



CITY COUNCIL
ATLANTA, GEORGIA

No. 04-R-0767

**A RESOLUTION BY COUNCILMEMBER DEBI STARNES,
AS SUBSTITUTED BY FULL COUNCIL
AS AMENDED BY FULL COUNCIL**

A RESOLUTION TO SPECIFY THE PRINCIPAL AMOUNT TO MATURE IN EACH YEAR AND THE OPTIONAL AND MANDATORY REDEMPTION PROVISIONS OF THE SERIES 2004D BONDS (AUCTION RATE SECURITIES) AND THE SERIES 2004E BONDS (AUCTION RATE SECURITIES) BEING ISSUED PURSUANT TO THE SEVENTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON APRIL 19, 2004 (04-O-0431); TO SPECIFY THE INITIAL INTEREST RATES AND INITIAL AUCTION PERIODS FOR EACH SERIES; TO AUTHORIZE AND APPROVE THE BOND PURCHASE AGREEMENTS WITH RESPECT TO THE SERIES 2004D BONDS AND SERIES 2004E BONDS; TO PROVIDE FOR BOND INSURANCE AND A RESERVE ACCOUNT CREDIT POLICY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF BROKER-DEALER AGREEMENTS AND AUCTION AGENT AGREEMENTS; TO PROVIDE FOR THE DELIVERY OF THE SERIES 2004D-1 BONDS, SERIES 2004D-2 BONDS, SERIES 2004E-1 BONDS AND SERIES 2004E-2 BONDS; TO PROVIDE FOR THE APPLICATION OF THE PROCEEDS OF THE BONDS; AND FOR OTHER PURPOSES.

RESOLUTION

ADOPTED JUNE 7, 2004
BY THE CITY COUNCIL OF THE CITY OF ATLANTA
PROVIDING FOR THE ISSUANCE OF

\$44,825,000

Airport Passenger Facility Charge and
Subordinate Lien General Revenue Bonds
Series 2004D-1 (Auction Rate Securities)

\$44,825,000

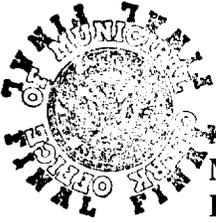
Airport Passenger Facility Charge and
Subordinate Lien General Revenue Bonds
Series 2004D-2 (Auction Rate Securities)

\$73,275,000

Airport Passenger Facility Charge and
Subordinate Lien General Revenue Bonds
Series 2004E-1 (Auction Rate Securities)

\$73,275,000

Airport Passenger Facility Charge and
Subordinate Lien General Revenue Bonds
Series 2004E-2 (Auction Rate Securities)



A RESOLUTION TO SPECIFY THE PRINCIPAL AMOUNT TO MATURE IN EACH YEAR AND THE OPTIONAL AND MANDATORY REDEMPTION PROVISIONS OF THE SERIES 2004D BONDS (AUCTION RATE SECURITIES) AND THE SERIES 2004E BONDS (AUCTION RATE SECURITIES) BEING ISSUED PURSUANT TO THE SEVENTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON APRIL 19, 2004 (04-O-0431); TO SPECIFY THE INITIAL INTEREST RATES AND INITIAL AUCTION PERIODS FOR EACH SERIES; TO AUTHORIZE AND APPROVE THE BOND PURCHASE AGREEMENTS WITH RESPECT TO THE SERIES 2004D BONDS AND SERIES 2004E BONDS; TO PROVIDE FOR BOND INSURANCE AND A RESERVE ACCOUNT CREDIT POLICY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF BROKER-DEALER AGREEMENTS AND AN AUCTION AGENT AGREEMENT; TO PROVIDE FOR THE DELIVERY OF THE SERIES 2004D-1 BONDS, SERIES 2004D-2 BONDS, SERIES 2004E-1 BONDS AND SERIES 2004E-2 BONDS; TO PROVIDE FOR THE APPLICATION OF THE PROCEEDS OF THE BONDS; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the Seventh Supplemental Bond Ordinance adopted on April 19, 2004 (the "**Seventh Supplemental Bond Ordinance**") by the Council of the City of Atlanta (the "**City Council**"), the City Council has authorized the issuance by the City of not to exceed \$275,000,000 aggregate principal amount of its Airport General Revenue Bonds, Series 2004A (the "**Series 2004A Bonds**") and Series 2004B (the "**Series 2004B Bonds**"; the Series 2004A Bonds and the Series 2004B Bonds are sometimes collectively referred to as the "**Series 2004A/B Bonds**", and the Series 2004A/B Bonds and the Series 2004C Bonds, as hereinafter defined, are sometimes collectively referred to as the "**Series 2004A/B/C Bonds**"); and

WHEREAS, also pursuant to the Seventh Supplemental Bond Ordinance, the City Council has authorized the issuance by the City of not to exceed \$675,000,000 aggregate principal amount of its Airport Passenger Facility Charge and Subordinate Lien General Revenue Bonds, Series 2004C (the "**Series 2004C Bonds**"), Series 2004D (Auction Rate Securities) (the "**Series 2004D Bonds**") and Series 2004E (Auction Rate Securities) (the "**Series 2004E Bonds**"; the Series 2004D Bonds and the Series 2004E Bonds are sometimes collectively referred to as the "**Series 2004D/E Bonds**"); and

