

CITY COUNCIL
ATLANTA, GEORGIA

No. 05-0-0263

AN ORDINANCE BY COUNCILMEMBER DEBI STARNES

AS SUBSTITUTED AND AMENDED BY FULL COUNCIL

AN ORDINANCE, TO PROVIDE FOR THE ISSUANCE AND SALE OF TAX ALLOCATION BONDS (EASTSIDE PROJECT), SERIES 2005, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$55,000,000 (THE "SERIES 2005 BONDS"), TO PAY, OR TO BE APPLIED OR CONTRIBUTED TOWARD, THE PAYMENT OF REDEVELOPMENT COSTS ASSOCIATED WITH THE PROJECTS IDENTIFIED ON SCHEDULE 1 HERETO (THE "2005 PROJECTS"); TO AUTHORIZE PAYING EXPENSES INCIDENT TO ACCOMPLISHING THE FOREGOING; TO AUTHORIZE THE EXECUTION OF AN INDENTURE OF TRUST, SUBSTANTIALLY SIMILAR DEVELOPMENT AGREEMENTS WITH THE OWNERS OF EACH 2005 PROJECT, AN INTERGOVERNMENTAL AGREEMENT AND A PURCHASE CONTRACT, AND APPROVING THE USE AND DISTRIBUTION OF A PRELIMINARY LIMITED OFFERING MEMORANDUM AND FINAL LIMITED OFFERING MEMORANDUM; AND FOR CERTAIN OTHER PURPOSES, ALL IN CONNECTION WITH THE ISSUANCE AND SALE OF THE FOREGOING DESCRIBED SERIES 2005 BONDS.

WHEREAS, the City of Atlanta, Georgia (the "City") is a municipal corporation of the State of Georgia and a "political subdivision" as defined in Chapter 44 of Title 36 of the Official Code of Georgia Annotated, as amended (the "Redevelopment Powers Law"); and

WHEREAS, the City is authorized pursuant to the Constitution of the State of Georgia and the various statutes of the State of Georgia, including specifically the Redevelopment Powers Law, to issue its tax allocation bonds in order to finance certain Redevelopment Costs, as defined in the Redevelopment Powers Law; and

WHEREAS, in order to encourage the development of an economically and socially depressed area in the City, the City Council by Ordinance 03-0-1840, adopted on December 1, 2003, and signed by the Mayor on December 9, 2003 (the "Initial Ordinance"), among other matters, (i) adopted the Eastside Redevelopment Plan pursuant to the authority granted the City under the Constitution and the laws of the State of Georgia, including particularly the Redevelopment Powers Law (ii) created Tax Allocation District Number Five-Eastside (the "Eastside TAD") and (iii) authorized the pledge of positive ad valorem tax allocation increments derived from the Eastside TAD for the payment or as security for the payment of tax allocation bonds; and

WHEREAS, the Initial Ordinance was amended by the City Council by Ordinance 04-0-0231, adopted on February 16, 2004, and signed by the Mayor on February 24, 2004 (the "Ordinance," and, together with the Initial Ordinance, the "City Ordinance"); and

WHEREAS, the City has appointed the Atlanta Development Authority (“ADA”) as the City’s redevelopment agent pursuant to the Redevelopment Powers Law for the purpose of implementing the redevelopment initiatives set forth in the Eastside Redevelopment Plan, and for other purposes; and

WHEREAS, pursuant to the Redevelopment Powers Law, the City is authorized to finance certain Redevelopment Costs, including without limitation, (i) clearing, grading and otherwise preparing property for redevelopment, (ii) environmental remediation of property, (iii) design, construction and installation of utilities such as water, sewer, storm drainage, electric, gas and telecommunications, (iv) design, construction and installation of streets, sidewalks, bikeways, curbs, gutters and other public works, (v) design and construction of parking facilities and (vi) any other facilities and improvements located in or otherwise related to the Eastside TAD that are eligible to be financed or refinanced as Redevelopment Costs under the Redevelopment Powers Law; and

WHEREAS, as redevelopment agent, the ADA has identified and approved the nine (9) projects or phases of projects listed on Schedule 1 hereto (the “2005 Projects”) for financing with the proceeds of tax allocation bonds of the City; and

