
CITY OF COLUMBIA, SOUTH CAROLINA

GENERAL BOND ORDINANCE NO.: 2018-013

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF STORMWATER SYSTEM REVENUE BONDS OF THE CITY OF COLUMBIA, SOUTH CAROLINA; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY TO THE NET REVENUES DERIVED FROM THE OPERATION OF THE SYSTEM AND PLEDGING SUCH NET REVENUES TO SUCH PAYMENT; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING.

Enacted: May 15, 2018

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

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall, for all purposes of this Ordinance and of any ordinance, resolution, certificate, opinion, instrument or other document herein or therein mentioned, have the meanings herein specified. Definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined and vice versa. The term:

"2018 Bonds" means the not exceeding \$50,000,000 Stormwater System Revenue Bonds, in one or more series, authorized by this Ordinance and the First Supplemental Ordinance.

"Accountant" shall mean an independent certified public accountant or a firm of independent certified public accountants selected by the City.

"Annual Budget" shall mean the annual budget required by Section 7.9 hereof.

"Bank" shall mean any bank, depository or trust company selected by the City as custodian of a Construction Fund.

"Bond" or "Bonds" shall mean any Bond (including the 2018 Bonds), some of the Bonds or all of the Bonds issued under and pursuant to Article III hereof, excluding bonds or other indebtedness issued under Section 3.5 or Section 3.6 hereof.

"Bond Act" shall mean Title 6, Chapter 21, Code of Laws of South Carolina 1976, as amended (being the Revenue Bond Act for Utilities), and all other statutory authorizations, now or hereinafter enacted, authorizing and enabling the City to provide for the issuance of the Bonds, including, if applicable, with respect to any Series of refunding Bonds, Title 11, Chapters 15 and 21, Code of Laws of South Carolina 1976, as amended.

"Bond and Interest Redemption Fund" shall mean the respective funds of that name established pursuant to Section 6.7 of this Ordinance and so designated pursuant to a Supplemental Ordinance to provide for the payment of the principal of and interest on the respective Series of Bonds issued pursuant to this Ordinance as the same respectively become due and payable.

"Bond Counsel" shall mean any attorney or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States.

"Bond Redemption Account" shall mean the account by that name created within each respective Bond and Interest Redemption Fund.

"Bondholders" or the term "Holders" or any similar term shall mean the registered owner or owners of any Outstanding Bond or Bonds.

"Books of Registry" shall mean the registration books maintained by the Registrar in accordance with Section 4.3 hereof.

"Business Day" shall mean, except as otherwise provided with respect to a Series of Bonds in a Supplemental Ordinance, any day other than a Saturday, a Sunday or a day which shall be in the State or the state in which the principal office of the Custodian is located a legal holiday or a day on which banking institutions are authorized by law or executive order to close.

"Capital Lease" shall mean any lease of property with respect to the System which, in accordance with generally accepted accounting principles, has been or should be capitalized on the City's balance sheet or for which the amount of the asset and liability thereunder as if so capitalized should be disclosed in a note to the balance sheet.

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

"City Representative" shall mean the person or persons at the time designated to act on behalf of the City for the purpose of performing any act under this Ordinance or any Supplemental Ordinance by a written certificate furnished to the Bank or Custodian containing the specimen signature of such person or persons and signed on behalf of the City by the City Manager or the City Clerk.

"Construction Fund" shall mean any fund established with and maintained by the Bank selected by the City, and derived from certain of the proceeds of the sale of the Bonds and intended to defray the costs of all or a portion of any Project and to pay Costs of Acquisition and Construction (exclusive of any capitalized interest on Bonds which may be deposited in a Bond and Interest Redemption Fund) in connection therewith, as established in a Supplemental Ordinance authorizing the issuance of any Series of Bonds.

"Consulting Engineer" shall mean the engineer or engineering firm or corporation registered and qualified to practice the profession of engineering under the laws of the State and having a favorable reputation for skill and experience in the construction and operation of stormwater and drainage systems, employed by the City to perform and carry out the duties imposed by this Ordinance, and who or which is not a full-time employee of the City.

"Contingent Fund" shall mean the fund of that name established pursuant to Section 6.10 of this Ordinance.

"Costs of Acquisition and Construction" shall mean, to the extent permitted by the Bond

Act, all costs of acquiring, reconstructing, replacing, extending, repairing, bettering, improving, equipping, developing, embellishing or otherwise improving the System, including the Costs of Issuance and capitalized interest on Bonds. Costs of Acquisition and Construction shall include the payment of amounts due on bond anticipation notes, the proceeds of which were used for Costs of Acquisition and Construction.

"Costs of Issuance" shall mean all items of expense, directly or indirectly payable or reimbursable by or to the City and related to the authorization, sale and issuance of Bonds including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any Bank, Custodian, Registrar or Paying Agent, legal fees and charges, auditing and accounting fees and charges, fees and disbursements of consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of Bonds, costs and expenses of any refunding, premiums for insurance relating to the issuance of Bonds, financing charges, and any other costs, charges or fees in connection with the original issuance of Bonds.

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

"Custodian" shall mean Regions Bank appointed pursuant to Section 8.1 hereof to hold the Bond and Interest Redemption Funds and the Debt Service Reserve Funds, and any successor Custodian appointed in accordance with Section 8.2 hereof.

"Debt Service" shall mean, with respect to each Series of Bonds and with respect to any particular Fiscal Year, the aggregate of the amounts to be paid or set aside (or estimated to be required to be paid or set aside) in the applicable Bond and Interest Redemption Fund in such Fiscal Year for the payment of the principal of, redemption premium, if any, and interest (to the extent not payable from the proceeds of Bonds or investment earnings thereon) on such Series of Bonds; provided that (a) the interest on Variable Rate Indebtedness then Outstanding shall be calculated at the actual average rate of interest on the Variable Rate Indebtedness during the twelve (12) months immediately preceding the date of calculation (or such lesser period during which the Variable Rate Indebtedness has been Outstanding); (b) for purposes of Section 3.3 hereof, (1) interest on Variable Rate Indebtedness then proposed to be issued shall be calculated at the initial interest rate on such Variable Rate Indebtedness and (2) interest on Variable Rate Indebtedness then Outstanding shall be calculated at the current interest rate on such Variable Rate Indebtedness, in each case of which such interest rate may be based on an index rate determined no more than two weeks prior to such calculation; and (c) in the case of Bonds which have been or will be issued as taxable obligations, for which the City has or will be entitled to receive a payment or subsidy that effectively reduces the City's debt service payment obligation therefor (including but not limited to Build America Bonds ("BABs")), the amount to be paid or set aside in the applicable Bond and Interest Redemption Fund in each Fiscal Year for such payment of Debt Service will be reduced by the payment that the City has or will be entitled to receive for such purpose.

"Debt Service Reserve Fund" shall mean the respective funds, if any, of that name established pursuant to Section 6.8 of this Ordinance, and so designated pursuant to a Supplemental

Ordinance to provide for the payment of the principal of and interest on the respective Series of Bonds issued pursuant to this Ordinance and such Supplemental Ordinance as the same respectively come due and payable.

"Default" or "Event of Default" shall mean any of those defaults specified in and defined by Article X hereof.

"Depreciation Fund" shall mean the fund of that name established pursuant to Section 6.9 of this Ordinance.

"Expenses of Operating and Maintaining the System" shall mean the current expenses, paid or accrued, of operation, administration, maintenance and current repair of the System, as calculated in accordance with generally accepted accounting practices, and shall include, without limiting the generality of the foregoing, administrative charges, salaries, wages, employee benefits, costs of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, properly allocable share of City administrative and overhead expenses, costs of billings and collections, costs of any audit of the System, the premiums for all insurance required with respect to the System, taxes, if any, and amounts payable by way of arbitrage rebate. Expenses of Operating and Maintaining the System shall not include (i) the payment of interest on Bonds or other System-related indebtedness, (ii) capital outlay or any renewals or replacements of capital assets of the System, (iii) any allowance for depreciation, (iv) any amounts deemed to be payments in lieu of taxes or other equity transfers, (v) any pension-related and other post-employment benefit-related expenses (other than such amounts actually paid) of the System, (vi) any payment or amortization of financing expenses, underwriting discounts, call premiums, losses on the extinguishment of debt due to refinancing of the same, and other related and non-recurring expenses resulting from the issuance or refinancing of long term indebtedness, or (vii) any losses on the sale or other disposition of investments or fixed or capital assets.

"First Supplemental Ordinance" shall mean the First Supplemental Ordinance No. 2018-014 enacted by the Council contemporaneous with this Ordinance, authorizing the 2018 Bonds.

"Fiscal Year" shall mean the fiscal year for the System as determined by the Council, initially being the period from July 1 in any year to and including June 30 in the following year.

"Government Obligations" shall mean, except as limited with respect to the funds and accounts relating to a Series of Bonds by a Supplemental Ordinance, any of the following to the extent now or hereafter permitted by the laws of the State:

- (a) cash;
- (b) non-callable bonds, notes or direct obligations and general obligations of the United States;
- (c) non-callable, U.S. Treasury Certificates, Notes and Bonds (including State and Local

Government Series - "SLGS");

(d) non-callable, direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury;

(e) bonds or debentures issued by any Federal Home Loan Bank or consolidated bonds or debentures issued by the Federal Home Loan Bank Board;

(f) non-callable, obligations issued by any agency or instrumentality of the United States of America which are backed by the full faith and credit of the United States;

(g) prerefunded municipal bonds which are rated in the highest rating categories by a Rating Agency; and

(h) any legally permissible combination of any of the foregoing.

"Interest Account" shall mean the account by that name created within each respective Bond and Interest Redemption Fund.

"Interest Payment Date" shall mean the respective interest payment dates for a Series of Bonds as determined by a Supplemental Ordinance.

"Junior Bonds" shall mean either: (a) bonds or bond anticipation notes secured by a pledge of Net Revenues junior and subordinate in all respects to the pledge securing the Bonds; or (b) any other form of indebtedness, including a Capital Lease secured by Net Revenues after provision has been made for all payments required to be made with respect to the Bonds, which bonds, notes, or other indebtedness may be authorized by an ordinance of Council which is not supplemental to this Ordinance.

"Maximum Debt Service" shall mean the highest aggregate principal and interest requirements (to the extent not paid from the proceeds of Bonds or investment earnings thereon) on the Bonds then Outstanding during any then current or future Fiscal Year; provided that for purposes of Section 3.3 hereof, (1) interest on Variable Rate Indebtedness then proposed to be issued shall be calculated at the initial interest rate on such Variable Rate Indebtedness and (2) interest on Variable Rate Indebtedness then Outstanding shall be calculated at the current interest rate on such Variable Rate Indebtedness, in each case of which such interest rate may be based on an index rate determined no more than two weeks prior to such calculation; and provided further, that in the case of Bonds which have been or will be issued as taxable obligations, for which the City has or will be entitled to receive a payment or subsidy that effectively reduces the City's debt service payment obligation therefor (including but not limited to BABs), the highest aggregate principal and interest requirements for such Bonds during any Fiscal Year will be reduced by the payment that the City has or will be entitled to receive therefor.

"Net Revenues" shall mean the Revenues of the System after deducting the Expenses of Operating and Maintaining the System.

"Operation and Maintenance Fund" shall mean the fund of that name established pursuant to Section 6.10 of this Ordinance.