WHEREAS, pursuant to a resolution adopted June 2, 2004 (the "**2004A/B/C Sale Resolution**"), the Issuer has authorized and approved the issuance and sale of the Series 2004A Bonds in the aggregate principal amount of \$164,165,000, the Series 2004B Bonds in the aggregate principal amount of \$58,655,000 and the Series 2004C Bonds in the aggregate principal amount of \$293,070,000, all bearing interest, and maturing in the years and amounts, set forth in the 2004A/B/C Sale Resolution; and

WHEREAS, the Seventh Supplemental Bond Ordinance provides that the Series 2004D/E Bonds are to be dated not later than the date of issuance and delivery, to be initially issued as book-entry only bonds in fully registered form without coupons, transferable to subsequent owners as therein provided, in Authorized Denominations (as defined in the Seventh



Supplemental Bond Ordinance), numbered from RD-1 or RE-1 upwards, as applicable, bearing interest from date initially at the Auction Period Rate (as defined in the Seventh Supplemental Bond Ordinance), and the principal maturing on January 1 in the year or years not later than 2033, in such principal amounts such that the highest Debt Service Requirement on the Series 2004D/E Bonds and the Series 2004C Bonds in any Sinking Fund Year shall not exceed \$50,000,000; and

WHEREAS, it was provided in the Seventh Supplemental Bond Ordinance that each series of the Series 2004D/E Bonds shall have initial "Auction Dates," initial "Auction Periods," and initial "Interest Payment Dates," and be divisible into such series, as set out in the Supplemental Resolution; and

WHEREAS, the Series 2004D/E Bonds shall be Variable Rate Bonds but at no time shall the annual rate of interest that the Series 2004D/E Bonds may bear exceed the Maximum Rate (as defined in the Seventh Supplemental Bond Ordinance), the highest Debt Service Requirement on the Series 2004D/E Bonds and the Series 2004C Bonds in any Sinking Fund Year (determined in accordance with the Master Bond Ordinance) does not exceed \$50,000,000, and the Series 2004D/E Bonds shall bear interest from date initially at the Auction Period Rate determined in accordance with Exhibit C to the Seventh Supplemental Bond Ordinance (the "**Auction Rate Terms**"), and the sale of the Series 2004D/E Bonds at the prices set forth in the Bond Purchase Agreement hereinafter described will provide the City with sufficient funds, together with the proceeds of the Series 2004C Bonds, to refund the Series 2003 Notes and to finance or refinance the 2004 Project as set forth in the Seventh Supplemental Bond Ordinance; and

WHEREAS, pursuant to the provisions of the Seventh Supplemental Bond Ordinance, the City has determined that the Series 2004D Bonds shall be divided into two series, designated as "Series 2004D-1" and "Series 2004D-2," and the Series 2004E Bonds shall be divided into two series, designated as "Series 2004E-1" and "Series 2004E-2," and the Series 2004D/E Bonds shall have initial "Auction Dates," initial "Auction Periods," and initial "Interest Payment Dates" as hereinafter set forth; and

WHEREAS, the City wishes to approve the execution and delivery by the Mayor of an agreement with Bear, Stearns & Co., Inc. ("**Bear Stearns**"), pursuant to which Bear Stearns, subject to certain terms and conditions, agrees to purchase all but not part of the Series 2004D-1 Bonds and the Series 2004E-1 Bonds (the "**Bear Stearns Bond Purchase Agreement**"); and

WHEREAS, the City wishes to approve the execution and delivery by the Mayor of an agreement with J.P. Morgan Securities Inc. ("**J.P. Morgan**" and, together with Bear Stearns, the "**Underwriters**"), pursuant to which J.P. Morgan, subject to certain terms and conditions, agrees to purchase all but not part of the Series 2004D-2 Bonds and the Series 2004E-2 Bonds (the "**J.P. Morgan Bond Purchase Agreement**" and, together with the Bear Stearns Bond Purchase Agreement, collectively, the "**Bond Purchase Agreement**"); and

WHEREAS, the City wishes to proceed with the authorization of the sale of the Series 2004D/E Bonds and to provide for their delivery in accordance with the terms set forth in the Seventh Supplemental Bond Ordinance; and



WHEREAS, to provide for the remarketing of Series 2004D/E Bonds in accordance with the Auction Rate Procedures attached as Exhibit C-1 to the Seventh Supplemental Bond Ordinance (the “**Auction Rate Procedures**”), it is necessary to authorize the execution and delivery by the City of separate Broker-Dealer Agreements, with each of the Underwriters; and

WHEREAS, in accordance with the Auction Rate Procedures it is necessary to authorize the execution and delivery by the City of an Auction Agent Agreement with respect to the Series 2004D/E Bonds; and

