



ECONOMIC DEVELOPMENT  
**GROWTH ENGINE**  
FOR MEMPHIS & SHELBY COUNTY

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FIRST SUPPLEMENTAL TRUST INDENTURE

BETWEEN

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

AND

REGIONS BANK,  
AS BOND TRUSTEE

DATED AS OF JUNE 1, 2022

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

REVENUE REFUNDING BOND, SERIES 2022

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This instrument was prepared by:

Carpenter Law, PLLC  
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This **FIRST SUPPLEMENTAL TRUST INDENTURE** (this “**Supplemental Indenture**”), dated as of June 1, 2022, is entered by and between the ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE (the “**Issuer**”) and REGIONS BANK, as bond trustee (the “**Bond Trustee**”) under a Trust Indenture dated as of August 15, 2011, between the Issuer and the Bond Trustee (the “2011 Indenture” and together with the Supplemental Indenture, the “**Indenture**”).

**WITNESSETH:**

**WHEREAS**, the Port Commission (the “**Port Commission**”) is a commission created and governed by 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 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, increase the production of agricultural commodities, and increase the quantity of housing available in affected municipalities by promoting industry, trade, commerce, tourism and recreation, agriculture and housing construction by inducing manufacturing, industrial, governmental, educational, financial, service, commercial, recreational, and agricultural enterprises to locate in or remain in this state and further the use and production of its agricultural products and natural resources and to provide for the acquisition and installation of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such wastes and pollutants;

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

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

**WHEREAS**, it is now deemed necessary and desirable to issue, pursuant to the terms of the Indenture, Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee Development Revenue Refunding Bond, Series 2022 (the “**Series 2022 Bond**”) for the purpose of refunding and defeasing the Series 2011 Bonds for debt service savings and to enter into a supplemental trust indenture providing for the issuance of such bonds and for their payment and security; and

**WHEREAS**, the Issuer has determined that the public interest will be best served and that the purposes of the Act can be more advantageously obtained by the Issuer’s issuance of bonds in order to refund the Series 2011 Bonds on a current basis for savings as aforesaid; and

**WHEREAS**, the execution and delivery of this Supplemental Indenture, Bond Purchase Agreement and Refunding Trust Agreement have been in all respects duly and validly authorized by resolutions duly passed and approved by the Issuer; and

**WHEREAS**, all things necessary to make the Series 2022 Bond, when authorized by the Issuer and authenticated by the Bond Trustee and issued as provided in the Indenture and this Supplemental Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof.

**IT IS HEREBY COVENANTED, DECLARED AND AGREED** as follows:

**ARTICLE I  
DEFINITIONS**

Section 101. Definitions. The words and terms used in this Supplemental Indenture which are defined in the Indenture shall have the respective meanings given them in the Indenture unless the context indicates another or different meaning or intent.

Section 102. Construction. All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

Section 103. Issuer. All references in the Indenture to “Issuer”) shall in connection with the Series 2022 Bond be deemed to hereafter refer to EDGE.

**ARTICLE II  
THE SERIES 2022 BOND**

Section 201. Authorization of Series 2022 Bond. Pursuant to this Supplemental Indenture, there is hereby authorized to be issued a Series 2022 Bond in an amount not to exceed Twenty-Nine Million Dollars (\$29,000,000);

Section 202. Issuance of Series 2022 Bond. The Series 2022 Bond shall be designated the “Economic Development Growth Engine Industrial Development Board of the City of Memphis and County of Shelby, Tennessee Revenue Refunding Bond, Series 2022, the “**Series 2022 Bond**”) in an amount not to exceed Twenty-Nine Million Dollars (\$29,000,000) and the proceeds shall be utilized for the purposes of (i) refunding, for savings, the Series 2011 Bonds and (ii) paying certain costs incurred in connection with the issuance of the Series 2022 Bond;

Section 203. Security for the Series 2022 Bond. 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 (defined in the Indenture), (ii) all right, title and interest of the Port Commission in and to that certain 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 Indenture (other than the Rebate Fund). The Issuer has no taxing power;

Additionally, under the 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 2011 Bonds, and any additional bonds issued to refund the Series 2011 Bonds such as the Series 2022 Bond. Also under the Interlocal Agreement, the County and the City have agreed to pay the costs of administration of the additional bonds such as 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 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.**

Section 204. Limited Liability. 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 the County is obligated under the 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;

**ARTICLE III**  
**APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS**

Section 301. Deposit of Funds. The Issuer shall deposit all of the net proceeds from the sale of the Series 2022 Bond as follows:

- (1) Deposit \$ \_\_\_\_\_ with Regions Bank, as bond trustee under the Indenture, to provide for the defeasance and payment of the Series 2011 Bonds thereunder.
- (2) Deposit \$ \_\_\_\_\_ of such proceeds to the credit of the Costs of Issuance Fund hereby created to be used for the payment of expenses for any recording, trustee's and depository's fees and expenses, accounting and legal fees, financing costs (including costs of acquiring investments for the funds and escrows) and other fees and expenses incurred or to be incurred by or on behalf of the Issuer in connection with or incident to the issuance and sale of the Series 2022 Bond. At such time as the Bond Trustee is furnished with a Written Request executed by the Issuer stating that all such fees and expenses have been paid, the Bond Trustee shall transfer any money remaining in the Costs of Issuance Account in accordance with such Written Request.

**ARTICLE IV**  
**MISCELLANEOUS**

Section 401. Severability. If any provision of this Supplemental Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

Section 402. Counterparts. This Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 403. Applicable Law. This Supplemental Indenture shall be governed exclusively by the applicable laws of the State of Tennessee.

[Remainder of Page Intentionally Left Blank; Signature Page Follows.]

**IN WITNESS WHEREOF**, the **ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE**, has caused these presents to be signed in its name and on its behalf by its President and, to evidence its acceptance of the trusts hereby created, Regions Bank has caused these presents to be signed in its name and on its behalf by one of its authorized officers, all as of the day and year first above written.

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

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

ATTEST:

\_\_\_\_\_  
Secretary

REGIONS BANK, as Trustee

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

[Signature Page to Supplemental Trust Indenture]

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me , the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared \_\_\_\_\_ and \_\_\_\_\_, with whom I am personally acquainted and upon their oaths acknowledged themselves to be the Chairman and Secretary, respectively, of the Economic Development Growth Engine of the City of Memphis and County of Shelby, Tennessee, and that they as Chairman and Secretary, being authorized to do so, executed the foregoing First Supplemental Indenture for the purposes therein contained by signing the name of the corporation as Chairman and attesting the same as Secretary for the corporation.

Witness my hand and official seal at office in Memphis, Tennessee on this \_\_\_ day of June 2022.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Before me , the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared \_\_\_\_\_ and \_\_\_\_\_, with whom I am personally acquainted and upon their oaths acknowledged themselves to be the of Regions Bank, the within named bargainor, an Alabama banking corporation, and that they as such \_\_\_\_\_ and \_\_\_\_\_, being authorized so to do Chairman and Secretary, respectively, of the Economic Development Growth Engine of the City of Memphis and County of Shelby, Tennessee, and that they as Chairman and Secretary, being authorized to do so, executed the foregoing First Supplemental Indenture for the purposes therein contained by signing the name of the banking corporation as \_\_\_\_\_ and attesting the same as \_\_\_\_\_ for the corporation.

Witness my hand and official seal at office in Nashville, Tennessee on this \_\_\_ day of June 2022.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_