WHEREAS, the Board of Commissioners of Fulton County, Georgia (“the Board of Commissioners”), by resolution adopted on December 17, 2003, and the Board of Education of the City (the “Atlanta School Board”), by resolution adopted on December 8, 2003, consented to the inclusion of their respective shares of positive ad valorem tax increments derived from the Eastside TAD as security for bonds issued within the Eastside TAD; and

WHEREAS, it is proposed that the City finance certain Redevelopment Costs associated with the 2005 Projects through the issuance of Tax Allocation Bonds (Eastside Project), Series 2005 in the aggregate principal amount of not to exceed \$55,000,000 (the “Series 2005 Bonds”); and

WHEREAS, the Series 2005 Bonds will be issued pursuant to an Indenture of Trust (the “Series 2005 Indenture”) between the City and Trustee which secures such bonds with a lien on the Tax Allocation Increments (as such term is defined in the Series 2005 Indenture); and

WHEREAS, it is proposed that the City and the Atlanta School Board enter into an Intergovernmental Agreement (the “Intergovernmental Agreement”) to implement the conditions imposed by the Atlanta School Board in connection with the issuance of tax allocation bonds to benefit the Eastside TAD and the receipt of its share of positive ad valorem tax increments derived from the Eastside TAD; and

WHEREAS, it is proposed that the City sell the Series 2005 Bonds on a negotiated basis to A.G. Edwards & Sons, Inc., Siebert Brandford Shank & Co., LLC and The Malachi Group (collectively, the “Underwriters”) pursuant to the terms of a Purchase Contract; and

WHEREAS, it is proposed that in order to facilitate the purchase of the Series 2005 Bonds, the City should provide for the use and distribution by the Underwriters of a Preliminary Limited Offering Memorandum (the “Preliminary Offering Memorandum”) and a final Limited Offering Memorandum (the “Limited Offering Memorandum”); and

WHEREAS, in consideration of the City's issuance of the Series 2005 Bonds separate but substantially identical Development Agreements, will be executed by and among the City, ADA and the owner of each 2005 Project pursuant to which the parties thereto will assume certain responsibilities and obligations concerning redevelopment activities with respect to the related 2005 Project; and

WHEREAS, by resolution of the Board of the ADA on December 16, 2004, ADA recommended issuance of the Series 2005 Bonds by the City and authorized the execution and delivery of the Development Agreements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:

Section 1.01. Authority for Ordinance. This Ordinance is adopted pursuant to the provisions of the Constitution and the laws of the State of Georgia.

Section 1.02. Findings. It is hereby ascertained, determined and declared that:

(a) the financing of the Redevelopment Costs associated with the 2005 Projects is a lawful and valid undertaking pursuant to the Redevelopment Powers Law;

(b) the Series 2005 Bonds will constitute only limited obligations of the City and will be payable solely from the revenues to be assigned and pledged to the payment thereof and will not constitute a debt or a general obligation or a pledge of the faith and credit of the State of Georgia or any political subdivision, county or independent board of education thereof, including the City, Fulton County, and the Atlanta School Board and will not directly or indirectly obligate such State or political subdivision, county or independent board of education thereof, including the City, Fulton County, and the Atlanta School Board, to levy or to pledge any form of taxation whatever for the payment thereof.

Section 1.03. Authorization of the Financing of the 2005 Projects. The financing of all or a portion of the Redevelopment Costs associated with 2005 Projects is hereby authorized. To the extent that less than \$5,000,000 of the proceeds of the Series 2005 Bonds is made available to finance parks and greenspace improvements within the Eastside TAD, and subject to the Series 2005 Indenture, the superior rights of bondholders, and the obligation to pay certain tax allocation increments to the Atlanta School Board, any excess tax allocation increments shall be used to replenish the original parks and greenspace allocation of \$5,000,000.

Section 1.04. Authorization of Series 2005 Bonds. For the purpose of financing the Redevelopment Costs associated with the 2005 Projects, the issuance of not to exceed \$55,000,000 in aggregate principal amount of tax allocation bonds of the City known as "Tax Allocation Bonds (Eastside Project), Series 2005," is hereby authorized. The Series 2005 Bonds shall be dated, bear interest, be subject to redemption prior to maturity and be payable as set forth in Articles II and III of the Series 2005 Indenture, provided that the Series 2005 Bonds shall mature not later than July 1, 2030, the interest rate on the Series 2005 Bonds shall not exceed 8.0% per annum and the maximum principal and interest due in any year shall not exceed \$59,400,000. The Series 2005 Bonds shall be issued as registered bonds without coupons in

denominations authorized under the Series 2005 Indenture, which shall initially be in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof, with such rights of exchangeability and transfer of registration and shall be in the form and executed and authenticated in the manner provided in the Series 2005 Indenture. The term "Series 2005 Bonds" as used herein shall be deemed to mean and include the Series 2005 Bonds as initially issued and delivered and Series 2005 Bonds issued in exchange therefor or in exchange for Series 2005 Bonds previously issued.

