

*No. 30-18-OR*

**AN ORDINANCE**

Authorizing the incurring of lease rental debt not to exceed an aggregate amount of \$2,600,000 by entering into a debt service reserve fund replenishment guaranty agreement. Ordinance of the County of Allegheny, Pennsylvania (the "County") determining to incur debt in an aggregate amount not to exceed \$2,600,000 in connection with a project to be undertaken by the Allegheny County Industrial Development Authority (the "Authority") on behalf of Residential Resources, Inc., Residential Resources Southwest, Inc. and Residential Resources Development Corporation; determining that such debt shall be incurred as lease rental debt to be evidenced by a debt service reserve fund guaranty agreement (the "Guaranty") by the County relating to the authority's lease revenue bonds, series of 2018 (Residential Resources Inc. Project), to be authorized and to be issued by said authority; briefly describing the project; authorizing and directing the preparation, certification and filing of the debt statement, the borrowing base certificate to be appended to the debt statement, and other appropriate documents required by the local government unit debt act [53 Pa.C.S.A §8001 *et seq.*]; issuing, upon receipt of approval of the Pennsylvania Department of Community and Economic Development, the guaranty; authorizing delivery of the guaranty to the trustee under a trust indenture; specifying the amount of the guaranty obligations of the County pursuant to the guaranty; guaranteeing replenishment of the debt service reserve fund in an aggregate amount not to exceed \$2,600,000 and making certain covenants with respect thereto; authorizing the execution and delivery of a reimbursement agreement and related documents; and providing for proper officers of the County to take all other required, necessary or desirable related action in connection with said project.

**Whereas**, the County of Allegheny, Pennsylvania (the "County") exists under laws of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit," as such term is defined under the Local Government Unit Debt Act, 53 Pa.C.S.A. §8001 *et seq.* (the "Act"); and

**Whereas**, the Allegheny County Industrial Development Authority (the "Authority") is a body corporate and politic and a public instrumentality of the Commonwealth of Pennsylvania created by the County pursuant to the Economic Development Financing Law, the Act of August 23, 1967, P.L. 251, as amended and supplemented; and

**Whereas**, Residential Resources, Inc., a Pennsylvania non-profit corporation, was created in 1988 through the cooperation of corporate and government leaders in Allegheny County and the Allegheny County Hospital Development Authority to acquire, renovate and maintain a stable housing supply for a variety of service providers and consumers funded through the Allegheny County Department of Human Services; and Residential Resources, Southwest, Inc. and Residential Resources Development Corporation, both Pennsylvania non-profit corporations, are affiliated corporations with Residential Resources, Inc. working for the same purposes; and

**Whereas**, Residential Resources, Inc., Residential Resources, Southwest, Inc. and Residential Resources Development Corporation (collectively, the “Corporations”) have heretofore undertaken a project consisting of the acquisition, construction, renovation and equipping of rental facilities for clients of the Department of Human Services located in Allegheny County, Washington County, Beaver County and Westmoreland County, Pennsylvania (the “Facilities”) and in connection therewith have executed and delivered certain notes to lenders (the “Prior Indebtedness”); and

**Whereas**, the Authority, for the benefit of the Corporations, has heretofore issued its Lease Revenue Bonds, Series of 2006 (Residential Resources, Inc. Project) (the “Prior Bonds”); and

**Whereas**, the Corporations have determined to undertake the refinancing of the Prior Indebtedness, the current refunding of the Prior Bonds, and the financing of various capital expenditures at certain of the Facilities; and

**Whereas**, the Authority, at the request of the Corporations, pursuant to a resolution adopted February 27, 2018 (the “Authority Resolution”), has determined to issue an amount not to exceed \$30,000,000 aggregate principal amount of Allegheny County Industrial Development Authority Lease Revenue Bonds, Series of 2018 (Residential Resources, Inc. Project) (the “Bonds”) pursuant to a Trust Indenture (the “Indenture”) between the Authority and Wells Fargo Bank, N.A., as Trustee (the “Trustee”), for the purposes of refinancing the Prior Indebtedness, current refunding the Prior Bonds, financing various capital expenditures at certain of the Facilities, funding a Debt Service Reserve Fund for the Bonds, providing capitalized interest on the Bonds, and paying certain costs of issuing the Bonds (the “Project”); and