"Ordinance" shall mean this ordinance as from time to time amended or supplemented by one or more Supplemental Ordinances.

"Outstanding" when used with respect to any Bond shall have the construction given to such word in Article XII hereof; i.e., a Bond shall not be Outstanding if such Bond is not, or would not be, at the time, deemed to be Outstanding by reason of the operation and effect of said Article XII.

"Paying Agent" shall mean for each Series of Bonds the respective paying agent or paying agents appointed pursuant to the proceedings authorizing such Bonds.

"Permitted Investments" shall mean, except as limited with respect to the funds and accounts relating to a Series of Bonds by a Supplemental Ordinance, (a) any one or more of the investments now or hereafter permitted by Section 6-5-10 the South Carolina Code, and in effect from time to time, or any authorization relating to the investment of funds hereunder; and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment fund.

"Principal Account" shall mean the account by that name created within each respective Bond and Interest Redemption Fund.

"Principal Payment Date" shall mean the respective principal payment dates for a Series of Bonds as determined by a Supplemental Ordinance, including any mandatory sinking fund redemption dates.

"Project" shall mean any work, undertaking or project which the City is or may hereafter be authorized to construct or acquire with the proceeds of any Bonds and which will become a part of the System including the acquisition of any system which shall be combined with or consolidated into the System pursuant to law.

"Rate Covenant" shall mean the covenant as to fees, rates and other charges described in Section 7.1 hereof.

"Rating Agency" means any rating service that has issued a credit rating on any Series of Bonds which is in effect at the time in question or, upon discontinuance of any of such rating services, such other nationally recognized rating service or services if any such rating service has issued a credit rating on such Series of Bonds at the request of the City and such credit rating is in effect at the time in question.

"Record Date" shall mean with respect to any Series of Bonds the fifteenth (15th) day (whether or not a Business Day) of the calendar month immediately preceding an Interest Payment Date or such other day as may be provided in the Supplemental Ordinance authorizing the issuance of such Series of Bonds.

"Registrar" shall mean for each Series of Bonds the registrar appointed pursuant to the proceedings authorizing such Bonds.

"Reserve Fund Requirement" shall mean, as of the date of calculation, the debt service reserve fund requirement, if any, established pursuant to a Supplemental Ordinance authorizing the issuance of a Series of Bonds.

"Revenue Fund" shall mean the fund of that name established pursuant to Section 6.5 of this Ordinance.

"Revenues" shall mean all receipts, income, revenues, fees and other charges to be imposed and collected in connection with, and all other income and receipts of whatever kind or character derived by the City from the establishment and operation of the System, including, but not limited to, stormwater utility fees and charges, interest earnings and other earnings or investments, as such earnings or investments are computed in accordance with generally accepted accounting practices, but excluding the proceeds of any grants or debt, contributions in aid of construction, gains or losses on extinguishment of debt, and the receipts, income, revenues, fees and other charges derived from the operation of Special Facilities.

"Series" or "Series of Bonds" or "Bonds of Series" shall mean all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this Ordinance.

"South Carolina Code" shall mean South Carolina Code of Laws 1976, as amended.

"Special Facilities" shall mean any project or undertaking, the revenues and expenses resulting from the operation of which can be segregated from the revenues and expenses of the System and which the City shall designate as such by ordinance of Council.

"Special Facilities Bonds" shall mean any bonds issued to defray the costs of Special Facilities pursuant to Section 3.6 hereof.

"State" shall mean the State of South Carolina.

"Supplemental Ordinance" shall mean any ordinance enacted by the Council providing for the issuance of Bonds and any ordinance enacted by the Council pursuant to and in compliance with the provisions of Article IX hereof amending or supplementing the provisions of this Ordinance or any Supplemental Ordinance.

"System" shall mean the stormwater and drainage system of the City, as the same is now constituted, all properties, real and personal, and matters and things used or useful in the maintenance, operation or functioning thereof, all apparatus and equipment used in connection therewith, and all replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto, including any Project, and any other utility system with which the System may hereafter be combined pursuant to ordinance of Council.

"Term Bond" shall mean any Bond designated by the Supplemental Ordinance providing for its issuance as being subject to retirement or redemption from moneys credited to the applicable Bond Redemption Account as sinking fund installments.

"Variable Rate Indebtedness" shall mean indebtedness in the form of Bonds the interest rate on which is not established at a fixed or constant rate at the time such indebtedness is incurred.

ARTICLE II

FINDINGS AND DETERMINATIONS

Section 2.1. Findings and Determinations. The Council hereby finds and determines:

A. The City is an incorporated municipality located in Richland and Lexington Counties, State of South Carolina, and as such possesses all powers and duties granted to municipalities by the Constitution and laws of this State.

B. The Stormwater Management and Sediment Reduction Act (Section 48-14-10 *et seq.*, Code of Laws of South Carolina, 1976, as amended) authorizes the establishment by a municipality of a Stormwater Management Utility which the City established by Ordinance No. 2002-029 enacted on June 19, 2002, as amended from time to time. Previously, the City had maintained a system of stormwater management facilities, including but not limited to, inlets, conduits, manholes, channels, ditches, drainage facilities, casements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. Such facilities constitute a drainage system for which revenue bonds may be issued under the Bond Act.

C. Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, provides that a municipality may incur indebtedness payable solely from a revenue-producing project which source does not involve revenues from any tax or license.

D. The City is authorized by the provisions of the Bond Act to issue revenue bonds to defray the costs of improvements, enlargements and extensions to the System.

E. As of the date hereof, the City has no outstanding bonds or other obligations payable from the Net Revenues of the System.

F. The System is operated on a fiscal year basis, which presently commences on July 1

of each year and ends on June 30 of the following year.

G. By the enactment of this Ordinance, the City intends to provide for the issuance of the revenue bonds at the time and on the terms and conditions set forth in this Ordinance and Supplemental Ordinances hereto.

[End of Article II]

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS

Section 3.1. Authorization of Bonds. There is hereby authorized to be issued Bonds of the City to be designated "City of Columbia, South Carolina, Stormwater System Revenue Bonds," or such other designations as may be provided in the Supplemental Ordinance authorizing such Bonds, which Bonds may be issued pursuant to this Ordinance and in accordance with the terms, conditions and limitations set forth herein; in Series; and in such amounts and from time to time as the City may deem to be necessary or advisable for any corporate purpose of the City for which Bonds may be issued under this Ordinance and the Bond Act.

Section 3.2. General Provisions For Issuance of Bonds.

(a) The Bonds shall be issued in Series by means of Supplemental Ordinances enacted by the Council in accordance with the provisions of this Article and Article IX hereof. Each Supplemental Ordinance shall designate the Bonds provided thereby with an appropriate Series designation and with such further particular designations, if any, as the City deems appropriate. Each Supplemental Ordinance shall, unless or except as is otherwise set forth herein, also specify: (i) the authorized principal amount and designation of such Series of Bonds; (ii) the purpose or purposes for which the Bonds of such Series are being issued, which shall be one or more of the purposes set forth in Sections 3.3 or 3.4 hereof; (iii) if the Bonds of the Series are being issued for a purpose specified in Section 3.3 hereof, the Project for which such Bonds are being issued; (iv) an estimate of the Costs of Acquisition and Construction for any Project, if any, to be financed by such Series of Bonds, and, in the event of the acquisition by purchase or condemnation of any facilities already constructed, a determination of what repairs, replacements, additions and betterments will be necessary in order that such facilities may be effective for their purpose and an estimate of the costs required therefor; (v) the date or dates of the Bonds of the Series; (vi) the maturity date or dates of the Bonds of the Series and the sinking fund installment amounts and due dates for the Term Bonds of the Series, if any; (vii) the interest rate or rates of the Bonds of such Series, or the manner determining such rate or rates, the initial Interest Payment Date therefor, and the subsequent Interest Payment Dates; (viii) the denominations of (if other than as provided in this Ordinance), and manner of numbering and lettering, the Bonds of such Series; (ix) the redemption premium or premiums, if any, or the redemption price or prices to be paid upon the redemption of the Bonds of such Series, the period or periods, if any, during which such premiums or prices shall be payable, and the terms and conditions, if any, of such redemption; (x) the place or places of payment of the Bonds of the Series and interest thereon, and the Paying Agent and Registrar therefor and any Bank and/or Custodian of the funds and accounts created with respect thereto; (xi) the provisions for the sale or other disposition of the Bonds of the Series and the use, application and investment, if any, of the proceeds of such sale or other disposition, which use, application and investment shall not be inconsistent or in conflict with the provisions hereof; (xii) whether such Series of Bonds will be subject to a Reserve Fund Requirement and the manner of satisfaction of such Reserve Fund Requirement; (xiii) any other provisions which may be required to be inserted therein by other provisions of this Ordinance; and (xiv) any other necessary or desirable provisions not inconsistent

or in conflict with the provisions of this Ordinance.

(b) Bonds of a Series may be executed and delivered to the Registrar by the City and authenticated and delivered by the Registrar to the City or, upon its order, upon compliance with Section 3.3 or Section 3.4 hereof.

Bonds issued upon compliance with this Section 3.2 and Section 3.3 or Section 3.4 hereof shall be issued on a parity with the pledge and lien of the Net Revenues of the System inter sese, but not with respect to the particular Bond and Interest Redemption Fund or Debt Service Reserve Fund created for the benefit of the Holders of the Bonds of a Series, notwithstanding, that they may be in different form, and bear different dates, interest rates, number, date of issuance or date of execution or are payable at different times. In all such instances, the pledge of the Net Revenues made hereunder, and the covenants and remedies hereby granted, shall be applicable and available to the Holders of such Bonds.

Section 3.3. Conditions for the Issuance of Bonds Under this Ordinance Other than Refunding Bonds. Any time and from time to time, one or more Series of Bonds (exclusive of refunding Bonds) may be issued for such purposes as may be permitted by the Bond Act upon compliance with the provisions of Section 3.2 hereof and this Section 3.3 in such principal amounts as may be determined by the Council for the purpose of paying all or part of the Costs of Acquisition and Construction of one or more Projects upon compliance with the following conditions:

A. There shall be executed a certificate of the City Manager or chief administrative official or any Assistant City Manager of the City stating (i) either (a) that no Default exists in the payment of the principal of, premium, if any, or interest on any Bonds or Junior Bonds and all mandatory sinking fund redemptions, if any, required to have been made shall have been made, or (b) that the application of the proceeds of sale of the Series of Bonds to be issued as required by the Supplemental Ordinance authorizing their issuance will cure any such Default or permit such redemptions; and (ii) either (a) that to the best of his or her knowledge, the City is not in Default in the performance of any other of its covenants and agreements contained in this Ordinance, or (b) setting forth the circumstances of each such Default known to him or her.

B. If a certificate executed pursuant to part (A) of this Section 3.3 should disclose a Default or Defaults hereunder, there shall be filed with the City an opinion of Bond Counsel that, in the case of any Default disclosed in a certificate filed pursuant to part (A) of this Section 3.3, each such Default does not deprive the Bondholders of the security afforded by this Ordinance in any material aspect.

