



## AUTHORIZING RESOLUTION

**RESOLUTION AUTHORIZING AND APPROVING ALL DOCUMENTS, INSTRUMENTS, ACTIONS, AND MATTERS NECESSARY OR APPROPRIATE FOR, OR PERTAINING TO, THE ISSUANCE, SALE AND DELIVERY BY DIRECT PURCHASE OF THE ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE (“EDGE”), REVENUE REFUNDING BOND, SERIES 2022 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED TWENTY-NINE MILLION DOLLARS (\$29,000,000) TO REFUND THE MEMPHIS AND SHELBY COUNTY PORT COMMISSION DEVELOPMENT REVENUE BONDS, SERIES 2011; AND AUTHORIZING ALL NECESSARY ACTIONS AND OTHER MATTERS WITH RESPECT TO THE FOREGOING.**

**WHEREAS**, the Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (“**EDGE**” or “**Issuer**”), is a public nonprofit corporation organized under the laws of the State of Tennessee (the “**State**”), created under the provisions of Sections 7-53-101, *et seq.*, of the Tennessee Code Annotated (the “**IDB Act**”);

**WHEREAS**, EDGE constitutes a public instrumentality of the City of Memphis, Tennessee (the “**City**”) and the County of Shelby, Tennessee (the “**County**”) for the purposes, among others, of providing opportunities to finance, acquire, own, lease, or dispose of properties, to the end that such entities may be able to maintain and increase employment opportunities, by promoting industry, trade, commerce, by inducing manufacturing, industrial, commercial, and agricultural enterprises to locate in or remain in this state;

**WHEREAS**, EDGE is authorized by the IDB Act to issue revenue bonds payable solely from the revenues and receipts from the applicable revenues of the project, or from other sources, and secured by a pledge of certain revenues and receipts and a mortgage on any land, buildings, improvements, furnishings, and equipment so acquired. EDGE has no taxing power;

**WHEREAS**, the Memphis and Shelby County Port Commission (the “**Port Commission**”) is a commission created and governed by the State of Tennessee Private Acts 1947, Ch. 500, as amended, and Ch. 529, as amended, City of Memphis Charter Article 61, Section 627, *et seq.*, as amended, and Shelby County Code of Ordinances Section 32-271, *et seq.*, as amended (collectively, the “**Port Commission Act**”). The Port Commission is a joint commission between the County and the City and is organized under the Port Commission Act. The purpose of the Port Commission is to, among other things, provide for the ownership, operation, maintenance and development of a harbor and port in the County and/or the City (the “**Port**”). The Port Commission works with the

federal government for the provision of a more modern harbor and encourages developments on the Mississippi River;

**WHEREAS**, the IDB Act and the Port Commission Act shall be collectively referred to herein as the “**Act**”;

**WHEREAS**, the Port Commission issued its Memphis and Shelby County Port Commission Development Revenue Bonds, Series 2011 in the aggregate principal amount of \$40,795,000 (the “**Series 2011 Bonds**”);

**WHEREAS**, the Series 2011 Bonds are not general obligations of the Port Commission, the County, the City or the State but are special and limited revenue obligations payable solely from the revenues and receipts described in the Indenture by and between the Memphis and Shelby County Port Commission and Regions Bank, as trustee (the “**Trustee**”), dated as of August 15, 2011 (the “**2011 Indenture**”, as supplemented by the First Supplemental Indenture dated as of June 1, 2022 (the “**First Supplemental Indenture**, together with the 2011 Indenture, shall be collectively referred to herein as the “**Indenture**”) which revenues and receipts are a part of the Trust Estate (defined in the Indenture), and specifically pledged to such purpose in the manner and to the extent provided in the Indenture. Neither the State nor any political subdivision thereof, including the County and the City, shall be obligated to pay the principal of or interest on the Series 2011 Bonds or other costs incident thereto except from the Trust Estate or other security pledged therefor, and neither the faith and credit nor the taxing power of the State or any political subdivision thereof, including the County and the City, is pledged to the payment of the principal of or interest on the Series 2011 Bonds or other costs incident thereto. The Port Commission has no taxing power;