**Whereas**, the Authority and the Corporations, concurrently with the issuance of the Bonds, shall enter into a Loan Agreement (the “Loan Agreement”), pursuant to which the Authority shall loan the proceeds of the Bonds to the Corporations and which provides, *inter alia*, that the Corporations shall pay loan payments equal to all amounts due on the Bonds, as and when the same become due; and

**Whereas**, as security for the Bonds, the Authority shall assign all of its rights, title and interest (except for certain reserved rights stated therein) in and to the Loan Agreement to the Trustee; and

**Whereas**, as security for its obligations under the Loan Agreement, the Corporations shall grant to the Trustee: (a) an Assignment of Leases and Rents, and (b) a Mortgage and Security Agreement; and

**Whereas**, as additional security for the Bonds, the Authority shall establish with the Trustee pursuant to the Indenture a Debt Service Reserve Fund (the “Debt Service Reserve Fund”) which shall be funded from proceeds of the Bonds and shall be required to be maintained in an amount equal to the maximum annual debt service requirements on the Bonds (the “Debt Service Reserve Fund Requirement”); and

**Whereas**, in the event that the amount on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement (a “Reserve Fund Deficiency”), the Corporations are obligated to repay any Reserve Fund Deficiency pursuant to the Loan Agreement; and

**Whereas**, pursuant to the authority set forth in the Act, as additional security for the Bonds, the County desires, as it did with the Prior Bonds, to agree to replenish such Reserve Fund Deficiency in the event that the Corporations fail to do so, pursuant to a Debt Service Reserve Fund Replenishment Guaranty Agreement (the “Guaranty”) from the County to the Trustee, provided that the County’s total aggregate obligation under the Guaranty shall never exceed \$2,600,000 over the term of the Bonds, after taking into account any repayments made by the Corporations to the County (the “Maximum County Guaranty Amount”), under the terms and conditions set forth in the Guaranty; and

**Whereas**, pursuant to a Reimbursement Agreement (the “Reimbursement Agreement”) between the Corporations and the County, the Corporations shall agree to reimburse the County for any payments made by the County pursuant to the Guaranty, which reimbursement obligation shall be secured by an assignment of leases and rents from the Corporations subordinate to the assignment granted to the Trustee.

***The Council of the County of Allegheny hereby enacts as follows:***

***Section 1.***

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

***Section 2.***

The County Council of Allegheny County does hereby grant authority to the County to incur “debt,” as such term is defined in the Act, as “lease rental debt,” as such term is defined in the Act, in connection with the financing of the Project by the Authority. The realistic estimated economic remaining useful life of the Facilities being financed or refinanced with the proceeds of the Bonds is in excess of Twenty-eight (28) years.

***Section 3.***

The debt shall be incurred as lease rental debt and shall be evidenced by the County’s execution and delivery of the Guaranty, which shall guaranty the replenishment of a Reserve Fund Deficiency up to an amount not to exceed the Maximum County Guaranty Amount, in accordance with the provisions of the Guaranty and such Guaranty shall expire on September 1, 2031.

***Section 4.***

The County Manager is authorized and directed to make application to the Pennsylvania Department of Community and Economic Development (the “Department”) for approval with respect to the Guaranty, as required by the Act and to take all other required and appropriate action.

Accordingly, the County Manager and other appropriate officers of the County are authorized and directed: (a) to prepare, certify and file with the Department a debt statement as required by the Act; (b) to prepare, execute and file with the Department the borrowing base certificate to be appended to the debt statement referred to in subparagraph (a) of this Section; (c) to prepare, execute and file the application with the Department, together with a complete and accurate transcript of the proceedings relating to the incurring of debt, of which debt the Guaranty, upon issue, will be evidence, as required by the Act; (d) to prepare and file originally and thereafter, as required, with the Department, appropriate statements required by the Act which are necessary to qualify all of the lease rental debt of the County, which is subject to exclusion as self-liquidating debt, for exclusion from the appropriate debt limit of the County as self-liquidating debt; (e) to pay or to cause to be paid to the Department all filing fees required by the Act in connection with the foregoing; and (f) to take other required, necessary and/or appropriate action.

