

CITY SCHOOL DISTRICT OF THE CITY OF YONKERS

AND

CITY OF YONKERS

AND

MANUFACTURERS AND TRADERS TRUST COMPANY, AS DEPOSITORY BANK

STATE AID DEPOSITORY AGREEMENT

Dated as of September 1, 2021

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## **STATE AID DEPOSITORY AGREEMENT**

THIS STATE AID DEPOSITORY AGREEMENT, made as of September 1, 2021 (this "Agreement"), by and among CITY SCHOOL DISTRICT OF THE CITY OF YONKERS (the "School District"), CITY OF YONKERS (the "City") and MANUFACTURERS AND TRADERS TRUST COMPANY, as Depository Bank (the "Depository Bank") (capitalized term's used but not defined in the recitals to this Agreement shall have the meanings set forth in Section 101 hereof).

WHEREAS, the Legislature of the State of New York, pursuant to the Act, has enacted legislation authorizing the City of Yonkers Industrial Development Agency ("YIDA") to finance, license or lease school building sites of the City and the School District to be renovated, reconstructed or constructed pursuant to State law; and

WHEREAS, the City and the School District have entered into negotiations with officials of YIDA to finance various "projects" as defined in the Act and to assist in the rehabilitation and/or reconstruction, equipping and furnishing of existing public schools (collectively, the "Facilities") within the City in order to implement the comprehensive redevelopment of the City's public schools (the "Project"); and

WHEREAS, in order to finance a portion of the cost of the Project, YIDA intends to issue from time to time in various Series of its School Facility Revenue Bonds (Yonkers City School District Project), all pursuant to the Act, and other applicable legislation, and an indenture of trust for each such Series of Project Bonds, and to secure the Project Bonds with payments to be paid by the City and the School District to YIDA pursuant to a Series Facilities Agreement (as hereinafter defined) pursuant to which YIDA shall lease, sublease or sell its licensed interest in the Facilities to the City and the School District; and

WHEREAS, the City's and School District's obligation to make such payments to YIDA will be subject to annual appropriation by the City and the School District and will be payable solely from the State Aid to Education payable to the City or the School District and intercepted by the Comptroller of the State of New York and paid to YIDA or the related Series Trustee (acting on behalf of YIDA) pursuant to the Act; and

WHEREAS, pursuant to the State Education Law (1) the disbursement of State Aid to Education is solely the prerogative and responsibility of the School District's Board of Education so long as such revenue is spent for the educational purposes appropriated and within the limits of the appropriation, (2) the School District's Board of Education shall make such classification of the funds and the disbursements thereof as the Commissioner of Finance of the City (the "Commissioner of Finance") shall require, and (3) the School District's Board of Education shall furnish such data in relation to such funds and their disbursements as the Commissioner of Finance shall require; and

WHEREAS, the Commissioner of Finance periodically authorizes the issuance of City revenue anticipation notes in anticipation of the receipt of State Aid to Education and the Commissioner of Finance is required by State law to provide for the set aside of State Aid to Education to provide for repayment of such notes; and

WHEREAS, the establishment and maintenance of a State Aid Depository Agreement into which the State Aid to Education are to be deposited for periodic disbursement in the respective amounts necessary for payment of debt service and other payments to be made by the City and the School District due under Series Facilities Agreements and City revenue anticipation notes issued in anticipation of State Aid to Education will facilitate the marketing and sale of the Project Bonds secured by such payments; and

WHEREAS, pursuant to instructions delivered to the New York State Comptroller dated August [ ], 2021, the Commissioner of Finance and the President of the Board of Education of the School District have directed the New York State Comptroller's Office to forward all State Aid to Education to the State Aid Depository Fund as herein described;

NOW THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATIONS

Section 101. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

(1) "Act" means the act of the Legislature of the State entitled: "The Yonkers City School District Joint Schools Construction and Modernization Act," constituting Chapter 355 of the Laws of 2016 of the State, as the same may be amended;

(2) "Agreement" means this State Aid Depository Agreement as the same may from time to time be amended or supplemented;

(3) "Aggregate" means, when used to qualify any other term in this Agreement, the aggregate, of the relevant term, with respect to all then existing Project Bonds, and all then existing Series Facilities Agreements;