**WHEREAS**, the Series 2011 Bonds are secured by an assignment and pledge of the Trust Estate granted under the 2011 Indenture consisting primarily of (i) all right, title and interest of the Port Commission in and to the Revenues (defined herein), (ii) all right, title and interest of the Port Commission in and to that certain Interlocal Agreement Relating to the Financing of the Electrolux Home Products, Inc. Project Proposed to be Financed by the Memphis and Shelby County Port Commission dated as of July 29, 2011 (the “**Interlocal Agreement**”) by and among the County, the City and the Port Commission, (iii) all profits, income and other sums due and to become due under and pursuant to any of the foregoing, and (iv) all moneys and securities in any one of the funds or accounts established under the 2011 Indenture (other than the Rebate Fund). “**Revenues**” means all moneys, including earnings on moneys, received by the Port Commission or the Trustee from the following sources: (i) payments by the County and the City under the Interlocal Agreement; (ii) investment earnings on moneys on deposit in the various funds and accounts created and established by the 2011 Indenture, which by the terms and provisions of the 2011 Indenture are required or permitted to be deposited into the Revenue Fund; and (iii) all other moneys deposited into the Revenue Fund which may be used to pay debt service on the Series 2011 Bonds;

**WHEREAS**, it is further a purpose of EDGE to increase the efficiency, effectiveness and impact of existing programs by leading and coordinating Port Commission programs and EDGE now serves as Issuer of all Port Commission financings, including outstanding bonds seeking to be refunded, as well as new debt issuances;

**WHEREAS**, the performance of EDGE shall be deemed Port Commission performance and for additional clarity the performance by EDGE of the Port Commission’s obligations under the Indenture shall be deemed to be and shall satisfy the requirements for the performance by the Port Commission of its duties under the Indenture and to the extent legally permitted, EDGE shall be

substituted for and stand in the place of the Port Commission with respect to the requirements precedent to the issuance of the Series 2022 Bond as Additional Bonds under the Indenture. By the EDGE Board of Directors approval of the Supplemental Indenture, Authorizing Resolution and related financing documents EDGE acknowledges and accepts the performance of the Port Commission duties by EDGE with respect to the Series 2022 Bond, and further acknowledges no further action or consent shall be required from or by the Port Commission.

**WHEREAS**, it is proposed that EDGE will issue its Revenue Refunding Bond, Series 2022 (the “**Series 2022 Bond**”) in an aggregate principal amount not to exceed Twenty-Nine Million Dollars (\$29,000,000) and utilize the proceeds of the Series 2022 Bond for the purposes of (i) refunding the Series 2011 Bonds, on a current basis, to achieve debt service savings and (ii) paying certain costs incurred in connection with the issuance of the Series 2022 Bond;

**WHEREAS**, the issuance of the Series 2022 Bond is authorized by this Authorizing Resolution and the Indenture;

**WHEREAS**, the Series 2022 Bond shall be a limited obligation of the Issuer payable solely from and secured by an assignment and pledge of the Trust Estate granted under the Indenture consisting primarily of (i) all right, title and interest of the Port Commission in and to the Revenues, (ii) all right, title and interest of EDGE in and to that certain Amended Interlocal Agreement (the “**Amended Interlocal Agreement**”), (iii) all profits, income and other sums due and to become due under and pursuant to any of the foregoing, and (iv) all moneys and securities in any one of the funds or accounts established under the Indenture (other than the Rebate Fund). The Issuer has no taxing power;

**WHEREAS**, under the Amended Interlocal Agreement, the County and the City, pursuant to the provisions of the Act, pledged to timely appropriate from legally available non-ad valorem revenues sufficient moneys to pay scheduled debt service on the Series 2011 Bonds, has now been amended to pledge their timely appropriate from legally available non-ad valorem revenues sufficient moneys to pay scheduled debt service on the Series 2022 Bond. Also under the Amended Interlocal Agreement, the County and the City have agreed to pay the costs of administration of the Series 2022 Bond, including fees and expenses of the Trustee and Paying Agent.