C. For the issuance of Bonds (other than the 2018 Bonds) to finance the Costs of Acquisition and Construction, or a portion thereof, of any Project, there shall be delivered either (i) a certificate or report, which need not be based upon the audited financial statements of the City, from the City Manager, any Assistant City Manager serving as the chief financial officer of the City, an Accountant or a Consulting Engineer stating that the amount of the Net Revenues of the System for a consecutive 12-month period ending during the last 18 months is not less than 120% of the Maximum Debt Service on Bonds then Outstanding and the Bonds then proposed to be issued, or (ii) a certificate or report from an Accountant or Consulting Engineer, or a certificate or report from the City Manager or any Assistant City Manager serving as the chief financial officer of the City which is based upon a certificate or report from an Accountant or Consulting Engineer, stating that the amount of the Net Revenues of the System, as shall have been forecasted, is not less than 120% of the actual Debt Service on all Bonds then Outstanding and the Bonds then proposed to be issued for each of the three (3) Fiscal Years following the later of the date of the delivery of the Bonds of such Series, or the period (if any) for which interest is funded from the proceeds of such Bonds; provided the amount of Net Revenues for the periods referred to above may be adjusted by adding the following:

- (1) in case the rates and charges for the services furnished by the System shall have been revised and such revised rates and charges shall have gone into effect or will be effective on a future date or dates prior to the delivery of the Bonds proposed to be issued, the additional amount of Net Revenues which would have been realized during the periods referred to above if such rates and charges had been in effect during the periods referred to above; and
- (2) in case an existing stormwater and drainage system or any other public utility system is to be acquired and combined or made a part of the System from the proceeds of the Bonds proposed to be issued, the additional amount of Net Revenues which would have been realized during the periods referred to above if such existing system or systems to be acquired had been a part of the System during the periods referred to above (which computation of the additional amount of Net Revenues shall be based upon the method of computing Net Revenues under this Ordinance).

D. Such Bonds shall be issued to secure funds to defray the Costs of Acquisition and Construction of a Project, including any acquisition or construction of any existing or proposed system which shall be combined with or consolidated into the System pursuant to law; or to refund Junior Bonds, or any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, improvement, enlargement or repair of the System or another public utility system combined with the System.

E. The Supplemental Ordinance may provide for a deposit into the Debt Service Reserve Fund with respect to such Series of Bonds of cash or securities or an insurance policy, surety bond or letter of credit provided in Section 6.8 hereof (inclusive of any proceeds of such Series of Bonds to be deposited in the applicable Debt Service Reserve Fund) having an aggregate value not less than the Reserve Fund Requirement, if any, with respect to such Series of Bonds.

Section 3.4. Refunding Bonds. Without complying with the provisions of Section 3.3 hereof except as otherwise provided herein, the City by means of a Supplemental Ordinance enacted in compliance with the provisions of the Bond Act and any other statutory provisions authorizing the issuance of revenue refunding bonds, including advance refunding bonds, may issue hereunder refunding Bonds as follows:

A. Bonds may be issued for the purpose of refunding (including by purchase) at any time within one year prior to maturity or prior to any sinking fund installment due date, the Bonds maturing on such date (or an amount of such Bonds subject to redemption from such sinking fund installments not in excess of the amount of such Bonds required to be redeemed on such due date) for the payment of which sufficient Net Revenues are not available. Any Bonds issued for such purpose shall mature (or sinking fund installments therefor shall commence) not earlier than the latest stated maturity of the Bonds not then refunded to be Outstanding after such refunding; or

B. Bonds may be issued at any time for the purpose of refunding (including by purchase) other Bonds, including amounts to pay principal, redemption premium and interest to the date of redemption (or purchase) of the refunded Bonds and the Costs of Issuance and the funding of a Debt Service Reserve Fund thereunder; provided that (i) the aggregate Debt Service on all Bonds to be Outstanding after the issuance of the proposed Series of refunding Bonds shall not be greater than would have been the aggregate Debt Service of all Bonds not then refunded and the Bonds to be refunded; or (ii) the requirements of parts (A), (B), (C) and (E) of Section 3.3 hereof are met with respect to the refunding Bonds.

Section 3.5. Junior Bonds. The City may at any time issue Junior Bonds in such amount as it may from time to time determine, payable from Net Revenues, provided that such Junior Bonds are issued to secure funds to defray the costs of improving, extending, enlarging, or repairing the System, some part thereof, including the acquisition of any system which may be combined with or consolidated into the System pursuant to law, or to refund Bonds, Junior Bonds, or any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, or improvement of the System, and provided further that the pledge of and lien on Net Revenues

securing Junior Bonds shall at all times be subordinate and inferior to the pledges of and lien on Net Revenues securing the Bonds.

Section 3.6. Special Facilities Bonds. The City shall also have the right to issue, from time to time, Special Facilities Bonds to defray the costs of acquiring or constructing Special Facilities subject to the following conditions:

A. The City shall determine that the receipts, income, revenues and other charges to be levied and collected in connection with the Special Facilities shall be at least equal to: (1) the estimated costs of operating and maintaining such Special Facilities; (2) the principal and interest requirements of the Special Facilities Bonds; (3) the amounts to be deposited in any reserve funds with respect thereto; and (4) any other costs and expenses relating to such Special Facilities.

B. The receipts, income, revenues, fees and other charges derived from the operation of the Special Facilities shall be segregated from the Net Revenues of the System.

C. The debt service payments and other costs, expenses and reserves related to such Special Facilities shall not be paid from Net Revenues of the System, except as may be available under Section 6.11 hereof.

[End of Article III]

ARTICLE IV

THE BONDS

Section 4.1. Execution. Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, the Bonds shall be executed on behalf of the City by the Mayor of the City by his or her manual or facsimile signature and the corporate seal of the City or a facsimile thereof shall be impressed or reproduced thereon and attested by the Municipal Clerk of the City by his or her manual or facsimile signature.

In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, as if he had remained in office until delivery.

Section 4.2. Authentication. Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, upon compliance with the provisions of Sections 3.2, 3.3, or 3.4 hereof, and upon the order of the City, the Registrar shall authenticate Bonds authorized to be issued hereunder. Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed manually by the Registrar shall be entitled to any right or benefit under this Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Registrar, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder or on all of the Bonds of a particular Series. The Registrar's certificate of authentication shall be in substantially the following form:

FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Ordinance of the City of Columbia, South Carolina.

Dated: _____

Registrar

By: _____
Authorized Officer

Section 4.3. Registration and Transfer of Bonds; Persons Treated as Holders. Unless and except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, each Bond shall be fully registered and transferable only upon the registration books (the "Books of Registry") of the City, which shall be kept for that purpose at the office of the Registrar, by the Holder thereof or by his or her attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his or her duly authorized attorney with such signature guaranteed by a participant in the

Securities Transfer Agents in Medallion Program ("STAMP") or similar program. Upon the transfer of any Bond, the City shall issue, subject to the provisions of Section 4.6 hereof, in the name of the transferee, a new Bond or Bonds of the same series and of the same aggregate principal amount, interest rate and maturity as the unpaid principal amount of the surrendered Bond.

Any Bondholder requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal, redemption premium, if any, and interest on any Bond shall be made only to or upon the order of the Bondholder thereof, or his duly authorized attorney, and neither the City nor the Registrar, shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Section 4.4. Form of Bonds; Denominations; Medium of Payment. Unless or except as is otherwise provided in the Supplemental Ordinance authorizing their issuance, the Bonds of each Series: (a) shall be in fully registered form without coupons, provided, such Bonds may be issued in book-entry form; (b) shall be issued in denominations of \$5,000, or any integral multiple thereof, provided that, upon partial redemption of a Bond requiring surrender thereof and the issuance of a new Bond, such new Bond may be in the denomination of the unredeemed balance; and (c) shall be payable with respect to principal, interest, and premium, if any, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 4.5. Numbers, Date, and Payment Provisions. The Bonds shall be numbered and designated in such manner as the City, with the concurrence of the Registrar, shall determine. Each Bond of a Series shall bear interest from the Interest Payment Date immediately preceding the date of its authentication, unless authentication shall be upon an Interest Payment Date, in which case it shall bear interest from its authentication, or unless authentication shall precede the first Interest Payment Date for such Bond, in which case it shall bear interest as otherwise provided in the Supplemental Ordinance authorizing its issuance, provided, however, that if the date of authentication of any Bond of any Series is after a Record Date and before the corresponding Interest Payment Date therefor, such Bond shall bear interest from such succeeding Interest Payment Date; notwithstanding the foregoing, if at the time of authentication of any Bond any interest on such Bond is in default, such Bond shall bear interest from the date to which interest on such Bond has been paid or if no interest has been paid, such Bond shall bear interest from the date of delivery thereof or from its dated date, or as otherwise provided in the Supplemental Ordinance authorizing the issuance of such Bonds.

Section 4.6. Exchange of Bonds. Unless or except as is otherwise provided in the Supplemental Ordinance authorizing their issuance, Bonds, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Bondholder or his duly authorized attorney with such signature guaranteed by a participant in STAMP or similar program, may, at the option of the Bondholder thereof, and upon payment by such Bondholder of any charges which the Registrar may make as provided in Section 4.7, be exchanged for a principal amount of Bonds of the same Series and maturity of any other authorized denomination equal to the unpaid principal amount of surrendered Bonds.

Section 4.7. Regulations with Respect to Exchanges and Transfer. In all cases in which the privilege of exchanging or transferring Bonds is exercised, the City shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance or such Supplemental Ordinance authorizing the issuance thereof. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. There shall be no charge to the Bondholder for such exchange or transfer of Bonds except that the Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. Neither the City nor the Registrar shall be required (a) to exchange or transfer Bonds (i) from the Record Date to the succeeding Interest Payment Date or (ii) for a period of fifteen (15) days following any selection of Bonds to be redeemed or thereafter until after the first publication or mailing of any notice of redemption, or (b) to transfer any Bonds called for redemption.

Section 4.8 Temporary Bonds. Any Series of Bonds may be initially issued in temporary form, exchangeable for definitive Bonds to be delivered as soon as practicable and subject to the agreement of the City and the purchaser thereof. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, shall be without coupons, and may contain such reference to any of the provisions of this Ordinance as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues a temporary Bonds, it will execute and furnish definitive Bonds without delay; and thereupon the temporary Bonds shall be surrendered for cancellation at the principal office of the Registrar, and the Registrar shall deliver and exchange for such temporary Bonds an equal, aggregate principal amount of definitive Bonds of like aggregate principal amount and in authorized denominations of the same Series, maturity or maturities and interest rate or rates. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Ordinance as definitive Bonds under this Ordinance.

Section 4.9. Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the Holder, the City shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the Holder thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the City

and the Registrar (a) evidence or proof satisfactory to the City and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and (b) such security and indemnity as may be required by the laws of the State or such greater amount as may be required by the City. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance or any Supplemental Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder. Neither the City nor any Registrar or Paying Agent shall be required to treat both the original Bond and any duplicate Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and duplicate Bond shall be treated as one and the same. The City and any Registrar may charge the Holder of such Bond with their reasonable fees and expenses in this connection. In the event any such mutilated, lost, stolen or destroyed Bond shall have matured, instead of issuing a duplicate Bond the City may pay the same. All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

[End of Article IV]

ARTICLE V

REDEMPTION OF BONDS

Section 5.1. Redemption of Bonds. The Bonds of a Series may be subject to redemption prior to their stated maturities upon such terms and conditions and at such dates and redemption price or prices or premium or premiums as shall be set forth in the Supplemental Ordinance providing for the issuance of such Bonds, and upon the further terms and conditions as are hereinafter set forth.

