

# CITY OF MEMPHIS

## COUNCIL REGULAR MEETING

Tuesday , December 15, 2020, 3:30 p.m.

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### SUPPORTING DOCUMENTS

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ITEM #	DESCRIPTION	PAGE #
	<b>PRESENTATIONS</b>	
<b>1</b>	PRESENTATION of the 2020 Memphis City Council Humanitarian Award	<b>1</b>
<b>2</b>	RESOLUTION recognizing Jennifer Oswalt for her excellent stewardship of the Downtown Memphis Commission	<b>2</b>
	<b>PLANNING AND DEVELOPMENT Public Hearings &amp; Ordinances</b>	
<b>3</b>	RESOLUTION approving a special use permit located at part of 2939 South Third Street and part of 2920 New Horn Lake Road, containing 7 acres in the Employment and Heavy Industrial District. Case No. SUP 20-12 (Held from 10/20;12/01)	<b>3</b>
	<b>CONSENT AGENDA</b>	
<b>4</b>	<b>SUBSTITUTE ORDINANCE NO. 5765</b> amending Title 3, Chapter 16 in the City of Memphis, Code of Ordinances, City Employee Occupational Health Program, establishing an updated Occupational Safety and Health Program Plan, up for SECOND reading	<b>32</b>
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<b>6</b>	<b>ORDINANCE NO. 5767</b> amending Title 11, Section 11-16-21 of the City of Memphis, Code of Ordinances to reduce the default City Speed Limit to 25 mph, up for SECOND reading.	<b>59</b>
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33	RESOLUTION accepting the Public Safety Task Force Committee recommendations for recruiting, hiring, training and retaining Public Safety Officers. <b>(Request for same night minutes).</b>	148
34	RESOLUTION adjusting the FY21 Operating Budget to spend restricted funds, received in FY20, in the amount of \$120,000.00 for Memphis Animal Services	149
35	RESOLUTION thanking Chairwoman Patrice Robinson for her service and leadership as the 2020 Memphis City Council Chairman	

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**WHEREAS, Rudi and Helen 'Honey' Scheidt** are being awarded the 2020 Memphis City Council Humanitarian Award for their vigorous and zealous work and enriching the lives of others through their philanthropic endeavors throughout the Memphis Arts community; and

**WHEREAS,** the legendary **Rudi and Honey Scheidt** were true advocates for their hometown Memphis, Tennessee, and as community benefactors, they led and endorsed many efforts to broaden cultural opportunity and to give back to the city that they so greatly loved; and

**WHEREAS,** joined in matrimony in 1954, the charitable couple enjoyed a passion for the arts which through their generosity over decades of stewardship transformed the local Arts community as a place where access to the wonders of the arts could be available and appreciated by all; and

**WHEREAS,** in the early 1960s, **Rudi and Honey Scheidt** played a pivotal role in bringing the Metropolitan Opera to Memphis, and their combined efforts helped develop the groundwork for what we know today as the Opera Memphis; the couple was also instrumental in bringing the "Ramesses the Great" exhibit from Egypt, first to Memphis and then throughout the United States, their initial work became the underpinning for Wonders: The Memphis International Cultural Series that included numerous exhibitions of artifacts from across the world and propelled our tourism industry much tourism to Memphis; and

**WHEREAS,** ardent supporters of the University of Memphis, **Rudi and Honey Scheidt** helped to establish the University of Memphis' Institute for Egyptian Art and Archaeology, funding several projects including the transportation of the coffin of PadiAtum that now resides in the University's Art Museum; in 2000, **Rudi and Honey Scheidt** pioneered efforts to revive, reshape, and expand music education at the University of Memphis, where the Rudi E. Scheidt School of Music was named in gratitude of Mr. Scheidt's contributions and the distinction the school holds as an international reputation for excellence; and

**WHEREAS,** contributing to the success and strong foundation of various organizations **Rudi and Honey Scheidt** served on numerous boards, including The Memphis Library Foundation, Germantown Performing Arts Center, The Dixon Gallery of Art, The Brooks Museum of Art, The Newcomb Art Museum and Foundation Board, Memphis in May, The Rock and Soul Museum, The Memphis College of Art, and The World Literacy Foundation and the couple were also committed mentors to numerous local businessmen and women; and

**WHEREAS,** throughout their lives, **Rudi and Honey Scheidt** have garnered many awards and recognition for their impeccable service and their impassioned pleas that people would come together at a table of cultural understanding and brotherhood, reminiscent of Dr. Martin Luther King's call; receiving the Humanitarian of the Year Award from The National Conference of Christians and Jews in 1999 and the Tennessee Governor's Art Leadership Award, being awarded honorary degrees from the University of Memphis, and recognized by the Memphis Music Commission, the Liberty Bowl, The Germantown Performing Arts Center and the Memphis Library.

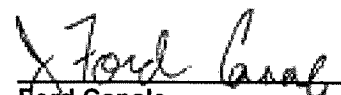
**NOW, THEREFORE, BE IT RESOLVED THAT THE MEMPHIS CITY COUNCIL** not only praises but commends **Rudi and Helen 'Honey' Scheidt** for their unwavering commitment to all citizens of Memphis, and asks their loving family and friends to accept on their behalf the

## **2020 Memphis City Council Humanitarian Award**

**BE IT FURTHER RESOLVED** that this city, all its leaders and residents heed **Rudi and Helen 'Honey' Scheidt** as examples of a life and work that embodies genuine and unwavering resolve to benefit all of mankind regardless of their station in life, in the tradition of Dr. Martin Luther King, Jr.

ADOPTED: December 15<sup>th</sup>, 2020

  
Chase Carlisle  
Memphis City Councilman

  
Ford Canale  
Memphis City Councilman

  
Patrice Robinson  
Memphis City Council Chairman

**WHEREAS**, when worthy circumstances arise, the Memphis City Council has seen fit to honor and acknowledge those who have served this community and **Jennifer Oswald** is certainly worthy of being honored for her diligence and civic leadership; and

**WHEREAS**, a native Memphian, **Jennifer Oswald** graduated from the Haslam College of Business at the University of Tennessee where she quickly immersed herself within the local community; and

**WHEREAS**, **Jennifer Oswald** joined the Downtown Memphis Commission as Chief Financial Officer in 2015 and was elevated to President and CEO in 2017; under her leadership, the Downtown development pipeline has grown to more than \$4 billion, with multiple catalytic projects planned or under way; and

**WHEREAS**, yearning to positively impact the lives of all Memphians by creating a stronger Downtown Memphis – a Downtown for everyone to live, work, and play – **Jennifer Oswald** was dedicated to investing in Downtown development, infrastructure, vibrancy and activation; and

**WHEREAS**, while undertaking the duties and responsibilities for the overall good of our City, **Jennifer Oswald** is a loving wife and mother of a superstar; and

**WHEREAS**, while **Jennifer Oswald** approaches the end of one chapter in life at the Downtown Memphis Commission, her passion, tenacity, love for people, and commitment to the City of Memphis will never be forgotten.

**NOW, THEREFORE, BE IT RESOLVED** that **Jennifer Oswald** be applauded and honored for her countless contributions and dedicated service to Downtown Memphis; the Memphis City Council congratulates and wishes her the best in her future endeavors.

**BE IT FURTHER RESOLVED** that though ink and parchment are most inadequate to commemorate such an accomplishment, we, nonetheless, do spread upon the records of the City of Memphis these words with sincere respect and gratitude as we thank **Jennifer Oswald** for a job well done through her tireless efforts to make Downtown Memphis a better place for all citizens.

**ADOPTED: December 15<sup>th</sup>, 2020**



**Chase Carlisle**  
**Memphis City Councilman**



**Patrice Robinson**  
**Memphis City Council Chairman**

**CITY OF MEMPHIS  
COUNCIL AGENDA CHECK OFF SHEET**

**| ONE ORIGINAL |  
| ONLY STAPLED |  
| TO DOCUMENTS |**

**Planning & Development  
DIVISION**

**Planning & Zoning COMMITTEE: 20 October 2020  
DATE**

**PUBLIC SESSION: 20 October 2020  
DATE**

**ITEM (CHECK ONE)**

\_\_\_\_\_ ORDINANCE      \_\_\_\_\_ CONDEMNATIONS      \_\_\_\_\_ GRANT ACCEPTANCE / AMENDMENT  
X RESOLUTION      \_\_\_\_\_ GRANT APPLICATION      \_\_\_\_\_ REQUEST FOR PUBLIC HEARING  
 \_\_\_\_\_ OTHER: \_\_\_\_\_

**ITEM DESCRIPTION:** A resolution approving a special use permit for a truck stop and gas pumps

**CASE NUMBER:** SUP 20-12

**DEVELOPMENT:** Fill-N-Go Truck Stop

**LOCATION:** Part of 2939 South Third Street and part of 2920 New Horn Lake Road

**COUNCIL DISTRICTS:** District 6 and Super District 8

**OWNER:** LFM, Inc.

**APPLICANT:** Abdallah Ayesh

**REPRESENTATIVE:** Tim Dagastino of W. H. Porter Consultants, PLLC

**EXISTING ZONING:** Employment and Heavy Industrial

**REQUEST:** Special use permit for a truck stop and gas pumps

**AREA:** 7 acres

**RECOMMENDATION:** The Division of Planning and Development recommended *Approval with conditions*  
 The Land Use Control Board recommended *Rejection*

**RECOMMENDED COUNCIL ACTION:** **Public Hearing Not Required**

**PRIOR ACTION ON ITEM:**

(2) \_\_\_\_\_ APPROVAL - (1) APPROVED (2) DENIED  
10 September 2020 DATE  
 (1) Land Use Control Board ORGANIZATION - (1) BOARD / COMMISSION  
 (2) GOV'T. ENTITY (3) COUNCIL COMMITTEE

**FUNDING:**

(2) \_\_\_\_\_ REQUIRES CITY EXPENDITURE - (1) YES (2) NO  
 \$ \_\_\_\_\_ AMOUNT OF EXPENDITURE  
 \$ \_\_\_\_\_ REVENUE TO BE RECEIVED

**SOURCE AND AMOUNT OF FUNDS**

\$ \_\_\_\_\_ OPERATING BUDGET  
 \$ \_\_\_\_\_ CIP PROJECT # \_\_\_\_\_  
 \$ \_\_\_\_\_ FEDERAL/STATE/OTHER

**ADMINISTRATIVE APPROVAL:**

**DATE      POSITION**

\_\_\_\_\_ MUNICIPAL PLANNER  
 \_\_\_\_\_ DEPUTY ADMINISTRATOR  
 \_\_\_\_\_ ADMINISTRATOR  
 \_\_\_\_\_ DIRECTOR (JOINT APPROVAL)  
 \_\_\_\_\_ COMPTROLLER  
 \_\_\_\_\_ FINANCE DIRECTOR  
 \_\_\_\_\_ CITY ATTORNEY

**CHIEF ADMINISTRATIVE OFFICER**

**COMMITTEE CHAIRMAN**

**RESOLUTION APPROVING A SPECIAL USE PERMIT FOR A TRUCK STOP AND GAS PUMPS AT PART OF 2939 SOUTH THIRD STREET AND PART OF 2920 NEW HORN LAKE ROAD, KNOWN AS CASE NUMBER SUP 20-12.**

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**WHEREAS**, Chapter 9.6 of the Memphis and Shelby County Unified Development Code, being a section of the Joint Ordinance Resolution No. 5367, dated 10 August 2010, authorizes the Council of the City of Memphis to grant a special use permit for certain stated purposes in the various zoning districts; and

**WHEREAS**, Abdallah Ayesh filed an application with the Memphis and Shelby County Division of Planning and Development for a special use permit for a truck stop and gas pumps;

**WHEREAS**, the Division of Planning and Development has received and reviewed the application in accordance with procedures, objectives, and standards for special use permits as set forth in Chapter 9.6 with regard to the proposed development's impacts upon surrounding properties, availability of public facilities, both external and internal circulation, land use compatibility, and the consistency of its design and amenities with the public interest; and has submitted its findings and recommendation concerning the above considerations to the Land Use Control Board; and

**WHEREAS**, a public hearing in relation thereto was held before the Memphis and Shelby County Land Use Control Board on 10 September 2020, and said Board has submitted its findings and recommendation concerning the above considerations to the Council of the City of Memphis; and

**WHEREAS**, the Council of the City of Memphis has reviewed the aforementioned application pursuant to Tennessee Code Annotated Section 13-4-202(B)(2)(B)(iii) and has determined that said development is consistent with the Memphis 3.0 General Plan; and

**WHEREAS**, the Council of the City of Memphis has reviewed the recommendation of the Land Use Control Board and the report and recommendation of the Division of Planning and Development and has determined that said development meets the objectives, standards, and criteria for a special use permit, and said development is consistent with the public interests.

**NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF MEMPHIS**, that, pursuant to Chapter 9.6 of the Memphis and Shelby County Unified Development Code, a special use permit is hereby granted for the requested use in accordance with the attached conditions.

**BE IT FURTHER RESOLVED**, that this permit merely authorizes the filing of applications to acquire a Certificate of Occupancy, or a Building Permit, or other relevant permits and approvals, provided that no such Certificate of Occupancy shall be granted until all conditions imposed by the Council of the City of Memphis have been met.

**BE IT FURTHER RESOLVED**, that this Resolution take effect from and after the date it shall have been passed by this Council of the City of Memphis, and become effective as otherwise provided by law, and thereafter shall be treated as in full force and effect by virtue of passage thereof by the Council of the City of Memphis, the public welfare requiring same.

**ATTEST:**

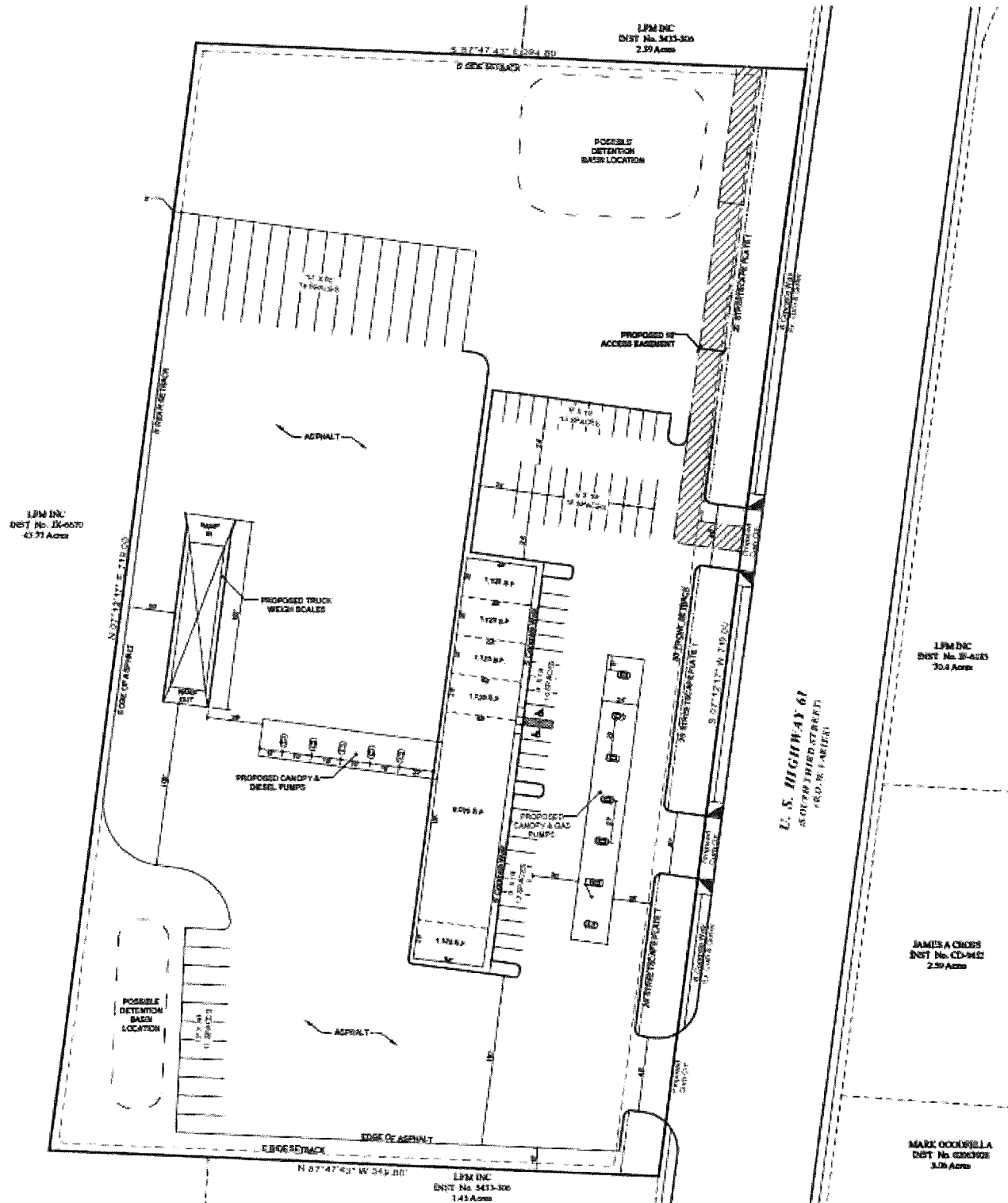


## **CONDITIONS**

1. The existing billboard shall be removed.
2. All facades of the principal structure shall be of masonry construction.
3. The landscape design shall prioritize native plantings.
4. A revised plan set that demonstrates compliance with the Unified Development Code and the above conditions of approval, as well as substantial conformance with the proposed site plan, shall be submitted subject to administrative review and approval.

# PROPOSED SITE PLAN

[Not yet approved in accordance with Condition 4]





## Memphis City Council Summary Sheet

*SUP 20-12*

Resolution for a special use permit for a truck stop and gas pumps:

- This item is a resolution with conditions for a special use permit to allow the above; and
- The Division of Planning & Development sponsors this application at the request of the Owner: LFM, Inc. and Applicant: Abdallah Ayesh; and
- Approval of this special use permit will be reflected on the Memphis and Shelby County Zoning Atlas.

**LAND USE CONTROL BOARD RECOMMENDATION**

At its regular meeting on *Thursday 10 September 2020*, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application:

**CASE NUMBER:** SUP 20-12  
**LOCATION:** Part of 2939 South Third Street and part of 2920 New Horn Lake Road  
**COUNCIL DISTRICT(S):** District 6 and Super District 8  
**OWNER:** LFM, Inc.  
**APPLICANT:** Abdallah Ayesh  
**REPRESENTATIVE:** Tim Dagastino of W. H. Porter Consultants, PLLC  
**REQUEST:** Special use permit for a truck stop and gas pumps  
**EXISTING ZONING:** Employment and Heavy Industrial  
**AREA:** 7 acres

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**The following spoke in support of the application:** Henry Porter

**The following spoke in opposition the application:** Yvonne Nelson

The Land Use Control Board reviewed the application and the staff report. A motion was made and seconded to recommend approval with conditions.

**The motion *failed* by a vote of 2-8.**



# STAFF REPORT

AGENDA ITEM: 13

**CASE NUMBER:** SUP 20-12 **L.U.C.B. MEETING:** 10 September 2020  
**LOCATION:** Part of 2939 South Third Street and part of 2920 New Horn Lake Road  
**COUNCIL DISTRICT:** District 6 and Super District 8  
**OWNER:** LFM, Inc.  
**APPLICANT:** Abdallah Ayesh  
**REPRESENTATIVE:** Tim Dagastino of W. H. Porter Consultants, PLLC  
**REQUEST:** Special use permit for a truck stop and gas pumps  
**AREA:** 7 acres  
**EXISTING ZONING:** Employment and Heavy Industrial

## CONCLUSIONS (p. 13)

- The applicant has requested a special use permit for a truck stop and gas pumps on the west side of S. 3<sup>rd</sup> St. between Peebles and Interstate 55.
- Truck stops and gas pumps are permitted by right in the Employment and Heavy Industrial zoning districts only if located at the intersection of two major streets; otherwise, a special use permit is required.
- Presently, the site contains a billboard. This sign would be removed if the proposed development is built.
- Staff finds that the proposed development would have no deleterious effect on its vicinity and meets the special use permit approval criteria.

## CONSISTENCY WITH MEMPHIS 3.0 (pp. 14-15)

Per the Office of Comprehensive Planning, the proposal is consistent with the Memphis 3.0 General Plan.

## RECOMMENDATION (p. 13)

*Approval with conditions*

Staff Writer: *Brett Davis*

E-mail: [brett.davis@memphistn.gov](mailto:brett.davis@memphistn.gov)

**GENERAL INFORMATION**

**Street Frontage:** South Third Street (Principle Arterial) 719 linear feet  
**Zoning Atlas Page:** 2225  
**Parcel ID:** Part of 050125 00001 and part of 075002 00003C  
**Existing Zoning:** Employment and Heavy Industrial

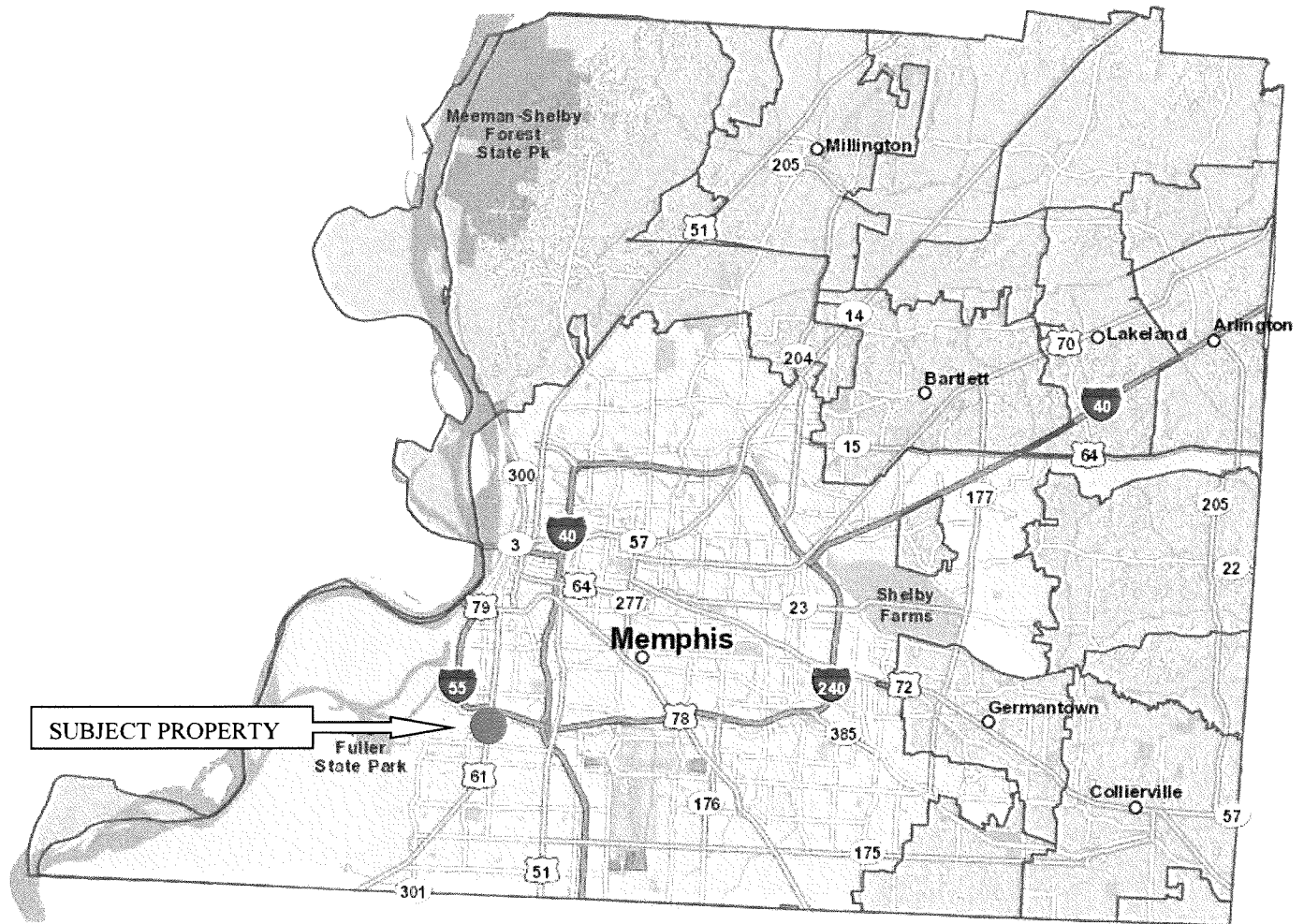
**NEIGHBORHOOD MEETING**

The meeting was held telephonically on 26 August 2020.

**PUBLIC NOTICE**

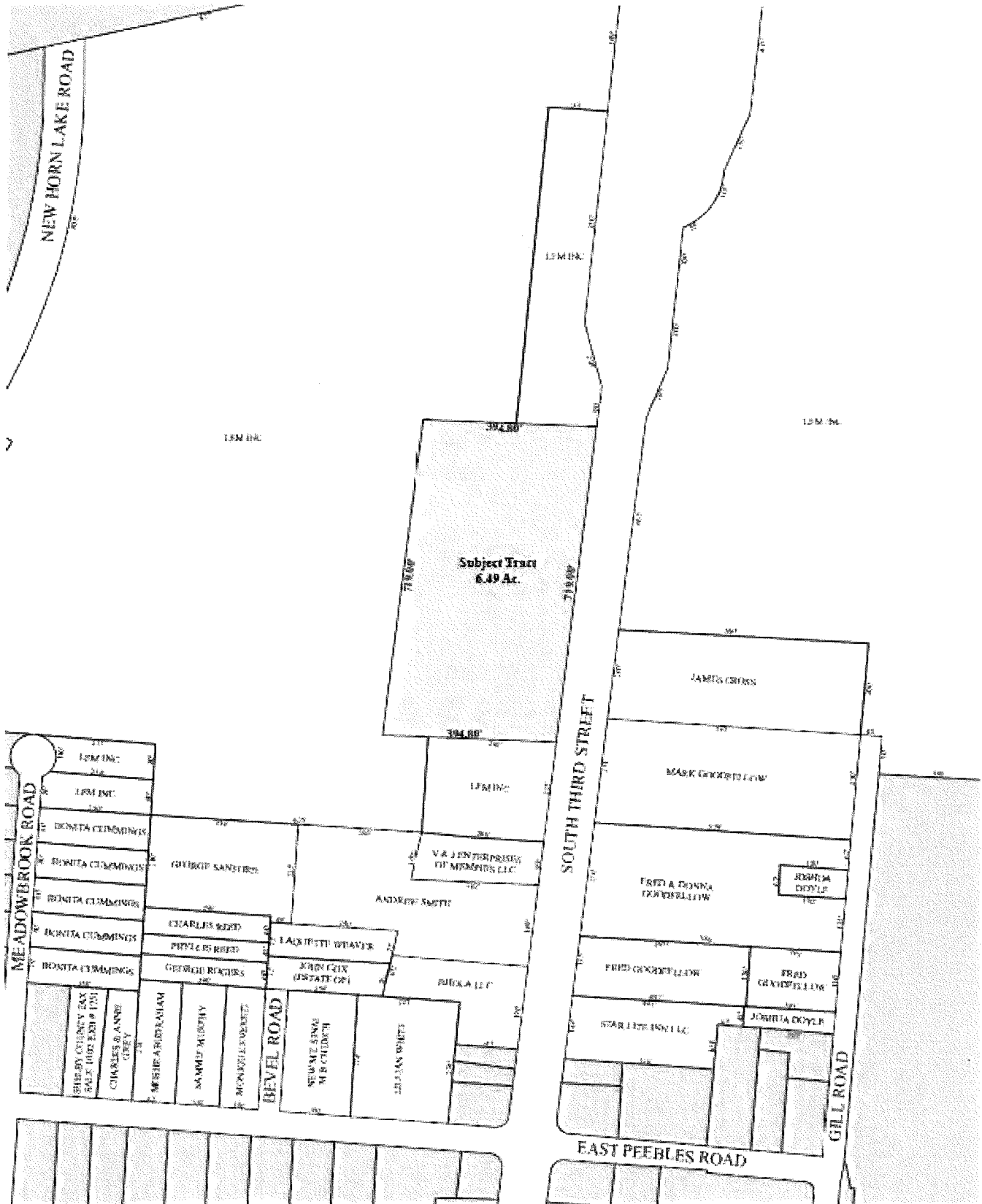
In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 25 notices were mailed on 28 August 2020, and a total of one sign posted at the subject property. The sign affidavit has been added to this report.