### ***Section 5.***

Upon receipt of approval from the Department and at the time of issuance of the Bonds, the Guaranty shall be executed by the County Manager and shall have the corporate seal of the County or a facsimile thereof affixed thereto. The County Manager is hereby authorized to execute and deliver the Guaranty to the Trustee. The Guaranty shall be in form and substance, and shall contain such terms and conditions, as shall be approved by the officer executing the same, such approval to be conclusively evidenced by such officer's execution thereof.

### ***Section 6.***

Pursuant to the Guaranty, the County shall guaranty the full payment of a Reserve Fund Deficiency, provided, however, that the aggregate payments by the County shall never exceed the Maximum County Guaranty Amount, and in furtherance thereof covenants and agrees with the holders from time to time of the Bonds from time to time outstanding under the Indenture that if the Authority or the Corporations shall fail to pay the full amount of a Reserve Fund Deficiency when the same becomes due and payable, at the times and places, under the terms and conditions, and in the manner prescribed in the Indenture, the County will pay the full amount of such Reserve Fund Deficiency as provided in the Guaranty.

### ***Section 7.***

In the event that the County is obligated to make payments under the Guaranty, the maximum amount required to be paid thereunder on an annual basis shall be not more than the Reserve Fund Deficiency which shall not be greater than \$2,249,750.00 (calculated based on a maximum principal amount of Bonds of \$21,000,000.00 and a maximum interest rate of 5.30% per annum) or such lesser amount as shall equal the actual Debt Service Reserve Fund Requirement on the Bonds, subject in any event to the Maximum County Guaranty Amount. If at any time the County is required to make any payment under the Guaranty, the proper officers of this County are hereby authorized and directed to do so from the general revenues of the County.

### ***Section 8.***

The County covenants to and with the Trustee, the Authority and the owners of the Bonds, from time to time, that, subject to the terms and conditions of and as set forth more fully in the Guaranty, the County (a) shall include the amounts payable in respect of the Guaranty for each fiscal year in which such sums are payable in its budget for that year, (b) shall appropriate such amounts from its general revenues for the payment of such payment, and (c) shall duly and punctually pay or cause to be paid from any of its revenues or funds the amount payable in respect of the Guaranty, at the dates and place and in the manner stated in such Guaranty, according to the true intent and meaning thereof. The County pledges its full faith, credit and taxing power for such budgeting, appropriation and payment in respect of the Guaranty. For the purpose of complying with the covenants of this Section 8, the County shall, subject to the terms and conditions hereof and of the Guaranty, budget the maximum amount of \$2,249,750.00, or such lesser amount as shall equal the actual Debt Service Reserve Fund Requirement on the Bonds for the fiscal year in which such amounts are payable and shall appropriate and shall pay, in the manner provided in the Guaranty, such amounts; provided, however, the County shall be entitled to take as a credit against such amounts from time to time, amounts on deposit in the Debt Service Reserve Fund created under the Indenture, all as more fully set forth in the Guaranty. This covenant shall be specifically enforceable in accordance with the Debt Act.

### ***Section 9.***

The Reimbursement Agreement shall be executed by the County Manager and shall have the corporate seal of the County or a facsimile thereof affixed thereto. The County Manager is hereby authorized to execute and deliver the Reimbursement Agreement. The Reimbursement Agreement shall be in form and substance, and shall contain such terms and conditions, as shall be approved by the officer executing the same, such approval to be conclusively evidenced by such officer's execution thereof.

### ***Section 10.***

In accordance with Rule 15c2-12 (the "Rule") promulgated under the Securities Exchange Act of 1934, as amended, the County hereby covenants, with and for the benefit of the holders and beneficial owners (which shall include any person or entity that has a pecuniary interest in any of the Bonds) from time to time of the Bonds, to provide to the Municipal Securities Rulemaking Board (the "MSRB") through the Electronic Municipal Market Access system, or such other electronic system designated by the MSRB, on an annual basis, the information set forth in that certain continuing disclosure agreement to be entered into by and between the County and the Trustee on the date of issuance of the Bonds (the "Continuing Disclosure Agreement"). The proper officers of the County are authorized to execute, attest and deliver the Continuing Disclosure Agreement with such changes and additions as they shall hereafter approve.

