

CITY OF COLUMBIA, SOUTH CAROLINA

ORDINANCE NO. 2006-092

APPROVING THE PURCHASE OF A SURETY BOND IN REPLACEMENT FOR MONEYS DEPOSITED INTO THE CITY'S 1993 DEBT SERVICE RESERVE FUND RELATING TO ITS WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1993; APPROVING THE EXECUTION AND DELIVERY OF A GUARANTY AGREEMENT BY THE CITY; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms used in this Ordinance shall have the respective meanings given to them in the General Bond Ordinance (defined below) and in Section 1 of this Ordinance.

"1993 Bonds" shall mean the \$74,765,000 original principal amount Water and Sewer System Refunding Revenue Bonds, Series 1993, dated June 16, 1993.

"1993 Debt Service Reserve Fund" shall mean the Fund established pursuant to Section 5 of the First Supplemental Ordinance (i) to insure the timely payment of the principal and interest on the 1993 Bonds and (ii) to provide for the redemption of the 1993 Bonds.

"1993 Reserve Fund Requirement" shall mean an amount equal to the least of (a) ten percent (10%) of the original proceeds of the 1993 Bonds; (b) the Maximum Debt Service on the 1993 Bonds; or (c) 125% of the average annual Debt Service on the 1993 Bonds.

"1993 Surety Bond" shall mean the surety bond issued by AMBAC Assurance guaranteeing certain payments into the 1993 Debt Service Reserve Fund with respect to the 1993 Bonds as provided therein and subject to the limitations set forth therein.

"AMBAC Assurance" shall mean AMBAC Assurance Corporation, a Wisconsin domiciled stock insurance company.

"City" shall mean the City of Columbia, South Carolina.

"Council" shall mean the City Council of the City.

"First Supplemental Ordinance" shall mean the First Supplemental Ordinance No. 1993-44 enacted by the Council on May 21, 1993, authorizing the issuance of the 1993 Bonds.

“General Bond Ordinance” shall mean General Bond Ordinance No. 93-43 enacted on May 21, 1993, by the Council.

“Guaranty Agreement” shall mean the Guaranty Agreement between the City and AMBAC Assurance.

“Ordinance” shall mean this Ordinance.

“Surety Bond” shall mean the Replacement Surety Bond for the 1993 Debt Service Reserve Fund.

“System” shall mean the existing waterworks system and sewer system of the City, as defined and described in the General Bond Ordinance.

Section 2. Certain Findings and Determinations.

The City hereby finds and determines:

(a) The City is an incorporated municipality located in a portion of Lexington County and Richland County, South Carolina, and as such has all powers granted to municipalities by the Constitution and general laws of this State.

(b) The System is operated under the direction of the City Manager, and furnishes water and sewer service throughout the City and in certain territories adjacent thereto.

(c) The City has heretofore enacted the General Bond Ordinance to authorize and provide for the issuance of Water and Sewer System Revenue Bonds.

(d) The General Bond Ordinance provides that a Supplemental Ordinance may provide for the establishment of a Debt Service Reserve Fund for any Series of Bonds to insure the timely payment of the principal of and interest on the applicable Series of Bonds and to provide for the redemption of such Series of Bonds prior to their stated maturities. The General Bond Ordinance further provides that the respective Debt Service Reserve Funds shall be kept on deposit with the City and withdrawals therefrom shall be made for the purposes provided in the General Bond Ordinance.

(e) Pursuant to the General Bond Ordinance and the First Supplemental Ordinance, the City has heretofore issued the 1993 Bonds. The 1993 Reserve Fund Requirement was satisfied by the transfer to the 1993 Debt Service Reserve Fund of \$3,103,975 of moneys on deposit in the debt service reserve fund for the City’s 1989 Bonds which were refunded with a portion of the proceeds of the 1993 Bonds and a surety bond (Policy No. SB00182BE) (the “Existing Surety Bond”) previously issued by Ambac Assurance in the amount of \$4,240,431.07.

(f) The First Supplemental Ordinance provides that the City, by way of substitution for any cash on deposit in the 1993 Debt Service Reserve Fund, may satisfy all or a portion of the 1993 Reserve Fund Requirement by causing to be credited to such Fund an unconditional and irrevocable surety bond payable to the City for the benefit of the Holders of the 1993 Bonds in an amount which together with other moneys on deposit in the 1993 Debt Service Reserve Fund is equal to the 1993 Reserve Fund Requirement. The General Bond Ordinance provides that if the City obtains a surety bond in substitution for moneys deposited in the applicable Debt Service Reserve Fund as may be permitted under the applicable Supplemental Ordinance, excess moneys in the Debt Service Reserve Fund shall be transferred to the applicable Construction Fund, or if one does not exist, be considered Revenues.

(g) The City has received a Commitment for Replacement Surety Bond from AMBAC Assurance dated October 11, 2006 (the "AMBAC Commitment"), whereby AMBAC Assurance has agreed to issue a replacement surety bond (the "Surety Bond") payable to the City for the benefit of the Holders of the 1993 Bonds in an amount equal to \$3,103,975 (subject to change with AMBAC Assurance's approval) which together with the Existing Surety Bond will equal the 1993 Reserve Fund Requirement.

(h) The Council further finds and determines (i) that it is in the best interest of the City to satisfy the 1993 Reserve Fund Requirement with the Surety Bond as permitted by the First Supplemental Ordinance and the General Bond Ordinance; (ii) that no Construction Fund currently exists in connection with the 1993 Bonds; and (iii) that it is advisable to transfer any amounts in the 1993 Debt Service Reserve Fund to be applied to pay the interest and principal next coming due on the 1993 Bonds.