**LOCATION MAP**



Subject property located in South Memphis

VICINITY MAP





**AERIAL PHOTOGRAPH WITH ZONING**



**Existing Zoning:** Employment and Heavy Industrial

**Surrounding Zoning**

**North:** Heavy Industrial

**East:** Employment and Heavy Industrial

**South:** Employment and Heavy Industrial

**West:** Heavy Industrial

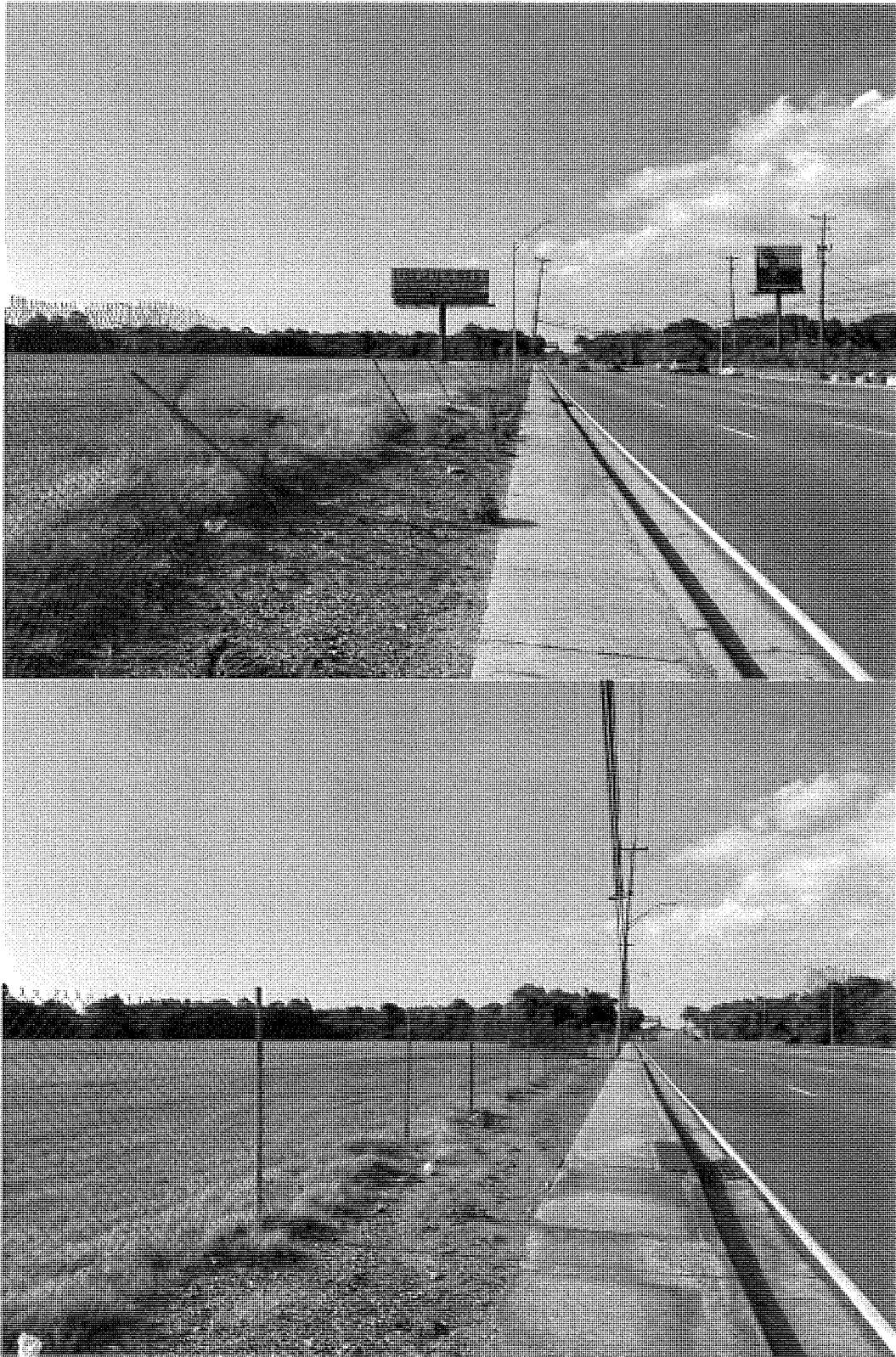
**LAND USE MAP**



**SITE PHOTOS**



View of site

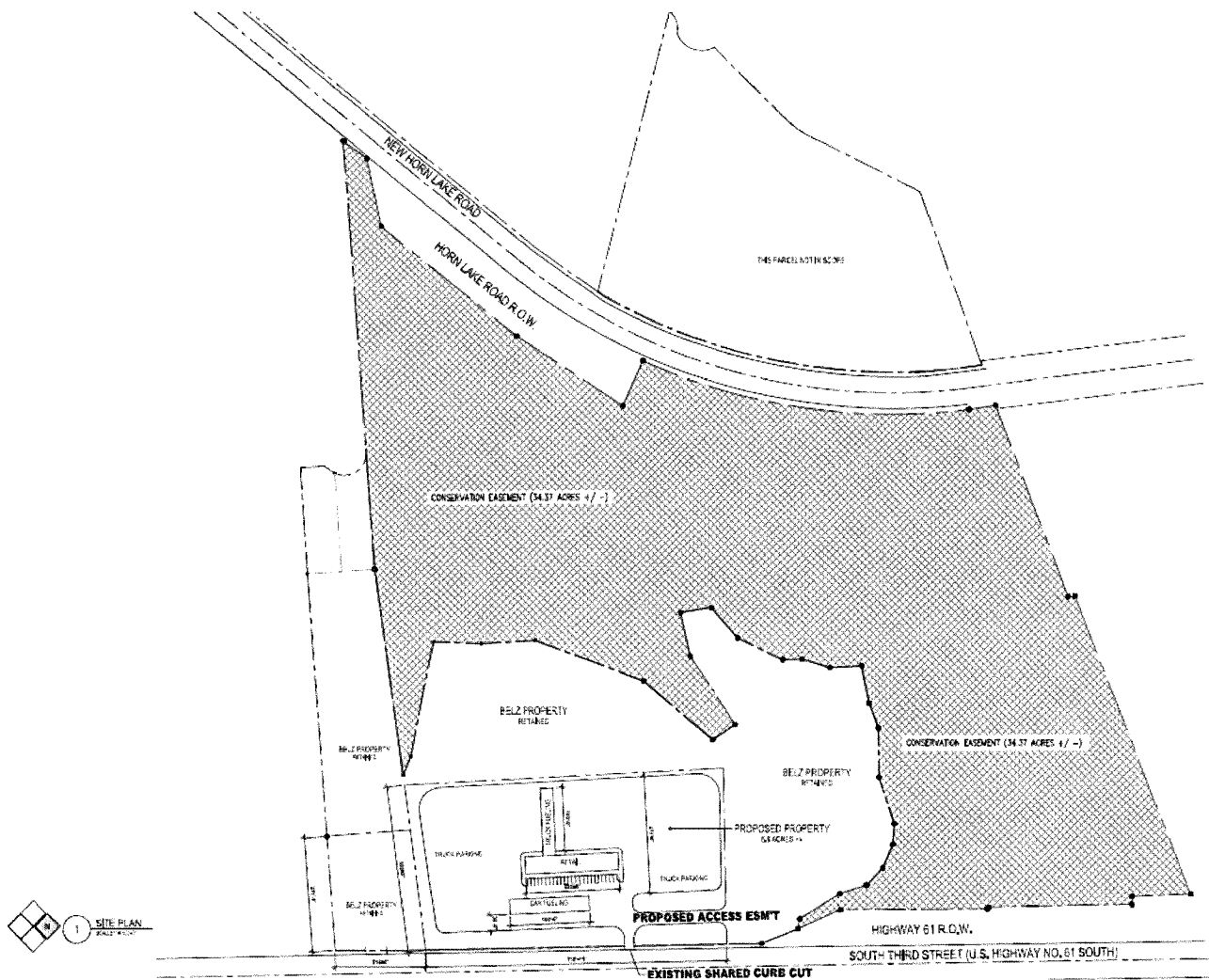


Views north down S. 3<sup>rd</sup>



Views south down S. 3<sup>rd</sup>

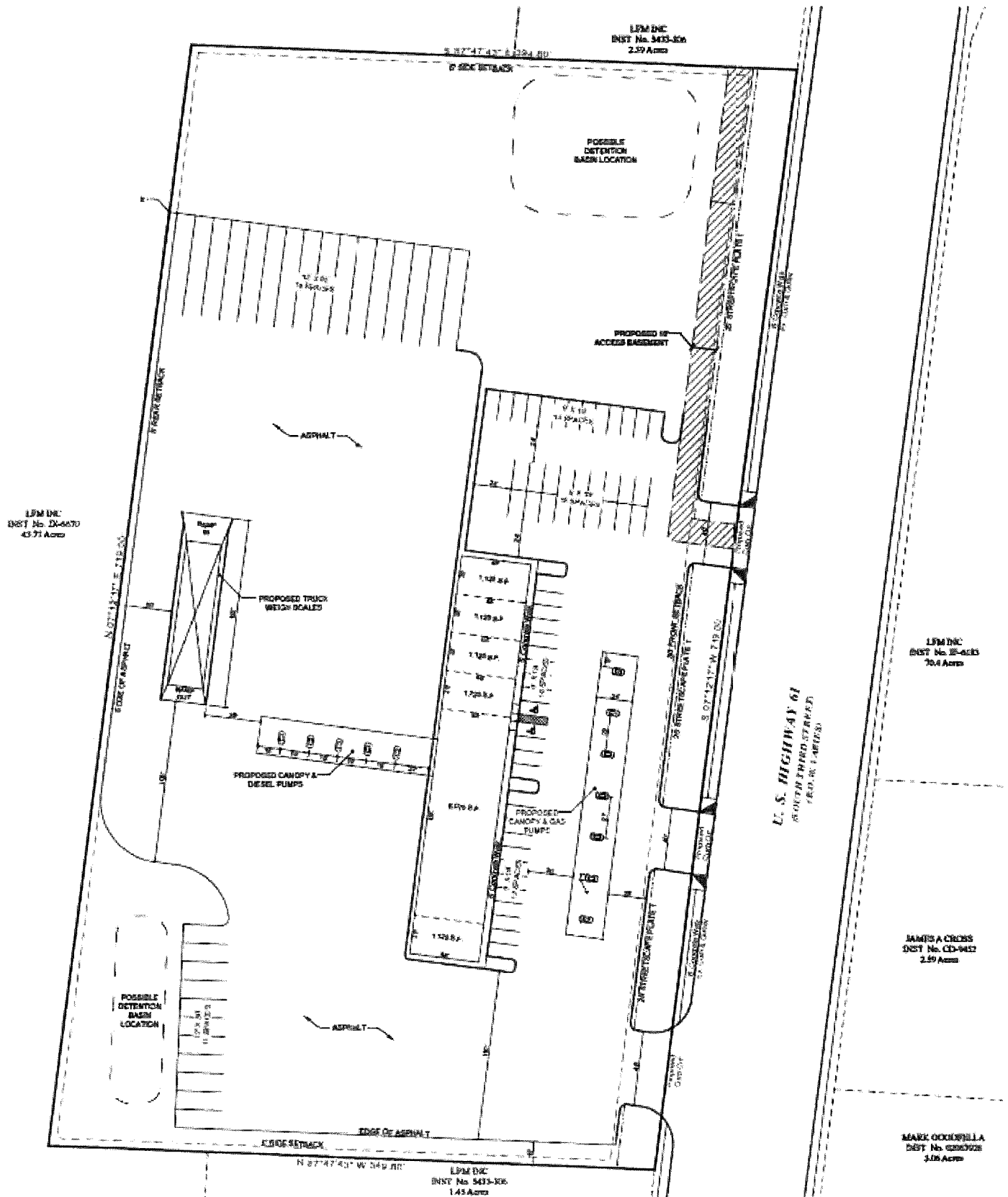
### PROPOSED RECONFIGURATION OF PARCELS



Currently, the subject site is a part of two parcels. As proposed, the boundaries of these parcels would be reconfigured so that the subject site is one individual parcel, and the remainder of the site is a second parcel.

Both the current configuration and the proposed configuration are exempt from the subdivision requirement because all parcels are or would be over four acres.

PROPOSED SITE PLAN



## STAFF ANALYSIS

### Request

The request is for a special use permit for a truck stop and gas pumps.

The application and letter of intent have been added to this report.

### Approval Criteria

Staff *agrees* the approval criteria as regards special use permits as set out in Section 9.6.9 of the Unified Development Code are met.

#### *9.6.9 Approval Criteria*

*No special use permit or planned development shall be approved unless the following findings are made concerning the application:*

- 9.6.9A The project will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.*
- 9.6.9B The project will be constructed, arranged and operated so as to be compatible with the immediate vicinity and not interfere with the development and use of adjacent property in accordance with the applicable district regulations.*
- 9.6.9C The project will be served adequately by essential public facilities and services such as streets, parking, drainage, refuse disposal, fire protection and emergency services, water and sewers; or that the applicant will provide adequately for such services.*
- 9.6.9D The project will not result in the destruction, loss or damage of any feature determined by the governing bodies to be of significant natural, scenic or historic importance.*
- 9.6.9E The project complies with all additional standards imposed on it by any particular provisions authorizing such use.*
- 9.6.9F The request will not adversely affect any plans to be considered (see Chapter 1.9), or violate the character of existing standards for development of the adjacent properties.*
- 9.6.9G The governing bodies may impose conditions to minimize adverse effects on the neighborhood or on public facilities, and to insure compatibility of the proposed development with surrounding properties, uses, and the purpose and intent of this development code.*
- 9.6.9H Any decision to deny a special use permit request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record, per the Telecommunications Act of 1996, 47 USC 332(c)(7)(B)(iii). The review body may not take into account any environmental or health concerns.*

### Site Description

The subject 7-acre site is part of two parcels. It contains a billboard and is otherwise sodded. Its frontage along S. 3<sup>rd</sup> St. contains a dilapidated chain-link fence as well as a curbside sidewalk.

### Site Plan Review

- Tanks and vents shall be shown on the site plan. Freestanding vents shall not be permitted.
- Canopies shall not exceed a height of 20 feet and shall be architecturally compatible with the principal structure.
- Rope lighting is prohibited. Canopy lighting shall not extend beyond the area beneath the canopy.
- A streetscape plate from Section 4.3.3 shall be installed along the site's frontage. The appropriate plate shall be determined in consultation with the Office of Planning and Development. Sidewalks shall be a minimum of 10 feet from the face of the curb. A pedestrian easement shall be recorded that meets the



dimensions of the approved streetscape.

- Compliance with the tractor trailer parking space requirements of Sub-Section 4.5.5B shall be demonstrated.
- Compliance with the parking area landscaping requirements of Sub-Section 4.5.5D shall be demonstrated. The provision of interior and terminal landscaping islands is not required in tractor trailer parking areas.
- Wheel stops may be required to prevent vehicle overhang on pedestrian paths.
- Underground infrastructure that is placed beneath parking area landscaping islands shall be installed within the outer third of the width of the island so as not to interfere with tree installation.
- Pedestrian facilities shall be provided that connect parking areas, the principle structure, and the sidewalk.
- A landscape plan certified by a registered landscape architect shall be provided.
- Service areas shall be identified on the site plan and shall require screening if visible from the right-of-way.

### **Conclusions**

The applicant has requested a special use permit for a truck stop and gas pumps on the west side of S. 3<sup>rd</sup> St. between Peebles and Interstate 55.

Truck stops and gas pumps are permitted by right in the Employment and Heavy Industrial zoning districts only if located at the intersection of two major streets; otherwise, a special use permit is required.

Presently, the site contains a billboard. This sign would be removed if the proposed development is built.

Staff finds that the proposed development would have no deleterious effect on its vicinity and meets the special use permit approval criteria.

### **RECOMMENDATION**

Staff recommends *approval* with the following conditions:

1. The existing billboard shall be removed.
2. All facades of the principal structure shall be of masonry construction.
3. The landscape design shall prioritize native plantings.
4. A revised plan set that demonstrates compliance with the Unified Development Code and the above conditions of approval, as well as substantial conformance with the proposed site plan, shall be submitted subject to administrative review and approval.

## DEPARTMENTAL COMMENTS

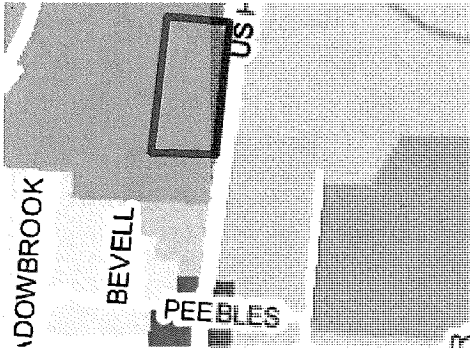
The following comments were provided by agencies to which this application was referred:

### Office of Comprehensive Planning:

**Based on the future land use map, the proposal is CONSISTENT with the goals of the Memphis 3.0 Comprehensive Plan.**

The following information about the land use designation can be found on pages 76 – 122:

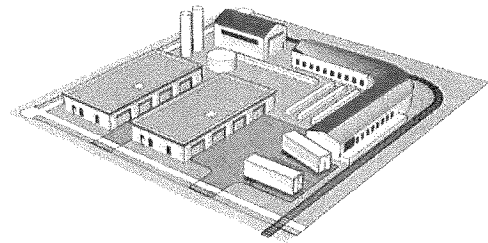
#### 1. FUTURE LAND USE PLANNING MAP



The red box indicates the subject site on the Future Land Use Map.

#### 2. Land use description & applicability:

The property is designated Industrial (I) and is not within an anchor neighborhood. Industrial areas are primarily higher intensity forms that are not suitable next to neighborhoods. These active areas are located on land where it is productive for the continued existence of high impact manufacturing and would not need to change to another usage. Industrial areas are usually located alongside highways and thus are majorly accessed by cars, trucks, and freight infrastructure.



#### “I” Goals/Objectives:

The future land use designation seeks preservation/maintenance of manufacturing/industrial jobs where suitable and the protection of neighborhoods from impactful uses and activities

#### “I” Form and Location Characteristics:

The future land use designation is appropriate for Industrial uses that are 1 -10 stories in height.

*The request is for a Fill N Go Planned Development, of 6.70 acres for a truck stop and existing advertising signage. The land will be divided to create separate parcels for each use. The current land is vacant except for the sign and is not within a 3.0 anchor.*

*The truck stop portion of the application meets the criteria of Memphis 3.0 since the development corresponds to the future land use map. It provides commercial use in an area designated Industrial and that is currently zoned heavy industrial. It is a goal of the Industrial designation to preserve industrial jobs but since there is no current*

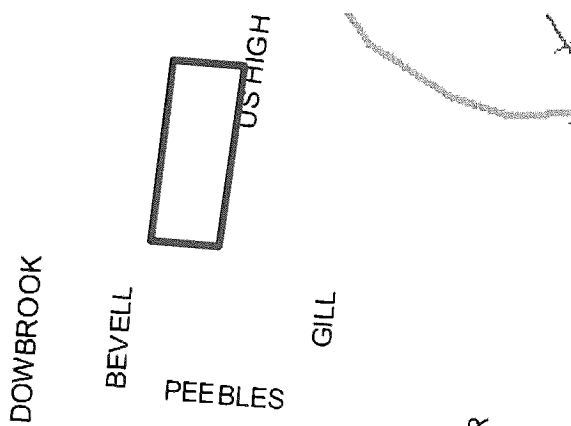
industry or jobs present it is not preserving jobs. It is adding a few jobs with a use that is allowed within the current zoning.

### 3. Existing, Adjacent Land Use and Zoning

The subject site is surrounded by the following land uses: commercial to the east. Open space to the north, south, east, and west. The subject site is surrounded by the following zoning districts: IH to the west, north and east. EMP to the south and east. The site itself is EMP and IH.

*This requested land use is compatible with the adjacent land uses. While the zoning is industrial in nature the planned development of a truck stop while not heavy industry is not encroaching on an established heavy industry. Truck stops are also allowed within industrial zones.*

### 4. Degree of Change



The red box indicates the subject site on the Degree of Change Map. The site is not within or near an anchor and therefore is not designated a degree of change.

### 5. Degree of Change Descriptions

**Based on the information provided, the proposal is CONSISTENT with the goals of the Memphis 3.0 Comprehensive Plan.**

Summary Compiled by: Roger Ekstrom, Office of Comprehensive Planning

#### City Engineer:

1. Standard Subdivision Contract or Street Cut Permit as required in Section 5.5.5 of the Unified Development Code.

#### Sewers:

2. City sanitary sewers are available to serve this development.
3. All sewer connections must be designed and installed by the developer. This service is no longer offered by the Public Works Division.

#### Roads:

4. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.

5. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
6. Provide a minimum sidewalk width of 6ft if the sidewalk is adjacent to the curb.

**Traffic Control Provisions:**

7. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5 foot wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5 foot clear pedestrian path, an exception may be considered.
8. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
9. The developer's engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number for projected trips meets or exceeds the criteria listed in Section 210-Traffic Impact Policy for Land Development of the City of Memphis Division of Engineering Design and Policy Review Manual. Any required Traffic Impact Study will need to be formally approved by the City of Memphis, Traffic Engineering Department.

**Curb Cuts/Access:**

10. The City Engineer shall approve the design, number and location of curb cuts.
11. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
12. The curb cut spacing reflected on the site plan shall be revised to provide at least 200ft between curb cuts.

**Drainage:**

13. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
14. Drainage improvements, including possible on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis/Shelby County Storm Water Management Manual.
15. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
16. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage

easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

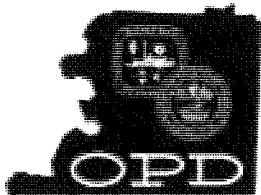
17. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

**Site Plan Notes:**

18. Common ingress/egress easements shall be shown on the final plats.

<b>City Fire Division:</b>	No comments received.
<b>City Real Estate:</b>	No comments received.
<b>City Health Department:</b>	No comments received.
<b>Shelby County Schools:</b>	No comments received.
<b>Construction Code Enforcement:</b>	No comments received.
<b>Memphis Light, Gas and Water:</b>	No comments received.
<b>Office of Sustainability and Resilience:</b>	No comments received.

APPLICATION



*Memphis and Shelby County*  
*Office of Planning and Development*

CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6661

**APPLICATION FOR PLANNED DEVELOPMENT APPROVAL  
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)**

Date: 8/3/20

Case #: \_\_\_\_\_

PLEASE TYPE OR PRINT

Name of Development: Fill N Go

Property Owner of Record: LFM, Inc. Phone #: N/A

Mailing Address: 100 Peabody Place, Suite 1400 City/State: Memphis/TN Zip: 38103

Property Owner E-Mail Address: \_\_\_\_\_

Applicant: Abdalah Ayyesh Phone #: N/A

Mailing Address: 4135 Riverdale Road City/State: Memphis/TN Zip: 38115

Applicant E-Mail Address: abdalyesh@yahoo.com

Representative: W.H. Porter Consultants Phone #: (901)363-9453

Mailing Address: 6055 Primacy Parkway, Suite 115 City/State: Memphis/TN Zip: 38119

Representative E-Mail Address: tdagastino@whporter.com

Engineer/Surveyor: Henry Porter Phone #: (901)363-9453

Mailing Address: 6055 Primacy Parkway, Suite 115 City/State: Memphis/TN Zip: 38119

Engineer/Surveyor E-Mail Address: hporter@whporter.com

Street Address Location: 2939 Highway 61 & 2920 Old Homlake Road

Distance to nearest intersecting street: 1,100' north of the intersection of US Highway 61 and East Peabody Road

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>6.70</u>		
Existing Zoning:	<u>TH &amp; EMP</u>		
Existing Use of Property:	<u>Vacant</u>		
Requested Use of Property:	<u>Truck Exp. Off Premises Advertising</u>		

Medical Overlay District: Per Section 8.2.2D of the UDC, no Planned Developments are permitted in the Medical Overlay District.

Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:

Number of Residential Units: N/A Bedrooms: N/A

Expected Appraised Value per Unit: N/A or Total Project: N/A

**Amendment(s):** Is the applicant applying for an amendment to an existing Planned Development?  
Yes  No

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

#### 4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.  
The proposed development is compatible with the existing land use in the area.
- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.  
Existing Utilities are adequate for serving the proposed uses. Storm water will be maintained through a dry detention basin.
- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)  
This development will be compatible with surrounding land uses.
- Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.  
The design of the site and building are in keeping with the adjoining parcels.
- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.  
There are no common areas in this development. The owner of each lot will maintain their property.
- Lots of records are created with the recording of a planned development final plan.  
Two lots will be created with the recording of the final plan.

**REQUIREMENTS PRIOR TO APPLICATION SUBMISSION**

**PRE-APPLICATION CONFERENCE** - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: 7/20/20 with Jeffrey Penzes

**NEIGHBORHOOD MEETING** - At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2)

Neighborhood Meeting Requirement Met: Yes or Not Yes (Circle one)  
(If yes, documentation must be included with application materials)

**SIGN POSTING** - A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

I (we) hereby make application for the Planned Development described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

Kenneth B. Bely 8/24/20 [Signature] 7-29-2020  
Property Owner of Record Date Applicant Date

**GUIDE FOR SUBMITTING  
PLANNED DEVELOPMENT APPLICATION  
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)**

**A. THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:

- 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s)
- 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

**B. LETTER OF INTENT** - The letter shall include the following:

- a) A brief narrative statement generally describing the nature, location and extent of the development and the market it is intended to serve.
- b) A list of any professional consultants associated with the proposed development.
- c) A written statement generally describing the relationship of the proposed development to the current policies and plans of the City and County. The statement shall include how the proposed



**LETTER OF INTENT**

**W. H. PORTER CONSULTANTS, PLLC**

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6055 Primacy Parkway, Suite 115  
Memphis, Tennessee 38119  
(901) 363-9453 FAX: (901) 363-2722

Engineers, Planners, Surveyors, Consultants

August 3, 2020

Mr. Josh Whitehead  
Planning Director, Land Use Controls  
Office of Planning and Development  
125 N. Main Street, Room 468  
Memphis, TN 38103

**RE: FILL N GO PLANNED DEVELOPMENT  
LETTER OF INTENT**

Mr. Whitehead:

On behalf of Abdallah Ayesh, who currently has the property under contract, we are submitting the attached application for the Fill N Go Planned Development, a 6.70 acre parcel located approximately 3,300' from the intersection of U.S Highway 61 and Interstate 2-40. The property is zoned I-H and EMP. We are requesting this Planned Development create two lots; one lot will allow for off-premise outdoor advertising signs and the other will allow for a truck stop. The area surrounding the proposed development is also zoned either I-H or EMP. The proposed uses in this Planned development will coincide with the existing land uses in the immediate area.