### ***Section 11.***

The proper officers of the County are authorized and directed to execute all documents and to take such other action as may be necessary to carry out the intent and purposes of this Ordinance and

the undertakings of the County under the Guaranty and in connection with the issuance of the Bonds. Such authorization and direction shall include assistance with the preparation of any offering and disclosure materials which are deemed necessary or appropriate by the underwriter of the Bonds in order to market the Bonds.

***Section 12.***

Any authorization granted to, power conferred on, or direction given to any specific officer of the County shall be deemed to run to any assistant or deputy of such officer.

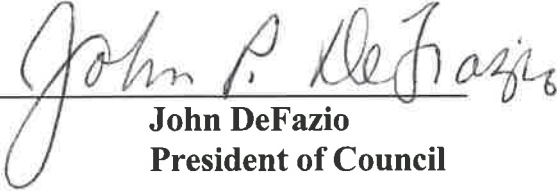
***Section 13. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.***


***Section 14. Repealer. Ordinance No. 22-18-OR and any other Resolution or Ordinance or part thereof, conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.***

***Section 15. Effective Date. This Ordinance shall be effective immediately.***

Enacted in Council, this 22<sup>nd</sup> day of October, 2018.

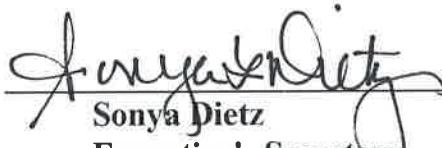
Council Agenda No. 10788-18.

  
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**John DeFazio**  
President of Council

Attest:   
\_\_\_\_\_  
**Jared Barker, Chief Clerk**  
Allegheny County Council

Chief Executive Office October 24, 2018

Approved:   
\_\_\_\_\_  
**Rich Fitzgerald**  
Chief Executive

Attest:   
\_\_\_\_\_  
**Sonya Dietz**  
Executive's Secretary

CERTIFICATE

I, the undersigned, the Chief Clerk of the Allegheny County Council, hereby certify that the foregoing and attached is a true copy of an Ordinance which was duly adopted by the affirmative vote of a majority of all the members of the Governing Body thereof at a meeting held on the date of the execution thereof; that due notice of such meeting was given and the meeting was at all times open to the public; that such Ordinance was duly recorded; that this Ordinance is still in full force and effect as of the date hereof; that the vote upon said Ordinance was called and duly recorded upon the minutes of the Governing Body; and that the members of the Governing Body voted in the manner following:

	Yes	No	Abstain	Absent
John DeFazio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Samuel DeMarco III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Thomas Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cindy Kirk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anita Prizio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Patrick Catena	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sue Means	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John F. Palmiere	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nicholas Futules	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Charles J. Martoni, Ph.D.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Robert J. Macey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DeWitt Walton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paul Klein	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Robert Palmosina	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Denise Ranalli Russell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



WITNESS my hand and seal of the County on 10/24/18, 2018.

By  \_\_\_\_\_  
Chief Clerk of County Council

(SEAL)

## SUMMARY PAGE

On June 5, 2018, Bill Number 10662-18 was presented to County Council and referred to the Committee on Economic Development. The Committee on Economic Development held a hearing on Bill Number 10662-18 on June 14, 2018 and after through discussion the full committee voted affirmatively to refer this bill to Council with a recommendation for approval. On June 19, 2018, County Council, by a vote of 14 Ayes to 0 Nos, approved Bill Number 10662-18 as Ordinance No. 22-18-OR.

The Local Government Unit Debt Act, however, requires that notice of the consideration of a debt ordinance be advertised in a general circulation newspaper not less than three (3) days nor more than thirty (30) days prior to its enactment. Although the County operates under Home Rule and sets its own rules for giving public notice of ordinances generally, the Debt Act provides that Home Rule municipalities remain subject to the provisions of the Debt Act, including the advertising of debt ordinances.

Because public notice of the proposed enactment of Ordinance No. 22-18-OR on June 19, 2018, was not given in accordance with the Debt Act, the legality of Ordinance No. 22-18-OR potentially could be called into question. Accordingly, Council is being asked to reconsider the Ordinance now that proper public notice as required under the Debt Act has been given. The new proposed Ordinance is identical to Ordinance no. 22-18-OR with the exception that the Repealer clause of Section 14 now contains a specific repeal of Ordinance No. 22-18-OR.

