

CITY OF COLUMBIA, SOUTH CAROLINA

ORDINANCE NO. 2006-094

AUTHORIZING THE EXECUTION AND DELIVERY OF A FORWARD DELIVERY OR SUPPLY AGREEMENT BY THE CITY OF COLUMBIA, SOUTH CAROLINA, IN CONNECTION WITH THE CITY'S INSTALLMENT SALE AGREEMENT DATED NOVEMBER 1, 2004, BETWEEN THE CITY AND COLUMBIA PUBLIC FACILITIES CORPORATION ENTERED INTO IN CONNECTION WITH THE \$19,365,000 CERTIFICATES OF PARTICIPATION (HOSPITALITY FEE PLEDGE), SERIES 2004; DELEGATING THE AUTHORITY TO THE MAYOR AND CITY MANAGER TO DETERMINE CERTAIN MATTERS; APPROVING THE FORM OF REQUEST FOR OFFERS; AND OTHER MATTERS RELATING THERETO.

Enacted: November 15, 2006

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

Section 1. Findings and Determinations. The Council hereby finds and determines:

(a) The City is an incorporated municipality located in portions of Lexington County and Richland County, South Carolina, and as such has all powers granted to municipalities by the Constitution and general laws of the State. Pursuant to Section 5-5-10 of the South Carolina Code of Laws 1976 as amended (the "South Carolina Code"), the City has selected the Council-Manager form of government and is governed by a Council composed of a Mayor and six Council members which constitute the governing body of the City.

(b) Section 5-7-30 of the South Carolina Code provides, in part, that municipalities may enact ordinances, not inconsistent with the Constitution and general law of the State, respecting any subject which appears necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in the municipality, and further, under the South Carolina Supreme Court case of Williams v. Town of Hilton Head, 429 S.E.2d 802 (1993), a municipality may enact regulations (ordinances) without the requirement for further specific statutory authorization so long as such regulations are not inconsistent with the Constitution and general law of the State.

(c) Previously, the City Council enacted Ordinance No. 2004-089 (the "Ordinance") on October 20, 2004, which authorized the City to enter into an Installment Sale Agreement (the "Installment Agreement") between the City and Columbia Public Facilities Corporation (the "Corporation") and consented to the issuance by the Corporation of its certificates of participation in the aggregate principal amount of not exceeding \$22,000,000. The Corporation has issued the \$19,365,000 City of Columbia, South Carolina, Columbia Public Facilities Corporation Certificates of Participation Evidencing Undivided Proportionate Interest in Base Fee Payments Under an Installment Sale Agreement (Hospitality Fee Pledge), Series 2004 (the "2004 COPS") pursuant to the Trust Agreement dated as of November 1, 2004 (the "Trust agreement"), between the Corporation and Regions Bank, as trustee (the "Trustee").

(d) Section 4.1(b) of the Installment Agreement requires the City to pay on the fifth (5th) Business Day (as defined in the Trust Agreement) preceding each February 1 and August 1 of each Fiscal Year the Base Fee Payments (as defined in the Installment Agreement) component of Fee Payments exclusively from Hospitality Fees (as such terms are defined in the Installment Agreement) to the Trustee in the amounts and in the Fiscal Years set forth therein.

(e) In order to provide for and achieve a proper matching of Hospitality Fees available for the payment of the 2004 COPS and the debt service payable with respect to the 2004 COPS, it is also proposed that the City establish a separate account or fund into which there shall be deposited monthly Hospitality Fees in an amount sufficient to meet the debt service coming due on the 2004 COPS in a particular Fiscal Year and to comply with any of the provisions of the investment agreement authorized by this Ordinance. The City would transfer Hospitality Fees for deposit into such separate account or fund at the times and in the amounts determined by the City's Chief Financial Officer from time to time.

