



AN ORDINANCE TO AMEND, CHAPTER 33, ARTICLE I, ARTICLE II, DIVISIONS 1 THROUGH 4, ARTICLE III, DIVISIONS 1 THROUGH 4, TO DELETE ARTICLE II, DIVISIONS 5 AND 6, AND TO CREATE A NEW ARTICLE IV, DIVISIONS 1 THROUGH 6, OF THE CITY OF MEMPHIS CODE OF ORDINANCES, TO UPDATE PERMIT AND DISCHARGE ASSOCIATED REQUIREMENTS FOR INDUSTRIAL AND OTHER USERS OF THE CITY'S SEWER SYSTEM IN ACCORDANCE WITH FEDERAL AND STATE REGULATIONS AND TO PROVIDE FOR PROTECTION OF THE CITY'S PUBLICLY OWNED TREATMENT WORKS INCLUDING THE SANITARY SEWER COLLECTION SYSTEM

WHEREAS, the City of Memphis recognizes that the waters of Tennessee are the property of the State and are held in public trust for the use of the people of the State of Tennessee; and

WHEREAS, the City of Memphis recognizes that the citizens of Memphis, as residents of the State of Tennessee, have a right to unpolluted waters; and

WHEREAS, the City of Memphis recognizes that it has an obligation to take all prudent action to ensure that the navigable waters located within the municipal limits of the City of Memphis remain unpolluted to the fullest extent possible; and

WHEREAS, the City of Memphis has an approved pretreatment program which provides for the implementation and enforcement of pretreatment program requirements in accordance with applicable state and Federal law; and

WHEREAS, the City of Memphis issues permits to industrial users discharging wastewaters to the City's sewer system and/or wastewater treatment plant and otherwise issues permits in accordance with local law as it deems appropriate; and

WHEREAS, the City of Memphis has a program for regulating food establishment waste dischargers and to assure that oil and grease is not inappropriately entering the City's sewer collection system; and

WHEREAS, in accordance with the Tennessee Water Quality Control Act, as well as the Federal Water Pollution Control Act, the City of Memphis deems it necessary to revise the existing pretreatment requirements for users of the wastewater collection system according to new Federal regulations currently set forth in Chapter 33 of the City of Memphis Code of Ordinances and to otherwise reorganize its ordinances; and

WHEREAS, a copy of the pretreatment requirements is also contained in Chapter 13 of the City of Memphis Code of Ordinances and is available on-line in Municode, corresponding changes are made to Chapter 13.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 33, Article I, is hereby amended to state as follows with corresponding changes to be made to Chapter 13-4 and with any cross-references herein to Chapter 33 provisions also deemed to apply to the corresponding Chapter 13 provision:

SEWERS AND SEWAGE DISPOSAL*
MEMPHIS CODE

Art. I. In General and Definitions, ##33-1--33-16 [Chapter 13-4]

ARTICLE I. IN GENERAL AND DEFINITIONS

Secs. 33-1--33-15. **Reserved.**

***Cross references-** Memphis Light, Gas and Water division, #2-256 *et seq.*; water and/or water closets and equipment requirements for barbershops, #6-3; required toilet facilities in day care centers, #12-7; garbage, trash, and refuse, Ch.15; health and sanitation, Ch.16; toilet facilities required in coin-operated laundrettes, #16-158; sewage disposal in food establishments, #16-208; required toilet facilities at public swimming pools, #16-434; planning, Ch.26; required toilets and urinals in undertaking establishments, #28-6; sewage disposal requirements for trailer courts, #30-28; rivers and harbors, Ch.32; streets and sidewalks, Ch.34; toilets, urinals, etc., required in tattoo shops, #35-28; building code, Ch.44; plumbing, Ch.49.

State law references- Power to acquire, construct, and maintain sewage system and to charge for service, T.C.A. #7-35-401 *et seq.*; authority to require connections to sewer system, T.C.A. # 7-35-201(l); Power to impose administrative penalties, T.C.A. # 69-3-123 *et seq.*

Sec. 33-16. [Sec. 13-4-1] **Definitions.**

Terms for which definitions are not specifically herein provided shall be interpreted consistent with the intent and substance of this Ordinance and as otherwise provided by state regulation at 0400-40-14-.03 or EPA regulation at 40 C.F.R. § 403.3. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, and found in 33 U.S.C. § 1251 *et seq.*

Action Level means a goal set forth in a permit or other document. In order for a requirement in a permit or other document to be deemed an Action Level it must specifically be designated as an "Action Level" in the permit or document, as applicable. An Action Level may be established as a numerical or other limitation. While an exceedance of an Action Level is not a violation, it can trigger or otherwise lead to additional requirements being imposed upon the Discharger, including, but not limited to, User study of the cause of the Action Level exceedance and/or the imposition of enforceable Discharge limitations.

