

RESOLUTION NO. R 034 85

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 March 12, 1985 Ordinance No. 231 (the "Ordinance") to create a governmental program to provide a means of financing the cost of residential home ownership; and

WHEREAS, in furtherance of the purposes set forth in the Ordinance the County wishes to create a program 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 mortgage loans and consequently must rely on lending institutions to act as originators and servicers of such home mortgage loans; and

WHEREAS, the County has entered into negotiations with a number of financial institutions deemed competent to originate and service home mortgage loans (collectively, the "Lending Institutions"), and wishes to engage the Lending Institutions to originate and service home mortgage loans to be acquired under the program; and

WHEREAS, the County has determined a manner of allocating to each Lending Institution its portion of the funds available for such home mortgages, 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, pursuant to and in accordance with the provisions of the Ordinance, the County has authorized the acquisition of

such home mortgages with an issue not to exceed \$22,000,000 in principal amount of its Single Family Residential Mortgage Revenue Bonds, 1985 Series (the "Bonds"), such Bonds to be secured under an Indenture of Trust dated as of August 1, 1985 between the County and Wilmington Trust Company, as Trustee thereunder and except to the extent payable from Bond proceeds, certain insurance proceeds and certain other sources as described in the Indenture, to be payable solely from the revenue and receipts and other amounts received by the County pursuant to the Origination, Servicing and Administration Agreement dated as of August 1, 1985 among the County, the Trustee and certain mortgage loan institutions; and

WHEREAS, the County desires to raise funds to pay the necessary expenses incurred in connection with the issuance of the Bonds and is authorized to raise such funds by the issuance of bonds (the "Second Lien Bonds") pursuant to Ordinance No. 232 adopted by the County Council on August 19, 1985 ("Ordinance No. 232") without which funds the Bonds would not be issued;

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY RESOLVES AS FOLLOWS:

Section 1. To provide for the financing of certain expenses incurred in connection with the issuance of the Bonds, which expenses were necessary to effect the issuance of the Bonds, the County does hereby authorize pursuant to Ordinance No. 232 the issuance of revenue bonds of the County, to be designated "Sussex County, Delaware, Second Lien Bonds" in the aggregate principal amount of up to \$150,000. The Bonds shall be issued in the form and shall contain the provisions, including but not limited to, provisions regarding date, maturity, interest and redemption set forth in the form of Second Lien Bond attached hereto. The sale of the Bonds shall be undertaken by the County Administrator. Proceeds of the Second Lien Bonds shall be applied to the costs of issuing the Bonds.

Section 2. The County hereby determines that the issuance of the Second Lien Bonds will (a) provide for and promote the public health, safety and welfare of the County; (b) relieve conditions of unemployment and encourage the increase of industry, commercial activity and economic development so as to reduce the evils attendant on unemployment; (c) assist low and moderate income persons in acquiring decent, safe and sanitary housing in furtherance of the housing policies and goals of the County; and (d) preserve and increase the County's ad valorem tax base by encouraging the investment of private capital by stimulating the construction and presentation of owner-occupied single family residences.

Section 3. The Second Lien Bonds shall be limited obligations of the County and shall be payable solely from assets (the "Assets"), if any, held by the trustee (the "Trustee") for owners of the County's \$20,975,000 Single Family Mortgage Revenue Bonds, 1979 Series A dated March 1, 1979 (the "1979 Bonds") after payment in full or provisions have been made to pay in full the amounts of such bonds. The Assets are hereby pledged to the holders of Second Lien Bonds subject and subordinate to the rights of the holders of the 1979 Bonds.

Section 4. No holder of any Second Lien Bonds issued under this resolution has the right to compel any exercise of the taxing power of the County to pay the Second Lien Bonds, the interest or redemption premium, if any, thereon, and the Second Lien 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 Second Lien 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 other political subdivision thereof with respect to the payment of the Second Lien Bonds. It shall be plainly stated on the face of each Second Lien 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 County agrees as follows:

(a) To issue Second Lien Bonds, from time to time, in an aggregate principal amount not to exceed \$150,000 upon receipt of payment for such Second Lien Bonds, provided that no Second Lien Bonds shall be issued subsequent to December 1, 1985.

(b) To enter into a trust indenture for the benefit of holders of Second Lien Bonds, in form and substance satisfactory to the owners of not less than seventy-five percent (75%) in aggregate principal amount of the Second Lien Bonds.

(c) To keep a list of all registered owners of the Bonds and the addresses of those bondholders as last set forth in a notice by each bondholder to the County.

(d) To send written notice by first class mail to the bondholders at the last address of each bondholder within sixty (60) days of, but not less than thirty (30) days prior to, the date that provisions for payment or redemption in full of the 1979 Bonds has been made, advising the bondholders of the prospective retirement of the 1979 Bonds, in full, and requesting a meeting of bondholders in Georgetown, Delaware to discuss appropriate contractual arrangements to be entered into by the bondholders.

(e) That contractual arrangements to be discussed and entered into will be limited to (i) the appointment of a corporate trustee or corporate agent, which may be Wilmington Trust Company, Wilmington, Delaware, to represent all bondholders if such a trustee is not then acting; and (ii) the continuation or replacement (if appropriate) of servicers for the outstanding mortgage loans. Such arrangements must be approved by the owners of seventy-five percent (75%) in aggregate principal amount of the Second Lien Bonds then outstanding.

