

10-0-1150

(Do Not Write Above This Line)

AN ORDINANCE BY FINANCE/ EXECUTIVE COMMITTEE 10-0-

AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST TO AMEND THE INDENTURE OF TRUST EXECUTED IN CONNECTION WITH THE ISSUANCE OF THE TAX ALLOCATION BONDS (EASTSIDE PROJECT), SERIES 2005A AND SERIES 2005B (THE "EASTSIDE BONDS"); AND FOR CERTAIN OTHER PURPOSES.

ADOPTED BY JUL 06 2010 COUNCIL

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

Date Referred 06/21/10
Referred To: Finance Exer.
Date Referred
Referred To:
Date Referred
Referred To:

First Reading
Committee Finance/Executive
Date 6/30/10
Chair [Signature]
Referred To Finance Exer.

Committee Finance/Executive
Date 6/30/10
Chair [Signature]

Action Fav, Adv, Hold (see rev. side)
Other

Members [Signature]

Refer To [Signature]

Refer To

Committee
Date
Chair

Action Fav, Adv, Hold (see rev. side)
Other

Members

Second Reading
Committee Finance/Executive
Date
Chair

Action Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Refer To

Committee
Date
Chair

Action Fav, Adv, Hold (see rev. side)
Other

Members

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

CERTIFIED

CERTIFIED JUL 06 2010 ATLANTA CITY COUNCIL PRESIDENT [Signature]

CERTIFIED JUL 06 2010 [Signature] MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED JUL 06 2010 [Signature] MAYOR



**AN ORDINANCE  
BY FINANCE/ EXECUTIVE COMMITTEE**

**AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST TO AMEND THE INDENTURE OF TRUST EXECUTED IN CONNECTION WITH THE ISSUANCE OF THE TAX ALLOCATION BONDS (EASTSIDE PROJECT), SERIES 2005A AND SERIES 2005B (THE "EASTSIDE BONDS"); AND FOR CERTAIN OTHER PURPOSES.**

**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-O-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-O-0231, adopted on February 16, 2004, and signed by the Mayor on February 24, 2004 (the "Ordinance Amendment"); 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 the property for redevelopment, (ii) environmental remediation of the 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 (vi) acquisition and development of parks and greenspace within the Eastside TAD and (vii) 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**, pursuant to the Redevelopment Powers Law, the Initial Ordinance, the Ordinance Amendment, Ordinance 05-O-0263, adopted on March 7, 2005, and signed by the



Mayor on March 8, 2005 (the "Financing Ordinance") and the Indenture of Trust dated as of July 1, 2005 (the "Indenture"), by and between the City and U.S. Bank National Association (as successor to Wachovia Bank, National Association), as trustee, the City issued its \$9,480,000 Tax Allocation Bonds (Eastside Project), Series 2005A (the "Series 2005A Bonds") and its \$38,000,000 Tax Allocation Bonds (Eastside Project), Series 2005B (the "Series 2005B Bonds," and together with the Series 2005A Bonds, the "Series 2005 Bonds"); and

**WHEREAS**, to further enhance the marketability of the Series 2005 Bonds and any future Additional Parity Bonds issued under the Indenture, the City has caused an application to be made to Standard & Poor's, a division of The McGraw-Hill Companies, Inc., a Rating Agency, for a rating on the Series 2005 Bonds; and

**WHEREAS**, in order to increase security for Bondholders, the City is willing to impose increased restrictions on the issuance of Additional Parity Bonds under the Indenture; and

**WHEREAS**, pursuant to the Indenture, the City and the Trustee may, without the consent of the Bondholders, modify or amend the Indenture if, in the opinion of the Trustee, such modification or amendment shall not prejudice in any material respect the rights of the owners of the Bonds then Outstanding.

**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 it is in the economic interest of the City to amend the Indenture to impose increased restrictions on the issuance of Additional Parity Bonds under the Indenture.

**Section 1.03. Authorization of First Supplemental Indenture.** The execution, delivery and performance of the First Supplemental Indenture of Trust, by and between the City and the Trustee (the "First Supplemental Indenture") are hereby authorized. The First Supplemental Indenture shall be in substantially the form attached hereto as Exhibit I, subject to such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the First Supplemental Indenture by the Mayor and Municipal Clerk as hereby authorized shall be conclusive evidence of any such approval.

**Section 1.04. No Personal Liability.** No stipulation, obligation or agreement herein contained or contained in the Initial Indenture or the First Supplemental Indenture shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the City in his individual capacity.