Additional Treatment Charge means the portion of the service charge, which is levied on those Users whose wastes are greater in strength than the concentration values established as representative of normal sewage or Wastewater.

Alkalinity means the mass of a 100% sulfuric acid required to reduce the pH of a given volume of Wastewater to a pH of 7.0. The value is expressed as pounds of sulfuric acid per day.

Authorized Representative of the User means:

- (1) A responsible corporate officer if the User is a Corporation. A responsible corporate officer means
 - (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for

the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual and general Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor if the User is a partnership or sole proprietorship, respectively.

(3) A duly authorized representative of the individual designated in paragraph (1) or (2) if: (i) The authorization is made in writing by the individual described in paragraph (1) or (2); (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial Discharge originates, such as the position of plant manager, operator of the well, well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and (iii) the written authorization is submitted to the Control Authority.

(4) If an authorization under paragraph (3) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (3) must be submitted to the Control Authority prior to, or together with, any reports to be signed by an Authorized Representative of the User.

Best Management Practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 33-243 and 33-244 of this Ordinance [See also Tennessee Rule 0400-40-14-.05(1)(a) and (2)]. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Blowdown means the Discharge of water with high concentrations of accumulated solids from boilers to prevent plugging of the boiler tubes or stream lines. In cooling tower, blowdown is discharged to reduce the concentration of dissolved salts in the recirculating cooling water.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter (or pounds upon factoring in flow).

Building Sewer means the extension from the building to the public sewer or other place of disposal, also called "house connection."

Calendar Day means the 24-hour period from midnight-to-midnight or any other 24-hour period approved by the City for a particular facility that reasonably approximates the midnight-to-midnight time period.

Categorical Industrial User ("CIU") means an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard (except for dental dischargers subject to 40 C.F.R. Part 441).

Categorical Standards or Categorical Pretreatment Standard means the national categorical pretreatment standards as found in 40 C.F.R. Chapter I, Subchapter N, Parts 405 *et seq.*

C.F.R. means the Code of Federal Regulations.

City means the City of Memphis, Tennessee.

COD (denoting chemical oxygen demand) means the measure of oxygen-consuming capacity of inorganic and organic matter present in Wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It is expressed in milligrams per liter (or pounds upon factoring in flow).

Composite Sample means a sample composed of individual subsamples taken at regular intervals over a specified period of time. Unless otherwise specified by this Ordinance or the Control Authority, subsamples may be proportioned by time interval or size according to flow (*i.e.*, flow-proportioned composite sample), or be of equal size and taken at equal time intervals (*i.e.*, time-proportioned composite sample).

Control Authority or Approving Authority means the City of Memphis, Division of Public Works. The term "Approving Authority" as used herein is differentiated from the term "Approval Authority" as defined in 40 C.F.R. § 403.3(c).

Control Mechanism means a permit, order, or similar means of establishing enforceable requirements. This includes SIU Discharge Permits and Other User Permits. Failure to comply with the requirements set forth in these documents may result in enforcement actions, which may include, but is not limited to, administrative fines and/or withdrawal of the privilege to use the City of Memphis Wastewater System.

County means Shelby County, Tennessee unless otherwise specified.

Daily Discharge means the "Discharge of a Pollutant" measured using approved methods at the appropriate sampling point during a Calendar Day, or any 24-hour period that reasonably represents the Calendar Day, established by the Control Authority in the Control Mechanism. For Pollutants with limitations expressed in units of mass, the "Daily Discharge" is calculated as the total mass of the Pollutant Discharged over the day. For Pollutants with limitations expressed in other units of measurement, the "Daily Discharge" is calculated as the average measurement of the Pollutant over the day.

Daily Maximum means the arithmetic average of all effluent samples for a Pollutant (except pH) collected during a Calendar Day.

Daily Maximum Limit means the maximum allowable Discharge limit of a Pollutant during a Calendar Day. Where Daily Maximum Limits are expressed in units of mass, the Daily Maximum Limit will be determined by the Daily Discharge, *i.e.*, the total mass Discharged over the course of a Calendar Day. Where Daily Maximum Limits are expressed in terms of a concentration, the Daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements using approved methods at the appropriate sampling point taken that day. This can be based upon the averaging of several Grab Samples during a Calendar Day or Composite Samples (*e.g.*, 8-hour or 24-hour composite samples).

Day, for the purposes of counting when an event must occur (*e.g.*, report within 10 days), means, unless otherwise specified, a calendar day, which is a 24-hour period from midnight to midnight. "Days" refers to consecutive calendar days. For the purposes of an effluent limit (*e.g.*, Daily Maximum Limit), "Day" or "Calendar Day" refers to midnight-to-midnight or other 24-hour period that reasonably approximates the midnight-to-midnight time period.

Direct Discharge to State Waters or Direct Discharge means the addition of Pollutants to Waters of the State from a source.

Director means the Director of Public Works except where another position is specifically identified (e.g., EPA Regional Water Protection Division Director).