(4) "Base Facilities Agreement Payment" means, with respect to any Series Facilities Agreement, the Base Lease Payment, the Base Installment Purchase Payment or other like payment obligations as so defined in such Series Facility Agreement;

(5) "City" means the City of Yonkers;

(6) "Collection Percentage" means, with respect to each month of a Collection Period, the ratio, expressed as a percentage, of the amount of State Aid to Education expected to be received during such month of such Collection Period to the total amount of State Aid to Education expected to be received during such Collection Period;

(7) "Collection Period" means the four month period from and including December 1 of a Fiscal Year through and including March 31 of such Fiscal Year;

(8) "Collecting Officer" means the Superintendent of the School District and any other official empowered to demand, collect and receive State Aid to Education;

(9) "Commissioner of Finance" means the Commissioner of Finance of the City or such other officer of the City who may hereafter be designated chief fiscal officer of the City;

(10) "Debt Service Reserve Fund" means, with respect to a Series of Project Bonds, the Debt Service Reserve Fund established for such Series of Project Bonds under the related Series Indenture, if any;

(11) "Depository Bank" means Manufacturers and Traders Trust Company or any trust company or bank having the powers of a trust company in the State, having reported capital and surplus of not less than \$100,000,000 and rated not lower than investment grade by any Rating Agency appointed by the School District in the manner set forth herein, and any successor trust company or bank having the powers of a trust company in the State which may be substituted in its place pursuant to the provisions hereof. The Depository Bank shall be the same financial institution as each Series Trustee;

(12) "Facilities Agreement Payment Date" means, with respect to any Series Facilities Agreement, the date the Net Base Installment Purchase Payments or other base payment obligations for principal and interest are due under such Series Facilities Agreement;

(13) "Facilities Payment Obligations" means, with respect to any Series Facilities Agreement, the Lease Payments, Installment Purchase Payments or other like payment obligations as so defined in such Series Facilities Agreement;

(14) "Fiscal Year" means the fiscal year of the City and the School District;

(15) "General Fund" means the bank account designated by the Commissioner of Finance in written instructions delivered to the Depository Bank on the date of issuance of the first Series of Project Bonds, as the same may be re-designated;

(16) "Investment Securities" means any investments that the City would be permitted to invest in under the provisions of Section 11 of the General Municipal Law of the State, as amended from time to time;

(17) "Net Base Facilities Agreement Payments" means, with respect to any Series Facilities Agreement, the Net Base Installment Purchase Payments, Net Base Lease Payments or other net base payment obligations for principal and interest on the related Project Bonds (net of (y) any Scheduled Debt Service Reserve Fund Earnings to the extent that any such Scheduled Debt Service Reserve Fund Earnings shall not first be required when received under the related Series Indenture to satisfy any

deficiency in the Debt Service Reserve Fund established for such Project Bonds, and (z) any amounts available in the Bond Fund established under the Series Indenture for such Project Bonds), as so defined in such Series Facilities Agreement;

(18) "Project Bonds" means bonds issued by YIDA or some other public entity pursuant to Series Indentures and the Act;

(19) "Qualified Debt Service Reserve Fund Investment Agreement" means, with respect to a Series of Project Bonds, that investment agreement, if any, entered into by the Series Trustee with respect to the Debt Service Reserve Fund as such agreement is so defined in the related Series Facilities Agreement or Series Indenture;

(20) "Ratable Basis" means, ratably based on the ratio of the amount, at issue, owing to a Series Trustee to the Aggregate of such amounts, at issue, owing to all Series Trustees;

(21) "Rating Agency" means any nationally recognized credit rating agency then rating any Series of the Project Bonds;

(22) "Reserve Payment" means, with respect to any Series Facilities Agreement, the reserve payment obligation in respect of a deficiency in the amount on deposit in the Debt Service Reserve Fund established under a Series Indenture for a Series of Project Bonds or the amount owed any provider of a Reserve Fund Credit Facility in connection with a draw on such Reserve Account Credit Facility as provided in the related Series Facilities Agreement.

