

11-0-0982

(Do Not Write Above This Line)

TWELFTH SUPPLEMENTAL BOND ORDINANCE

A TWELFTH SUPPLEMENTAL ORDINANCE TO RATIFY, REAFFIRM, SUPPLEMENT AND AMEND THAT CERTAIN MASTER BOND ORDINANCE ADOPTED ON MARCH 31, 1999, AS SUPPLEMENTED AND AMENDED BY THAT CERTAIN FIRST SUPPLEMENTAL BOND ORDINANCE ADOPTED ON MARCH 5, 2001, THAT CERTAIN SERIES 2001 BOND ORDINANCE ADOPTED ON DECEMBER 5, 2001, THAT CERTAIN SERIES 2004 BOND ORDINANCE ADOPTED ON AUGUST 16, 2004, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2004 BOND ORDINANCE ADOPTED ON SEPTEMBER 15, 2004, THAT CERTAIN FIFTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON NOVEMBER 19, 2007, THAT CERTAIN SERIES 2008 BOND ORDINANCE ADOPTED ON MARCH 17, 2008, THAT CERTAIN SEVENTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON OCTOBER 6, 2008, THAT CERTAIN SERIES 2009 BOND ORDINANCE ADOPTED ON MAY 4 2009, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2009 BOND ORDINANCE ADOPTED ON JUNE 17, 2009 AND THAT CERTAIN SERIES 2009B BOND ORDINANCE ADOPTED ON OCTOBER 5, 2009, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2009B BOND ORDINANCE, ADOPTED OCTOBER 14, 2009; TO PROVIDE FOR AN INDEX RATE MODE; AND FOR OTHER RELATED PURPOSES.

ADOPTED BY

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

JUL 18 2011

COUNCIL

As Amended

Date Referred 07/05/11

Referred To: Finance Exec.

Date Referred

Referred To:

Date Referred

Referred To:

Committee Finance/Exec First Reading
 Date 6/29/11
 Chair Yadun
 Referred To Finance/Executive Comm.

FINAL COUNCIL ACTION
 2ND 1ST & 2ND 3RD
 Readings
 Consent V Vote RC Vote

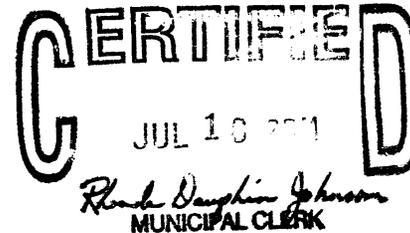
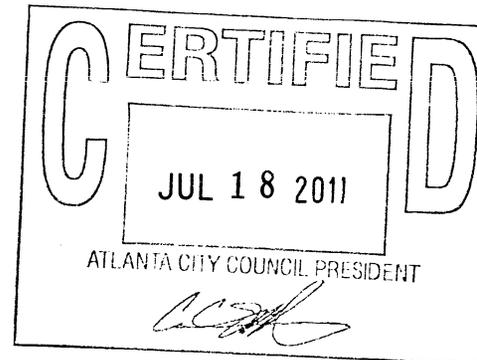
Committee Finance/Exec
 Date 7-13-11
 Chair Yadun
 Action Substitute
 Fav, Adv, Hold (See rev.side)
 Other
 Members
J. L. Moore (Abs)
J. P. S. [Signature]
[Signature]
Harold Shuff
[Signature]
 Refer To

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
 Refer To

Committee
 Date
 Chair
 Action
 Fav, Adv, Hold (See rev.side)
 Other
 Members
 Refer To

CERTIFIED



MAYOR'S ACTION



TWELFTH SUPPLEMENTAL BOND ORDINANCE

A TWELFTH SUPPLEMENTAL ORDINANCE TO RATIFY, REAFFIRM, SUPPLEMENT AND AMEND THAT CERTAIN MASTER BOND ORDINANCE ADOPTED ON MARCH 31, 1999, AS SUPPLEMENTED AND AMENDED BY THAT CERTAIN FIRST SUPPLEMENTAL BOND ORDINANCE ADOPTED ON MARCH 5, 2001, THAT CERTAIN SERIES 2001 BOND ORDINANCE ADOPTED ON DECEMBER 5, 2001, THAT CERTAIN SERIES 2004 BOND ORDINANCE ADOPTED ON AUGUST 16, 2004, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2004 BOND ORDINANCE ADOPTED ON SEPTEMBER 15, 2004, THAT CERTAIN FIFTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON NOVEMBER 19, 2007, THAT CERTAIN SERIES 2008 BOND ORDINANCE ADOPTED ON MARCH 17, 2008, THAT CERTAIN SEVENTH SUPPLEMENTAL BOND ORDINANCE ADOPTED ON OCTOBER 6, 2008, THAT CERTAIN SERIES 2009 BOND ORDINANCE ADOPTED ON MAY 4 2009, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2009 BOND ORDINANCE ADOPTED ON JUNE 17, 2009 AND THAT CERTAIN SERIES 2009B BOND ORDINANCE ADOPTED ON OCTOBER 5, 2009, AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL SERIES 2009B BOND ORDINANCE, ADOPTED OCTOBER 14, 2009; TO PROVIDE FOR AN INDEX RATE MODE; AND FOR OTHER RELATED PURPOSES.