The development will have a modified S-11 streetscape plate installed along U.S Highway 61. A total of 2.27 acres will not be developed and will be set aside for landscaping and detention basins.

We feel like this development will be of commensurate to the large amounts of Industrial and Employment zoning adjacent to the property and it will provide a benefit to those industries that rely heavily on trucks to meet their commerce

We appreciate your support with this request. Please contact me if you have any questions.

Sincerely,



William D. Porter, P.E, R.L.S.

**SIGN AFFIDAVIT**

**AFFIDAVIT**

Shelby County  
State of Tennessee

I, Tim Dagastino, being duly sworn, depose and say that at 4:30 am/pm on the 11 day of August, 2020, I posted 1 Public Notice Sign(s) pertaining to Case No. 20-09 at 2939 Highway 61, providing notice of a Public Hearing before the  Land Use Control Board,  Memphis City Council, \_\_\_\_\_ Shelby County Board of Commissioners for consideration of a proposed Land Use Action ( Planned Development, \_\_\_\_\_ Special Use Permit, \_\_\_\_\_ Zoning District Map Amendment, \_\_\_\_\_ Street and/or Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

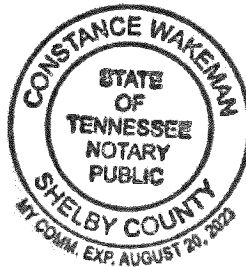
Tim Dagastino  
\_\_\_\_\_  
Owner, Applicant or Representative

8/12/20  
\_\_\_\_\_  
Date

Subscribed and sworn to before me this 1<sup>st</sup> day of August, 2020.

Constance Wakeman  
\_\_\_\_\_  
Notary Public

My commission expires: 8/30/23



**LETTERS RECEIVED**

No letters received at the time of completion of this report.

**SUBSTITUTE ORDINANCE**

**TO AMEND TITLE 3, CHAPTER 16 IN THE CITY OF MEMPHIS CODE OF ORDINANCES, CITY EMPLOYEE OCCUPATIONAL HEALTH PROGRAM, ESTABLISHING AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN**

**WHEREAS**, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Memphis created and established an Occupational Safety and Health Program Plan ("OSHPP") for its employees under this Title; and

**WHEREAS**, the Public Sector Section of Tennessee Occupational Safety and Health Administration (TOSHA) is responsible for ensuring that local governments meet statutory responsibilities pursuant to the provisions of Tenn. Code Ann. § 50-3-912; and

**WHEREAS**, Title 3, Chapter 16 of the City of Memphis Code of Ordinances was last amended in 2004; and

**WHEREAS**, due to various updates and changes required by TOSHA, it has become necessary to amend the local ordinance and program plan to comply with more recent public sector requirements issued by TOSHA; and

**WHEREAS**, the form and substance of this amended ordinance is consistent with and pursuant to the forms, rules and regulations issued by TOSHA; and

**WHEREAS**, the form and substance of this amended ordinance ensures that the City of Memphis can maintain an updated occupational safety and health program plan in compliance with TOSHA.

**NOW, THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS** that Title 3, Chapter 16 of the Code of Ordinances is hereby amended in its entirety and substituted as follows:

**A. TITLE:**

This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of City of Memphis.

**B. PURPOSE:**

The City of Memphis, in electing to update the established Occupational Safety and Health Program Plan, will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

- 1) Provide a safe and healthful place and condition of employment that includes:
  - a) Top Management commitment and employee involvement;
  - b) Continually analyze the worksite to identify all hazards and potential hazards;
  - c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
  - d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- 2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- 3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.

6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this Program Plan.

**C. COVERAGE:**

The provisions of the Occupational Safety and Health Program Plan for the employees of City of Memphis shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

**D. STANDARDS AUTHORIZED:**

The Occupational Safety and Health standards adopted by the City of Memphis are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

**E. VARIANCES FROM STANDARDS AUTHORIZED:**

Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, the City may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, the City will notify or serve notice to its employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on bulletin boards accessible to employees shall be deemed sufficient notice to employees.

**F. ADMINISTRATION:**

For the purposes of this ordinance, the Division of Human Resources shall designate a Safety Manager of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Program Plan. The Safety Manager shall develop a plan of operation for the Program Plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by T.C.A., Title 50.

**SECTION 2. BE IT FURTHER ORDAINED** that if any section, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 3. BE IT FURTHER ORDAINED** that this ordinance shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Memphis requiring it.

Patrice Robinson  
Chairperson



## Memphis City Council Summary Sheet

### **SUBSTITUTE ORDINANCE TO AMEND TITLE 3, CHAPTER 16 IN THE CITY OF MEMPHIS CODE OF ORDINANCES, CITY EMPLOYEE OCCUPATIONAL HEALTH PROGRAM, ESTABLISHING AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN**

Ordinance addresses:

- Due to various updates and changes required by Tennessee Occupational Safety and Health Administration (TOSHA), it has become necessary to amend the local ordinance and program plan to comply with more recent public sector requirements issued by TOSHA.
- The form and substance of the proposed ordinance is consistent with and pursuant to the forms, rules and regulations issued by TOSHA.
- The form and substance of the proposed ordinance ensures that the City of Memphis can maintain an updated occupational safety and health program plan in compliance with TOSHA.
- The updated program plan and appendices are attached for reference.

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN FOR THE  
EMPLOYEES OF CITY OF MEMPHIS

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I. PURPOSE AND COVERAGE	



The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of City of Memphis.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Memphis in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Manager of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.
- i. Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this Program Plan.

## ii. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Memphis and includes each administrative department, board, commission, division, or other agency of the City of Memphis.
- c. SAFETY Manager OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY Manager means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Memphis.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Manager of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Manager of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated

powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.

- f. **EMPLOYEE** means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. **PERSON** means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. **STANDARD** means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. **IMMINENT DANGER** means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. **ESTABLISHMENT** or **WORKSITE** means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. **SERIOUS INJURY** or **HARM** means that type of harm that would cause permanent or prolonged impairment of the body in that:
  - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
  - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. **ACT** or **TOSH Act** shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. **GOVERNING BODY** means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. **CHIEF EXECUTIVE OFFICER** means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

### III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective

- conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to ensure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

#### IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Manager or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Manager any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Manager. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to

be, to their supervisor or the Safety Manager within twenty-four (24) hours after the occurrence.

## V. ADMINISTRATION

- a. The Safety Manager of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
  1. The Safety Manager may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
  2. The Safety Manager may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Manager.
  3. The Safety Manager shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
  4. The Safety Manager may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
  5. The Safety Manager shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
  6. The Safety Manager shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
  7. The Safety Manager shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
  8. The Safety Manager shall maintain or cause to be maintained records required under Section VIII of this plan.
  9. **The Safety Manager shall, in the eventuality that there is a fatality, ensure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
  1. The administrative or operational head shall follow the directions of the Safety Manager on all issues involving occupational safety and health of employees as set forth in this plan.
  2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Manager within the abatement period.
  3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
  4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Manager along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

## VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

## VII. VARIANCE PROCEDURE

The Safety Manager may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Manager should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
  1. A specification of the standard or portion thereof from which the variance is sought.
  2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
  3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
  4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
  5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
  1. The employer:
    - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
    - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
    - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
  2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

## VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to [www.osha.gov](http://www.osha.gov) and type Recordkeeping Forms in the search box.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

## IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Manager of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Manager will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Manager will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may

then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Manager and the Chief Executive Officer or the representative of the governing body.

- f. Copies of all complaint and answers thereto will be filed by the Safety Manager who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

## X. EDUCATION AND TRAINING

### a. Safety Manager and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Manager and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

### b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocuting; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
  - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
  - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
  - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present,

precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

## XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will ensure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Manager and/or Compliance Inspector(s), if appointed, is authorized:
  1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
  2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Manager or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Manager or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
  1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
  2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.



- h. The Safety Manager need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
  - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Manager.
  - 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Manager.
- i. The Safety Manager shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

## XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
  - 1. The Safety Manager shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
  - 2. If the alleged imminent danger situation is determined to have merit by the Safety Manager, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
  - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Manager or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
  - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Manager or Compliance Inspector and to the mutual satisfaction of all parties involved.
  - 5. The imminent danger shall be deemed abated if:
    - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
    - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
  - 6. A written report shall be made by or to the Safety Manager describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Manager in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
  - 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Manager and Chief Executive Officer immediately.
  - 2. The Safety Manager and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

### XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Manager or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Manager shall:
  1. Issue an abatement order to the head of the worksite.
  2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
  1. The standard, rule, or regulation which was found to violated.
  2. A description of the nature and location of the violation.
  3. A description of what is required to abate or correct the violation.
  4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Manager in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Manager shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Manager shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

### XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
  1. Oral reprimand.
  2. Written reprimand.
  3. Suspension for three (3) or more working days.
  4. Termination of employment.

### XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Manager pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

**XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS**

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Manager within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

**XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED**

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

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Signature: Safety Manager, Occupational Safety and Health and Date

**APPENDIX - I WORK LOCATIONS  
(ORGANIZATIONAL CHART)**

Attached.

## APPENDIX – II NOTICE TO ALL EMPLOYEES

### NOTICE TO ALL EMPLOYEES OF THE CITY OF MEMPHIS

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to ensure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Manager or \_\_\_\_\_.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before City of Memphis Equity Diversity and Inclusion office for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the City of Memphis is available for inspection by any employee at the respective employee's work location during regular office hours.

\_\_\_\_\_  
Signature: (City/County) MAYOR AND DATE

## **APPENDIX - III PROGRAM PLAN BUDGET**

### **STATEMENT OF FINANCIAL RESOURCE AVAILABILITY**

Be assured that the City of Memphis has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

## APPENDIX – IV ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Manager as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Manager and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Manager will ensure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Manager and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Manager and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Manager and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Manager and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Manager or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Manager within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves a fatality, hospitalization, amputation, loss of an eye, loss of consciousness, broken bones, or third degree burns, the Safety Manager will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Manager or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Manager within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.

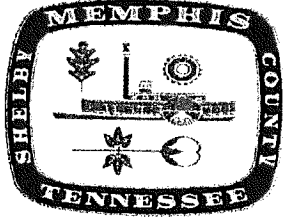
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

**NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan.** This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.





## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This Ordinance amends Chapter 2, Section 2-22-7 of the City of Memphis, Code of Ordinances to modify Engineering Administration Fees.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

This Ordinance is being initiated by the Division of Engineering.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This item does involve an amendment to Chapter 2, Section 2-22-7 of the Code of Ordinances

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This item does not require a new contract

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

This item does not require an expenditure of funds.

**Council Ordinance Caption (Engineering Administration Fee Ordinance)**

An Ordinance to amend Chapter 2, Section 2-22-7 of the City of Memphis, Code of Ordinances to modify Engineering Administration Fees

ORDINANCE NO: \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 2, CODE  
OF ORDINANCES, CITY OF MEMPHIS, BY AMENDING  
SECTION 2-22-7 (ENGINEERING ADMINISTRATION FEES)**

**WHEREAS**, the Division of Engineering processes requests for various permits pertaining to special permission parking, construction dumpster placement, and temporary closure of portions of the public right-of-way (ROW); and

**WHEREAS**, the Division of Engineering does not currently charge a fee for processing any of the above referenced permits; and

**WHEREAS**, the Division of Engineering wishes to establish a fee structure for various Engineering Permits to recover the cost associated with processing these permit requests;

**NOW, THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,** that Chapter 2, Code of Ordinances, City of Memphis, be and the same is hereby amended as follows:

**Sec. 2-22-7. - Engineering Administration and Permit Fees.**

A. For the processing of Engineering Permits and the performance of Engineering Administration in the processing of final plans for land development projects including subdivisions, planned developments, planned commercial developments and street dedications and the preparation of public improvement contracts. The City Engineer shall charge and receive from the applicant nonrefundable fees in accordance with the following fee schedule for all such projects and permit requests submitted to the City Engineer for processing:

(1) Development Review Fees

a. Single Family Residential (5 lots or less), schools, churches		
1. Base Fee.....	\$	525.00
2. Incremental Fee per lot (added to base fee).....		25.00
b. Single Family Residential (more than 5 lots)		
1. Base Fee.....		1,000.00
2. Incremental Fee per lot (added to base fee).....		50.00
c. Multi-Family Residential		
1. Base Fee.....		1,250.00
2. Incremental Fee per unit (added to base fee).....		25.00

d. Non-residential uses (1 acre or less)		
1. Base Fee.....	1,250.00	
e. Non-residential uses (more than 1 acre)		
1. Base Fee.....	1,250.00	
2. Incremental fee per acre or portion thereof (added to base)	50.00	
(2) Developments Requiring Public Improvement Contracts		
a. Base Fee .....	\$ 1,725.00	
b. Incremental Fee (added to base fee) Greater of:		
1. per lot (applies to single family residential only) .....	50.00	
2. per unit (applies to multi-family only).....	25.00	
3. per acre (all uses).....	100.00	
c. Maximum fee .....	7,000.00	
(3) Street Cut Permits		
a. Minimum Fee .....	\$ 300.00	
b. Per linear foot of pipe or other cut.....	10.00	
c. Connection to existing structure.....	100.00	
d. Construction of new structure.....	200.00	
e. Street Improvements (per linear foot).....	11.00	
f. Sidewalk Improvements (per sq foot).....	0.48	
g. Curb Cut (per sq foot).....	0.48	
h. Curb, Gutter & Sidewalk (per sq foot).....	0.83	
(4) Administrative Site Plan Review		
a. Base Fee .....	\$ 750.00	
b. Incremental Fee per acre or portion thereof (added to base fee)	25.00	
(5) Fiber Optic Cable Installation Permit (aerial or buried)		
a. Base Fee .....	\$ 750.00	
b. Incremental Fee per linear foot of cable .....	1.00	
(6) Miscellaneous Charges		
a. Contract Time Extensions .....	250.00	
b. Contract Bond Conversion .....	250.00	
c. Contract Bond Reduction.....	250.00	
d. Assignment/Assumption Agreement.....	250.00	
e. Supplemental/Amended Agreement.....	750.00	
f. Redraft Fee.....	250.00	
g. Re-review fee for projects requiring more than 3 reviews (per additional review) .....	250.00	
h. Plans Review Fee (due at time plans are first submitted).....	525.00	
i. Traffic Engineering Plan Review (direct submittal).....	250.00	
j. Plat Record/Re-record.....	525.00	

k. Street Closures, Easements, Encroachments .....	250.00
l. Monitoring Well Permits.....	300.00
 (7) Engineering Permit Fees	
a. Bagged/Displaced Parking Meter Fee..... current daily meter rate)	\$50.00 (plus
b. Construction Dumpster Permit Fee..... \$10 per day the dumpster is in the City ROW)	\$50.00 (plus
c. Special Permission Parking .....	\$50.00
d. Lane Closure Permit Fee .....	\$50.00 (plus
\$10 per lane closed, per day)	
e. Temporary Road/Alley Closure Permit Fee .....	\$50.00 (plus
\$50.00 per day the Road/Alley is closed)	
f. Sidewalk Closure Permit Fee .....	\$50.00 (plus
\$10.00 per day the sidewalk is closed)	
g. Over-Dimensional Transport Permit Fee .....	\$100.00 (plus
any associated escort fees)	

B. With the exception of the Plans Review Fee, which is paid in advance, all fees for Engineering Administration shall be paid to the City Engineer at the time the contract or permit is ready to be executed with the City through the City Engineer.

C. Engineering Permit Fees

(1) The Division of Engineering shall establish all rules, regulations, and permit requirements associated with the above referenced Engineering Permit Fees. Applicants will be required to give the Division of Engineering at least 10 calendar days of advance notice on all permit requests unless the request is associated with a natural disaster or public emergency.

(2) **Permit Fee Waivers:** Engineering Permit Fees associated with Lane, Road, or Sidewalk closures may be waived for the following:

- a. City of Memphis crews performing roadway/sidewalk maintenance, repair, or construction.
- b. City of Memphis contractors performing roadway/sidewalk maintenance, repair, or construction.
- c. Activities associated with Federal, State, or County managed infrastructure projects.
- d. Closures implemented by the Memphis Police Department for investigations or other public safety related issues.
- e. Closures approved by the Memphis Police Department or City of Memphis Permits office for Special Events.
- f. When the City Engineer finds that it is necessary to close a portion of the public right-of-way for the immediate protection of public safety.

(3) **Penalty of Violation:** It shall be a violation of this chapter for any individual to block a portion of the public right-of-way or commence activity that requires a permit without first obtaining the required permit from the Division of Engineering. Anyone found in violation of this chapter commits a Class C misdemeanor and shall be subject to a \$50.00 fine for each day that the violation remains in effect. Violators will also be required to retroactively pay all associated permit fees.

**SECTION 2. BE IT FURTHER ORDAINED,** that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 3. BE IT FURTHER ORDAINED,** that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairperson of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller and become effective as otherwise provided by law.

Sponsor:  
Ford Canale

Patrice Robinson  
City Council Chairwoman

Attest:  
Valerie Snipes, Deputy Comptroller



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This Ordinance amends Title 11, Section 11-16-21 of the City of Memphis, Code of Ordinances to reduce the default City Speed Limit to 25mph.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

This Ordinance is being initiated by the Division of Engineering.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This item does involve an amendment to Title 11, Section 11-16-21 of the Code of Ordinances

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This item does not require a new contract

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

This item does not require an expenditure of funds.

**Council Ordinance Caption (Engineering Administration Fee Ordinance)**

An Ordinance to amend Title 11, Section 11-16-21 of the City of Memphis, Code of Ordinances to reduce the default City Speed Limit to 25mph.



ORDINANCE NO: \_\_\_\_\_

**AN ORDINANCE TO AMEND TITLE 11, VEHICLES AND TRAFFIC, CHAPTER 11-16 "RULES OF THE ROAD" OF THE CITY OF MEMPHIS CODE OF ORDINANCES, BY AMENDING SECTION 11-16-21 (GENERAL SPEED RESTRICTIONS)**

**WHEREAS**, City Ordinance currently establishes a default Speed Limit in the City of Memphis of 30mph; and

**WHEREAS**, This default Speed Limit applies to all roadways where the Speed Limit has not been formally established on the basis of a Traffic Engineering Study; and

**WHEREAS**, The majority of roadways governed by this default Speed Limit typically include residential/neighborhood roadways and roadways in the Downtown area where there is a higher percentage of pedestrians, bike riders, and other vulnerable users; and

**WHEREAS**, The Division of Engineering recommends a reduction in the current default Speed Limit to improve safety;

**NOW, THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,**

That Title 11 – Vehicles and Traffic – Chapter 11-16 "Rules of the Road", of the City of Memphis Code of Ordinances, is hereby amended as follows:

**Sec. 11-16-21. - General *speed* restrictions.**

It is unlawful for any person to drive a vehicle upon the streets of this city at a *speed* greater than 25 miles per hour. However, the city engineer shall have the authority, after determining on the basis of an engineering and traffic investigation that the stated *limit* is greater or lesser than is reasonable and safe, to designate certain streets or sections of streets as *speed* zones where greater speeds may be permitted or lesser speeds required. No person shall drive a vehicle upon the streets or sections of streets designated by the city engineer as *speed* zones at a greater *speed* than is permitted, when signs are in place giving notice thereof.

(Code 1967, § 23-152; Code 1985, § 21-106; Ord. No. 2236, § 1, 4-15-1975; Ord. No. 3586, § 10, 9-2-1986; Ord. No. 4491, § 1, 5-20-1997)

**State Law reference**— Speed limits, T.C.A. § 55-8-152 et seq.

**SECTION 2. BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

**SECTION 3. BE IT FURTHER ORDAINED,** That this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller and become effective as otherwise provided by law.

Sponsor:  
Ford Canale

Patrice Robinson  
City Council Chairman

Attest:  
Valerie Snipes, Deputy Comptroller

Ordinance to establish the City Council meeting dates for 2021

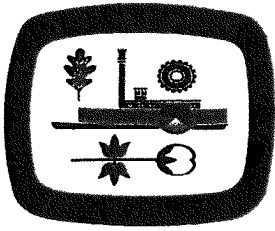
WHEREAS, Referendum Ordinance 4274, approved by the citizens of Memphis on November 8, 1994, amended the Council's meeting dates to the first and third Tuesdays of each month; and

WHEREAS, the Council wishes to approve the 2021 meeting dates.

NOW, THEREFORE, BE IT RESOLVED that the Memphis City Council will conduct its regular meetings on the first and third Tuesdays of each month:

January 5	January 26
February 2	February 16
March 2	March 16
April 6	April 20
May 4	May 18
June 1	June 15
July 6	July 20
August 3	August 17
September 7	September 21
October 5	October 19
November 2	November 16
December 7	December 21

ADOPTED: January 5, 2021



**RESOLUTION approving the engineering plans entitled **Carolina Terrace Subdivision (S 19-17)****

WHEREAS, **27 W Carolina LLC** is the Developer of certain property within the present limits of City of Memphis, located at 27 W. Carolina Avenue on the south side of W. Carolina west of the Florida Street intersection in the City of Memphis, Tennessee as indicated on the final plat entitled **Carolina Terrace Subdivision (S 19-17)** and

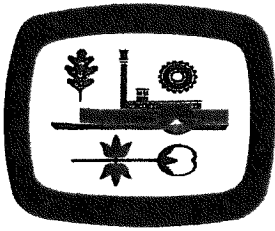
WHEREAS, the developer desires to develop the property reflected on the engineering plans; and

WHEREAS, attached hereto is a standard improvement contract entered into by and between **27 W Carolina LLC** and the City of Memphis covering the public improvements as a part of developing the property; and

WHEREAS, the terms and conditions of the contract are in accordance with the policies of the City of Memphis for developing such a project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the engineering plans for **Carolina Terrace Subdivision (S 19-17)** be and is hereby approved.

BE IT FURTHER RESOLVED, that the proper officials be and are hereby authorized to execute the attached standard improvement contract and accept the Landmark Bank Letter of Credit No. 2008060 in the amount of \$39,000.00 in lieu of bond.



RESOLUTION approving the engineering plans entitled **Conwood Snuff  
Redevelopment (BOA Case #20-03)**

WHEREAS, **Conwood I, LLC** is the Developer of certain property within the present limits of City of Memphis, located on Front Street - northwest corner of the intersection of Keel Avenue and North Front Street in the City of Memphis, Tennessee as indicated on the final plat entitled **Conwood Snuff Redevelopment (BOA Case 20-03)** and

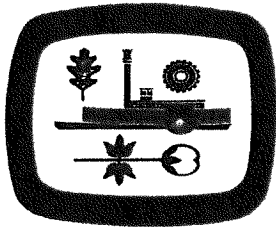
WHEREAS, the developer desires to develop the property reflected on the engineering plans; and

WHEREAS, attached hereto is a standard improvement contract entered into by and between **Conwood I, LLC** and the City of Memphis covering the public improvements as a part of developing the property; and

WHEREAS, the terms and conditions of the contract are in accordance with the policies of the City of Memphis for developing such a project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the engineering plans for **Conwood Snuff Redevelopment (BOA Case 20-03)** be and is hereby approved.

BE IT FURTHER RESOLVED, that the proper officials be and are hereby authorized to execute the attached standard improvement contract and accept the Arch Insurance Performance Bond No. SU 1169726 in the amount of \$87,000.00 in lieu of bond.



RESOLUTION approving the final plat entitled **Firestone Auto Complete (10001 US-64) PD 15-322**

WHEREAS, **FS Memphis, LLC** is the Developer of certain property within the present limits of City of Memphis, located 10001 US Hwy. 64 (Stage Road), east of the Houston Levee Road intersection on the south side of US Hwy. 64 (Stage Road) in the City of Memphis, Tennessee as indicated on the final plat entitled **Firestone Auto Complete (10001 US-64) PD 15-322** and

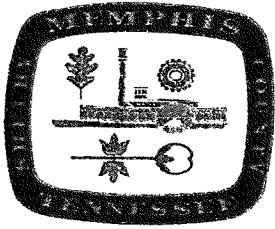
WHEREAS, the developer desires to develop the property reflected on the final plat; and

WHEREAS, attached hereto is a standard improvement contract entered into by and between **FS Memphis, LLC** and the City of Memphis covering the public improvements as a part of developing the property; and

WHEREAS, the terms and conditions of the contract are in accordance with the policies of the City of Memphis for developing such a project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the final plat for **Firestone Auto Complete (10001 US-64) PD 15-322** be and is hereby approved.

BE IT FURTHER RESOLVED, that the proper officials be and are hereby authorized to execute the attached standard improvement contract and accept the Travelers Casualty and Surety Company of America Performance Bond No. 107269479 in the amount of \$78,100.00 on behalf of the City of Memphis.



RESOLUTION approving the engineering plans entitled **Memphis Rise Academy Traffic Signal (Raleigh-LaGrange Road @ Wilfong Road)**

WHEREAS, **Memphis Rise Academy Charter School** is the Developer of certain property within the present limits of the City of Memphis, located on the intersection of Raleigh-LaGrange Road and Wilfong Road inside the City of Memphis, Tennessee as indicated on the engineering plans entitled **Memphis Rise Academy Traffic Signal (Raleigh-LaGrange Road @ Wilfong Road)** and

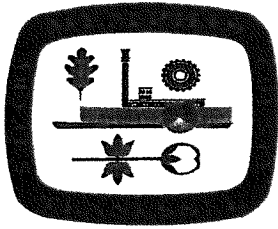
WHEREAS, the developer desires to develop the property reflected on the final plat; and

WHEREAS, attached hereto is a standard improvement contract entered into by and **Porter-Leath** and the City of Memphis covering the public improvements as a part of developing the property; and

WHEREAS, the terms and conditions of the contract are in accordance with the policies of the City of Memphis for developing such a project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the final plat for **Memphis Rise Academy Traffic Signal (Raleigh-LaGrange Road @ Wilfong Road)** be and is hereby approved.

BE IT FURTHER RESOLVED, that the proper officials be and are hereby authorized to execute the attached standard improvement contract and accept Western Surety Company Performance Bond No. 30103633 in the amount of \$347,900.00.



