

AMENDED RESOLUTION 2021-21

WHEREAS, the Lawrence County Commission passed Resolution 2021-21 on June 8, 2021 authorizing the execution, terms, issuance, sale and payment of Certificates of Participation, Series 2021 (the "Certificates") in the aggregate principal amount of not to exceed \$41,000,000; and

WHEREAS, the County has determined that it would be in the best interests to obtain bond insurance on the Certificates which will result in a lower interest rate the County will pay on the Certificates; and

WHEREAS, the bond insurer requires certain language in the resolution passed authorizing the Certificates.

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY COMMISSION OF LAWRENCE COUNTY, AS FOLLOWS:

1. Resolution 2021-21 shall be amended by adding the following Section 7.

Section 7. Provisions Relating to Bond Insurance.

(a) "Insurance Policy" shall be defined as follows: "the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Insured Certificates when due". "Insurer" shall be defined as follows: "Assured Guaranty Municipal Corp., a New York stock insurance company, or any successor thereto or assignee thereof.

(b) The Insurer shall be deemed to be the sole holder of the Insured Certificates for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Certificates insured by it are entitled to take pursuant to the Resolution pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Paying Agent. In furtherance thereof and as a term of the Resolution and each Certificate, the Paying Agent and each Certificateholder appoint the Insurer as their agent and attorney-in-fact and agree that the Insurer may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Paying Agent and each Certificateholder delegate and assign to the Insurer, to the fullest extent permitted by law, the rights of the Paying Agent and each Certificateholder in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding. Remedies granted to the Certificateholders shall expressly include mandamus.

(c) The maturity of Certificates insured by the Insurer shall not be accelerated without the consent of the Insurer and in the event the maturity of the Insured Certificates is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal, and interest accrued on such principal, to the date of acceleration (to the extent unpaid by the Issuer) and the Paying Agent shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Insurance Policy with respect to such Insured Certificates shall be fully discharged.

(d) No grace period for a covenant default shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer. No grace period shall be permitted for payment defaults.

(e) The Insurer shall be included as a third party beneficiary to the Resolution.

(f) The exercise of any provision of the Resolution which permits the purchase of Insured Certificates in lieu of redemption shall require the prior written approval of the Insurer if any Certificate so purchased is not cancelled upon purchase.

(g) Any amendment, supplement, modification to, or waiver of, the Resolution or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Certificate owners or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.

(h) Unless the Insurer otherwise directs, upon the occurrence and continuance of an Event of Default or an event which with notice or lapse of time would constitute an Event of Default, amounts on deposit in the Construction Fund shall not be disbursed, but shall instead be applied to the payment of debt service or redemption price of the Insured Certificates.

(i) The rights granted to the Insurer under the Resolution or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Certificateholders and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Certificateowners or any other person is required in addition to the consent of the Insurer.

(j) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" by S&P and Kroll, respectively, or (5) subject to the prior written consent of the Insurer, securities

eligible for "AAA" defeasance under then existing criteria of S & P or any combination thereof, shall be used to effect defeasance of the Insured Certificates unless the Insurer otherwise approves.

To accomplish defeasance, the Issuer shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Insured Certificates in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Insured Certificates are no longer "Outstanding" under the Resolution and (iv) a certificate of discharge of the Paying Agent with respect to the Insured Certificates; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Issuer, Paying Agent and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow.

Insured Certificates shall be deemed "Outstanding" under the Resolution unless and until they are in fact paid and retired or the above criteria are met.

(k) Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of the Resolution and the Insured Certificates relating to such payments shall remain Outstanding and continue to be due and owing until paid by the Issuer in accordance with the Resolution. The Resolution shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

(l) Claims Upon the Insurance Policy and Payments by and to the Insurer.

If, on the third Business Day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Resolution, moneys sufficient to pay the principal of and interest on the Insured Certificates due on such Payment Date, the Paying Agent shall give notice to the Insurer and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency by 12.00 noon, New York County time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Insured Certificates due on such Payment Date, the Paying Agent shall make a claim under the Insurance Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Insured Certificates and the amount required to pay principal of the Insured Certificates, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York County time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

The Paying Agent shall designate any portion of payment of principal on Insured Certificates paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured

Certificates registered to the then current Certificateholder, whether DTC or its nominee or otherwise, and shall issue a replacement Certificate to the Insurer, registered in the name of Assured Guaranty Municipal Corp., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Certificate shall have no effect on the amount of principal or interest payable by the Issuer on any Certificate or the subrogation rights of the Insurer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Certificate. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Certificateholders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Insurance Policy in trust on behalf of Certificateholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Certificateholders in the same manner as principal and interest payments are to be made with respect to the Insured Certificates under the sections hereof regarding payment of Insured Certificates. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the Issuer agrees to pay to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Insurance Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The County of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Certificates and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The Issuer hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Pledged Revenues and payable from such Pledged Revenues on a parity with debt service due on the Insured Certificates.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. Any funds remaining in the Policy Payments Account following a Certificate payment date shall promptly be remitted to the Insurer.

(m) The Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Certificates, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy (which subrogation rights shall also include the rights of any such recipients in connection with any Insolvency Proceeding). Each obligation of the Issuer to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.

(n) The Issuer shall pay or reimburse the Insurer any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under the Resolution or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Resolution or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Resolution or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Resolution or any other Related Document.

(o) After payment of reasonable expenses of the Paying Agent, the application of funds realized upon default shall be applied to the payment of expenses of the Issuer or rebate only after the payment of past due and current debt service on the Insured Certificates.

(p) The Insurer shall be entitled to pay principal or interest on the Insured Certificates that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Insurance Policy) and any amounts due on the Insured Certificates as a result of acceleration of the maturity thereof, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Insurance Policy) or a claim upon the Insurance Policy.

(q) The notice address of the Insurer is: Assured Guaranty Municipal Corp., 1633 Broadway, New York, New York 10019, Attention: Managing Director-Surveillance, Re: Policy No. _____ Telephone: (212) 974-0100; Telecopier: (212)339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

(r) The Insurer shall be provided with the following information by the Issuer or Paying Agent, as the case may be:

i. Annual audited financial statements within 365 days (or such longer period agreed to by Insurer) after the end of the Issuer's fiscal year (together with a certification of the Issuer that it is not aware of any default or Event of Default under the Resolution), and the Issuer's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;

- ii. Notice of any default known to the Paying Agent or Issuer within five Business Days after knowledge thereof;
- iii. Prior notice of the advance refunding or redemption of any of the Insured Certificates, including the principal amount, maturities and CUSIP numbers thereof;
- iv. Notice of the resignation or removal of the Paying Agent and Certificate Registrar and the appointment of, and acceptance of duties by, any successor thereto;
- v. Notice of the commencement of any proceeding by or against the Issuer commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");
- vi. Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Insured Certificates;
- vii. A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents; and
- viii. All reports, notices and correspondence to be delivered to Certificateholders under the terms of the Related Documents.

In addition, to the extent that the Issuer has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Insured Certificates, all information furnished pursuant to such agreements shall also be provided to the Insurer, simultaneously with the furnishing of such information.

2. All other provisions of Resolution 2021-21 remain in full force and effect subject to the amendment.

3. This Certificate Resolution shall take effect upon passage for the terms were authorized in Resolution 2021-21 which is in effect.

Motion by Member _____ Said motion was seconded by Member _____ and upon vote being taken the following voted AYE: Rosenau, Deibert, Flanagan, Ewing and Sleep and the following voted NAY: None.

IN WITNESS WHEREOF, we have hereunto set our hands and official seal of Lawrence County, this 23rd day of November, 2021.

ATTEST:

Chairman

County Auditor