

RESOLUTION NO. R 018 79

WHEREAS, Sussex County, Delaware (the "County") has, pursuant to its home rule powers granted under Section 7001, Chapter 70, Title 9, Delaware Code, as amended, duly adopted on January 30, 1979 Ordinance No. 33 (the "Ordinance") to create a governmental program to provide a means of financing the cost of residential home ownership; and

WHEREAS, the County hereby determines that such governmental program will (1) provide for and promote the public health, safety and welfare; (2) relieve conditions of unemployment and encourage the increase of industry and commercial activity and economic development so as to reduce the evils attendant upon unemployment; (3) assist low and moderate income persons in acquiring and owning decent, safe and sanitary housing which they can afford thus tending to prevent the creation of obligated neighborhoods; (4) encourage the acquisition of permanent homes rather than mobile homes by lessening the cost of acquiring permanent homes; and (5) preserve and increase the County's ad valorem tax base by encouraging the investment of private capital and stimulating the construction and rehabilitation of residential housing; and

WHEREAS, in furtherance of the purposes set forth in the Ordinance the County wishes to provide for the financing of the acquisition of certain home mortgages by the sale and issuance of its revenue bonds, and authorizing such actions as might be required to implement such program; and

WHEREAS, the County is not capable of acting as an originator and servicer of home mortgages and consequently must rely on lending institutions to act as originators and servicers of such home mortgages; and

WHEREAS, the County has entered into negotiations with Colonial Mortgage Service Company, Delaware Mortgage Trust Company, Fidelity Bond & Mortgage Company, First Fed Mortgage Company, First Shore

Federal Savings & Loan Association, Sussex Trust Company and The Lomas & Nettleton Company (collectively, the "Lending Institutions"), for the purchase from the Lending Institutions of such home mortgages which will be serviced by the Lending Institutions originating such home mortgages; and

WHEREAS, the County has determined a manner of allocating to each Lending Institution its portion of the funds available for such home mortgages, together with a further portion which will then be available to each of the Lending Institutions on a "first-come, first-served" basis, which allocation procedure and origination procedure is determined by the County to be fair, reasonable and necessary in order to facilitate investment decisions by prospective Bondholders, incentives for rapid placement of such home mortgages, and provides a financially sound program considering the relative duties, involvement, experience and size of the individual Lending Institutions; and

WHEREAS, the County hereby determines that the amount of the Service Fee and Origination Fee to be charged and retained by each of the Lending Institutions, as provided below; and

WHEREAS, pursuant to and in accordance with the provisions of the Ordinance, the County is now prepared to proceed with financing the acquisition of such home mortgages and to issue not to exceed \$20,975,000 in principal amount of its Single Family Mortgage Revenue Bonds, 1979 Series A (the "Bonds"), such Bonds to be secured by the Indenture (hereinafter defined), and except to the extent payable from Bond proceeds, certain insurance proceeds or moneys from the investment thereof, to be payable solely from the revenue and receipts and other amounts received by the County pursuant to the Sale and Service Agreement (hereinafter defined); and

WHEREAS, L. F. Rothschild, Unterberg, Towbin, as representative of a group of underwriters (the "Representative") intends to offer the Bonds for sale to the public, and to use a Preliminary Official Statement dated February 17, 1979 (the "Preliminary Official State-

ment") and a final Official Statement dated March 9, 1979 (the "Final Official Statement") to effectuate such sale and has submitted to the County a form of Bond Purchase Agreement (hereinafter defined) setting forth the Representative's proposal to purchase the Bonds; and

WHEREAS, copies of the Sale and Service Agreement, Indenture and Bond Purchase Agreement have been presented to and are before this meeting,

NOW, THEREFORE,

THE COUNTY OF SUSSEX HEREBY RESOLVES:

Section 1. The following words and terms used in this resolution shall have the following meanings unless the context clearly indicates another or different meaning or intent:

"Bond Purchase Agreement" shall mean the Bond Purchase Agreement, dated March 9, 1979, to be entered into between the County and the Representative, as approved by this resolution, relating to the purchase of the Bonds.

"Bonds" shall mean the Single Family Mortgage Revenue Bonds, 1979 Series A of the County in an aggregate principal amount not to exceed \$20,975,000 authorized to be issued pursuant to this resolution and Article II of the Indenture.

"County" shall mean Sussex County, Delaware.

"Indenture" shall mean the Trust Indenture dated as of February 1, 1979 between the County and the Trustee, as approved by this resolution, as the same may be supplemented from time to time in accordance with its terms.