Section 5.2. Selection of Bonds for Redemption. In the event of the redemption at any time of only part of the Bonds of a Series, the Bonds to be redeemed shall be redeemed in such order as is set forth in the Supplemental Ordinance providing for the issuance of such Bonds. Unless otherwise provided by Supplemental Ordinance, if less than all of the Bonds of like maturity of any Series shall be called for prior redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Registrar in such manner as the Registrar in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof, and that, in selecting portions of such Bonds for redemption, the Registrar shall treat each such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond by \$5,000.

Section 5.3. Notice of Redemption. Unless or except as otherwise provided in the Supplemental Ordinance authorizing their issuance, the provisions of this Section 5.3 apply to each Series of Bonds.

In the event any of the Bonds or portions thereof are called for redemption, the Registrar shall give notice, in the name of the City, of redemption of Bonds by first-class mail, postage prepaid, to the Holder thereof as shown on the Books of Registry of the City not less than 30 days and not more than 60 days prior to the date fixed for the redemption thereof. Such notice of redemption shall state: (a) the title of such Bonds to be redeemed, CUSIP numbers, date of issue, the Series designation (if any) thereof, the redemption date, the place or places of redemption and the redemption price or redemption premium, if any, payable upon such redemption; (b) if less than all such Bonds of a particular Series are to be redeemed, the distinctive number of such Bonds to be redeemed; (c) that the interest on such Bonds designated for redemption in such notice shall cease to accrue from and after such redemption date; and (d) that on such date there will become due and payable on each such Bond the principal amount thereof to be redeemed at the then applicable redemption price or redemption premium, if any, and the interest accrued on such principal amount to the redemption date.

Any notice mailed as provided in this Section 5.3 shall be conclusively presumed to have been duly given, when mailed, whether or not the Holder thereof receives the notice. The notice shall further state that if money for the redemption of all the Bonds being redeemed at that time is held by the City or a trustee on its behalf on the redemption date, interest shall cease to accrue on

such Certificates on and after the redemption date. The notice may further state that the redemption of the Bonds being called for redemption is conditioned upon the Custodian receiving on or before the redemption date of sufficient money for the redemption thereof.

Section 5.4. Partial Redemption of Bond. In the event that only part of a Bond shall be called for redemption or prepaid, payment of the amount to be redeemed or prepaid shall be made only upon surrender of such Bond to the Registrar. Upon surrender of such Bond, the City shall execute and the Registrar shall authenticate and deliver to the Holder thereof, at the principal office of the Registrar, or send to such Holder by registered mail at his request, risk and expense, a new fully executed Bond or Bonds, of authorized principal sums equal in aggregate principal amount to, and of the same Series, maturity and interest rate as, the unredeemed portion of the Bond surrendered.

Section 5.5. Effect of Redemption. If a Bond is subject by its terms to redemption prior to its stated maturity and has been duly called for redemption and notice of the redemption thereof has been duly given as hereinbefore provided and if moneys for the payment of such Bond at the then applicable redemption price or together with the then applicable redemption premium, if any, and the interest to accrue to the redemption date on such Bond are held for the purpose of such payment by the Custodian for the Series of Bonds of which such Bond is one, then such Bond so called for redemption shall, on the redemption date designated in such notice, become due and payable. Interest on the Bond so called for redemption shall cease to accrue.

Section 5.6. Cancellation. All Bonds which have been redeemed shall be canceled and either maintained or destroyed by the Registrar and shall not be reissued. A counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the City upon the request of the City.

[End of Article V]

ARTICLE VI

ESTABLISHMENT OF FUNDS; SECURITY FOR AND PAYMENT OF THE BONDS; INVESTMENT OF MONEYS

Section 6.1. Listing of Funds and Accounts. The following are the funds created and established by this Ordinance:

- (i) Revenue Fund to be held by the City in accordance with Section 6.4 hereof.
- (ii) Operation and Maintenance Fund to be held by the City in accordance with Section 6.4 hereof.
- (iii) Bond and Interest Redemption Fund for each Series of Bonds to be held by the Custodian, including, except as provided in a Supplemental Ordinance, an Interest Account, a Principal Account and a Bond Redemption Account.
- (iv) Debt Service Reserve Fund for each Series of Bonds, if any, to be held by the Custodian.
- (v) Depreciation Fund to be held by the City in accordance with Section 6.4 hereof.
- (vi) Contingent Fund to be held by the City in accordance with Section 6.4 hereof.
- (vii) Construction Fund, if applicable, for each Series of Bonds to be held by a Bank designated by the City.

One or more accounts may, by direction of the City or by the terms of a Supplemental Ordinance, be established within any of the above funds. It is intended by this Ordinance that the funds and accounts referred to in this Article (other than the Construction Fund) shall remain in existence for so long a time as any sum remains due and payable by way of principal of and interest on the Bonds, and that deposits and withdrawals therefrom be made in the manner herein prescribed and in the order of priority hereinafter set forth in Section 6.2 hereof.

Section 6.2. Disposition of Revenues. So long as any Bonds are Outstanding, the Revenues of the System shall be applied at the times, in the amounts and for the purposes as provided or permitted by this Ordinance, and in the following order of priority.

First, provision shall be made for the payment of Expenses of Operating and Maintaining the System;

Second, there shall be transferred into the respective Bond and Interest Redemption Funds, the amounts required by this Ordinance or any Supplemental Ordinance;

Third, there shall be transferred into the respective Debt Service Reserve Funds, if established, the amounts (including any payments required under the terms of any surety bond, insurance policy or letter of credit applicable thereto) required by this Ordinance or any Supplemental Ordinance for any Bond issued hereunder or thereunder;

Fourth, provisions shall be made for payment of interest on amounts advanced by the provider of any surety bond, line of credit, insurance policy or letter of credit as contemplated in Section 6.8 hereof;

Fifth, provision shall be made for the payment of any Junior Bonds;

Sixth, there shall be transferred into the Depreciation Fund the amounts required by this Ordinance; and

Seventh, there shall be transferred into the Contingent Fund the amounts required by this Ordinance.

Any surplus Revenues thereafter remaining after the foregoing deposits have been made shall be disposed of as the City shall determine from time to time to be for the best interest of the City; provided, a transfer of any surplus Revenues to the City's general fund or similar fund shall only be made at the end of each Fiscal Year and the amount of such transfer shall not cause the Revenues of the System to be less than the respective amounts required to comply with the Rate Covenant.

Section 6.3. Security for and Payment of the Bonds. The Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of the Net Revenues of the System; provided, however, that all funds held by the Custodian in the respective Bond and Interest Redemption Funds and Debt Service Reserve Funds, if any, established to secure a particular Series of Bonds are hereby pledged for the benefit of the respective Bondholders as security for the Bonds of the Series to which such funds relate. This provision of this Section 6.3 shall not preclude the issuance of Junior Bonds, if such Junior Bonds be issued in conformity with the provisions of Section 3.5 hereof, but the pledge herein made shall preclude the issuance of bonds payable from or secured by a pledge or lien on Net Revenues of the System superior to the

pledge herein made to secure Bonds.

The Bonds do not constitute an indebtedness of the City within any State constitutional provision (other than Article X, Section 14, Paragraph 10 of the South Carolina Constitution authorizing obligations payable solely from special sources not involving revenues from any tax or license) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing power. The full faith, credit and taxing powers of the City are not pledged to the payment of the principal of and interest on the Bonds.

The covenants and agreements herein set forth to be performed by the City shall be for the equal and proportionate benefit, security and protection of all Holders of the Bonds without preference, priority or distinction as to payment or security or otherwise (except as to maturity) of any of the Bonds for any reason or cause whatsoever, except as expressly provided herein or in the Bonds. Except as aforesaid, all Bonds shall rank pari passu and shall be secured equally and ratably hereunder without discrimination or preference whatsoever.

Section 6.4. Accounting Methods. The designation of the Revenue Fund, the Operation and Maintenance Fund, the Depreciation Fund and the Contingent Fund in and by this Ordinance shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of the Revenues and assets of the System for certain purposes and to establish certain priorities for application of such Revenues and assets as herein provided.

The cash required to be accounted for in each of the foregoing funds established herein may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash in and deposited therein for the various purposes of such funds as provided herein.

Section 6.5. Revenue Fund. There is hereby established a Revenue Fund to be maintained by the City in accordance with Section 6.4 hereof and into which shall be deposited all Revenues. Moneys in the Revenue Fund shall be used of only in the manner specified in this Article VI and in the order of priority set forth in Section 6.2 hereof.

Section 6.6. Operation and Maintenance Fund. There is hereby established an Operation and Maintenance Fund to be maintained by the City in accordance with Section 6.4 hereof in order to provide for the payment of all Expenses of Operating and Maintaining the System. So long as any of the Bonds remain Outstanding and unpaid, adequate provision shall be made by the City for the Expenses of Operating and Maintaining the System by depositing on or before the 15th day of the month following the month in which Bonds are delivered to the initial purchasers thereof, and not later than the 15th day of each month thereafter, in the Operation and Maintenance Fund from the Revenues of the System, an amount equal to the estimated Expenses of Operating and Maintaining the System for the next ensuing month in accordance with the Annual Budget.

Section 6.7. Bond and Interest Redemption Funds. There shall be established and maintained special funds of the City to be designated the Bond and Interest Redemption Fund for each Series of Bonds then Outstanding which shall be kept on deposit with the Custodian, and withdrawals therefrom shall be made for the purposes provided in this Ordinance. Each Bond and Interest Redemption Fund shall bear a separate series designation as may be necessary to distinguish such Bond and Interest Redemption Fund.

The respective Bond and Interest Redemption Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such funds shall be made in the manner prescribed by this Ordinance and all moneys in the respective Bond and Interest Redemption Funds shall be used solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose, and withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Earnings on investments in the Bond and Interest Redemption Funds, including the accounts therein, shall be added to and become a part of such respective funds and the accounts therein.

There may be established in the respective Bond and Interest Redemption Funds from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series as may be permitted hereunder. Any such account shall be created by a Supplemental Ordinance relating to the issuance of the Bonds of such Series. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized may be deposited in the Construction Fund created by the Supplemental Ordinance relating to such Bonds or, if such Construction Fund has been terminated or no such fund was created, such earnings shall be retained in the appropriate Bond and Interest Redemption Fund.

Unless and except as is otherwise set forth in the Supplemental Ordinance not later than the 15th day of the month following the month in which each Series of Bonds are delivered to the initial purchasers thereof, and not later than the 15th day of each month thereafter, the City shall transfer or cause to be transferred to the Custodian for deposit into the respective Bond and Interest Redemption Funds from the moneys in the Revenue Fund, the amounts hereinafter set forth.

(a) There shall be established and maintained, for the purpose of paying the interest on the respective Series of Bonds as the same becomes due and payable, an Interest Account in the respective Bond and Interest Redemption Funds. Unless and except as is otherwise set forth herein or in a Supplemental Ordinance, not later than the 15th day of the month following the month in which Bonds are delivered to the initial purchasers thereof, and not later than the 15th day of each month thereafter, the City shall transfer or cause to be transferred to the Custodian for deposit into the respective Bond and Interest Redemption Funds and ratably with respect to separate Series of Bonds to the credit of the Interest Account an amount (until the moneys on deposit therein shall equal the amount needed) such that, if the same amount is credited to the Interest Account not later than the 15th day of each calendar month preceding the next Interest Payment Date on the respective Series of Bonds, the aggregate of the amounts so paid and credited to the Interest

Account would on such Interest Payment Date be equal to the installment of interest then falling due on the respective Series of Bonds then Outstanding. In making any of the deposits to the Interest Account required by this paragraph (a), consideration shall be given to and allowance made for accrued interest received upon delivery of each Series of Bonds to the initial purchasers and for any other credits (including but not limited to capitalized interest with respect to each Series of Bonds) otherwise made to such Interest Account.

