

ESCROW DEPOSIT AGREEMENT

by and between

MORRIS COUNTY IMPROVEMENT AUTHORITY

and

THE BANK OF NEW YORK MELLON, as Escrow Agent

Dated June __, 2022

ESCROW DEPOSIT AGREEMENT

THIS ESCROW DEPOSIT AGREEMENT (this "*Agreement*"), dated June __, 2022, is by and between the MORRIS COUNTY IMPROVEMENT AUTHORITY (the "*Authority*") and THE BANK OF NEW YORK MELLON, a state banking corporation organized under the laws of the State of New York with trust and fiduciary powers in the State of New Jersey, as escrow agent (the "*Escrow Agent*").

WITNESSETH:

WHEREAS, the Authority has previously sold and issued its County of Morris Guaranteed Lease Revenue Refunding Bonds (Morris County Educational Services Commission Project), Series 2015 (the "*Prior Bonds*"), pursuant to the terms of that certain resolution of the Authority duly adopted on February 11, 2004 and entitled, "Resolution Authorizing the Issuance of County of Morris Guaranteed Lease Revenue Bonds (Morris County Educational Services Commission Project) and Additional Bonds of the Morris County Improvement Authority" (the "*General Bond Resolution*"), as amended and supplemented, including by that certain supplemental bond resolution of the Authority duly adopted on September 14, 2015 and entitled, "First Supplemental County of Morris Guaranteed Lease Revenue Refunding Bond Resolution (Morris County Educational Services Commission Project)" (the "*Supplemental Bond Resolution*"; and together with the General Bond Resolution, the "*Bond Resolution*"); and

WHEREAS, the Bond Resolution provides, in substance, that if the Authority shall pay or cause to be paid to the holders of the Prior Bonds the principal thereof and interest thereon, at the times and in the manner stipulated therein, then the pledge of the revenues or other moneys and securities pledged by the Bond Resolution to the Prior Bonds and all other rights granted by the Bond Resolution to the Prior Bonds shall be discharged and satisfied; and

WHEREAS, the Prior Bonds subject to sinking fund payments or maturing on October 1 in the years identified and as more fully described in **Exhibit A** attached hereto (the "*Bonds to be Defeased*") are currently outstanding in the aggregate principal amount of \$730,000;

WHEREAS, on the date hereof, the Educational Services Commission of Morris County (the "*Commission*") is providing an equity contribution to the Escrow Agent, together with other available funds allocable to the Prior Bonds transferred on the date hereof by the Authority and the Commission to the Escrow Agent (the "*Deposit Amount*") that, together with the investment income to be earned on such proceeds, will be sufficient to pay the principal of and interest on the Bonds to be Defeased until their respective sinking fund payment or maturity dates as set forth in **Exhibit A** attached hereto;

WHEREAS, upon the deposit with the Escrow Agent of the Deposit Amount, which, together with the investment income to be earned thereon, will be sufficient to pay, when due, the interest on the Bonds to be Defeased to their respective sinking fund payment or maturity dates and the principal of the Bonds to be Defeased on their respective sinking fund payment or maturity dates, the Bonds to be Defeased shall cease to be entitled to any lien, benefit or security under the Bond Resolution, and all obligations of the Authority to the holders of the Bonds to be Defeased shall thereupon be released, discharged and satisfied.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

SECTION 1. There is hereby created and established with the Escrow Agent a special and irrevocable escrow fund (the "*Escrow Fund*") to be held by the Escrow Agent as a trust fund for the benefit of the holders of the Bonds to be Defeased. The Escrow Fund shall be held by the Escrow Agent separate and apart from all other funds of the Authority and the Escrow Agent.

SECTION 2. (a) The Escrow Agent hereby acknowledges receipt of immediately available funds in the amount of \$____,____.____, which sum has been wired to the Escrow Agent by the Commission and shall be deposited into the Escrow Fund.

(b) The Escrow Agent, in its capacity as Trustee for the Prior Bonds, is hereby directed to transfer into the Escrow Fund the following amounts on deposit in funds established under the Bond Resolution:

- (i) \$____,____.____ in the Debt Service Reserve Fund relating to the Prior Bonds;
- (ii) \$____,____.____ in the Debt Service Fund relating to the Prior Bonds;
- (iii) \$____,____.____ in the Administrative Fund relating to the Prior Bonds; and
- (iv) \$____,____.____ in the Revenue Fund relating to the Prior Bonds.

