

RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY

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*TITLE:*

**RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY  
APPROVING A REVISED INTEREST RATE SCHEDULE FROM TD BANK IN  
CONNECTION WITH THE AUTHORITY'S COUNTY GUARANTEED LEASING  
PROGRAM AND CERTAIN OTHER RELATED MATTERS**

**WHEREAS**, the Morris County Improvement Authority (including any successors and assigns, the "Authority") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey Creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "Board of Freeholders") of the County of Morris (the "County") in the State of New Jersey (the "State"), on April 10, 2002, as a public body corporate and politic of 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, and the acts amendatory thereof and supplemental thereto (the "Act") and other applicable law;

**WHEREAS**, the Authority is authorized by the Act, including without limitation Section 11 thereof (N.J.S.A. 40:37A-54(a)), to purchase, lease or otherwise acquire public facilities, including capital equipment (the "Equipment") for the benefit of certain local governmental units located within the County, including (i) the County, (ii) municipalities within the County (collectively, the "Municipal Local Units"), (iii) school districts that provide service to one or more Municipal Local Units ("the "School District Local Units") and (iv) other local governmental units that provide service to one or more Municipal Local Units, including County, municipal or regional authorities (the "Other Local Units" and together with the County, the Municipal Local Units and the School District Local Units, the "Local Units");

**WHEREAS**, the Authority created a county guaranteed leasing program (the "County Guaranteed Leasing Program", the "Program" or "CGLP") whereby a Local Unit can submit a request (the "Application") to the Authority to borrow funds from or on behalf of the Authority under the Authority's CGLP to finance or refinance the lease purchase of certain capital equipment and, if applicable, other personal property (the "Equipment;" the financing of the Equipment under the CGLP may be referred to herein as the "Project"), pursuant to which Program the Authority can provide a low cost, efficient means for financing Projects of the Local Unit;

**WHEREAS**, pursuant to the Act, specifically Section 34 thereof (N.J.S.A. 40:37A-77), a private lessor, including without limitation a leasing finance company procured through a competitive process (the "Finance Company"), may sell, lease, lend, grant or convey to the

Authority or permit the Authority or its Local Unit lessees to use, maintain or operate any real or personal property, including without limitation the Equipment;

**WHEREAS**, pursuant to the Act, including without limitation Section 35 thereof (N.J.S.A. 40:37A-78), the Authority is authorized, without public bidding, to enter into and perform any lease, sublease or other agreement with, among others, a Local Unit, for the lease to or use by the Local Unit of all or any part of any public facility or facilities as determined in Section 11 of the Act (N.J.S.A. 40:37A-54(1)), including, without limitation, the Equipment;

**WHEREAS**, the Authority created the CGLP to provide low cost, timely and turnkey lease purchase financing to Local Units desiring to lease, finance or refinance their Equipment needs;

**WHEREAS**, under the CGLP, from time to time, as Local Units express the desire to enter into the Program and take the required authorization actions (the "Local Unit Official Action") therefore, the Lessor provides funds, at tax-exempt interest rates to the Local Units against purchase orders or other evidence of such Local Units' Equipment needs within the hereinafter defined Overall Maximum Program Amount, whereupon the Equipment will be owned by the Finance Company, leased to the Authority under the Master Lease (defined below), and subleased by the Authority, as lessor, to the Local Unit, as lessee, which Local Unit will have the right to quiet use of and be obligated to maintain, the Equipment, all under a sublease purchase agreement (the "Sublease") to be entered into by the Authority and each such Local Unit in accordance with all applicable law, including without limitation Section 35 of the Act (N.J.S.A. 40:37A-78);

**WHEREAS**, upon expiration of the Sublease, the Equipment will be sold by the Finance Company through the Authority to the Local Unit for nominal consideration, which Local Unit will thereafter possess clear title to the Equipment;

**WHEREAS**, under the Master Lease and the Sublease, (i) the County and the Municipal Local Units make general obligation Sublease payments directly to the Finance Company, as assignee under the Master Lease of such payments otherwise due the Authority under the Sublease, and (ii) the School District Local Units and the Other Local Units make contractually obligated, subject to appropriation, Sublease payments directly to the Finance Company, as assignee under the Master Lease of such payments otherwise due the Authority under the Sublease;

**WHEREAS**, under the CGLP and applicable law, including without limitation Section 34 of the Act (N.J.S.A. 40:37A-77), the Authority, as lessee, entered into a master lease purchase agreement (the "Original Master Lease") with the Finance Company for the lease of Equipment to be determined in accordance with each Sublease (as hereinafter defined) entered into with Local Units under the Program, in an original maximum Program amount (until increased or renewed by the Authority, the County and the Local Finance Board in the Division of Local Government Services of the State Department Community of Affairs (the "Local Finance Board")), the "Original Maximum Program Amount") in an amount not to exceed \$10,000,000;