WHEREAS, it was provided in the Seventh Supplemental Bond Ordinance that, subsequent to the negotiated sale of the Series 2004D/E Bonds, the City would adopt a supplemental resolution specifying, among other things, the principal amount of Series 2004D/E Bonds to mature in each year, the optional and mandatory sinking fund redemption provisions applicable to the Series 2004D/E Bonds, would set forth the terms of any bond insurance policy and debt service reserve insurance policy to be issued in connection with the issuance of the Series 2004D/E Bonds, would provide for the application of the proceeds of the Series 2004D/E Bonds, and would provide for the actual issuance and delivery of the Series 2004D/E Bonds upon payment therefor by the Underwriters; and

WHEREAS, the Series 2004D/E Bonds should now be executed, issued and delivered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Atlanta, and it is hereby resolved by authority of the same, as follows:

Section 1.1 Definitions. Capitalized terms used in this Resolution and not otherwise defined herein are used with the meanings assigned to such terms by the Seventh Supplemental Bond Ordinance (04-O-0431), and the Bond Ordinance (as defined in the Seventh Supplemental Bond Ordinance).

In accordance with the Seventh Supplemental Bond Ordinance, the following terms are defined as follows:

“**Series 2004D/E Bonds Reserve Policy Agreement**” means the Insurance Agreement dated as of June 10, 2004, between the City and the Series 2004D/E Bonds Reserve Policy Provider.

“**Series 2004D/E Bond Insurance Policy**” shall mean the insurance policy issued by the Series 2004D/E Bond Insurer guaranteeing the scheduled payment of principal of and interest on the Series 2004D/E Bonds when due.

“**Series 2004D/E Bond Insurer**” shall mean Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof.

“**Series 2004D/E Bonds Reserve Policy**” means the municipal bond debt service reserve fund policy issued by the Series 2004D/E Bond Insurer relating to the Series 2004D/E Bonds.



“Series 2004D/E Bonds Reserve Policy Provider” shall mean Financial Security Assurance Inc., a New York stock insurance company, or any successor thereto or assignee thereof.

Section 1.2 Issuance of Series 2004D/E Bonds. There are hereby authorized to be issued pursuant to the Seventh Supplemental Bond Ordinance \$44,825,000 aggregate principal amount of Airport Passenger Facility Charge and Subordinate Lien General Revenue Bonds, Series 2004D-1 (Auction Rate Securities), \$44,825,000 aggregate principal amount of Airport Passenger Facility Charge and Subordinate Lien General Revenue Bonds, Series 2004D-2 (Auction Rate Securities), \$73,275,000 aggregate principal amount of Airport Passenger Facility Charge and Subordinate Lien General Revenue Bonds, Series 2004E-1 (Auction Rate Securities), and \$73,275,000 aggregate principal amount of Airport Passenger Facility Charge and Subordinate Lien General Revenue Bonds, Series 2004E-2 (Auction Rate Securities). The Series 2004D/E Bonds shall be dated as of the date of issuance and delivery, be numbered from RD1-1, RD2-2, RE1-1 or RE2-1 upwards, as applicable, shall be initially issued in book-entry only form as fully-registered bonds without coupons, shall be in Authorized Denominations (as defined in the Auction Rate Terms), shall have initial Auction Periods, initial Auction Dates and initial Interest Payment Dates as set forth below, shall bear interest from date initially at the Auction Period Rate determined in accordance with the Auction Rate Terms, all interest payable on each Interest Payment Date (as defined in the Auction Rate Terms), and shall mature on January 1 in the following years and amounts:

Series 2004D-1

Principal Amount	Maturity Date	Initial Auction Date	Initial Auction Period	Initial Interest Payment Date
\$44,825,000	January 1, 2016	July 7, 2004	28 days	July 8, 2004

Series 2004D-2

Principal Amount	Maturity Date	Initial Auction Date	Initial Auction Period	Initial Interest Payment Date
\$44,825,000	January 1, 2016	July 7, 2004	28 days	July 8, 2004

Series 2004E-1

Principal Amount	Maturity Date	Initial Auction Date	Initial Auction Period	Initial Interest Payment Date
\$73,275,000	January 1, 2024	July 7, 2004	28 days	July 8, 2004



Series 2004E-2

Principal Amount	Maturity Date	Initial Auction Date	Initial Auction Period	Initial Interest Payment Date
\$73,275,000	January 1, 2024	July 7, 2004	28 days	July 8, 2004

The Bonds of each series shall bear interest from the date thereof to and including the initial Auction Date at such rate or rates **not exceeding 2.5 percent *per annum*** as approved by the City Finance Officer and the Mayor.

The Series 2004D/E Bonds are Hybrid Bonds as set forth in the Seventh Supplemental Bond Ordinance and pursuant to the Master Bond Ordinance constitute Senior Lien Bonds only as to PFC Revenues. The Series 2004D/E Bonds constitute Senior Lien Bonds for purposes of Article VII of the Master Bond Ordinance, subject to the applicable limitations of such Article.

Section 1.3 Optional Redemption of Series 2004D/E Bonds. The Series 2004D/E Bonds may be redeemed at the option of the City in accordance with Section C-301 of the Auction Rate Terms.