(23) "Scheduled Debt Service Reserve Fund Earnings" means, with respect to any Base Facilities Agreement Payment, those earnings scheduled to be received under a Series Indenture from a Qualified Debt Service Reserve Fund Investment Agreement, based on the amount on deposit in the related Debt Service Reserve Fund and subject to the Qualified Debt Service Reserve Fund Investment Agreement as of the last Business Day of October immediately preceding the Facilities Agreement Payment Date for such Base Facilities Agreement Payment under the related Series Facilities Agreement, for the period commencing on such Facilities Agreement Payment Date through and including the next following October 23rd (or, if such October 23rd shall not be a Business Day, then on the next preceding Business Day) provided that such earnings are required by the related Series Indenture to be deposited into the Bond Fund under such Series Indenture after receipt by the Series Trustee under such Series Indenture of a Project Fund Sufficiency Certificate (as defined in such Series Indenture);

(24) "Series Facilities Agreement" means the Installment Sale Agreement (Series 2021 Project), dated as of September 1, 2021, by and among YIDA, the City, the School District and the Yonkers Joint Schools Construction Board and each other facilities lease agreement, facilities installment sale agreement or other facilities agreement, pursuant to which YIDA or some other public entity shall lease, or sublease or sell its licensed interest in facilities to the City and the School District in connection with the issuance of Project Bonds, as the same may be amended or supplemented;

(25) "Series Indenture" means the Indenture of Trust (Series 2021 Project) by and between YIDA and Manufacturers and Traders Trust Company, as Trustee, dated as of September 1, 2021 and each other indenture of trust or bond resolution pursuant to which a series of Project Bonds shall be issued by YIDA or some other public entity to finance all or a portion of the Project, as the same may be amended or supplemented;

(26) "Series Trustee" means Manufacturers and Traders Trust Company, as Trustee under the Indenture of Trust (Series 2021 Bonds) and each financial institution acting as trustee under another Series Indenture, and its respective successors, if any, appointed pursuant to such Series Indenture;

(27) "YIDA" means the City of Yonkers Industrial Development Agency;

(28) "State" means the State of New York;

(29) "State Aid Depository Fund" or "Fund" means the fund so entitled which is established at the direction of the Commissioner of Finance and held by the Depository Bank and is described and provided for in this Agreement;

(30) "State Aid to Education" means the total amount of State building and operating aid annually appropriated by the New York State Legislature and paid to the School District or the City or any officer thereof, for the provision of public educational instruction in the City, together with earnings on the investment thereof while in the custody of the Depository Bank; and

(31) "Superintendent" means the Superintendent of the School District.

Section 102. Interpretations. (a) Words importing the masculine gender include every other gender. Words importing persons include firms, limited liability companies, partnerships, associations and corporations. Words importing the singular number include the plural, and vice-versa; (b) the terms "herein", "hereunder", "hereby", "hereof", "hereto", and other similar terms refer to this Agreement; and (c) the term "hereafter" means after the effective date of the Agreement, which shall be the date of issuance of the first Series of Project Bonds.

Section 103. Parties Interested Herein. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or give to, any person, other than the City, the Depository Bank, the School District and each Series Trustee any right, remedy or claim under or by reason of this Agreement or any stipulation, obligation, agreement or condition therein. All the stipulations, promises and agreements in this Agreement shall be for the sole and exclusive benefit of the City, the Depository Bank, the School District and each Series Trustee.

Section 104. Severability of Invalid Provisions. If any one or more of the provisions or agreements in this Agreement on the part of the City, the School District, the Depository Bank or a Series Trustee to be performed should be contrary to law, then such provision or provisions, agreement or agreements shall be deemed separable from the remaining provisions and agreements, and shall in no way affect the validity of the other provisions of this Agreement.

## ARTICLE II

### ESTABLISHMENT AND OPERATION OF THE FUND

Section 201. Establishment of State Aid Depository Fund. In order to facilitate the purposes of the Act and the payment of the Aggregate Facilities Payment Obligations, there is hereby established a special fund which shall be known, and is referred to, as the State Aid Depository Fund. The Fund shall be held by and maintained with the Depository Bank, and the School District and the City hereby agree with the Depository Bank that the City and the School District will duly and punctually pay or cause to be paid the Aggregate Facilities Payment Obligations from amounts received from the Fund, and that the City and the School District will maintain the Fund with the Depository Bank, and will operate the Fund in the manner set forth herein.