RESOLUTION approving the final plat entitled **Porter-Leath Early Childhood Academy 3 (Orange Mound) (Case No. Z86-126 Skyvue Shopping Center)**

WHEREAS, **Porter-Leath** is the Developer of certain property within the present limits of the City of Memphis, located at 2881 Park Avenue, southwest corner lot in the Park Avenue and Haynes Street intersection inside the City of Memphis, Tennessee as indicated on the final plat entitled **Porter-Leath Early Childhood Academy 3 (Orange Mound) (Case No. Z86-126 Skyvue Shopping Center)** and

WHEREAS, the developer desires to develop the property reflected on the final plat; and

WHEREAS, attached hereto is a standard improvement contract entered into by and **Porter-Leath** and the City of Memphis covering the public improvements as a part of developing the property; and

WHEREAS, the terms and conditions of the contract are in accordance with the policies of the City of Memphis for developing such a project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the final plat for **Porter-Leath Early Childhood Academy 3 (Orange Mound) (Case No. Z86-126 Skyvue Shopping Center)** be and is hereby approved.

BE IT FURTHER RESOLVED, that the proper officials be and are hereby authorized to execute the attached standard improvement contract and accept Traveler's Casualty Performance Bond No. 107076502 in the amount of \$77,600.00.



## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020, awarded Contract No. 12230, Exceleron Pre-Pay to Exceleron Software, LLC, in the funded amount of \$1,920,000.00, and is now recommending to the Council of the City of Memphis that it approves said award as proposed; and

WHEREAS, the project scope is to allow Exceleron Software, LLC as a sole source provider to establish Exceleron's MyUsage prepaid software access agreement, a web-based system, that provides customers with the necessary tools to offer customers a prepaid alternative payment option vs. traditional billing options. MLGW is requesting approval of this sole source award, which can only be provided by Exceleron Software, LLC due to Exceleron's Pre-Pay platform currently integrated with MLGW's existing MLGW Customer Information System (CIS) and Advanced Metering Systems (AMI) systems. An interruption in this service would directly impact MLGW customers currently enrolled in the Pre-Pay program. The term of this contract is sixty (60) months from the date of the Notice to Proceed in the funded not to exceed amount of \$1,920,000.00. This sole source award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12230, Exceleron Pre-Pay to Exceleron Software, LLC, in the funded not to exceed amount of \$1,920,000.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12230, Exceleron Pre-Pay to Exceleron Software, LLC, in the funded amount of \$1,920,000.00.

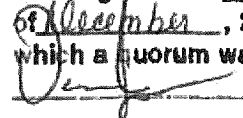
The project scope is to allow Exceleron Software, LLC as a sole source provider to establish Exceleron's MyUsage prepaid software access agreement, a web-based system, which provides customers with the necessary tools to offer customers a prepaid alternative payment option vs. traditional billing options. MLGW is requesting approval of this sole source award, which can only be provided by Exceleron Software, LLC due to Exceleron's Pre-Pay platform currently integrated with MLGW's existing Customer Information System (CIS) and Advanced Metering Systems (AMI) systems. An interruption in service would directly impact MLGW customers currently enrolled in the Pre-Pay program. The term of this contract is sixty (60) months from the date of the Notice to Proceed in the funded not to exceed amount of \$1,920,000.00. This sole source award complies with all applicable laws and policies.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12230 Exceleron Pre-Pay to Exceleron Software, LLC, in the funded amount of \$1,920,000.00, as outlined in the foregoing preamble, is approved and further,

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 2nd day of December, 2020, at which a quorum was present.

  
Secretary-Treasurer

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020, awarded Contract No. 12236, Meter Support Maintenance to Honeywell, in the funded amount of \$5,253,180.00, and is now recommending to the Council of the City of Memphis that it approves said award as proposed; and

WHEREAS, the project scope is to allow Honeywell as a sole source provider to provide software maintenance, license and support services for MLGW's metering infrastructure. MLGW is requesting approval of this sole source award, which can only be provided by Honeywell due to Honeywell's metering platform currently integrated with MLGW's existing Customer Information System (CIS) and Advanced Metering System (AMI) systems. An interruption in service would directly impact MLGW customers. The term of this contract is sixty (60) months from the date of the Notice to Proceed in the funded not to exceed amount of \$5,253,180.00. This sole source award complies with all applicable laws and policies. This sole source award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12236, Meter Support Maintenance to Honeywell, in the funded not to exceed amount of \$5,253,180.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12236, Meter Support Maintenance to Honeywell, in the funded amount of \$5,253,180.00.

The project scope is to allow Honeywell as a sole source provider to provide software maintenance, license and support services for MLGW's metering infrastructure. MLGW is requesting approval of this sole source award, which can only be provided by Honeywell due to Honeywell's metering platform currently integrated with MLGW's existing Customer Information System (CIS) and Advanced Metering System (AMI) systems. An interruption in service would directly impact MLGW customers. The term of this contract is sixty (60) months from the date of the Notice to Proceed in the funded not to exceed amount of \$5,253,180.00. This sole source award complies with all applicable laws and policies.

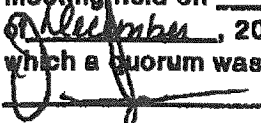
NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12236 Meter Support Maintenance to Honeywell, in the funded amount of \$5,253,180.00, as outlined in the foregoing preamble, is approved and further,

THAT, the President or his designated representative is authorized to execute the Award.

Same Day Minutes Approved.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 2nd day of December, 2020, at which a quorum was present.

  
Secretary-Treasurer

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020 approved Change No. 8 to Contract No. 10927, Perpetual Licensing Agreement with Pitney Bowes Software, Incorporated to renew the current contract in the funded amount of \$148,082.41, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to provide software maintenance, license and support services for the EngageOne Application and Composition Engine. The purpose of this software is to create or change bills and letters. The initial contract was for annual software maintenance, license and support services. This change is to ratify additional applications added to the current term ending August 31, 2020. In addition, this change is to extend the existing term for the period covering September 1, 2020 through August 31, 2025 in the funded amount of \$276,960.00. The remaining \$128,877.59 will be absorbed in the current contract value. MLGW is requesting continuous maintenance of the acquired system, which can only be performed by Pitney Bowes Software, Incorporated. This sole source renewal complies with all applicable laws and policies. The new contract value is \$913,508.04; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 8 to Contract No. 10927, Perpetual Licensing Agreement with Pitney Bowes Software, Incorporated to renew the current contract in the funded amount of \$148,082.41 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 8 to Contract No. 10927, Perpetual Licensing Agreement with Pitney Bowes Software, Incorporated to renew the current contract in the funded amount of \$148,082.41.

The project scope is to provide software maintenance, license and support services for the EngageOne Application and Composition Engine. The purpose of this software is to create or change bills and letters. The initial contract was for annual software maintenance, license and support services. This change is to ratify additional applications added to the current term ending August 31, 2020. In addition, this change is to extend the existing term for the period covering September 1, 2020 through August 31, 2025 in the funded amount of \$276,960.00. The remaining \$128,877.59 will be absorbed in the current contract value. MLGW is requesting continuous maintenance of the acquired system, which can only be performed by Pitney Bowes Software, Incorporated. This sole source renewal complies with all applicable laws and policies. The new contract value is \$913,508.04.

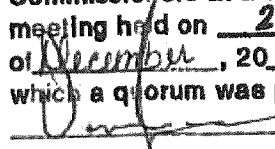
NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 8 to Contract No. 10927, Perpetual Licensing Agreement with Pitney Bowes Software, Incorporated to renew the current contract in the funded amount of \$148,082.41 as outlined in the foregoing preamble, is approved and further,

THAT, the President or his designated representative is authorized to execute the Change/Renewal.

*Same Day Minutes Approved.*

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 2nd day of December, 2020, at which a quorum was present.

 Secretary-Treasurer

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020, awarded Contract No. 12154, Surveying Services to Ollar Surveying Company, LLC, in the funded amount of \$135,425.00, and is now recommending to the Council of the City of Memphis that it approves said award as proposed; and

WHEREAS, the project scope is to provide supervision, labor, material, tools, equipment and transportation necessary to perform land surveying as required by the Division throughout Shelby County and various counties in Tennessee, Mississippi and Arkansas.

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on September 29, 2020. MLGW solicited ten (10) bidders; and received three (3) bids on October 20, 2020. The lowest and best bid was from Ollar Surveying Company, LLC in the amount of \$135,425.00. The term of this contract is for one (1) year from the date of the Notice to Proceed with an option of four (4) annual renewal terms. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12154, Surveying Services to Ollar Surveying Services Company, LLC, in the funded amount of \$135,425.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12154, Surveying Services to Ollar Surveying Company, LLC, in the funded amount of \$135,425.00.

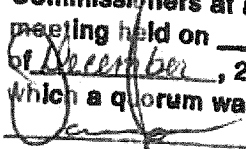
The project scope is to provide supervision, labor, material, tools, equipment and transportation necessary to perform land surveying as required by the Division throughout Shelby County and various counties in Tennessee, Mississippi and Arkansas.

The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on September 29, 2020. MLGW solicited ten (10) bidders; and received three (3) bids on October 20, 2020. The lowest and best bid was from Ollar Surveying Company, LLC in the amount of \$135,425.00. The term of this contract is for one (1) year from the date of the Notice to Proceed with an option of four (4) annual renewal terms. This award complies with all applicable laws and policies.

**NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:**

**THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12154 Surveying Services to Ollar Surveying Company, LLC, in the funded amount of \$135,425.00, as outlined in the foregoing preamble, is approved and further,**

**THAT, the President or his designated representative is authorized to execute the Award.**

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 2nd day of December, 2020, at which a quorum was present.  
  
Secretary-Treasurer



## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020 approved Change No. 3 to Contract No. 12016, Armored Car Service with Brinks, Incorporated to renew the current contract in the funded amount of \$30,000.00, and is now recommending to the Council of the City of Memphis that it approves said renewal as approved; and

WHEREAS, the project scope is to provide daily pick-up of cash receipts at all MLGW community offices. This change is to renew the current contract for the third of four (4) annual renewal terms for the period covering February 16, 2021 through February 15, 2022 in the funded amount of \$30,000.00, with no increase in rates from the previous term. This renewal complies with all applicable laws and policies. The new contract value is \$120,329.35; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 3 to Contract No. 12016, Armored Car Service with Brinks, Incorporated to renew the current contract in the funded amount of \$30,000.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 3 to Contract No. 12016, Armored Car Service with Brinks, Incorporated to renew the current contract in the funded amount of \$30,000.00.

The project scope is to provide daily pick-up of cash receipts at all MLGW community offices. This change is to renew the current contract for the third of four (4) annual renewal terms for the period covering February 16, 2021 through February 15, 2022 in the funded amount of \$30,000.00, with no increase in rates from the previous term. This renewal complies with all applicable laws and policies. The new contract value is \$120,329.35.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the approval of Change No. 3 to Contract No. 12016, Armored Car Service with Brinks, Incorporated to renew the current contract in the funded amount of \$30,000.00, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Renewal.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular-special meeting held on 2nd day of December, 2020, at which a quorum was present.

  
Secretary-Treasurer

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020 approved Change No. 2 to Contract No. 11801, Prescription Benefits Management with Express Scripts to extend the current contract for a three (3) month term in the funded amount of \$6,018,625.00, and is now recommending to the Council of the City of Memphis that it approves said extension as approved; and

WHEREAS, the project scope is to provide a prescription drug program for MLGW employees, retirees and dependents to utilize a single provider for retail and mail order programs. This program is funded by the MLGW Medical Benefit Fund which receives premium contributions from MLGW, employees, and retirees. The annual contribution is split 75% and 25% between MLGW and employees/retirees respectively. The initial term of this contract was for 36 months from the date of the Notice to Proceed with an option of two (2) additional one-year terms. This change is to extend the current contract for a three (3) month term for the period covering January 1, 2021 through March 31, 2021 in the funded amount of \$6,018,625.00. This extension is needed to allow time for a new prescription drug program to be put in place for MLGW employees, retirees and dependents. This extension complies with all applicable laws and policies. The new contract value is \$113,928,625.00; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby Change No. 2 to Contract No. 11801, Prescription Benefits Management with Express Scripts to extend the current contract for a three (3) month term in the funded amount of \$6,018,625.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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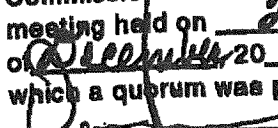
The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 2 to Contract No. 11801, Prescription Benefits Management with Express Scripts to extend the current contract for a three (3) month term in the funded amount of \$6,018,625.00.

The project scope is to provide a prescription drug program for MLGW employees, retirees and dependents to utilize a single provider for retail and mail order programs. This program is funded by the MLGW Medical Benefit Fund which receives premium contributions from MLGW, employees, and retirees. The annual contribution is split 75% and 25% between MLGW and employees/retirees respectively. The initial term of this contract was for 36 months from the date of the Notice to Proceed with an option of two (2) additional one-year terms. This change is to extend the current contract for a three (3) month term for the period covering January 1, 2021 through March 31, 2021 in the funded amount of \$6,018,625.00. This extension is needed to allow time for a new prescription drug program to be put in place for MLGW employees, retirees and dependents. This extension complies with all applicable laws and policies. The new contract value is \$113,928,625.00.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 2 to Contract No. 11801, Prescription Benefits Management with Express Scripts to extend the current contract in the funded amount of \$6,018,625.00, as outlined in the above preamble, is approved; and further

THAT, the President or his designated representative is authorized to execute the Extension.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a regular ~~special~~ meeting held on 2nd day of December 2020, at which a quorum was present.  
  
Secretary-Treasurer

## RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of December 2, 2020, awarded Contract No. 12162, Prescription Benefits Management to CVS, in the amount of \$59,587,000.00, and is now recommending to the Council of the City of Memphis that it approves said award as proposed; and

WHEREAS, the project scope is to provide a prescription drug program for MLGW employees, retirees and their dependents to utilize a single provider for retail and mail order program. This program is funded by the MLGW Medical Benefit Fund which receives premium contribution from MLGW, employees and retirees. The annual contribution is split 75% and 25% between MLGW and employees/retirees respectively.

WHEREAS, the Request for Proposal was advertised using MLGW's On-Line Bid Notification System on May 14, 2020. MLGW solicited six (6) companies; and received six (6) proposals on July 15, 2020 with the most responsive proposal being from CVS in the amount of \$59,587,000.00. Proposals were evaluated on the following criteria: 1) Net Cost Consideration; 2) Benefit Design and Formulary; 3) Administrative Services; 4) Mail and Specialty Programs; and 5) Clinical Programs. The term of this contract is for 36 months from the date of the Notice to Proceed with an option of two (2) additional one-year terms. The projected funded amount of \$59,587,000.00, over a three year period from April 1, 2021 to March 31, 2024 will be reconciled annually and reported to the Board of Commissioners at the end of each year. The projected funding represents an approximate 25% savings compared to the current contract. This award complies with all applicable laws and policies; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved an award of Contract No. 12162, Prescription Benefits Management to CVS, in the amount of \$59,587,000.00 as approved.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 2, 2020**

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The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12162, Prescription Benefits Management to CVS in the funded amount of \$59,587,000.00.

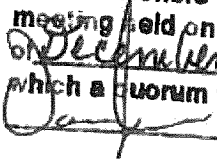
The project scope is to provide a prescription drug program for MLGW employees, retirees and their dependents to utilize a single provider for retail and mail order program. This program is funded by the MLGW Medical Benefit Fund which receives premium contribution from MLGW, employees and retirees. The annual contribution is split 75% and 25% between MLGW and employees/retirees respectively.

The Request for Proposal was advertised using MLGW's On-Line Bid Notification System on May 14, 2020. MLGW solicited six (6) companies; and received six (6) proposals on July 15, 2020 with the most responsive proposal being from CVS in the amount of \$59,587,000.00. Proposals were evaluated on the following criteria: 1) Net Cost Consideration; 2) Benefit Design and Formulary; 3) Administrative Services; 4) Mail and Specialty Programs; and 5) Clinical Programs. The term of this contract is for 36 months from the date of the Notice to Proceed with an option of two (2) additional one-year terms. The projected funded amount of \$59,587,000.00, over a three year period from April 1, 2021 to March 31, 2024 will be reconciled annually and reported to the Board of Commissioners at the end of each year. This award complies with all applicable laws and policies. The projected funding represents an approximate 25% savings compared to the current contract.

NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the award of Contract No. 12162, Prescription Benefits Management to CVS, in the funded amount of \$59,587,000.00, as outlined in the foregoing preamble, is approved and further,

THAT, the President or his designated representative is authorized to execute the Award.

I hereby certify that the foregoing is a true copy of a resolution accepted by the Board of Light, Gas and Water Commissioners at a ~~regular-special~~ meeting held on 2nd day of December 2020, at which a quorum was present.  
 Secretary-Treasurer

November 19, 2020

The Honorable Chase Carlisle, Chairman  
Personnel Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:


Subject to Council approval, I hereby recommend that:

**Willie Ward, Jr.**

be appointed to the Civilian Law Enforcement Review Board with a term expiring August 31, 2021.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members



November 19, 2020

The Honorable Chase Carlisle, Chairman  
Personnel Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

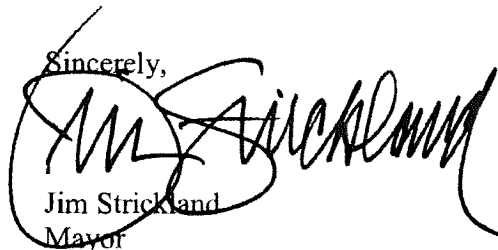
Subject to Council approval, I hereby recommend that:

**Jennifer Karnes, DVM**

be appointed to the Memphis Animal Shelter Advisory Board with a term expiring July 30, 2022.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

November 19, 2020

The Honorable Chase Carlisle, Chairman  
Personnel Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

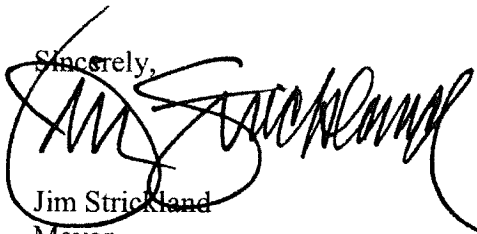
Subject to Council approval, I hereby recommend that:

**Shawna Engel**

be appointed to the Memphis Housing Authority, with a term expiring June 30, 2021.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

November 19, 2020

The Honorable Chase Carlisle, Chairman  
Personnel Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

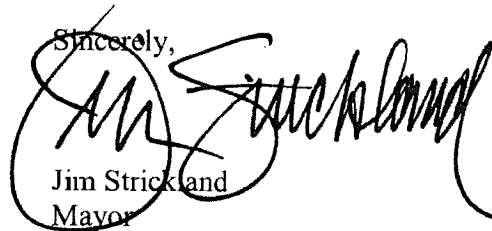
Subject to Council approval, I hereby recommend that:

**Raymond Browning Gill IV**

be appointed to the Memphis Landmarks Commission, as the Memphis & Shelby County Land Use Control Board representative, with a term expiring July 14, 2025.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

October 13, 2020

The Honorable Chase Carlisle, Chairman  
Personnel Committee  
City Hall - Room 514  
Memphis, TN 38103

Dear Chairman Carlisle:

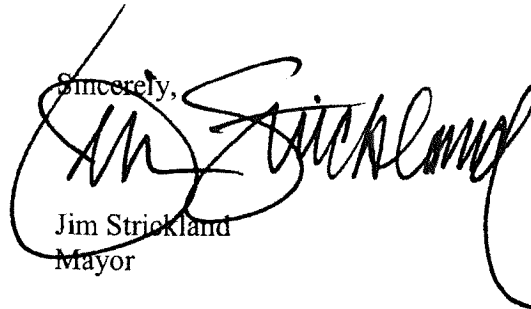
Subject to Council approval, I hereby recommend that:

**Raymond Browning Gill IV**

be reappointed to the Memphis & Shelby County Land Use Control Board, with a term  
expiring October 31, 2023.

I have attached biographical information.

Sincerely,



Jim Strickland  
Mayor

JSS/sss

Cc: Council Members

DIVISION 2. 1978 PLAN

*Part 1. Participation*

**Ordinance Amendment No. 19.** Sec. 25-160 Participation shall be amended by adding the following new subparagraph (e) thereto, which shall read as follows:

(e) Each Transferred Participant (as such term is defined in Sec. 25-1(43)) who meets each and all of the following criteria

(i) as of the original effective date of this 2016 plan was, has continuously since such date been, and continues to be as of the effective date of this Ordinance employed by the City in full-time employment as a commissioned fire or police officer, a police dispatcher, a fire alarm operator, or a paramedic,

(ii) has continuously since adoption of this 2016 plan participated in this 2016 plan as a Transferred Participant and has not experienced a severance date as such term is defined in Sec. 25-1(39), and

(iii) has not withdrawn any amount of his or her cash balance account or separate defined contribution plan account from the 2016 plan,

may make a one-time irrevocable election in a form and manner prescribed by the City, but not later than thirty (30) days after the adoption of this amendment, to authorize the City to transfer his or her entire 2016 plan cash balance account plus his or her entire 2016 defined contribution plan account to the 1978 plan, whereupon his or her participation in the 2016 plan and any and all rights and benefits thereunder shall cease and such Transferred Participant shall participate in the 1978 plan, the same as if he or she had not transferred participation from the 1978 plan to the 2016 plan, subject to the following:

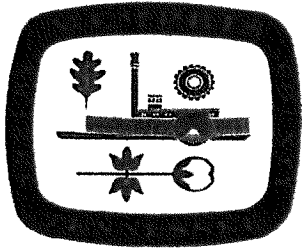
As required by Tenn. Code Ann. §9-3-506(a)(3) and the Comptroller of the State of Tennessee, the pension benefits of this class of Transferred Participants making the irrevocable election provided herein (the “electing Transferred Participants”) shall be funded by and only to the extent of the city contribution to the cost of the pension benefits that would otherwise have been accrued in the 2016 plan for this class of electing Transferred Participants plus the available funds allocated for the cost of the pension benefits of the electing Transferred Participants in the Special Revenue Fund created pursuant to the referendum passed October 3, 2019 increasing the sales and use tax in the City of Memphis by 0.5% from 2.25% to 2.75% to establish the funding for the 1978 pension benefits for such electing Transferred Participants. In the event the cost of the pension benefits for this class of electing Transferred Participants in the 1978 plan in any plan year (based on the city’s funding policy in effect for such plan year adopted pursuant to Tenn. Code Ann. §9-3-504, as amended) exceeds (i) the cost of the pension benefits for this class of electing Transferred Participants had they remained in the 2016 plan ((based on the city’s funding policy in effect for such plan year adopted pursuant

to Tenn. Code Ann. §9-3-504, as amended) plus (ii) the city's required 1.5% of compensation defined contribution plan contribution to the 2016 plan defined contribution accounts of these Transferred Participants (as provided in Ch. 25-231) had they remained in the 2016 plan, plus (iii) the amount allocated in the Special Revenue Fund for the cost of the pension benefits for this class of electing Transferred Participants in the 1978 plan, then the following steps shall automatically apply in determining the pension benefit of such electing Transferred Participants for such plan year:

(1) the retirement allowance formula for the pension benefit of this class of electing Transferred Participants for such plan year will be reduced from 2.25% or 2.50%, as applicable, in 10 basis point increments, to such lesser amount but not below zero as is necessary so that the costs of benefits for this class of electing Transferred Participants does not exceed the sum of (i), (ii), and (iii) immediately above;

The adjustment provided above shall be effective as of July 1 next following the determination of the cost of benefits, and shall not reduce the accrued pension benefit of any electing Transferred Participant earned immediately prior to the effective date of the adjustment.

The election provided hereunder to such electing Transferred Participants, once made by a Transferred Participant, shall be irrevocable and may not be subsequently modified or rescinded by the electing Transferred Participant. If a Transferred Participant makes such an election as provided herein, all rights and benefits upon subsequent retirement or other termination of employment of such electing Transferred Participant shall be governed solely and exclusively by the terms and provisions of the 1978 plan and as set forth in this section.



## **Memphis City Council Summary Sheet**

- 1. Description of the Item (Resolution, Ordinance, etc.) Amendments to the Memphis Retirement System. Copy of amendments attached**
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.) Division of Human Resources and Finance**
- 3. State whether this is a change to an existing ordinance or resolution, if applicable. Yes, these amendments are to the existing Memphis Retirement System ordinances comprising the plan document**
- 4. State whether this requires a new contract, or amends an existing contract, if applicable. No new contract is required**
- 5. State whether this requires an expenditure of funds/requires a budget amendment. Funds required for these amendments are provided through the referendum adopted last November**

ORDINANCE # \_\_\_\_\_

ORDINANCES TO AMEND CHAPTER 25  
OF THE CITY OF MEMPHIS CODE OF ORDINANCES  
GOVERNING THE CITY PENSION SYSTEM

WHEREAS, the City of Memphis, Tennessee (the “City”) has adopted a pension system for general employees as well as police officers and firefighters known as the City of Memphis Retirement System, as amended and restated from time to time, consisting of a 1948 plan (that part of the system benefiting employees participating under the provisions of sections 25-60 through 25-99) and a 1978 plan (that part of the system benefiting employees participating under the provisions of sections 25-160 through 25-199) as amended in 2012; and a 2016 plan (that part of the system benefiting employees participating under the provisions of sections 25-210 through 25-274), currently established under City Ordinance Chapter 25, Articles I through VII, Divisions 1, 2 and 3 (collectively, “the Pension System”); and

WHEREAS, in order to protect the Pension System’s actuarial soundness and ensure the long-term financial viability of the Pension System, and to ensure compliance with required provisions of the federal Internal Revenue Code governing employee benefit plans of governmental employers, as well as to make certain clarifying amendments to existing language it is necessary that the Pension System be further amended as set forth herein;

NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the Pension System shall be amended as follows:

1. Sec. 25-1(4) shall be amended and restated in its entirety to read as follows:

4. *Average monthly compensation* means:

a. *1948 plan*:

- i. For each participant, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her five consecutive years of service for which such compensation was the highest. If his or her average monthly compensation for the 12 months next preceding the date of his or her retirement exceeds the average of his or her highest five consecutive years' compensation, then his or her average monthly compensation shall be based upon the 12-month period next preceding the date of his or her

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retirement, and in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.

- ii. While in the armed services and receiving years of service credit as provided under subsection (44)(g) of this section, a participant's compensation for purposes of this subsection shall be deemed to be his or her rate of base compensation as a city employee in effect at the time he or she entered the armed services.
- iii. For any police officer or firefighter credited with 30 or more years of service, and eligible for automatic promotion to captain or comparable rank in the police or fire divisions of the city under Charter Section 67, his or her average monthly compensation shall be the current monthly base compensation of a captain or comparable rank in the police or fire divisions of the city as of the date of his or her retirement, plus any shift premium pay, hazardous premium pay, holiday pay, longevity pay and incentive pay, excluding overtime pay, earned during the immediately preceding 12 months.

b. *1978 plan:*

- i. For each participant hired prior to July 1, 2012, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her five consecutive years of service for which such compensation was the highest. If his or her average monthly compensation for the 12 months next preceding the date of his or her retirement exceeds the average of his or her highest five consecutive years' compensation, then his or her average monthly compensation shall be based upon the 12-month period next preceding the date of his or her retirement, and in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.
- ii. For each participant that is hired on or after July 1, 2012, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her three consecutive years of service for which such compensation

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was the highest. In addition, in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.