Section 3. Approval of Guaranty Agreement. The Guaranty Agreement in substantially the form presented to Council at its meeting at which final reading was given to this Ordinance and a copy of which was filed with the minutes of Council, with such changes as the executing officers shall approve (the execution to be conclusive evidence of such approval), are hereby approved and the execution and delivery of the Guaranty Agreement are hereby authorized and directed. The Guaranty Agreement shall be executed on behalf of the City by the Mayor or the City Manager.

Section 4. Approval of Purchase of Surety Bond. The Council hereby approves (1) the purchase of the Surety Bond from AMBAC Assurance; (2) the credit of the Surety Bond in the amount of \$3,103,975 to the 1993 Debt Service Reserve Fund; (3) the payment of the premium for the Surety Bond by the City; and (4) the transfer of amounts held in the 1993 Debt Service Reserve Fund as directed by the Chief Financial Officer.

Section 5. Other Instruments and Actions. In order to implement the actions approved in Section 3 and Section 4 above, and to give full effect to the intent and meaning of this Ordinance and the agreements and actions herein authorized, the Mayor, City Manager and Clerk are hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as the City shall deem necessary or desirable.

Section 6. Further Actions. The Mayor, City Manager, Clerk and City Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate the substitution of the Surety Bond for the moneys held in the 1993 Debt Service Reserve Fund including the acceptance and execution of the commitment of AMBAC Assurance relating to the Surety Bond and the execution and delivery of the Guaranty Agreement and to carry out the intentions of this Ordinance.

Section 7. Surety Bond and Special Provisions Required Thereby. As long as the Surety Bond shall be in full force and effect, the City agrees to comply with the provisions of Section 12 of the First Supplemental Ordinance.

(a) Consent of AMBAC Assurance. Any provision of the First Supplemental Ordinance or this Ordinance expressly recognizing or granting rights in or to AMBAC Assurance may not be amended in any manner which affects the rights of AMBAC Assurance hereunder without the prior written consent of AMBAC Assurance. AMBAC Assurance reserves the right to charge the City a fee for any consent or amendment to the First Supplemental Ordinance or this Ordinance while the Surety Bond is outstanding.

(b) Consent of AMBAC Assurance in Addition to Holder Consent. Unless otherwise provided in this Section 7, AMBAC Assurance's consent shall be required in addition to consent of the Holders of the 1993 Bonds, when required, for the following purposes: (i) execution and delivery of any amendment, supplement or change to or modification of the First Supplemental Ordinance or this Ordinance; (ii) removal of the paying agent for the 1993 Bonds or selection and appointment of any successor paying agent; and (iii) initiation or approval of any action not described in (i) or (ii) above which requires Holder consent.

(c) Notices to be Given to AMBAC Assurance.

(1) While the Surety Bond is in effect, the City shall furnish to the attention of the Surveillance Department of AMBAC Assurance the following:

A. upon request of AMBAC Assurance, a copy of any financial statement of the City, a copy of any audit and annual report of the City and such additional information as AMBAC Assurance may reasonably request.

B. a copy of any notice to be given to the Holders of the 1993 Bonds, including, without limitation, notice of any redemption of or defeasance of the 1993 Bonds, and any certificate rendered pursuant to the General Bond Ordinance, the First Supplemental Ordinance or this Ordinance relating to the security of the 1993 Bonds.

C. to the extent that the City has entered into a continuing disclosure agreement with respect to the 1993 Bonds, a copy of any notice provided thereunder.

(d) Other Information to be Given to AMBAC Assurance. The City will permit AMBAC Assurance to discuss the affairs, finances and accounts of the City or any information AMBAC Assurance may reasonably request regarding the security for the 1993 Bonds with appropriate officers of the City. The City will permit AMBAC Assurance to have access to the projects financed with the proceeds of the 1993 Bonds and have access to and to make copies of all books and records relating to the 1993 Bonds at any reasonable time.

Section 8. Headings. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 9. Notices. All notices, certificates or other communications hereunder or under this Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the City:

City of Columbia, South Carolina
Attention: City Manager
1737 Main Street
Post Office Box 147
Columbia, South Carolina 29217

If to the Registrar or Paying Agent:

The Bank of New York Trust Company
Attention: Corporate Trust
10161 Centurion Parkway
Jacksonville, Florida 32256

If to AMBAC Assurance:

Ambac Assurance Corporation
Attention: Surveillance Group
One State Street Plaza, 17th Floor
New York, New York 10004

The City, the Registrar, the Paying Agent and AMBAC Assurance may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the City, and any part of any ordinance or resolution inconsistent with the Ordinance are hereby repealed to the extent of such inconsistency.

Section 11. Effective Date. This Ordinance shall become effective upon its enactment.

[Signature Page Follows]

Enacted by the City Council of the City of Columbia, South Carolina, this 15th day of November, 2006.

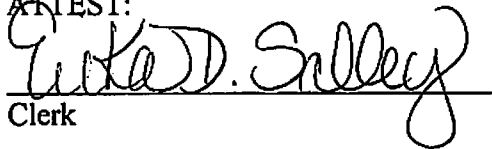
CITY COUNCIL OF THE CITY OF COLUMBIA,
SOUTH CAROLINA

By: _____
Mayor



(SEAL)

ATTEST:


Clerk

Date of First Reading: November 8, 2006
Date of Second Reading: November 15, 2006