Section 202. Operation of the Fund. (a) Pursuant to written instructions to the New York State Comptroller dated August [ ], 2021, the Commissioner of Finance and the President of the Board of Education of the School District have directed the New York State Comptroller's Office to deposit all State Aid to Education into the Fund except for any amount of State Aid to Education withheld from the City or School District in accordance with the provisions of the Act.

(b) Notwithstanding the following provisions of this Section 202, if the Depository Bank receives written instructions from the Commissioner of Finance with an accompanying monthly payment schedule from the Commissioner of Finance indicating that, pursuant to applicable State law and, if applicable, any credit enhancement agreement to which the City is a party, State Aid to Education must be set aside in a special bank account designated in such instructions to be used only for the payment in accordance with such payment schedule of outstanding revenue anticipation notes issued by the City (the "RAN Repayment Requirement"); then, each month, the Depository Bank shall immediately withdraw from the Fund all State Aid to Education that are received and cause the amounts so withdrawn to be immediately paid, before any further withdrawal or payment under this Section 202, to such special bank account, until the total amount of such withdrawals is equal to the portion of such RAN Repayment Requirement required, in accordance with such payment schedule, to be withdrawn and paid to such special bank account for such month or any prior month to the extent not yet paid.

(c) Commencing on September 1, 2021 through and including November 30, 2022, the Depository Bank shall immediately upon receipt of any payment of State Aid to Education pay over to the General Fund all such State Aid to Education.

(d) On or before July 15, 2022 for the Fiscal Year ending June 30, 2023, and on or before July 15 of each subsequent Fiscal Year, the Collecting Officer and the Commissioner of Finance shall prepare and deliver to the Depository Bank and each Series Trustee a certificate, substantially in the form of Exhibit A-1 hereto (the "State Aid Payment Certificate"), setting forth (i) a statement that the School District has budgeted and directed



payment from appropriated funds of, and the City has appropriated, an amount of State Aid to Education necessary to fund the Aggregate Facilities Payment Obligations for such Fiscal Year, (ii) the total amount of State Aid to Education expected to be received during the next Collection Period and the Collection Percentage applicable to each month of such Collection Period, and (iii) a statement developed with the assistance of the School District's financial advisor or a nationally recognized municipal securities underwriting firm, setting forth the long-term debt rating of each provider of a Qualified Debt Service Reserve Fund Investment Agreement by each of Fitch, Inc., Moody's Investors Service, Inc. and S&P Global Ratings, a division of Standard & Poor's Financial Services LLC. However, in the event that the City shall not have appropriated or the School District has not budgeted or directed payment from appropriated funds for such amount of State Aid to Education in its adopted budget for such Fiscal Year, the State Aid Payment Certificate for such Fiscal Year shall set forth a statement to such effect, shall not include any information regarding the collection of State Aid to Education during the Collection Period and shall be substantially in the form of Exhibit A-2 hereto. Thereafter and not later than the end of the third business day immediately preceding March 31 of such Fiscal Year, if circumstances warrant, the Collecting Officer and the Commissioner of Finance shall from time to time prepare and deliver to the Depository Bank a revised State Aid Payment Certificate setting forth, as appropriate (i) a statement that the City has, subsequent to adoption of its budget for such Fiscal Year, appropriated an amount of State Aid to Education necessary to fund the Aggregate Facilities Payment Obligations for such Fiscal Year, or (ii) a revised total amount of State Aid to Education expected to be received during the Collection Period for such Fiscal Year and, in either case, if applicable, Collection Percentages or revised Collection Percentages applicable to the remainder of such Collection Period.

(e) On or before November 10 of each Fiscal Year, commencing November 10, 2022, the Depository Bank shall receive from each Series Trustee, in accordance with the Indenture pursuant to which such Series Trustee has been appointed, a certificate (the "Base Facilities Agreement Payment Certificate") setting forth the Net Base Facilities Agreement Payment (computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due on the following April 1.