Discharge or Indirect Discharge means the introduction of Pollutants into the City's POTW including the introduction of Pollutants into the sewer system of the POTW as well as the delivery of waste waters and other Pollutants by truck or any other conveyance. "Discharge" or "Indirect Discharge" does not include a "Direct Discharge to State Water."

Discharge Permit means a SIU Discharge Permit or Other User Permit.

Discharger means a Person who Discharges.

Division means the Division of Public Works of the City of Memphis except where another entity is specifically identified (e.g., EPA Regional Water Protection Division).

Domestic Source means the waste and Wastewater from human or typical household activities including a household kitchen, water closets, lavatories and laundries, or any waste from a similar source and possessing essentially the same characteristics. Commercial facilities such as restaurants, hospitals, institutions (e.g., colleges), cafeterias, bakeries, ground-water remediation sites, and other non-household sources are not considered to be a "domestic source" (except Wastewater from their bathroom facilities, segregated from other flows, is considered a "Domestic Source").

Easement means an acquired legal right for the specific use of land owned by others.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Protection Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing Source means any source of Discharge that is not a "New Source."

Facility Site means the land or water area where any Indirect Discharge activity that is subject to regulation under this Ordinance is physically located or conducted, including adjacent land used in connection with the facility or activity (e.g., manholes on the User's owned or occupied property).

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

General Discharge Permit means a Discharge Permit that can be issued to more than one Discharger.

Grab Sample means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Holding-tank Waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, vaults, pits, sumps, and vacuum-pump tank trucks.

Hydrogen ion concentration: See "pH".

Industrial User means a source of Indirect Discharge.

Industrial Wastes means the Wastewater from industrial processes, trade, or business, as distinct from domestic sanitary sewage.

Instantaneous Limit means the maximum concentration of a Pollutant allowed to be Discharged at any time, determined from the analysis of any discrete sample (*e.g.*, Grab Sample) of the Discharge. pH may *also* be regulated by an instantaneous maximum and/or minimum limit. Where a Composite Sample shows a value higher than an Instantaneous Limit, such sampling result is deemed to provide conclusive evidence of a violation of an Instantaneous Limit applicable during that time period.

Interference means a Discharge which, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the sewer system, WWTP, treatment processes, or operations or its sludge processes, use or disposal, exceeds the design capacity of the treatment works or the collection system, and/or which causes or contributes to a violation of any requirement of the City's NPDES permit or poses a threat to worker health and safety (*e.g.*, chemical fumes). The term includes disruption with the use of biogas generated by a POTW as a fuel or prevention of sewage sludge use or disposal by the POTW in accordance with criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act ("SWDA"), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Legal Authority means the rules, regulations and ordinances of the City of Memphis regulating the Discharge and treatment of Industrial Waste.

Local Hearing Authority means the Memphis Wastewater Hearing Authority. See Tennessee Code Annotated § 69-3-124.

Local Limit means specific Discharge limits developed by the Control Authority to implement the general and specific Discharge prohibitions listed in Tennessee Rule 0400-40-14-.05(1)(a) and (2).

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

mg/l means a concentration unit of milligrams per liter of solution.

Monthly Average means the sum of all "Daily Discharges" measured during a calendar month divided by the number of "Daily Discharges" measured during that month.

Monthly Average Limit means the highest allowable average of "Daily Discharges" over a calendar month, calculated as the sum of all "Daily Discharges" measured during a calendar month divided by the number of "Daily Discharges" measured during that month.

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, Industrial Wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. § 1288).

National Pretreatment Standards or Pretreatment Standard or Standard means any regulation containing Pollutant Discharge limits promulgated by the Environmental Protection Agency in accordance with the Act,

which applies to Users. The term includes general and specific prohibitive Discharge limits pursuant to Sections 33-243(a) and 33-243(b)(1)-(7), and local limits pursuant to Section 33-244(c), (d) and (f).

National Pollution Discharge Elimination System ("NPDES") means the program for issuing, conditioning, and denying permits for the Direct Discharge of Pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Clean Water Act as amended, 33 U.S.C. § 1342.

Natural Outlet means any outlet, into a watercourse, pond, ditch, lake or other body of surface, or ground water.

New Source means:

(a) Any building, structure, facility, or installation from which there is or may be a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Clean Water Act, which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(1) The building structure, facility, or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or

(3) The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plan and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(1) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment, which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for

feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-Significant Categorical Industrial User means an Industrial User, subject to Categorical Pretreatment Standards, that never Discharges more than 100 gallons per day (gpd) of total categorical Wastewater (excluding sanitary, non-contact cooling, and boiler Blowdown Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to Control Authority's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Pretreatment Requirements;

(b) The Industrial User annually submits the certification statement required in Section 33-230(j)(2) of this Chapter [see Tennessee Rule 0400-40-14-.12(17)], together with any additional information necessary to support the certification statement; and

(c) The Industrial User never Discharges any untreated concentrated Wastewater.

