

**AN ORDINANCE OF THE CITY OF BAYONNE, STATE OF NEW JERSEY AUTHORIZING THE GUARANTY OF THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON NOT EXCEEDING \$95,000,000 AGGREGATE PRINCIPAL AMOUNT OF CITY GUARANTEED LEASE REVENUE BONDS (BAYONNE MEDICAL CENTER PROJECT), TO BE ISSUED BY THE HUDSON COUNTY IMPROVEMENT AUTHORITY, FOR THE PURPOSE OF PROVIDING ADDITIONAL SECURITY THEREFOR AND DETERMINING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, the Hudson County Improvement Authority (the “Authority”), a public body corporate and politic constituting an instrumentality of the State of New Jersey (the “State”) established and created under the provisions of the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State and the acts amendatory thereof and supplemental thereto (the “Act”), is authorized pursuant to the terms of the Act, to provide public facilities, as such term is defined therein, within the County of Hudson, New Jersey, including financing for the acquisition of same; and

**WHEREAS**, the City of Bayonne, New Jersey (the “City”) desires to undertake a capital project consisting of the acquisition, of the existing Bayonne Medical Center (the “Facility”) described in Exhibit A attached hereto; and

**WHEREAS**, the City has requested financial assistance from the Authority for purposes of providing funds to pay: (i) the acquisition of the Facility; (ii) capitalized interest on any bonds, notes or other debt obligations issued by the Authority to finance the costs thereof; and (iii) the costs of issuance with respect to the proposed financing (collectively, the “Project”); and

**WHEREAS**, the City has requested the Authority’s assistance in financing the Project as described herein; and

**WHEREAS**, the Facility constitutes a “public facility” as such term is defined in the Act; and

**WHEREAS**, the Authority has agreed to finance the Project on behalf of the City through the issuance of bonds, and any notes issued in anticipation thereof, and shall, in connection therewith, acquire the Facility and simultaneously lease the Facility to the City pursuant to a lease purchase agreement; and

**WHEREAS**, in order to finance the Project the Authority will issue bonds, and possibly notes issued in anticipation thereof, in one or more series, including renewals, in an aggregate principal amount not to exceed \$95,000,000, to be designated as “City Guaranteed Lease Revenue Bonds (Bayonne Medical Center Project) (collectively, the “Bonds”) with such further designation as may be determined by the Authority and in accordance with the terms of a bond resolution of the Authority to be adopted on May 12, 2021 (together with any amendments thereof or supplements thereto in accordance with the terms thereof, the “General Bond Resolution”); and

**WHEREAS**, the Authority will use proceeds from the sale and issuance of the Bonds to, among other things, finance the Project, and simultaneously therewith, enter into a lease purchase agreement with the City to be dated as of the first day of the month of issuance of the initial series of Bonds (together with any amendments thereof or supplements thereto in accordance with its terms, the “Lease Purchase Agreement”), pursuant to which the Authority will lease the Facility to the City for its use (the transactions contemplated hereinabove shall be referred to as the “Financing”), as set forth in the Lease Purchase Agreement a copy of which is attached hereto as Exhibit B, subject to such changes and revisions as the City and Authority may determine to be necessary; and

**WHEREAS**, pursuant to the Act, specifically Section 35 thereof (N.J.S.A. 40:37A-78), the Authority is authorized to enter into and perform any lease or other agreement, including the Lease Purchase Agreement, with the City for the lease to or use by the City of all or any part of any public facility, including the Facility, on any terms and conditions which may be agreed upon by the City and the Authority; and

**WHEREAS**, the Bonds shall be secured by valid and binding general obligation lease payments of the City under the Lease Purchase Agreement, in scheduled lease payment amounts sufficient to pay in a timely manner the principal and redemption premium, if any, of and interest on the Bonds; and

**WHEREAS**, in order to further secure the interests of the holders of the Bonds and in order to market the bonds in the most advantageous manner, the City will fully, unconditionally and irrevocably guarantee the payment of the principal of and interest on the Bonds in an aggregate principal amount not to exceed \$95,000,000 in accordance with the terms of a guaranty ordinance of the City to be finally adopted by the City Council (the “City Guaranty”) and evidenced by a guaranty agreement between the City and the Authority (the “Guaranty Agreement”) and by a guaranty certificate (collectively, the “City Bond Guaranty”) to be executed by an authorized City representative on the face of the Bonds, all pursuant to Section 37 of the Act; 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 initial series of Bonds, the Authority will have made a detailed report to the Board of County Commissioners of the County of Hudson, which report will include, without limitation, the General Bond Resolution, the Bonds and the Lease Purchase Agreement (collectively, the “Financing Documents”); and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYONNE, COUNTY OF HUDSON, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), as follows:**

**SECTION 1.** The recitals are fully incorporated herein by this reference.

**SECTION 2.** This guaranty ordinance shall be adopted by the City Council in the manner provided for adoption of a bond ordinance as provided in the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.*, as amended and supplemented (the "Local Bond Law").

**SECTION 3.** 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 City is hereby authorized to and hereby shall fully, unconditionally and irrevocably guaranty the punctual payment of the principal of and interest on the Bonds, including any bonds issued to refund such Bonds, in an aggregate principal amount not exceeding \$95,000,000, which Bonds are to be issued to finance or refinance the Project as described in the recitals hereto, on such terms and conditions as may be agreed to by and between the City and the Authority in the Financing Documents and in such other documents related thereto and as are reflected in this guaranty ordinance and in the guaranty certificate on the face of each Bond. Upon the endorsement of the Bonds referred to in Section 4 below, the City shall be fully, unconditionally and irrevocably obligated to pay the principal of and interest on the Bonds in the same manner and to the same extent as in the case of bonds issued by the City and accordingly, the City shall be unconditionally and irrevocably obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment thereof without limitation as to rate or amount when required under the provisions of applicable law. The full faith and credit of the City are hereby pledged for the full and punctual performance of said City Bond Guaranty.