(f) On or before November 10 of each Fiscal Year, commencing November 10, 2022, the Depository Bank shall receive from each Series Trustee, in accordance with the Indenture pursuant to which such Series Trustee has been appointed, a certificate (the "Reserve Payment Certificate") setting forth the Reserve Payment (as defined in each Series Facilities Agreement and computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due and the amount of the Debt Service Reserve Deficiency as of the date of such certificate.

(g) During each Collection Period, if the Depository Bank has received a State Aid Payment Certificate with respect to such Collection Period that sets forth the statements required by clauses (i) and (ii) of the first sentence of Section 202(d), the Depository Bank shall, immediately upon receipt of any payment of State Aid to Education, withdraw such

State Aid to Education from the Fund and cause the amounts so withdrawn to be immediately paid in the following order of priority:

(i) *first*, to each Series Trustee for deposit in the Bond Fund established pursuant to the related Series Indenture until the total amount of such withdrawals during each month of such Collection Period shall equal the sum of (A) the product of the Collection Percentage for such month multiplied by the Net Base Facilities Agreement Payment due the immediately following April 1 as set forth in the Base Facilities Agreement Payment Certificate most recently received by the Depository Bank, plus (B) during the months of January, February and March, the excess of the amount that should have been deposited in the Bond Fund in the immediately preceding month of the Collection Period pursuant to the provisions of this paragraph, over the amount in fact so deposited;

(ii) *second*, thereafter during each month of such Collection Period, to each Series Trustee for deposit in the Debt Service Reserve Fund established pursuant to the related Series Indenture until the total amount of such withdrawals is equal to the Reserve Payment due, if any, as set forth in the Reserve Payment Certificate most recently received by the Depository Bank, and

(iii) *third*, thereafter during each month of such Collection Period, to the General Fund.

In the event that any amount on deposit in the Fund in any month of the Collection Period, at any time, shall be less than the amount required to be paid to a Series Trustee under clauses (i) or (ii) above, the Depository Bank shall make payment to each Series Trustee on a Ratable Basis, in the priority indicated above. For purposes of the preceding sentence, "Ratable Basis" shall be first computed based on amounts payable to each Series Trustee under clause (i) above if there is not enough in the Fund to pay to each Series Trustee what is payable under clause (i) above, and, if the amounts payable under clause (i) have been paid in full, then computed based on the amount payable to each Series Trustee under clause (ii). The Depository Bank may, at the expense of School District and/or the City, request, rely on and act in accordance with certificates and/or opinions of counsel with respect to such computations, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such certificates and/or opinions of counsel.

Thereafter from April 1 until the commencement of the next Collection Period, immediately upon receipt of any payment of State Aid to Education, the Depository Bank shall withdraw such State Aid to Education from the Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

If the Depository Bank has not received with respect to a Collection Period for any reason a State Aid Payment Certificate that includes the statements required by clauses (i) and (ii) of the first sentence of Section 202(d), the Depository Bank, both during and after such Collection Period until the next Collection Period, shall withdraw any State Aid to Education from the Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

Section 203. Procedure for Collection and Deposit of State Aid to Education.

The procedure set forth in this Article for the operation of the Fund is related to the School District's current procedure for the collection, deposit and disbursement of State Aid to Education. Nothing herein contained shall prevent the City, the Depository Bank and the School District from effecting any change by amendment hereto modifying the procedures for the collection, deposit and disbursement of State Aid to Education, without the consent of any other party; provided, however, that the School District hereby agrees with the City and the Depository Bank that (i) prior to making any such change, the School District shall notify each Rating Agency of such change and that prior to any such change there shall be delivered to the Depository Bank a rating confirmation of each Rating Agency that the then current unenhanced rating of the Project Bonds will not be withdrawn or reduced as a result of such change and (ii) the School District will not change or alter the procedure for the collection and deposit of State Aid to Education which in any manner would result in insufficient State Aid to Education being available to timely pay Facilities Payment Obligations in accordance with the terms of this Agreement. All fees, costs and expenses (including reasonable attorneys' fees, costs and expenses) incurred in connection with any amendment to this Agreement shall be payable by the School District.

