



**UNION COUNTY BOARD OF CHOSEN FREEHOLDERS**

ORDINANCE NUMBER: 711-2010  
 DATE OF INTRODUCTION: 9/30/2010  
 DATE OF ADOPTION: 10/14/2010

9/30/2010

**GUARANTY ORDINANCE OF THE COUNTY OF UNION, NEW JERSEY REGARDING THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON CERTAIN GUARANTEED MORTGAGE REVENUE REFUNDING BONDS, SERIES 2010 (OAKWOOD PLAZA-ELIZABETH) OF THE UNION COUNTY IMPROVEMENT AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$20,000,000 FOR THE PURPOSE OF PROVIDING ADDITIONAL SECURITY IN CONNECTION WITH THE AUTHORITY'S ISSUANCE OF REFUNDING BONDS**

WHEREAS, the Union County Improvement Authority (the "Authority") has been duly created by an ordinance of the Board of Chosen Freeholders (the "Board of Chosen Freeholders") of the County of Union, New Jersey (the "County"), as a public body corporate and politic of the State of New Jersey (the "State") pursuant to and in accordance with the County Improvement Authorities Law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended and supplemented from time to time (the "Act"); and

WHEREAS, the Authority provided financing for the acquisition and renovation of an affordable residential development located at 380 Irvington Avenue, City of Elizabeth, Union County, New Jersey, Block 11, Lots 45 and 1199A, known as Oakwood Plaza (the "Project"); and

WHEREAS, the Project will provide dwelling accommodations for occupancy by persons and families of low and moderate income; and

NO SUFFICIENCY OF FUNDS REQUIRED  
*Trans. W. Adams*  
 9-29-10

Continued...

INTRODUCTION								RECORD OF VOTE								FINAL ADOPTION									
FREEHOLDER	Aye	Nay	Abs	Pass	Ord.	Sec	NP	FREEHOLDER	Aye	Nay	Abs	Pass	Ord.	Sec	NP	FREEHOLDER	Aye	Nay	Abs	Pass	Ord.	Sec	NP		
ESTRADA	X							ESTRADA	X							ESTRADA	X								
JALLOH	X							JALLOH	X							JALLOH	X								
KOWALSKI	X					X		KOWALSKI	X							KOWALSKI	X								
MIRABELLA	X							MIRABELLA								MIRABELLA								X	
PROCTOR	X							PROCTOR	X							PROCTOR	X								
VAN BLAKE	X							VAN BLAKE								VAN BLAKE									X
WARD							X	WARD								WARD									X
SCANLON VICE CHAIRMAN	X							SCANLON VICE CHAIRMAN	X					X		SCANLON VICE CHAIRMAN	X					X			
SULLIVAN CHAIRMAN	X				X			SULLIVAN CHAIRMAN	X					X		SULLIVAN CHAIRMAN	X				X				

APPROVED AS TO FORM  
  
 COUNTY ATTORNEY

I hereby certify the above is an original ordinance adopted by the Board of Chosen Freeholders of the County of Union on the aforementioned date.  
  
 CLERK

I hereby certify this is a true copy of a ordinance adopted by the Board of Chosen Freeholders of the County of Union on the aforementioned date.  
 \_\_\_\_\_  
 CLERK

**WHEREAS**, the Authority sold \$16,870,000 aggregate principal amount of County Guaranteed Revenue Bonds, Series 2009 (Oakwood Plaza – Elizabeth Project) (Federally Taxable) dated June 24, 2009 (the “Refunded Bonds”) to finance the Project which Refunded Bonds would all mature prior to January 1, 2015; and

**WHEREAS**, the City of Elizabeth (the “City”) had arranged a public private effort to for this housing development in combination with the New Jersey Department of Community Affairs (NJDCA), where NJDCA was to provide the payments in the amount of \$18 million, in \$4 million increments annually, but as a result of subsequent events, including NJDCA being unable to provide said payments, the project cannot current support the present debt service schedule, which was predicated upon the receipt of same; and

**WHEREAS**, the County, City and CIS have request that the UCIA restructure the debt service for a longer term to allow the project to be self supporting, and to allow for the receipt of such NJDCA funds and other grants over a longer period of time; and

**WHEREAS**, the Authority is desirous of assisting in the refinancing of the Project, to the extent permitted by law, as such assistance will assure the continued availability of dwelling accommodations for occupancy by persons and families of low and moderate income; and