By way of background, in 2006, the County Industrial Development Authority issued certain Lease Revenue Bonds (“the 2006 Bonds”) for the purpose of refinancing indebtedness incurred by Residential Resources, Inc. and its affiliated corporations, Residential Resources, Southwest, Inc. and Residential Resources Development Corporation (the “Corporations”), in connection with a project consisting of the acquisition, construction, renovation and equipping of rental facilities for clients of mental health/mental retardation programs located in Allegheny County, Washington County and Westmoreland County, Pennsylvania.

On July 5, 2006, County Council approved an ordinance known as Ordinance No. 18-06-OR. Pursuant to this Ordinance, the County was authorized to provide additional security for the 2006 Bonds by issuing a guaranty to replenish any deficiency in the Debt Service Reserve Fund created for the 2006 Bonds in the event that the Corporations fail to do so, provided however, that the County’s total aggregate obligation under this guaranty was limited to \$2,750,000 over the term of the 2006 Bonds (“the 2006 County Guaranty”).

The Corporations wish to do another refinancing of its prior indebtedness by having the County Industrial Development Authority issue new lease revenue bonds (“the Series of 2018 (Residential Resources, Inc. Project” or “2018 Bonds”). As part of the issuance of the 2018 Bonds, the Corporations have requested that the County provide a new guaranty to replenish any deficiency in the Debt Service Reserve Fund created for the 2018 Bonds in the event that the Corporations fail to do so. This new guaranty (the “2018 Guaranty”) will completely replace the 2006 County Guaranty. However, in this instance, the County’s total aggregate obligation under the 2018 Guaranty would be limited to \$2,600,000 over the term of the 2018 Bonds. Because the term of the 2018 Bonds

will be the same as the term of the 2006 Bonds, the County's 2018 Guaranty will expire on September 1, 2031.

In short, the attached proposed Ordinance, like Ordinance No. 18-06-OR, authorizes the County to provide additional security for the 2018 Bonds to be issued by the County Industrial Development Authority by providing a guaranty to replenish any deficiency in the Debt Service Reserve Fund created for the 2018 Bonds in the event that the Corporations fail to do so, provided that the County's total aggregate obligation under this new guaranty shall never exceed \$2,600,000 over the term of the 2018 Bonds.

**M E M O R A N D U M**

**OFFICE OF THE COUNTY MANAGER**

TO: Jared E. Barker  
Allegheny County Council

FROM: William D. McKain CPA  
County Manager

DATE: October 4, 2018

RE: Proposed Ordinance

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Authorizing the incurring of lease rental debt not to exceed an aggregate amount of \$2,600,000 by entering into a debt service reserve fund replenishment guaranty agreement. Ordinance of the County of Allegheny, Pennsylvania (the "County") determining to incur debt in an aggregate amount not to exceed \$2,600,000 in connection with a project to be undertaken by the Allegheny County Industrial Development Authority (the "Authority") on behalf of Residential Resources, Inc., Residential Resources Southwest, Inc. and Residential Resources Development Corporation; determining that such debt shall be incurred as lease rental debt to be evidenced by a debt service reserve fund guaranty agreement (the "Guaranty") by the County relating to the authority's lease revenue bonds, series of 2018 (Residential Resources Inc. Project), to be authorized and to be issued by said authority; briefly describing the project; authorizing and directing the preparation, certification and filing of the debt statement, the borrowing base certificate to be appended to the debt statement, and other appropriate documents required by the local government unit debt act [53 Pa.C.S.A §8001 et seq.]; issuing, upon receipt of approval of the Pennsylvania Department of Community and Economic Development, the guaranty; authorizing delivery of the guaranty to the trustee under a trust indenture; specifying the amount of the guaranty obligations of the County pursuant to the guaranty; guaranteeing replenishment of the debt service reserve fund in an aggregate amount not to exceed \$2,600,000 and making certain covenants with respect thereto; authorizing the execution and delivery of a reimbursement agreement and related documents; and providing for proper officers of the County to take all other required, necessary or desirable related action in connection with said project.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.