Other User Permit means an individual control mechanism or General Discharge Permit issued to a User that is not a Significant Industrial User. Failure to comply with the requirements set forth in Other User Permits may result in enforcement actions, which may include, but is not limited to, administrative fines and/or withdrawal of the privilege to use the City of Memphis Wastewater System. The requirements imposed in an Other User Permit and the manner in which such permits are issued and enforced, and such facilities are monitored or inspected, are subject to the City's sole discretion. Other User Permits include, but are not limited to, Food Establishment Wastewater Discharge ("FEWD") Permits imposing, among other things, requirements pertaining to fats, oils, and grease, waste hauler permits, permits issued to ground water remediation pump and treat facilities (except to the extent the Discharger is identified as an SIU), special permits for the disposal of portable toilet Wastewater, letters of approval for hauled Wastewater, and letters of approval setting forth flow limitations (e.g., limiting use of the sewer system to certain hours) on Users or new or expanded development or facilities.

Pass-through means a Discharge which exits the Wastewater Treatment Plant ("WWTP") into Waters of the State in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the WWTPs' NPDES permits, including an increase in the magnitude or duration of a violation.

Person means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and Federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

pH means the negative log of the hydrogen ion concentration (in moles per liter) of a given water, $\text{pH} = -\log_{10}[\text{H}^+]$. Water will dissociate into hydrogen and hydroxyl ions ($\text{H}_2\text{O} \leftrightarrow \text{H}^+ + \text{OH}^-$) and the concentration of hydroxyl ion can be expressed as pOH. The $\text{pH} + \text{pOH}$ always equals 14 in water. pH limits may be established in standard units, based on this relationship and the hydroxide load.

pH Maximum Limit means a limit imposed on the alkalinity of a Discharge. A pH Maximum Limit is distinct from a pH Minimum Limit.

pH Minimum Limit means a Discharge limit imposed on the acidity of a Discharge. A pH Minimum Limit is distinct from a pH Maximum Limit.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, and Industrial Wastes, and certain characteristics of Wastewater (*e.g.*, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution means the man-made or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes, by process changes, or by other means, except by diluting the concentration of the Pollutants, unless allowed by an applicable Pretreatment Standard.

Pretreatment Program means the rules, regulations, and/or ordinances of the City regulating the Discharge and treatment of industrial and commercial Wastewater, the Control Mechanisms issued under Article IV of Chapter 33 of the Memphis Code and such other provisions as provided for in this Ordinance, 40 C.F.R. 403.1 *et seq.*, and/or Tennessee Rule 0400-40-14-.01 *et seq.*

Pretreatment Requirement means any substantive or procedural requirement related to Pretreatment other than a National Pretreatment Standard imposed on a User.

Pretreatment Standards or Standards means prohibited Discharge standards, Categorical Pretreatment Standards, and Local Limits.

Priority Pollutants means any Pollutant identified in 40 C.F.R. Part 423, Appendix A.

Process Wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Properly Shredded Garbage means the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Publicly Owned Treatment Works ("POTW") means a treatment works as defined by Section 212 of the Federal Water Pollution Control Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by Section 502(4) of the Federal Water Pollution Control Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey Wastewater to a WWTP. The term also means the municipality as defined in Section 502(4) of the Federal Water Pollution Control Act, which has jurisdiction over the Indirect Discharges to and the Discharges from such a treatment works.

Sanitary Sewer means a sewer which carries sewage and/or Wastewater. It does not include a Storm Sewer, which is designed primarily to address storm water, surface, and ground waters.

Service Charge means the assessment levied on Users of the public sewer system.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water, and storm water that may be present.

Sewage System or Wastewater System means all facilities for collecting, pumping, treating, and disposing of sewage that flows to a City's WWTP.

Significant Industrial User ("SIU") means any Industrial User of the City of Memphis Wastewater System, or Wastewater Systems of other municipalities connected to the City of Memphis Wastewater System, that is subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N (except for dental dischargers subject to 40 C.F.R. Part 441) and/or has an average Discharge flow of 25,000 gallons or more per day of process Wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler Blowdown Wastewater); and/or has a Discharge of a process wastestream which is greater than or equal to five percent (5%) of the average dry weather hydraulic flow and/or organic design capacity of the receiving WWTP; and/or is found by the City of Memphis to have a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or Pretreatment Requirement either singly or in combination with other contributing industries on the City of Memphis' Wastewater System, including, but not limited to, the quality of sludge produced, the Wastewater System's effluent quality, groundwater in the area, or air emission generated by the Wastewater System. Upon a finding that a Non-Categorical Industrial User meeting the criteria above has no reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or Pretreatment Requirement, the City may, at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in Tennessee Rule 0400-40-14-.08(6)(f), determine that such Industrial User is not a Significant Industrial User.