WHEREAS, the City of Atlanta, Georgia (the "City"), by a Master Bond Ordinance duly and validly adopted on March 31, 1999 (the "Master Ordinance"), authorized, issued and delivered \$1,096,140,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 1999A, now outstanding in the aggregate principal amount of \$645,895,000 (the "Series 1999A Bonds"), and authorized, issued and delivered \$12,605,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 1999B (the "Series 1999B Bonds"), none of which are presently outstanding; and

WHEREAS terms used in this Twelfth Supplemental Ordinance and not otherwise defined herein shall have the meaning assigned to such terms in the Prior Ordinance (hereafter defined); and

WHEREAS, under the terms of the Master Ordinance, the Series 1999A Bonds are and the Series 1999B Bonds were special limited obligations of the City payable solely from and secured by a first priority pledge of and lien on the Pledged Revenues; and

WHEREAS, the Master Ordinance provides that (1) in connection with the issuance of any Bonds or at any time thereafter so long as such Bonds remain Outstanding, the City may enter into Hedge Agreements with Qualified Hedge Providers, and no other providers, with respect to any Bonds, (2) the City shall authorize the execution, delivery and performance of each Hedge Agreement in a Supplemental Ordinance, in which it shall designate the related Hedged Bonds, and (3) the City's obligation to pay Hedge Payments may be secured by a pledge

of, and lien on, the Pledged Revenues on a parity with the lien created by Section 4.1 of the Master Ordinance to secure the related Hedge Bonds, or may be subordinated in lien and right of payment to the payment of the Bonds, as determined by the City; and

WHEREAS, pursuant to the terms of a First Supplemental Bond Ordinance duly and validly adopted on March 5, 2001 (the "First Supplemental Ordinance"), the City entered into an ISDA Master Agreement and related Schedule to the Master Agreement, each dated as of March 5, 2001 (collectively the "Series 1999A Swap Agreement") with UBS AG (the "Swap Provider"), as supplemented by (1) a Confirmation of Swap Transaction ("Confirmation #1"), dated March 5, 2001, relating to \$145,000,000 in aggregate principal amount of the Series 1999A Bonds maturing on November 1, 2029 and 2038 (the "Series 1999A-1 Hedged Bonds") and (2) a Confirmation of Swap Transaction ("Confirmation #2"), dated March 5, 2001, relating to \$71,850,000 in aggregate principal amount of the Series 1999A Bonds maturing on November 1, 2022 and 2038 (the "Series 1999A-2 Hedged Bonds"); and

WHEREAS, the First Supplemental Ordinance designated the Series 1999A-1 Hedged Bonds and the Series 1999 A-2 Hedged Bonds as "Hedged Bonds" under the Master Ordinance and provided that the City's obligation to pay Hedge Payments under the Series 1999A Swap Agreement shall be secured by a pledge of, and lien on, the Pledged Revenues on a parity with the lien created by the Master Ordinance to secure the Series 1999A-1 Hedged Bonds and the Series 1999A-2 Hedged Bonds; and

WHEREAS, on March 4, 2010, the Series 1999A Swap Agreement, as supplemented by Confirmation #1 and Confirmation #2, was terminated pursuant to two Confirmation Letters to ISDA Master Agreement, each dated as of March 4, 2010 (collectively, the "1999A Swap Terminations"), and each providing for the payment of the respective Termination Payment (as defined in the 1999A Swap Terminations) relating to the termination of Confirmation #1 and Confirmation #2; and

WHEREAS, the Termination Payments are payable from amounts on deposit in the Renewal and Extension Fund and are not secured by Pledged Revenues on a parity with Senior Lien Bonds; and

WHEREAS, the Master Ordinance provides for the issuance under certain conditions of Parity Bonds payable from and secured by Pledged Revenues and ranking on a parity as to the pledge of and lien on the Pledged Revenues; and

WHEREAS, pursuant to the terms of the Master Ordinance, the City, by a Series 2001 Bond Ordinance duly and validly adopted on December 5, 2001 (the "Series 2001 Ordinance"), authorized, issued, and delivered (1) \$415,310,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2001A, now outstanding in the aggregate principal amount of \$415,100,000 (the "Series 2001A Bonds"), (2) \$335,640,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2001B (the "Series 2001B Bonds"), and (3) \$105,705,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2001C (the "Series 2001C Bonds"), and the Series 2001B Bonds and the Series 2001C Bonds are no longer outstanding; and

WHEREAS, pursuant to the terms of the Series 2001 Ordinance, the City entered into an ISDA Master Agreement, a Schedule to the Master Agreement, and an ISDA Credit Support Annex to the Schedule to the Master Agreement, each dated as of December 5, 2001 (collectively the “Series 2001 Swap Agreement”) with the Swap Provider, as supplemented by (1) a Confirmation of Swap Transaction (“Confirmation #3”) relating to the then outstanding \$355,640,000 in aggregate principal amount of the Series 2001B Bonds maturing on November 1, 2038, (the “Series 2001B-1 Hedged Bonds”) and (2) a Confirmation of Swap Transaction (“Confirmation #5”) dated December 28, 2001, relating to the then outstanding \$105,705,000 in aggregate principal amount of the Series 2001C Bonds then operating in the Daily Mode and maturing on November 1, 2041 (the “Series 2001C Hedged Bonds”); and

WHEREAS, pursuant to the terms of the Series 2001 Ordinance, the City authorized a Confirmation of Swap Transaction, which it defined as “Confirmation #4,” but the City elected to not have Confirmation #4 executed and delivered; and

WHEREAS, under the terms of Confirmation #3, on a basis determined by reference to notional amounts corresponding in amount and date to the principal maturities of the Series 2001B-1 Hedged Bonds, (1) the City agreed to pay the Swap Provider a monthly fixed amount based on fixed interest rates, and (2) the Swap Provider agreed to pay the City a monthly floating amount based on the Securities Industry and Financial Markets Association (“SIFMA”) Municipal Swap Index from February 1, 2002 to May 1, 2009, and 67% of LIBOR from June 1, 2009 to November 1, 2038; and

WHEREAS, under the terms of Confirmation #5, on a basis determined by reference to notional amounts corresponding in amount and date to the principal maturities of the Series 2001C Hedged Bonds, (1) the City agreed to pay the Swap Provider a monthly fixed amount based on fixed interest rates, and (2) the Swap Provider agreed to pay the City a monthly floating amount based on the SIFMA Municipal Swap Index; and