The redemption of the Series 2004D/E Bonds shall be in accordance with the provisions of Article III of the Master Bond Ordinance. The Series 2004D/E Bonds subject to optional redemption may be made subject to Conditional Redemption as provided in Section 305 of the Master Bond Ordinance. Notice having been given in the manner and under the conditions hereinabove provided, the Series 2004D/E Bonds so designated for redemption shall, on the redemption date designated in such notice, become and be due and payable at the redemption price hereinabove specified, and from and after the date of redemption so designated, unless default shall be made in the payment of the Series 2004D/E Bonds so designated for redemption, interest on the Series 2004D/E Bonds so designated for redemption shall cease to accrue after the redemption date.

Section 1.4 Mandatory Redemption of Series D/E Bonds. The Series 2004D-1 Bonds maturing January 1, 2016 shall be subject to mandatory redemption prior to maturity on January 1, 2009 and on each succeeding January 1 to and including January 1, 2016 (the last maturity to be paid rather than redeemed), in part, by lot in such manner as may be designated by the Bond Registrar, at par plus accrued interest to the redemption date, in the following years and principal amounts:

<u>Year</u>	<u>Amount</u>
2009	\$2,000,000
2010	2,500,000
2011	3,000,000
2012	7,350,000
2013	7,600,000
2014	7,850,000
2015	8,100,000



2016 6,425,000

The Series 2004D-2 Bonds maturing January 1, 2016 shall be subject to mandatory redemption prior to maturity on January 1, 2009 and on each succeeding January 1 to and including January 1, 2016 (the last maturity to be paid rather than redeemed), in part, by lot in such manner as may be designated by the Bond Registrar, at par plus accrued interest to the redemption date, in the following years and principal amounts:

<u>Year</u>	<u>Amount</u>
2009	\$2,000,000
2010	2,500,000
2011	3,000,000
2012	7,375,000
2013	7,600,000
2014	7,825,000
2015	8,075,000
2016	6,450,000

The Series 2004E-1 Bonds maturing January 1, 2024 shall be subject to mandatory redemption prior to maturity on January 1, 2016 and on each succeeding January 1 to and including January 1, 2024 (the last maturity to be paid rather than redeemed), in part, by lot in such manner as may be designated by the Bond Registrar, at par plus accrued interest to the redemption date, in the following years and principal amounts:

<u>Year</u>	<u>Amount</u>
2016	\$ 1,900,000
2017	8,625,000
2018	8,900,000
2019	9,175,000
2020	9,450,000
2021	9,700,000
2022	10,100,000
2023	10,425,000
2024	5,000,000



The Series 2004E-2 Bonds maturing January 1, 2024 shall be subject to mandatory redemption prior to maturity on January 1, 2016 and on each succeeding January 1 to and including January 1, 2024 (the last maturity to be paid rather than redeemed), in part, by lot in such manner as may be designated by the Bond Registrar, at par plus accrued interest to the redemption date, in the following years and principal amounts:

<u>Year</u>	<u>Amount</u>
2016	\$ 1,925,000
2017	8,600,000
2018	8,875,000
2019	9,175,000
2020	9,475,000
2021	9,725,000
2022	10,100,000
2023	10,400,000
2024	5,000,000

Section 1.5 Authorization of Bond Purchase Agreements. The execution, delivery and performance of (i) the Bear Stearns Bond Purchase Agreement with respect to the Series 2004D-1 Bonds and Series 2004E-1 Bonds, by and between the City and Bear Stearns, as Underwriter, and (ii) the J.P. Morgan Bond Purchase Agreement with respect to the Series 2004D-2 Bonds and Series 2004E-2 Bonds, by and between the City and J.P. Morgan, as Underwriter, copies of which are attached hereto, marked Exhibits A-1 and A-2 and made a part hereof, are hereby ratified, authorized and approved. The Bond Purchase Agreement shall be in substantially the form as presented, subject to such minor changes, insertions or omissions as may be approved by the Mayor and the execution of the Bond Purchase Agreement by the Mayor as hereby authorized shall be conclusive evidence of any such approval. The City hereby ratifies and reaffirms all actions heretofore taken by the City Finance Officer and the City Attorney in connection with the offer and sale of the Series 2004D/E Bonds for and on behalf of the City.

Section 1.6 Authorization of Broker-Dealer Agreements. The City hereby authorizes the execution, delivery and performance by the City of (i) separate Broker-Dealer Agreements with Bear Stearns relating to the Series 2004D-1 Bonds and the Series 2004E-1 Bonds and (ii) separate Broker-Dealer Agreements with J.P. Morgan relating to the Series 2004D-2 Bonds and the Series 2004E-2 Bonds (collectively, the “**Broker-Dealer Agreements**”). The Broker-Dealer Agreements shall be in substantially the forms attached hereto as Exhibit B. The Mayor and the Municipal Clerk are hereby authorized and directed to execute the Broker-Dealer Agreements for and on behalf of the City.

Section 1.7 Authorization of Auction Agent Agreement. The City hereby authorizes the execution, delivery and performance by the City of an Auction Agent Agreement with Wilmington Trust Company, as Auction Agent, and Wachovia Bank, National Association, as Paying Agent/Registrar with respect to the Series 2004D/E Bonds (the “**Auction Agent Agreement**”). The Auction Agent Agreement shall be in substantially the form attached hereto as Exhibit C. The Mayor and the Municipal Clerk are hereby authorized and directed to execute the Auction Agent Agreement for and on behalf of the City.