Unless otherwise designated by Memphis subject to its discretion, dental dischargers subject to 40 C.F.R. Part 441 are not "Significant Industrial Users" as defined herein and are not "Categorical Industrial Users" or "industrial users subject to categorical pretreatment standards" as those terms and variations are used herein and in 40 CFR part 403.

SIU Discharge Permit is a Control Mechanism issued to a Significant Industrial User that establish specific parameter limits and other requirements for control and monitoring of the Wastewater Discharges. Failure to comply with the requirements set forth in an SIU Discharge Permit may result in enforcement actions, which may include, but is not limited to, administrative fines and/or withdrawal of the privilege to use the City of Memphis Wastewater System. Individual SIU Discharge Permits may be issued to individual industrial/commercial users. Subject to the Control Authority's discretion, general SIU Discharge Permits may be issued to a group of facilities.

Slug Discharge or Slug means any Discharge of a non-routine, episodic nature (including, but not limited to, an accidental spill) or a batch Discharge (including customary and non-customary batch Discharges) which has a reasonable potential to cause Interference or Pass-Through, or in any other way violate Article IV of Chapter 33 of the Memphis Code and/or Local Limits or permit conditions.

Special Sewer Service Area means a sewer service area which shall be subject to unique and separate Sewer Infrastructure Surcharge Fees in addition to normal sewer fees described within this chapter, based upon the particular costs associated with providing sewer service in that area.

Standard Methods means the analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association; and/or "EPA Methods for Chemical Analysis of Water and Wastes" as per 40 C.F.R. Part 136 and amendments thereto;

and/or City of Memphis, Public Works Division's laboratory procedures for certain tests that detail specific requirements that are not addressed elsewhere or are presented as optional.

Storm Drain or Storm Sewer means a sewer which primarily carries storm and surface waters and drainage, but is designed to exclude sewage and Industrial Wastes, other than unpolluted cooling water.

Storm Water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended Solids or Total Suspended Solids means total suspended matter that either floats on the surface of, or is in suspension in, water, Wastewater, or other liquids, and that is removable by laboratory filtering as prescribed by Standard Methods.

TOC (denoting Total Organic Carbon) means the measure of the concentration of covalently bonded carbon, which is combustible to carbon dioxide. It is not to be confused with elemental carbon, dissolved carbon dioxide, inorganic carbonates, or bicarbonates.

User means any person (including a waste hauler) that Discharges Wastewater or otherwise causes or permits Wastewater to enter into the City's POTW, including, but not limited to, the sanitary sewer.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated.

Wastewater Treatment Plant ("WWTP") means the City's facilities for treating Wastewater and includes that portion of the POTW which is designed to provide treatment of municipal sewage and Industrial Waste.

Watercourse means a channel or conduit in which surface water flow of water occurs, either continuously or intermittently.

Waters of the State means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee, or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

SECTION 2. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 33, Article II, Divisions 1 through 4 are hereby amended to state as follows, with corresponding changes to be made to Chapters 13-8, 13-12 and 13-16 with any cross-references herein to Chapter 33 provisions also be deemed to apply to the corresponding Chapter 13 provision:

- Art. II. Use of Public and Private Sewage Disposal Methods, ##33-16--33-125
 - Div. 1. Generally, ##33-17--33-26
 - Div. 2. Use of Public Sewers, ##33-26--33-40 [Chapter 13-8]
 - Div. 3. Private Sewage Disposal, ##33-41--33-60 [Chapter 13-12]
 - Div. 4. Building Sewers, Connections, Sewer Extensions and Development Fees, ##33-61--33-80 [Chapter 13-16]

ARTICLE II. USE OF PUBLIC AND PRIVATE

SEWAGE DISPOSAL METHODS

DIVISION 1. GENERALLY

Secs. 33-17--33-25. **Reserved.**

DIVISION 2. USE OF PUBLIC SEWERS [Chapter 13-8]

Sec. 33-26. [Sec. 13-8-1] **Discharge to Natural Outlets Where Public Sewer Available Prohibited.**

It shall be unlawful to Directly Discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any untreated sewage or other polluted waters where suitable public collection and/or treatment has been provided in accordance with the provisions of Articles II and III of this chapter, except where a federal National Pollutant Discharge Elimination System (NPDES) permit has been duly issued and is currently valid for such discharge or the discharger is specifically exempt from obtaining an NPDES permit under duly promulgated state regulations. The City, upon becoming aware of such unlawful discharges, may refer the matter to TDEC or take such other action as the City deems appropriate. Nothing herein shall be deemed to change the obligation of a septic system to connect to the City's POTW to the extent otherwise provided under this Ordinance.