**Section 1.05. 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

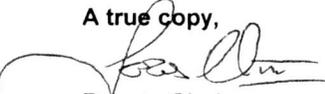


execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the execution of the First Supplemental Indenture and in conformity with the purposes and intents of this Ordinance.

**Section 1.06. 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 execution, delivery and performance of the First Supplemental Indenture, shall be, and the same hereby are, in all respects approved and confirmed.

**Section 1.07. 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 First Supplemental Indenture authorized hereunder.

**Section 1.08. 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,  
  
Deputy Clerk

ADOPTED by the Atlanta City Council  
APPROVED by Mayor Kasim Reed

JUL 06, 2010  
JUL 14, 2010



**Exhibit I**

**Form of First Supplemental Indenture**



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**FIRST SUPPLEMENTAL  
INDENTURE OF TRUST**

by and between

**CITY OF ATLANTA, GEORGIA**

and

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

Dated as of \_\_\_\_ 1, 2010

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securing

\$47,480,000  
Tax Allocation Bonds  
(Eastside Project)  
\$9,480,000 Series 2005A  
\$38,000,000 Series 2005B

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## FIRST SUPPLEMENTAL INDENTURE OF TRUST

**THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST** (this “Supplemental Indenture”), made as of the 1<sup>st</sup> day of \_\_\_\_\_, 2010, by and between the **CITY OF ATLANTA, GEORGIA**, a municipal corporation of the State of Georgia (the “City”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association organized under the laws of the United States of America and having a corporate trust office in Atlanta, Georgia, together with any successor as trustee (the “Trustee”);

### WITNESSETH:

WHEREAS, in order to encourage the development of an economically and socially depressed area in the City, the City Council by Ordinance 03-O-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 (the “Eastside Redevelopment Plan”) pursuant to the authority granted the City under the Constitution and the laws of the State of Georgia, including particularly Chapter 44 of Title 36 of the Official Code of Georgia Annotated, known as the “Redevelopment Powers Law,” as amended (the “Act”), (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 of or as security for the payment of tax allocation bonds;

WHEREAS, the Initial Ordinance was amended by the City Council by Ordinance 04-O-0231, adopted on February 16, 2004, and signed by the Mayor on February 24, 2004 (the “Ordinance Amendment”);

WHEREAS, pursuant to the Act, the City is authorized to finance certain Redevelopment Costs, as defined in the Act, including without limitation, (i) clearing, grading and otherwise preparing the property for redevelopment, (ii) environmental remediation of the 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 (vi) acquisition and development of parks and greenspace within the Eastside TAD and (vii) 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 Act;

WHEREAS, pursuant to the Act, the Initial Ordinance, the Ordinance Amendment, Ordinance 05-O-0263, adopted on March 7, 2005, and signed by the Mayor on March 8, 2005 (the “Financing Ordinance”) and the Indenture of Trust dated as of July 1, 2005 (the “Indenture”), by and between the City and the Trustee (as successor in interest to Wachovia Bank, National Association) the City issued its \$9,480,000 Tax Allocation Bonds (Eastside Project), Series 2005A (the “Series 2005A Bonds”) and its \$38,000,000 Tax Allocation Bonds (Eastside Project), Series 2005B (the “Series 2005B Bonds,” and together with the Series 2005A Bonds, the “Series 2005 Bonds”);

WHEREAS, to further enhance the marketability of the Series 2005 Bonds and any future Additional Parity Bonds issued under the Indenture, the City has caused an application to be



made to Standard & Poor's, a division of The McGraw-Hill Companies, Inc., a Rating Agency, for a rating on the Series 2005 Bonds;

WHEREAS, in order to increase security for Bondholders, the City is willing to impose increased restrictions on the issuance of Additional Parity Bonds under the Indenture;

WHEREAS, pursuant to the Indenture, the City and the Trustee may, without the consent of the Bondholders, modify or amend the Indenture if, in the opinion of the Trustee, such modification or amendment shall not prejudice in any material respect the rights of the owners of the Bonds then Outstanding; and

WHEREAS, all approvals, consents and actions which would constitute conditions precedent to the execution of this Supplemental Indenture and to the performance by the City of its obligations hereunder have been or shall be obtained prior to the effective date of this Supplemental Indenture.