Any Series 2005 Bonds hereafter issued in exchange or for transfer of registration for the Bonds initially issued and delivered pursuant to the Series 2005 Indenture shall be executed in accordance with the provisions of the Series 2005 Indenture and such execution by the Mayor and the Municipal Clerk, whether present or future, is hereby authorized. A certificate of validation shall be endorsed upon each of such Series 2005 Bonds hereafter issued, and the Clerk of the Superior Court of Fulton County, Georgia, is instructed to execute such certificate of validation upon the written request of the Trustee or the City, specifying that such Series 2005 Bonds are being issued in exchange or for transfer of registration for one of the Series 2005 Bonds issued and delivered to the initial purchaser or purchasers thereof or one of the Series 2005 Bonds previously issued in exchange thereof.

Section 1.05. Authorization of Series 2005 Indenture. In order to secure the payment of the principal of, redemption premium, if any, and interest on the Series 2005 Bonds herein authorized, and in order to secure the performance and observance of all the agreements and conditions in the Series 2005 Bonds, the execution, delivery and performance of the Series 2005 Indenture relating to the Series 2005 Bonds by and between the City and the Trustee are hereby authorized. The Series 2005 Indenture shall be in substantially the form attached hereto as Exhibit "1," subject to such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the Series 2005 Indenture by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval.

Section 1.06. Authorization of Intergovernmental Agreement. The execution, delivery and performance of the Intergovernmental Agreement providing for the implementation of the conditions of the resolution of the Atlanta School Board, by and between the City and the Atlanta School Board are hereby authorized. The Intergovernmental Agreement shall be in substantially the form attached hereto as Exhibit "2," subject to such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the Intergovernmental Agreement by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval.

Section 1.07. Authorization of Purchase Contract. The execution, delivery and performance of the Purchase Contract providing for the purchase of the Series 2005 Bonds, by and between the City, the Underwriters and the other parties thereto are hereby authorized. The Purchase Contract shall be in substantially the form attached hereto as Exhibit "3," subject to minor changes, insertions or omissions as may be approved by the Mayor and the execution of the Purchase Contract by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval. Anything herein or in the Purchase Contract to the contrary notwithstanding, the Chief Financial Officer of the City is hereby authorized to execute the Purchase Contract in the event of the absence or incapacity of the Mayor.

Section 1.08. Authorization of Limited Offering Memorandum. The use and distribution of the Preliminary Limited Offering Memorandum and a final Limited Offering Memorandum with respect to the Series 2005 Bonds are hereby authorized and approved, and said Preliminary Limited Offering Memorandum and said final Limited Offering Memorandum shall be in substantially the form attached hereto as Exhibit "4," subject to such minor changes, insertions or omissions as may be approved by the Mayor. The execution of a final Limited Offering Memorandum by the Mayor as hereby authorized shall be conclusive evidence of any such approval.

Section 1.09. Execution of the Development Agreements. The execution, delivery and performance of each of the Development Agreements by and among the City, ADA and the related owner of a 2005 Project are hereby authorized. Each Development Agreement shall be in substantially the form as attached hereto as Exhibit "5" subject to such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of each Development Agreement by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval.

Section 1.10. Execution of Series 2005 Bonds. The Series 2005 Bonds shall be executed in the manner provided in the Series 2005 Indenture and the same shall be delivered to the Trustee for proper authentication and delivery to the Underwriters with instructions to that effect as provided in the Series 2005 Indenture.

Section 1.11. Validation of Series 2005 Bonds. The Mayor is hereby authorized and directed to immediately notify the District Attorney of the Atlanta Judicial Circuit of the action taken by the City, to request the District Attorney to institute a proceeding to confirm and validate the Series 2005 Bonds and to pass upon the security therefor, and the Mayor and the Municipal Clerk are further authorized to acknowledge service and make answer in such proceeding.

