10-R-1725

A RESOLUTION
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ATLANTA DEVELOPMENT AUTHORITY IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS AND NO CENTS ($300,000.00) FROM THE "NEIGHBORHOOD ALLOCATION" CREATED IN CONNECTION WITH THE IMPLEMENTATION OF THE WESTSIDE TAX ALLOCATION BOND DISTRICT, NUMBER 1, AS AMENDED-ATLANTA/WESTSIDE (THE "WESTSIDE TAD") FUNDS FOR THE PURPOSE OF FUNDING THE DEMOLITION OF STRUCTURES UNFIT FOR HUMAN HABITATION, THE CLEAN AND CLOSE OF ABANDONED STRUCTURES AND/OR THE ABATEMENT OF EXCESSIVE OVERGROWTH AND JUNK, TRASH, OR DEBRIS ON PROPERTIES WITHIN THE ENGLISH AVENUE AND VINE CITY NEIGHBORHOODS; AND FOR OTHER PURPOSES.

WHEREAS, the City has appointed the Atlanta Development Authority ("ADA") as the City's redevelopment agency pursuant to the Redevelopment Powers Law ("Act") for the purpose of implementing the redevelopment initiatives set forth in the Westside TAD Redevelopment Plan, and for other purposes, including, without limitation, implementing the neighborhood project funding mandate of the City from the "Neighborhood Allocation" (referred to as the "Neighborhood Fund"); and

WHEREAS, pursuant to Resolutions 06-R-2615 and 08-R-1694 the City has entered into similar intergovernmental agreements with ADA; and

WHEREAS, the Board of Directors of ADA have approved an allocation of $300,000 from the Neighborhood Fund to fund the Westside TAD Demolition/Clean and Close Projects within the English Avenue and Vine City neighborhoods; and

WHEREAS, the City of Atlanta In Rem Review Board routinely orders either the demolition or the cleaning and closing of structures, depending on the level of deterioration, determined to be unfit for human habitation as authorized by O.C.G.A. § 36-61-11 and the Atlanta Housing Code; and

WHEREAS, in the event no timely action is taken by the responsible party to comply with the Board's Order, the City is authorized to carry out the Order using public funds and lien the property for its costs; and

WHEREAS, use of the Neighborhood Fund for these purposes will allow the City the financial ability to carry out the Board's Orders on properties located in the English Avenue and Vine City neighborhoods within the Westside TAD, thereby abating these nuisance structures which have a deleterious effect on the public health, safety and welfare.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to negotiate, execute and deliver an Intergovernmental Agreement, in the form as substantially attached hereto as Exhibit "A", by and between the City and the Atlanta Development Authority in an amount not to exceed $300,000.00 memorializing the terms and conditions of the Neighborhood Fund allocation for the *in rem* condemnation/demolition projects.

Section 2. Use of the Neighborhood Fund allocation shall be for the purposes of: (i) demolition of dilapidated structures unfit for human habitation; (ii) clean & close of properties that contain abandoned and/or unsecured structures not determined to be dilapidated; or (iii) abatement of excessive overgrowth and junk, trash, or debris on such properties.

EXHIBIT "A"

INTERGOVERMENTAL AGREEMENT
FOR THE UNDERTAKING OF CERTAIN IN REM CONDEMNATION, DEMOLITION AND/OR CLEANING AND CLOSING RELATED REDEVELOPMENT ACTIVITIES WITHIN THE ENGLISH AVENUE AND VINE CITY AREA OF THE WESTSIDE TAD

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made this ____ day of August, 2010, by and between the **CITY OF ATLANTA, GEORGIA**, a municipal corporation of the State of Georgia (the "City"), and **THE ATLANTA DEVELOPMENT AUTHORITY**, a public body corporate and politic of the State of Georgia (the "Authority"), by and through the respective governing authorities of each pursuant to the provisions of Article IX, Section II, Para. III of the Georgia Constitution of the State of Georgia of 1983, as amended, and the general, special and local laws of said State, and the resolutions and ordinances of each of the parties concerning the undertaking of certain in rem condemnation, demolition and/or clean and close projects within the City of Atlanta Tax Allocation District No. 1 – Westside (the "Westside TAD Demolition/Clean and Close Projects"), all as authorized under the Redevelopment Powers Law, O.C.G.A. § 36-44-1, *et seq.* (the "Act").