WHEREAS, the Series 2001 Ordinance designated the Series 2001B-1 Hedged Bonds and the Series 2001C Hedged Bonds as “Hedged Bonds” under the Master Ordinance and provided that the City’s obligation to pay Hedge Payments under the Series 2001 Swap Agreement shall be secured by a pledge of, and lien on, the Pledged Revenues on a parity with the lien created by the Master Ordinance to secure the Series 2001B-1 Hedged Bonds and the Series 2001C Hedged Bonds; and

WHEREAS, under the terms of the Series 2001 Ordinance, the City terminated its designation as “Hedged Bonds” under the Master Ordinance of \$28,270,000 in aggregate principal amount of the Series 1999A Bonds maturing on November 1, 2038, and designated \$28,270,000 in aggregate principal amount of the Series 2001A Bonds maturing on November 1, 2039, and subject to mandatory redemption on November 1, 2038, as “Hedged Bonds” pursuant to the Master Ordinance; and

WHEREAS, pursuant to the terms of the Master Ordinance, the City, by a Series 2004 Bond Ordinance duly and validly adopted on August 16, 2004, as supplemented by a

Supplemental Series 2004 Bond Ordinance duly and validly adopted on September 15, 2004 (collectively the “Series 2004 Ordinance”), authorized, issued, and delivered \$849,330,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2004, now outstanding in the aggregate principal amount of \$805,150,000 (the “Series 2004 Bonds”); and

WHEREAS, the Series 2004 Bonds are Parity Bonds payable from and secured by Pledged Revenues and rank on a parity as to the pledge of and lien on the Pledged Revenues with the Series 1999A Bonds and the Series 2001A Bonds; and

WHEREAS, pursuant to the terms of a Fifth Supplemental Bond Ordinance duly and validly adopted on November 19, 2007 (the “Fifth Supplemental Ordinance”), the City waived the application of Sections 6.1 and 6.4 of the Master Ordinance to certain portions of the System to be located in Piedmont Park; and

WHEREAS, pursuant to the terms of the Master Ordinance, the City, by a Series 2008 Bond Ordinance duly and validly adopted on March 17, 2008 (the “Series 2008 Ordinance”), authorized, issued, and delivered \$106,795,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2008, now outstanding in the aggregate principal amount of \$106,795,000 (the “Series 2008 Bonds”); and

WHEREAS, the Series 2008 Bonds are Parity Bonds payable from and secured by Pledged Revenues and rank on a parity as to the pledge of and lien on the Pledged Revenues with the Series 1999A Bonds, the Series 2001A Bonds, and the Series 2004 Bonds; and

WHEREAS, pursuant to the terms of a Seventh Supplemental Bond Ordinance duly and validly adopted on October 6, 2008 (the “Seventh Supplemental Ordinance”), the City amended and restated clause (ii) of Section 8.4(b) of the Series 2001 Ordinance, in order to enhance the marketability of then outstanding Series 2001B Bonds and Series 2001C Bonds; and

WHEREAS, the City, by a Commercial Paper Ordinance duly and validly adopted on January 17, 2006 (the “Commercial Paper Ordinance”), authorized the issuance, in various programs, series, and subseries from time to time, of its Water and Wastewater Revenue Commercial Paper Notes (the “Commercial Paper Notes”) in an aggregate principal amount not to exceed \$1,200,000,000, none of which are presently outstanding; and

WHEREAS, under the terms of the Commercial Paper Ordinance, the Commercial Paper Notes are special limited obligations of the City payable solely from and secured by, among other things, a second priority pledge of and lien on the Pledged Revenues, subordinate in lien and right of payment to the Senior Bonds and Hedge Payments payable pursuant to Senior Hedge Agreements; and

WHEREAS, pursuant to the terms of the Master Ordinance, the City, by a Series 2009 Bond Ordinance duly and validly adopted on May 4, 2009, as supplemented by a Supplemental Series 2009 Bond Ordinance duly and validly adopted on June 17, 2009 (collectively the “Series 2009 Ordinance”), authorized, issued, and delivered \$750,000,000 in original aggregate principal

amount of its Water and Wastewater Revenue Bonds, Series 2009A, now outstanding in the aggregate principal amount of \$742,190,000 (the “Series 2009A Bonds”); and

WHEREAS, the Series 2009A Bonds are Parity Bonds payable from and secured by Pledged Revenues and rank on a parity as to the pledge of and lien on the Pledged Revenues with the Series 1999A Bonds, the Series 2001A Bonds, the Series 2004 Bonds, and the Series 2008 Bonds; and

WHEREAS, pursuant to the terms of the Master Ordinance, the City, by a Series 2009B Bond Ordinance duly and validly adopted on October 5, 2009, as supplemented by a Supplemental Series 2009B Bond Ordinance duly and validly adopted on October 14, 2009, (collectively, the “Series 2009B Ordinance”), authorized, issued and delivered \$448,965,000 in original aggregate principal amount of its Water and Wastewater Revenue Bonds, Series 2009B (the “Series 2009B Bonds”), now outstanding in the aggregate principal amount of \$448,525,000, the proceeds of which were used to refund all of the outstanding Series 2001B Bonds and Series 2001C Bonds; and

WHEREAS, the Series 2009B Bonds are Parity Bonds payable from and secured by Pledged Revenues and rank on a parity as to the pledge of and lien on the Pledged Revenues with the Series 1999A Bonds, the Series 2001A Bonds, the Series 2004 Bonds, the Series 2008 Bonds and the Series 2009A Bonds; and

WHEREAS, under the terms of the Series 2009B Ordinance, the City terminated its designation as “Hedged Bonds” under the Master Ordinance of (a) \$330,110,000 in aggregate principal amount of the Series 2001B Bonds maturing on November 1, 2038 and designated \$330,110,000 in aggregate principal amount of the Series 2009B Bonds maturing in the years 2010 through 2038 and in the amounts identified in the Series 2009B Ordinance as “Hedged Bonds”; and