Section 204. Accounts, Reports and Certificates. The Depository Bank agrees that it will keep, or cause to be kept, proper books of record in which complete and accurate entries shall be made of all transactions relating to the Fund; provided, however the Depository Bank shall have no liability for any action taken, or errors in judgment made, in good faith by it or any of its officers, employees or agents in connection therewith, unless it shall have been negligent in ascertaining the pertinent facts. The School District at its sole cost and expense shall cause such books of record relating to the Fund to be audited annually by one or more certified public accountants duly licensed by the State, and such audit shall be filed by the School District with the Commissioner of Finance, the Depository Bank and each Series Trustee.

### ARTICLE III

#### THE DEPOSITORY BANK

Section 301. Appointment of Successor Depository Bank. The Commissioner of Finance may take any and all necessary action in connection with the removal of the Depository Bank and the designation of a successor Depository Bank. Each successor Depository Bank shall be a trust company or bank having the powers of a trust company in the State with a reported capital and surplus of not less than \$100,000,000 and rated not less than investment grade by any Rating Agency. The Collecting Officer shall give notice to the Board of Education of any action with respect to the Depository Bank in accordance with this Article by filing or causing to be filed a signed statement of such action in the office of the Clerk to the Board of Education on the date such action is taken. Notwithstanding anything herein to the contrary, any corporation or association into which the Depository Bank may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such

conversion, sale, merger, consolidation or transfer to which the Depository Bank is a party, will be and become the successor the Depository Bank under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

Section 302. Moneys on Deposit with the Depository Bank in the Fund. The Depository Bank shall hold all moneys deposited in the Fund in trust for the benefit of the School District and the City, and shall withdraw such moneys as provided in this Agreement.

Section 303. Investment of State Aid Depository Fund. Pending the withdrawals provided for in Section 202, moneys in the Fund shall be invested in Investment Securities maturing at such times and in such amounts as shall provide available moneys to make such withdrawals and payments from the Fund when required. Such investments shall be made for and on behalf of the School District by the Depository Bank upon written instructions from the Commissioner of Finance or his authorized deputy. In the absence of such written instructions, the Fund shall be held uninvested. The Depository Bank shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Agreement. The Depository Bank is hereby authorized, in making or disposing of any investment permitted by this Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Depository Bank or for any third person or dealing as principal for its own account.

Section 304. Moneys held in Trust. All moneys held by the Depository Bank, as such, at any time pursuant to the terms of this Agreement shall be and hereby are assigned, transferred and set over unto such Depository Bank in trust for the purposes and under the terms and conditions of this Agreement.

Section 305. Responsibilities of the Depository Bank. The recital of facts herein contained shall be taken as the statements of the School District, the City and the Depository Bank shall assume no responsibility for the correctness of same. The Depository Bank shall not be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or failure to perform its express obligations under this Agreement, and any such liability shall not be for any amount in excess of the value of the Fund.

Section 306. Evidence on Which the Depository Bank May Act. The Depository Bank shall be protected in acting upon any notice, resolution, ordinance, request, consent, order, certificate, opinion or other paper or document believed by it to be genuine, and to have been signed (if applicable) or presented by the proper party or parties. The Depository Bank shall be permitted to rely on any document transmitted to the Depository Bank by facsimile as if it were an original. The Depository Bank may consult with counsel, who may or may not be counsel to the School District or the City, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Section 307. Compensation and Expenses. Unless otherwise provided by contract with the Depository Bank, the School District shall pay to the Depository Bank from time to time reasonable compensation for all services rendered by it hereunder, and also

reimbursement for all its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties hereunder. Notwithstanding anything herein to the contrary, the Depository Bank shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement unless it shall have been offered security or indemnity (satisfactory to the Depository Bank in its sole and absolute discretion) against the costs, expenses and liabilities which may be incurred by it in exercising such right or power. To the extent permitted by law, the School District hereby defends, releases and indemnifies the Depository Bank and its directors, officers, employees and agents (collectively, the "Indemnified Parties"), and holds the Indemnified Parties harmless from any and against all liabilities, losses, actions, suits or proceedings at law or in equity, and any other expenses, fees or charges of any character or nature, (including, without limitation, attorney's fees and expenses and the costs of enforcement of this Agreement or any provision thereof), which an Indemnified Party may incur or with which it may be threatened by reason of acting as or on behalf of the Depository Bank under this Agreement, except to the extent the same shall have been finally adjudicated by a court of competent jurisdiction to have been directly caused by the Depository Bank's gross negligence or willful misconduct. The terms of this indemnity shall survive the termination of this Agreement or the earlier resignation or removal of the Depository Bank.

