

1 Introduced February 17, 2004, by  
2 Councilwoman Burkhalter, seconded by  
3 Councilwoman Livaudais (both by request of  
4 Administration)

5 **Item No. 04-02-2397**

6 **ORDINANCE NO. 3174**

7  
8 An ordinance providing for the transfer of funds from the Bond  
9 Reserve Fund created by Ordinance No. 2122, amended and  
10 supplemented by Ordinance No. 3142, providing for the  
11 issuance of \$13,360,000 of Public Improvement Sales Tax  
12 Refunding Bonds, to the Sales Tax Fund; providing for the  
13 payment of installments to the Reserve Fund; recognizing the  
14 rights of the Insurer and providing for other matters in  
15 connection therewith.

16 WHEREAS, by authority of Ordinance No. 2122 on August 25, 1987 (the  
17 "General Bond Ordinance"), as amended by Ordinance No. 3142 (the "Supplemental  
18 Ordinance") (collectively, the "Bond Ordinance"), the City issued its \$13,360,000 of Public  
19 Improvement Sales Tax Refunding Bonds, Series 2003 (the "Bonds") of the City of Slidell,  
20 State of Louisiana, (the "City"); and

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24 WHEREAS, the Bonds were insured by Ambac Insurance Corporation  
25 ("Ambac"); and

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27 WHEREAS, the Bond Ordinance provides for the establishment and  
28 maintenance of a reserve fund (the "Reserve Fund") to provide moneys for the purpose of  
29 paying principal and interest as to which there would otherwise be default; and

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32 WHEREAS, the Bond Ordinance provides that the Reserve Fund to the Debt  
33 Service Reserve Requirement as described in the Bond Ordinance (the "DSRF  
34 Requirement") shall be funded over a period not to exceed five years; and

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37 WHEREAS, the Reserve Fund was fully funded at delivery of the Bonds; and  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 2**

4 WHEREAS, the City now wishes to provide for funding the Reserve Fund  
5 Requirement over a period of years from 1986 sales tax revenues in the manner set out in  
6 the Bond Ordinance; and  
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9 WHEREAS, the City wishes to recognize and affirm the rights of the Insurer  
10 relative to the Bond issue;  
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12 NOW THEREFORE BE IT ORDAINED by the Slidell City Council, acting as  
13 the governing authority of said City:  
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15 SECTION 1. That the Director of Finance is hereby authorized and directed  
16 to implement the schedule attached hereto and to take all necessary actions to comply  
17 with the Bond Ordinance and applicable law.  
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20 SECTION 2. That this Council hereby recognizes that Ambac provided  
21 financial guaranty insurance on the Bonds and the following provisions regarding such  
22 insurance and Ambac are recognized and affirmed:  
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25 A. Consent of Ambac Assurance.

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27 Any provision of the Bond Ordinance expressly recognizing or  
28 granting rights in or to Ambac may not be amended in any manner which  
29 affects the rights of Ambac without the prior written consent of Ambac.  
30 Ambac reserves the right to charge the City a fee for any consent or  
31 amendment to the Financing Document while the Financial Guaranty  
32 Insurance Policy (the "Policy") is outstanding.  
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36 B. Consent of Ambac Assurance in Addition to Holder Consent.  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 3**

4 Unless otherwise provided in this Section, Ambac's consent shall be  
5 required in addition to Holder consent, when required, for the following  
6 purposes: (i) execution and delivery of any supplemental ordinance or any  
7 amendment, supplement or change to or modification of the Bond  
8 Ordinance (ii) removal of Paying Agent and selection and appointment of  
9 any successor paying agent and (iii) initiation or approval of any action not  
10 described in (i) or (ii) above which requires Holder consent.  
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12 **C. Consent of Ambac Assurance in the Event of Insolvency.**

13 Any reorganization or liquidation plan with respect to the City must  
14 be acceptable to Ambac. In the event of any reorganization or liquidation,  
15 Ambac shall have the right to vote on behalf of all Holders who hold Bonds  
16 absent a default by Ambac under the Policy.  
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18 **D. Consent of Ambac Assurance Upon Default.**

19 Anything in the Bond Ordinance to the contrary notwithstanding,  
20 upon the occurrence and continuance of an event of default as defined  
21 herein, Ambac shall be entitled to control and direct the enforcement of all  
22 rights and remedies granted to the Holders or the Trustee for the benefit of  
23 the Holders under the Bond Ordinance.  
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25 **E. Subrogation Rights of Ambac.**

26 As provided in the form of bond, all payments by Ambac shall be  
27 made in accordance with the terms of Policy No. 21204BE (the "Policy") and  
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4 the owners of the Bonds have consented to the subrogation rights of Ambac  
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6 as more fully set out in that Policy.

7 F. Repayment to Insurer

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9 Notwithstanding anything herein to the contrary, in the event that the  
10 principal and/or interest due on the Bonds shall be paid by Ambac pursuant  
11 to the Financial Guaranty Insurance Policy, the Bonds shall remain  
12 outstanding for all purposes, not be defeased or otherwise satisfied and not  
13 be considered paid by the City, and the pledge of revenues and all  
14 covenants, agreements and other obligations of the City to the registered  
15 owners shall continue to exist and shall run to the benefit of Ambac and  
16 Ambac shall be subrogated to the rights of such registered owners.  
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22 G. Method of Payment in the event of default.