WHEREAS, under the terms of the Series 2009B Ordinance, the City terminated its designation as “Hedged Bonds” under the Master Ordinance of (a) \$25,265,000 in aggregate principal amount of Series 2001C Bonds maturing on November 1, 2041 and designated \$25,265,000 aggregate principal amount of the Series 2004 Bonds maturing on November 1, 2043 as “Hedged Bonds” and (b) \$80,440,000 in aggregate principal amount of Series 2001C Bonds maturing on November 1, 2041 and designated \$80,440,000 in aggregate principal amount of Series 2008 Bonds maturing on November 1, 2041 as “Hedged Bonds”: and

WHEREAS, the Series 1999A Bonds, the Series 2001A Bonds, the Series 2004 Bonds, the Series 2008 Bonds, the Series 2009A Bonds, the Series 2009B Bonds, the Series 1999A and the Series 2001 Swap Agreement, as supplemented by Confirmation #3 and Confirmation #5, are the only presently outstanding revenue bonds and associated obligations of the City secured by a pledge of and senior lien on the Pledged Revenues, and the City is now complying in all respects with the terms, provisions, and covenants of the Master Ordinance, as supplemented and amended by the First Supplemental Ordinance, the Series 2001 Ordinance, the Series 2004 Ordinance, the Fifth Supplemental Ordinance, the Series 2008 Ordinance, the Seventh

Supplemental Ordinance, the Series 2009 Ordinance and the Series 2009B Ordinance (as supplemented by this Twelfth Supplemental Bond Ordinance, the “Bond Ordinance”); and

WHEREAS, the City proposes to amend and supplement the Master Ordinance and the Series 2001 Ordinance to provide for the Index Rate Mode (as hereafter defined) as an additional Mode into which Modal Bonds may be converted, and specifically desires to make such amendment so that the Outstanding Series 2008 Bonds (which are the only series of Modal Bonds Outstanding) may be converted to the Index Rate Mode for purchase initially by Wells Fargo Bank, National Association (the “Bank”) and to bear interest at the rates applicable during the “Index Rate Period” provided for herein; and

WHEREAS, the direct purchase by the Bank of the Outstanding Series 2008 Bonds shall be pursuant to a Continuing Covenants Agreement, dated as of August 1, 2011, between the City and the Bank, a form of which is attached to this Twelfth Supplemental Bond Ordinance as Exhibit A; and

WHEREAS, the Master Ordinance permits the City, without the consent of Bondholders, to adopt Supplemental Ordinances which thereafter shall form a part of the Master Ordinance, in order to, among other things, modify the Master Ordinance in any respect (other than a modification described in the Master Ordinance requiring the unanimous written consent of all Bondholders), provided that for (i) any Outstanding Bonds which are assigned a rating and which are not secured by a Credit Facility providing for the payment of the full amount of principal and interest to be paid thereon, each Rating Agency shall have given written notification to the City that such modification will not cause the then applicable Rating on any Bonds to be reduced or withdrawn and (ii) any Outstanding Bonds which are secured by Credit Facilities providing for the payment of the full amount of the principal and interest to be paid thereon, each Credit Issuer shall have consented in writing to such modification; and

WHEREAS, Sections 13.2 and 13.3 of the Series 2001 Ordinance provide that any amendments to the Series 2001 Ordinance must be approved by each Credit Issuer, the Tender Agent and the Remarketing Agent and that the Rating Agencies must receive prior notification of such amendments; and

WHEREAS, each Credit Issuer with respect to the Parity Bonds, the Credit Issuer with respect to the Series 2001 Swap Agreement, the Swap Provider, the Tender Agent and the Remarketing Agent have each provided their written consent to the adoption of this Twelfth Supplemental Bond Ordinance and the Rating Agencies rating the Series 2009A Bonds have provided written notification to the City that the modification will not result in a downgrade of the ratings on the Series 2009A Bonds (being the only series of Parity Bonds not secured by a Credit Facility); and

NOW, THEREFORE, the City Council of the City of Atlanta, Georgia, hereby ordains as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions.

The definitions contained in the Master Ordinance, as supplemented and amended by the First Supplemental Ordinance, the Series 2001 Ordinance, the Series 2004 Ordinance, the Fifth Supplemental Ordinance, the Series 2008 Ordinance, the Seventh Supplemental Ordinance, the Series 2009 Ordinance and the Series 2009B Ordinance, particularly Article I thereof, are hereby amended, modified and supplemented as follows, and the following terms shall have the meanings specified below, unless the context clearly requires otherwise:

“Additional Interest” means for any period during which any Pledged Bonds are owned by a Credit Issuer pursuant to a Credit Facility or Credit Facility Agreement, the amount of interest accrued on such Pledged Bonds at the Pledged Bond Rate less the amount of interest which would have accrued during such period on an equal principal amount of Bonds at the Bond Rate. Additional Interest, with respect to Index Rate Bonds, means for any period the amount of interest accrued on such Index Rate Bonds at the Base Rate, the Default Rate or Taxable Rate less the amount of interest that would have accrued during such period on an equal principal amount of Index Rate Bonds at the Index Rate.

“Applicable Factor” means (i) during the Initial Period, 67% and (ii) during any other Index Rate Period when the Applicable Index is the LIBOR Index, 67%, or, with a Favorable Opinion of Bond Counsel, such other percentage as may be designated in writing by the City as the Applicable Factor for such Index Rate Period pursuant to Section 3.3 of this Twelfth Supplemental Ordinance. The Applicable Factor does not apply to the determination of the SIFMA Index Rate.

“Applicable Index” means either the SIFMA Index or the LIBOR Index, as designated by the Finance Officer prior to the commencement of any Index Rate Period.