"Lending Institutions" shall mean Colonial Mortgage Service Company, Delaware Mortgage Service Company, Fidelity Bond & Mortgage Company, First Fed Mortgage Company, First Shore Federal Savings & Loan Association, Sussex Trust Company and The Lomas & Nettleton Company and any surviving, resulting or transferee corporation as permitted by the Sale and Service Agreement.

"Mortgage Loans" shall mean the Mortgage Loans to be acquired pursuant to, and as defined in, the Sale and Service Agreement.

"Official Statement" shall mean the Official Statement, dated March 9, 1979 and defined in the Bond Purchase Agreement.

"Representative" shall mean L. F. Rothschild, Unterberg, Towbin in its capacity as the representative of a group of underwriters.

"Sale and Service Agreement" shall mean the Sale and Service Agreement dated as of February 1, 1979 between the County and the Lending Institutions, as approved by this resolution, and as the same may be amended from time to time.

"Trustee" shall mean Wilmington Trust Company and any successor acting as such under the Indenture.

Section 2. Pursuant to the Ordinance, the County does hereby authorize the financing of the acquisition of the Mortgage Loans in accordance with the terms of the Sale and Service Agreement and does hereby find and declare that this resolution is being enacted pursuant to the powers granted by the Ordinance and that the issuance of the bonds is for the public purposes as set forth in the Ordinance.

Section 3. To provide for the financing of the cost of the acquisition of the Mortgage Loans, the County does hereby authorize the issuance of revenue bonds of the County under the Ordinance, to be designated "Sussex County, Delaware, Single Family Mortgage Revenue Bonds, 1979 Series A" in the aggregate principal amount of up to \$20,975,000. The Bonds shall be issued in the forms and denominations set forth in the Indenture; shall be dated, March 1, 1979; except as otherwise provided for in the Indenture, shall be numbered as provided in the Indenture; shall mature as set forth in Schedule I hereto, which by this reference is incorporated herein; shall bear interest payable semiannually at rates set forth in Schedule I hereto, shall be subject to redemption prior to maturity upon the terms and conditions set forth in the Indenture.

The sale of the Bonds, (which are subject to the above conditions) by the County Administrator to the underwriters at a price of not less than 97.65% of the aggregate principal amount thereof plus accrued interest thereon from March 1, 1979 to the Closing Date (as defined in the Bond Purchase Agreement) is hereby confirmed.

Section 4. The Bonds shall be limited obligations of the County and, except to the extent payable from Bond proceeds, certain insurance proceeds or moneys from the investment thereof, shall be payable solely from the revenues and receipts and other amounts derived by or on behalf of the County from the Mortgage Loans. No holder of any Bonds issued under this resolution has the right to compel any exercise of the taxing power of the County to pay the Bonds, the interest or redemption premium, if any, thereon, and the Bonds shall not constitute an indebtedness of the County, a loan of credit thereof within the meaning of any constitutional or statutory provision, nor shall the Bonds be construed to create a pledge of the faith and credit or any general or moral obligation on the part of the County, The State of Delaware or any political subdivision thereof with respect to the payment of the Bonds. It shall be plainly stated on the face of each Bond that it has been issued under the provisions of the Ordinance and that it does not constitute an indebtedness of the County payable from any source other than described above, nor a loan of credit thereof within the meaning of any constitutional or statutory provisions.

Section 5. The Bonds shall be executed on behalf of the County by the facsimile signatures of the County Administrator and the County Clerk, in the manner provided in the Indenture. If any of the officers who shall have signed or sealed any of the Bonds shall cease to be such officers of the County before the Bonds so signed and sealed shall have been actually authenticated by the Trustee or delivered by the County, such Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to

be officer or officers of the County; and also any such Bonds may be signed and sealed on behalf of the County by those persons who, at the actual date of the execution of such Bonds, shall be proper officers of the County, although at the nominal date of such Bonds any such person shall not have been such officer of the County.

Section 6. The Indenture is hereby approved in substantially the form attached hereto as Exhibit A, and the County Administrator is hereby authorized to execute, acknowledge and deliver the Indenture, attested by the County Clerk, with such changes therein as shall be approved by such persons executing such document, their execution to constitute conclusive evidence of such approval, and the County Clerk is hereby authorized to affix to the Indenture the corporate seal of the County.