Section 308. Resignation of the Depository Bank. Subject to the applicable requirements for a successor depository bank set forth in Section 301 hereof, the Depository Bank may at any time resign and be discharged of the duties created by this Agreement by giving not less than 60 days' written notice to the School District, the Commissioner of Finance, the State Comptroller and each Series Trustee, and such resignation shall not take effect until a successor shall have been appointed by the Commissioner of Finance as provided in Section 301.

Section 309. Removal of Depository Bank. Subject to the appointment of a successor Depository Bank in accordance with the provisions of Section 301 hereof, the Depository Bank may be removed at any time by the Commissioner of Finance by notice in writing filed with the Depository Bank, each Series Trustee and the State Comptroller, provided however, that such removal shall not be effective until at least thirty (30) days after such filing except if such removal is based on a default by the Depository Bank hereunder..

Section 310. Regulations Regarding Investment of Fund. Investment Securities purchased as an investment of moneys in the Fund established under this Agreement shall be deemed at all times to be a part of the Fund, and the interest thereon and any profit arising on the sale thereof shall be credited to the Fund, and any loss resulting on the sale thereof shall be charged to the Fund. In computing the amount in the Fund for any purpose hereunder, such Investment Securities shall be valued at the lower of cost or market price thereof, exclusive of accrued interest, such valuation to be completed by a valuation service selected by the Depository Bank.

Section 311. Enforcement. The construction and enforcement of this Agreement shall be governed by the laws of the State of New York. The parties hereto consent to the jurisdiction of any state or federal court located in the State of New York for the resolution of any claim or controversy arising directly or indirectly from this Agreement.

Section 312. Execution. This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 313. Notices. All notices, requests, demands and formal actions hereunder will be in writing, and mailed, or delivered to:

**(a) School District:**

City School District of the City of Yonkers  
1 Larkin Center  
Yonkers, New York 10701  
Attention: Superintendent  
Fax No.: (914) \_\_\_\_\_

**(b) City:**

City of Yonkers  
Department of Finance  
City Hall  
Yonkers, New York 10701  
Attention: Commissioner of Finance  
Fax No.: (914) \_\_\_\_\_

**(c) Depository Bank:**

Manufacturers and Traders Trust Company  
285 Delaware Avenue, 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Department  
Fax No.: (716) 842-4474

**(d) Series Trustee: :**

Manufacturers and Traders Trust Company  
285 Delaware Avenue, 3<sup>rd</sup> Floor  
Buffalo, New York 14202  
Attention: Corporate Trust Department  
  
Fax No.: (716) 842-4474

Section 313. Force Majeure. The Depository Bank shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility; it being understood that the Depository Bank shall use its best efforts to resume performance as soon as practicable under the circumstances.

Section 315. Entire Agreement. This Agreement and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this State Aid Depository Agreement to be executed as of the day and year first above written.

**CITY OF YONKERS**

By: \_\_\_\_\_  
John Liszewski  
Commissioner of Finance

**CITY SCHOOL DISTRICT OF THE CITY OF YONKERS**

By: \_\_\_\_\_  
Rev. Steve Lopez  
President of the Board of Education

**MANUFACTURERS AND TRADERS TRUST COMPANY, as Depository Bank**

By: \_\_\_\_\_

**Exhibit A-1**

**State Aid Payment Certificate  
(Appropriation)**

(Date)<sup>1</sup>

Via Facsimile ( )

Manufacturers and Traders Trust Company, as Depository Bank  
Attention:

Ladies and Gentlemen:

Re: State Aid Payment Certificate

Reference is made to the State Aid Depository Agreement, dated as of September 1, 2021 (the "State Aid Depository Agreement"), among the City School District of the City of Yonkers (the "District"), the City of Yonkers (the "City") and Manufacturers and Traders Trust Company, as Depository Bank (the "State Aid Depository Agreement"). All capitalized terms not otherwise defined herein have the meanings attributed to them in the State Aid Depository Agreement.