(b) There shall be established and maintained, for the purpose of paying the principal of the respective Series of Bonds as they mature, a Principal Account in the respective Bond and Interest Redemption Funds. Unless and except as is otherwise set forth in the Supplemental Ordinance, not later than the 15th day of the twelfth month prior to any Principal Payment Date on any Bonds, and on or before the 15th day of each calendar month thereafter, the City shall transfer or cause to be transferred to the Custodian for deposit into the respective Bond and Interest Redemption Funds to the credit of the Principal Account an amount (until the moneys on deposit therein shall equal the amount needed) such that, if the same amount were credited to the Principal Account on or before the 15th day of each succeeding month thereafter and prior to the next Principal Payment Date upon which an installment of principal falls due on the respective Series of Bonds, the aggregate of the amounts so paid and credited to the Principal Account would on such Principal Payment Date be equal to the installment of principal then falling due on the respective Series of Bonds then Outstanding. In making any of the deposits to the Principal Account required by this paragraph (b), consideration shall be given to and allowance made for any other credits (including any interest earnings therein) otherwise made to such Principal Account.

(c) There shall be established and maintained, in order to meet the specified sinking fund installment requirements of Term Bonds and to otherwise retire Term Bonds prior to maturity, a Bond Redemption Account in the respective Bond and Interest Redemption Fund. Unless and except as is otherwise set forth herein or in a Supplemental Ordinance, not later than the 15th day of the twelfth month prior to the date a sinking fund installment of Term Bonds of each Series falls due and on or before the 15th day of each calendar month thereafter, the City shall transfer or cause to be transferred to the Custodian for deposit into the respective Bond and Interest Redemption Fund and ratably with respect to separate Series of Bonds to the credit of the Bond Redemption Account an amount (until the moneys on deposit therein shall equal the amount needed) such that, if the same amount were credited to the Bond Redemption Account not later than the 15th day of each succeeding month thereafter preceding the next date upon which a sinking fund installment of principal falls due on the Term Bonds, the aggregate of the amounts so paid and credited to the Bond Redemption Account would on such date be equal to the sinking fund installment of principal then falling due on the respective Series of Term Bonds then Outstanding. The Custodian shall apply the moneys credited to the Bond Redemption Account as sinking fund installments to the retirement of the Term Bonds of each respective Series by redemption in accordance with the Supplemental Ordinance providing for the issuance of such Series of Bonds, without further authorization or direction, on each date upon which a sinking fund installment is due with respect to the Term Bonds of such Series. The Custodian shall keep and retain accurate records of application of each deposit of funds under this paragraph (c). The Custodian shall give notice of all such redemptions in the name and on the behalf of the City in accordance with the provisions of Article

V hereof. In making any of the deposits to the Bond Redemption Account required by this paragraph (c), consideration shall be given to and allowance made for any other credits otherwise made to such Bond Redemption Account.

(d) If, on the dates when the payments required by paragraphs (a), (b) and (c) of this Section are to be made, the aggregate of (i) the payments actually made pursuant to said paragraphs (a), (b) and (c); and (ii) the remaining payments to be made prior to the next succeeding Interest Payment Date and Principal Payment Date, or both, as the case may be, are less than the sum required to be transferred to a Bond and Interest Redemption Fund to effect the payment of the succeeding installment of principal or interest, or both, as the case may be, a sum equal to such deficiency shall be transferred from moneys in the applicable Debt Service Reserve Fund, if any, shall be added to the payment to be made pursuant to paragraphs (a), (b) and (c).

Moneys in the respective Bond and Interest Redemption Funds shall be used and applied solely to the payment of the interest on and the retirement of the principal of and redemption premium, if any, on the respective Series of Bonds and shall be used and applied in accordance with the provisions of this Section 6.7 and this Ordinance. The moneys paid into the respective Bond and Interest Redemption Fund shall be held by the Custodian in trust solely for the purpose of paying the interest on and the retirement of the principal of and redemption premium, if any, on the respective Series of Bonds. Withdrawals from such funds shall be made by the Custodian in order to transfer such moneys to the Paying Agent for the respective Series of Bonds. Such withdrawals shall be made so that the necessary moneys shall be available to the Paying Agent not later than one Business Day prior to the day on which principal or interest or both, and redemption premium, if any, as the case may be, are payable on the Bonds.

Section 6.8. Debt Service Reserve Funds. A Supplemental Ordinance may provide for the establishment of a Debt Service Reserve Fund for any Series of Bonds. Each Debt Service Reserve Fund shall bear a separate Series designation as may be necessary to distinguish such Debt Service Reserve Fund and shall, subject to certain provisions of this Ordinance, be maintained in an amount equal to the applicable Reserve Fund Requirement, as determined pursuant to a Supplemental Ordinance, and in the manner determined pursuant to such Supplemental Ordinance, so long as the applicable Series of Bonds shall be Outstanding. Each such fund is intended 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 respective Debt Service Reserve Funds shall be kept on deposit with the Custodian, and withdrawals therefrom shall be made for the purposes provided in this Ordinance.

Moneys in each Debt Service Reserve Fund shall be used for the following purposes, and for no other:

- (a) To prevent a Default in the payment of the principal of or interest on the applicable Series of Bonds, by reason of the fact that moneys in the applicable Bond and Interest Redemption Fund are insufficient for such purposes;
- (b) To pay the principal of, interest on, and redemption premium, if any, of the applicable Series of Bonds in the event that all Outstanding Bonds of such Series be redeemed as a whole;
- (c) To effect partial redemption of the applicable Series of Bonds, provided that such redemption be undertaken in accordance with the provisions of this Ordinance permitting a partial redemption of the applicable Series of Bonds and the balance remaining in the applicable Debt Service Reserve Fund following such partial redemption shall not be less than the Reserve Fund Requirement; and
- (d) To effect the retirement of a Series of Bonds through purchase under the conditions herein prescribed or upon maturity thereof.

Whenever the value (determined as of the valuation date specified in Section 6.13 hereof) of the cash and securities in the applicable Debt Service Reserve Fund shall exceed the Reserve Fund Requirement, such excess may at the written direction of the City (i) be used to repurchase and retire the applicable Series of Bonds at prices not exceeding the call price first to become available or then prevailing or; (ii) be deposited as the City deems advisable or; (iii) be transferred to the Construction Fund during the period of construction or acquisition of a Project. Purchases of Bonds shall be effected by the City through the Custodian, and whenever Bonds shall have been purchased pursuant to this authorization, it shall be the duty of the Custodian to cancel and destroy such Bonds and to deliver certificates evidencing such act to the City.

Whenever the value (determined as of the valuation dates and in accordance with the method specified in Section 6.13 hereof) of cash and securities in the respective Debt Service Reserve Fund shall be less than the applicable Reserve Fund Requirement there shall be deposited in the applicable Debt Service Reserve Fund over the next succeeding twelve (12) months, successive equal monthly installments of the amount necessary to reestablish in the applicable Debt Service Reserve Fund its respective Reserve Fund Requirement.

In lieu of the deposit of moneys into the Debt Service Reserve Fund established with respect to any Series of Bonds to meet the Reserve Fund Requirement with respect to that Series, the City may cause to be credited a surety bond or an insurance policy payable to, or a letter of credit in favor of, the Custodian for the benefit of the Holders of the Bonds meeting the standard set forth in the Supplemental Ordinance authorizing that Series of Bonds, as the case may be. The amount of moneys required to be deposited to the Debt Service Reserve Fund shall be reduced by the amount of the surety bond, insurance policy, or letter of credit. The surety bond, insurance policy, or letter

of credit shall be payable (upon the giving of notice as required thereunder) on any Interest Payment Date on which moneys will be required to be withdrawn from the Debt Service Reserve Fund and applied to the payment of the principal of or interest on any Bonds of that Series but only to the extent that withdrawals cannot be made by amounts then credited to the Debt Service Reserve Fund.

If the City obtains a surety bond, insurance policy or letter of credit in substitution for moneys deposited to the applicable Debt Service Reserve Fund as may be permitted under the applicable Supplemental Ordinance, excess moneys in the respective Debt Service Reserve Funds shall be transferred to the applicable Construction Fund, or if one does not exist, be deposited as the City deems advisable.

Section 6.9. Depreciation Fund. There is hereby established a Depreciation Fund. On or before the 15th day of the month following the month in which Bonds are delivered to the initial purchasers thereof, and on or before the 15th day of each and every month thereafter, the City shall deposit into the Depreciation Fund 1/12th of the amount determined in the Annual Budget prepared for the System. Moneys in the Depreciation Fund shall be used to build up a reserve for the depreciation of the System and used for the purpose of restoring depreciated or obsolete items of the System. Moneys in these funds shall be used solely for such purposes, but shall be transferred to the applicable Bond and Interest Redemption Fund whenever necessary in order to prevent a default in the payment of principal or interest when due on any Bonds.

Moneys in the Depreciation Fund shall be held by the City in accordance with Section 6.4 hereof, and withdrawals from the Depreciation Fund shall be made by a City Representative.

Section 6.10. Contingent Fund. There is hereby established a Contingent Fund. On or before the 15th day of the month following the month in which Bonds are delivered to the initial purchasers thereof, and on or before the 15th day of each and every month thereafter, the City shall deposit into the Contingent Fund 1/12th of the amount determined in the Annual Budget prepared for the System. Moneys in the Contingent Fund shall be used to build up a reasonable reserve for improvements, betterments, and extensions to the System, other than those necessary to maintain the System in good repair and working order. Moneys in this fund shall be used solely for such purposes, but shall be transferred to the applicable Bond and Interest Redemption Fund whenever necessary in order to prevent a Default in the payment of principal or interest when due on any Bonds.

Moneys in the Contingent Fund shall be held by the City in accordance with Section 6.4 hereof, and withdrawals from the Contingent Fund shall be made by a City Representative.

Section 6.11. Application of Remaining Revenues. After making payment for the Expenses of Operating and Maintaining the System; after making payments on the Bonds; and after making the required deposits and payments, if any, to the applicable Debt Service Reserve Fund, the Revenues of the System shall then be used, first, for payment of interest on amounts advanced by the provider of any surety bond, line of credit, insurance policy or letter of credit as contemplated in Section 6.8 hereof; second, to provide for the payment of Junior Bonds; third, to make deposits to the Depreciation Fund and the Contingent Fund; and fourth, to be disposed of by the City as it may determine from time to time to be for the best interest of the City subject to the limitation set forth in Section 6.2 hereof.

Section 6.12. Establishment of Construction Fund. There shall be established with the Bank a Construction Fund with respect to each Series of Bonds (other than for Bonds issued pursuant to Section 3.4 hereof) in the Supplemental Ordinance providing for their issuance, the moneys in which shall be used to defray the costs of any Project and to pay any Costs of Acquisition and Construction with respect to the facilities so financed. On the occasion of the delivery of any Series of Bonds (other than Bonds issued pursuant to Section 3.4 hereof), the proceeds therefrom shall be paid into the Construction Fund established for such Series as set forth in a Supplemental Ordinance authorizing their issue. Withdrawals from the Construction Fund shall not be made except as provided in the Supplemental Ordinance establishing such Construction Fund.