(f) The City Manager has advised the Council that the portion of the Hospitality

Fees to be applied to the payment of the interest and principal of the outstanding 2004 COPS currently are invested in short-term obligations which bear interest at lower rates than are available through the investment agreement authorized by this Ordinance. The City's financial advisor, Merchant Capital L.L.C. ("Merchant Capital"), has advised the City of an investment vehicle commonly referred to as a Forward Delivery or Supply Agreement (the "Agreement"). Under such an Agreement, the City would agree to make monthly deposits to the Trustee and the Trustee would invest such monthly deposits in obligations of the United States of America or agencies thereof ("U.S. Government Securities") supplied by a third party. The U.S. Government Securities will mature prior to or on the semi-annual interest and annual principal payment dates of the outstanding 2004 COPS. The yield to be received by the City for the duration of the Agreement will be fixed to eliminate future reinvestment risk. The U.S. Government Securities purchased in advance by the City would mature at least two (2) business days prior to the required semi-annual interest and annual principal payment dates of the outstanding 2004 COPS. Merchant Capital has advised the City that the advantage to the City of this type of investment is that the yield will be predetermined and the security for the investment will be U. S. Government Securities. By entering into the Agreement, the City would be able to fix its rate of return on the monthly deposits for a period of time not to exceed the latest maturity date (February 1, 2024) of the 2004 COPS. Such an Agreement will be advantageous and economical to the City.

(g) It is in the best interest of the City to authorize the Mayor of the City and the City Manager with the assistance of Merchant Capital to seek proposals from various providers to enter into the Agreement authorized hereby upon such terms and conditions as the Mayor and the City Manager may agree upon with the provider under the Agreement.

Section 2. Establishment of Debt Service Account. Upon the execution and delivery of the Agreement, there shall be established and maintained a special account or fund of the City as a payment fund for the 2004 COPS which shall be kept on deposit with the City or a financial institution designated by the City as a separate and distinct account or fund and into which there shall be deposited from time to time Hospitality Fees sufficient to make the payments required under the Agreement or, in the absence of the Agreement, the required Base Payment coming due on the 2004 COPS.

Section 3. Delegation of Authority. Without further authorization, the City hereby delegates to the Mayor of the City and the City Manager the authority to seek and accept proposals from various providers (as Merchant Capital advises the City) for the Agreement. The form, terms and provisions of the Agreement shall be approved by the Mayor and City Manager of the City, or either of them acting alone. The Mayor of the City and the City Manager, or either of them acting alone, is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the City, and thereupon to cause the Agreement to be delivered to the other party or parties thereto. The execution of the Agreement shall constitute conclusive evidence of approval of such Agreement.

Section 4. Approval of Form of Request for Offers. The form of the Request for Offers, a copy of which has been presented to Council and filed with minutes of the meeting at which this Ordinance was enacted, is hereby approved with such changes in the form, terms and provisions thereof as the Mayor or City Manager, or either one of them acting alone, with the advice of Merchant Capital, shall approve.

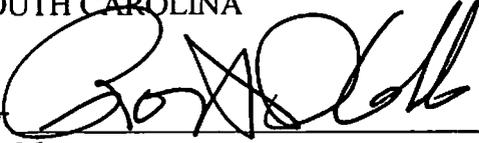
Section 5. Further Actions. The Mayor, City Manager, Chief Financial Officer and City Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate execution and delivery of the Agreement and to carry out the intentions of this Ordinance. The Council authorizes the City Manager to employ Merchant Capital as financial advisor and retain McNair Law Firm, P.A., as special counsel in connection with the transaction authorized by this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective upon its enactment.

[Signature Page Follows]

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

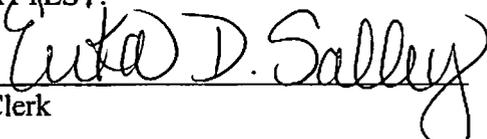
CITY COUNCIL OF THE CITY OF COLUMBIA,
SOUTH CAROLINA

By 

Mayor

(SEAL)

ATTEST:



Clerk

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

[Signature Page]