“Applicable Spread” means, with respect to each Index Rate Period, the following:

(i) During the Initial Period, 87 basis points if the Applicable Index is the LIBOR Index and 75 basis points if the Applicable Index is the SIFMA Index; provided that the Applicable Spread during the Initial Period shall increase or decrease by a number of basis points based on the following schedule if a rating downgrade or upgrade of any Senior Bonds from the rating in effect on August 10, 2011 by any Rating Agency occurs:

| <u>Credit Rating</u> <u>(Moody's/S&P/Fitch)</u> | <u>Increase/Decrease in</u> <u>Applicable Spread</u> |
|--|---|
| A1/A+/A+ to Aa3/AA-/AA- | -5bps |
| A2/A/A to A1/A+/A+ | 0bps |
| A2/A/A to A3/A-/A- | +10bps |
| A3/A-/A- to Baa1/BBB+/BBB+ | +25bps |
| Baa1/BBB+/BBB+ to Baa2/BBB/BBB | +35bps |
| Baa2/BBB/BBB to Baa3/BBB-/BBB- | +50bps |

All of the foregoing pricing increases shall be cumulative.

(ii) During the Initial Period, each increase or decrease in the Applicable Spread shall be effective on the same date as the downgrade or upgrade in the rating on the Parity Bonds. In the event of a split rating, the lowest rating will be used to determine the Applicable Spread. In the event of the adoption of any new or changed rating system by any of the Rating Agencies after the date of this Twelfth Supplemental Ordinance, each rating referred to in the table above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category currently in effect.

(iii) During any Index Rate Period other than the Initial Period, the number of basis points determined by the Remarketing Agent on or before the Modal Business Day immediately preceding the first day of such Index Rate Period (which may include a schedule for the Applicable Spread based upon the ratings assigned to the long-term System debt of the City) that, when added to the product of the Applicable Index and the Applicable Factor, if applicable, would equal the minimum interest rate per annum that would enable the Remarketing Agent to sell the Index Rate Bonds on such date at a price equal to the principal amount thereof, plus accrued interest thereon, if any.

“Bank Purchase Date” means (i) the Initial Bank Purchase Date and (ii) during any Index Rate Period other than the Initial Period, the date designated by the City pursuant to Section 3.3(b) of this Twelfth Supplemental Ordinance.

“Base Rate” means the highest of (a) the Federal Funds Rate plus 200 basis points, (b) the Prime Rate plus 100 basis points or (c) 7.00%.

“Calculation Agent” means Wells Fargo Bank, National Association or any other person appointed by the City, with the consent of the Majority Holder, to serve as calculation agent for the Modal Bonds in the Index Rate Mode.

“Calculation Agent Agreement” means the Calculation Agent Agreement, dated as of August 1, 2011, between the City and Wells Fargo Bank, National Association, as Calculation Agent.

“Computation Date” means during each Index Rate Period, (a) when the Applicable Index is the LIBOR Index, the second London Business Day preceding each LIBOR Index Reset Date and (b) when the Applicable Index is the SIFMA Index, each Wednesday.

“Continuing Covenants Agreement” means, during the Initial Period, the Continuing Covenants Agreement, dated as of August 1, 2011, between the City and the Majority Holder, as the same may be amended from time to time, and during any Index Rate Period other than the Initial Period, means any agreement between the City and a Majority Holder which may be designated as the Continuing Covenants Agreement.

“Default Rate” means the fluctuating rate which is at all times equal to the Base Rate plus 300 basis points.

“Federal Funds Rate” means, for any day a fluctuating interest rate per annum equal to the weighted average (rounded to the next higher 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Modal Business Day, for the next preceding Modal Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Modal Business Day, the average (rounded to the next higher 1/100 of 1%) of the quotations for such day on such transactions received by the Majority Holder from three Federal funds brokers of recognized standing selected by the Majority Holder. Each determination of the Federal Funds Rate by the Majority Holder shall be conclusive and binding on the City.

“Index Rate” means the LIBOR Index Rate or the SIFMA Index Rate, as applicable.

“Index Rate Bond” means any Variable Rate Bond in the Index Rate Mode.

“Index Rate Mode” means a Mode that has all the attributes provided by this Twelfth Supplemental Ordinance for Variable Rate Bonds bearing interest at an Index Rate.

“Index Rate Period” means the Initial Period and each period during which the Index Rates are in effect for Index Rate Bonds.

“Initial Bank Purchase Date” means August 10, 2014.

“Initial Period” means the initial Index Rate Period commencing on August 10, 2011 and ending on the first to occur of (i) the Initial Bank Purchase Date, (ii) the Mode Change Date with respect to the Series 2008 Bonds next succeeding August 10, 2011 and (iii) the maturity date of the Series 2008 Bonds.

“Interest Adjustment Date” means:

- (i) for a Daily Rate Bond, each Rate Determination Date for such Daily Rate Bond;
- (ii) for a Weekly Rate Bond, the Mode Change Date for such Weekly Rate Bond and thereafter each Thursday;
- (iii) for a Term Rate Bond, the Mode Change Date for such Term Rate Bond and thereafter the first day of each Term Rate Period;
- (iv) for a Flexible Rate Bond, each Rate Determination Date for such Flexible Rate Bond;
- (v) for a Modal Fixed Rate Bond, the Mode Change Date for such Modal Fixed Rate Bond; and
- (vi) for an Index Rate Bond, the Computation Date.