**SECTION 4** The Mayor or Chief Financial Officer is hereby authorized and directed to execute by manual or facsimile signature an endorsement on each of the Bonds evidencing this City Bond Guaranty by the City as to the punctual payment of the principal of and interest on the Bonds. The endorsement on each Bond 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 the City Bond Guaranty:

**"GUARANTY OF THE CITY OF BAYONNE, STATE OF NEW JERSEY**

The payment of the principal of and interest on the within Bond shall be fully, irrevocably and unconditionally guaranteed by the City of Bayonne, State of New Jersey (the "City") in accordance with the provisions of *N.J.S.A. 40:37A-80* and the guaranty ordinance of the City finally adopted pursuant thereto, and the City is fully, irrevocably and unconditionally liable for the payment, when due, of the principal of and interest on this Bond, and, if necessary, the City shall levy *ad valorem* taxes upon all the taxable property within the City without limitation as to rate or amount in order to make such payment.

**IN WITNESS WHEREOF**, the City has caused this City Bond Guaranty to be executed by the manual or facsimile signature of its Mayor or Chief Financial Officer, all as of the date of the within Bond.

**CITY OF BAYONNE, STATE OF NEW JERSEY**

**By:** \_\_\_\_\_  
**Mayor or Chief Financial Officer"**

The Mayor or Chief Financial Officer is hereby further authorized and directed to negotiate, with the advice of counsel to the City, approve, execute or acknowledge such other certificates or agreements relating to this full, irrevocable and unconditional City Bond Guaranty that may be required in connection with the Authority's issuance of the Bonds, including, without limitation, (i) the Guaranty Agreement, (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 City as an inducement to the purchase of the Bonds, (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 Bonds, and (iv) any bond purchase agreement executed in connection with the sale of the Bonds. Such further agreement or certificate shall not in any manner relieve the City from its obligations hereunder.

**SECTION 5.** The following additional matters are hereby found, determined and declared by the City :

(a) This guaranty ordinance may be adopted notwithstanding any statutory or other debt limitations, including, particularly, any limitation or requirement under or pursuant to the Local Bond Law, but the aggregate principal amount of the Bonds that shall be entitled to the benefits of this City Bond Guaranty, being an amount not to exceed \$95,000,000, shall, after their issuance, be included in the gross debt of the City for the purpose of determining the indebtedness of the City under or pursuant to the Local Bond Law.

(b) The principal amount of Bonds entitled to the benefits of the City Bond Guaranty and included in the gross debt of the City 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 relative to the Project 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 and interest on all such Bonds, all bonds of the City 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 of the Authority that are hereby and hereunder fully, unconditionally and irrevocably guaranteed as to the punctual payment of the principal thereof and interest thereon is \$95,000,000; the maximum principal amount of Bonds of the Authority that may be outstanding at any one time is \$95,000,000.

(b) The purpose described in this guaranty ordinance is not a current expense of the City 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 City has been duly made and filed in the office of the City Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs, and such debt statement shows that while the gross debt of the City, as defined in the Local Bond Law, is increased by this guaranty ordinance by the amount of the Bonds issued by the Authority, which amount shall not exceed \$95,000,000, upon the satisfaction of the conditions set forth in *N.J.S.A. 40:37A-80*, in accordance with the provisions of the Act, the net debt of the City is not increased, and the obligation of the City authorized by or incurred pursuant to the terms of this guaranty ordinance is permitted by an exception to the debt limitations of the Local Bond Law, which exception is contained in the Act, so long as the payment obligations of the City hereunder are not called upon.

(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 City's guaranty of the Bonds hereby.

**SECTION 7.** The City hereby covenants and agrees to comply with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended and supplemented (the "Rule"), including the secondary market disclosure requirements contained therein, and agrees to covenant to such compliance in the Guaranty Agreement. The Mayor, Chief Financial Officer and any other authorized City representative are each hereby authorized and directed to execute and deliver a continuing disclosure agreement to the Authority and the other parties thereto (the "Continuing Disclosure Agreement"), prepare operating data and financial information for inclusion in the Authority's preliminary and final Official Statements, approve and "deem final" the Authority's preliminary and final Official Statements, to the extent the information contained therein relates to the City, and to execute and deliver all certificates, documents and agreements to the Authority and any other applicable party in connection therewith and to file budgetary, financial and operating data on an annual basis and notices of certain enumerated events as required to comply with and in accordance with the provisions of the Rule and the Continuing Disclosure Agreement and to effect the issuance of the Bonds.

**SECTION 8.** To the extent one or more series of the Bonds are not issued in 2021, references herein to any particular year may without any further action be changed to the year of

issuance of such Bonds and all dates related to such year of issuance shall be automatically adjusted.

**SECTION 9.** A public hearing shall be held on this ordinance on May 12, 2021 at 7:00p.m. in the City Building, 630 Avenue C, Bayonne, New Jersey 07002.

**SECTION 10.** The City Clerk is hereby directed to publish and post notice of this ordinance as required by law.

**SECTION 11.** Upon the adoption hereof, the City Clerk shall forward certified copies of this ordinance to the Mayor, City Attorney, City Bond Counsel, the Executive Director of the Authority, and Bond Counsel to the Authority, Christopher B. Langhart, Esq., of McManimon, Scotland & Baumann, LLC.

**SECTION 12.** This guaranty ordinance shall take effect at the time and in the manner provided by law.