Section 6.13. Investment of Funds. Moneys held for the credit of the respective Bond and Interest Redemption Funds shall be invested, to the fullest extent practicable and reasonable, in Permitted Investments which shall mature prior to the respective dates when the moneys held for the credit of such fund will be required for the purpose intended. Moneys in the respective Debt Service Reserve Funds established by this Ordinance or a Supplemental Ordinance shall be invested, to the fullest extent practicable, in Permitted Investments. Moneys in any other funds established by this Ordinance shall be invested, to the fullest extent practicable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such funds. Investment instructions shall be given to the Bank or Custodian, as applicable, by a City Representative provided such instructions which are

given orally must be subsequently confirmed in writing.

The Bank, Custodian or other depository shall, not later than June 15 of each year, value as of the preceding June 1 or the succeeding Business Day thereafter, Permitted Investments in the various funds established by this Ordinance and held by the Bank, Custodian or other depository and shall forward such valuation to the City. The value of Permitted Investments (except investment agreements) shall be determined by the Bank, Custodian or other depository at the market value thereof, exclusive of accrued interest, provided, however, Permitted Investments in any Debt Service Reserve Fund shall be valued at cost or original value thereof. The Bank or Custodian shall not be accountable or liable for any depreciation in the value of any investments in any funds or for any losses incurred upon the disposition thereof.

All interest earnings on amounts in the Debt Service Reserve Funds or the Operation and Maintenance Fund when realized shall be considered Revenues. Expenses of purchase, safekeeping, sale and redemption and all other expenses attributable to such investments shall be operating expenses of the System.

[End of Article VI]

ARTICLE VII

COVENANTS

Section 7.1. Rates and Charges. The City covenants and agrees to operate the System in an efficient and economical manner and establish, levy, maintain, revise and collect such fees, rates and other charges for the use of the services and facilities furnished by the System as may be necessary or proper, which fees, rates, and other charges, together with other available moneys, shall at all times be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in estimates to provide an amount equal to (a) one hundred percent (100%) of the amounts required to be deposited into the Operation and Maintenance Fund for the then current Fiscal Year; (b) one hundred twenty percent (120%) of the amounts required to be deposited into each Bond and Interest Redemption Fund for the then current Fiscal Year; (c) one hundred percent (100%) of the amounts required to be deposited into each Debt Service Reserve Fund for the then current Fiscal Year; (d) one hundred percent (100%) of the amounts required to be deposited into the Depreciation Fund for the then current Fiscal Year; (e) one hundred percent (100%) of the amounts required to be deposited into the Contingent Fund for the then current Fiscal Year; (f) one hundred percent (100%) of the amounts required to provide for payment of any Junior Bonds for the then current Fiscal Year; and (g) the amounts necessary to comply in all respects with the terms of this Ordinance or any other contract or agreement with the Holder of a Bond; provided, further, that for purposes of determining the amounts required to be deposited into a Bond and Interest Redemption Fund pursuant to clause (b), to provide for payment of Junior Bonds pursuant to clause (f) or otherwise as provided in clause (g) described above, in the case of Bonds or Junior Bonds which have been or will be issued as taxable obligations, for which the City has or will be entitled to receive a payment that effectively reduces the City's debt service payment obligation therefor (including but not limited to BABs), the debt service requirements for such Bonds or Junior Bonds will be reduced by the payment that the City has or will be entitled to receive therefor (such obligation hereafter referred to as the "Rate Covenant").

Section 7.2. Statutory Lien. For the equal and ratable protection of the Holders of the Bonds, a statutory lien upon the System is hereby created and granted as provided in the Bond Act, which statutory lien is hereby recognized as valid and binding upon the City and the System, which shall take effect immediately upon delivery of any Bonds, and any Holder of any Bond may, subject to Section 11.1 hereof, either in law or in equity, by suit, action, mandamus, or other proceedings, protect the statutory lien hereby conferred, and may by suit, action, mandamus, or other proceedings enforce and compel the performance of all duties required by the Ordinance and the Bond Act, including the making and collection of sufficient rates and charges for the services and facilities of the System from all users, segregating of the income and Revenues and the proper application thereof, but such statutory lien shall not give any such Holder authority to compel the sale of the System or any part thereof.

Section 7.3. To Pay Principal, Premium, and Interest on the Bonds. The City covenants and agrees to punctually pay, or cause to be paid, out of the Revenues pledged to such payment in Article VI hereof, the principal of, redemption premium, if any, and the interest on each and every

Bond issued under the provisions of this Ordinance, at the place, on the dates and in the manner provided herein.

Section 7.4. Operation of System. The City covenants and agrees it shall at all times operate the System properly and in an efficient and economical manner and will maintain, preserve and keep the same with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make all necessary and proper repairs and replacements so that at all times the operation of the System may be properly and advantageously conducted.

Section 7.5. Records, Accounts and Audits. The City covenants and agrees to keep proper books of records and accounts (separate from all other records and accounts), in which complete and correct entries shall be made of all transactions relating to the System. The City further covenants and agrees to make available to the Custodian, if any, or any Bondholder upon request, but not sooner than February 1 after the close of each Fiscal Year, audited financial statements of the City, made in accordance with recognized accounting practices, which shall include information pertaining to the System; provided, however, that the City shall be deemed to be in compliance with the requirements hereof to the extent that its audited financial statements are available on the Municipal Securities Rulemaking Board's EMMA system or similar publically available information repository. Such records shall be kept in accordance with the standards from time to time prescribed by the Governmental Accounting Standards Board or its successor.

Section 7.6. Sale, Lease or Other Encumbrances. Except as otherwise provided in this Ordinance, the City covenants and agrees not to issue any bonds, notes, certificates or other obligations or evidences of indebtedness other than the Bonds, Junior Bonds, or obligations authorized or permitted hereby secured by a pledge of the Net Revenues. The City further covenants and agrees that it will not create or cause to be created any lien or charge on the Net Revenues other than the liens and charges created or permitted to be created hereby, and no part of the System will be sold, mortgaged, leased or otherwise disposed of or encumbered, except as permitted hereby. The City may from time to time permanently abandon the use of, sell, trade or lease any property forming a part of the System which the City determines is no longer necessary or useful or profitable in the operation of the System, or necessary to produce or maintain the Net Revenues thereof, or which is to be or has been replaced by other property so as not to impair the operation of the System. Any moneys received upon a sale hereunder shall be considered Revenues.

Section 7.7. Insurance. The City covenants and agrees to make provision to maintain adequate insurance on the works, plants, facilities and properties comprising the System against the risks, accidents or casualties, of the kinds and in at least the amounts which are usually and customarily carried on similar plants, properties and systems which are owned and operated by a public or municipal corporation, including without limiting the generality of the foregoing, fire, extended coverage, general liability and workmen's compensation, and also all additional insurance covering such risks as may be deemed necessary or desirable by the City or recommended by a competent independent engineer or other advisor employed for the purpose of making such recommendations. The Custodian shall not be responsible for maintaining such insurance policies or copies thereof.

Section 7.8. No Free Service. The City covenants and agrees that no free service will be furnished by the System to the City or to any agency, instrumentality or person. The reasonable costs and value of any services of the System rendered to the City through the operation of the System shall be charged against the City and shall be paid as the service accrues from the current funds and such funds, when so paid, shall be accounted for in the same manner as other Revenues of the System.

Section 7.9. Annual Budget. Prior to the beginning of each Fiscal Year, the City covenants and agrees to prepare an Annual Budget for the System for the ensuing Fiscal Year which shall set forth in reasonable detail the estimated Revenues, Expenses of Operating and Maintaining the System, Debt Service on Bonds, any required debt service payments on Junior Bonds and Special Facilities Bonds, deposits to the Depreciation Fund and Contingent Fund (if any) and other expenditures of the System for such Fiscal Year.

[End of Article VII]

ARTICLE VIII

CUSTODIAN

Section 8.1. Custodian. The Council hereby designates Regions Bank, as Custodian under this Ordinance.

On or prior to the delivery of the initial Series of Bonds, the Custodian shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Ordinance by executing and delivering to the City a written instrument of acceptance.

The Custodian shall (a) prior to the occurrence of an Event of Default as set forth in Article X hereof which the Custodian has or is deemed to have notice hereunder and after the curing of all Events of Default which may have occurred, perform such duties and obligations, and only such duties and obligations, as are specifically set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Custodian, and (b) during the existence of any Event of Default which the Custodian has or is deemed to have actual notice (which has not been cured or waived) exercise the rights and powers vested in it by this Ordinance and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provisions of this Ordinance shall be construed to relieve the Custodian from liability for its own negligence or intentionally wrongful action or failure to act.

At all times, (1) the Custodian shall not be liable for any error of judgment made in good faith by an officer or employee of the Custodian unless it shall be proved that the Custodian was negligent in ascertaining the pertinent facts; (2) the Custodian shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority (or such lesser percentage as is specifically required or permitted by this Ordinance) in the aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting a proceeding for any remedy available to the Custodian, or exercising any trust or power conferred upon the Custodian under this Ordinance; (3) in the administration of the trusts of this Ordinance, the Custodian may execute any of the trusts or powers hereof directly or through its agents or attorneys. The Custodian may consult with counsel and the opinion or advice 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 with the opinion of such counsel.

The Custodian may conclusively rely upon the authenticity of, and the truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any note, resolution, request, consent order, certificate, report, opinion, direction, notice, or other paper or document furnished to it pursuant to any provision of this Ordinance, believed by it to be genuine and to have been signed and presented by the proper party. The Custodian is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document but the Custodian, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Custodian determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the City, in person or by agent or attorney.

The Custodian shall not be required to take notice or be deemed to have notice or actual knowledge of any event of default specified in Article X hereof other than a payment default described in subparagraphs A or B of Section 10.1 unless the Custodian shall receive from the City or the Holder of any Bond written notice stating that an Event of Default hereunder has occurred and specifying the same, and, in the absence of such direction, notice, the Custodian may conclusively assume that there is no such Event of Default.

The Custodian shall be entitled to payment of and reimbursement by the City for reasonable fees for its services rendered hereunder and all advances, and counsel fees reasonably and necessarily made or incurred by the Custodian in connection with such services.

The Custodian shall not, in any event, be required to take, defend, or appear in any legal action or proceeding hereunder or to exercise any of the trusts or powers hereof unless it shall first be adequately indemnified to its satisfaction as to terms, coverage, duration, amount and otherwise against the costs, expenses, and liabilities which may be incurred thereby. Every provision of this Ordinance relating to the conduct or affecting the liability of or affording protection to the Custodian shall be subject to the provisions hereof.

The Custodian may execute any of its trusts or powers or perform any duties under this Ordinance either directly or by or through agents or attorneys, and may in all cases pay, subject to reimbursement from the City, such reasonable compensation as it deems proper to all such agents and attorneys reasonably employed or retained by it, and the Custodian shall not be responsible for any misconduct or negligence of any agent or attorney appointed with due care by it.

No provision of this Ordinance shall require the Custodian to expend or risk its own funds or otherwise incur any liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Custodian is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Ordinance.

The Custodian's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Ordinance shall extend to the Custodian's officers, directors, agents, attorneys, and employees. Such immunities and protections and right to indemnification, together with the Custodian's right to compensation, shall survive the Custodian's resignation or removal, the discharge of this Ordinance, and the final payment of all Bonds issued hereunder.