Section 1.8 Series 2004D/E Bond Insurance Policy. The Mayor and the Municipal Clerk are hereby authorized and directed to purchase the Series 2004D/E Bond Insurance Policy which shall constitute a Credit Facility with respect to the Series 2004D/E Bonds. The following provisions shall apply with respect to the Series 2004D/E Bonds so long as the Series 2004D/E Bond Insurer has not failed to comply with its payment obligations under the 2004D/E Bond Insurance Policy and the Series 2004D/E Bond Insurance Policy is in full force and effect:

- (a) The prior written consent of the Series 2004D/E Bond Insurer is a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the PFC Revenue Bond Subaccount of the Debt Service Reserve Account. Notwithstanding anything to the contrary set forth in the Bond Ordinance, amounts on deposit in the PFC Revenue Bond Subaccount of the Debt Service Reserve Account shall be applied solely to the payment of debt service on Bonds with a Senior Lien on PFC Revenues.
- (b) The Series 2004D/E Bond Insurer shall be deemed to be the sole holder of the Series 2004D/E Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Series 2004D/E Bonds are entitled to take pursuant to Article VII of the Master Bond Ordinance.
- (c) No acceleration of the Series 2004D/E Bonds shall occur without the consent of the Series 2004D/E Bond Insurer and in the event the maturity of the Series 2004D/E Bonds is accelerated, the Series 2004D/E Bond Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued, on such principal to the date of acceleration (to the extent unpaid by the City). Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Series 2004D/E Bond Insurer's obligations under the Series 2004D/E Bond Insurance Policy with respect to such Series 2004D/E Bonds shall be fully discharged.
- (d) The Series 2004D/E Bond Insurer is a third party beneficiary to the Bond Ordinance.
- (e) Upon the occurrence of an extraordinary optional or special or extraordinary mandatory redemption in part, the selection of Series 2004D/E Bonds to be redeemed shall be subject to the approval of the Series 2004D/E Bond Insurer. The exercise of Section 308 of the Bond Ordinance, which permits the purchase of Series 2004D/E Bonds in lieu of redemption, requires approval of the Series 2004D/E Bond Insurer if any Series 2004D/E Bond so purchased is not extinguished.
- (f) Other than a Supplemental Bond Ordinance providing for the issuance of Additional Bonds, no modification, waiver or amendment to the Master Bond Ordinance may become effective except upon obtaining the prior written consent of the Series 2004D/E Bond Insurer. Copies of any modification or amendment to the Master Bond Ordinance shall be sent to S&P and Moody's at least 10 days prior to the effective date thereof.
- (g) Unless the Series 2004D/E Bond Insurer otherwise directs, upon the occurrence and continuance of an Event of Default amounts on deposit in the 2004 Project Fund shall not be disbursed but shall instead be applied to the payment of debt service or redemption price of the Series 2004D/E Bonds.



The rights granted to the Series 2004D/E Bond Insurer under the Bond Ordinance to request, consent to or direct any action are rights granted to the Series 2004D/E Bond Insurer in consideration of its issuance of the Series 2004D/E Bond Insurance Policy. Any exercise by the Series 2004D/E Bond Insurer of such rights is merely an exercise of the Series 2004D/E Bond Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit or on behalf of the Series 2004D/E Bondholders nor does such action evidence any position of the Series 2004D/E Bond Insurer, positive or negative, as to whether Series 2004D/E Bondholder consent is required in addition to consent of the Series 2004D/E Bond Insurer.

- (i) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively or (5) securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be authorized to be used to effect defeasance of the Series 2004D/E Bonds unless the Series 2004D/E Bond Insurer otherwise approves.

To accomplish defeasance the City shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Series 2004D/E Bond Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Series 2004D/E Bonds in full on the maturity or redemption date ("Verification"), (ii) an escrow deposit agreement (which shall be acceptable in form and substance to the Series 2004D/E Bond Insurer), and (iii) an opinion of nationally recognized bond counsel to the effect that the Series 2004D/E Bonds are no longer "Outstanding" under the Bond Ordinance; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the City and the Series 2004D/E Bond Insurer. The Series 2004D/E Bond Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow.

Series 2004D/E Bonds shall be deemed "Outstanding" under the Bond Ordinance unless and until they are in fact paid and retired or the above criteria are met.

- (j) Amounts paid by the Series 2004D/E Bond Insurer under the Series 2004D/E Bond Insurance Policy shall not be deemed paid for purposes of the Bond Ordinance and shall remain Outstanding (as defined in paragraph (i)) and continue to be due and owing until paid by the City in accordance with the Bond Ordinance. The Bond Ordinance shall not be discharged unless all amounts due or to become due to the Series 2004D/E Bond Insurer have been paid in full or duly provided for.
- (k) The City covenants and agrees to take such action (including, as applicable, filing of UCC financing statements and continuations thereof) as is necessary from time to time to



otherwise preserve the priority of the pledge of the Pledged Revenues under applicable law.