- iii. For any police officer or firefighter, the average monthly compensation for three (3) consecutive years of service (excluding and disregarding any hiatus in the participant's employment with the city) for which such average is the greatest, or, if a participant has less than three (3) consecutive years of service, the participant's average monthly compensation for the entire period, or if less, the three- year aggregate period during which the participant was an employee and of which such average is the greatest.
- iv. For any police officer or firefighter hired before February 1, 1978, credited with 30 or more years of service, and eligible for automatic promotion to captain or comparable rank in the police or fire divisions of the city under Charter section 67, his or her average monthly compensation shall be the average monthly base compensation of a captain or comparable rank in the police or fire divisions of the city for the immediately preceding three years to be calculated as follows: the current monthly compensation of a captain or comparable rank as of the date of his or her retirement, plus the monthly compensation of a captain or comparable rank as of the date one year prior to the date of his or her retirement, plus the monthly compensation of a captain or comparable rank as of the date two years prior to the date of his or her retirement, plus any shift premium pay, hazardous pay, longevity pay, and incentive pay, excluding overtime pay or any double time compensation for holidays, earned during the immediately preceding three years, the sum of which is divided by three.

2. Sec. 25-1(11) shall be amended by the addition of the following subsection (c) to Sec. 25-1(11) regarding the 2016 Plan:

(c) 2016 plan: For each participant, for each plan year, the amount of pay, not in excess of two hundred thousand dollars (\$200,000.00) (as such amount may be adjusted for inflation from time to time by the secretary of the treasury under Code Sections 401(a)(17) and 415(d)), received by such participant for services rendered to the city, including shift premium pay, hazardous pay, longevity pay and incentive pay, but excluding overtime pay or any double-time compensation for holidays.

3. Sec. 25-1(11) shall be amended by the addition of the following subsection (d):

(d) For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code section 3401(h)(2), from the city shall be treated as an employee of the city, (ii) the differential wage payment shall be treated as compensation, and (iii) the pension system shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

4. Sec. 25-1(17) shall be amended and restated in its entirety to read as follows:

*Employee* means, except for any such employee who is eligible to make and has duly made the election provided in Sec. 25-160 hereof, any person hired on or before June 30, 2016, but who as of June 30, 2016 has seven and one-half (7.5) or more years of service with the city and who was on June 30, 2016 a participant in the City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII, in the regular, full-time employ of the city to the extent that the city contributes to the salary of such employee in a job classification or title that the city administration shall designate as eligible for participation in the plan, including any person who is elected to his/her office by the people, but not including the light, gas and water division of the city, temporary employees as classified by the city, part-time employees, or any employee mandated by law to contribute to the federal Social Security system and not eligible to be a participant by his/her job classification.

The term "employee" shall also not include any person who is a leased employee within the meaning of Code §414(n). Leased employee means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full-time basis for a period of at least one (1) year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee shall not be considered an employee (unless otherwise specifically covered by the pension system) of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludible from the employee's gross income under Code § 125, Code § 1320, Code §401(k), Code §402(h) or Code §403(b), (2) immediate participation, and (3) full and

immediate vesting; and (ii) leased employees do not constitute more than twenty percent (20%) of the recipient's non-highly compensated workforce.

5. The last sentence of Sec. 25-1(27) shall be deleted and the following sentence substituted therefor:

The determination of the line-of-duty disability of a participant shall be made on medical evidence by at least two (2) qualified physicians, one of whom may be the physician who makes disability determinations as to such participant for purposes of worker's compensation claims.

6. The last sentence of Sec. 25(31) shall be deleted and the following sentence substituted therefor::

The determination of the ordinary disability of a participant shall be made on medical evidence by at least two (2) qualified physicians, one of whom may be the physician who makes disability determinations as to such participant for purposes of worker's compensation claims.

7. Sec. 25-1(43) shall be amended by adding as subparagraph (h) thereto the following subparagraph (h):

(h) *Uniformed Service.* To the extent required under the Uniformed Services Employment and reemployment Rights Act of 1994, as amended from time to time, and subject to the mandates and conditions under such Act for the granting of service, including without limitation the payment of employee contributions as required under this Pension and Retirement System, a participant who leaves the employment of the city to enter the uniformed services and returns to employment with the city shall be credited with years of service in respect of such uniformed services.

8. Sec. 25-2 shall be amended and restated in its entirety to read as follows:

There is created and established a board of administration which, under the provisions of this title and the direction of the mayor, shall administer the plan and the trust fund created by this title. The board shall consist of the mayor or the mayor's designee, the officer in charge of the division of personnel or that officer's designee, the comptroller, five employees of the city with at least ten years of service, a citizen member of the city, a retiree of the plan, and a member of the city council. The member of city council shall be an ex officio member without a vote. The officer in charge of the division of personnel or that officer's designee shall be an ex officio member without a vote. The employee, citizen and retiree members of the board shall be appointed on the first Tuesday in December in odd-numbered years by the council on the recommendation of the mayor, for two year

appointments which shall begin on the January 1 next following the appointments. The council member of the board shall be chairman of the city council or the chairman's designee, who will be appointed each December, to serve for one year beginning on the January 1 next following the appointments. Each of the employee, citizen, retiree member, and city council member of the board shall serve until his or her successor is duly appointed. Vacancies during the term of any employee, citizen, retiree and/or city council member shall be filled by appointment in the same manner as provided for the original appointment except that such appointment shall be made as soon as reasonably feasible after such vacancy occurs (regardless of the year or when in the year such vacancy occurs). The term of such member shall begin effective immediately upon such appointment, and such member so appointed shall serve for the unexpired term of the original member or until a successor to such member is duly appointed. Until a vacancy is filled as provided herein the action of a quorum of the members as provided in Section 25-7 shall be and constitute a valid and binding action of the Board notwithstanding that a position is vacant.

9. Sec. 25-5 shall be amended and restated in its entirety to read as follows:

The mayor or the mayor's designee shall be ex officio chairperson and the comptroller ex officio treasurer of the board.

10. Sec. 25-31 shall be amended by adding as subparagraph (g) thereto the following subparagraph (g):

Five (5) members of the Pension Investment Committee shall constitute a quorum to transact any business, but it shall not require less than five (5) affirmative votes to carry out any matter presented to it.

11. Article V, Sec. 25-50 shall be amended and restated in its entirety to read as follows:

**Sec. 25-50** Code §415 Limitations on Benefit Attributable to Employer Contributions.

(a) *Compliance with Code §415.* The limitations in this Section are intended to comply with the provisions of §415 of the Internal Revenue Code (the "Code") as applicable to governmental plans, the provisions of which are incorporated by reference. The plan shall be administered in compliance with the provisions of Code §415 and regulations under that section that are applicable to governmental plans and applicable provisions of the final regulations issued by the Internal Revenue Service on April 5, 2007. Employer-financed benefits provided by the retirement system shall not exceed the applicable limitations set forth in Code §415, as adjusted under section 415(d) to reflect cost of living increases, and the retirement system

shall adjust the benefits payable to participants and beneficiaries subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the Code, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans of the employer. If there is any discrepancy between the provisions of this Section and the provisions of Code §415 and the applicable regulations promulgated thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of the Code.

(b) *Basic Limitation on Benefit.* Notwithstanding any provision in the plan to the contrary and except as provided in subsection (b) hereof, the annual benefit payable to a participant under the plan to the extent attributable to employer contributions, shall not exceed the Defined Benefit Dollar Limitation.

(c) *Exceptions.* The limitations under subsection (a) shall not apply if the participant's annual benefit attributable to employer contributions under the plan or any other defined benefit plans maintained by an Affiliate does not in the aggregate exceed \$10,000. For Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation is \$160,000, as adjusted, effective January 1 of each year, under Code §415(d) in such manner as the Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code §415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies.

(d) *Adjustments to Basic Limitation.*

(1) *Adjustment for Early Retirement.* If a Participant's benefit under the Plan commences before age sixty-two (62), the Defined Benefit Dollar Limitation shall be adjusted (in the manner prescribed by the Secretary of the Treasury) so that it is the Actuarial Equivalent of an annual benefit equal to the Defined Benefit Dollar Limitation commencing at age sixty-two (62). The reduction under this subparagraph shall not reduce the Defined Benefit Dollar Limitation below (i) \$75,000 if the benefit begins at age fifty-five (55), or (ii) if the benefit begins before age fifty-five (55), the equivalent of the \$75,000 limitation for age fifty-five (55).

(2) *Adjustment for Deferred Retirement.* If a Participant's benefit under the Plan commences after age sixty-five (65), the Defined Benefit Dollar Limitation shall be adjusted (in the manner prescribed by the Secretary of the Treasury) so that it is the Actuarial

Equivalent of a benefit equal to the Defined Benefit Dollar Limitation commencing at age sixty-five (65).

(3) *Adjustment for Less Than Ten Years of Participation.* If a Participant has completed less than ten (10) years of participation in the Plan, the Defined Benefit Dollar Limitation shall be adjusted by multiplying it by a fraction, the numerator of which is the Participant's number of years (or part thereof) of participation in the Plan and the denominator of which is ten (10); provided, such adjustment shall in no event reduce the Defined Benefit Dollar Limitation to an amount which is less than one-tenth (1/10<sup>th</sup>) of the Defined Benefit Dollar Limitation [as determined without regard to this subsection (d)(3)].

(4) *Adjustment for Less Than Ten Years of Vesting Service.* If a Participant has completed less than ten (10) Years of Service, the limitation referred to in (b) and the exception described in (c) shall be adjusted by multiplying the amounts described in such limitation and exception by a fraction, the numerator of which is the Participant's number of Years of Service (or part thereof) and the denominator of which is ten (10); provided, such adjustments shall in no event reduce the limitation or exception amount to a figure which is less than one-tenth (1/10<sup>th</sup>) of such limitation or exception amount as determined without regard to this subsection (d)(4).

(5) *Actuarial Equivalence.* Actuarial Equivalence under subsections (d)(1) and (d)(2) shall be determined using a five percent (5%) interest assumption and the applicable mortality table prescribed under Code §417(e)(3)(A)(II).

(e) *Special Rule for Survivor and Disability Benefits.* Regardless of the above, the early retirement reduction and the ten (10) year phase-in do not apply to survivor and disability benefits.

(f) *Treatment of Multiple Defined Benefit Plans.* The limitations of this section with respect to any participant who at any time has participated in any other defined benefit plan maintained by the employer shall apply as if the total benefits payable under all defined benefit plans in which the participant has participated were payable from one plan.

(g) *Special Definitions Applicable to Code §415 Limitations.*

(1) *Current Accrued Benefit.* The term "Current Accrued Benefit" shall mean a Participant's accrued benefit, when expressed as an

annual benefit within the meaning of Code §415(b)(2), determined as of the last day of the last Limitation Year beginning before January 1, 1987, without regard to any change in the terms of the Plan or any cost of living adjustments, if any, occurring after May 5, 1986.

(2) *Defined Benefit Dollar Limitation.* The term "Defined Benefit Dollar Limitation" shall mean, for Limitation Years ending after December 31, 2001, \$160,000, as adjusted, effective January 1 of each year, under Code §415(d) in such manner as the Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code §415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies.

(3) *Defined Benefit Plan.* The term "Defined Benefit Plan" shall mean any qualified retirement plan maintained by the Employer which is not a Defined Contribution Plan.

(4) *Compensation.* The term "Compensation" as used in this section shall mean compensation as defined in the Regs. 1.415(c)-2(a) and shall be adjusted for types of compensation paid after a Participant's severance from employment as provided in the final regulations under Section 415 of the Internal Revenue Code effective April 5, 2007 (IRB 2007-18, T.D. 9319).

For purposes of this Section "Limitation Year" shall mean the Plan year.

12. Article V shall be amended by the addition of a new section, to be denominated as Sec. 25-52 Rollover Distributions, as follows:

**25-52. Rollover Distributions.**

(a) *Application.* Notwithstanding any provision in the Pension System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect at the time and in the manner prescribed by the Board of Administration to have any portion of an eligible rollover distribution from the Pension System paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) *Definitions.*

(1) "Eligible Rollover Distribution." An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the "distributee," except that an "eligible rollover distribution" does not include:



any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any other distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution that is reasonably expected to total less than \$200 during a year.

(2) "Eligible Retirement Plan." An "eligible retirement plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b) (other than an endowment contract), a qualified trust (an employees' trust) described in Code Section 401(a) which is exempt from tax under Code Section 501(a), an annuity plan described in Code Section 403(a), an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and an annuity contract described in Code Section 403(b), that accepts the "distributee's" "eligible rollover distribution." However, in the case of an "eligible rollover distribution" to the surviving spouse or a nonspouse beneficiary as provided herein, an "eligible retirement plan" is an individual retirement account or individual retirement annuity.

(3) "Distributee." A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code § 414(p), are distributees with regard to the interest of the spouse or former spouse. In addition, a rollover shall be permitted in accordance with Code Section 402(c)(11). In general this includes a direct trust to trust transfer by a designated beneficiary to an inherited individual retirement account or annuity or other trust of a type specified by the Secretary of the Treasury.

(4) "Direct Rollover." A direct rollover is a payment by the pension system to the eligible retirement plan specified by the distributee.

(c) *Non-spouse beneficiary rollover right.* For distributions after December 31, 2009, a non-spouse beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution from

the Pension System to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(A) Certain requirements not applicable. Although a non-spouse beneficiary may roll over directly a distribution as provided above, any distribution made prior to January 1, 2010 is not subject to the direct rollover requirements of Code §401(a)(31) (including Code §401(a)(31)(B), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c)). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

(B) Trust beneficiary. If the Participant’s named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(C) Required minimum distributions not eligible for rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary’s distribution.

(d) *Roth IRA rollover.* For distributions made after December 31, 2007, a participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b).

13. Subparagraph (a) of Section 25-84 Refund of employee contributions shall be amended and restated in its entirety by substituting the following subparagraph (a) therefor:

(a) Any participant whose employment with the city terminates, for any reason other than death, who is not entitled to any benefits under section Sec. 25-78, Sec. 25-81 or Sec. 25-82, and who has not elected benefits under Sec. 25-83, shall receive an amount equal to the product of his or her total employee contributions times the applicable return multiple as determined under the table in Sec. 25-1 paid as soon as administratively feasible following the date the termination of his or her employment occurs or is deemed to have occurred under subsection C of this section unless he or she earlier withdraws the employee contributions,

becomes entitled to receive benefits under Sec. 25-78, Sec. 25-81 or Sec. 25-82, or elects benefits under Sec. 25-83.

14. Section 25-84 Refund of employee contributions shall be amended by the addition of the following as new subsection (b) and the re-lettering of the current subsection (b) as subsection (c):

(b) Any participant whose employment with the city terminates for any reason other than death but who is entitled to a benefit payable under Sec. 25-78, Sec. 25-81 or Sec. 25-82, and who has not elected benefits under Sec. 25-83, may elect to receive in lieu of any other benefit payable under any other section of this Plan an amount equal to the product of his or her total employee contributions times the applicable return multiple as determined under the table in Sec. 25-1 paid as soon as administratively feasible following the date the termination of his or her employment occurs (or which is deemed to have occurred under subsection C of this section) unless he or she earlier withdraws the employee contributions, becomes entitled to receive benefits under Sec. 25-78, Sec. 25-81 or Sec. 25-82, or elects benefits under Sec. 25-83. In the event that any participant elects to withdraw his or her participant contributions as provided in this section 25-84(b), such participant shall be deemed to have waived his or her rights to any other benefit payments under any provision of this Retirement System, including the right to payment of any survivor benefits otherwise payable in the event of the participant's death in accordance with section 25-90 or 25-91 or otherwise under the Pension System.

15. Sec. 25-85 shall be amended and restated in its entirety to read as follows:

**25-85 Benefits upon reemployment.**

If a participant receiving benefits pursuant to this 1948 plan is reemployed after his or her annuity commencement date, and becomes a participant in the Plan as provided in Sec. 25-61 or any other section of the Plan, no further benefit payments shall be made to that participant during his or her period of reemployment. Subsequent benefits and an appropriate annuity compensation date for that participant shall be determined based on his or her years of service determined under Sec. 25-1(45), and in accordance with this 1948 plan or the 1978 and 2016 plan, as applicable; provided, however, subsequent benefits shall be reduced by the actuarial equivalent of any amounts distributed between his or her first annuity commencement date and his or her most recent reemployment commencement date, but not to an amount less than the annual plan benefit he or she was receiving immediately before his or her most recent reemployment commencement date.

16. Effective from and after the effective date of this Ordinance subsection (a) of Sec. 25-93 shall be amended and restated in its entirety by substituting the following subparagraph (2) therefor:

*Beneficiary priority.* The death benefit of Sec. 25-90 or Sec. 25-91 shall be paid to the surviving spouse (as such term is defined in Sec. 25-1) until the spouse's death. If there is no spouse, or upon the spouse's death, the death benefit shall be made or shall continue to be paid to or on the behalf of the participant's surviving child and handicapped child (as the terms "child" and "handicapped child" are defined in Sec. 25-1), for as long as the individual is a child or handicapped child; provided, however, any handicapped child shall be entitled to receive only 50 percent of the benefit payment any other child of the participant shall be entitled to receive. If payments are made to more than one child, the death benefit shall be payable in equal shares; provided, if any child becomes ineligible to receive benefits because of death or attainment of age, the death benefit shall be divided equally among the remaining eligible children. No surviving spouse of a participant's spouse shall be entitled to any benefits from this 1948 plan as a result of the participant's spouse's interest in a benefit payable under Sec. 25-90 or 25-91.

17. Sec. 25-94 shall be deleted in its entirety and the following Sec. 25-94 substituted therefor as Sec. 25-94:

**Sec. 94. Residual benefits and Refund of Employee Contributions.**

- (a) Notwithstanding any other sections of this 1948 plan, a participant's beneficiaries, in the order of priority as set forth in Sec. 25-94(b) hereof, shall be paid any excess of the participant's total accumulated employee contributions, minus the aggregate total retirement and death benefit payments under this 1948 plan made to the participant, the participant's spouse, children, or any other designated beneficiary, following the death of all such individuals.
- (b) For a participant whose employment terminates due to death, whose beneficiaries are not entitled to any benefit under any other section of this Plan, such participant's beneficiaries, in the order specified below, shall be entitled to receive a refund of the participant's contributions, less the aggregate of any amount of such contributions paid to the participant, the participant's spouse, children or any other designated beneficiary, prior to the participant's death. The beneficiaries of the benefit under this section (or in the case of residual benefits the beneficiaries of any residual benefits under Sec. 25-94(a) hereof) shall be

(i) the beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board). Notwithstanding the foregoing to the contrary, if the participant is married at the time of such designation, if the beneficiary or beneficiaries designated by the participant is not the participant's spouse, the participant's spouse's written consent to such specific beneficiary or beneficiaries shall be required for such designation to become effective, and such consent shall be witnessed by a notary public or by the Benefits Manager of the City, the Total Rewards Officer of the City, or such other person representing the Board as duly designated by the Board. A participant's spouse may give a general consent acknowledging the spouse's right to consent to any beneficiary or beneficiaries and relinquishing such right, in which event any future revocation and/or redesignation of beneficiary(ies) by the participant shall not require further spousal consent. The consent of the spouse must acknowledge the effect of such election and, once given, cannot be revoked by such spouse. Any spousal consent shall only be applicable to the spouse granting such consent, or

(ii) the participant's spouse, if married to the participant at the time of his/her death, or

(iii) if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in Section 25-1(6), or

(iv) if no such surviving child and/or handicapped child, to the participant's surviving child as the term "child" is defined in Section 25-1(6) but without regard to the child's age or status in an educational institution, or

(v) if no such surviving child to the alternative beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board) or

(vi) if the participant failed to designate an alternate beneficiary or beneficiaries as provided above, to the participant's estate.

If there is more than one eligible beneficiary the benefit shall be divided equally among the eligible beneficiaries unless the beneficiaries are designated beneficiaries by the participant as provided above whereupon the benefit will be divided in accordance with the designation by the participant, or if no such designation then equally. For purposes of this section, the terms "spouse" and "child" shall mean any person who the Board determines in good faith under the Plan is the legally recognized spouse or child of the participant. Each beneficiary, or his/her duly appointed representative, shall be responsible for making application, in accordance with uniform procedures established by the Board, for any

benefit due him/her under this section. A beneficiary shall have no claim against the Board, or the pension system, or the city by reason of the failure of such beneficiary to apply properly or timely for benefits under the pension system.

18. Sec. 25-160 Participation shall be amended by adding the following as subparagraph (e) thereto:

(e) Each Transferred Participant (as such term is defined in Sec. 25-1(43)) who (i) both as of the original effective date of this 2016 plan was, has continuously since such date been, and continues to be as of the effective date of this Ordinance employed by the City in full-time employment as a commissioned fire or police officer, a police dispatcher, a fire alarm operator, or a paramedic, (ii) has continuously since adoption of this 2016 plan participated in this 2016 plan as a Transferred Participant and has not experienced a severance date as such term is defined in Sec. 25-1(39), (iii) has not withdrawn any amount of his or her cash balance account or separate defined contribution plan account from the 2016 plan may make a one-time irrevocable election in a form and manner prescribed by the City to transfer his or her entire cash balance account, consisting of both participant and city contributions and the aggregate interest credits on said account, plus his or her entire separate defined contribution plan account to the 1978 plan, whereupon his or her participation in the 2016 plan and any and all rights and benefits thereunder shall cease and such Transferred Participant shall participate in the 1978 plan, the same as if he or she had not transferred participation from the 1978 plan to the 2016 plan. Such election, once made, shall be irrevocable and may not be subsequently modified. If a participant makes such an election, all rights and benefits upon subsequent retirement or other termination of employment by such Transferred Participant shall be governed solely and exclusively by the terms and provisions of the 1978 plan.

19. Subparagraph (a) of Section 25-184 Refund of employee contributions shall be amended and restated in its entirety by substituting the following subparagraph (a) therefor:

(a) Any participant whose employment with the city terminates, for any reason other than death, who is not entitled to any benefits under Sec. 25-178, Sec. 25-181 or Sec. 25-182, and who has not elected benefits under Sec. 25-183, shall receive an amount equal to the product of his or her total employee contributions times the applicable return multiple as determined under the table in Sec. 25-1 paid as soon as administratively feasible following the date the termination of his or her employment occurs (or which is deemed to have occurred under subsection C of this section) unless he or she earlier withdraws the employee contributions, becomes entitled to receive benefits under Sec. 25-178, Sec. 25-181 or Sec. 25-182, or elects benefits under Sec. 25-183.

20. Section 25-184 Refund of employee contributions shall be amended by the addition of the following as new subsection (b) and the re-lettering of the current subsection (b) as subsection (c):

(b) Any participant whose employment with the city terminates for any reason other than death but who is entitled to a benefit payable under Sec. 25-178, Sec. 25-181 or Sec. 25-182, and who has not elected benefits under Sec. 25-183, may elect to receive in lieu of any other benefit payable under any other section of this Plan an amount equal to the product of his or her total employee contributions times the applicable return multiple as determined under the table in Sec. 25-1 paid as soon as administratively feasible following the date the termination of his or her employment occurs or is deemed to have occurred under subsection C of this section unless he or she earlier withdraws the employee contributions, becomes entitled to receive benefits under Sec. 25-178, Sec. 25-181 or Sec. 25-182, or elects benefits under Sec. 25-183. In the event that any participant elects to withdraw his or her participant contributions as provided in this section 25-184(b), such participant shall be deemed to have waived his or her rights to any other benefit payments under any provision of this Retirement System, including the right to payment of any survivor benefits otherwise payable in the event of the participant's death in accordance with section 25-190 or 25-191 or otherwise under the Pension System.

21. Sec. 25-185 shall be amended and restated in its entirety to read as follows:

**Sec. 25-185 Benefits upon reemployment.**

If a participant receiving benefits pursuant to this 1978 plan is reemployed after his annuity commencement date, and becomes a participant in this Plan as provided in Sec. 25-161 or any other section of the Plan, no further benefit payments shall be made to that participant during his period of reemployment. Subsequent benefits and an appropriate annuity commencement date for that participant shall be determined based on his years of service determined under section 25-1(45) and in accordance with this 1978 plan or the 1948 and 2016 plans, as applicable; provided, however, subsequent benefits shall be reduced by the actuarial equivalent of any amounts distributed between his or her first annuity commencement date and his or her most recent reemployment commencement date, but not to an amount less than the annual plan benefit he or she was receiving immediately before his or her most recent reemployment commencement date.

Any employee hired after October 1, 2013, that leaves employment at the City of Memphis and is eligible for a pension benefit under this 1978 plan or any other plan division of the Memphis Pension System and is then employed at the MLGW, Shelby County, or any other taxpayer supported Primary Government and Discretely Presented Component Units of Memphis or Shelby County shall have his/her pension payment under the City of Memphis Pension System reduced

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by the amount of the salary received from such employment up to the amount of the pension payment under the City of Memphis Pension System during the period of such employment. If the pension payment under the City of Memphis Pension System exceeds the salary received in such employment, then the pension payment shall be reduced by the amount of the gross amount of the salary during the period of employment.

22. Effective from and after the effective date of this Ordinance subsection (a) of Sec. 25-193 shall be amended and restated in its entirety by substituting the following subparagraph (a) therefor:

*Beneficiary priority.* The death benefit of Sec. 25-190 or Sec. 25-191 shall be paid to the surviving spouse (as such term is defined in Sec. 25-1) until the spouse's death. If there is no spouse, or upon the spouse's death, the death benefit shall be made or shall continue to be paid to or on the behalf of the participant's surviving child and handicapped child (as the terms "child" and "handicapped child" are defined in Sec. 25-1), for as long as the individual is a child or handicapped child; provided, however, any handicapped child shall be entitled to receive only 50 percent of the benefit payment any other child of the participant shall be entitled to receive. If payments are made to more than one child, the death benefit shall be payable in equal shares; provided, if any child becomes ineligible to receive benefits because of death or attainment of age, the death benefit shall be divided equally among the remaining eligible children. No surviving spouse of a participant's spouse shall be entitled to any benefits from this 1978 plan as a result of the participant's spouse's interest in a benefit payable under Sec. 25-190 or 25-191.

For each participant hired on or after July 1, 2012, the death benefit of 25-190 or 25-191 shall be paid to the surviving spouse until the spouse's death. If there is no spouse, or upon the spouse's death, the death benefit shall be made, or shall continue to be paid to or on the behalf of the participant's child and handicapped child (as the terms "child" and "handicapped child" are defined in Sec. 25-1), for as long as the individual is a child or handicapped child; provided, however, any handicapped child shall be entitled to receive only 50 percent of the benefit payment any other child of the participant shall be entitled to receive. If payments are made to more than one child, the death benefit shall be payable in equal shares; provided, if any child becomes ineligible to receive benefits because of death or attainment of age, the death benefit shall be divided equally among the remaining eligible children. No surviving spouse of a participant's spouse shall be entitled to any benefits from this 1978 plan as a result of the participant's spouse's interest in a benefit payable under Sec. 25-190 or 25-191.