SECTION 3. The Escrow Agent shall immediately deposit the amounts set forth in Section 2 hereof, aggregating \$____,____.____, into the Escrow Fund. The Escrow Agent shall apply \$____,____.____ of the amounts deposited in the Escrow Fund on the date hereof to the purchase of the securities listed in **Exhibit B** attached hereto, and shall retain \$____.____ uninvested in cash in the Escrow Fund.

The securities listed in **Exhibit B** consist entirely of direct obligations of the United States of America that are not subject to redemption prior to their maturity (the "*Defeasance Securities*"). Except as otherwise expressly authorized by this Agreement, no investment whatsoever shall be made by the Escrow Agent with any cash amounts on deposit in the Escrow Fund from time to time. In sole reliance on the computations prepared by Acacia Financial Group, Inc. and verified by Wielkott & Company, LLC, as described in the verification report attached hereto as **Exhibit C**, the Authority represents that the amount so deposited in the Escrow Fund, together with income from the investment thereof to be retained therein pursuant to this Agreement, will provide sufficient funds to pay the principal of and interest on the Bonds to be Defeased to their respective sinking fund payment or maturity dates, all as set forth in **Exhibit A** attached hereto.

SECTION 4. (a) The Escrow Agent agrees that the Deposit Amount deposited into the Escrow Fund pursuant to Section 3 hereof and the interest income to be earned thereon and any other moneys and investments deposited in the Escrow Fund will be held in trust for the benefit of the holders of the Bonds to be Defeased. The Escrow Agent shall have no liability for the payment of the principal of and interest on the Bonds to be Defeased pursuant to this Section 4 and the Bond Resolution, except for the application of the moneys and obligations available for

such purposes in the Escrow Fund. The Escrow Agent shall not be liable for any loss resulting from any action taken in accordance with the provisions of this Agreement, nor shall it be required to risk or expend its own funds hereunder.

(b) The balance remaining upon the purchase of the Defeasance Securities listed in **Exhibit B** shall remain uninvested. For the purposes of this Agreement, "uninvested" shall mean held as a cash balance in the Escrow Fund and not invested for any purpose.

SECTION 5. Except as otherwise expressly provided herein, the Escrow Agent shall have no power or duty to invest any moneys held hereunder or to make substitutions of the Defeasance Securities held hereunder or to sell, transfer or otherwise dispose of the Defeasance Securities acquired hereunder, or to pay interest on any such moneys not required to be invested hereunder.

SECTION 6. The Authority hereby irrevocably instructs the Escrow Agent and the Escrow Agent hereby agrees:

(a) to pay the Bonds to be Defeased on their respective sinking fund payment or maturity dates, in the amounts set forth in **Exhibit A**, and to apply the principal of and interest earned on the Defeasance Securities to the payment of the interest on, and the applicable sinking fund installment or principal of, the Bonds to be Defeased as the same shall become due as set forth in **Exhibit A**; and

(b) mail to the holders of the Bonds to be Defeased a notice of defeasance substantially in the form attached hereto as **Exhibit D** and in accordance with the Bond Resolution.

In addition, the Escrow Agent shall cause notice of such defeasance to be provided to the Municipal Securities Rulemaking Board (the "*MSRB*"), in an electronic format as prescribed by the *MSRB* and accompanied by such identifying information as is prescribed by the *MSRB*. Notwithstanding anything herein to the contrary, the only remedy for the failure by the Escrow Agent to post any notice with the *MSRB* via its Electronic Municipal Marketplace Access system shall be an action by a holder of the Bonds to be Defeased in mandamus for specific performance or similar remedy to compel performance.

SECTION 7. On October 1, 2024, after payment of the principal of and interest on the Bonds to be Defeased, all remaining moneys in the Escrow Fund, if any, shall be transferred by the Escrow Agent upon the written direction of the Authority.

SECTION 8. The Escrow Fund created hereby shall be irrevocable and the holders of the Bonds to be Defeased shall have an express lien on and security interest in all amounts deposited into the Escrow Fund, including all amounts representing principal of and interest on the Defeasance Securities on deposit in the Escrow Fund, until used and applied in accordance herewith.