- (1) If, on the third business day preceding any Interest Payment Date (“Payment Date”) there is not on deposit with the Paying Agent, after making all transfers and deposits required under the Bond Ordinance, moneys sufficient to pay the principal of and interest on the Series 2004D/E Bonds due on such Payment Date, the Paying Agent shall give notice to the Series 2004D/E Bond Insurer and to its designated agent (if any) (the “Series 2004D/E Bond Insurer’s Fiscal Agent”) by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such business day. If, on the second business day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Series 2004D/E Bonds due on such Payment Date, the Paying Agent shall make a claim under the Series 2004D/E Bond Insurance Policy and give notice to the Series 2004D/E Bond Insurer and the Series 2004D/E Bond Insurer’s Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Series 2004D/E Bonds and the amount required to pay principal of the Series 2004D/E Bonds, confirmed in writing to the Series 2004D/E Bond Insurer and the Series 2004D/E Bond Insurer’s Fiscal Agent by 12:00 noon, New York City time, on such second business day by filling in the form of Notice of Claim and Certificate delivered with the Series 2004D/E Bond Insurance Policy.

In the event the claim to be made is for a mandatory sinking fund redemption installment, upon receipt of the moneys due, the Paying Agent shall authenticate and deliver to affected Bondholders who surrender their Series 2004D/E Bonds a new Series 2004D/E Bond or Series 2004D/E Bonds in an aggregate principal amount equal to the unredeemed portion of the Series 2004D/E Bond surrendered. The Paying Agent shall designate any portion of payment of principal on Series 2004D/E Bonds paid by the Series 2004D/E Bond Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Series 2004D/E Bonds registered to the then current Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Series 2004D/E Bond to the Series 2004D/E Bond Insurer, registered in the name of Financial Security Assurance Inc., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent’s failure to so designate any payment or issue any replacement Series 2004D/E Bond shall have no effect on the amount of principal or interest payable by the City on any Series 2004D/E Bond or the subrogation rights of the Series 2004D/E Bond Insurer.

The Paying Agent shall keep a complete and accurate record of all funds deposited by the Series 2004D/E Bond Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal paid in respect of any Series 2004D/E Bond. The Series 2004D/E Bond Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

Upon payment of a claim under the Series 2004D/E Bond Insurance Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Series



2004D/E Bondholders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Series 2004D/E Bond Insurance Policy in trust on behalf of Series 2004D/E Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Series 2004D/E Bondholders in the same manner as principal and interest payments are to be made with respect to the Series 2004D/E Bonds under the sections of the Bond Ordinance regarding payment of Series 2004D/E Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything to the contrary otherwise set forth in the Bond Ordinance, and to the extent permitted by law, in the event amounts paid under the Series 2004D/E Bond Insurance Policy are applied to claims for payment of principal of or interest on the Series 2004D/E Bonds, interest on such principal of and interest on such Series 2004D/E Bonds shall accrue and be payable from the date of such payment at the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank or its successor at its principal office in the City of New York, as its prime or base lending rate plus 3%, and (ii) the then applicable rate of interest on the Series 2004D/E Bonds provided that in no event shall such rate exceed the maximum rate permissible under applicable usury or similar laws limiting interest rates.

Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. Any funds remaining in the Policy Payments Account following an Interest Payment Date shall promptly be remitted to the Series 2004D/E Bond Insurer.

- (m) The Series 2004D/E Bond Insurer, to the extent it makes any payment of principal of or interest on the Series 2004D/E Bonds, is subrogated to the rights of the recipients of such payments in accordance with the terms of the Series 2004D/E Bond Insurance Policy. The obligations to the Series 2004D/E Bond Insurer survive the discharge or termination of the Bond Ordinance.
- (n) The City shall pay or reimburse the Series 2004D/E Bond Insurer any and all charges, fees, costs and expenses which the Series 2004D/E Bond Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in the Bond Ordinance; (ii) the pursuit of any remedies under the Bond Ordinance or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Bond Ordinance whether or not executed or completed, (iv) the violation by the City of any law, rule or regulation, or any judgment, order or decree applicable to it or (v) any litigation or other dispute in connection with the Bond Ordinance or the transactions contemplated thereby, other than amounts resulting from the failure of the Series 2004D/E Bond Insurer to honor its obligations under the Series 2004D/E Bond Insurance Policy. The Series 2004D/E Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Bond Ordinance.



The Series 2004D/E Bond Insurer is entitled to pay principal or interest on the Series 2004D/E Bonds that shall become Due for Payment but are unpaid by reason of Nonpayment by the City (as such terms are defined in the Series 2004D/E Bond Insurance Policy) and any amounts due on the Series 2004D/E Bonds as a result of acceleration of the maturity thereof in accordance with the Bond Ordinance, whether or not the Series 2004D/E Bond Insurer has received a Notice of Nonpayment (as such terms are defined in the Series 2004D/E Bond Insurance Policy) or a claim upon the Series 2004D/E Bond Insurance Policy.