WITNESSETH:

WHEREAS, the Act provides for the establishment of redevelopment powers and the creation of redevelopment plans and tax allocation districts by counties and municipalities in the State of Georgia;

WHEREAS, the purpose of the Act is to improve economic and social conditions within substantially underutilized and economically and socially depressed urban areas that contribute to or cause unemployment, limit the tax resources of counties and municipalities while creating a greater demand for governmental services, have a deleterious effect upon the public health, safety, morals and welfare, and impair or arrest the sound growth of the community as a whole;

WHEREAS, to encourage the redevelopment of the western downtown area of the City, the City Council of the City, by Resolution 92-R-1575, adopted on December 7, 1992, and signed by the Mayor on December 15, 1992 (the "Original Westside TAD Resolution"), among other things, (i) created the Techwood Park Urban Redevelopment Area and Tax Allocation District Number One – Atlanta/Techwood Park (the "Original Westside Redevelopment Area and TAD") and (ii) adopted the Techwood Park Urban Redevelopment Plan (the "Original Westside Redevelopment Plan") pursuant to the authority granted to the City under the Act;

WHEREAS, pursuant to Resolution 98-R-0777, adopted by the City Council of the City on July 6, 1998, and approved by the Mayor on July 15, 1998, the City, among other things, (i) expanded the Original Westside Redevelopment Area and TAD and renamed the tax allocation district "The Westside Tax Allocation Bond District, Number 1, As Amended – Atlanta/Westside" (the "Westside TAD") and (ii) amended the Original

Westside Redevelopment Plan and renamed same the "The Westside Redevelopment Plan and Tax Allocation Bond District (Tax Allocation District Number 1, As Amended – Atlanta/Westside)" (the "Redevelopment Plan"), all as provided under the Act;

WHEREAS, the City has appointed the Authority as the City's redevelopment agency pursuant to the Act for the purpose of implementing the redevelopment initiatives set forth in the Redevelopment Plan, and for other purposes, including, without limitation, implementing the neighborhood project funding mandate of the City from the "Neighborhood Allocation" (referred to as the "Neighborhood Fund");

WHEREAS, on December 17, 2009, the Board of Directors of the Authority approved an allocation of $300,000 from the Neighborhood Fund (the "Project Allocation") to fund the Westside TAD Demolition/Clean and Close Projects to support the Neighborhood Planning Unit's and the City's efforts to improve the redevelopment potential of neighborhoods within the Vine City and English Avenue areas through in rem condemnation, demolition and/or cleaning and closing of abandoned, unsecured or dilapidated structures and/or for the abating of excessive overgrowth and junk, trash or debris from these properties within the Westside TAD, as more fully described in **Exhibit A** attached hereto;

WHEREAS, pursuant to O.C.G.A § 36-61-11, the City of Atlanta has created by ordinance the In Rem Review Board (the "Board") to hear cases in which it is alleged that dwellings or other structures intended for human habitation are unfit for human habitation or may imperil the health, safety, or morals of the occupants thereof or the surrounding areas and upon the requisite showing order such dwellings or structures repaired, cleaned and closed, or demolished by the responsible party; **WHEREAS**, in the event no timely action is taken by the responsible party to comply with the Board's Order, the City is authorized to carry out the Order using City funds and lien the property for its costs;

WHEREAS, by resolution of the City Council of the City adopted on September 2, 2008 and approved by the Mayor on September 8, 2008, as said resolution was amended by the City Council of the City on _____, 2010 and approved by the Mayor on _____, 2010 (collectively, the City Approving Resolution"), the City authorized accepting and expending the Project Allocation for the Westside TAD Demolition Clean and Close Projects; and

WHEREAS, the City and the Authority have each determined that the undertaking of the Westside TAD Demolition/Clean and Close Projects will have a positive impact on and is in the best interest of the residents of the Westside TAD, as a whole, and the English Avenue and Vine City area within such Westside TAD, in particular.

NOW THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and No/100ths Dollars ($10.00). The foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Authority do hereby agree as follows:

Section 1. The Authority hereby agrees to fund the Project Allocation in one or more installments pursuant to requisitions provided to the Authority by the City, in a form reasonably satisfactory to the Authority; provided, however, that (i) the Authority will use its best efforts to make funds available to the City within ten (10) business days of the approval of any requisition for payment and (ii) the City shall not submit more than one (1) requisition per month. The Authority reserves the right to require the City to comply with any and all requisition procedures then applicable to projects awarded funding, directly or indirectly, from the applicable Westside TAD bonds from which the Project Allocation is funded.

Section 2. The City agrees to administer the Westside Demolition/Clean and Close Projects pursuant to the guidelines and parameters established in the City Approving Resolution attached to this Agreement as **Exhibit A**, including the project description attached thereto and by reference made a part hereof (such guidelines being referred to as the "Project Guidelines") and in accordance with all applicable laws, rules and regulations relating thereto. Without limiting the generality of the foregoing, the City agrees that it will be solely responsible for the following activities and that the Authority's sole role will be to provide the funding for such activities upon proper requisition for such funds:

1. The City, acting through the Office of Code Compliance, shall select each dilapidated property for which the City seeks funding from the Project Allocation as contemplated by this Agreement; provided, however, that all such properties shall be located within the English Avenue and/or Vine City area of the Westside TAD, and shall meet the criteria contemplated in the Project Guidelines.