NOW, THEREFORE, the Issuer and the Trustee agree as follows:

**Section 1. Certain Defined Terms.** Capitalized terms used in this Supplemental Indenture and not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

**Section 2. Amendment to Section 2.07.** Section 2.07 of the Indenture is hereby amended by deleting Section 2.07 in its entirety and substituting in lieu thereof the following:

**2.07 Additional Parity Bonds.** The City may issue one or more Series of Additional Parity Bonds: to pay Redevelopment Costs applicable to any Project, to refund all or part of the Series 2005 Bonds or all or part of any Series of Additional Parity Bonds, or for any combination of such purposes. Each such Series of Additional Parity Bonds shall be issued pursuant to a Supplemental Indenture and shall be equally and ratably secured under this Indenture with the Series 2005 Bonds and any other Series of Additional Parity Bonds, without preference, priority or distinction; provided, however, that any Series of Additional Parity Bonds may have additional revenues or other security pledged to pay such Additional Parity Bonds. All such Additional Parity Bonds shall be of such denomination or denominations, bear such date or dates, bear interest at such rate or rates, have such maturity dates, redemption dates and redemption premiums, contain an appropriate Series designation, and be issued at such prices as shall be specified in such Supplemental Indenture. Additional Parity Bonds that do not bear interest at a fixed rate may not be issued unless at all times prior to the maturity thereof such Additional Parity Bonds will be either subject to a specific maximum rate of interest set forth in the Supplemental Indenture therefor or have a Hedge Agreement or Interest Liability Swap allocated to such Additional Parity Bonds with the result that the net interest rate thereon is subject to a specific maximum rate. Each such Supplemental Indenture shall also contain provisions regarding the applicable Series Debt Service Reserve Account and



Series Supplemental Reserve Account, if any. The Trustee shall authenticate and deliver such Additional Parity Bonds, but only upon receipt of the following:

(i) A certificate of the City signed by the Mayor and Chief Financial Officer, stating that as of the date of such delivery the signer has no knowledge that any event or condition has happened or existed, or is happening or existing, which constitutes, or which, with notice or lapse of time or both, would constitute, an Event of Default under this Indenture, or, if such Event of Default or event or condition shall have occurred and is continuing, it will be cured upon the issuance of such Additional Parity Bonds.

(ii) ~~[If such Additional Parity Bonds are issued to pay Redevelopment Costs related to a Project, either:~~

~~(A) written determination of a Qualified Independent Consultant of similar scope to the feasibility study prepared in connection with the issuance of the Series 2005 Bonds that the projected additional Tax Allocation Increments resulting from the Project or Projects related to such Series of Additional Parity Bonds for the Fiscal Year following the Fiscal Year for which interest on such Series of Additional Parity Bonds is capitalized from the proceeds thereof plus the total amount of Tax Allocation Increments actually received and deposited in the Special Fund for the Fiscal Year immediately preceding such written determination will be at least (i) 1.25 times the maximum Annual Debt Service on the Series 2005 Bonds, any other Additional Parity Bonds then Outstanding and the Series of Additional Parity Bonds then proposed for issuance (in each case net of any Series Debt Service Reserve Accounts and/or earnings thereon anticipated to be available to pay such maximum Annual Debt Service) and (ii) 1.00 times the maximum Annual Debt Service due on Subordinate Debt then Outstanding; or~~

~~(B) A certificate of the Chief Financial Officer stating that the total amount of Tax Allocation Increments received and deposited in the Special Fund for the immediately preceding Fiscal Year were at least (i) ~~[1.10]~~ **1.50** times the maximum Annual Debt Service due or anticipated to be due on (1) the Series 2005 Bonds and any other Additional Parity Bonds Outstanding during such period plus (2) the Additional Parity Bonds proposed to be issued (in each case net of any Series Debt Service Reserve Funds and/or earnings thereon anticipated to be available to pay such maximum Annual Debt Service) and (ii) 1.00 times the maximum Annual Debt Service due on Subordinate Debt then Outstanding.~~

~~[In the event that Additional Parity Bonds are issued in accordance with paragraph (A) above, the City shall establish a Series Supplemental Reserve Account for such Additional Parity Bonds and fund such Series Supplemental Reserve Account in accordance with Section 5.02 hereof in an amount equal to the Series Debt Service Reserve Requirement for such series of Additional Parity Bonds.]~~



(iii) If such Additional Parity Bonds are issued to refund any Bonds, a written determination by a Qualified Independent Consultant or other evidence satisfactory to the Trustee that the proceeds (excluding accrued interest) of such Bonds, together with any other moneys deposited with the Trustee for such purpose and the investment income to be earned on moneys held for the payment or redemption of the Bonds to be refunded, will be sufficient (without reinvestment) to pay either (A) the principal of and the premium, if any, on the Bonds to be refunded and the interest which will accrue on such Bonds to the respective redemption or maturity dates or (B) the principal of and interest on the refunding Bonds to a date certain, at which time such proceeds, moneys and earnings will be sufficient to pay the principal of and the premium, if any, on the Bonds to be refunded and the interest which will accrue on such Bonds to the respective redemption or maturity dates.