**WHEREAS**, the obligation of the County and the City to support the payment of debt service on the Series 2022 Bond shall be apportioned on the following basis: 50% from the County, and 50% from the City, and shall not be a joint obligation. The maximum amount of the County’s or the City’s support obligation, respectively, under the Amended Interlocal Agreement is the debt service on not to exceed \$22,000,000 of the principal amount of the bonds. **The obligation to support the payment of debt service on the Series 2022 Bond is not a general obligation of the County or the City;**

**WHEREAS**, the Series 2022 Bond and the interest thereon does not now and shall never constitute a charge against the general credit or taxing power of the Issuer, the State or any political subdivision thereof including, without limitation, the City and the County and the Series 2022 Bond and the interest thereon does not now and shall never constitute a debt of the State or any political subdivision thereof, including, without limitation, the City and the County, within the meaning of any constitutional or statutory provision whatsoever; neither the State nor any political subdivision thereof including, without limitation, the City and the County, shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Series 2022 Bond or for the

performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer (except to the extent that the City and the County is obligated under the Amended Interlocal Agreement); no breach by the Issuer of any such pledge, mortgage, obligation or agreement shall impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof including, without limitation, the City and the County, or any charge upon their general credit or taxing power;

**WHEREAS**, the Issuer hereby determines that the issuance of the Series 2022 Bond for the above stated purposes, will be in accordance with the provisions, and will further the purposes and the policies of the Act;

**WHEREAS**, entering into the Issuer Documents (defined herein) for the purposes described herein is in furtherance of the public purposes of EDGE and the Port Commission and complies with the provisions of the Act;

**WHEREAS**, in order to refund the Series 2011 Bonds and carry out the foregoing, the Issuer will enter into a Refunding Trust Agreement (the “**Refunding Trust Agreement**”) dated as of June \_\_\_, 2022, by and between the Issuer and Regions Bank, as Refunding Trustee (the “**Refunding Trustee**”);

**WHEREAS**, the Issuer has proposed that the Series 2022 Bond be sold to \_\_\_\_\_ (the “**Purchaser**”), under the terms of a Bond Purchase Agreement to be dated as of the date of issuance and delivery of the Series 2022 Bond (the “**Bond Purchase Agreement**”);

**WHEREAS**, it is proposed that in order to accomplish the issuance, sale and delivery of the Series 2022 Bond and properly to secure the payment of the principal thereof, redemption premium (if any) and interest thereon, the Issuer should authorize the issuance and sale of the Series 2022 Bond and the execution and delivery of the documents referred to in this Authorizing Resolution;

**WHEREAS**, in consideration for the Purchaser’s purchase of the Series 2022 Bond, and as further security for the payment of the principal and the interest on the Series 2022 Bond, the Issuer will assign to the Bond Trustee, pursuant to the Indenture, all of the right, title, and interest of the Issuer (except only certain rights of the Issuer as specified in the Indenture);

**WHEREAS**, the following documents have been presented to the Issuer for approval in connection with the issuance, sale, and delivery of the Series 2022 Bond (collectively, the “Issuer Documents”):

- (1) The proposed form of the First Supplemental Trust Indenture;
- (2) The proposed form of the Series 2022 Bond;
- (3) The proposed form of the Bond Purchase Agreement;
- (4) The proposed form of the Refunding Trust Agreement; and
- (5) The proposed form of the Amended Interlocal Agreement.

**WHEREAS**, it appears to the Issuer that all of the Issuer Documents are in substantially final form and that the execution, delivery, and implementation thereof, and the execution, issuance, and delivery of the Series 2022 Bond, will facilitate and further the purposes of the Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF EDGE AS FOLLOWS:**

**Section 1. Findings with Respect to the Series 2022 Bond.** The Issuer hereby finds that the issuance of the Series 2022 Bond will contribute to the economic development activities of the City and the County in furtherance of the Act.

**Section 2. Authorization of the Issuance of the Series 2022 Bond.** Under and pursuant to the provisions of the Act, the Issuer hereby authorizes the execution, issuance, direct sale and placement, and delivery of the Series 2022 Bond to the Purchaser in consideration of payment therefor in accordance with the provisions of the Bond Purchase Agreement, the proceeds of the sale thereof to be used for the purposes specified in the preamble hereto.

**Section 3. Approval of the First Supplemental Trust Indenture.** The form, content, and provisions of the First Supplemental Trust Indenture, as presented in this meeting of the Board of Directors of the Issuer, are in all particulars approved, and the President and Chief Executive Officer, Chairman and Vice Chairman, or any of them, and the Secretary are hereby authorized, empowered, and directed to execute, acknowledge, and deliver said First Supplemental Trust Indenture in the name, and on behalf, of the Issuer.