Sec. 33-27. [Sec. 13-8-2] **Maintaining Private Methods of Disposal.**

Except as hereinafter provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

Sec. 33-28. [Sec. 13-8-3] **Connection to Public Sanitary Sewer, When Required.**

The owner, occupant or lessee of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city where public sewer is available and abutting on any street, alley, right-of-way, or easement in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable sanitary facilities therein and to connect such facilities directly with the proper public sewer, in accordance with the provisions of Articles II and III of this chapter within one year after date of official notice by the regulatory agency to do so, as long as no health hazard exists or is imminent. In cases of health hazards as determined by the city and county health department, the owner, occupant or lessee must connect within ninety (90) days of the official notice of the City and County health department that there exists a health hazard or that a health hazard is imminent.

Sec. 33-29. [Sec. 13-8-4] **Disconnection of Sanitary Sewer Service.**

Any person wishing to demolish a building or remove the sanitary sewer service from any point into their property shall obtain a "sanitary sewer line cap permit." After this line has been capped, joints shall be left exposed and inspected by the POTW. All construction procedures and specifications relative to capping shall be approved by the Approving Authority.

Sec. 33-30. [Sec. 13-8-5] **Damaging Sewerage Works.**

(a) No Person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any Person violating

this provision may be subject to immediate arrest and shall be guilty of a misdemeanor, punishable as provided in Section 1-8 of this Code of Ordinances and shall be responsible for correcting such damages.

- (b) If public sewer and/or the WWTP becomes obstructed or damaged, whether intentionally or otherwise, the Person or Persons responsible for such Discharge or other cause of damage may be billed and shall pay for the expenses incurred by the City in cleaning out, repairing or rebuilding the sewer and/or WWTP. This includes, but is not limited to, (i) the discharge of fats, oil and grease into the sewer system and (ii) digging or other surface or subsurface work puncturing a sewer pipe.
- (c) No unauthorized Person shall enter into or alter any manhole or similar appurtenance of any public sewer, place or cause to be placed anything therein or interfere therewith. No Person shall insert or place in any public sewer, manhole or other appurtenance thereof any debris or other materials which such sewer manhole or appurtenance thereof was not intended to receive. The City may remove or require the removal of any unauthorized materials or substances from the public sewer, repair or replace damaged infrastructure, and shall seek reimbursement of all costs, expenses and resulting damages incurred by City. Any removal or repair work undertaken by City may be performed directly by City workforces or City may engage the services of a contractor to perform such work.

Secs. 33-31--33-40. **Reserved.**

DIVISION 3. PRIVATE SEWAGE DISPOSAL [Chapter 13-12]

Sec. 33-41. [Sec. 13-12-1] **Required When Public Sanitary Sewer Not Available.**

Where a public sanitary sewer is not available under the provisions of Section 33-28 of this chapter, the sewer shall be connected to a private sewage disposal system complying with the provision of this Article.

Sec. 33-42. [Sec. 13-12-2] **Permit-Required; Application and Fees.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Division of Public Works. The application for such permit shall be made on a form furnished to the applicant, which the applicant shall supplement by any plans, specifications, and other information, which may be deemed necessary by the regulatory agency. A permit and inspection fee as designated by the regulatory agency shall be paid at the time application is filed. The permit and inspection fee of twenty-five dollars (\$25.00), to help defray the cost of plan review and construction inspection, shall be paid to the City and shall be placed in an account designated as "sewer collection and treatment fund."

Sec. 33-43. [Sec. 13-12-3] **Permit Required-effective Date; Notification of Completion of Work; Inspection.**

A private sewage disposal system shall not operate until the installation is completed to the satisfaction of the applicable governmental entity for which approval is required (e.g., TDEC, Health Department) The City shall be allowed to inspect the work at any stage of construction, and, in any event, the entity seeking to operate a private sewage disposal system shall notify the City when the work is ready for final inspection and before any underground portions are covered.

Sec. 33-44. [Sec. 13-12-4] **Design and Other Specifications; Discharge to Natural Outlet Prohibited.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state regulatory agency and the City. No septic tank or cesspool shall Directly Discharge to any natural outlet.

Sec. 33-45. [Sec. 13-12-5] Connection to Public Sewer upon Availability, Filling of Abandoned Facilities Required, Hardship Exemptions.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with Articles II and III of this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material, as required by the state regulatory agency and/or the City. In the event a person cannot make immediate connection, application may be made for a hardship exemption. Proof of hardship is incumbent upon the applicant. The Division of Public Works may grant a hardship exemption, not to exceed twelve (12) months, as long as no health hazard exists or is imminent.

Sec. 33-46. [Sec. 13-12-6] Maintenance and Manner of Operation.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. The removal of septage (septic contents) from private sewage disposal facilities shall be performed by individuals licensed to perform such work.

Sec. 33-47. [Sec. 13-12-7] Private Industrial Disposal as Exception to Articles II and III Provisions.

Nothing in Articles II and III of this chapter shall exclude the right of any industry or other facility to properly Directly Discharge its Wastewater, after proper treatment in accordance with an NPDES permit, as applicable, into any stream designated by the State of Tennessee.