**WHEREAS**, the Authority issued to the Finance Company a performance bond (the "Original Bond") in a principal amount up to the Original Maximum Program Amount, which Original Bond was issued directly to the Finance Company as sole Bondholder, and which Bond will be payable to the Finance Company only upon a deficiency in Sublease payments due and owing by the respective Local Units, in which case the County will have fully, unconditionally and irrevocably guaranteed the payment of the principal of the Original Bond up to the Original Maximum Program Amount, plus interest thereon, through (i) the final adoption of a guaranty ordinance by the Board of Freeholders, (ii) the execution by an authorized officer of the County of a guaranty certificate on the face of each bond and (iii) as may be required by any rating agency, Finance Company or other entity giving approval to the CGLP, an agreement setting forth the County's obligation to make such guaranty payments in accordance with and within the parameters set forth in the guaranty ordinance, all in accordance with all applicable law, including Section 37 of the Act (N.J.S.A. 40:37A-80), (collectively, the "Original County Guaranty");

**WHEREAS**, the Original Bond was authorized by the Act, all other applicable law, and a bond resolution (the "Original Bond Resolution") of the Authority adopted pursuant to N.J.S.A. 40:37A-60 and -62 of the Act;

**WHEREAS**, on June 14, 2006, the Authority obtained the approval of the Local Finance Board for (i) the extension of the Program until July 31, 2007 and (ii) an additional \$10,000,000 authorization thereby increasing the Original Maximum Program Amount (until further increased or renewed by the Authority, the County and the Local Finance Board, the "2006 Increased Program Amount") in an amount not to exceed \$20,000,000;

**WHEREAS**, the Authority, entered into an amendment No. 1 to Master Lease (the "Amendment No. 1 to Master Lease") with the Finance Company for the lease of Equipment to be determined in accordance with each Sublease entered into with Local Units under the Program, in the 2006 Increased Program Amount in an amount not to exceed \$20,000,000;

**WHEREAS**, the Authority issued to the Finance Company a performance bond (the "2006 Amended Bond") in a principal amount up to the 2006 Increased Program Amount which 2006 Amended Bond was issued directly to the Finance Company as sole Bondholder, and which 2006 Amended Bond was payable to the Finance Company only upon a deficiency in Sublease payments due and owing by the respective Local Units, in which case the County will have fully, unconditionally and irrevocably guaranteed the payment of the principal of the 2006 Amended Bond up to the 2006 Increased Program Amount, plus interest thereon, through (i) the final adoption of an amendment to the original guaranty ordinance by the Board of Freeholders, and (ii) the execution by an authorized officer of the County of a guaranty certificate on the face of the 2006 Amended Bond, all in accordance with all applicable law, including Section 37 of the Act (N.J.S.A. 40:37A-80) (collectively, the "2006 Amended County Guaranty");

**WHEREAS**, the 2006 Amended Bond was authorized by the Act, all other applicable law, and a supplemental bond resolution amended and supplementing the terms of the Original Bond Resolution (the "2006 Supplemental Bond Resolution") of the Authority adopted pursuant to N.J.S.A. 40:37A-60 and -62 of the Act;

**WHEREAS**, on June 13, 2007, the Authority obtained the approval of the Local Finance Board for (i) the extension of the Program until July 31, 2008 and (ii) an additional \$10,000,000 authorization thereby increasing the Original Maximum Program Amount (until further increased or renewed by the Authority, the County and the Local Finance Board, the "Overall Maximum Program Amount") in an amount not to exceed \$30,000,000;

**WHEREAS**, the Authority, entered into an amendment No. 2 to Master Lease ("Amendment No. 2 to Master Lease") with the Finance Company for the lease of Equipment to be determined in accordance with each Sublease entered into with Local Units under the Program, in the Overall Maximum Program Amount in an amount not to exceed \$30,000,000;

**WHEREAS**, the Authority issued to the Finance Company, a performance bond (the "2007 Amended Bond") in a principal amount up to the Overall Maximum Program Amount, which 2007 Amended Bond was issued directly to the Finance Company as sole Bondholder, and which 2007 Amended Bond was payable to the Finance Company only upon a deficiency in Sublease payments due and owing by the respective Local Units, in which case the County will have fully, unconditionally and irrevocably guaranteed the payment of the principal of the 2007 Amended Bond up to the Overall Maximum Program Amount, plus interest thereon, through (i) the final adoption of an amendment to the original guaranty ordinance by the Board of Freeholders and (ii) the execution by an authorized officer of the County of a guaranty certificate on the face of the 2007 Amended Bond, all in accordance with all applicable law, including Section 37 of the Act (N.J.S.A. 40:37A-80), (collectively, the "2007 Amended County Guaranty");