(iv) A certified copy of an ordinance of the City authorizing (A) the execution and delivery of the Supplemental Indenture, and (B) the issuance, award, execution and delivery of such Additional Parity Bonds.

(v) An original executed counterpart of the Supplemental Indenture.

(vi) The Opinion or Opinions of Counsel that the Supplemental Indenture has been properly authorized and executed.

(vii) An opinion of Bond Counsel that the issuance of such Additional Parity Bonds is permitted under this Indenture and has been duly authorized, that such Additional Parity Bonds are valid and binding limited obligations of the City and that the issuance of such Additional Parity Bonds will have no adverse effect upon the exemption from Federal income taxation of interest on any Bonds then Outstanding the interest on which is intended to be exempt from such taxation.

(viii) A request and authorization of the City, signed by the Chief Financial Officer, to the Trustee to authenticate and deliver such Additional Parity Bonds to such person or persons named therein upon payment to the Trustee for the account of the City of a specified sum plus accrued interest to the date of delivery.

The proceeds of such Additional Parity Bonds shall be deposited by the Trustee as provided in the related Supplemental Indenture referred to above.

**Section 3. General Amendments.** All references in the Indenture which are inconsistent with this Supplemental Indenture are hereby determined to be null and void and of no force or effect.

**Section 4. Effectiveness.** This Supplemental Indenture shall be effective as of \_\_\_\_\_, 2010.

**Section 5. Indenture Confirmed.** The Indenture, as amended hereby and to the extent not inconsistent herewith, is reaffirmed and restated herein, and said Indenture is hereby



incorporated herein by reference as fully as if set forth in its entirety in this Supplemental Indenture, and the parties hereto hereby ratify and affirm the same.

**Section 6. Miscellaneous.**

(a) **Counterparts.** This Supplemental Indenture may be executed in several counterparts, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof; each counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Invalidity.** In the event that any one or more of the provisions contained in this Supplemental Indenture shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Supplemental Indenture.

(c) **Reference.** From and after the effective date hereof, all references to the Indenture shall be deemed to be references to the Indenture as amended by this Supplemental Indenture.

(d) **Governing Law.** This Supplemental Indenture shall be governed by and construed in accordance with the laws of the United States of America and the laws of the State of Georgia.

(e) **Headings.** Section headings in this Supplemental Indenture are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Supplemental Indenture.

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IN WITNESS WHEREOF, the City and the Trustee have caused this Supplemental Indenture to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

**CITY OF ATLANTA, GEORGIA**

(SEAL)

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Municipal Clerk

**U.S. BANK, NATIONAL ASSOCIATION, as  
Trustee**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Its \_\_\_\_\_

RCS# 412  
7/06/10  
2:19 PM

Atlanta City Council

REGULAR SESSION

CONSENT I                    EXCEPT 10-O-1168,10-R-1228,10-R-1219

ADOPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 2

Y Smith	Y Archibong	Y Moore	B Bond
Y Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	B Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		07-06-10
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
1. 10-O-0468 2. 10-O-1147 3. 10-O-1150 4. 10-O-1184 5. 10-O-1235 6. 10-O-1237 7. 10-O-1241 8. 10-O-1063 9. 10-O-0936 10. 10-R-1215 11. 10-R-1216 12. 10-R-1217 13. 10-R-1200 14. 10-R-1201 15. 10-R-1232 16. 10-R-1211 17. 10-R-1212 18. 10-R-1213 19. 10-R-1236 20. 10-R-1249 21. 10-R-1202 22. 10-R-1231 23. 10-R-1234 24. 10-R-1240 25. 10-R-1186 26. 10-R-1187 27. 10-R-1188 28. 10-R-1189 29. 10-R-1190 30. 10-R-1191 31. 10-R-1192 32. 10-R-1193 33. 10-R-1194 34. 10-R-1195 35. 10-R-1196 36. 10-R-1222 37. 10-R-1223 38. 10-R-1224	39. 10-R-1197 40. 10-R-1198 41. 10-R-1199	