Section 1.12. Non-Arbitrage Certification. Any officer of the City is hereby authorized to execute one or more non-arbitrage certifications with respect to the Series 2005 Bonds or any series thereof in order to comply with Section 148 of the Code, and the applicable Treasury Regulations thereunder.

Section 1.13. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the Intergovernmental Agreement, the Indenture, the Purchase Contract, or any Development Agreement shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the City in his individual capacity, and no such officer, director, agent or employee shall be personally liable on the Series 2005 Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

Section 1.14. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the proper officers, directors, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the documents as authorized herein and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable

in connection with the issuance of the Series 2005 Bonds and in conformity with the purposes and intents of this Ordinance.

The Mayor and the Municipal Clerk are hereby authorized and directed to prepare and furnish to the purchasers of the Series 2005 Bonds, when the Series 2005 Bonds are issued, certified copies of all the proceedings and records of the City relating to the Series 2005 Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Series 2005 Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

Section 1.15. Actions Approved and Confirmed. All acts and doings of the officers of the City which are in conformity with the purposes and intents of this Ordinance and in furtherance of the issuance of the Series 2005 Bonds and the execution, delivery and performance of the Series 2005 Indenture, the Intergovernmental Agreement, each Development Agreement and the Purchase Contract and the approval of the Limited Offering Memorandum, shall be, and the same hereby are, in all respects approved and confirmed.

Section 1.16. Severability of Invalid Provision. If any one or more of the agreements or provisions herein contained shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the Series 2005 Bonds authorized hereunder.

Section 1.17. Repealing Clause. All ordinances or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED as amended by Council
APPROVED by the Mayor

March 7, 2005
March 8, 2005

RCS# 6540
3/07/05
4:14 PM

Atlanta City Council

Regular Session

05-O-0263

ISSUANCE AND SALE TAX ALLOCATION BONDS
\$50,000,000.00
ADOPT SUB AMEND

YEAS: 10
NAYS: 2
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 3

Y Smith	N Archibong	Y Moore	Y Mitchell
B Starnes	N Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	B Willis
B Winslow	Y Muller	Y Sheperd	NV Borders

05-O-0263

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW

05-0-0263
(Do Not Write Above This Line)

AN ORDINANCE
BY COUNCILMEMBER DEBI STARNES

AN ORDINANCE TO PROVIDE FOR THE
ISSUANCE AND SALE OF TAX ALLOCATION
BONDS (EASTSIDE PROJECT), SERIES 2005, IN
THE AGGREGATE PRINCIPAL AMOUNT NOT
TO EXCEED \$50,000,000 (THE "SERIES 2005
BONDS"), TO PAY, OR TO BE APPLIED OR
CONTRIBUTED TOWARD, THE PAYMENT OF
REDEVELOPMENT COSTS ASSOCIATED WITH
THE PROJECTS IDENTIFIED ON SCHEDULE 1
HERETO (THE "2005 PROJECTS"); TO
AUTHORIZE PAYING EXPENSES INCIDENT TO
ACCOMPLISHING THE FOREGOING; TO
AUTHORIZE THE EXECUTION OF AN
INDENTURE OF TRUST, SUBSTANTIALLY
SIMILAR DEVELOPMENT AGREEMENTS WITH
THE OWNERS OF EACH 2005 PROJECT, AN
INTERGOVERNMENTAL AGREEMENT AND A
PURCHASE CONTRACT, AND APPROVING THE
USE AND DISTRIBUTION OF A PRELIMINARY
LIMITED OFFERING MEMORANDUM AND
FINAL LIMITED OFFERING MEMORANDUM;
AND FOR CERTAIN OTHER PURPOSES, ALL IN
CONNECTION WITH THE ISSUANCE AND SALE
OF THE FOREGOING DESCRIBED SERIES 2005
BONDS.

Stacey Abrams, Deputy City
Attorney

Stacey Abrams

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 2/17/05
 Referred To: Finance/Ex
 Date Referred
 Referred To:
 Date Referred

First Reading
 Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee Finance/Ex
 Date 2/16/05
 Chair _____
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Refer To _____

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

ADOPTED BY

MAR 07 2005

COUNCIL

Refer To

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

MAR 07 2005

CERTIFIED

MAR 07 2005

Debi Starnes
MUNICIPAL CLERK

MAYOR'S ACTION

Kimberly Frank

SUBSTITUTE AS AMENDED