SECTION 9. (a) Unless otherwise provided by contract, the Escrow Agent shall be compensated by the Authority for its reasonable fees, expenses and disbursements, including reasonable legal fees, incurred with respect to services rendered hereunder, based upon itemized

invoices submitted to the Authority for payment. This right to receive compensation notwithstanding, the Escrow Agent acknowledges that it has no claim against or lien on the moneys or securities on deposit in the Escrow Fund for any such payment. The compensation of the Escrow Agent provided in this Section 9(a) shall survive termination of this Agreement pursuant to Section 10 hereof.

(b) The recitals of fact in this Agreement shall be taken as the statements of the Authority, and the Escrow Agent does not assume any responsibility for the correctness of the same. The Escrow Agent shall not be under any obligation or duty to perform any act that would involve it in any expense or liability or to institute or defend any suit in respect of this Agreement or to advance any of its own moneys unless properly indemnified to its satisfaction. The Escrow Agent shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

(c) The Escrow Agent shall be entitled to rely conclusively and act upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document reasonably believed by it to be genuine, and to have been signed and presented by the proper party or parties, and may consult with counsel, who may or may not be counsel to the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Agreement, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by an Authorized Officer (as defined in the Bond Resolution) of the Authority, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Agreement, but in its discretion the Escrow Agent may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Authority to the Escrow Agent shall be sufficiently executed if executed in the name of the Authority by an Authorized Officer thereof. The Escrow Agent may perform any duties hereunder either directly or, to the extent that it may reasonably determine is necessary or appropriate to the conduct of its duties hereunder, by or through agents or attorneys, and the Escrow Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it with due care hereunder, taking into account the duties with respect to which such agent or attorney is appointed. The foregoing sentence shall not be interpreted as absolving the Escrow Agent of responsibility with respect to duties customarily performed by escrow agents in the ordinary course of business without the employment of agents or attorneys. In addition, the provisions of Section 10.05 of the General Bond Resolution relating to the compensation and indemnification of the Trustee thereunder shall apply to the Escrow Agent.

(d) The Escrow Agent may resign at any time and be discharged of its duties hereunder, provided that: (i) it has given not less than sixty (60) days' written notice to the Authority of such resignation; (ii) it has given notice of such resignation to the holders of the Bonds to be Defeased in the manner prescribed in the Bond Resolution; (iii) the Authority has appointed a successor to the Escrow Agent hereunder; (iv) the Escrow Agent has received an

instrument of acceptance executed by the successor to the Escrow Agent hereunder; and (v) the Escrow Agent has delivered to its successor hereunder all of the escrowed documents, the Defeasance Securities and any moneys held by the Escrow Agent in the Escrow Fund. Such resignation shall take effect only upon the occurrence of all of the events listed in clauses (i) through (v) of this subsection (d) and only if the Escrow Agent has complied with and is not in default of any of its obligations hereunder, unless the Authority consents to such resignation. Upon receipt by the Authority of the written notice described in clause (i) above, the Authority shall use its best efforts to obtain a successor to the Escrow Agent hereunder as soon as possible. If no appointment of a successor is made within sixty (60) days after the giving by the Escrow Agent of written notice of resignation in accordance with this Section 9(d), the Escrow Agent may apply to any State court of competent jurisdiction for the appointment of such a successor, and the State court may thereupon, after such notice, if any, as the State court may deem proper, appoint a successor.

(e) The Escrow Agent may be removed at any time by the Authority by an instrument in writing signed and acknowledged by the Authority. A copy of such instrument shall be delivered by the Authority to the Escrow Agent at least thirty (30) days prior to the effective date of the removal of such Escrow Agent. Upon such effective date, the Escrow Agent shall deliver to the Escrow Agent's successor (at the direction of the Authority) all documents, instruments and moneys listed in clause (v) of subsection (d) of Section 9 above.

(f) Any bank that merges with or into the Escrow Agent shall be deemed the successor Escrow Agent without any further action hereunder.

SECTION 10. Except as provided in Section 9(a) hereof, this Agreement shall terminate when the principal of and interest on all the Bonds to be Defeased have been fully paid; *provided*, that moneys held by the Escrow Agent in the Escrow Fund for the payment and discharge of any of the Bonds to be Defeased that remain unclaimed shall be held in compliance with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 *et seq.*, and in accordance with the Escrow Agent's escheat policies and procedures, which must not be in conflict with the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 *et seq.*

SECTION 11. This Agreement shall not be repealed, revoked, rescinded, altered, amended or supplemented in whole or in part without the written consent of the holders of one hundred percent (100%) in principal amount of the unpaid Bonds to be Defeased at the time such election is made; *provided, however*, that the Authority and the Escrow Agent may, without the consent of or notice to the holders of the unpaid Bonds to be Defeased, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement; or
- (b) to grant to or confer upon the Escrow Agent for the benefit of the holders of the Bonds to be Defeased any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Escrow Agent.

The Escrow Agent shall be entitled to rely conclusively upon an unqualified opinion of nationally recognized bond counsel with respect to the matters provided for in this Section 11, including the extent, if any, to which any change, modification, addition or elimination affects the rights of holders of the Bonds to be Defeased or that any instrument executed hereunder complies with the conditions or provisions of this Section 11. Notwithstanding anything in this paragraph to the contrary, no change shall be made to any provision of this Agreement regarding the investment or other use of the moneys deposited in the Escrow Fund without an unqualified opinion of nationally recognized bond counsel to the effect that such change and the investment or other use of the moneys deposited in the Escrow Fund in accordance with such change will not cause any of the Bonds to be Defeased to be deemed "Outstanding" within the meaning of Section 1.01 of the General Bond Resolution.

SECTION 12. This Agreement shall be governed by the laws of the State of New Jersey.

SECTION 13. The Escrow Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("*Instructions*"), given pursuant hereto and any related financing documents and delivered using e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Escrow Agent, or another method or system specified by the Escrow Agent as available for use in connection with its services hereunder ("*Electronic Means*"); *provided, however,* that the Authority or obligor, if applicable (the "*Sender*"), shall provide to the Escrow Agent an incumbency certificate listing officers with the authority to provide such Instructions ("*Authorized Officers*") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Escrow Agent Instructions using Electronic Means and the Escrow Agent in its discretion elects to act upon such Instructions, the Escrow Agent's understanding of such Instructions shall be deemed controlling. The Sender understands and agrees that the Escrow Agent cannot determine the identity of the actual sender of such Instructions and that the Escrow Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Agent have been sent by such Authorized Officer. The Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Agent and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such Instructions, notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Sender agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Escrow Agent, including, without limitation, the risk of the Escrow Agent acting on unauthorized Instructions and the risk of interception and misuse by third-parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Escrow Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Sender; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and

circumstances; and (iv) to notify the Escrow Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

SECTION 14. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**MORRIS COUNTY IMPROVEMENT
AUTHORITY**

By: _____

**John Bonanni
Chairman**

THE BANK OF NEW YORK MELLON

By: _____

**David J. O'Brien
Vice President**

EXHIBIT A

BONDS TO BE DEFEASED

EXHIBIT B

DESCRIPTION OF DEFEASANCE SECURITIES

EXHIBIT C

VERIFICATION REPORT OF WIELKOTZ & COMPANY, LLC

EXHIBIT D

NOTICE OF DEFEASANCE

MORRIS COUNTY IMPROVEMENT AUTHORITY

**County of Morris Guaranteed Lease Revenue Refunding Bonds
(Morris County Educational Services Commission Project), Series 2015
Dated December 30, 2015**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of that certain resolution of the Morris County Improvement Authority (the "*Authority*") entitled, "Resolution Authorizing the Issuance of County of Morris Guaranteed Lease Revenue Bonds (Morris County Educational Services Commission Project) and Additional Bonds of the Morris County Improvement Authority", duly adopted on February 11, 2004, as amended and supplemented (collectively, the "*Bond Resolution*"), there has been deposited with The Bank of New York Mellon, as escrow agent (the "*Escrow Agent*"), moneys and direct obligations of the United States of America that are not subject to redemption prior to maturity, the principal of and interest on which, when due, will provide moneys that shall be sufficient to pay, when due, the principal of and interest due and to become due on the bonds referenced below (collectively, the "*Bonds*") on and prior to the payment dates listed below.

Bonds to be Defeased

Payment Date (October 1)	Principal Amount	Interest Rate	CUSIP
2022	\$240,000	2.09%	N/A
2023	240,000	2.09	N/A
2024	250,000	2.09	N/A

On the respective payment dates listed above, moneys will be available for the payment of the applicable sinking fund installment or principal of said Bonds. Accordingly, said Bonds are deemed to have been paid in accordance with the Bond Resolution.

**MORRIS COUNTY IMPROVEMENT AUTHORITY
By: The Bank of New York Mellon, as Escrow Agent**