23 As long as the Policy shall be in full force and effect, the City and any  
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25 Paying Agent agree to comply with the following provisions:

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27 (a) At least one (1) day prior to all Interest Payment Dates the Paying Agent  
28 will determine whether there will be sufficient funds in the Funds and  
29 Accounts to pay the principal of or interest on the Bonds on such Interest  
30 Payment Date. If the Paying Agent determines that there will be insufficient  
31 funds in such Funds or Accounts, the Paying Agent shall so notify Ambac.  
32 Such notice shall specify the amount of the anticipated deficiency, the  
33 Bonds to which such deficiency is applicable and whether such Bonds will  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 5**

4 be deficient as to principal or interest, or both. If the Paying Agent has not  
5 so notified Ambac at least one (1) day prior to an Interest Payment Date,  
6 Ambac will make payments of principal or interest due on the Bonds on or  
7 before the first (1<sup>st</sup>) day next following the date on which Ambac shall have  
8 received notice of nonpayment from the Paying Agent.  
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12 (b) the Paying Agent, if any, shall, after giving notice to Ambac as provided  
13 in (a) above, make available to Ambac, and, at Ambac's direction, to the  
14 Bank of New York, in New York, New York, as insurance trustee for Ambac  
15 or any successor insurance trustee (the "Insurance Trustee"), the Bond  
16 registration books maintained by the Paying Agent, if any, and all records  
17 relating to the Funds and Accounts maintained under the Bond Ordinance.  
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22 (c) the Paying Agent shall provide Ambac and the Insurance Trustee with a  
23 list of registered owners of Bonds entitled to receive principal or interest  
24 payments from Ambac under the terms of the Policy, and shall make  
25 arrangements with the Insurance Trustee (i) to mail checks or drafts to the  
26 registered owners of Bonds entitled to receive full or partial interest  
27 payments from Ambac and (ii) to pay principal upon Bonds surrendered to  
28 the Insurance Trustee by the registered owners of Bonds entitled to receive  
29 full or partial payments from Ambac.  
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35 (d) the Paying Agent shall at the time it provides notice to Ambac pursuant  
36 to (a) above, notify registered owners of Bonds entitled to receive the  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 6**

4 payment of principal or interest thereon from Ambac (i) as to the fact of such  
5 entitlement, (ii) that Ambac will remit to them all or a part of the interest  
6 payments next coming due upon proof of Holder entitlement to interest  
7 payments and delivery to the Insurance Trustee, in form satisfactory to the  
8 Insurance Trustee, of an appropriate assignment of the registered owner's  
9 right to payment (iii) that should they be entitled to receive full payment of  
10 principal from Ambac, they must surrender their Bonds (along with an  
11 appropriate instrument of assignment in form satisfactory to the Insurance  
12 Trustee to permit ownership of such Bonds to be registered in the name of  
13 Ambac) for payment to the Insurance Trustee, and not the Paying Agent  
14 and (iv) that should they be entitled to receive partial payment of principal  
15 from Ambac, they must surrender their Bonds for payment thereon first to  
16 the Paying Agent who shall note on such Bonds the portion of the principal  
17 paid by the Paying Agent and then, along with an appropriate instrument of  
18 assignment in form satisfactory to the Insurance Trustee, to the Insurance  
19 Trustee, which will then pay the unpaid portion of principal.

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30 (e) in the event that the Paying Agent has notice that any payment of  
31 principal of or interest on a Bond which has become Due for Payment and  
32 which is made to a Holder by or on behalf of the City has been deemed a  
33 preferential transfer and theretofore recovered from its registered owner  
34 pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 7**

4 accordance with the final, nonappealable order of a court having competent  
5 jurisdiction, the Paying Agent shall, at the time Ambac is notified pursuant to  
6 (a) above, notify all registered owners that in the event that any registered  
7 owner's payment is so recovered, such registered owner will be entitled to  
8 payment from Ambac to the extent of such recovery if sufficient funds are  
9 not otherwise available, and the Paying Agent shall furnish to Ambac its  
10 records evidencing the payments of principal of and interest on the Bonds  
11 which have been made by the Paying Agent and subsequently recovered  
12 from registered owners and the dates on which such payments were made.

13 (f) in addition to other rights granted Ambac, Ambac shall, to the extent it  
14 makes payment of principal of or interest on Bonds, become subrogated to  
15 the rights of the recipients of such payments in accordance with the terms of  
16 the Policy, and to evidence such subrogation (i) in the case of subrogation  
17 as to claims for past due interest, the Paying Agent, if any, shall note  
18 Ambac rights as subrogee on the registration books of the City maintained  
19 by the Paying Agent, if any, upon receipt from Ambac of proof of the  
20 payment of interest thereon to the registered owners of the Bonds, and (ii)  
21 in the case of subrogation as to claims for past due principal, the Paying  
22 Agent shall note Ambac's rights as subrogee on the registration books of  
23 the City maintained by the Paying Agent, if any, upon surrender of the  
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1 **ORDINANCE NO. 3174**  
2 **ITEM NO. 04-02-2397**  
3 **PAGE 8**

4 Bonds by the registered owners thereof together with proof of the payment  
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6 of principal thereof.

7 **ADOPTED** this 9th day of March, 2004.

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10 *DELIVERED 3/11/04*  
11 *9:00 a.m. to the Mayor*

*Elsie Burkhalter*  
Elsie Burkhalter  
President of the Council  
Councilwoman, District A

12  
13 *RECEIVED 3/12/04*  
14 *10:10 a.m. from the Mayor*

*Ben O. Morris*  
Ben O. Morris  
Mayor

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18 *Shawn B. McManus*  
19 Shawn B. McManus  
20 Clerk of the Council  
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