- (p) The notice address of the Series 2004D/E Bond Insurer is: Financial Security Assurance Inc., 350 Park Avenue, New York, New York 10022-6022, Attention: Managing Director – Surveillance, Re: Policy No. _____, Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate **“URGENT MATERIAL ENCLOSED.”**
- (q) The Series 2004D/E Bond Insurer shall be provided with the following information:
- (i) Annual audited financial statements within 210 days after the end of the City’s fiscal year (together with a certification of the City that it is not aware of any default or Event of Default under the Bond Ordinance), and the City’s annual budget within 30 days after the approval thereof together with such other information, data or reports as the Series 2004D/E Bond Insurer shall reasonably request from time to time;
 - (ii) Notice of any draw upon the PFC Revenue Bond Subaccount of the Debt Service Reserve Account within two business days after knowledge thereof other than (i) withdrawals of amounts in excess of the Debt Service Reserve Requirement and (ii) withdrawals in connection with a refunding of Series 2004D/E Bonds;
 - (iii) Notice of any default known to the City within five business days after knowledge thereof;
 - (iv) Prior notice of the advance refunding or redemption of any of the Series 2004D/E Bonds, including the principal amount, maturities and CUSIP numbers thereof;
 - (v) Notice of the resignation or removal of the Paying Agent and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;



- (vi) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");
 - (vii) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Series 2004D/E Bonds;
 - (viii) A full original transcript of all proceedings relating to the adoption of a Supplemental Ordinance; and
 - (ix) All reports, notices and correspondence to be delivered to Series 2004D/E Bondholders under the terms of the Bond Ordinance.
- (r) Notwithstanding satisfaction of other conditions to the issuance of Additional Bonds secured by a Senior Lien on PFC Revenues contained in the Bond Ordinance, no such issuance may occur (1) should any Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) have occurred and be continuing unless such default shall be cured upon such issuance and (2) unless the PFC Revenue Bond Subaccount of the Debt Service Reserve Account is fully funded at its requirement (including the new issue) upon the issuance of such Additional Bonds secured by a Senior Lien on PFC Revenues, in either case unless otherwise permitted by the Series 2004D/E Bond Insurer.
- (s) No contract shall be entered into nor any action taken by which the rights of the Series 2004D/E Bond Insurer or security for or sources of payment of the Series 2004D/E Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Series 2004D/E Bond Insurer.
- (t) The Series 2004D/E Bonds shall be converted to the Fixed Rate Mode in the event the Series 2004D/E Bonds bear interest at the Maximum Auction Rate or the Default Rate for the lesser of 60 days or two consecutive interest rate periods unless the Series 2004D/E Bond Insurer shall otherwise direct.
- (u) Notwithstanding Section 2.01(c)(iv) of Exhibit C-1 to the Seventh Supplemental Bond Ordinance, the Auction Procedures shall not be suspended unless the Series 2004D/E Bond Insurer shall have failed to make required payments on the Series 2004D/E Bonds in accordance with the Series 2004D/E Bond Insurance Policy.
- (v) The City shall retain the right to appoint an additional Broker-Dealer without the consent of any other Broker-Dealer and to remove a Broker Dealer at any time.
- (w) The Series 2004D/E Bond Insurer shall have the right to direct the City to remove the Market Agent and Auction Agent and to consent to any successors thereto.



Section 1.9 Reserve Account Credit Facility. The Debt Service Reserve Requirement for the Series 2004D/E Bonds shall be satisfied by the Series 2004D/E Bonds Reserve Policy (which constitutes a Reserve Account Credit Facility) to be issued by the Series 2004D/E Bonds Reserve Policy Provider. The Mayor and Municipal Clerk are hereby authorized and directed to purchase the Series 2004D/E Bonds Reserve Policy. The Mayor and the Municipal Clerk are hereby authorized and directed to execute, for and on behalf of the City, the Series 2004D/E Bonds Reserve Policy Agreement relating thereto, which Series 2004D/E Bonds Reserve Policy Agreement shall be in substantially the form attached as Exhibit D hereto and incorporated herein, with such changes as may be authorized by the Mayor. The execution and delivery of the Series 2004D/E Bonds Reserve Policy Agreement shall be conclusive evidence of the approval of any such changes. The following provisions shall apply with respect to the Series 2004D/E Bonds so long as the Series 2004D/E Bonds Reserve Policy is in full force and effect:

- (a) The City shall repay any draws under the Series 2004D/E Reserve Policy and pay all related reasonable expenses incurred by the Series 2004D/E Bonds Reserve Policy Provider. Interest shall accrue and be payable on such draws and expenses from the date of payment by the Series 2004D/E Bonds Reserve Policy Provider at the Late Payment Rate. "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Series 2004D/E Bonds, and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, the Prime Rate shall be the publicly announced prime or base lending rate of such national bank as the Series 2004D/E Bonds Reserve Policy Provider.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, "Policy Costs") shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to the Series 2004D/E Bonds Reserve Policy Provider shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments are made to the Series 2004D/E Bonds Reserve Policy Provider on account of principal due, the coverage under the Series 2004D/E Bonds Reserve Policy will be increased by a like amount, subject to the terms of the Series 2004D/E Bonds Reserve Policy.

