

COVENANT AGREEMENT

THIS AGREEMENT, dated August 5, 2010 (the "Agreement"), by and between the CITY OF PHILADELPHIA, PENNSYLVANIA (the "City") and U.S. BANK NATIONAL ASSOCIATION, as fiscal agent (the "Fiscal Agent") under a Bond Committee Determination, dated July 28, 2010 (the "Determination").

WITNESSETH

WHEREAS, the City is authorized to issue water and wastewater revenue bonds pursuant to the First Class Revenue Bond Act, as amended (the "Act") and the Restated General Water and Wastewater Revenue Bond Ordinance of 1989 (Bill No. 544 approved by the Mayor on June 24, 1993) (the "General Ordinance"); and

WHEREAS, the City has authorized the issuance of \$185,000,000 aggregate principal amount of Water and Wastewater Revenue Bonds, Series 2010C (the "2010C Bonds") pursuant to a Eleventh Supplemental Ordinance (Bill No. 060620, approved by the Mayor on November 16, 2006) (the "Eleventh Supplemental Ordinance"); and

WHEREAS, the City, pursuant to the Determination, has decided to insure the 2010C Bonds pursuant to a municipal bond insurance policy (the "Policy") issued by Assured Guaranty Municipal Corp. (the "Bond Insurer"); and

WHEREAS, the Bond Insurer has conditioned the issuance of the Policy on the agreement by the City to certain covenants with respect to the 2010C Bonds; and

WHEREAS, the Fiscal Agent desires to enter into this Agreement as agent for the beneficial owners of the 2010C Bonds, pursuant to the Determination in order to facilitate the issuance of the Policy.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Fiscal Agent and the City agree as follows:

ARTICLE I COVENANTS

Section 1. Subrogation. The Bond Insurer shall be deemed to be the sole holder of the 2010C Bonds 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 2010C Bonds are entitled to take pursuant to Article VIII (pertaining to defaults and remedies) and Article IX (pertaining to amendments and supplements) of the General Ordinance.

The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the 2010C Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Policy.

Section 2. Defeasance of Insured Bonds. Only (a) cash, (b) non-callable direct obligations of the United States of America ("Treasuries"), (c) 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, (d) pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively or (e) securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be authorized to be used to effect defeasance of the Insured Bonds unless the Bond Insurer otherwise approves.

To accomplish defeasance, the City shall cause to be delivered (w) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Bond Insurer (the "Accountant") verifying the sufficiency of the escrow established to pay the Insured Bonds in full on the maturity or redemption date ("Verification"), (x) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Bond Insurer), (y) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under the General Ordinance and (z) a certificate of discharge of the Fiscal Agent with respect to the Insured Bonds. Each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the City, the Fiscal Agent and the Bond Insurer. The Bond Insurer shall be provided with final drafts of the above-referenced documentation not fewer than five business days prior to the funding of the escrow.

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

Section 3. Financial Reports and Other Notices. The City shall provide the Bond Insurer with the following information:

(a) Annual audited financial statements within 240 days after the end of the City's fiscal year and the City's annual budget within 30 days after the approval thereof;

(b) Upon delivery of the annual audited financial statements of the City, a certificate of the chief financial officer of the City stating that, to the best of such individual's knowledge following reasonable inquiry, no event of default (or any event which, once all notice or grace periods have passed, would constitute an event of default) has occurred, or if an event of default has occurred, specifying the nature thereof and, if the City has a right to cure pursuant to the General Ordinance, stating in reasonable detail the steps, if any, being taken by the City to cure such event of default;

(c) Notice of any draw upon the Debt Reserve Account within two (2) business days after knowledge thereof other than withdrawals of amounts in excess of the Debt Reserve Requirement;

(d) Notice of any default known to the Fiscal Agent or the City within five (5) business days after knowledge thereof;

(e) Notice of the resignation or removal of the Fiscal Agent and the appointment of, and acceptance of duties by, any successor thereto;

(f) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");

(g) 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 or, or interest on, the 2010C Bonds;

(h) A full original transcript of all proceedings relating to the execution of any amendment to the General Ordinance or any transaction documents relating to the issuance of the 2010C Bonds (the "Related Documents");

(i) All reports, notices and correspondence to be delivered under the terms of the General Ordinance or any of the Related Documents; and

(j) Such additional information as the Bond Insurer from time to time may reasonably request.

The foregoing reports and notices shall be mailed, postage prepaid, to the Bond Insurer at the following address:

Assured Guaranty Municipal Corp.
31 West 52nd Street
New York, New York 10019

In each case in which notice or other communication refers to an Event of Default (as defined in the Policy), then a copy of such notice or other communication shall also be sent to the attention of the General Counsel of the Bond Insurer and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

Section 4. Deposits to Debt Reserve Account. The City shall obtain the prior written consent of the Bond Insurer before depositing into the Debt Reserve Account any credit instrument provided in lieu of cash. Amounts in the Debt Reserve Account shall be used only as permitted by the General Ordinance to pay principal, redemption premium and interest (including payments under Swap Agreement, as defined in the General Ordinance) of bonds issued pursuant to the General Ordinance.

Section 5. Covenant Defaults. No grace period for a covenant default by the City with respect to 2010C Bonds shall exceed 30 days, nor be extended for more than 60 days, without the prior written consent of the Bond Insurer. No grace period shall be permitted for payment defaults on payments of principal and interest of 2010C Bonds.

Section 6. Additional Bonds. Notwithstanding satisfaction of other conditions to the issuance of bonds contained in the General Ordinance, no such issuance may occur (a) should

any Event of Default (as defined in the Policy), or any event which, once all notice or grace periods have passed, would constitute an Event of Default, have occurred and be continuing unless such default shall be cured upon such issuance and (b) unless the Debt Reserve Account is fully funded at its required level (including the new issue) upon the issuance of such additional bonds, in either case unless otherwise permitted by the Bond Insurer.

Section 7. Additional Rate Covenant. So long as the 2010C Bonds are outstanding, commencing July 1, 2011 and for each fiscal year of the City thereafter, the City covenants to establish rates and charges for the use of the System sufficient to yield Net Revenues (excluding amounts transferred from the Rate Stabilization Fund into the Revenue Fund during, or as of the end of, such fiscal year) at least equal to 90% of the Debt Service Requirements (excluding debt service on any Subordinated Bonds) in such fiscal year. In addition, the City covenants that any calculation by a consulting engineer of projected Rate Covenant compliance in connection with the proposed issuance of additional Bonds for each fiscal year ending on or after June 30, 2010 must state that Net Revenues (excluding amounts transferred from the Rate Stabilization Fund into the Revenue Fund during, or as of the end of, such fiscal year) in each fiscal year included in the projection period are projected to be at least equal to 90% of the Debt Service Requirements (excluding debt service on any Subordinated Bonds) in such fiscal year. This covenant is in addition to the Rate Covenant contained in Section 5.01 of the General Ordinance and may be amended or waived by the Bond Insurer in its sole discretion without the consent of the holders of the 2010C Bonds.

Section 8. Acceleration of the 2010C Bonds. The maturity of 2010C Bonds shall not be accelerated without the consent of the Bond Insurer and in the event the maturity of the 2010C Bonds is accelerated, the Bond 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 City) and the Fiscal 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 Bond Insurer's obligations under the Policy with respect to such 2010C Bonds shall be fully discharged.

Section 9. Limitation on Rights of the Bond Insurer. Rights of the Bond Insurer to direct or consent to actions by the City, the Fiscal Agent or Bondholders under the General Ordinance shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Policy (except to the extent of amounts previously paid by the Bond Insurer) and shall be of no force or effect in the event (i) the Policy is no longer in effect, (ii) the Bond Insurer asserts that the Policy is not in effect or (iii) the Bond Insurer shall have provided written notice that it waives such rights.

Section 10. Effect of Payments Under the Policy. Amounts paid by the Bond Insurer under the Policy shall not be deemed paid for purposes of the General Ordinance and shall remain Outstanding and continue to be due and owing until paid by the City in accordance with the General Ordinance. The General Ordinance shall not be discharged unless all amounts due or to become due to the Bond Insurer have been paid in full.

Section 11. Claims Upon the Policy and Payments by and to the Bond Insurer.

(a) 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 general Ordinance, moneys sufficient to pay the principal of and interest on the 2010C Bonds due on such Payment Date, the Paying Agent shall give notice to the Bond 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 City 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 2010C Bonds due on such Payment Date, the Paying Agent shall make a claim under the 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 2010C Bonds and the amount required to pay principal of the 2010C Bonds, confirmed in writing to the Bond Insurer and the Insurer’s Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Policy.

(b) The Paying Agent shall designate any portion of payment of principal on 2010C Bonds paid by the Bond 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 2010C Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement 2010C Bond to the Bond Insurer, registered in the name of Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance Inc.), 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 2010C Bond shall have no effect on the amount of principal or interest payable by the City on any 2010C Bond or the subrogation rights of the Bond Insurer.