2. The City shall undertake the Westside Demolition/Clean and Close Projects in a good and workmanlike manner, and shall assume responsibility for all implementation, compliance and other legal and administrative matters necessary or convenient with respect to such undertaking, including, without limitation, compliance with all applicable laws, rules and regulations relating to the actions necessary or appropriate to complete the Westside Demolition/Clean and Close Projects.

3. The City shall be responsible for all coordinating activities with NPU-L, as and to the extent it deems in its sole discretion necessary or appropriate.

Section 3. The City agrees to provide the Authority with such documents and information as may be reasonably requested by the Authority to establish compliance by the Authority with the requirements and conditions set forth in the documents and agreements relating to the Westside TAD bonds from which the funding for the Project Allocation is derived, including, without limitation, (i) documents or certificates evidencing or affirming compliance with the Project Guidelines, (ii) records demonstrating the City's use of all of the Project Allocation within the English Avenue and/or Vine City area of the Westside TAD, and (iii) monthly reports and records (in such form as is reasonably satisfactory to the Authority) evidencing the receipt and expenditure of all of the Project Allocation and completion of all of the condemnation, demolition and clean and close activities hereby contemplated.

Section 4. The parties hereby agree that this Agreement may be extended, renewed, modified or otherwise amended only upon the written consent of both parties.

Section 5. To the extent permitted by law, the City shall and does agree to protect, defend, indemnify and save the Authority and its respective agents, employees, officers and legal representatives (collectively, the "Indemnified Persons") harmless for, from and against any and all claims, demands, counterclaims, damages, disbursements, losses, judgments, liabilities, penalties, injuries, fines, litigation, lawsuits and other proceedings and costs and expenses (including reasonable attorneys/ fees and expenses) (collectively, "Loss") imposed upon or asserted against any Indemnified Person by reason of any injury, death, damage or loss to persons (including workmen) or property sustained in connection with or incidental to the Westside Demolition/Clean and Close Projects as set forth in this Agreement, or by reason of any inaccuracy in or breach of any representation, warranty, obligation or agreement of the City contained in this Agreement; provided, however, that the City shall have no obligation to indemnify or hold any Indemnified Person harmless for, from and against any Loss where such Loss results directly from the intentional or grossly negligent act of such Indemnified Person. The foregoing indemnity is no way conditioned upon fault on the part of the City or upon any other event, occurrence, matter or circumstance, except as specifically set forth in this Agreement.

To the extent permitted by law, the Authority shall indemnify, defend and save the City and its respective agents, employees, officers and legal representatives from and against any Loss which accrue against or are incurred by the City and which arise from or out of the obligations and responsibilities assumed by the Authority with respect to the Westside Demolition/Clean and Close Projects as set forth in this Agreement. The foregoing indemnity is no way conditioned upon fault on the part of the Authority or upon any other event, occurrence, matter or circumstance, except as specifically set forth in this Agreement.

Section 6. This Agreement shall remain in effect until the earlier to occur of (i) the first (1st) anniversary of this Agreement, (ii) the expenditure, by the City, of the Project Allocation in full and performance of all of its obligations hereunder, or (iii) the earlier termination of this Agreement by a non-defaulting party as contemplated herein. Notwithstanding the foregoing, the indemnification provisions set forth above shall expressly survive the termination of this Agreement.

Section 7. This Agreement shall be governed by and construed under the laws of the State of Georgia. A breach of any provision of this Agreement shall be deemed material and the non-breaching party shall have the right to pursue such remedies, at law or in equity, to seek compliance by the breaching party, including, without limitation, seeking specific performance; provided, however, that the breaching party shall not be deemed in default until it has been provided thirty (30) days written notice specifying the breach asserted by the non-breaching party.

Section 8. Time is of the essence in every particular, and especially where the obligation to pay money is involved.

Section 9. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which when taken together constitute a single document.

Section 10. The provisions of this Agreement shall be deemed independent and severable. In the event any one or more of the provisions contained herein 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 the Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered as of the effective date first above stated.

