGISTERED
R-1

\$500,000

UNITED STATES OF AMERICA
STATE OF DELAWARE
TOWN OF MILTON

GENERAL OBLIGATION BOND
(SHIPBUILDERS WELL AND TREATMENT FACILITY PROJECT),
SERIES 2018B-SRF

Final Maturity Date: _____, 20__

REGISTERED OWNER: Delaware Drinking Water State Revolving Fund, acting by and through the Delaware Department of Health and Social Services, Division of Public Health

PRINCIPAL AMOUNT: Five Hundred Thousand Dollars (\$500,000)

THE TOWN OF MILTON, DELAWARE, a municipal and political subdivision of the State of Delaware (hereinafter referred to as the "Borrower" or the "Town"), for value received hereby acknowledges itself indebted and promises to pay, as hereinafter set forth if necessary, to the DELAWARE DRINKING WATER STATE REVOLVING FUND, or to any other registered owner hereof, the principal sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) or so much thereof as shall actually be advanced to the Borrower by the Drinking Water State Revolving Fund, acting by and through the Delaware Department of Health and Social Services, Division of Public Health (the "Department") pursuant to the Financing Agreement dated _____, 2018 (the "Financing Agreement") between the Borrower and the Department.

This Bond is being issued in order to provide funds to finance the installation of a new production well, a small treatment building, and treatment and flow monitoring equipment for the proposed facility near the Town's Shipbuilders elevated water storage tower located off of Mulberry Street and behind the H.O.B. Elementary School, as more fully described in Exhibit A to the Financing Agreement (the "Project") and pay certain administrative costs and costs of issuing this Bond.

The Borrower shall pay to the Department, on the principal amount drawn down and outstanding hereunder from the date(s) drawn, interest at the rate of 1.00% per annum and an administrative fee at the rate of 1.00% per annum (collectively, interest and the administrative fee are referred to herein as "Fee"). Such Fee shall accrue starting on the date principal is drawn hereunder through the completion of the Project or through the final maturity date or prepayment

in full hereof. The Borrower shall pay Fee hereunder initially on _____, 2018 and semiannually thereafter on each _____ 1 and _____ 1 (each, a "Payment Date"). The Borrower shall pay only Fee and no principal during the period commencing with the date hereof (the "Closing") through the earlier of (i) the Payment Date next succeeding the date on which the Project is actually completed and (ii) _____, 20__ (which, as of the Closing, is the date by which the Project is projected to be completed) (the date which is the earlier of (i) and (ii) is herein referred to as the "Amortization State Date").

After the Amortization Start Date, (a) Fee shall be payable on the outstanding principal amounts drawn hereunder semiannually, on each Payment Date, commencing on the Payment Date next succeeding the Amortization Start Date and continuing on each of the next 39 following Payment Dates, in an amount sufficient to amortize all interest due on the principal drawn with substantially equal semiannual payments of Fee over twenty (20) years, and (b) principal shall be payable on the outstanding principal amounts drawn hereunder semi-annually on each _____ until the Final Maturity Date in an amount sufficient to amortize all principal due hereunder with substantially equal semi-annual payments of principal over twenty (20) years.

If by _____, 2019, which is one year from the date of Closing, (i) the Borrower has not drawn down the principal amount of this Bond by more than ten percent (10%) of the Capital Project costs, and (ii) the Department has not received a Notice to Proceed as required by the Financing Agreement, the Department may in its discretion assess a penalty of one percent (1%) of the total principal amount authorized by this Bond (the "Penalty"). Such Penalty may be drawn by the Department from the principal amount allocated to this Bond. It is within the Department's complete discretion whether to impose the Penalty based upon its review of affirmative steps taken by the Borrower to complete the Capital Project and the totality of the circumstances surrounding any such delay in making draws on the principal amount of this Bond.