**WHEREAS**, the Authority expects to obtain funds to assist the financing of the Project through the issuance of its bonds in an amount not to exceed \$20,000,000 GUARANTEED MORTGAGE REVENUE REFUNDING BONDS, SERIES 2010 (OAKWOOD PLAZA-ELIZABETH) (the “Bonds”) issued pursuant to a Bond Resolution to be adopted by the Authority entitled “**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF COUNTY GUARANTEED MORTGAGE REVENUE REFUNDING BONDS, SERIES 2010 (OAKWOOD PLAZA-ELIZABETH) (TAXABLE) OF THE UNION COUNTY IMPROVEMENT AUTHORITY IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000 IN CONNECTION WITH THE AUTHORITY’S REFINANCING OF A LOW AND MODERATE INCOME HOUSING PROJECT IN THE CITY OF ELIZABETH, COUNTY OF UNION AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND RELATED INSTRUMENTS ANNEXED THERETO, A TRUST INDENTURE AND RELATED INSTRUMENTS ANNEXED THERETO, A PURCHASE AGREEMENT AND RELATED INSTRUMENTS ANNEXED THERETO, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**” (the “Bond Resolution”); and

**WHEREAS**, in accordance with Section 13 (“Section 13”) of the Act (N.J.S.A. 40:37A-56), prior to the issuance of the Bonds, the Authority shall make a detailed report with respect to such financing to the Board of Chosen Freeholders of the County, which report shall include copies or a description of, without limitation, the various financing documents; and

**WHEREAS**, in accordance with N.J.S.A 40A:5A-6 and N.J.S.A. 40:37A-80 the Authority shall make application, on behalf of the Authority, the County, and the City of Elizabeth (the “City”) to the Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State (the “Local Finance Board”) for the Local Finance Board’s review of the financing, including, *inter alia*, the Bond Resolution, the County Guaranty Agreement, the County Guaranty, the City Deficiency Agreement, and Continuing Disclosure Agreements (the “Financing Documents”); and

**WHEREAS**, in accordance with the terms of Section 37 of the Act (N.J.S.A. 40:37A-80) and the County Guaranty, the County shall be obligated, if necessary, to levy *ad valorem* taxes upon all the taxable property within the County without limitation as to rate or amount to make the timely payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds; and

**WHEREAS**, in order to induce the prospective purchasers of the Bonds to purchase same, the Bonds shall otherwise be secured by a guarantee ordinance adopted by the County unconditionally and irrevocably guaranteeing a portion of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds, all pursuant to Section 37 of the Act (N.J.S.A. 40:37A-80); and

WHEREAS, the Authority believes: (i) it is in the public interest to accomplish such purpose; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the County and the City; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the County and the City and will not create an undue financial burden to be placed upon the Authority, the City or the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF UNION, NEW JERSEY (not less than two-thirds of the full membership thereof affirmatively concurring) as follows:

Section 1. This guaranty ordinance shall be adopted by the governing body of the County in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State, as amended (the "Local Bond Law"), codified as N.J.S.A. 40A:2-1, et seq.

Section 2. Pursuant to and in accordance with the terms of the Act, specifically Section 37 of the Act (N.J.S.A. 40:37A-80), the County is hereby authorized to and hereby shall unconditionally and irrevocably guarantee the punctual payment of the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds in an aggregate principal amount not exceeding \$20,000,000, which Bonds are to be issued to refund the Redunded Bonds as described in the preamble hereof, on such terms and conditions as may be agreed to by and between the County and the Authority. Upon the endorsement of the Bonds referred to in Section 3 below, the County shall be unconditionally and irrevocably obligated to pay the principal of (including mandatory sinking fund installments, if any) and interest on the Bonds, when due, in the same manner and to the same extent as in the case of bonds issued by the County and, accordingly, the County shall be unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the County for the payment thereof without limitation as to rate or amount when required under the provisions of applicable law.

Section 3. The Chairman of the Board of Chosen Freeholders, the County Manager, the Finance Director of the County, or the County Treasurer (each an "Authorized Officer") shall, by manual or facsimile signature, execute an endorsement on each of the Bond evidencing this guaranty by the County as to the punctual payment of the principal of (including mandatory sinking fund installments, if any) and interest thereon. The endorsement on each Bonds shall be in substantially the following form, and absent the fully executed endorsement in such following form on any such Bond, such Bond shall not be entitled to the benefits of this guaranty ordinance:

#### GUARANTY OF THE COUNTY OF UNION.

The payment of the principal of (including mandatory sinking fund installments, if any) and interest on the within Bond is hereby fully, unconditionally and irrevocably guaranteed by the County of Union, New Jersey (the "County"), and the County shall be unconditionally and irrevocably obligated to pay the principal of (including mandatory sinking fund installments, if any) and interest on this Bond, when due, in the same manner and to the same extent as in the case of bonds issued by the County and, accordingly, the County shall be unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the County for the payment hereof without limitation as to rate or amount when required under the provisions of applicable law.

IN WITNESS WHEREOF, the County has caused this Guaranty to be executed by the manual or facsimile signature of an Authorized Officer.