“Interest Payment Date” means each date on which interest is to be paid and is:

- (i) for a Daily Rate Bond, the first Modal Business Day of each calendar month;
- (ii) for a Weekly Rate Bond, the first Modal Business Day of each calendar month;
- (iii) for a Flexible Rate Bond, the last day of the Flexible Rate Period for the particular Flexible Rate Bond;
- (iv) for a Term Rate Bond, each stated Interest Payment Date occurring after the Mode Change Date for such Term Rate Bond;
- (v) for a Modal Fixed Rate Bond, each Stated Interest Payment Date occurring after the Mode Change Date for such Modal Fixed Rate Bond;
- (vi) for an Auction Rate Bond, the Initial Interest Payment Date and thereafter each November 1 and May 1 during (and the November 1 or May 1, as applicable, immediately following) an Initial Interest Period, and thereafter the Auction Business Day following the last day of each Auction Period, except as changed as described in Section 5.15(a) of the Series 2001 Ordinance, and in all cases on the maturity of the Auction Rate Bond, whether at stated maturity, a Redemption Date, or otherwise; and
- (vii) for an Index Rate Bond, the first Modal Business Day of each calendar month, any day that is a Mode Change Date from an Index Rate Period and the maturity date for such Index Rate Bond.

“LIBOR Index” means the rate per annum determined on the basis of the rate of deposits in United States dollars of amounts equal to or comparable to the outstanding principal amount of the Index Rate Bonds, offered for a term of one month, which rate appears on the display designated as Reuters Screen LIBOR01 Page (or such other page as may replace Reuters Screen LIBOR01 Page or such other service or services as may be nominated by the British Bankers’ Association for the purpose of displaying London interbank offered rates for United States dollar deposits), determined as of approximately 11:00 a.m., London time, on each Computation Date, or if such rate is not available, another rate determined by the Calculation Agent of which the City has received written notice.

“LIBOR Index Rate” means a per annum rate of interest equal to the sum of (i) the LIBOR Index multiplied by the Applicable Factor plus (ii) the Applicable Spread. Such rate will be rounded upward to the third decimal place.

“LIBOR Index Reset Date” means the first Modal Business Day of each month.

“London Business Day” means any Modal Business Day on which commercial banks are open for business in London, England.

“Majority Holder” means, during any Index Rate Period, the Holder of 51% or more in aggregate principal amount Outstanding of a series of Variable Rate Bonds in the Index Rate Mode. The initial Majority Holder is Wells Fargo Bank, National Association, and any successors and assigns thereof.

“Maximum Federal Corporate Tax Rate” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Majority Holder, the maximum statutory rate of federal income taxation which could apply to the Majority Holder).

“Modal Bonds” means the Series 2008 Bonds.

“Mode” means any of the methods of determining an interest rate for the Modal Bonds permitted by the Series 2001 Ordinance and by the Twelfth Supplemental Ordinance and shall expressly include, among others, the Index Rate Mode.

“Mode Change Date” means (i) the date on which a Mode change becomes or is intended to become effective and (ii) a date on which the then current Index Rate Period is changed to a new Index Rate Period.

“Notice Parties” means the City, the Tender Agent, the Remarketing Agent, any Credit Issuer for Modal Bonds and the Holders of Index Rate Bonds.

“Prior Ordinance” means the Master Ordinance, as supplemented and amended by the First Supplemental Ordinance, the Series 2001 Bond Ordinance, the Series 2004 Bond

Ordinance, the Fifth Supplemental Bond Ordinance, the Series 2008 Bond Ordinance, the Seventh Supplemental Bond Ordinance, the Series 2009 Bond Ordinance and the Series 2009B Bond Ordinance.

“Prime Rate” means, during an Index Rate Period, on any day, the rate of interest per annum then most recently established by the Majority Holder as its “prime rate.” Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by the Majority Holder to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and the Majority Holder may make various business or other loans at rates of interest having no relationship to such rate. Each time the Prime Rate changes, the per annum rate of interest on the Modal Bonds bearing interest at a rate, a component of which is the Prime Rate, shall change immediately and contemporaneously with such change in the Prime Rate. If the Majority Holder ceases to exist or to establish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in the Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

“Rate Determination Date” means:

- (i) for a Daily Rate Bond, each Modal Business Day;
- (ii) for a Weekly Rate Bond, for the first Rate Determination Date, the Modal Business Day before the Mode changes to a Weekly Mode; and thereafter, each Wednesday, but if such Wednesday is not a Modal Business Day, then the Thursday immediately following such Wednesday.
- (iii) for a Flexible Rate Bond, the first day of each Flexible Rate Period for such Flexible Rate Bond;
- (iv) for a Term Rate Bond, a Modal Business Day selected by the Finance Officer no sooner than 30 days before and no later than the Modal Business Day immediately before the Mode Change Date; thereafter, the Modal Business Day immediately before the last day of each Term Rate Period for such Term Rate Bond;
- (v) for a Modal Fixed Rate Bond, a Modal Business Day selected by the Finance Officer no sooner than 30 days before and no later than the Modal Business Day immediately before the Mode Change Date; and
- (vi) for an Index Rate Bond, (a) when the Applicable Index is the LIBOR Index, the LIBOR Index Reset Date and (b) when the Applicable Index is the SIFMA Index, each Thursday.

“Short-Term Mode” means the Daily Mode, Weekly Mode, Flexible Rate Mode and Index Rate Mode.

“SIFMA Index” means on any date, a rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as produced by Municipal Market Data and published or made available by SIFMA or any person acting in cooperation with or under the sponsorship of SIFMA and acceptable to the Remarketing Agent (if any) and effective from such date.

“SIFMA Index Rate” means a rate per annum of interest equal to the sum of (i) the SIFMA Index plus (ii) the Applicable Spread.

“Taxable Date” means the date as of which interest on an Index Rate Bond is first includable in the gross income of the Bondholder (including, without limitation, any previous Bondholder) thereof as determined pursuant to either (i) an opinion of Bond Counsel or (ii) a final decree or judgment of any federal court or a final action by the Internal Revenue Service that is delivered to the Majority Holder and the City.

“Taxable Rate” means an interest rate per annum at all times equal to the product of the Index Rate then in effect multiplied by the Taxable Rate Factor.

“Taxable Rate Factor” means 1.4925.

“Tender Bonds” means, as of any Purchase Date, all Modal Bonds:

(i) subject to tender on such Purchase Date by reason of the Modal Holders thereof having given notice as provided in Section 8.1 of the Series 2001 Ordinance, as supplemented by this Twelfth Supplemental Ordinance.