Sec. 33-48--33-60. Reserved.

**DIVISION 4. BUILDING SEWERS, CONNECTIONS, SEWER EXTENSIONS
AND DEVELOPMENT FEES [Chapter 13-16]**

Sec. 33-61. [Sec. 13-16-1] Permit Requirements.

No unauthorized person shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Division of Public Works. One copy of the permit shall at all times be available for inspection at the site of the work.

Sec. 33-62. [Sec. 13-16-2] Sewer Development Fees.

(a) There is established a sewer development fee, as set forth herein, to be paid by new sanitary sewer customers connecting to the System as of July 1, 2021. Such fee shall reflect (1) the actual cost to provide service to such new customers connecting to the System seeking an approved sewer connection for subdivisions, land developments, new buildings, and redevelopments of land or buildings served by the City sanitary sewer system or where the facility served requires modification of or enlargement of the existing sewers, whether within or outside the corporate limits of the City and whether service is by existing or by new facilities to be constructed; (2) a portion of the capital costs incurred by the City for the construction of

wastewater treatment plant facilities and related assets, including prior upgrades and expansions; and (3) a portion of the capital costs incurred by the City for the construction of the sewage collection and conveyance system including sewer mains, manholes, lift stations, associated appurtenances including prior upgrades and expansions. The sewer development fee shall be payable by the applicant, developer of the subdivision, or developer of industrial, commercial or residential site as set forth herein, upon the execution of the subdivision contract or the sewer extension contract, or at the time of application for the sewer connection or plumbing permit, as appropriately determined by the Approving Authority.

- (b) Sewer development fees shall be calculated based upon the size of the water meter used for the connection using a trended original cost method defined as the historical cost of the City’s assets in present day dollar amounts. Written confirmation of the applicable water meter size from Memphis Light, Gas & Water (MLGW) must be provided by the applicant or developer prior to payment of the sewer development fee as such payment is required in accordance with Section 33-62(a). The sewer development fee shall be assessed, as set forth in this section and the fee schedule adopted by the Approving Authority:

Meter Size (in inches)	Sewer Development Fee
5/8	\$2,255
3/4	\$3,383
1	\$5,638
1 ½	\$11,277
2	\$18,043
3	\$33,830
4	\$56,384
6	\$112,767
8	\$180,427
10	\$259,364
12	\$484,899

- (c) The sewer development fee calculation may be reviewed and adjusted by the Approving Authority every five years or as determined necessary due to significant changes to the customer makeup of the System, and in the instance of an extensive capital improvement plan.
- (d) The sewer development fee authorized herein shall become effective on July 1, 2021. Notwithstanding the foregoing, such fee assessment shall be implemented as follows:

From July 1, 2021 to June 30, 2022	50% of applicable fee
Subsequent years	100% of applicable fee

- (e) In support of the objectives of the Memphis 3.0 Comprehensive Plan which encourage increased support for community-based developers and development of affordable housing, the sewer development fee may be reduced up to 50% (fifty percent) by the Director of Public Works or his designee upon written request. In order to qualify for this discounted fee, developer must submit proof of 501c3 status and evidence that the development meets affordable housing standards for the following residential property types: 2-family (duplex), 3-family (triplex), 4-family (quadplex) structures, and single-family homes. For purposes herein, affordable housing shall be defined as at least 50% of the units serving households at 80% of the Area Median Income as defined by the applicable standards adopted by the US Department of Housing & Urban Development.

- (f) No sewer development fee shall be assessed to a person authorized to install a private sewage disposal system pursuant to this division, but a sewer development fee may be charged to the developer or property owner when sanitary sewers are available under Section 33-28 or when it is determined that sanitary sewers shall be extended to such development. The Approval Authority may thereafter require the installation of the sewer and the payment of the sewer development fee. The developer or property owner by applying for and receiving a private sewage disposal permit shall agree to such fee when the sewer is available. Notwithstanding the foregoing, a sewer development fee may be waived or reduced up to fifty percent (50%) by the Director of Public Works or his designee upon written request by a low-income residential property owner of the following property types: 2-family (duplex), 3-family (triplex), 4-family (quadplex) structures and single-family homes; provided that, proof of such low-income is made available to the City upon request. For purposes herein, low-income shall mean families who have incomes at or below 80% of the Area Median Income as defined by the applicable standards adopted by the US Department of Housing & Urban Development.
- (g) The prior payment of a sewer development fee for any land or building currently served by the System shall not restrict the City's ability to assess a sewer development fee in accordance with Section 33-62(a) for any proposed redevelopment of such land or building.
- (h) A sewer development fee shall be assessed to any development, redevelopment, new building or building addition resulting in the installation of an additional water meter or enlarged water meter. No sewer development fee shall be assessed for water meters dedicated to fire protection or irrigation.
- (i) Within the City reserve area, the owner(s) of property who petition for connection to the City's sanitary sewer system to serve their property shall at that time consent to, petition and request the annexation of such property by the City, with the annexation to take place at such time as the City may deem appropriate pursuant to state law. Until such time as annexation occurs, the owner(s) shall agree not to seek either incorporation as a separate entity nor annexation to any other incorporated area.

