

Bill No. 2661-06

No. 18-06-OR

AN ORDINANCE

Authorizing the incurring of lease rental debt not to exceed an aggregate amount of \$2,750,000 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 \$2,750,000 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 2006 (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 \$2,750,000 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 this 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 Finance 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 mental health/mental retardation programs located in Allegheny County, Washington 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 2001 (Residential Resources, Inc. Project) (the "Prior Bonds"); and

Whereas, the Corporations have determined to undertake the refinancing of the Prior Indebtedness, the advance 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 May 24, 2006 (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 2006 (Residential Resources, Inc. Project) (the "Bonds") pursuant to a Trust Indenture (the "Indenture") between the Authority and J.P. Morgan Trust Company, National Association, as Trustee (the "Trustee"), for the purposes of refinancing the Prior Indebtedness, advance 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; 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, (b) a Mortgage and Security Agreement and (c) an Assignment of County 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 Local Government Unit Debt Act, as additional security for the Bonds, the County desires 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 \$2,750,000 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 forty (40) 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.

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 Executive and shall have the corporate seal of the County or a facsimile thereof affixed thereto, duly attested by the County Manager and shall be countersigned by the County Controller. Said officers are 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 officers executing the same, such approval to be conclusively evidenced by such officers' 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 \$2,477,285.00 (calculated based on a maximum principal amount of Bonds of \$29,075,000.00 and a maximum interest rate of 6.90% 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 this 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 Paragraph 7, the County shall, subject to the terms and conditions hereof and of the Guaranty, budget the maximum amount of \$2,477,485.00, 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 Executive and shall have the corporate seal of the County or a facsimile thereof affixed thereto, duly attested by the County Manager. Said officers are 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 officers executing the same, such approval to be conclusively evidenced by such officers' 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 each nationally recognized municipal securities information repository (within the meaning of the Rule) (herein a "NRMSIR") and to the appropriate state information depository (within the meaning of the Rule) in Pennsylvania, if any (herein a "SID"), 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.

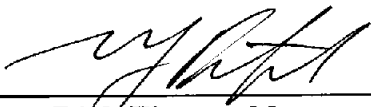
Any authorization granted to, power conferred on, or direction given to any specific officer of the County shall be deemed to run to any assistant or deputy of such officer.

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. *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.*

Enacted in Council, this 5th day of July, 2006.

Council Agenda No. 2661-06.


Rich Fitzgerald
President of Council

Attest:


John Mascio
Chief Clerk of Council

Chief Executive Office

Approved:


Dan Onorato
Chief Executive

Attest:


Donna Beltz
Executive's Secretary

SUMMARY SUBMITTED FOR COUNCIL MEETING 06-20-06
ALLEGHENY COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY (ACIDA)
RESIDENTIAL RESOURCES INC (RRI)
DEBT SERVICE RESERVE FUND REPLENISHMENT GUARANTY AGREEMENT

Request authorization for Allegheny County Council to provide a guaranty of the Debt Service Reserve Fund (DSFR) for Bonds being issued by the ACIDA in an amount not to exceed \$2,750,000. The guaranty provides that if RRI should fail to pay the full amount of any deficiency in the DSRF when it becomes due and payable, the County will pay the full amount of that deficiency. However, in the aggregate the amount will never exceed \$2,750,000

At its May 24, 2006 meeting, the Board of the Directors of the ACIDA adopted a resolution authorizing the issuance of Bonds in an amount not to exceed \$30,000,000. The proceeds of the Bonds are going to be used to finance the following:

- 1) advance refunding prior Bonds issued by the ACIDA in 2001;
- 2) various capital expenditures at certain of RRI's facilities;
- 3) providing for capitalized interest and costs of issuance; and
- 4) funding a Debt Service Reserve Fund

In 2001 the ACIDA issued bonds in the approximate amount of \$22,000,000. Allegheny County Council approved of a guaranty of the DSRF in the amount of \$2,750,000 and the request being made currently is to approve a guaranty essentially under the same terms as the original transaction.

Since 1988, RRI has undertaken a project where they acquire, construct, renovate and equip rental facilities for clients of mental health/mental retardation programs located in Allegheny County, Washington County and Westmoreland County. Specifically, RRI has offered affordable, quality housing to persons with disabilities who are of low and very low income and who depend on others to assist them in acquiring suitable residences.

CERTIFICATE

I, the undersigned Chief Clerk of the County Council of Allegheny County, Commonwealth of Pennsylvania ("County"), hereby certify that: (a) attached to this Certificate is a true, correct and complete copy of an Ordinance (the "Ordinance") which was duly enacted at a meeting of the Allegheny County Council on July 5, 2006, at which a second reading of the Ordinance occurred, a quorum was present and acting throughout, and which was at all times open to the public; (b) the Ordinance was duly recorded in the County's Ordinance Book, and a summary of the Ordinance was published as required by law in a newspaper of general circulation in the County; (c) the County met the advance notice requirements of Act No. 1986-84, as amended, by advertising the date of the meeting and posting a notice of the meeting at the public meeting place of the Allegheny County Council; (d) the first reading of the Ordinance occurred on June 20, 2006; (e) the total number of members of the Allegheny County Council is fifteen; and (f) the vote upon the Ordinance was called and duly recorded upon the minutes and that the members voted in the following manner:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Rich Fitzgerald, President	<u>X</u>	—	—	—
Dr. Charles Martoni, Vice President	<u>X</u>	—	—	—
Dave Fawcett	<u>X</u>	—	—	—
John DeFazio	<u>X</u>	—	—	—
Matt Drozd	<u>X</u>	—	—	—
Jan Rea	<u>X</u>	—	—	—
James Burn, Jr.	<u>X</u>	—	—	—
Michael J. Finnerty	<u>X</u>	—	—	—
Vincent Gastgeb	—	—	—	<u>X</u>
Joan Cleary	<u>X</u>	—	—	—
Susan Caldwell	<u>X</u>	—	—	—
Robert J. Macey	<u>X</u>	—	—	—
William Russell Robinson	<u>X</u>	—	—	—
Rich Nerone	—	—	—	<u>X</u>
Brenda Frazier	<u>X</u>	—	—	—

WITNESS my hand and seal of the County on June __, 2006.

By John Mascio
Chief Clerk of County Council

(SEAL)

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. *JM Flynn*
County Manager

DATE: June 15, 2006

RE: Proposed Ordinance

Attached is an Ordinance authorizing the incurring of lease rental debt not to exceed an aggregate amount of \$2,750,000 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 \$2,750,000 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 2006 (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 \$2,750,000 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 this 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.

ALLEGHENY COUNTY COUNCIL

Please place this on the next agenda for County Council approval.

'06 JUN 15 AM 11:08

Thank you.