Section 7. The Sale and Service Agreement is hereby approved in substantially the form attached hereto as Exhibit B, and the County Administrator is hereby authorized to execute, acknowledge and deliver the Sale and Service Agreement, attested by the County Clerk, with such changes therein as shall be approved by such persons executing such document, their execution to constitute conclusive evidence of such approval; the obligation of each Lending Institution to originate Mortgage Loans and the procedure for re-allocation of Mortgage Loans among the Lending Institutions, as set forth in the Sale and Service Agreement, is hereby approved and determined to be fair, reasonable and necessary; the Service Fee provided for therein shall be an amount equal to a monthly fee of one-twelfth of 1/2 of 1% of the unpaid balance on each Mortgage Loan, and the Origination Fee to be charged and retained by a Lending Institution in connection with each Mortgage Loan it originates pursuant to the Sale and Service Agreement shall be 1.5% of the principal amount of the Mortgage Loan, subject to the terms of the Sale and Service Agreement, it being hereby determined that the amount of such Service Fee and Origination Fee is fair, reasonable and necessary for the efficient and economic operation of the mortgage loan program. The County Clerk is hereby

authorized to affix to such document the corporate seal of the County. The Lending Institutions shall undertake to accept and process applications for Mortgage Loans on a non-discriminatory, "first-come, first-served" basis. The County hereby expressly adopts the other provisions of the Sale and Service Agreement relative to the origination of Mortgage Loans as a requirement of their governmental program of financing home mortgages.

Section 8. The Bond Purchase Agreement is hereby approved in substantially the form attached hereto as Exhibit C, and the County Administrator is hereby authorized to execute and deliver the Bond Purchase Agreement on behalf of the County with such changes and completions therein with respect to interest rates, redemption provisions and the sale price of the Bonds (subject to the limitation set forth in Section 3 hereof) as shall be approved by the County Administrator, his execution to constitute conclusive evidence of such approval, and the sale of the Bonds to the Representative pursuant to the Bond Purchase Agreement is hereby authorized.

Section 9. The County Administrator is hereby authorized to prepare, execute and deliver an Official Statement for and on behalf of the County pursuant to the Bond Purchase Agreement. Notwithstanding the authority herein granted to him, the County Administrator may in his absolute discretion determine not to execute and deliver any Bond Purchase Agreement even though the same shall comply with this resolution and the Act, in which event the County shall have no obligation whatsoever with respect thereto.

Section 10. The interest rate on the Mortgage Loans shall be as specified and provided in the Sale and Service Agreement, it being understood that the difference between the interest rate on the Mortgage Loans and the interest rates on the Bonds represents the cost of insurance premiums, amortized costs of the expenses of issuing the Bonds, fees of servicing the Mortgage Loans, Trustee fees, and amortized amounts to secure the payment of the Bonds; provided that the annual interest rate on any Mortgage Loan shall

not be greater than 1-1/2% more than the highest interest rate stated on the face of any Bond issued pursuant to this resolution.

Section 11. The moneys received by the Lending Institutions (with certain exceptions specified in the Sale and Service Agreement) as servicers of the Mortgage Loans shall constitute funds of the County and shall be held for the County by each of the Lending Institutions in separate Receipts Accounts until such moneys are transferred to the Trustee pursuant to the Sale and Service Agreement. The County hereby authorizes the Lending Institutions to withdraw moneys from the Receipts Account which they maintain to reimburse themselves for certain restoration, insurance and liquidation expenses and advances made, all in accordance with Section 5.04 of the Sale and Service Agreement. The Issuer hereby authorizes the County Administrator to execute and deliver any further instruments or documents necessary to permit such withdrawals from the Receipts Accounts of the County maintained by the Lending Institutions.

Section 12. The authorized officials of the County are hereby empowered to execute and deliver the Bonds and all documents and other instruments which may be required under the terms of the Bond Purchase Agreement, the Indenture, the Sale and Service Agreement and this resolution. For purposes of this section "authorized officials of the County" shall mean the County Administrator or County Clerk.

Section 13. The County hereby ratifies the use by the Representative of the preliminary Official Statement in offering the Bonds to the purchasers thereof and the County hereby approves and authorizes the use by the Representative of the Final Official Statement.

Section 14. No Lending Institution (or any related person, as defined in section 103(c)(6)(C) of the Internal Revenue Code of 1954, as amended) from whom the County may, under its program, acquire home mortgages, shall, pursuant to any arrangement, formal or informal, purchase Bonds in an amount related to the amount of

mortgages to be acquired from such Lending Institutions by the County.

Section 15. This resolution shall become effective immediately upon its adoption and approval.

(EXHIBITS ARE ON FILE IN THE OFFICE OF THE COUNTY ATTORNEY (A. DEAN BETTS)

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R 018 79 PASSED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 13TH DAY OF MARCH, 1979.

Emogene P. Ellis
EMOGENE P. ELLIS
CLERK OF THE COUNTY COUNCIL