The permissive right of the Custodian to take the actions permitted by this Ordinance shall not be construed as an obligation or duty to do so.

Whether or not expressly so provided, every provision of this Ordinance relating to the conduct or affecting the liability of or affording protection to the Custodian is subject to the provisions of this Section.

Section 8.2. Resignation of Custodian . The Custodian may resign at any time and be discharged of its duties and obligations hereunder by giving 30 days' written notice to the City and by giving notice to the Holders of the Bonds. No resignation will become effective until a successor Custodian has been appointed and accepts such appointment as provided below. Upon receiving notice of resignation, the City shall promptly appoint such successor Custodian by an instrument in writing executed by order of its Council. In the event a successor Custodian has not been appointed within 60 days of the date notice of resignation is given, the Custodian at the City's expense, may apply to any court of competent jurisdiction for the appointment of a successor Custodian to act until such time as a successor is appointed as provided in this Section.

Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Custodian shall, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms, be a bank, bank holding company or trust company or wholly-owned subsidiary of a bank holding company or trust company in good standing, qualified to act hereunder, and having a capital and earned surplus of not less than \$25,000,000.

Any successor Custodian appointed as provided in this section, shall execute, acknowledge and deliver to the City and its predecessor Custodian an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor Custodian shall become effective the predecessor Custodian shall immediately be discharged and released from all duties and obligations hereunder and such successor Custodian, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of its predecessor of the trust hereunder. Upon the request of any such successor Custodian, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Custodian all such rights, powers and duties. Upon acceptance of appointment by a successor Custodian, the City shall notify the registered owner of each Bond then Outstanding by

first-class mail, postage prepaid.

The predecessor Custodian shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Custodian. The predecessor Custodian shall promptly transfer all funds to the successor Custodian and deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Custodian.

Any corporation or association into which the Custodian may be merged or with which it may be consolidated, or any corporation or association resulting from any merger, or any corporation or association succeeding to the business of the Custodian, shall be the successor of the Custodian hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto.

Each, every and all funds and accounts held by the Custodian shall be impressed with a trust for the benefit of the Holders of the Bonds, under the provisions of this Ordinance and of the Bond Act.

Section 8.3. Removal of Custodian. Upon 30 days' written notice, the City may remove the Custodian, provided that an Event of Default shall not have occurred and be continuing. The removal of the Custodian under this Section 8.3 shall not be effective until a successor Custodian has been appointed and has accepted the duties of Custodian.

The Holders of a majority in aggregate principal amount of the Bonds at the time outstanding may, upon 30 days' written notice to the Custodian and the City, remove the Custodian and appoint a successor Custodian by instrument or instruments in writing signed by such Holders of the Bonds.

Section 8.4. Custodian. The Construction Funds shall each be held by the Bank, which shall be a bank, a trust company, a national banking association or a national association as custodian under this Ordinance or a Supplemental Ordinance.

Section 8.5. Duties and Obligations of Bank and Custodian. The recitals of fact made in this Ordinance and in the Bonds shall be taken as statements of the City, and the Custodian shall not be deemed to have made any representations whatsoever as to the correctness of the same or as to the validity or sufficiency of this Ordinance or of the Bonds issued hereunder. Nor shall the Bank or any Custodian be under any responsibility or duty with respect to the issuance of the Bonds or the application of the proceeds thereof, except to the extent provided for herein, or in a Supplemental Ordinance. The Custodian shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in response to this Ordinance, or to the Bonds issued hereunder, or to advance any of its own moneys, unless properly indemnified to its satisfaction. Nor shall the Bank or any Custodian be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 8.6. Custodian Protected in Relying upon Resolutions. The Bank and Custodian shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 8.7. Custodian Not Responsible for Recitals. The recitals contained in this Ordinance and in the Bonds (other than the certificate of authentication on the Bonds) are statements of the City, and the Custodian assumes no responsibility for their correctness. The Custodian makes no representations as to the value, condition or sufficiency of any assets pledged or assigned as security for the Bonds, the right, title or interest of the City therein, the security provided thereby or by this Ordinance, the technical or financial feasibility of any Project, the compliance of the Project with the Bond Act, or the tax-exempt status of the Bonds. The Custodian is not accountable for the use or application by the City of any of the Bonds or the proceeds of the Bonds, or for the use or application of any moneys paid over by the Custodian in accordance with any provision of this Ordinance.

Section 8.8. Custodian May Own Bonds. The Custodian, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action which any Bondholder may be entitled to take with like effect as if it were not Custodian. The Custodian, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the City and may act as depository, trustee or agent for any committee of Bondholders secured hereby or other obligations of the City as freely as if it were not Custodian. The provisions of this Section 8.8 shall extend to affiliates of the Custodian.

[End of Article VIII]

ARTICLE IX

AMENDMENTS OR SUPPLEMENTS TO ORDINANCE

Section 9.1. Amendments or Supplements to Ordinance. The City shall not amend this Ordinance except in accordance with the provisions of this Article.

A. The City may, from time to time and without the consent of any Holder of the Bonds enact an ordinance amendatory hereof or supplemental thereto (a) for the purpose of providing for the issuance of Bonds pursuant to the provisions of Article III hereof, or (b)(i) making any amendments or modifications hereto which may be required to permit this Ordinance to be qualified under the Trust Indenture Act of 1939, as amended; (ii) making any modification or amendment to this Ordinance not inconsistent herewith required for the correction of language or to cure any ambiguity or defective provisions, omission, mistake or manifest error herein contained; (iii) making any amendments or supplements hereto to grant to or confer upon the Holders additional rights, remedies, power and authority, or to grant to or confer upon any Holders, committee or trustee for the Holders any additional rights, power or authority; or (iv) adding to the security of the Holders of the Bonds.

B. From time to time the Holders of 66-2/3% in principal amount of the Bonds then Outstanding, by an instrument or instruments in writing signed by such Holders and filed with the City and the Custodian, shall have power to assent to and authorize any modification or amendment to the provisions of this Ordinance that may be proposed by the City or of the rights and obligations of the City and of the Holders of Bonds issued hereunder. Any action herein authorized to be taken with the assent and authority given as aforesaid of the Holders of 66-2/3% in principal amount of the Bonds at the time Outstanding shall be effective and binding upon all of the Holders of Bonds issued hereunder; and any action herein authorized to be taken with the assent and authority given as aforesaid of the Holders of 66-2/3% in principal amount of the Bonds at the time Outstanding shall be effective and binding upon all of the Holders of Bonds Outstanding and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance; provided always, that without the consent of the Holder of each Bond affected thereby, no such modification shall be made which will (a) extend the time of payment of principal of or the interest on any Bond, or reduce the principal amount thereof or the rate of interest thereon or the premium payable upon the redemption thereof, or (b) give to any Bond or Bonds any preference over any other Bond or Bonds, or (c) authorize the creation of any pledge prior to or, except as provided herein for the issuance of Series of Bonds, on a parity with the pledge afforded by this Ordinance, or (d) reduce the percentage in principal amount of the Bonds required to assent to or authorize any such modification to this Ordinance. For the purpose of computations required by this paragraph, Bonds directly or indirectly owned or controlled by the City shall be disregarded.

Any modification or amendment or supplement to the provisions of this Ordinance or of any Supplemental Ordinance supplemental hereto shall be set forth in an ordinance to be enacted by the City.

The City expressly authorizes the underwriter or purchaser of any Series of Bonds, or provider of bond insurance for any Series of Bonds, to assent to and consent to such amendments to this Ordinance as contemplated by this Article in the same manner as the Holders of the Bonds.

No modification of rights and obligations of the Custodian under this Ordinance shall be made without prior written consent of the Custodian.

[End of Article IX]

ARTICLE X

EVENTS OF DEFAULT

Section 10.1. Events of Default. With respect to the Bonds, the following shall constitute "Events of Default":

A. If payment of the principal of any Bond, whether at maturity or by proceedings for redemption, or upon mandatory sinking fund redemption, or by declaration as provided in Section 11.1 hereof, or otherwise, is not made by the City after the same becomes due and payable; or

B. If payment of any installment of interest on any Bond is not made by the City as the same becomes due and payable; or

C. If the City shall fail or refuse to comply with the essential provisions of the Bond Act, or shall fail in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in the Bonds or in this Ordinance or in any Supplemental Ordinance on the part of the City to be performed, and such failure continues for 60 days after written notice specifying such failure and requiring the same to be remedied has been given to the City by the Custodian or the Holders of not less than 20% in principal amount of the Bonds then Outstanding or any trustee or committee therefor; provided, however, that if the City fails to maintain sufficient fees, rates and other charges to satisfy the Rate Covenant, such failure shall not constitute an Event of Default provided that within 30 days from the City's receipt of such written notice the City has taken active steps to remedy the failure and thereafter diligently pursues such remedy; or

D. If any proceedings are instituted, with the consent or acquiescence of the City, for the purpose of effecting a composition between the City and its creditors and if the claim of such creditors is in any circumstance payable from any of the Net Revenues or any other moneys pledged and charged in this Ordinance or any Supplemental Ordinance for the payment of the Bonds, or any such proceedings are instituted for the purpose of adjusting the claims of such creditors, pursuant to any federal or State statute now or hereafter enacted; or

E. If an order or decree is entered (a) with the consent or acquiescence of the City, appointing a receiver or receivers of the System or any of the facilities thereof; or (b) without the consent or acquiescence of the City, appointing a receiver or receivers of the System or any of the facilities thereof and if, in either case, such order or decree having been entered is not vacated or discharged or stayed on appeal within 60 days after the entry thereof; or

F. If, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the System or any of the facilities thereof, and such custody or control is not terminated within 90 days from the date of assumption of such custody or control; or

G. If the City is for any reason rendered incapable of fulfilling its obligations hereunder in any material respect.

Subject to the provisions, limitations and conditions of Sections 11.1 and 11.2 hereof, insofar as the remedies provided in said provisions are concerned, nothing in Section 11.3 hereof or in this Article, and particularly nothing in subparagraph C of this Section 10.1, shall prohibit or limit, or be construed as prohibiting or limiting any Holder of a Bond from enforcing the duties of the City, or any of the officers thereof, under any provisions of this Ordinance (including, without limiting the generality of the foregoing, the duties imposed by or referred to in Section 11.3 hereof) by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, even though the failure of the City or any of the officers thereof to perform any such duty may not then constitute an "Event of Default" as defined in this Article X.

[End of Article X]

ARTICLE XI

REMEDIES UPON EVENT OF DEFAULT

Section 11.1. Declaration of Principal and Interest as Due. Upon the occurrence of an Event of Default, and at any time thereafter while such Event of Default continues, then and in each and every case the Custodian in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Outstanding Bonds, may proceed, and upon the written request of the Holders of not less than 25% in principal amount of the Bonds then Outstanding, shall proceed to declare the principal of all Bonds then Outstanding, together with all accrued and unpaid interest thereon, if not already due, to be due and payable immediately, and upon any such declaration the same shall become and be due and payable immediately. This provision is also subject, however, to the condition that, if at any time after the principal of the Bonds, together with the accrued and unpaid interest thereon and other moneys secured hereby, have been so declared due and payable and before any further action has been taken (other than the making of the above declaration), the principal amount of all Bonds which have matured either according to the maturity date or dates otherwise specified therein (except as a result of such declaration) and all arrears of interest upon all Bonds, except interest accrued but not yet due on said Bonds, have been paid or caused to be paid, and all other Events of Default, if any, which have occurred have been remedied, cured or secured, then and in each and every such case the Holders of 25% in principal amount of the Bonds then Outstanding, by notice in writing delivered to the Custodian and the City, may waive such Default and its consequences and rescind and annul such declaration. No such waiver or rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power related to such subsequent Default.

