

RESOLUTION NO. R 011 93

RESOLUTION APPROVING A WRITTEN AGREEMENT FOR FIREFIGHTING SERVICES WITH THE ELLENDALE VOLUNTEER FIRE COMPANY AND THE ISSUANCE OF CERTAIN BONDS BY THE ELLENDALE VOLUNTEER FIRE COMPANY

WHEREAS, the Ellendale Volunteer Fire Company (the "Company") is a fire company organized and existing under the laws of the State of Delaware; and

WHEREAS, the Company has provided and continues to provide firefighting services to an area within Sussex County, Delaware (the "County"); and

WHEREAS, the Company has advised the County, that the Company proposes to issue up to \$360,000 of bonds of the Company (the "Bonds") for the following purposes: (1) to pay a portion of the costs of the construction of a new 45' x 90' sq. ft. addition to its fire station (the "Fire Station") which is located at Main Street and Prettyman Avenue, Ellendale, Delaware and (2) to pay a portion of the costs of a new pumper fire truck for the Company (the "Fire Truck") that will be housed in the Company's Fire Station (the Fire Station together with the Fire Truck, the "Project"); and

WHEREAS, it is the intent of the Company that the interest on its 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 Company has entered into an agreement, after a public hearing to consider the issuance of the Bonds has been conducted by such governmental unit following reasonable public notice; and

WHEREAS, the Company desires to enter into a written agreement with the County (the "Agreement") for such purpose and to confirm the provision of such firefighting services to such area; and

WHEREAS, notice of the requisite public hearing was published on June 8, 1993 in the Delaware State News, a newspaper of general circulation in the County.

NOW THEREFORE BE IT RESOLVED THAT, the Sussex County Council hereby approves the form of Agreement to be entered into between the County and the Company, a copy of which is attached hereto, and hereby authorizes and directs the County Administrator to execute and deliver the same on behalf of the County.

WHEREAS, on June 22, 1993, after approval and execution of the Agreement, the County conducted a public hearing on behalf of the Company for the purpose of considering the issuance of the Bonds;

NOW THEREFORE BE IT RESOLVED THAT, the Sussex County Council for the sole purpose of qualifying the interest payable on the Company's Bonds for exclusion from gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Code, does hereby approve the issuance of the Bonds by the Company in a maximum aggregate principal amount of \$360,000 for the purpose of financing a portion of the costs of the Project provided that the Bonds shall be an obligation of the Company and shall never be a debt of the County and the County shall not be liable for any payment on the Bonds.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION R 011 93 PASSED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 22ND DAY OF JUNE, 1993.



Robin A. Griffith
Clerk of the County Council

AGREEMENT

THIS AGREEMENT made this 22nd day of June, 1993 by and between Sussex County, Delaware (the "County"), a county and political subdivision of the State of Delaware and the Ellendale Volunteer Fire Company (the "Company"), a non-profit corporation of the State of Delaware.

WHEREAS, the Company has provided fire protection and prevention services to the portion of the County as shown on the attached Exhibit A (the "Area"), and

WHEREAS, the County and the Company both desire to continue in this relationship, and

WHEREAS, the County has recognized the relationship between the Company and the County by making a donation to the Company each year, and

WHEREAS, the Company desires to borrow funds to pay a portion of the costs of the construction of an extension to its firehouse and for the purchase of a new pumper rescue truck, and

WHEREAS, under Section 150 of the Internal Revenue Code in order for the borrowing to be accorded favorable federal income tax treatment, the Company must have a written agreement with the County to furnish fire fighting services to the Area.

NOW THEREFORE, in consideration of their mutual promises and obligations, the parties thereto, intending to be legally bound, hereby agree as follows:

1. The Company shall continue to provide and furnish fire protection, fire prevention and fire fighting services to the Area from the date of this Agreement on a volunteer basis.

2. The County shall continue to allow the Company to provide and furnish fire protection, fire prevention and fire fighting services to and within the Area from this date.

3. The County acknowledges that the Company is the exclusive fire department for the Area established pursuant to State of Delaware ("State") law by the State Fire Prevention Commission and shall not enter into a written agreement with any other person or entity for the provision of fire fighting services to or within the Area except in compliance with mutual aid agreements with the Company or in compliance with applicable State of Delaware law.

4. The parties hereto agree that the Area shall automatically change and conform if any changes are required thereto pursuant to 16 Del.C. § 6619.

5. The parties hereto acknowledge that 16 Del.C. § 6619 vests in the State Fire Prevention Commission the power and the authority to determine whether any new fire companies or substations shall be authorized in the State, to prohibit the suspension of fire protection services in the State, to confirm the established geographical boundaries of areas served by all existing fire companies in the State and to resolve boundary disputes between or among such fire companies in the

State. Notwithstanding anything in this Agreement to the contrary, the County is not hereby assuming any power, authority or responsibility with respect to any of the aforementioned powers or authority of the State Fire Prevention Commission.

6. The provisions of this Agreement shall be binding on the successors of the parties hereto.

7. The rights, privileges and obligations of the parties hereto shall not be assignable.

8. This Agreement shall not be nor be implied to be a waiver of any limitation of the liability of the Company or the County as provided by statute or otherwise.

9. This Agreement shall continue in effect for a period of 10 years from the date hereof. Thereafter, it shall continue on a year to year basis unless and until terminated by either party in writing delivered to the other party at least 30 days before the expiration of that current term.

10. The Company hereby agrees to defend, indemnify and save the County and its officers, employees and agents harmless from and against, all liabilities, losses, damages, costs and expenses (including reasonable attorney fees), causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any injury to or death of any person or damage to property resulting from the provision by the Company of fire fighting services to the Area (or the

failure by the Company to so provide such fire fighting services to the Area).

IN WITNESS WHEREOF, the parties hereto have hereunder
set their hands and seals the day and year first above written.

SUSSEX COUNTY, DELAWARE

By *Dale Busby*
President

Attest: (SEAL)

RO. A. Miller
Clerk Of Council

Approved as to form

By: *[Signature]*
~~Assistant~~ County Attorney

ELLENDALE VOLUNTEER FIRE COMPANY

By *Donald L. Hosco*
President

Attest: (CORPORATE SEAL)

By: *Lawrence F. [Signature]*

PA&C-89381