Notwithstanding the foregoing, all unpaid principal shall be paid in full on _____, 20__. The Fee hereon shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Both the principal of and Fee on this Bond is payable in lawful money of the United States of America. Principal and Fee on this Bond shall be paid by check or draft mailed or remitted electronically on the payment date to the Registered Owner, as shown on the books and records of the Borrower.

This Bond is authorized and issued pursuant to the Laws of the State of Delaware, including Section 33 of 71 Delaware Laws, Chapter 326, as amended, and resolutions adopted by the Town Council on May 7, 2018 and June 4, 2018, a public hearing held on June 4, 2018, favorable results of a special election conducted on July 21, 2018 and a resolution adopted by Town Council on September 10, 2018.

At the option of the Borrower and upon providing prior written notice to the Registered Owner hereof, as shown on the books and records of the Borrower, this Bond may be prepaid or redeemed in whole or in part, without penalty, at any time, and any prepayment in part of this Bond shall be applied to all or a portion of the principal installments then outstanding as shall be specified

by the Borrower. If all or a portion of this Bond is called for redemption, it or the portion so called will cease to bear Fee on the specified redemption date provided that funds for the payment of the principal amount of the portion of this Bond so called for redemption and the accrued Fee thereon to the redemption date are on deposit at the place of payment on the redemption date.

It is hereby certified and recited that all conditions, acts, and things required by the Constitution, statutes or laws of the State of Delaware to exist, be performed or happen, precedent to or in the issuance of this Bond, do exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution, statutes or laws.

This Bond is a valid and legally binding general obligation of the Borrower and, unless paid from other sources, the principal payable hereon will be paid from ad valorem taxes levied upon all real property subject to taxation by the Borrower. The full faith and credit of the Borrower are hereby pledged to the punctual payment of the principal of this Bond according to its terms.

This Bond may be transferred by the Registered Owner hereof in person or by its attorney duly authorized in writing. The Borrower may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and for all other purposes.

The provisions of this Bond shall be construed and enforced under the laws of the State of Delaware.

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CERTIFICATE OF SECRETARY OF THE TOWN COUNCIL

The undersigned, Secretary of the Town Council of The Town of Milton, HEREBY CERTIFIES that:

The foregoing Resolution authorizing the issuance of General Obligation Bond (Wagamons Water Main Extension Project), Series 2018A-SRF and General Obligation Bond (Shipbuilders Well and Treatment Facility Project), Series 2018B-SRF of the Town was duly moved and seconded and adopted by a majority vote of the Town Council of said Town at a duly called and convened public meeting of said body held on September 10, 2018; and that the roll of the Town Council was called and such members voted or were absent as follows:

<u>Name</u>	<u>Vote</u>
Theodore Kanakos, Mayor	Approved
George Kevin Kelly, Vice Mayor	Approved
Emory R. West Jr., Council Member	Approved
Charles Fleetwood, Council Member	Absent
James Garde, Council Member	Approved
Richard Baty, Council Member	Approved
Michael Cote, Council Member	Approved

and that such Resolution and the votes thereon have been duly recorded in the minutes.

WITNESS my hand and seal of the Town this 10th day of September, 2018.



Richard Baty
Secretary of the Town Council

(TOWN SEAL)

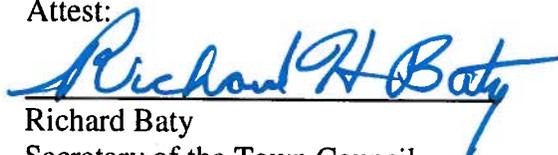
IN WITNESS WHEREOF, the Town has caused this Bond to be signed by the Mayor and attested by the Secretary of the Town Council of the Town, and the official corporate seal of the Town to be imprinted or impressed hereon, and this Bond to be dated _____, 2018.

(TOWN SEAL)

THE TOWN OF MILTON, DELAWARE

By: 
Theodore Kanakos
Mayor

Attest:


Richard Baty
Secretary of the Town Council

[END OF FORM OF BOND]