(ii) subject to mandatory tender on such Purchase Date pursuant to Section 8.2 of the Series 2001 Ordinance, as supplemented by this Twelfth Supplemental Ordinance.

“Twelfth Supplemental Ordinance” means this Twelfth Supplemental Bond Ordinance to the Prior Ordinance.

ARTICLE II

INDEX RATE BOND TERMS

Section 2.1. Form of Index Rate Bonds.

The Series 2008 Bonds, upon conversion to the Index Rate Mode, shall be in substantially the form set out in Exhibit B to this Twelfth Supplemental Ordinance, provided that some of the text of each Index Rate Bond may appear on the reverse side of such Index Rate Bond, with such variations, omissions, substitutions and insertions as are required or permitted by the Bond Ordinance.

Section 2.2. Transfer and Exchangeability of Index Rate Bonds.

Notwithstanding Section 2.7 of the Master Ordinance, as supplemented, prior to the transfer of any Modal Bonds bearing interest at the Index Rate, there shall first be filed with the Paying Agent and the City an Investor's Letter in the form attached hereto as Exhibit C executed by a duly authorized officer of the purchaser thereof.

ARTICLE III

INDEX RATE MODE; INTEREST RATES

Section 3.1. Amendments to Article IV of the Series 2001 Ordinance.

(a) Section 4.1(a) of the Series 2001 Ordinance is hereby amended and restated as follows:

Section 4.1. Manner of Determining Interest Rates. (a) The interest rate for all Variable Rate Bonds (other than during the Initial Period for the Index Rate Bonds) and Modal Fixed Rate Bonds in each Tranche, commencing with the first Rate Determination Date after the Closing Date, shall be determined by the Remarketing Agent on each Rate Determination Date as provided in this Article. The interest rate for Index Rate Bonds shall be determined as set forth in Section 4.5 hereof.

(b) The first sentence of Section 4.3(a) of the Series 2001 Ordinance is hereby deleted in its entirety and the following is substituted in lieu thereof:

(a) The interest rate for each Tranche of Modal Bonds other than Flexible Rate Bonds, Index Rate Bonds during the Initial Period and Auction Rate Bonds shall be determined by the Remarketing Agent on the Rate Determination Date for such Mode as the interest rate that in the judgment of the Remarketing Agent would allow such Modal Bonds to be sold at par plus interest accrued to the purchase date, under prevailing market conditions on such Rate Determination Date.

(c) Article IV of the Series 2001 Ordinance is hereby amended by adding the following Section 4.5.

Section 4.5. Interest Rate Determination for Index Rate Mode Bonds.

(i) During each Index Rate Period, the Index Rate Bonds shall, subject to Section 4.5(v) below, bear interest at the LIBOR Index Rate or SIFMA Index Rate, as from time to time in effect. The Applicable Index for the Initial Period shall be established by the Finance Officer on or before the Initial Period and the initial Index Rate for the period commencing on August 10, 2011 shall be established by a certificate of the Calculation Agent on the date of conversion of the Series 2008 Bonds to the Index Rate Mode.

(ii) On or before the Modal Business Day immediately preceding the first day of the applicable Index Rate Period, the Remarketing Agent shall determine the Applicable Spread.

(iii) On each Computation Date, the Calculation Agent shall determine the Index Rate. The Index Rate as determined by the Calculation Agent will be the interest rate to be borne by the Modal Bonds of a series (A) when the Applicable Index is the LIBOR Index (i) with respect to the initial Computation Date in any Index Rate Period, from the first day of such Index Rate Period through and including the first Modal Business Day of the next calendar month, and (ii) for each Computation Date thereafter, from the first Modal Business Day after such Computation Date through and including the first Modal Business Day of the next calendar month and (B) when the Applicable Index is the SIFMA Index (i) with respect to the initial Computation Date in any Index Rate Period, from the first day of such Index Rate Period through the following Wednesday and (ii) for each Computation Date thereafter, from the first Thursday after such Computation Date through the following Wednesday (each a “Weekly Index Period”), provided that, if the applicable Computation Date (other than the initial Computation Date in any Index Rate Period) is a day following a Thursday in any week, the applicable Weekly Index Period shall run from Thursday preceding the Computation Date through the following Wednesday.

(iv) From and after any Taxable Date, the interest rate on the Modal Bonds in an Index Rate Period shall be established at a rate at all times equal to the Taxable Rate.

(v) Notwithstanding the foregoing but subject to the interest rate limitations of Section 4.1(b) of the Series 2001 Ordinance, upon the occurrence and continuation of an Event of Default, from and after the effective date of such Event of Default, the interest rate for Modal Bonds in an Index Rate Period shall be established at a rate at all times equal to the greater of (a) the Default Rate and (b) the interest rate that otherwise would be applicable to such Modal Bonds but for the provisions of this subparagraph (v).

(vi) If the Holder of an Index Rate Bond incurs any loss, cost or expense (including without limitation, any loss of the Applicable Spread or any loss, cost, expense or premium incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Holder to fund or maintain any Index Rate Bond or the relending or reinvesting of such deposits or amounts paid or prepaid to such Holder) as a result of the occurrence of any Event of Default, then, upon the demand of such Holder, the City shall pay to such Holder such amount as will reimburse such Holder for such loss, cost or expense. The amount as determined by such Holder shall be conclusive and binding upon the City absent manifest error.

Section 3.2. Mode Change to Index Rate Mode.

Section 6.1(b) of the Series 2001 Ordinance is hereby amended by adding paragraph (4) thereto as follows:

(4) The Mode of an Index Rate Bond may be changed only on an Interest Payment Date and all conditions set forth in the Continuing Covenants Agreement must be satisfied.

Section 3.3. Mode Change Notice Provisions for Index Rate Mode.