**WHEREAS**, the 2007 Amended Bond was authorized by the Act, all other applicable law, and a supplemental bond resolution amended and supplementing the terms of the Original Bond Resolution (the "2007 Supplemental Bond Resolution") of the Authority adopted pursuant to N.J.S.A. 40:37A-60 and -62 of the Act;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2009 (the "2008 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on June 9, 2008 did issue favorable Findings with respect to the 2008 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2010 (the "2009 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on August 12, 2009 did issue favorable Findings with respect to the 2009 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2011 (the "2010 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on June 9, 2010 did issue favorable Findings with respect to the 2010 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2012 (the "2011 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on May 2, 2011 did issue favorable Findings with respect to the 2011 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2013 (the "2012 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on July 11, 2012 did issue favorable Findings with respect to the 2012 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2014 (the "2013 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on May 8, 2013 did issue favorable Findings with respect to the 2013 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2015 (the "2014 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on June 11, 2014 did issue favorable Findings with respect to the 2014 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2016 (the "2015 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting held on June 10, 2015 did issue favorable Findings with respect to the 2015 Program Extension;

**WHEREAS**, the Authority made an application to the Local Finance Board for the extension of the Program until July 31, 2017 (the "2016 Program Extension");

**WHEREAS**, the Local Finance Board, at a meeting to be held on April 13, 2016 will consider the 2016 Program Extension and is expected to issue Findings in connection with same;

**WHEREAS**, the Program has been successful in lending the proceeds of a portion of the Overall Maximum Program Amount to Local Units;

**WHEREAS**, the Authority requested TD adjust the interest rates to reflect current market conditions and, in response, TD has submitted to the Authority, its counsel, McManimon, Scotland & Baumann, LLC, and the Authority's financial advisor, Acacia Financial Group, Inc. (collectively,

the "Consultants") a revised schedule of rates (the "Revised Interest Rate Schedule") as set forth in **Exhibit A** hereto.

**NOW, THEREFORE, BE IT RESOLVED** by The Morris County Improvement Authority as follows:

**Section 1.** The Authority (i) has reviewed, in consultation with the Consultants, the Revised Interest Rate Schedule and (ii) having determined the Revised Interest Rate Schedule to be in the best interest of the Local Units, hereby accepts the Revised Interest Rate Schedule of TD as set forth in **Exhibit A** hereto. The Chairperson and the Treasurer of the Authority (including their designees, each an "Authorized Officer") are each hereby severally authorized to take any and all actions deemed necessary, desirable or convenient in connection with the Revised Interest Rate Schedule.

**Section 2.** All actions of the Authorized Officers and the Consultants taken prior to the date of adoption hereof in connection with the Program, the Revised Interest Rate Schedule or any of the foregoing transactions contemplated by this resolution are hereby ratified and approved.

**Section 3.** Subject to the second sentence of this section, this resolution shall take effect immediately. In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Board of Chosen Freeholders, by the end of the fifth business day following this meeting, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Board of Chosen Freeholders a certification from the Clerk stating that the minutes of this meeting have not been vetoed by the Director of the Board of Chosen Freeholders.

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**MOVED/SECONDED:**

Resolution moved by Commissioner \_\_\_\_\_.

Resolution seconded by Commissioner \_\_\_\_\_.

**VOTE:**

<b>Commissioner</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Gallopo				
Kovalcik				
Ramirez				
Sandman				
Bonanni				

This Resolution was acted upon at the Regular Meeting of the Authority held on April 11, 2016 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 11th day of April, 2016

By: \_\_\_\_\_  
Secretary of the Authority

**FORM and LEGALITY:**

This Resolution is approved as to form and legality as of April 11, 2016.

By: \_\_\_\_\_  
Matthew D. Jessup, Member, McManimon, Scotland & Baumann, LLC  
Counsel to the Authority  
Resolution No. 16-13

## EXHIBIT A

### REVISED INTEREST RATE SCHEDULE

- I. On a tax-exempt basis, leases in an amount equal to or less than \$250,000 shall be priced at tax exempt rate equal to 85% of the then prevailing like-tenor swap index subject to the following rate floors:
  - 3-year lease 1.85%
  - 5-year lease 2.10%
  - 10-year lease 2.75%
  
- II. On a tax-exempt basis, leases in an amount greater than \$250,000 or less than \$750,000 shall be priced at tax exempt rate equal to 85% of the then prevailing like-tenor swap index subject to the following rate floors:
  - 3-year lease 1.53%
  - 5-year lease 1.75%
  - 10-year lease 2.25%
  
- III. For lease amounts greater than \$750,000, Lessor, at its sole discretion, may choose to lower the floor rate at Lease Commencement based on municipal market pricing conditions in place at the time of closing.