(c) The Paying Agent shall keep a complete and accurate record of all funds deposited by the Bond Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any 2010C Bond. The Bond Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

(d) Upon payment of a claim under the Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Bondholders 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 Policy in trust on behalf of Bondholders 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 claims was made. Such amounts shall be disbursed by the Paying Agent to Bondholders in the same manner as principal and interest payments are to be made with respect to the 2010C Bonds under the sections hereof regarding payment of 2010C Bonds. 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 City agrees to pay to the Bond Insurer (i) a sum equal to the total of all amounts paid by the Bond Insurer under the Insurance Policy (the "Insurer Advances"), and (ii) interest on such Insurer Advances from the date paid by the Bond Insurer until payment thereof in full, payable to the Bond Insurer at the Late Payment Rate per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (1) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City 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 (2) the then applicable highest rate of interest on the 2010C Bonds 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 City hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Trust Estate and payable from such Trust Estate on a parity with debt service due on the 2010C Bonds.

(e) 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 an 2010C Bond payment date shall promptly be remitted to the Bond Insurer.

Section 12. Expenses of the Bond Insurer. The City shall pay or reimburse the Bond Insurer any and all reasonable charges, fees, costs and expenses which the Bond Insurer may pay or incur in connection with (a) the administration, enforcement, defense or preservation of any rights or security in any of the Related Documents, (b) the pursuit of any remedies under the General Ordinance or any other Related Document or otherwise afforded by law or equity, (c) any amendment, waiver or other action with respect to, or related to, the General Ordinance or any other Related Document whether or not executed or completed, (d) the violation by the City of any law, rule or regulation, or any judgment, order or decree applicable to or related to the 2010C Bonds, or (e) any litigation or other dispute in connection with the General Ordinance or any other Related Document or the transactions contemplated thereby, other than amounts resulting from the failure of the Bond Insurer to honor its obligations under the Policy. The Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver of consent proposed in respect of the General Ordinance or any other Related Document.

Section 13. Further Assurances. Each of the City and the Fiscal Agent covenant and agree to take such action (including, as applicable, the filing of financing statements and continuation statements required under the Uniform Commercial Code) as is necessary from time to time to perfect or otherwise preserve the priority of the pledge of Project Revenues as set forth in the General Ordinance.

**ARTICLE II
SUCCESSORS TO FISCAL AGENT**

In the event that a successor fiscal agent is appointed pursuant to the General Ordinance, the covenants contained herein shall continue to be binding on the successor fiscal agent and such successor fiscal agent shall be entitled to all of the rights and interests granted by the City to the Fiscal Agent herein.

**ARTICLE III
BREACH OF COVENANTS**

A breach of a covenant herein will be considered a breach of a covenant with respect only to the 2010C Bonds for purposes of the Act and the General Ordinance.

**ARTICLE IV
AMENDMENTS AND MODIFICATIONS**

No provision of the General Ordinance or the Determination expressly recognizing or granting rights in or to the Bond Insurer or affecting the security for the 2010C Bonds (including Articles IV, V, VIII and IX of the General Ordinance) shall be modified without the consent of the Bond Insurer. This Agreement shall not be amended or modified without the prior written consent of the Bond Insurer. Copies of any modification or amendment to the General Ordinance, the Determination or this Agreement shall be sent to S&P and Moody's at least 10 days prior to the effective date thereof. No contract shall be entered into nor any action taken by which the rights of the Bond Insurer or security for or sources of payment of the 2010C Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Bond Insurer. In determining whether any amendment, consent or other action to be taken, or any failure to act, under the General Ordinance would adversely affect the security for the 2010C Bonds or the rights of holders of the 2010C Bonds, the Fiscal Agent shall consider the effect of any such amendment, consent, action or inaction as if there were no Policy.

**ARTICLE V
ACTIONS BY THE BOND INSURER**

The rights granted under the Determination to the Bond Insurer to request, consent to or direct any action are rights granted to the Bond Insurer in consideration of its issuance of the Policy. Any exercise by the Bond Insurer of such rights is merely an exercise of the Bond Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit of or on behalf of the owners of 2010C Bonds nor does such action evidence any position of the Bond Insurer, positive or negative, as to whether bondholder consent is required in addition to consent of the Bond Insurer.

**ARTICLE VI
DEFINITIONS**

Capitalized words not otherwise defined in this Agreement shall have the meanings ascribed to such words in the General Ordinance.

ARTICLE VII
THIRD PARTY BENEFICIARY

The Bond Insurer is recognized to be a third party beneficiary of this Agreement, the Determination and the General Ordinance as each relates to or affects, or is affected by, this Agreement.

IN WITNESS WHEREOF, THE CITY OF PHILADELPHIA has caused this Agreement to be executed by its duly authorized representative, and U.S. BANK NATIONAL ASSOCIATION, has caused this Agreement to be executed by its duly authorized officer, as of the date and year first written above.

CITY OF PHILADELPHIA, PENNSYLVANIA

By: 
Name: Rob Dubow
Title: Director of Finance

U.S. BANK, NATIONAL ASSOCIATION,
as Fiscal Agent
By: 
Authorized Officer