The First Supplemental Trust Indenture is to be in substantially the form now before this meeting of the Board of Directors of the Issuer, or with such insertions and revisions therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such insertions and revisions. The officers of the Issuer are hereby authorized, empowered, and directed, from and after the execution and delivery of the First Supplemental Trust Indenture, to do all acts and things, and execute all documents, as may be necessary or convenient to carry out, and comply with, the provisions of said First Supplemental Trust Indenture, as executed and delivered.

**Section 4. Approval of the Series 2022 Bond.** The form, content, and provisions of the Series 2022 Bond, as presented in this meeting of the Board of Directors of the Issuer, subject to appropriate insertions and revisions, are in all particulars hereby approved, and the President and Chief Executive Officer, Chairman and Vice Chairman, or any of them, and the Secretary are hereby authorized, empowered, and directed to execute, attest, and deliver to the Purchaser, the Series 2022 Bond in consideration of payment therefor in the name and on behalf of the Issuer, such Series 2022 Bond to be in substantially the form now before this meeting of the Board of Directors of the Issuer, or with such insertions and revisions therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such insertions and revisions and, when the Series 2022 Bond shall be executed, attested, and delivered in the manner contemplated herein, in the aggregate maximum principal amount of Twenty-Nine Million Dollars (\$29,000,000), or such lesser aggregate amount as may be determined by the officers of the Issuer executing the same, such signatures constituting conclusive approval of the final form of the Series 2022 Bond.

**Section 5. Approval of the Bond Purchase Agreement; Sale of Series 2022 Bond.** The form, content, and provisions of the Bond Purchase Agreement, as presented in this meeting of the Board of Directors of the Issuer, are in all particulars approved, and the President and Chief Executive Officer, Chairman and Vice Chairman, or any of them, and the Secretary are hereby authorized, empowered, and directed to execute, acknowledge, and deliver said Bond Purchase Agreement in the name, and on behalf, of the Issuer.

The Bond Purchase Agreement is to be in substantially the form now before this meeting of the Board of Directors of the Issuer, or with such insertions and revisions therein as shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such insertions and revisions.

The officers of the Issuer are hereby authorized, empowered, and directed, from and after the execution and delivery of the Bond Purchase Agreement to do all acts and things, and execute all documents, as may be necessary or convenient to carry out, and comply with, the provisions of said Bond Purchase Agreement, as executed and delivered.

**Section 6. Approval of Refunding Trust Agreement.** The form of the Refunding Trust Agreement (the “**Refunding Trust Agreement**”) in connection with the issuance and sale of the Series 2022 Bond and refunding of the Series 2011 Bonds as presented in this meeting of the Board of Directors of the Issuer is hereby approved, and the President and Chief Executive Officer, Chairman and Vice Chairman, or any of them, and the Secretary are hereby authorized, empowered, and directed to distribute to purchasers of and investors in the Series 2022 Bond the Refunding Trust Agreement substantially in such form, with such insertions and revisions as shall be approved by the President and Chief Executive Officer of the Issuer, which approval shall be conclusively evidenced by its publication and distribution, as applicable.

**Section 7. Approval of Amended Interlocal Agreement.** The form of the Amended Interlocal Agreement (the “**Amended Interlocal Agreement**”) in connection with the issuance and sale of the Series 2022 Bond and refunding of the Series 2011 Bonds as presented in this meeting of the Board of Directors of the Issuer is hereby approved, and the President and Chief Executive Officer, Chairman and Vice Chairman, or any of them, and the Secretary are hereby authorized, empowered, and directed to execute the Amended Interlocal Agreement substantially in such form, with such insertions and revisions as shall be approved by the President and Chief Executive Officer of the Issuer, which approval shall be conclusively evidenced by its publication and distribution, as applicable.

**Section 8. Miscellaneous Acts.** The officers of the Issuer as set forth herein are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable, file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, and certifications, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may, in their discretion, be necessary or desirable to implement or comply with the intent of this Authorizing Resolution, or any of the documents herein authorized and approved, for the authorization, issuance, sale and delivery by the Issuer of the Series 2022 Bond.