CITY OF ATLANTA, GEORGIA

By:_____
Kasim Reed
Mayor

ATTEST:

_____
Municipal Clerk

APPROVED AS TO FORM:

_____
Acting City Attorney

APPROVED AS TO SUBSTANCE:

_____
Commissioner, Department of Planning and
Community Development

[Signatures Continued on Following Page]

THE ATLANTA DEVELOPMENT AUTHORITY, as Redevelopment Agency

By:_____
Ernestine W. Garey
Interim President

ATTEST:

_____
Assistant Secretary

APPROVED AS TO FORM:

_____
Senior Counsel

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Community Development/Human Resources

Caption:
AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ATLANTA DEVELOPMENT AUTHORITY IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS AND NO CENTS ($300,000.00) FROM THE "NEIGHBORHOOD ALLOCATION" CREATED IN CONNECTION WITH THE IMPLEMENTATION OF THE WESTSIDE TAX ALLOCATION BOND DISTRICT, NUMBER 1, AS AMENDED-ATLANTA/WESTSIDE (THE "WESTSIDE TAD") FUNDS FOR THE PURPOSE OF FUNDING THE DEMOLITION OF STRUCTURES UNFIT FOR HUMAN HABITATION, THE CLEAN AND CLOSE OF ABANDONED STRUCTURES AND/OR THE ABATEMENT OF EXCESSIVE OVERGROWTH AND JUNK, TRASH, OR DEBRIS ON PROPERTIES WITHIN THE ENGLISH AVENUE AND VINE CITY NEIGHBORHOODS; AND FOR OTHER PURPOSES.

Council Meeting Date: June 21, 2010

Requesting Dept.: DPCD

FAC Confirmed by: N/A

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The proposed legislation will allow the City, through its In Rem process, to cure existing blight in the English Avenue/Vine City neighborhood by demolition of dilapidated structures, cleaning and closing of abandoned structures, and clearing abandoned lots, all of which have an impact on the health and safety of those communities and the general public.

2. Please provide background information regarding this legislation.

Under the 2006 Budget of the Westside TAD for In Rem Condemnation/Demolition for the purpose of funding demolition of Proctor Village - vacant dilapidated structure located in the English Avenue corridor. Subsequent use of funding for that budget year applied to other open and vacant properties, first subject to

the In Rem evaluation process and presentation to the Board of Directors (selected by the City Council and confirmed by the Mayor). Under the 2007 Budget item, the TAD funds were awarded again with the scope of services extended to cleaning and closing of abandoned structures and cleaning and clearing of abandoned lots to include English Avenue as well as Vine City.

3. <u>If Applicable/Known:</u>

(a) Contract Type (e.g. Professional Services, Construction Agreement, etc): Intergovernmental Agreement

(b) Source Selection: N/A

(c) Bids/Proposals Due: N/A

(d) Invitations Issued: N/A

(e) Number of Bids: N/A

(f) Proposals Received: N/A

(g) Bidders/Proponents: N/A

(h) Term of Contract: 1 year

4. Fund Account Center (*Ex. Name and number*): TBD

Fund: _____ **Account:** _____ **Center:**_____

5. Source of Funds: *Example: Local Assistance Grant:* Atlanta Development Authority - Westside TAD Neighborhood Fund

6. Fiscal Impact: The allocated funding will be used to address IN Rem activities within the English Avenue and Vine City neighborhoods

7. Method of Cost Recovery: Cost recovery will be accomplished by filing and collection of leins on all properties for all costs associated with carrying out the orders of the In Rem Review board.

This Legislative Request Form Was Prepared By: Terri Lee

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE ATTN: CANDACE L. BYRD
CHIEF OF STAFF

Dept.'s Legislative Liaison: DAPHNE TALLEY

Contact Number: 6134

Originating Department: DPCD- CODE COMPLIANCE

Committee(s) of Purview: CD/HR

Chief of Staff Deadline: September 14, 2010

Anticipated Committee Meeting Date(s): September 28, 2010

Anticipated Full Council Date: October 4, 2010

Legislative Counsel's _____

Commissioner _____

Chief Procurement Officer _____

CAPTION

AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ATLANTA DEVELOPMENT AUTHORITY IN AN AMOUNT NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS AND NO CENTS ($300,000.00) FROM THE "NEIGHBORHOOD ALLOCATION" CREATED IN CONNECTION WITH THE IMPLEMENTATION OF THE WESTSIDE TAX ALLOCATION BOND DISTRICT, NUMBER 1, AS AMENDED-ATLANTA/WESTSIDE (THE "WESTSIDE TAD") FUNDS FOR THE PURPOSE OF FUNDING THE DEMOLITION OF STRUCTURES UNFIT FOR HUMAN HABITATION, THE CLEAN AND CLOSE OF ABANDONED STRUCTURES AND/OR THE ABATEMENT OF EXCESSIVE OVERGROWTH AND JUNK, TRASH, OR DEBRIS ON PROPERTIES WITHIN THE ENGLISH AVENUE AND VINE CITY NEIGHBORHOODS; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any): $ will come from ADA from Westside TAD neighborhood allocation
Mayor's Staff Only

Received by CPO: _____ (date) Received by LC from CPO: _____ (date)

Received by Mayor's Office: _____ (date) Reviewed by: _____ (date)

Submitted to Council: _____
(date)