The District and the City are delivering this letter as the State Aid Payment Certificate required by the State Aid Depository Agreement. The District has budgeted and directed payment of appropriated funds to payment of, and the City has appropriated, an amount of State Aid to Education necessary to fund the Aggregate Facilities Payment Obligations for Fiscal Year ending June 30, [ ]. The total amount of State Aid to Education expected to be received during the period from December 1, through and including March 31, (the "Collection Period") is \$[ ] and the Collection Percentage <sup>2</sup> for each month during the Collection Period is set forth below:

|    |          |             |
|----|----------|-------------|
| 1. | December | ___%        |
| 2. | January  | ___%        |
| 3. | February | ___%        |
| 4. | March    | ___%        |
|    |          | <u>100%</u> |

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<sup>1</sup> For the first certificate after closing of the Series 2021A Bonds, this letter should be delivered to the Depository Bank on or before September 15, 2021.

<sup>2</sup> Compute by dividing the State Aid Revenues expected to be received in the particular month by the total amount of State Aid Revenues expected to be received during the Collection Period, and then expressing the result as a percentage.



You are further advised that, in consultation with [ \_\_\_\_\_ ], the District's Financial Advisor [ \_\_\_\_\_ ], a nationally recognized municipal securities underwriting firm], the long-term debt rating of each provider (the "Provider") of a Qualified Debt Service Reserve Fund Investment Agreement by each of Fitch, Inc. ("Fitch"), Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings, a division of Standard & Poor's Financial Services ("S&P") is set forth below:

| <u>Name of Provider</u> | <u>Fitch Rating</u> | <u>Moody's Rating</u> | <u>S&amp;P Rating</u> |
|-------------------------|---------------------|-----------------------|-----------------------|
|-------------------------|---------------------|-----------------------|-----------------------|

Very truly yours,

, Superintendent

, Commissioner of Finance

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Exhibit A-2**

**State Aid Payment Certificate  
(Non-Appropriation)** \_\_\_\_\_

\_\_\_\_\_  
(Date)

Via Facsimile ( ) \_\_\_\_\_

Manufacturers and Traders Trust Company, as Depository Bank  
Attention:

Ladies and Gentlemen:

Re: State Aid Payment Certificate

Reference is made to the State Aid Depository Agreement, dated as of September 1, 2021 (the "State Aid Depository Agreement"), among the City School District of the City of Yonkers (the "District"), the City of Yonkers (the "City") and Manufacturers and Traders Trust Company, as Depository Bank (the "State Aid Depository Agreement"). All capitalized terms not otherwise defined herein have the meanings attributed to them in the State Aid Depository Agreement.

The District and the City are delivering this letter as the State Aid Payment Certificate required by the State Aid Depository Agreement. The City and/or the District has not yet appropriated an amount of State Aid to Education pursuant to its adopted budget for Fiscal Year ending June 30, for the payment of the Aggregate Facilities Payment Obligations for such Fiscal Year. [Insert the following sentence, if appropriate. It is anticipated that the budget will be revised and an updated State Aid Payment Certificate will be provided.]

You are further advised that, in consultation with [ \_\_\_\_\_ ], the District's Financial Advisor [ \_\_\_\_\_ ], a nationally recognized municipal securities underwriting firm], the long-term debt rating of each provider (the "Provider") of a Qualified Debt Service Reserve Fund Investment Agreement by each of Fitch, Inc. ("Fitch"), Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings, a division of Standard & Poor's Financial Services ("S&P") is set forth below:

| <u>Name of Provider</u> | <u>Fitch Rating</u> | <u>Moody's Rating</u> | <u>S&amp;P Rating</u> |
|-------------------------|---------------------|-----------------------|-----------------------|
|-------------------------|---------------------|-----------------------|-----------------------|

Very truly yours,

\_\_\_\_\_, Superintendent

\_\_\_\_\_, Commissioner of Finance