COUNTY OF UNION,  
NEW JERSEY

By:  
Name:  
Title:

Section 4. The Authorized Officers are each hereby authorized to enter into, execute and deliver in the name of the County and on its behalf, a guaranty agreement or similar instrument (the "Guaranty Agreement") setting forth such matters with respect to the guaranty authorized by this guaranty ordinance as the County or the Authorized Officer (after consultation with counsel to the County) deems appropriate, and the Clerk of the Board of Chosen Freeholders is hereby authorized, if necessary, to attest to the signature of the Authorized Officer and to affix the seal of the County to the Guaranty Agreement.

Section 5. It is hereby found, determined and declared that:

(a) This guaranty ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Bonds which shall be entitled to the benefits of this guaranty ordinance, being an amount not to exceed \$20,000,000, shall, after their issuance, be included in the gross debt of the County for the purpose of determining the indebtedness of the County under or pursuant to the Local Bond Law.

(b) The principal amount of the Bonds entitled to the benefits of this guaranty ordinance and included in the gross debt of the County shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the Local Bond Law (i) from and after the time of issuance of the Bonds until the end of the fiscal year beginning next after the completion of the Project, and (ii) in any annual debt statement filed pursuant to the Local Bond Law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of (including mandatory sinking fund installments, if any) and interest on all such guaranteed Bonds, all bonds of the County issued as provided in Section 36 of the Act (N.J.S.A. 40:37A-79) and all bonds of the Authority issued under the Act.

Section 6. The following matters are hereby determined, declared, recited and stated:

(a) The maximum principal amount of Bonds which are hereby and hereunder guaranteed as to the punctual payment of the principal thereof (including mandatory sinking fund installments, if any) and interest thereon is and the maximum estimated cost of the Project to be financed in accordance with the transaction contemplated hereby is \$20,000,000.

(b) The purpose described in this guaranty ordinance is not a current expense of the County and no part of the cost thereof has been or shall be assessed on property specially benefitted thereby.

(c) A supplemental debt statement of the County has been duly made and filed in the office of the Board of Chosen Freeholders and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State, and such debt statement shows that while the gross debt of the County, as defined in the Local Bond Law, is increased by this guaranty ordinance by \$20,000,000 in accordance with the provisions of the Act, the net debt of the County is not increased, and the obligation of the County authorized by or incurred pursuant to the terms of this guaranty ordinance will, be within all debt limitations prescribed by the Local Bond Law.

(d) All other items to be contained in a bond ordinance adopted pursuant to the Local Bond Law are hereby determined to be inapplicable to the County's guaranty of the Bonds hereby.

Section 7. The Authorized Officers are hereby further authorized to execute such other certificates or agreements relating to this guaranty ordinance that may be required by the Authority to comply with the terms of the financing documents relating to the Bonds, including, without limitation, (i) any agreements or certificates detailing the time and method that payment under this guaranty ordinance shall be made by the County, (ii) any letters of representations or

similar undertakings to be executed in connection with the sale of the Bonds, setting forth certain representations, warranties and covenants of the County as an inducement to the purchaser of the Bonds, (iii) any certificates deeming "final" (for the purposes of Rule 15c2-12 of the United States Securities and Exchange Commission) any preliminary or final Official Statements of the Authority relating to the Bonds, (iv) any continuing disclosure agreement or other instrument undertaking the secondary market disclosure obligations of the County required by said Rule 15c2-12. Such further agreements, instruments or certificates shall not abrogate the County's responsibilities hereunder.

Section 8. The Authorized Officers are hereby further authorized to (i) manually execute and deliver and the Clerk of the Board of Chosen Freeholders is hereby further authorized to attest by manual signature to such execution and to affix, imprint, engrave or reproduce the corporate seal of the County to any agreement (including any agreement providing for the replenishment by the County of the bond reserve fund relating to the Bonds or any deficiency agreement, support agreement or other agreement providing for the payment by the County of any shortfall of revenues necessary to pay debt service on the Bonds), document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers, in their respective sole discretion, after consultation with counsel to the County, to be executed in connection with the execution and delivery of this guaranty ordinance and the consummation of the transactions contemplated hereby, which determination shall be conclusively evidenced by the execution of each such agreement, document, instrument or closing certificate by the party authorized under this guaranty ordinance to execute such agreement, document, instrument or closing certificate and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 9. The provisions of this guaranty ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this guaranty ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue to be in full force and effect.

Section 10. All capitalized words and terms used but not defined in this guaranty ordinance shall have the meanings ascribed to such words and terms, respectively, in the preambles hereto.

Section 11. This guaranty ordinance shall take effect at the time and in the manner provided by law.

Section 12. Upon the adoption hereof, the Clerk of the Board of Chosen Freeholders shall forward certified copies of this ordinance to the County Manager, County Counsel, County Bond Counsel, the Executive Director of the Authority, and the Law Office of John G. Hudak, Esq., LLC, Bond Counsel to the Authority.