- (b) If and to the extent cash or other investments have also been deposited therein, all cash and investments in the PFC Revenue Bond Subaccount of the Debt Service Reserve Account shall be liquidated for payment of debt service on the Series 2004D/E Bonds, before any drawing may be made on the Series 2004D/E Bonds Reserve Policy or any other Debt Service Reserve Account Credit Facility deposited in such subaccount.



Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all Reserve Account Credit Facilities (including the Series 2004D/E Bonds Reserve Policy) on which there is available coverage shall be made on a pro rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the PFC Revenue Bond Subaccount of the Debt Service Reserve Account. Payment of Policy Costs and reimbursement of amounts with respect to other Reserve Account Credit Facilities shall be made on a pro rata basis prior to replenishment of any cash drawn from the PFC Revenue Bond Subaccount of the Debt Service Reserve Account.

- (c) If the City shall fail to pay any Policy Costs in accordance with the requirements of subsection (a) hereof, the Series 2004D/E Bonds Reserve Policy Provider shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under the Bond Ordinance other than (i) acceleration of the maturity of the Series 2004D/E Bonds or (ii) remedies which would adversely affect owners of the Series 2004D/E Bonds.
- (d) The Bond Ordinance shall not be discharged until all Policy Costs owing to the Series 2004D/E Bonds Reserve Policy Provider shall have been paid in full. The City's obligation to pay such amounts shall expressly survive payment in full of the Series 2004D/E Bonds.
- (e) The Paying Agent shall ascertain the necessity for a claim upon the Series 2004D/E Bonds Reserve Policy and to provide notice to the Series 2004D/E Bonds Reserve Policy Provider in accordance with the terms of the Series 2004D/E Bonds Reserve Policy at least five business days prior to each date upon which interest or principal is due on the Series 2004D/E Bonds.

Section 1.10 Debt Service Reserve Account. Pursuant to Section 402(c)(2) of the Master Bond Ordinance and the 2004A/B/C Sale Resolution, the City has created a PFC Revenue Bond Subaccount of the Debt Service Reserve Account as a common reserve for all Bonds with a Senior Lien on PFC Revenues, as such bonds have a combined Debt Service Reserve Requirement. The Series 2004D/E Bonds Reserve Policy shall be held for the credit of the PFC Revenue Bond Subaccount of the Debt Service Reserve Account for the benefit of the holders of the Series 2004D/E Bonds.

Section 1.11 Application of Proceeds of Series 2004D/E Bonds. From the proceeds derived from the sale of the Series 2004D/E Bonds, the following payments shall be made, simultaneously with the issuance and delivery of the Series 2004D/E Bonds, to the extent and in the manner herein set forth:

- (a) The sum of \$121,885,151.54, or such other amount as shall be necessary, shall be deposited into the 2003 Note Retirement Account created pursuant to the Fifth Supplemental Bond Ordinance and held by Wachovia Bank, National Association, the Bond Registrar and Paying Agent for the Series 2003 Notes, to pay the redemption price of the Series 2003 Notes on the earliest practicable date following the issuance of the Series 2004D/E Bonds on which the Series 2003 Notes may be redeemed.



(b) The sum of \$2,487,361.00, or such other amount as shall be necessary, shall be paid to the Series 2004D/E Bond Insurer as the premium on the 2004D/E Bond Insurance Policy.

(c) The sum of \$452,647.73, or such other amount as shall be necessary, shall be paid to the Series 2004D/E Bond Insurer with respect to the Series 2004D/E Bonds Reserve Policy.

(d) The sum of \$406,222.72, or such other amount as shall be necessary, shall be deposited into the Costs of Issuance Account of the 2004 Project Fund created in the Seventh Supplemental Bond Ordinance and applied to payment of the expenses incurred in connection with the issuance of the Series 2004D/E Bonds.

(e) The sum of \$497,659,651.54, or such other amount as shall be necessary, shall be deposited into the General Account of the 2004 Project Fund and used to pay Costs of the 2004 Project.

(f) The sum of \$717,571.47 shall be paid to the Underwriters as underwriters' discount with respect to the Series 2004D/E Bonds.

Section 1.12 Application of Proceeds of Series 2004C Bonds. In order to clarify the amount of the underwriters' discount payable from the proceeds of the Series 2004C Bonds (which amount was properly reflected in the Bond Purchase Agreement attached to the 2004A/B/C Sale Resolution and approved by Council 04-R-0768), Section 1.13(e) of the 2004A/B/C Sale Resolution is hereby deleted in its entirety and the following is substituted in lieu thereof (with capitalized terms having the same meanings as set forth in the 2004A/B/C Sale Resolution):

(e) The sum of \$1,329,946.58, or such other amount as shall be necessary, shall be paid to the Underwriters as underwriters' discount for the Series 2004C Bonds.

Section 1.13 Repealer. Any and all resolutions or parts of resolutions in conflict with this Supplemental Resolution, this day adopted be and the same are hereby repealed, and this Resolution shall be in full force and effect from and after its adoption.



Adopted June 7, 2004.

CITY OF ATLANTA

By: *Mickey Lantieri*
Mayor

AUTHENTICATED:

Rhonda Daughin Johnson
Municipal Clerk

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED as amended by Council
APPROVED by the Mayor

June 7, 2004
June 7, 2004

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW