

#1

ORDINANCE OF THE
BOARD OF CHOSEN FREEHOLDERS COUNTY OF ESSEX

Ordinance No. _____

Statutory Authority for Ordinance: 40:41A-38

Proposed by: COUNTY EXECUTIVE

Authority for Action: 40:37A-80.

SUBJECT: ORDINANCE AUTHORIZING THE GUARANTY BY THE COUNTY OF ESSEX, NEW JERSEY OF PAYMENT OF PRINCIPAL OF AND INTEREST ON THE GOVERNMENTAL LOAN REVENUE BONDS/PROJECT NOTES, SERIES 2019 (ESSEX COUNTY GUARANTEED) (CITY OF NEWARK PROJECT) OF THE ESSEX COUNTY IMPROVEMENT AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$120,000,000

WHEREAS, the COUNTY OF ESSEX, New Jersey (the "County"), pursuant to the Improvement Authorities Law of the State of New Jersey (the "State"), constituting Chapter 183 of the Pamphlet Laws of the State of 1960, as amended and supplemented (N.J.S.A. 40:37A-44 et seq.) (the "Act"), has heretofore duly created a body corporate and politic known as The Essex County Improvement Authority (the "Authority"); and

WHEREAS, pursuant to Section 80 of the Act, the County is authorized to guaranty unconditionally the punctual payment of the principal of and interest on any obligations of the Authority; and

WHEREAS, the County, in order to assist the Authority of a governmental loan program in connection with the City of Newark's water utility system, financing of the replacement of the lead service lines within the City of Newark (the "Local Unit") from the water main in the street to the meter inside the structure and all work and materials necessary therefor and relating thereto (the "Project") to the Local Unit, has determined to provide for the guaranty of Governmental Loan Revenue Bonds, Series 2019 (Essex County Guaranteed) (City of Newark Project) and/or Governmental Loan Project Notes, Series 2019 (Essex County Guaranteed) (City of Newark Project) of the Authority and any notes or bonds issued by the Authority to refinance said notes/bonds or renewals of said notes/bonds (the "Obligations") under the resolution(s) of the Authority entitled "Governmental Loan Revenue Bond Resolution (City of Newark Project)" and/or "Governmental Loan Project Note Resolution (City of Newark Project)" or any note or bond resolution of the Authority adopted to refinance the Obligations (the "Resolution");

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF ESSEX, NEW JERSEY, (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. This guaranty 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 and supplemented (the "Local Bond Law").

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 fully, unconditionally and irrevocably guaranty the punctual payment of the principal of and interest on the Obligations in an aggregate principal amount not exceeding at any time \$120,000,000, which Obligations are to be issued to finance and/or refinance the Project, on such terms and conditions as may be agreed to by and between the County and the Authority and as are reflected in this guaranty and in the guaranty certificate on the face of each Obligation. Upon the endorsement of the Obligations referred to in Section 3 below, the County shall be fully, unconditionally and irrevocably obligated to pay the principal of and interest on the Obligations in the same manner and to the same extent as in the case of Obligations 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. This full, unconditional and irrevocable guaranty of the County effected hereby to pay the principal of and interest on the Obligations when due, in accordance with the terms hereof, shall not be abrogated for any reason. Any Obligations which are no longer considered outstanding under the Resolution shall not be counted for the purpose of \$120,000,000 limitation contained in this guaranty.

Section 3. The County Executive, Freeholder-Director, Deputy Freeholder-Director or Director of Finance of the County shall, by manual or facsimile signature, execute an endorsement on each of the Obligations evidencing this guaranty by the County as to the punctual payment of the principal thereof and interest thereon. The endorsement on each Obligation shall be in substantially the following form, and absent the fully executed endorsement in such form on any such Obligation, such Obligation shall not be entitled to the benefits of this guaranty:

GUARANTY BY THE COUNTY OF ESSEX, NEW JERSEY

The payment of the principal of and interest on the within bond/note according to its terms is hereby fully and unconditionally guaranteed by the County of Essex, New Jersey for as long as such bond/note is outstanding under The Essex County Improvement Authority's Governmental Loan Revenue Bond Resolution (City of Newark Project) or Governmental Loan Project Note Resolution (City of Newark Project).

IN WITNESS WHEREOF, the County of Essex, New Jersey, has caused this guaranty to be executed by the signature of its County Executive, Freeholder-Director, Deputy Freeholder-Director or Director of Finance.

COUNTY OF ESSEX, NEW JERSEY

By: _____
**County Executive, Freeholder-Director,
Deputy Freeholder-Director
or Director of Finance**

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ESSEX COUNTY
BOARD OF
CHOSEN FREEHOLDERS

The County Executive, Freeholder-Director, Deputy Freeholder-Director or Director of Finance is hereby further authorized to execute such other certificates or agreements relating to this guaranty that may be required by the Authority to comply with the terms of the financing documents relating to the Obligations, including, without limitation, (i) any agreements or certificates detailing the time and method that payment under this guaranty shall be made by the County, (ii) any letters of representations or similar undertakings to be executed in connection with the sale of the Obligations, setting forth certain representations, warranties and covenants of the County as an inducement to the purchase of the Obligations, (iii) any certificates deeming "final" (for the purposes of Rule 15c2-12 of the U.S. Securities and Exchange Commission) any Preliminary or final Official Statements of the Authority in connection with the Obligations, and (iv) any bond purchase agreement or continuing disclosure agreement executed in connection with the sale of the Obligations. Such further agreements or certificates shall not abrogate the County's responsibilities hereunder.