**Section 9. Limited Obligation and Liability.** The Series 2022 Bond shall be a limited obligation of the Issuer payable solely from and secured by an assignment and pledge of the Trust Estate granted under the First Supplemental Trust Indenture consisting primarily of (i) all right, title and interest of the Port Commission in and to the Revenues, (ii) all right, title and interest of the Port Commission in and to the Amended Interlocal Agreement, (iii) all profits, income and other sums due and to become due under and pursuant to any of the foregoing, and (iv) all moneys and securities in any one of the funds or accounts established under the Indenture (other than the Rebate Fund). The Issuer has no taxing power.

Under the Amended Interlocal Agreement, the County and the City, pursuant to the provisions of the Act, have covenanted to timely appropriate from legally available non-ad valorem revenues sufficient moneys to pay scheduled debt service on the Series 2022 Bond. Also under the Amended Interlocal Agreement, the County and the City have agreed to pay the costs of administration of the Series 2022 Bond, including fees and expenses of the Trustee and Paying Agent. The obligation of the County and the City to support the payment of debt service on the Series 2022 Bond shall be apportioned on the following basis: 50% from the County, and 50% from the City, and shall not be a joint obligation. The maximum amount of the County's or the City's support obligation, respectively, under the Amended Interlocal Agreement is the debt service on not to exceed \$22,000,000 of the principal amount of the Series 2022 Bond. **The obligation to support the payment of debt service on the Series 2022 Bond is not a general obligation of the County or the City.**

The Series 2022 Bond and the interest thereon do not now and shall never constitute a charge against the general credit or taxing power of the Issuer, the State or any political subdivision thereof including, without limitation, the City and the County, and the Series 2022 Bond and the interest thereon do not now and shall never constitute a debt of the State or any political subdivision thereof, including, without limitation, the City and the County, within the meaning of any constitutional or statutory provision whatsoever. Neither the State nor any political subdivision thereof including, without limitation, the City and the County, shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Series 2022 Bond or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer (except to the extent that the City and County are obligated under the Amended Interlocal Agreement). No breach by the Issuer of any such pledge, mortgage, obligation or agreement shall impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof including, without limitation, the City and the County, or any charge upon their general credit or taxing power.

No recourse under, or upon, any statement, obligation, covenant, agreement, or certification, contained in any of the foregoing documents, including, without limitation, the Series 2022 Bond and the Indenture, or in any other document or certification whatsoever, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding or by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the foregoing documents, including, without limitation the Series 2022 Bond and the Indenture; or any other document or certification, whatsoever, shall be had against any incorporator, member, director, or officer, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for, or to, the Issuer, or any receiver thereof, or from, or to, the owner of the Series 2022 Bond, for any sum that may be due and unpaid

by the Issuer upon the Series 2022 Bond or the interest payable thereon. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such incorporator, member, director, or officer, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for, or to, the Issuer or any receiver thereof, or for, or to, the owner of the Series 2022 Bond, of the principal of, or the premium, if any, or interest on, the Series 2022 Bond, shall be deemed to have been waived and released as a condition of, and consideration for, the execution of the aforesaid documents and the issuance of the Series 2022 Bond.

**Section 10. Compliance with Open Meeting Requirements.** It is found and determined that all formal actions of the Issuer concerning and relating to the adoption of this Authorizing Resolution were adopted in an open and regular meeting of the Issuer, and that all deliberations of the Issuer that resulted in those formal actions were in meetings open to the public pursuant to the requirements of Sections 8-44-101 *et seq.* of the Tennessee Code Annotated, as amended, and the Act.

**Section 11. Captions.** The captions or headings in this Authorizing Resolution are for purposes of convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

**Section 12. Partial Invalidity.** If any one or more of the provisions of this Authorizing Resolution shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, but this Authorizing Resolution shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

**Section 13. Conflicting Resolutions Repealed.** All resolutions or parts thereof in conflict herewith, are, to the extent of such conflict, hereby repealed, and this Authorizing Resolution shall take effect from and after its adoption.

**Section 14. Effective Date.** This Authorizing Resolution shall become effective upon its adoption.

*[Signatures on Following Page]*



**IN WITNESS WHEREOF**, the parties hereto have entered into this Authorizing Resolution by causing their duly authorized officers to affix their signatures hereto as of the date set forth above.

**ECONOMIC DEVELOPMENT GROWTH  
ENGINE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF MEMPHIS  
AND COUNTY OF SHELBY, TENNESSEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Secretary**