(f) Notwithstanding any provision of this resolution or the Second Lien Bonds to the contrary, the County and the bondholders agree that no amendment or modification of this resolution may be made without the prior written consent of the owners of one hundred percent (100%) in aggregate principal amount of the Second Lien Bonds then outstanding, unless such amendment or modification is not prejudicial to the owners of the Second Lien Bonds.

Section 6. The Bonds shall be executed on behalf of the County by the manual or facsimile signatures of the County Administrator and the County Clerk. Any such Second Lien Bonds may be signed and sealed on behalf of the County by those persons who, at the actual date of the execution of such Second Lien Bonds, shall be the proper officers of the County, although at the date of issuance of such Second Lien Bonds any such person shall not have been such officer of the County.

Section 7. The County agrees that, notwithstanding the rights of the County to agree with the Trustee to dispose of mortgage loans acquired with the proceeds of the 1979 Bonds when the aggregate principal amount of such mortgage loans is less than \$3,000,000, as set forth in Section 9.01 of the Sale and Service Agreement dated as of February 1, 1979, between the County and several mortgage lending institutions, the County shall not enter into any such agreement during the period the Second Lien Bonds are outstanding and unpaid.

Section 8. The County Administrator, subject to the terms and conditions of this resolution, is hereby authorized to do all things necessary to effect the issuance of the Second Lien Bonds, to enter into contracts on behalf of the County required or contemplated by this resolution and to do all other things reasonably necessary in connection with the issuance of the Second Lien Bonds.

Section 9. This resolution shall become effective immediately upon its adoption and approval and shall constitute an irrevocable contract between the County and the owners of the Second Lien Bonds.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R 034 85 PASSED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 10TH DAY OF SEPTEMBER, 1985.

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

EXHIBIT

SUSSEX COUNTY, DELAWARE
SECOND LIEN BOND

Sussex County (the "County"), a political subdivision of The State of Delaware, a County with home rule power, for value received, hereby promises to pay, but solely from the assets (the "Assets") hereinafter described to _____ the accreted value of \$_____ (the "Original Principal Amount") on the dates and in the amounts set forth in Annex A to this bond, which amounts have been calculated based on a rate of nineteen percent (19%) per annum, compounded semiannually on each March 1 and September 1, commencing on September 1, 1985.

The Assets, if any, from which principal and interest on this bond are payable shall be all assets, whether in the form of money, mortgage loans, insurance contracts or proceeds from the foregoing, or otherwise, available for transfer to or on behalf of the owner of this bond (and all other bonds issued on a parity with this bond, not to exceed, in aggregate, the Original Principal Amount of \$150,000) by Wilmington Trust Company, Wilmington, Delaware, as trustee, (the "Trustee") or its successor in trust, under a trust indenture dated as of February 1, 1979 between the County and the Trustee. The Assets have been pledged to the holders of the bonds pursuant to the terms of Ordinance No. 232, adopted by the County Council of the County on August 19, 1985, and Resolution No. R 034 85 adopted by the County Council of the County on September 10, 1985.

In the event that Assets in the form of money are available for transfer to or on behalf of the owners of the bonds (i) prior to March 1, 2003, or (ii) become available on March 1, 2003, or on any other payment date in an amount less than or greater than the scheduled amount to be paid to all owners of bonds, then, the amount payable to each bondholder shall be in the same proportion as a bondholder's Original Principal Amount

bears to the total aggregate Original Principal Amount of all owners of the bonds, with each payment being attributable first to interest and then to principal past due and then to current interest and principal. No interest shall be due on past due amounts.

Failure of the County to make any payment, under this bond, in whole or in part, when due or at any other time, by virtue of insufficient Assets shall not create an obligation on the part of the County to make any other provisions for payment of amounts owed under this bond. THIS BOND SHALL NEVER CONSTITUTE A LIABILITY, GENERAL OR MORAL OBLIGATION, PLEDGE OF THE FAITH AND CREDIT, OR LOAN OF CREDIT OF THE COUNTY, THE STATE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF.

This bond may be transferred to another registered holder by notifying the County of the name of the new registered holder. The County shall maintain a list of all registered owners of the bonds.

The bond owner agrees to discuss with his own advisors the conditions precedent to transfer of this bond, the consequences of any transfer and the security and tax law implications of any such transfer and the tax consequences of the purchase and ownership of this bond and the payment of principal of and/or interest on the bond to the bond owner.

This bond has not been registered with The State of Delaware, the Securities and Exchange Commission nor under any applicable law.

The bond owner represents to the County that he is familiar with the Assets available to pay this bond and the documents under which those Assets are now held and the risks of nonpayment of this bond; and that he has individually reviewed such documents with his own advisors and legal counsel; that the bond owner has not relied on any written or oral representations of the County concerning this bond or the Assets or any other

matter on which the bond owner made his decision to purchase this bond; and that the bond owner is able to bear the risk of loss of this investment.

The County hereby certifies that all acts, things and conditions, to have happened or to have taken place precedent to the issuance of this Second Lien Bond, have happened or have occurred, and that this Second Lien Bond is binding on the County under the law and constitution of The State of Delaware.

IN WITNESS WHEREOF, the County has caused this Second Lien Bond to be executed in its name by the manual or facsimile signature of the County Administrator, and its seal to be impressed hereon and attested by the manual or facsimile signature of the County Clerk, as of September 1, 1985.

SUSSEX COUNTY, DELAWARE

By: Joseph T. Conaway
County Administrator

[SEAL]

ATTEST:

By: Emogene P. Ellis
County Clerk