The County Executive, Freeholder-Director, Deputy Freeholder-Director or Director of Finance is hereby further authorized to execute one or more continuing disclosure agreement(s) or other instrument(s) undertaking the secondary disclosure obligations of the County required by Rule 15c2-12 of the United States Securities and Exchange Commission in connection with the issuance of any Obligations by the Authority.

Section 4. It is hereby found, determined and declared by the governing body of the County that:

(a) This guaranty 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 Obligations that shall be entitled to the benefits of this guaranty, being an amount not to exceed \$120,000,000 outstanding at any time, 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 Obligations entitled to the benefits of this guaranty 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 Obligations until the end of the fiscal year beginning next after the completion of the acquisition or construction of the project to be financed from the proceeds of the Obligations, 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 fiscal year are sufficient to pay its expenses of operation and maintenance in such fiscal year and all amounts payable in such fiscal year on account of the principal of and interest on all such guaranteed Obligations, all Obligations of the County issued as provided in Section 36 of the Act (N.J.S.A. 40:37A-79), and all Obligations of the Authority issued under the Act.

Section 5. The following matters are hereby determined, declared, recited and stated:

(a) The maximum outstanding principal amount of Obligations of the Authority that are hereby and hereunder guaranteed as to the punctual payment of the principal thereof and interest thereon at any time is \$120,000,000.

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

(c) A supplemental debt statement of the County has been duly made and filed in the office of the Clerk of the Board, 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 by \$120,000,000, 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 is permitted by an exception to the debt limitations of the Local Bond Law, which exception is contained in the Act.

(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 Obligations hereby.

Section 6. This guaranty shall take effect at the time and in the manner provided by law.

August 27, 2019
Meeting Back-up
Documentation for
Ordinance No. 01

GUARANTY ORDINANCE STATEMENTS AND SUMMARIES

The guaranty ordinance, the summary terms of which are included herein, has been finally adopted by the County of Essex, State of New Jersey on September __, 2019 and the 20 day period of limitation within which a suit, action or proceeding questioning the validity of such guaranty ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full guaranty ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such guaranty ordinance follows:

Title: Ordinance Authorizing The Guaranty By The County Of Essex, New Jersey Of Payment Of Principal Of And Interest On The Governmental Loan Revenue Bonds/Project Notes, Series 2019 (Essex County Guaranteed) (City of Newark Project) Of The Essex County Improvement Authority In An Aggregate Principal Amount Not Exceeding \$120,000,000

Purpose(s): Guaranty by the County of Essex of the punctual payment of the principal of and the interest on the Governmental Loan Revenue Bonds/Project Notes, Series 2019 (Essex County Guaranteed) (City of Newark Project) of The Essex County Improvement Authority

Appropriation: \$120,000,000 for County Guaranty

Bonds/Notes Authorized: \$120,000,000 for County Guaranty

Grants (if any) Appropriated: None

Section 20 Costs: Not applicable

Useful Life: Not applicable

Deborah Davis Ford
Clerk of The Board of Chosen Freeholders

Approved as to form and legality _____

Antony Greene
ESSEX COUNTY COUNSEL

RECORD OF VOTE: X=Vote N.V.=Abstention ABS=Absent

FIRST READING

Moved by Freeholder _____
Seconded by Freeholder _____

SECOND READING

Moved by Freeholder _____
Seconded by Freeholder _____

| Freeholder | Yes | No | N.V. | ABS | Freeholder | Yes | No | N.V. | ABS |
|------------------|-----|----|------|-----|------------------|-----|----|------|-----|
| COOPER | | | | | COOPER | | | | |
| GILL, PRESIDENT | | | | | GILL, PRESIDENT | | | | |
| GRAHAM | | | | | GRAHAM | | | | |
| JOHNSON | | | | | JOHNSON | | | | |
| LUCIANO | | | | | LUCIANO | | | | |
| MERCADO | | | | | MERCADO | | | | |
| POMARES | | | | | POMARES | | | | |
| RICHARDSON, V.P. | | | | | RICHARDSON, V.P. | | | | |
| SEBOLD | | | | | SEBOLD | | | | |

Date Mailed to Municipal Clerks _____
Date Public Hearing _____
Date Published _____

Date Mailed to Municipal Clerks _____
Date Published _____

It is hereby certified that the foregoing Ordinance was
() adopted () defeated () tabled by roll call vote at
_____ meeting of the Board of Chosen
Freeholders of the County of Essex, New Jersey, held
on _____

It is hereby certified that the foregoing Ordinance
was () adopted () defeated () tabled by roll
call vote at _____ meeting of the
Board of Chosen Freeholders of the County of
Essex, New Jersey, held on _____

Brendan W. Gill, President

Brendan W. Gill, President

The foregoing Ordinance has been duly presented to me on
I hereby () approve () disapprove the same on
Returned and filed _____

Deborah Davis Ford, Clerk

Joseph N. DiVincenzo Jr., County Executive

Ordinance – Municipal Bond Guaranty – Newark - \$120,000,000.00 – Water Utility

08/23/19