23. Sec. 25-194 shall be deleted in its entirety and the following Sec. 25-194 substituted therefor as Sec. 25-194:

**Sec. 194. Residual benefits and Refund of Employee Contributions.**

- (a) Notwithstanding any other sections of this 1978 plan, a participant's beneficiaries, in the order of priority as set forth in Sec. 25-194(b) hereof, shall be paid any excess of the participant's total accumulated employee contributions, minus the aggregate total retirement and death benefit payments under this 1978 plan made to the participant, the participant's spouse, children, or any other designated beneficiary, following the death of all such individuals.
- (b) For a participant whose employment terminates due to death, whose beneficiaries are not entitled to any benefit under any other section of this Plan, such participant's beneficiaries, in the order specified below, shall be entitled to receive a refund of the participant's contributions, less the aggregate of any amount of such contributions paid to the participant, the participant's spouse, children or any other designated beneficiary, prior to the participant's death. The beneficiaries of the benefit under this section (or in the case of residual benefits the beneficiaries of any residual benefits under Sec. 25-194(a) hereof) shall be

(i) the beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board). Notwithstanding the foregoing to the contrary, if the participant is married at the time of such designation, if the beneficiary or beneficiaries designated by the participant is not the participant's spouse, the participant's spouse's written consent to such specific beneficiary or beneficiaries shall be required for such designation to be effective, and such consent shall be witnessed by a notary public or by the Benefits Manager of the City, the Total Rewards Officer of the City, or such other person representing the Board as duly designated by the Board. A participant's spouse may give a general consent acknowledging the spouse's right to consent to any beneficiary or beneficiaries and relinquishing such right, in which event any future revocation and/or redesignation of beneficiary(ies) by the participant shall not require further spousal consent. The consent of the spouse must acknowledge the effect of such election and, once given, cannot be revoked by such spouse. Any spousal consent shall only be applicable to the spouse granting such consent, or

(ii) the participant's spouse, if married to the participant at the time of his/her death, or

(iii) if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in Section 25-1(6), or

(iv) if no such surviving child and/or handicapped child, to the participant's surviving child as the term "child" is defined in Section 25-1(6) but without regard to the child's age or status in an educational institution, or

(v) if no such surviving child to the alternative beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board) or

(vi) if the participant failed to designate an alternate beneficiary or beneficiaries as provided above, to the participant's estate.

If there is more than one eligible beneficiary the benefit shall be divided equally among the eligible beneficiaries unless the beneficiaries are designated beneficiaries by the participant as provided above whereupon the benefit will be divided in accordance with the designation by the participant, or if no such designation then equally. For purposes of this section, the terms "spouse" and "child" shall mean any person who the Board determines in good faith under the Plan is the legally recognized spouse or child of the participant. Each beneficiary, or his/her duly appointed representative, shall be responsible for making application, in accordance with uniform procedures established by the Board, for any benefit due him/her under this section. A beneficiary shall have no claim against the Board, or the pension system, or the city by reason of the failure of such beneficiary to apply properly or timely for benefits under the pension system.

24. Sec. 25-201 Cessation of accruals for transferred participants shall be amended and restated in its entirety to read as follows:

Except as expressly provided below and solely for Transferred Participants who have duly made the election provided in Sec. 25-160(e), notwithstanding any other contrary provision of this pension system, in calculating the accrued benefit (including the right to any optional benefit provided under the pension system) of any transferred participant, such transferred participant shall accrue no additional benefit under the pension system, division 1 or division 2, on or after June 30, 2016. Transferred Participants who have duly made the election in Sec. 25-160(e) shall accrue no benefit under division 3 (the 2016 plan) but shall accrue benefits solely pursuant to the terms and provisions of this 1978 plan.

25. Subparagraph (a) of Sec. 25-211 shall be amended and restated to read as follows:

*General rule.* Each person (1) who is hired on or after July 1, 2016, or (2) who is a transferred participant as defined in Sec. 25-1(43) (except for those transferred participants who are eligible to make and have duly made the election provided in Sec. 25-160), in each case who is in the regular, full-time employment of the city to the extent that the city contributes to the salary of such employee in a job classification or

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title that the city administration shall designate as eligible for participation in the plan, including any person who is elected to his/her office by the people, but not including the light, gas and water division of the city, temporary employees as classified by the city, part-time employees, or any employee mandated by law to contribute to the federal Social Security system and not eligible to be a participant by his/her job classification, shall become a participant in this 2016 plan as of his or her employment creditable service date without any further action on his or her part.

26. Section 25-211 shall be amended by adding as subparagraph (e) thereto the following subparagraph (e):

(e) *Leased Employee*. The term "employee" shall also not include any person who is a leased employee within the meaning of Code §414(n)

27. Sec. 25-240 Normal Retirement shall be amended by adding as subparagraph (b) the following and renumbering the current subparagraph (b) as subparagraph (c):

(b) Any Participant eligible for a normal retirement benefit pursuant to subparagraph (a) above may irrevocably elect to receive between five percent (5%) and twenty-five percent (25%) (in increments of five percent (5%)) of his/her accrued benefit in the form of an actuarial equivalent single lump-sum distribution. Such election shall be made prior to the participant's annuity commencement date in accordance with uniform procedures established by the Board.

If a participant elects to receive any part of his/her accrued benefit in the form of a lump-sum distribution as provided in this subparagraph (b), the monthly retirement benefit payable to such participant shall be reduced by an equal percentage. Such election shall likewise reduce the amount of any death benefit payable to a surviving spouse or any other beneficiary or beneficiaries, which shall be calculated taking into account such election.

Any cost of living adjustments to the participant's monthly retirement benefit shall be calculated based on the reduced monthly benefit resulting from the lump-sum distribution election.

In determining any minimum monthly benefit provided under the plan, the amount of the applicable minimum shall be reduced by the percentage lump sum elected by the participant.

28. Subparagraph (a) and (b) of Sec. 25-242 shall be restated and amended in their entirety to read as follows:

(a) Any participant meeting the requirements of section 25-242(d) may elect to receive a deferred retirement benefit under this 2016 Plan equal to his/her accrued benefit and payable in the form of a single life annuity.

(b) The annuity commencement date of any participant who is to receive his or her benefit pursuant to section 25-242(a) shall be the date s/he reaches age sixty (60).

29. Subparagraph (c) of Sec. 25-242 shall be relettered as subparagraph (d) and the following subparagraph (c) added to Sec. 25-242:

(c) A participant may revoke his/her election under section 25-242 at any time before his/her annuity commencement date. Any participant timely revoking his section 25-242 election shall receive a refund in accordance with section 25-243 of all employee contributions made by him/her or on her/his behalf under this 2016 plan.

30. Subparagraph (a) of Section 25-243 Refund of employee contributions shall be amended and restated in its entirety by substituting the following subparagraph (a) therefor:

(a) Any participant whose employment with the city terminates, for any reason other than death, who is not entitled to any benefits under Sec. 25-240 or 25-241, and who has not elected benefits under Sec. 25-242, shall receive an amount equal to his/her total participant employee cash balance plan contributions plus the interest crediting rate on such contributions as provided herein and defined contribution account balance attributable to the participant's contributions. Such refund of employee contributions shall be paid as soon as administratively feasible following the date the termination of his/her employment occurs (or which is deemed to have occurred under Section 25-243(c)) unless s/he earlier withdraws the participant employee contributions or becomes entitled to receive benefits under any other section of this Plan.

31. Section 25-243 Refund of employee contributions shall be amended by the addition of the following as new subsection (b) and the re-lettering of the current subsection (b) as subsection (c):

(b) Any participant whose employment with the city terminates for any reason other than death but who is entitled to a benefit payable under Sec. 25-240 or 25-241, and who has not elected benefits under Sec. 25-242, may elect to receive in lieu of any other benefit payable under any other section of this Plan an amount equal to his or her total participant employee cash balance plan contributions plus the interest crediting rate on such contributions as provided herein together with his or her defined contribution account balance attributable to such participant's contributions. Such refund of employee contributions shall be paid as soon as administratively feasible following the date the termination of his/her employment occurs (or which is deemed to have occurred under Section 25-243(c)) unless s/he earlier withdraws the participant employee contributions or becomes entitled to

receive benefits under any other section of this Plan. In the event that any participant elects to withdraw his or her participant contributions as provided in this section 25-243(b), such participant shall be deemed to have waived his or her rights to any other benefit payments under any provision of this Retirement System, including the right to payment of any survivor benefits otherwise payable in the event of the participant's death in accordance with section 25-251 or otherwise under the Pension System.

32. Subsection (a) of Sec. 25-250 shall be amended by adding the following sentence as the last sentence of said subsection (a):

Such death benefit shall be paid in accordance with Sec. 25-252.

33. Subsection (b) of Sec. 25-250 shall be amended by adding the following sentence as the last sentence of said subsection (b):

Such death benefit shall be paid in accordance with Sec. 25-252.

34. The first paragraph of Sec. 25-251(a), Other Death Benefit shall be amended and restated to read as follows:

(a) The beneficiaries described in section 25-251(b) of a participant who dies other than as described in Sec. 25-250(a) or Sec. 25-250(b) and who has not elected deferred retirement under section 25-242, shall receive a death benefit in accordance with Sec. 25-252 equal to seventy-five percent (75%) of:

35. The following subsection (c) shall be added to Section 25-251 as follows:

(c) *Death Benefits with Respect to Qualified Military Service.* In the case of a participant who dies on or after January 1, 2007 while performing qualified military service (as defined in Code section 414(u)) with respect to the city, his/her beneficiary shall have a nonforfeitable interest in all city contributions to the participant to the extent that he/she would have had to such city contributions in the event that the participant resumed, and then terminated, employment on account of death.

36. The following Sec. 25-252 shall be added as Sec. 25-252 Distribution as follows.

**Sec. 25-252. Distribution.**

(a) *Beneficiary priority.* The death benefit of Sec. 25-250 or 25-251 shall be paid to the surviving spouse until the spouse's death. If there is no spouse, or upon the spouse's death, the death benefit shall be made or shall continue to be paid to or on the behalf of the participant's surviving children and handicapped children, for as long as they are children or handicapped children; provided, however, any handicapped child shall be entitled to receive only fifty (50)

percent of the benefit payment any other child of the participant shall be entitled to receive. If payments are made to more than one child, the death benefit shall be payable in equal shares; provided, if any child becomes ineligible to receive benefits because of death or attainment of age, the death benefit shall be divided equally among the remaining eligible children. No surviving spouse of a participant's spouse shall be entitled to any benefits from this 2016 plan as a result of the participant's spouse's interest in a benefit payable under Sec. 25-250 or Sec. 25-251.

(b) *Payment after refund.* If a participant's employee contributions have been refunded under section 25-243 before the participant's date of death, credits against such refund shall be made in lieu of death benefit payments under section 25-250 or 25-251 until such credits have fully offset such refund amount.

37. The following Sec. 25-253 shall be added as Sec. 25-253 Residual benefits as follows.

**Sec. 25-253 Residual benefits.**

Notwithstanding any other sections of this 2016 plan, a participant's beneficiaries, in the order of priority as set forth in Sec. 25-254 hereof, shall be paid any excess of the participant's total accumulated employee contributions, minus the aggregate total retirement and death benefit payments under this 2016 plan made to the participant, the participant's spouse, children, or any other designated beneficiary, following the death of all such individuals.

38. The following Sec. 25-254 shall be added as Sec. 25-254 Employee Contribution Refunds Upon Death as follows.

**Sec. 25-254 Employee Contribution Refunds Upon Death.**

For a participant whose employment terminates due to death, whose beneficiaries are not entitled to any benefit under any other section of this Plan, such participant's beneficiaries, in the order specified below, shall be entitled to receive a refund of the participant's contributions, less any amount of such contributions paid to the participant, the participant's spouse, children or any other designated beneficiary, prior to the participant's death. The beneficiaries of the benefit under this section (or in the case of residual benefits the beneficiaries of any residual benefits under Sec. 25-253 hereof) shall be

(i) the beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board). Notwithstanding the

foregoing to the contrary, if the participant is married at the time of such designation, if the beneficiary or beneficiaries designated by the participant is not the participant's spouse, the participant's spouse's written consent to such specific beneficiary or beneficiaries shall be required for such designation to become effective, and such consent shall be witnessed by a notary public or by the Benefits Manager of the City, the Total Rewards Officer of the City, or such other person representing the Board as duly designated by the Board. A participant's spouse may give a general consent acknowledging the spouse's right to consent to any beneficiary or beneficiaries and relinquishing such right, in which event any future revocation and/or redesignation of beneficiary(ies) by the participant shall not require further spousal consent. The consent of the spouse must acknowledge the effect of such election and, once given, cannot be revoked by such spouse. Any spousal consent shall only be applicable to the spouse granting such consent, or

(ii) the participant's spouse, if married to the participant at the time of his/her death, or

(iii) if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in Section 25-1(6), or

(iv) if no such surviving child and/or handicapped child, to the participant's surviving child as the term "child" is defined in Section 25-1(6) but without regard to the child's age or status in an educational institution, or

(v) if no such surviving child to the alternative beneficiary or beneficiaries designated by the participant (in accordance with procedures established by the Board) or

(vi) if the participant failed to designate an alternate beneficiary or beneficiaries as provided above, to the participant's estate.

If there is more than one eligible beneficiary the benefit shall be divided equally among the eligible beneficiaries unless the beneficiaries are designated beneficiaries by the participant as provided above whereupon the benefit will be divided in accordance with the designation by the participant, or if no such designation then equally. For purposes of this section, the terms "spouse" and "child" shall mean any person who the Board determines in good faith under the Plan is the legally recognized spouse or child of the participant. Each beneficiary, or his/her duly appointed representative, shall be responsible for making application, in accordance with uniform procedures established by the Board, for any benefit due him/her under this section. A beneficiary shall have no claim against the Board, or the pension system, or the city by reason of the failure of such beneficiary to apply properly or timely for benefits under the pension system.

39. Sec. 25-260 City's 457(b) Plan shall be amended in its entirety to read as follows:

**Sec. 25-260. City's 457(b) Plan**

(1) *Rollover of participant accounts attributable to participant's compensation from the city's 457(b) plan.* To the extent permitted by the Internal Revenue Code, a participant of the 2016 Plan entitled to a benefit under Sec. 25-240, Sec. 25-241, or Sec. 25-242 who also participates in the city's 457(b) plan may, upon such participant's termination of employment with the city but prior to the participant's annuity commencement date, transfer from the participant's 457(b) account by direct rollover to this 2016 Plan any portion or all of the amounts in the participant's 457(b) account attributable to the contributions made by the participant and/or the city with respect to the compensation of the participant from the city, provided such transfer will not jeopardize the tax exempt status of this plan. Any amounts in a participant's account rolled over by the participant from a 457(b) or other employee benefit plan of an employer other than the city (except as provided below with respect to the Memphis and Shelby County Airport Authority) may not be rolled over to this 2016 Plan. The transferred amount shall be set up in a separate account to be known as a "Rollover Account." Such Rollover Account shall be fully vested at all times and shall not be subject to forfeiture. Such Rollover Account shall be held pursuant to the provisions of this 2016 plan and shall not be withdrawn by or distributed to the participant except as provided in this 2016 Plan.

To the extent an employee of the Memphis and Shelby County Airport Authority who participates in the city's 457(b) plan also participates in this 2016 Plan and is entitled to a benefit under Sec. 25-240, Sec. 25-241, or Sec. 25-242 of this 2016 Plan, such participant may from the participant's 457(b) account in the city's 457(b) plan by direct rollover transfer to this 2016 Plan any portion or all of the amounts in the participant's 457(b) account attributable to the contributions made by the participant and/or the Memphis and Shelby County Airport Authority with respect to the compensation of the participant from the Memphis and Shelby County Airport Authority, to the extent the Memphis and Shelby County Airport Authority makes contributions to this 2016 Plan with respect to such participant and provided such transfer will not jeopardize the tax exempt status of this plan. The transferred amount shall be set up in a separate account to be known as a "Rollover Account." Such Rollover Account shall be fully vested at all times and shall not be subject to forfeiture. Such Rollover Account shall be held pursuant to the provisions of this 2016 plan and shall not



be withdrawn by or distributed to the participant except as provided in this 2016 Plan.

(2) *Distribution of Rollover Account as Part of Accrued Benefit.* At the participant's normal retirement date, or such other date when the participant shall be entitled to receive benefits under Sec. 25-240, Sec. 25-241, or Sec. 25-242, the value of the Rollover Account shall be combined with the participant's cash balance account and defined contribution account to provide additional monthly benefits to the participant as provided herein.

40. Sec. 25-273, Prohibition of Assignment shall be amended and restated to read as follows:

Except as otherwise provided by law, no benefit payable under this plan shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, attachment, garnishment, execution, or levy of any kind or any other process of law, voluntary or involuntary. Any attempt to so dispose of any rights to benefits payable hereunder shall be void, unless otherwise authorized by applicable law. Neither the plan nor trust shall be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

Unless otherwise provided by applicable law, effective July 1, 2015, the restrictions on transfers of benefits as described in this Section shall not apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a "qualified domestic relations order" defined in Internal Revenue Code Section 414(p) and as provided in Tenn. Code Ann. 26-2-105, as amended. The Board shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. For the purposes of this Section "qualified domestic relations order" shall have the meaning set forth under Code Section 414(p).

Where there is a reference in the above Ordinance to the effective date of this Ordinance, such date shall be the date this Ordinance is duly stamped by the Deputy Controller-Council Records or such other City employee authorized to stamp and certify adoption of City Ordinances.

ORDINANCE NO. 5764

**ORDINANCE TO AMEND CHAPTER 12 OF THE CITY OF MEMPHIS CODE OF ORDINANCES SO AS TO UPDATE THE CODE OF ORDINANCES RELATED TO SIDEWALKS**

**WHEREAS**, the process for sidewalk construction and maintenance has been established by Chapter 12 of the City of Memphis Code of Ordinances; and

**WHEREAS**, the Memphis City Council now wishes to further address the state of sidewalks within the City of Memphis, many of which are in need of repair, replacement, or caulking; and

**WHEREAS**, the Memphis City Council is of the belief that addressing the state of sidewalks, i.e., those in disrepair, will work to gradually improve the physical condition of our neighborhoods, and thus, the City as a whole; and

**WHEREAS**, Section 12-28-2 (D) of the City of Memphis Code of Ordinances states that “the *lot owner* shall assume the responsibility of installation, maintenance and repair of the required sidewalks along the lot frontage(s) upon occupying the structure on the lot.”; and

**WHEREAS**, in an effort to prevent current lot owners, who have failed to properly maintain their section of sidewalk, from passing their repair duties to subsequent purchasers, the Memphis City Council now wishes to require the inspection, and if necessary, repair, replacement, or caulking of sidewalks, driveway aprons, or inlets prior to closing on the property; and

**WHEREAS**, local municipalities have established similar measures, the Memphis City Council wishes to do the same, ultimately for the benefit of our citizens, and the betterment of our City.

**NOW THEREFORE BE IT RESOLVED**, (Additions underlined in bold italics and deletions identified with strikethrough)

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Section 12-28 of the City of Memphis Code of Ordinances is hereby amended to include Section 12-28-17 (A)-(H), which shall be titled and read as follows:

**12-28-17. – Duty of property owners prior to closing.**

- (A) It shall be the duty of the property owners of properties within the City of Memphis to keep the sidewalks, driveway aprons, and inlets abutting their property in good repair.**
- (B) Property owners who receive notice from the City Engineer, or his or her lawfully authorized representative, to repair, replace, or caulk sidewalks, driveway aprons, or inlets abutting their property must do so prior to closing on the property.**

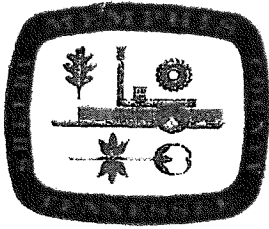
- (C) An arrangement, such as escrowing the bid amount for the required repair is acceptable.
- (D) A permit is required, at no cost, for any repair or replacement of the property owner's sidewalks, driveway aprons, and/or inlets.
- (E) No permit is required if inspection by the City Engineer, or his or her legally authorized representative, determines that only caulking is needed.
- (F) Repair or replacement of sidewalks, driveway aprons, or inlets shall not start without an approved permit.
- (G) A final inspection of the repair, replacement, and/or caulking is required prior to closing on the property.
- (H) Repair, replacement, or caulking of sidewalks, driveway aprons, or inlets should be conducted according to the provisions provided by Chapter 12-12, Chapter 12-24, and Chapter 12-28, except as specifically approved by the City Engineer.

SECTION 2. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Section 12-28 of the City of Memphis Code of Ordinances is hereby amended to include Section 12-28-18, which shall be titled and read as follows:

12-28-18. – Transfer of property.

The City Engineer, or his or her lawfully authorized representative, shall provide to the finance department a record of damaged sidewalks, driveway aprons, and inlets as they are inspected. Such notice shall be filed on the tax records for the property and will provide a notification of such to all parties requesting tax data during the sale or transfer of the property.

Sponsor:  
Councilwoman Michalyn Easter-Thomas



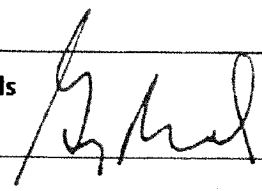
## City Council Item Routing Sheet

**Division:** City Council    **Committee:** Budget    **Hearing Date:** December 1, 2020

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Ordinance        | <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Grant Acceptance                                 |
| <input type="checkbox"/> Budget Amendment | <input type="checkbox"/> Commendation          | <input type="checkbox"/> Other: <a href="#">Click here to enter text.</a> |

<p><b>Item Description:</b> The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$360,000 funded by G. O. Bonds General in CIP Project #GA03007, Fixed-Route Buses, to fund the purchase of fixed-route buses as part of the Fiscal Year 2021 Capital Improvement Budget.</p>	
<p><b>Recommended Council Action:</b> Adopt the resolution.</p>	
<p><b>Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:</b> No previous actions have been taking by any other entity.</p>	
<p><b>Does this item require city expenditure? Yes</b></p> <p>\$Amount: \$360,000</p> <p><a href="#">Click here to enter text.</a></p>	<p><b>Source and Amount of Funds:</b></p> <p>CIP Project #GA03007</p>

**Approvals**

Director  Date 11/12/20

Division Chief \_\_\_\_\_ Date \_\_\_\_\_

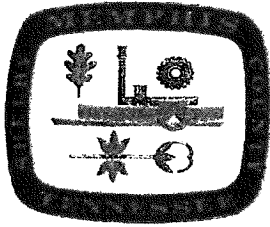
Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

**Chief Operating Officer** \_\_\_\_\_ Date \_\_\_\_\_

**Council Committee Chair** \_\_\_\_\_ Date \_\_\_\_\_

## Memphis City Council Summary Sheet Template 8-28-12



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for fixed-route buses for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$360,000 in FY21 CIP funds under GA03007 Fixed-Route Buses.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This is not a change to an existing ordinance or resolution.

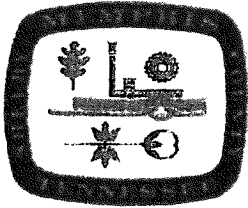
**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the buses in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$360,000; however, no budget amendments are required.

City Council Resolution Template – 8-28-12



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR FIXED-ROUTE BUSES FOR  
THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Fixed-Route Buses, Project Number GA03007, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

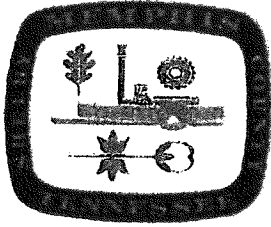
**WHEREAS**, MATA periodically has to replace buses that have met their useful service life; and

**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$360,000 funded by G.O. Bonds – General in Fixed-Route Buses, CIP Project Number GA03007 to fund the purchase of fixed-route buses.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$360,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Fixed-Route Buses
Project Number:	GA03007
Amount:	\$360,000



# City Council Item Routing Sheet

Division: City Council    Committee: Budget    Hearing Date: December 1, 2020

Ordinance

Resolution

Grant Acceptance

Budget Amendment

Commendation

Other: [Click here to enter text.](#)

Item Description: The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$50,000 funded by G. O. Bonds General in CIP Project #GA03011, Paratransit Buses, to fund the local share for purchasing paratransit buses as part of the Fiscal Year 2021 Capital Improvement Budget.

Recommended Council Action: Adopt the resolution.

Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: No previous actions have been taking by any other entity.

Does this item require city expenditure? Yes  
\$Amount: \$50,000  
\$Click here to enter text.

Source and Amount of Funds:  
CIP Project #GA03011

### Approvals

Director *[Signature]* Date 11/012/20

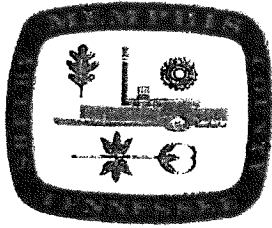
Division Chief \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

Chief Operating Officer \_\_\_\_\_ Date \_\_\_\_\_

Council Committee Chair \_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for paratransit vehicles for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$50,000 in FY21 CIP funds under GA03011 Paratransit Vehicles.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This is not a change to an existing ordinance or resolution.

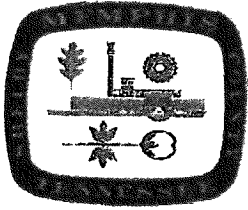
**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the vehicles in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$50,000; however, no budget amendments are required.





**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR PARATRANSIT VEHICLES  
FOR THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Paratransit Vehicles, Project Number GA03011, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

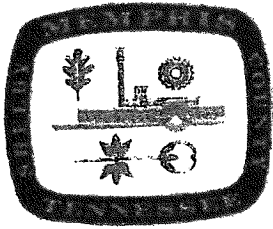
**WHEREAS**, The Memphis Area Transit Authority (MATA) periodically has to replace vehicles that have met their useful service life; and

**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$50,000 funded by G.O. Bonds – General in Paratransit Vehicles, CIP Project Number GA03011 to fund the local share for purchasing the vehicles.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$50,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2020 Capital Improvement Budget and credited as follows:

Project Title:	Paratransit Vehicles
Project Number:	GA03011
Amount:	\$50,000



# City Council Item Routing Sheet

Division MATA Committee Transportation Hearing Date Committee – December 1, 2020

- Ordinance                       Resolution                       Grant Acceptance  
 Budget Amendment               Commendation                       Other: [Click here to enter text.](#)

**Item Description :** The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$50,000 funded by G. O. Bonds General in CIP Project #GA03022, Advanced Public Transportation Systems, to fund the local share for purchasing advanced public transportation systems as part of the Fiscal Year 2021 Capital Improvement Budget.