Section 11.2. Appointment of a Receiver. Upon the occurrence of an Event of Default described in subparagraphs A and B of Section 10.1 hereof, and at any time thereafter while such default continues, any court of competent jurisdiction may appoint a receiver; provided, however, if application is made by the Custodian or the Holders of not less than 25% in principal amount of the Bonds then Outstanding or any trustee therefor, such court may appoint a receiver. Any receiver so appointed shall (a) enter into and upon and take possession of the System, to the exclusion of the City if such court so directs; (b) have, hold, use, operate, manage and control the System as such receiver may deem best; and (c) exercise all rights and powers of the City with respect to the System as the City itself may do. In addition, the receiver shall (a) maintain, restore and insure the System and from time to time make all necessary and proper repairs to the System as such receiver may deem expedient; (b) establish, levy, maintain and collect such fees, rentals and other charges in connection with the System as such receiver may deem necessary or proper and reasonable; and (c) collect and receive all revenues, deposit such revenues in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

Notwithstanding anything contained in this Ordinance or the Bond Act, such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character of the City and useful to the System.

Section 11.3. Suits at Law or in Equity and Mandamus. In case any one or more of the Events of Default shall happen and be continuing, then and in every such case, but subject to the provisions, limitations and conditions of Sections 11.1 and 11.2 of this Article so far as the remedies provided in said provisions are concerned, the Holder of any Bond at the time Outstanding, or Custodian therefor, may, for the equal benefit and protection of all Holders of the Bonds similarly situated,

- (a) by mandamus or other suit, action or proceedings at law or in the equity, enforce such Bondholder's right against the City and require and compel the City to perform and carry out its duties and obligations under the Bond Act and this Ordinance, and to perform and carry out its covenants and agreements with the Bondholders;
- (b) by action or suit in equity require the City to account as if such City were the trustee of an express trust;
- (c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; or
- (d) bring suit upon the Bonds.

Section 11.4. Remedies Not Exclusive; Effect of Waiver of Default; Effect of Abandonment of Proceedings or Adverse Determination. The Holders from time to time of the Bonds shall be entitled to all the remedies and benefits of this Ordinance as are and as shall be provided by law, and, subject to the provisions of Sections 11.1 and 11.2 hereof, nothing herein shall be construed to limit the rights or remedies of any such Holders under any applicable statute that may now exist or be enacted thereafter. No remedy conferred by the Bond Act and this Article upon any Holder of any Bond is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Bond Act and this Article or by any other law now or hereafter existing. Every substantive right and remedy conferred upon the Holders of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient.

No waiver of any default or breach of duty or contract by any Holder of any Bond shall extend to or affect any subsequent default or breach of duty or contract, or shall impair any rights or remedies thereon. No delay or omission of any Holder of a Bond to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to Holders of the Bonds then and in every such case, the City and such Holders shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

Section 11.5. Restrictions on Bondholder's Action.

A. No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or the execution of any trust under this Ordinance or for any remedy under this Ordinance unless such Holder shall have previously given to the Custodian written notice of the happening of an Event of Default and the Holders of at least twenty-five percent (25%) in principal amount of the Bonds then Outstanding shall have filed a written request with the Custodian and shall have offered the Custodian reasonable opportunity, either to exercise the powers granted in this Ordinance or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Custodian adequate security and indemnity against the costs, fees (including reasonable attorneys' fees), expenses and liabilities to be incurred therein or thereby, and the Custodian shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request an offer of indemnity. No one or more Holders of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner therein provided. All proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all Holders of the Outstanding Bonds.

B. Nothing in this Ordinance or in the Bonds contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay at the respective dates of maturity and places therein expressed the principal of (and redemption premium, if any) and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of his Bond.

Section 11.6. Application of Net Revenues and Other Moneys After Default. During the continuance of an Event of Default, all moneys received by the Custodian pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses and advances incurred or made by the Custodian with respect thereto, including reasonable attorneys' fees, be deposited in the respective Bond and Interest Redemption Funds, and all amounts held by the Custodian hereunder shall be applied as follows (provided if more than one Bond and Interest Redemption Fund has been established, such amounts shall be paid ratably):

A. Unless the principal of all Outstanding Bonds shall have become or have been declared due and payable:

First: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds in the order of maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the person entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal amounts or redemption premium, if any, of any Bonds which shall have become due (other than Bonds previously called for redemption in accordance with the provisions hereof), whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the principal amounts or redemption premium, if any, due on such date, to the persons entitled thereto, without any discrimination or preference.

B. If the principal amounts of all Outstanding Bonds shall have become or have been declared due and payable, to the payment of the principal amounts and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal amounts and interest, to the persons entitled thereto without any discrimination or preference.

C. If the principal amounts of all Outstanding Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article XI, then, subject to the provisions of this Section 11.6 in the event that the principal amounts of all Outstanding Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (A) of this Section 11.6.

Whenever moneys are to be applied by the Custodian pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Custodian shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Custodian shall apply such moneys, it shall fix the date (which shall be a Bond payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the principal amounts to be paid on such dates shall cease to accrue. The Custodian shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Custodian for appropriate endorsement of any partial payment or for cancellation if fully paid.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Custodian have been paid, any balance remaining shall be paid to the person entitled to receive the same; if no other person shall be entitled thereto, then the balance shall be paid to the City or as a court of competent jurisdiction may direct.

[End of Article XI]

ARTICLE XII

DEFEASANCE

Section 12.1. Defeasance. The obligations of the City under this Ordinance and the liens, pledges, charges, trusts and the covenants and agreements of the City herein made or provided for, shall be fully discharged and satisfied as to any Bond; and, unless or except as otherwise provided in the Supplemental Ordinance providing for the issuance of any Series of Bonds, such Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder when:

(a) Such Bond or Series of Bonds shall have been purchased by the City and surrendered to the City for cancellation or otherwise surrendered to the City or the Registrar, and is canceled or subject to cancellation by the City or Registrar, or

(b) Payment of the principal of, redemption premium, if any, and interest on such Bond or Series of Bonds, either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent or such other depository as the City may designate in trust and irrevocably setting aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Custodian, Paying Agent and the Registrar, or a combination thereof. At such time as a Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder, as aforesaid, such Bond or Series of Bonds shall cease to draw interest from the maturity date or redemption date thereof, and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

If moneys or Government Obligations have been deposited with the Custodian pursuant to this Section 12.1 for payment of less than all Bonds of a Series and maturity, the Bonds of such Series and maturity to be so paid from such deposit shall be selected by the Custodian by lot by such method as shall provide for the selection of portions (in authorized denominations) of the principal of Bonds of such Series and maturity of a denomination larger than the smallest authorized denomination. Such selection shall be made within seven days after the moneys or Government Obligations have been deposited with the Custodian. This selection process shall be in lieu of the selection process otherwise provided with respect to redemption of Bonds in Article V. After such selection is made, Bonds that are to be paid from such deposit (including Bonds issued in exchange for such Bonds pursuant to the transfer or exchange provisions of this Ordinance) shall be identified by a separate CUSIP number or other designation satisfactory to the Custodian. The Custodian shall notify Bondholders whose Bonds (or portions thereof) have been selected for payment from the moneys or Government Obligations on deposit and shall direct such Bondholders to surrender their Bonds to the Custodian in exchange for Bonds with the appropriate designation. The selection of Bonds for payment from such deposit pursuant to this paragraph shall be conclusive and binding on the City and the Bondholder.

The City shall give to the Custodian in form satisfactory to it irrevocable instructions to give notice of the deposit of moneys or Government Obligations, the selection of Bonds to be redeemed including CUSIP numbers and the anticipated date of redemption. The Custodian shall promptly give such notice to the Bondholders including the information required under Section 5.3 hereof.

Any moneys so deposited with the Paying Agent or such other depository as the City may designate as provided in this Article XII may at the direction of the City also be invested and reinvested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of such Paying Agent which is not required for the payment of the Bonds or Series of Bonds and interest thereon with respect to which such moneys shall have been so deposited, shall be treated as Revenues of the System.

Notwithstanding any provision hereof which may be contrary to the provisions of this Article XII, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Article XII for the payment of Bonds or Series of Bonds shall be applied to and used solely for the payment of the particular Bonds or Series of Bonds with respect to which such moneys and Government Obligations have been so set aside in trust.

Any provision hereof to the contrary notwithstanding, if moneys or Government Obligations have been deposited or set aside with the Paying Agent pursuant to this Article XII for the payment of the Bonds and such Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Article XII shall be made without the consent of the Bondholder of each Bond or Series of Bonds affected thereby.

[End of Article XII]

ARTICLE XIII

MISCELLANEOUS

Section 13.1. Benefits of Ordinance Limited to the City, the Custodian and the Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the City, the Custodian and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Custodian and the Holders from time to time of the Bonds as herein and therein provided.

Section 13.2. Ordinance Binding Upon Successors or Assigns of the City. All the terms, provisions, conditions, covenants, warranties and agreements contained in this Ordinance shall be binding upon the successors and assigns of the City and shall inure to the benefit of the Custodian, its successors or substitutes in trust and assigns, and the Holders of the Bonds.

Section 13.3. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the City contained in this Ordinance or the Bonds, against any member of the City, any officer or employee, as such, in his or her individual capacity, past, present or future, of the City, either directly or through the City, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. It is expressly agreed and understood that this Ordinance and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such past, present or future, of the City, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the City and the Custodian or the Bondholder or to be implied therefrom as being supplemental hereto or thereto. All personal liability of that character against every such member, officer and employee is, by the adoption of this Ordinance and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the adoption of this Ordinance and the execution of the Bonds, expressly waived and released. The immunity of members, officers and employees of the City under the provisions contained in this Section 13.3 shall survive the termination of this Ordinance.

Section 13.4. Effect of Saturdays, Sundays and Legal Holidays. Whenever this Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State, such action shall be taken on the first Business Day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State, such time shall continue to run until midnight on the succeeding Business Day.

Section 13.5. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City or the Custodian or any Paying Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 13.6. Law and Place of Enforcement of Ordinance. This Ordinance shall be construed and interpreted in accordance with the laws of the State and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in the State.

Section 13.7. 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 13.8. 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
1737 Main Street
Columbia, South Carolina 29217-0147
Attention: City Manager

The City 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 13.9. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the City, and any part of any ordinance or resolution, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 13.10. Effective Date. This Ordinance shall become effective upon its enactment; provided, however, that it shall not be necessary for the City to establish the funds and accounts created in Article VI hereof prior to the issuance of any Bonds.

Section 13.11. Codification. This Ordinance shall be forthwith codified in the Code of City Ordinances in the manner required by law.

[End of Article XIII]

Enacted by the City Council of the City of Columbia, South Carolina, this 15th day of May, 2018.



CITY COUNCIL OF THE CITY OF COLUMBIA,
SOUTH CAROLINA

By: _____
Mayor

ATTEST:

Clerk

Date of First Reading: April 17, 2018
Date of Second Reading: May 15, 2018