(a) In addition to the conditions precedent to Mode change set forth in Section 6.9 of the Series 2001 Ordinance, if the Mode change is from an Index Rate to a new Index Rate and the Majority Holder is unchanged, the Majority Holder must consent to such Mode change.

(b) In addition to the conditions of Mode Change Notice set forth in Section 6.12 of the Series 2001 Ordinance, if an Index Rate is to be in effect immediately following such Mode Change Date, such Mode Change Notice shall state (a) the applicable Bank Purchase Date, (b) the Applicable Index and (c) the Applicable Factor, if any.

ARTICLE IV

REDEMPTION OF MODAL BONDS OPERATING IN INDEX RATE MODE

Section 4.1. Optional Redemption of Modal Bonds Operating in Index Rate Mode.

Subject to any limitations set forth in a Continuing Covenants Agreement, during any Index Interest Period, such Modal Bonds are subject to redemption on any Interest Payment Date at the direction of the City, in whole or in part, at a redemption price equal to the principal amount of the Modal Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date.

Section 4.2. Selection of Modal Bonds in Index Rate Mode to Be Redeemed; Notice.

Any Modal Bonds redeemed under Section 4.1 of this Twelfth Supplemental Ordinance shall be called for redemption by the Paying Agent and paid as herein provided upon receipt by the Paying Agent and the Majority Holder at least 45 days prior to the redemption date of a written request of the City. The City shall also provide a certificate of the Finance Officer certifying that any conditions to such redemption in a Continuing Covenants Agreement have been met. Such request shall specify the principal amount of such Modal Bonds and their maturities so to be called for redemption, the applicable redemption price or prices and the provision or provisions referred to in Section 4.1 and this Section 4.2 pursuant to which such Modal Bonds are to be called for redemption.

During any Index Rate Period, in the event any of the Modal Bonds are called for redemption, in whole or in part, the City shall give notice thereof to the Holders of such Modal Bonds at least 30 days prior to the date fixed for redemption, which notice shall specify the anticipated redemption date and the principal amount of such Modal Bonds to be redeemed and such notice will not require presentation of such Modal Bonds for payment.

ARTICLE V

MANDATORY TENDER OF INDEX RATE BONDS

Section 5.1. Additional Mandatory Tender Events.

(a) In addition to the Mandatory Tender Events set forth in Section 8.2 of the Series 2001 Ordinance, Index Rate Bonds shall be subject to mandatory tender for purchase at the Purchase Price on the following Purchase Dates:

- (i) each Bank Purchase Date; and
- (ii) 120 days after any Taxable Date.

(b) Notice of mandatory tender by reason of a Bank Purchase Date shall be given in accordance with the requirements of Section 8.2 of the Series 2001 Ordinance relating to a Mode change.

(c) The Series 2008 Bonds are subject to tender at the option of the Majority Holder upon an event of default under the Continuing Covenants Agreement, dated as of August 1, 2011, between the Majority Holder and the City. Notice of such optional tender shall be given in accordance with the requirements of Section 8.1(b) of the Series 2001 Ordinance. The Majority Holder shall give irrevocable notice to the Tender Agent and Remarketing Agent by Electronic Means no later than 4:00 p.m. not less than seven days prior to the Purchase Date specified in the notice.

ARTICLE VI

AMENDMENTS TO MASTER ORDINANCE

Section 6.1. Events of Default.

(a) The following shall constitute an Event of Default, in addition to any other Events of Default defined and declared by the Prior Ordinance:

During the Index Rate Period, the City shall have received a written notice from the Bank of the occurrence and continuance of an Event of Default as defined in the Continuing Covenants Agreement relating to Senior Bonds.

(b) No default or Event of Default affecting a series of Index Rate Bonds or relating to the rights and obligations of a Majority Holder under a Continuing Covenants Agreement with respect thereto may be waived during an Index Rate Period without the prior written consent of such Majority Holder.

(c) The remedy of acceleration provided in Section 7.2(a) of the Master Ordinance is not available for a default described in Section 6.1(a) hereof.

Section 6.2. Continuing Covenants Agreements.

In connection with the issuance of Modal Bonds in the Index Rate Mode or the conversion of Modal Bonds to the Index Rate Mode, the City, subject to receipt of a Favorable Bond Counsel's Opinion, may enter into one or more Continuing Covenants Agreements providing for the terms under which Index Rate Bonds shall be purchased. Such Continuing Covenants Agreement may provide for, among other things, (i) the terms and conditions of the purchase of the Index Rate Bonds, including the provision for Additional Interest and (ii) the payment of fees and expenses to the Majority Holder in connection with the purchase of Index Rate Bonds. Except for the payment of principal and interest on the related Index Rate Bonds, all amounts payable under the Continuing Covenants Agreement (including any Additional Interest and principal amortization requirements for the related Index Rate Bonds that are more accelerated (whether due to optional or mandatory tender or otherwise) than the amortization requirements for such Index Rate Bonds, without acceleration) shall be fully subordinate to the payment of debt service on the related class of Bonds.

Section 6.3 Amounts Payable from Revenue Fund.

For purposes of Section 4.3 of the Master Ordinance, moneys in the Revenue Fund may be applied to the payment of any and all amounts payable under a Continuing Covenants Agreement.

Section 6.4 Debt Service Reserve Account Not Available.

As a matter of clarification and except as otherwise permitted by the Master Ordinance, amounts on deposit in the Debt Service Reserve Account shall not be used to pay Additional Interest or accelerated interest or principal payments on Index Rate Bonds.

RCS# 1292
7/18/11
3:45 PM

Atlanta City Council

REGULAR SESSION

11-O-0982

TWELFTH SUPP BOND ORDINANCE TO RATIFY
REAFFIRM, SUPP AND AMEND MASTER BOND ORD
ADOPT/SUB/AMEND

YEAS: 8
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 7

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

11-O-0982