**Recommended Council Action:** Adopt the resolution.

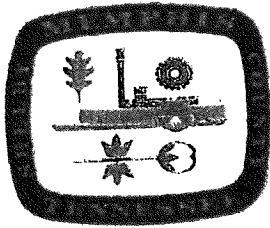
Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:

Does this item require city expenditure? Yes	Source and Amount of Funds
\$ Amount \$50,000	\$ Operating Budget
\$ Revenue to be received; \$0	\$ CIP Project #GA03022
	\$ Federal/State/Other

**Approvals**

Director *[Signature]* Date 11/12/20  
 Chief \_\_\_\_\_ Date \_\_\_\_\_  
 Budget Manager \_\_\_\_\_ Date \_\_\_\_\_  
 Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
 City Attorney \_\_\_\_\_ Date \_\_\_\_\_

Chief Administrative Officer \_\_\_\_\_ Date \_\_\_\_\_  
 Council Committee Chair \_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for Advanced Public Transportation Systems/ITS equipment for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$50,000 in FY21 CIP funds under GA03022 Advanced Public Transportation Systems.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

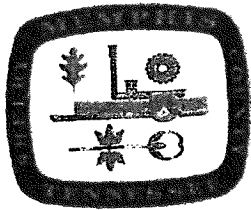
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the Advanced Public Transportation Systems/ITS equipment in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$50,000; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR ADVANCED PUBLIC TRANSPORTATION SYSTEMS FOR THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Advanced Public Transportation Systems, Project Number GA03022, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

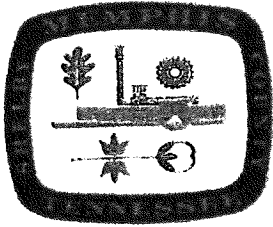
**WHEREAS**, The Memphis Area Transit Authority (MATA) periodically has to replace Advanced Public Transportation Systems/ITS equipment that have met their useful service life; and

**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$50,000 funded by G.O. Bonds – General in Advanced Public Transportation Systems, CIP Project Number GA03022 to fund the local share for purchasing the Advanced Public Transportation Systems/ITS equipment.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$50,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Advanced Public Transportation Systems
Project Number:	GA03022
Amount:	\$50,000



# City Council Item Routing Sheet

Division: City Council    Committee: Budget    Hearing Date: December 1, 2020

- Ordinance                       Resolution                       Grant Acceptance  
 Budget Amendment               Commendation                   Other: [Click here to enter text.](#)

Item Description: The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$73,660 funded by G. O. Bonds General in CIP Project #GA03023, Operations and Maintenance Facility, to fund the local share for architectural/engineering costs for a new operations and maintenance facility for MATA as part of the Fiscal Year 2021 Capital Improvement Budget.

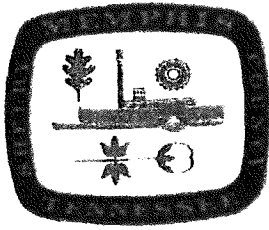
Recommended Council Action: Adopt the resolution.

Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: No previous actions have been taking by any other entity.

<p>Does this item require city expenditure? Yes</p> <p>\$Amount: \$73,660</p> <p><a href="#">Click here to enter text.</a></p>	<p>Source and Amount of Funds:</p> <p>CIP Project #GA03023</p>
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**Approvals**

Director *[Signature]* Date 11/12/20  
 Division Chief \_\_\_\_\_ Date \_\_\_\_\_  
 Budget Manager \_\_\_\_\_ Date \_\_\_\_\_  
 Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_  
 Chief Operating Officer \_\_\_\_\_ Date \_\_\_\_\_  
 Council Committee Chair \_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for architectural/engineering costs associated with a new Operations & Maintenance Facility for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$73,660 in FY21 CIP funds under GA03023 Operations and Maintenance Facility.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

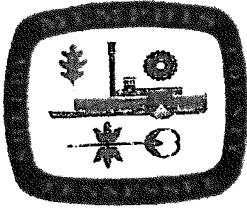
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the architectural/engineering services in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$73,660; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR THE MEMPHIS AREA  
TRANSIT AUTHORITY'S NEW OPERATIONS AND MAINTENANCE FACILITY**

**WHEREAS**, The Council of the City of Memphis did approve Operations and Maintenance Facility, Project Number GA03023, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

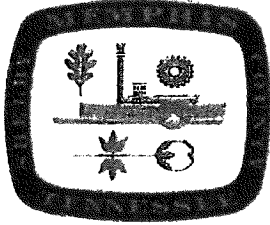
**WHEREAS**, The Memphis Area Transit Authority (MATA) plans to conduct architectural/engineering services for a new Operations and Maintenance Facility; and

**WHEREAS**, Proposals will be solicited and evaluated for the architectural/engineering services according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$73,660 funded by G.O. Bonds – General in Operations and Maintenance Facility, CIP Project Number GA03023 to fund the local share for architectural/engineering services associated with a new Operations and Maintenance Facility.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$73,660 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Operations and Maintenance Facility
Project Number:	GA03023
Amount:	\$73,660



# City Council Item Routing Sheet

Division: City Council    Committee: Budget    Hearing Date: December 1, 2020

- Ordinance                       Resolution                       Grant Acceptance  
 Budget Amendment               Commendation                       Other: [Click here to enter text.](#)

<p>Item Description: The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$50,000 funded by G. O. Bonds General in CIP Project #GA03024, Rail Facility Improvements, to fund the local share for rail facility improvements as part of the Fiscal Year 2021 Capital Improvement Budget.</p>	
<p>Recommended Council Action: Adopt the resolution.</p>	
<p>Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: No previous actions have been taking by any other entity.</p>	
<p><b>Does this item require city expenditure? Yes</b></p> <p>\$Amount: \$50,000</p> <p><a href="#">Click here to enter text.</a></p>	<p><b>Source and Amount of Funds:</b></p> <p>CIP Project #GA03024</p>

### Approvals

Director *[Signature]* Date 11/12/20

Division Chief \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

Chief Operating Officer

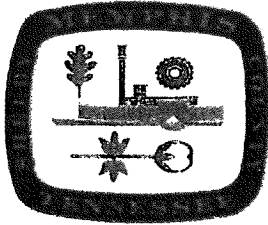
\_\_\_\_\_ Date \_\_\_\_\_

Council Committee Chair

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet Template 8-28-12



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for rail facility improvements for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$50,000 in FY20 CIP funds under GA03024 Rail Facility Improvements.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

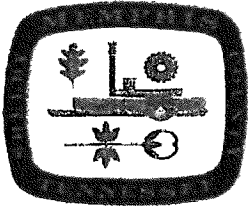
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the rail facility improvements in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$50,000; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR RAIL FACILITY IMPROVEMENTS FOR THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Rail Facility Improvements, Project Number GA03024, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

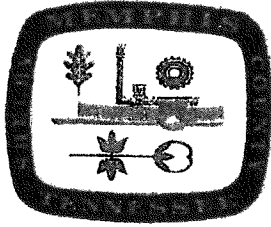
**WHEREAS**, The Memphis Area Transit Authority (MATA) periodically has to make periodic repairs or improvements to its rail facilities and infrastructure; and

**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$50,000 funded by G.O. Bonds – General in Rail Facility Improvements, CIP Project Number GA03024 to fund the local share for the rail facility improvements.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$50,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Rail Facility Improvements
Project Number:	GA03024
Amount:	\$50,000



# City Council Item Routing Sheet

Division: City Council    Committee: Budget    Hearing Date: December 1, 2020

- Ordinance
- Resolution
- Grant Acceptance
- Budget Amendment
- Commendation
- Other:

Item Description: The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$50,000 funded by G. O. Bonds General in CIP Project #GA03025, Bus Facility Improvements, to fund the local share for bus facility improvements as part of the Fiscal Year 2021 Capital Improvement Budget.	
Recommended Council Action: Adopt the resolution.	
Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: No previous actions have been taking by any other entity.	
Does this item require city expenditure? Yes \$Amount: \$50,000	Source and Amount of Funds: CIP Project #GA03025

### Approvals

Director *[Signature]* Date 11/12/20

Division Chief \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

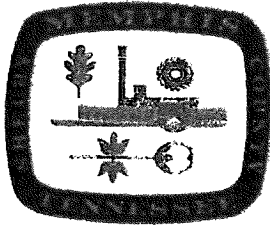
Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

### Chief Operating Officer

\_\_\_\_\_ Date \_\_\_\_\_

### Council Committee Chair

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for bus facility improvements for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$50,000 in FY21 CIP funds under GA03025 Bus Facility Improvements.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

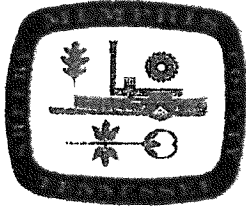
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the bus facility improvements in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$50,000; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR BUS FACILITY IMPROVEMENTS FOR THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Bus Facility Improvements, Project Number GA03025, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

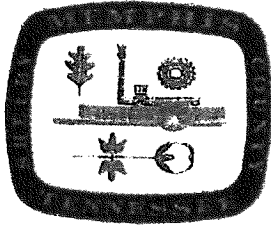
**WHEREAS**, The Memphis Area Transit Authority (MATA) periodically has to make periodic repairs or improvements to its bus facilities and infrastructure; and

**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$50,000 funded by G.O. Bonds – General in Bus Facility Improvements, CIP Project Number GA03025 to fund the local share for the bus facility improvements.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$50,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Bus Facility Improvements
Project Number:	GA03025
Amount:	\$50,000



# City Council Item Routing Sheet

Division: City Council    Committee: Budget    Hearing Date: December 1, 2020

- Ordinance
- Resolution
- Grant Acceptance
- Budget Amendment
- Commendation
- Other:

<p>Item Description: The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$165,000 funded by G. O. Bonds General in CIP Project #GA03026, Rail Vehicles, to fund the local share for purchasing rail vehicles as part of the Fiscal Year 2021 Capital Improvement Budget.</p>	
<p>Recommended Council Action: Adopt the resolution.</p>	
<p>Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: No previous actions have been taking by any other entity.</p>	
<p>Does this item require city expenditure? Yes</p> <p>\$Amount: \$165,000</p> <p>\$Click here to enter text.</p>	<p>Source and Amount of Funds:</p> <p>CIP Project #GA03026</p>

### Approvals

Director *[Signature]* Date 11/12/20

Division Chief \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager \_\_\_\_\_ Date \_\_\_\_\_

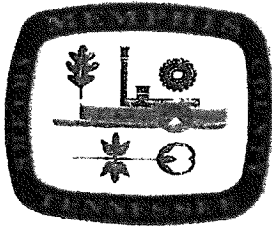
Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

Chief Operating Officer

\_\_\_\_\_ Date \_\_\_\_\_

Council Committee Chair

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for rail vehicles for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$165,000 in FY21 CIP funds under GA03026 Rail Vehicles.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

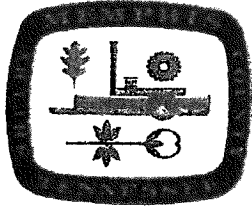
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA will procure the vehicles in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$165,000; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR RAIL VEHICLES FOR THE  
MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Rail Vehicles, Project Number GA03026, as part of the Memphis Area Transit Authority's (MATA) FY21 Capital Improvement Program (CIP) budget; and

**WHEREAS**, The Memphis Area Transit Authority (MATA) periodically has to replace vehicles that have met their useful service life; and

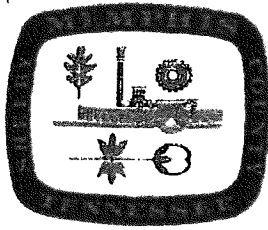
**WHEREAS**, Bids will be solicited and evaluated according to MATA's adopted procurement procedures; and

**WHEREAS**, It is necessary to appropriate \$165,000 funded by G.O. Bonds – General in Rail Vehicles, CIP Project Number GA03026 to fund the local share for purchasing the vehicles.

**NOW, THEREFORE, BE IT RESOLVED** By the Council of the City of Memphis that there be and is hereby appropriated the sum of \$165,000 funded by G. O. Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Rail Vehicles
Project Number:	GA03026
Amount:	\$165,000





# City Council Item Routing Sheet

**Division:** City Council    **Committee:** Public Works    **Hearing Date:** December 1, 2020

- Ordinance                       Resolution                       Grant Acceptance  
 Budget Amendment               Commendation                   Other:

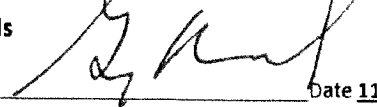
**Item Description:** The Memphis Area Transit Authority (MATA) is requesting the City Council to appropriate \$1,159,840 funded by G. O. Bonds General in CIP Project #GA03028, Midtown Area Connector, to fund the local share for the development of a new Bus Rapid Transit line connecting downtown with the University of Memphis as part of the Fiscal Year 2021 Capital Improvement Budget.

**Recommended Council Action:** Adopt the resolution.

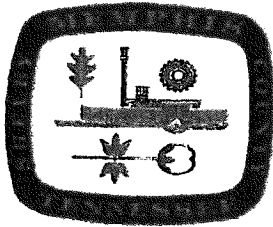
**Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:** No previous actions have been taking by any other entity.

**Does this item require city expenditure? Yes**  
 \$Amount: \$1,159,840  
 \$Click here to enter text.

**Source and Amount of Funds:**  
 CIP Project #GA03028

**Approvals**  
 Director  Date 11/12/20  
 Division Chief \_\_\_\_\_ Date \_\_\_\_\_  
 Budget Manager \_\_\_\_\_ Date \_\_\_\_\_  
 Chief Financial Officer \_\_\_\_\_ Date \_\_\_\_\_

**Chief Operating Officer**  
 \_\_\_\_\_ Date \_\_\_\_\_  
**Council Committee Chair**  
 \_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This item is a resolution to appropriate FY21 CIP funds for Memphis Area Connector for a new Bus Rapid Transit line connecting downtown with the University of Memphis for the Memphis Area Transit Authority.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

MATA initiated the request for the City Council to appropriate \$1,159,840 in FY21 CIP funds under GA03028 Midtown Area Connector.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

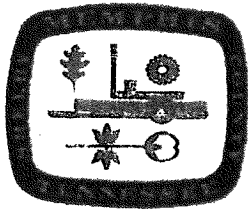
This is not a change to an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This project will require MATA to solicit bids and award contracts. MATA has procured the architectural/engineering services in accordance with its Procurement Manual.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes, this item requires an expenditure of funds in the amount of \$1,159,840; however, no budget amendments are required.



**A RESOLUTION TO APPROPRIATE FY21 CIP FUNDS FOR MIDTOWN AREA CONNECTOR BRT PROJECT FOR THE MEMPHIS AREA TRANSIT AUTHORITY**

**WHEREAS**, The Council of the City of Memphis did approve Midtown Area Connector Bus Rapid Transit (BRT) project, Project Number GA03028, as part of The Memphis Area Transit Authority (MATA) FY21 Capital Improvement Program (CIP) budget; and

**WHEREAS**, FTA requires that MATA show that the Local funds are available for the project in order to receive the BUILD grant; and

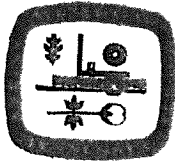
**WHEREAS**, The Council of the City of Memphis did approve Midtown Area Connector BRT, Project Number GA03028, as part of MATA's FY21 Capital Improvement Program (CIP) budget; and

**WHEREAS**, It is necessary to appropriate \$1,159,840 funded by G.O Bonds – General, CIP Project Number GA03028 – Memphis Innovation Corridor BRT for Engineering and Architectural services associated with a new Bus Rapid Transit line connecting downtown with the University of Memphis.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS** that there be and is hereby appropriated the sum of \$1,159,840 funded by G.O Bonds – General chargeable to the Fiscal Year 2021 Capital Improvement Budget and credited as follows:

Project Title:	Midtown Area Connector BRT
Project Number:	GA03028
Amount:	\$1,159,840

# 114



# City Council Item Routing Sheet

Division: Public Works Committee: Public Works, Transportation & Gen. Svcs. Hearing Date: December 1, 2020  
enter text.

- Ordinance
- Resolution
- Grant Acceptance
- Budget Amendment
- Commendation
- Other:

Item Description (Not the caption, but what does it do): Resolution to provide funding for the Clean Pathways Initiative Program – Contract #35896S-Lifeline to Success and Contract #35897S-Freedom From Unnecessary Negative (FFUN). Extension two (2).	
Recommended Council Action: Adopt the resolution.	
Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: Resolution approved extension one (1) December 2019.	
<b>Does this item require city expenditure? Yes</b> \$ 300,000.00                      Amount \$                      Revenue to be received	<b>Source and Amount of Funds</b> \$ 300,000.00                      Operating Budget \$                      CIP Project # \$                      Federal/State/Other

**Approvals**

Director *R. K. [Signature]* Date 11-13-20

Director \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager *Richard B. [Signature]* Date 11-16-20

Chief Financial Officer *S. [Signature]* Date 11/17/2020

City Legal Officer \_\_\_\_\_ Date \_\_\_\_\_

Chief Administrative Officer

\_\_\_\_\_ Date \_\_\_\_\_

Council Committee Chair

\_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Describe Item (Resolution, Ordinance, etc.).**

Resolution for extension two (2) to provide grant funding for Clean Pathways Initiative Program, 501(c)(3) organizations to address issues such as blight, litter and illegal dumping around schools and to reduce poverty and crime within the city limits. Requesting same night minutes.

**2. Identify initiating party (e.g. Public Works; at request of City Council, etc.).**

Public Works

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

This does not change an existing ordinance or resolution.

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

This resolution does not require a new contract.

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

This requires an expenditure and budget transfer of funds to allow for the disbursement of grant funds.



**Resolution to provide grant funding for the Clean Pathways Initiative Program – Lifeline to Success and Freedom from Unnecessary Negatives (FFUN). Contract Extensions 2.**

**WHEREAS**, the Council of the City of Memphis approved Resolutions, dated November 6, 2018, to provide grant funding for the Clean Pathways Initiative Program – Lifeline to Success and Freedom from Unnecessary Negatives (FFUN) for the Division of Public Works in the amount of \$300,000, for 1-year, option to extend for 2 additional 1-year terms; and

**WHEREAS**, Contracts 35896S and 35897S were established as agreements to provide funding for the Clean Pathways Initiative Program – Lifeline to Success and Freedom from Unnecessary Negatives (FFUN) – from the Division of Public Works' Funds; and

**WHEREAS**, the Council of the City of Memphis approved Resolutions for Extensions 1, of contracts 35896S and 35897S dated October 8, 2019.

**WHEREAS**, it is now necessary to extend said contracts for additional funds for the Clean Pathways Initiative Programs, *Lifeline to Success (\$150,000)* and *Freedom from Unnecessary Negatives (\$150,000)*. To be funded by Public Works General Fund 0111 in the amount of \$225,000 and Public Works Storm Water Fund 0671 in the amount of \$75,000; and

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Memphis amends the FY21 Public Works General Fund Budget and the Public Works Storm Water Budget to award grants from the Division of Public Works General Fund – 0111, in the amount of Two-Hundred and Twenty-Five Thousand Dollars (\$225,000); and the Division of Public Works Storm Water Fund – 0671, in the amount of Seventy-Five Thousand (\$75,000); for a combined total of Three Hundred Thousand Dollars (300,000), for the purpose of funding the Clean Pathways Initiative Program addressing blight in the City Of Memphis via contracts with Lifeline to Success (\$150,000), and Freedom From Unnecessary Negatives-FFUN (\$150,000),.

## **Resolution to create and fund an Anti-Violent Crime Task Force for the City of Memphis**

**WHEREAS**, the City of Memphis is committed to the safety, health, and welfare of all its residents; and

**WHEREAS**, ensuring the safety of Memphis residents, public safety officers, and visitors is a top priority for the City of Memphis; and

**WHEREAS**, this year, Memphis has experienced a record-setting number of homicides, with number over the 2016 rate; and

**WHEREAS**, the COVID-19 pandemic has negatively impacted the crime rate within the City of Memphis, including an uptick from last year's murder rate due to the increased financial strain placed on many from the loss of employment and the lack of outlets away from home; and

**WHEREAS**, young Memphians are being adversely affected by the unprecedented murder rate that Memphis is facing this year; and

**WHEREAS**, these young people represent the future of our City and are too valuable to our future to ignore; and

**WHEREAS**, violent crime in Memphis has restrained the ability of our City to address the issues of neglect, poverty, education and employment; and

**WHEREAS**, it is necessary to address and combat drivers of violent crime in Memphis in order to focus on the educational and financial aspects of life that Memphians must consider daily.

**NOW, THEREFORE, BE IT RESOLVED** that the Memphis City Council calls on the Mayor of Memphis and other local government agencies, including the Memphis Police Department, District Attorney's Office of Shelby County, Tennessee Bureau of Investigation, Health Department, the Bureau of Alcohol, Firearms and Tobacco, local mental health providers, and community leaders and activists to establish, fund, and empower a local Anti-Violent Crime Task Force for Memphis and Shelby County to address the increased violent crime rate that is negatively affecting the people of Memphis.

Sponsor: Jeff Warren

Patrice J. Robinson, Chairwoman

**A resolution accepting the Public Safety Task Force Committee recommendations for recruiting, hiring, training, and retaining Public Safety officers**

**WHEREAS**, on March 3, 2020 the Memphis City Council unanimously approved a resolution to create an ad hoc Public Safety Task Force committee to provide recommendations to the Divisions of Police and Fire for implementation of best practices for recruiting, hiring, training, and retaining public safety officers; and

**WHEREAS**, committee members of the Public Safety Task Force included members of the Memphis City Council, the Division of Human Resources, Divisions of Police and Fire, representatives from the Police and Fire unions, and community members; and

**NOW, THEREFORE, BE IT RESOLVED** that the Public Safety Task Force committee members are eager to create positive, proactive methods and approaches for recruiting, hiring, training, and retaining Public Safety officers and propose the following recommendations:

- Reestablish an initial three Memphis Police Department's CO-ACT units by utilizing current COPs and reserve officers
- Establish a partnership between Shelby County Schools and the Divisions of Police and Fire to create a year-round student education and engagement program for K-12
- Create True Blue Tuesdays as an immediate step to educate and engage Memphis youth concerning public safety and public safety career options
- Conduct an assessment of feasibility and utility of a Law Enforcement Basic Training Academy at Lemoyne-Owen College
- Conduct an audit and present the findings in the Council's Public Safety & Homeland Security Committee of the Division of Police Services psychological test
- Increase Public Safety academy training hours from 920 to 960 hours to adequately cover topics relevant to community policing, such as but not limited to; conflict resolution/de-escalation, police ethics, just and fair policing, verbal judo, cultural awareness, gang awareness/social media, community policing, police corruption/civil rights violations, etc
- Create and incorporate community policing education and training modules into weekly roll call
- Conduct an audit of equity in the promotional process, including but not limited to testing, length of service, and merit
- Require PAID time off for mental health therapy – 4 hours per month
- Research the possibility of identifying and transitioning internal positions held by Public Safety officers, such as the Real Time Crime Center, Neighborhood Watch, etc., to civilian positions
- Conduct an additional Independent Financial and Time Allotment Audit of MPD
- Set the Police complement to a minimum of 2500 officers and request a plan from Administration with an estimated fiscal note attached for hiring of the additional net officers needed to meet this complement

**BE IT THEREFORE RESOLVED** that the Memphis City Council remains committed to addressing Public Safety issues and adopts the foregoing recommendations to better address Public Safety for the health, safety and welfare of all the citizens of Memphis.

Submitted by  
Public Safety Task Force Committee

Chairwoman  
Patrice Robinson



# 74



### City Council Item Routing Sheet

Division: Executive      Committee:      Hearing Date: December 1, 2020

Resolution       Ordinance       Grant Acceptance

Budget Amendment       Other:

**Item Description:** Resolution seeks the approval of the Memphis City Council to adjust the FY21 operating budget to spend restricted funds, received in FY20, in the amount of \$120,000 for Memphis Animal Services. The funds were provided by donations, in FY20, and will be used to support or offset the cost of animal services during FY21. (e.g. impound animals in medical need or impose a public safety risk, provide a resource to pet owners in the community to ensure legal compliance with animal care laws, etc.)

**Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:** December 15, ~~2009~~ <sup>2019</sup> Resolution passed to accept donations.

**Recommended Council Action:** Approval of this resolution.

<p><b>Does this item require city expenditure? Yes</b></p> <p>\$120,000 - Budget Neutral</p>	<p><b>Source and Amount of Funds:</b></p> <p>\$183,264.75 of FY20 donated revenues. One Hundred and Twenty Thousand Dollars (\$120,000), of the FY20 donated revenues, received in FY20, is requested for use to cover projected FY21 additional cost.</p>
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**Approvals**

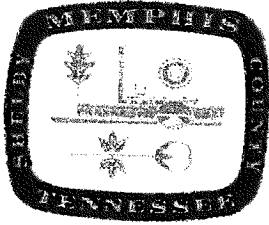
Director Alexis Fugate Date 11/13/20      Chief Operating Officer \_\_\_\_\_ Date \_\_\_\_\_

Division Chief \_\_\_\_\_ Date \_\_\_\_\_

Budget Manager Richard D. Campbell Date 11-16-20      Council Committee Chair \_\_\_\_\_ Date \_\_\_\_\_

Chief Financial Officer S. Abd Date 11/17/2020

Chief Legal Officer/City Attorney \_\_\_\_\_ Date \_\_\_\_\_



## Memphis City Council Summary Sheet

**1. Description of the Item (Resolution, Ordinance, etc.)**

This resolution is requesting to adjust the FY21 operating budget to spend restricted funds, received in FY20, in the amount of \$120,000 for Memphis Animal Services. The funds, provided by donations in FY20, will be used to support or offset the cost of animal services during FY21. (e.g. impound animals in medical need or impose a public safety risk, provide a resource to pet owners in the community to ensure legal compliance with animal care laws, etc.)

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

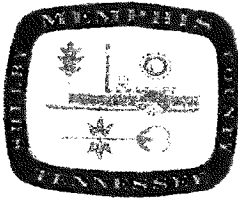
Memphis Animal Services – Executive Division.

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

Not Applicable

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

Not Applicable



**A resolution to adjust the FY21 operating budget to spend restricted funds, received in FY20, in the amount of \$120,000 for Memphis Animal Services.**

**WHEREAS**, the Memphis Animal Services, "MAS", was established for the public purpose of providing, among other things, the impoundment of animals that are medically in need or pose a public safety risk as well as resources to pet owners in the community to ensure legal compliance with animal care laws in Memphis; and

**WHEREAS**, various members of the public have expressed a willingness to financially contribute to the Memphis Animal Services to support the sustainability of these community programs; and

**WHEREAS**, in FY20 the City of Memphis' MAS received \$183,264.75 from various citizens and deposited such collections as MAS donated revenue in FY20; and

**WHEREAS**, MAS was not able to spend this funding in FY20 to support or offset the cost of animal services and therefore all income was returned to the city's fund's balance; and

**WHEREAS**, the city set aside the \$183,264.75 in a restricted reserve account in fund balance; and

**WHEREAS**, use of these funds has now been identified and it is now necessary to amend the FY21 MAS Operating Budget to authorize spending a portion of these funds in the amount of One Hundred and Twenty Thousand Dollars (\$120,000) to cover the projected additional cost for MAS to provide services that keep pets in loving homes and out of the shelter; and

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the donated funds in the amount of One Hundred and Twenty Thousand Dollars (\$120,000) from various donors to be used to amend the FY21 MAS budget by appropriating the Expenditures in the amount of One Hundred and Twenty Thousand Dollars (\$120,000) from the restricted fund balance.

**Rev**

101302 038487 Reserve Fund Balance	\$120,000.00
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**Expenditures**

101302 052320 Medical Supplies	\$30,000.00
101302 052342 Medical and Supplies	\$25,000.00
101302 052506 Medical/Dental/Veterinary	\$50,000.00
101302 052528 Miscellaneous Prof Services	\$15,000.00

**MINUTES**

**TELEPHONIC MEETING OF NOVEMBER 17, 2020 RECESSED MEETING TO  
DECEMBER 1, 2020 MEETING OF THE CITY COUNCIL CITY OF MEMPHIS**

**NOVEMBER 17, 2020**

**3:30 P.M. MEETING RECONVENED**

(After the meeting was re-opened for the transaction of business and a quorum was declared present, Vice Chairman Colvett made a motion to adjourn the November 17, 2020 City Council Meeting; this was second by Councilman Carlisle, without objection.)

(Chairwoman Robinson adjourned the November 17, 2020 City Council Meeting being that there wasn't any unfinished business, without objection.)

**CITY OF MEMPHIS  
NOTICE OF REGULAR MEETING  
OF  
THE MEMPHIS CITY COUNCIL  
Tuesday, November 17, 2020, 3:30 p.m.**

Due to the declarations of a State of Emergency by the President of the United States, the Governor of Tennessee and the Mayor of Memphis relating to Covid-19 Epidemic the Council has determined that is necessary that the meeting be conducted by electronic or other means of communication in order to protect the health, safety and welfare of the public, City employees, Council staff and Members of the Council.

**THERE WILL BE NO PHYSICAL MEETING**

Attached to this Notice of Meeting are instructions on how members of the public may electronically access the meeting and/or a recording of the meeting and how the public may provide written comments concerning any agenda item or any other matter prior to the meeting.

**ADJOURNED MEETING AT 3:32 p.m.**

.....  
Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

\_\_\_\_\_  
CHAIRMAN

Attest:

\_\_\_\_\_  
Deputy Comptroller/Council Records

**MINUTES**

**TELEPHONIC MEETING OF THE CITY COUNCIL**

**CITY OF MEMPHIS**

**December 1, 2020**

**3:30 P.M. SCHEDULED SESSION**

**3:32 P.M. MEETING COMMENCED**

**ROLL CALL:** J. Ford Canale, Chase Carlisle, Frank Colvett, Jr., Michalyn Easter-Thomas, Edmund Ford, Sr., Cheyenne Johnson, Martavius Jones, Rhonda Logan, Worth Morgan, JB Smiley, Jr., Jamita Swearingen, Jeff Warren and Chairwoman Patrice Robinson.

**THE MEETING WAS CALLED TO ORDER  
BY SERGEANT-AT-ARMS**

**INVOCATION**

The meeting was opened with telephonic prayer by Imam Mohammed Faqih of the Memphis Islamic Center. Councilman Warren thanked Mr. Faqih for being the Chaplain of the Day.

Chairwoman Robinson asked Councilman Jones to lead the Pledge of Allegiance.

**These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.**

Approval of the Minutes of the regular meeting of November 17, 2020 with the following motion:

MOTION: Colvett  
 SECOND: Carlisle  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Logan, Morgan, Swearingen, Warren and Chairwoman Robinson  
 NAY: Jones  
 Smiley did not cast a vote

**APPROVED**

2. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT PART OF 2939 SOUTH THIRD STREET AND PART OF 2920 NEW HORN LAKE ROAD, CONTAINING 7 ACRES IN THE EMPLOYMENT AND HEAVY INDUSTRIAL DISTRICT. THIS RESOLUTION IS SPONSORED BY THE OFFICE OF PLANNING AND DEVELOPMENT. (HELD FROM 10/20)**

Case No. SUP 20-12

Held until December 15, 2020

25. **ORDINANCE AMENDING CHAPTER 12 OF THE CITY OF MEMPHIS CODE OF ORDINANCES, SO AS TO UPDATE THE CODE OF ORDINANCES RELATED TO SIDEWALKS, UP FOR T H I R D AND F I N A L READING. ORDINANCE NO. 5764 IS SPONSORED BY COUNCILWOMAN EASTER-THOMAS. (HELD FROM 11/17)**

Held until December 15, 2020

31. **RESOLUTION TO CREATE AND FUND AN ANTI-VIOLENT CRIME TASK FORCE FOR THE CITY OF MEMPHIS. THIS RESOLUTION IS SPONSORED BY COUNCILMAN WARREN.**

Held until December 15, 2020

1. **RESOLUTION RECOGNIZING THE CAREER AND CONTRIBUTIONS OF STEVE LOCKWOOD UPON HIS RETIREMENT FROM THE FRAYSER CDC. THIS RESOLUTION IS SPONSORED BY COUNCILWOMAN EASTER-THOMAS.**

MOTION: Easter-Thomas

SECOND: Carlisle

AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearngen, Warren and Chairwoman Robinson

**APPROVED**

**CONSENT AGENDA – Items #3 - #7 may be acted upon by one motion: See Page 5783 for Roll Call Consent Items.**

3. **SUBSTITUTE ORDINANCE AMENDING TITLE 3, CHAPTER 16 IN THE CITY OF MEMPHIS, CODE OF ORDINANCES, CITY EMPLOYEE OCCUPATIONAL HEALTH PROGRAM, ESTABLISHING AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, UP FOR F I R S T READING. ORDINANCE NO. 5765 IS SPONSORED BY HUMAN RESOURCES DIVISION.**

**APPROVED**, on First reading

4. **ORDINANCE AMENDING CHAPTER 2, SECTION 2-22-7 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES TO MODIFY ENGINEERING ADMINISTRATION FEES, UP FOR F I R S T READING. ORDINANCE NO. 5766 IS SPONSORED BY ENGINEERING DIVISION.**

**APPROVED**, on First reading

5. **ORDINANCE AMENDING TITLE 11, SECTION 11-16-21 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES TO REDUCE THE DEFAULT CITY SPEED LIMIT TO 25 MPH, UP FOR F I R S T READING. ORDINANCE NO. 5767 IS SPONSORED BY ENGINEERING DIVISION.**

**APPROVED**, on First reading

6. **ORDINANCE ESTABLISHING THE CITY COUNCIL MEETING DATES FOR 2021, UP FOR F I R S T READING. ORDINANCE NO. 5768 IS SPONSORED BY CHAIRWOMAN ROBINSON.**

**APPROVED**, on First reading

7. **RESOLUTION ACCEPTING MUSEUM LOFTS HULING AVENUE (BOA 18-43) AND AUTHORIZING RELEASE OF THE PERFORMANCE BOND.**

Resolution approves accepting the public improvements with the City of Memphis as shown on the engineering plans located at the northeast corner of Mulberry Street and Huling Avenue intersection/northwest corner of St. Martin Street and Huling Avenue in the City of Memphis, Tennessee.

Resolution also authorizes the release of The Gray Casualty & Surety Company Performance No. GS54200059 in the amount of \$44,400.00 held as security for the standard improvement contract.

**APPROVED**

### **ROLL CALL CONSENT ITEMS**

MOTION: Colvett

SECOND: Warren

AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Swearngen, Warren and Chairwoman Robinson  
Smiley did not cast a vote

**APPROVED**

### **FISCAL CONSENT AGENDA – Item #8 & #9 may be acted upon by one motion:**

8. **RESOLUTION SEEKING THE ACCEPTANCE OF A DONATION IN THE AMOUNT OF \$1,000.00 FROM BELLEVUE INN, TO FUND MPD CRUMP PRECINCT OPERATIONAL ACTIVITIES. THIS RESOLUTION IS SPONSORED BY MEMPHIS POLICE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**



9. **RESOLUTION TO ACCEPT SUPPLEMENTAL GRANT FUNDING IN THE AMOUNT OF \$13,464.00 FROM THE US DEPARTMENT OF HOMELAND SECURITY. THIS RESOLUTION IS SPONSORED BY FIRE SERVICES. (REQUEST FOR SAME NIGHT MINUTES)**

**APPROVED**

**ROLL CALL FISCAL CONSENT ITEMS**

MOTION: Warren  
 SECOND: Canale  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, and Warren  
 Chairwoman Robinson did not cast a vote

**APPROVED**

**MLGW FISCAL CONSENT AGENDA – Items #10 - #21 may be acted upon by one motion:**

10. **RESOLUTION AWARDED A PURCHASE ORDER TO THOMAS CONSULTANTS, INC. FOR FIVE (5) YEARS OF UNLIMITED QUEST SOFTWARE ENTERPRISE LICENSES, IN THE AMOUNT OF \$327,512.11.**

**APPROVED**

11. **RESOLUTION APPROVING CHANGE NO. 6 TO CONTRACT NO. 11362, ELECTRONIC FORMS ROUTING WITH BP LOGIX IN THE FUNDED AMOUNT OF \$48,000.00. (THIS CHANGE IS TO RENEW ANNUAL SOFTWARE MAINTENANCE, LICENSE AND SUPPORT SERVICES FOR THE PROCESS DIRECTOR SOFTWARE MODULE COVERING THE PERIOD DECEMBER 29, 2020 THROUGH DECEMBER 28, 2023. MLGW IS REQUESTING CONTINUOUS MAINTENANCE OF THE ACQUIRED SYSTEM, WHICH CAN ONLY BE PERFORMED BY BP LOGIX.)**

**APPROVED**

12. **RESOLUTION AWARDED CONTRACT NO.12152, GIS 10.6.1 UPGRADE, TO SSP INNOVATIONS, LLC IN THE FUNDED AMOUNT OF \$365,678.00.**

**APPROVED**

13. **RESOLUTION APPROVING CHANGE NO. 6 TO CONTRACT NO. 11752, SOFTWARE LICENSE AND SERVICES AGREEMENT WITH HANSEN TECHNOLOGIES IN THE FUNDED AMOUNT OF \$101,540.56 (THIS CHANGE IS TO RENEW THE CURRENT CONTRACT FOR ANNUAL MAINTENANCE, LICENSE AND SUPPORT SERVICES FOR THE PERIOD COVERING JANUARY 1, 2021 THROUGH DECEMBER 31, 2022. THIS RENEWAL REFLECTS A 1% INCREASE**

**FOR EACH YEAR FROM THE PREVIOUS RENEWAL FEES BASED ON THE CONSUMER PRICING INDEX (CPI). MLGW IS ALSO REQUESTING CONTINUOUS MAINTENANCE OF THIS SOFTWARE, WHICH CAN ONLY BE PROVIDED BY HANSEN TECHNOLOGIES.)**

**APPROVED**

14. **RESOLUTION APPROVING CHANGE NO. 11 TO CONTRACT NO. 10908, MOBILE DATA WITH ABB ENTERPRISE SOFTWARE, INCORPORATED, IN THE FUNDED AMOUNT OF \$87,893.34. (THIS CHANGE IS TO RENEW ANNUAL SOFTWARE MAINTENANCE, LICENSE, AND SUPPORT SERVICES FOR THE MOBILE DISPATCHING SYSTEM, MOBILE MAPPING, AND STREET LEVEL ROUTING THROUGH THE CUSTOMER INFORMATION SYSTEM (CIS) COVERING THE PERIOD JANUARY 1, 2021 THROUGH JUNE 30, 2021. THIS RENEWAL REFLECTS A 0.99% INCREASE FROM THE PREVIOUS RENEWAL BASED ON THE CONSUMER PRICING INDEX (CPI). MLGW IS REQUESTING CONTINUOUS MAINTENANCE OF THE ACQUIRED SYSTEM, WHICH CAN ONLY BE PERFORMED BY ABB ENTERPRISE SOFTWARE, INCORPORATED.)**

**APPROVED**

15. **RESOLUTION AWARDDING CONTRACT NO. 12225, CAPLEVILLE TANK CORRAL INSTALLATION TO PITTSBURG TANK AND TOWER COMPANY, INC., IN THE FUNDED AMOUNT OF \$70,010.00.**

**APPROVED**

16. **RESOLUTION APPROVING THE RENEWAL OF COOPERATIVE AGREEMENT NO. 5447, INVESTIGATION OF WATER RESOURCES, FOR THE PERIOD OF JANUARY 1, 2021 TO DECEMBER 31, 2021, STIPULATING THAT A SUM OF \$60,000 WILL BE FURNISHED BY THE MLGW DIVISION AND A LIKE SUM WILL BE FURNISHED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY, FOR CONTINUATION OF THE GROUND WATER DATA COLLECTION PROGRAM IN THE MEMPHIS AREA.**

**APPROVED**

17. **RESOLUTION AWARDDING CONTRACT NO. 12106, OPEB ACTUARIAL SERVICES TO SEGAL, IN THE FUNDED AMOUNT OF \$337,000.00.**

**APPROVED**

18. **RESOLUTION AWARDDING CONTRACT NO. 12099, PENSION ACTUARIAL SERVICES TO SEGAL, IN THE FUNDED AMOUNT OF \$337,000.00.**

**APPROVED**

19. **RESOLUTION AWARDING A PURCHASE ORDER TO ENGINEERED SEALING COMPONENTS, LLC FOR 16" COATED STEEL PIPE IN THE FUNDED AMOUNT OF \$83,544.00.**

**APPROVED**

20. **RESOLUTION AWARDING A PURCHASE ORDER TO STAPLES CONTRACT AND COMMERCIAL AND GUY BROWN LLC FOR OFFICE SUPPLIES AND TONERS, IN THE AMOUNT OF \$575,000.00.**

**APPROVED**

21. **RESOLUTION APPROVING CHANGE NO. 4 TO CONTRACT NO.11881, TIRE AND TIRE SERVICES WITH GOODYEAR TIRE AND RUBBER CO., IN THE FUNDED AMOUNT OF \$986,546.79. (THIS CHANGE IS TO RENEW THE CURRENT CONTRACT FOR THE FOURTH AND FINAL ANNUAL RENEWAL TERM FOR THE PERIOD COVERING JANUARY 1, 2021 THROUGH DECEMBER 31, 2021, WHICH REFLECTS AN OVERALL 1.77% INCREASE IN LABOR AND RAW MATERIAL COSTS. MLGW IS ALSO REQUESTING THE APPROVAL OF CONTINGENCY FUNDS IN THE AMOUNT OF \$100,000.00 FOR UNFORESEEN CONDITIONS TO COVER VARIATIONS IN TIRE PURCHASES DURING THIS TERM, FOR A TOTAL OF \$986,546.79.)**

**APPROVED**

**ROLL CALL MLGW FISCAL CONSENT ITEMS**

MOTION: Morgan  
 SECOND: Carlisle  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

32. **APPOINTMENT**

**MEMPHIS, LIGHT, GAS & WATER DIVISION CHIEF PEOPLE OFFICER**

**Appointment**

Jackie Jones **(Request for Same Night Minutes)**

MOTION: Carlisle  
 SECOND: Warren  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan,

Smiley and Swearingen  
Warren and Chairwoman Robinson did not cast a vote

**APPROVED**

33. **RESOLUTION APPROPRIATING THE SUM OF \$350,000.00 IN OTHER PROJECT COST FUNDED BY G.O. BONDS GENERAL TO CONTINUE THE IMPLEMENTATION OF THE URBAN ART PLAN, CIP PROJECT #EN21301, CHARGEABLE TO FY2021 CIP BUDGET. (ALL COUNCIL DISTRICTS). THIS RESOLUTION IS SPONSORED BY ENGINEERING DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Logan  
SECOND: Carlisle  
AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

34. **RESOLUTION APPROVING A 100-YEAR LEASE TO THE METAL MUSEUM FOR 1930 POPLAR AVENUE, ALSO KNOWN AS RUST HALL, THE FORMER MEMPHIS COLLEGE OF ART BUILDING IN OVERTON PARK. (DISTRICT 5, SUPER DISTRICT 9). THIS RESOLUTION IS SPONSORED BY PARKS AND (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
SECOND: Carlisle  
AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Smiley, Swearingen and Chairwoman Robinson  
NAY: Morgan  
Warren did not cast a vote

**APPROVED**

35. **RESOLUTION ACCEPTING AND APPROPRIATION AN ADDITIONAL \$81,180.80 IN GRANT FUNDS FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE BALL ROAD SIDEWALKS, PROJECT #EN01060 REQUIRED G.O. BOND MATCH PREVIOUSLY ALLOCATED. (DISTRICT 6, SUPER DISTRICT 8). THIS RESOLUTION IS SPONSORED BY ENGINEERING DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
SECOND: Colvett  
AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

36. **RESOLUTION ACCEPTING AND APPROPRIATING AN ADDITIONAL \$366,355.00 IN GRANT FUNDS FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE DUNBAR ELEMENTARY SCHOOL SAFETY IMPROVEMENTS, PROJECT #EN01061 REQUIRED G.O. BOND PREVIOUSLY ALLOCATED. (COUNCIL DISTRICT 4, SUPER DISTRICT 8). THIS RESOLUTION IS SPONSORED BY ENGINEERING DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
 SECOND: Carlisle  
 AYES: Canale, Carlisle, Colvett, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson  
 Easter-Thomas did not cast a vote

**APPROVED**

37. **RESOLUTION ACCEPTING FUNDS FROM THE DOWNTOWN MEMPHIS COMMISSION IN THE AMOUNT OF \$36,500.00 TO REIMBURSE CONSTRUCTION FUNDS TO CIP PROJECT #EN01004. (DISTRICT 6, SUPER DISTRICT 8). THIS RESOLUTION IS SPONSORED BY ENGINEERING DIVISION. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
 SECOND: Canale  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

38. **RESOLUTION OF THE MEMPHIS CITY COUNCIL IN SUPPORT OF A STATEWIDE MASK MANDATE. (ALL COUNCIL DISTRICTS). THIS RESOLUTION IS SPONSORED BY CHAIRWOMAN ROBINSON. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Robinson  
 SECOND: Canale  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

39. **RESOLUTION AMENDING COUNCIL RULES OF PROCEDURE. (ALL COUNCIL DISTRICTS). THIS RESOLUTION IS SPONSORED BY COUNCILMAN SMILEY. (REQUEST FOR SAME NIGHT MINUTES)**

MOTION: Smiley  
 SECOND: Carlisle

AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearengen, Warren and Chairwoman Robinson

**APPROVED**

22. **APPOINTMENTS**

**CIVILIAN LAW ENFORCEMENT REVIEW BOARD**

APPOINTMENT

SHAWN LYNCH

**MEMPHIS & SHELBY COUNTY DOWNTOWN MEMPHIS COMMISSION**

APPOINTMENT

VICTORIA YOUNG

**MEMPHIS PUBLIC ART OVERSIGHT COMMITTEE**

APPOINTMENT

JANA TRAVIS

MOTION: Carlisle

SECOND: Warren

AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearengen, Warren and Chairwoman Robinson

**APPROVED**

23. **ORDINANCE AMENDING CHAPTER 2, ARTICLE I, SECTION 2-10-10, SUBSECTION B, TO REQUIRE THE BOARD OF ETHICS TO ESTABLISH AN ONLINE PORTAL TO REQUIRE LOBBYISTS TO REGISTER ANNUALLY AND TO FILE THEIR STATE MANDATED DISCLOSURE STATEMENTS WITH THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING. ORDINANCE NO. 5752 IS SPONSORED BY COUNCILMAN MORGAN AND COUNCILMAN CARLISLE. (HELD FROM 6/16;7/7;7/21;9/1: 9/15; 10/6; 10/20; 11/03; 11/17)**

MOTION: Canale

SECOND: Warren

AYES: Canale, Carlisle, Colvett, Ford, Morgan and Warren

NAYS: Easter-Thomas, Johnson, Jones, Logan, Swearengen and Chairwoman Robinson  
Smiley Abstained

**FAILED**

24. **ORDINANCE AMENDING AND RESTATING CHAPTER 25 OF THE CITY OF MEMPHIS, CODE OF ORDINANCES GOVERNING THE CITY PENSION SYSTEM, UP FOR T H I R D AND F I N A L READING. ORDINANCE NO. 5763 IS SPONSORED BY THE ADMINISTRATION. (HELD FROM 10/20; 11/03; 11/17)**

Held until December 15, 2020

26. **RESOLUTION TO AMEND THE FISCAL YEAR 2021 GENERAL FUND OPERATING BUDGET IN ACCORDANCE WITH TENNESSEE CONSTITUTION ARTICLE 2 §24, TCA § 9-1-116, MUNICIPAL BUDGET LAW OF 1982. THIS RESOLUTION IS SPONSORED BY FINANCE DIVISION.**

MOTION: Jones  
 SECOND: Canale  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Swearingen, Warren and Chairwoman Robinson  
 Smiley did not cast a vote

**APPROVED**

27. **RESOLUTION AUTHORIZING THE FINAL PAYMENT OF FY 2021 TAX EQUIVALENT PAYMENT FROM MEMPHIS LIGHT GAS AND WATER DIVISION'S GAS SYSTEM AND TOTAL DISTRIBUTION OF THE FY 2021 TAX EQUIVALENT PAYMENT TO TAXING JURISDICTIONS IN SHELBY COUNTY, TENNESSEE. THIS RESOLUTION IS SPONSORED BY MLG&W DIVISION.**

MOTION: Morgan  
 SECOND: Warren  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

28. **RESOLUTION AUTHORIZING THE FINAL PAYMENT OF FY 2021 TAX EQUIVALENT PAYMENT FROM MEMPHIS LIGHT GAS AND WATER DIVISION'S ELECTRIC SYSTEM AND TOTAL DISTRIBUTION OF THE FY 2021 TAX EQUIVALENT PAYMENT TO TAXING JURISDICTIONS IN SHELBY COUNTY, TENNESSEE. THIS RESOLUTION IS SPONSORED BY MLG&W DIVISION.**

MOTION: Morgan  
 SECOND: Carlisle  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

29. **RESOLUTION AWARDING A GRANT OF \$175,000.00 TO HOSPITALITY HUB FOR “WORK LOCAL PROGRAM”, A WORK INITIATIVE TO ADDRESS TWO OF MEMPHIS’ BIGGEST ISSUES – PANHANDLING AND BLIGHT. THIS RESOLUTION IS SPONSORED BY PUBLIC WORKS DIVISION.**

MOTION: Smiley  
 SECOND: Canale  
 AYES: Canale, Carlisle, Colvett, Easter-Thomas, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson

**APPROVED**

30. **RESOLUTION PROHIBITING THE SALE AND PURCHASE OF SINGLE USE BOTTLED WATER BY THE CITY OF MEMPHIS. THIS RESOLUTION IS SPONSORED BY COUNCILMAN WARREN.**

MOTION: Smiley  
 SECOND: Canale  
 AYES: Canale, Easter-Thomas, Jones, Logan, Smiley and Warren  
 NAYS: Morgan and Chairwoman Robinson  
 Colvett, Ford, Johnson and Swearingen abstained  
 Carlisle did not cast a vote

**APPROVED**

**(Special Item #1 – Vice Chairman Colvett made a motion to approve same night minutes for Items #8, #9, & Items #32 - #39 from tonight’s meeting.)**

MOTION: Colvett  
 SECOND: Morgan  
 AYES: Canale, Colvett, Ford, Johnson, Jones, Logan, Morgan, Smiley, Swearingen, Warren and Chairwoman Robinson  
 Carlisle and Easter-Thomas did not cast a vote

**APPROVED**

Vice Chairman Colvett read the comment card for the following person(s):

Joseph Kirkland, 784 Eventide Drive, Memphis, Tennessee, 38120  
 Amy Orcutt, 3545 Clayphil Ave, Memphis, Tennessee, 38111  
 Jim Gosney, 8927 Magnolia Leaf Cv., Cordova, Tennessee, 38018  
 Paul Brown, 2890 Randy Cv., Memphis, Tennessee, 38118  
 Adam Rudman, 3551 Dalebranch Dr., Memphis, Tennessee, 38116  
 Kevin Phipps, 10169 Whitcomb Lane, Memphis, Tennessee, 38016  
 Sharon Jones, 2023 Barnsbury Way 2, Cordova, Tennessee, 38016



Carter Hord, 66 Monroe Avenue, Suites 105-108 Memphis, Tennessee, 38103  
Elizabeth Glasgow, 66 Monroe Avenue, Memphis, Tennessee, 38103

**(Councilman Colvett made a motion to recess the December 1, 2020 meeting, until December 15, 2020. This was second by Councilman Canale.)**

**RECESSED MEETING AT 4:58 p.m.**

.....  
Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

\_\_\_\_\_  
CHAIRMAN

Attest:

\_\_\_\_\_  
Deputy Comptroller/Council Records

**CITY OF MEMPHIS  
NOTICE OF REGULAR MEETING  
OF  
THE MEMPHIS CITY COUNCIL  
Tuesday, December 1, 2020, 3:30 p.m.**

Due to the declarations of a State of Emergency by the President of the United States, the Governor of Tennessee and the Mayor of Memphis relating to Covid-19 Epidemic the Council has determined that it is necessary that the meeting be conducted by electronic or other means of communication in order to protect the health, safety and welfare of the public, City employees, Council staff and Members of the Council.

**THERE WILL BE NO PHYSICAL MEETING**

Attached to this Notice of Meeting are instructions on how members of the public may electronically access the meeting and/or a recording of the meeting and how the public may provide written comments concerning any agenda item or any other matter prior to the meeting.

**INSTRUCTIONS OF STEPS TO VIEW THE DECEMBER 1, 2020 MEMPHIS CITY COUNCIL MEETING**

Take notice, the Memphis City Council will meet on **Tuesday, December 1, 2020 at 8:00 a.m.** However, due to Coronavirus disease (COVID-19) health and safety concerns, the public is not permitted to attend the meeting in-person. Instead, the public is permitted to participate in the meeting in the following manner: (I) Electronically, via live-stream, (II) Radio, via 88.5 FM (WQOX), and (III) Electronically, via digital archive.

**A. Electronically, via live-stream**

**To view the Tuesday, December 1, 2020 Memphis City Council meeting electronically, via live-stream, follow the steps below:**

- (1) Access the internet,
- (2) Go to the Memphis City Council's "Watch Meetings Online" page at <https://www.memphistn.gov/cms/One.aspx?portalID=11150816&pageID=15334953>
- (3) At 8:00 a.m., click on the December 1, 2020 Memphis City Council meeting
- (4) Begin viewing the December 1, 2020 Memphis City Council meeting electronically via live-stream
- (5) Click on the December 1, 2020 "Agenda" tab to view the agenda documents

**B. Radio, via 88.5 FM (WQOX)**

**To listen to the Tuesday, December 1, 2020 Memphis City Council meeting by radio, via 88.5 FM (WQOX), follow the steps below:**

- (1) Access a radio with FM-capabilities,
- (2) At 3:30 p.m., turn the radio dial to 88.5 FM (WQOX),
- (3) Begin listening to the December 1, 2020 Memphis City Council meeting by radio via 88.5 FM (WQOX)

**C. Electronically, via digital archive**

**To listen to the Tuesday, December 1, 2020 Memphis City Council meeting electronically, via digital archive, follow the steps below:**

- (1) Access the internet **after** the December 1, 2020 Memphis City Council meeting,
- (2) Go to the Memphis City Council's "Archived Videos" page at [https://www.memphistn.gov/government/city\\_council/watch\\_public\\_meetings\\_online/city\\_council\\_archived\\_videos](https://www.memphistn.gov/government/city_council/watch_public_meetings_online/city_council_archived_videos)
- (3) Press play on the December 1, 2020 "City Council Full Meeting" tab
- (4) Begin viewing the December 1, 2020 Memphis City Council meeting electronically via digital archive
- (5) Click on the December 1, 2020 "Agenda" tab to view the agenda documents
- (6) Click on the December 1, 2020 "Minutes" tab to view the meeting minutes

**Note: Public comments may be submitted to the Memphis City Council twenty-four (24) hours prior to the December 1, 2020 meeting. To submit your public comment, please email [Patrice.robinson@memphistn.gov](mailto:Patrice.robinson@memphistn.gov) with your (a) full name, (b) full street address, (c) phone number, (d) agenda item, if applicable, and (e) comment. For more information, please call (901) 636-6786.**

**Thank you for your patience during this time. We look forward to continuing our work on your behalf as a thirteen-member council working to make Memphis a safe, healthy, and prosperous city for all!**

**With earnest appreciation,**



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**Patrice Jordan Robinson  
Chairwoman, Memphis City Council**