The consent to annexation shall be incorporated as a part of the city land development and/or sewer extension contract(s). At the time the sewer extension and/or land development contract is entered into the property owner shall submit his or her petition for annexation to the City.

The above-described consent to annexation by the City shall be made a restrictive covenant imposed by the property owner(s) upon the property which shall run with the land and shall be binding upon all heirs, successors and assigns. Such covenant shall be recorded in the office of the Shelby County register and it shall be the duty of the original property owner and all subsequent property owners to disclose the existence of the covenant to any parties to whom the property or a portion thereof is conveyed. Reference to such recorded covenant shall be evidenced on any final plat or plan development prior to the recordation of the plat or plan in the office of Shelby County register. It shall be the responsibility of the division of planning and development to ensure that the signed petition for annexation is submitted by the property owner and that the covenant appears on the plat or plan prior to signing and recordation of the final plat or plan.

Sec. 33-63. [Sec. 13-16-3] Sewer Connection Fees.

There is established a sewer connection charge, as set forth herein, to defray the construction costs of providing a sewer tap to a property which charges shall be payable by the owner, applicant, developer of the subdivision, or developer of industrial, commercial or residential site as set forth herein, and which charge shall be payable prior to the physical sewer connection being made. Sewer connection charges shall apply only where the physical connection is made by the Division of Public Works.

- (a) Standard 4 or 6-inch connections to residential and small commercial facilities will be made at the owner's expense. The owner shall be responsible for all costs and expenses incurred.
- (b) For any connections other than standard connections as determined by the Division of Public Works, or for a second connection to any property, the cost shall be based on time, materials and labor for the Approving Authority to install the connection.

Sec. 33-64. [Sec. 13-16-4] Sewer Extensions.

- (a) The City may permit the orderly extension of its sanitary sewer system to provide gravity sewer service of adequate capacity to unsewered properties and to properties not served by sewers of adequate capacity following the comprehensive plan and policies of the City for gravity sewer system expansion.
- (b) No Person shall undertake to extend City sanitary sewer service to his property without entering into a sewer extension contract with the City.
- (c) In order for a property to be eligible for City participation in the cost of a gravity sewer extension, all of the following criteria must be met:
 - (1) The capacity, location and design of the proposed gravity sewer extension shall conform to the City's comprehensive plans and policies for extension of the sanitary sewer system.
 - (2) The portion of the property or contiguous properties under one ownership being the subject of the request for a sewer extension shall neither be served by gravity sanitary sewer at the time of the request, nor have previously been part of a parcel or tract of property which was served by gravity sanitary sewers; i.e., for the purposes of determining eligibility for City funding participation, once a property or contiguous properties under one ownership is served by gravity sewers, it cannot be disassociated from that sewer service by the sale of all or part of the property.
 - (3) The property shall not be situated within the corporate limits or within the recognized annexation reserve area of another municipality unless the sewer extension will be used to serve other properties that would otherwise be eligible for City funding participation. The City shall participate in funding only those portions of the sewer extension, which will serve such other properties.
- (d) Whenever the City enters into a contract with an owner/developer relative to extending a sanitary sewer to his property, a reasonable estimated time shall be indicated in the contract for the completion of this service by the City.

Sec. 33-65. [Sec. 13-16-5] Sewer Extension Fees.

- (a) The developer/owner/applicant shall pay to the City, upon execution of the sewer extension contract, a sewer extension fee as set forth herein. The developer/owner/applicant may secure payment of the sewer extension fee by executing a performance bond, certificate of deposit assigned to the City, or an irrevocable, automatically renewable letter of credit in favor of the City. Such securities shall be in the full amount of the sewer extension fee and be in a form acceptable to the City. Payment of the sewer development fee shall be made by the developer/owner/applicant to the City upon advertisement for bids for construction of the sewer extension.

- (b) The minimum sewer extension fee to be paid by the developer/owner/applicant shall not be less than fifty percent (50%) of the cost of engineering including surveying, easement acquisition, inspection and construction of any sewer extension and other applicable fees for a development located within the municipal boundaries of Memphis and one hundred percent (100%) of such cost for developments located in unincorporated Shelby County which were authorized for a sewer extension or connection prior to August 18, 2017, and parcels to which sewer must be extended or connected pursuant to existing obligations between the City and the applicable developer or land owner. A preliminary estimate, based on the estimated cost of construction, engineering, easement acquisition, inspection, and other applicable fees shall be used for determining the fee to be charged to the developer for the purpose of negotiating a sewer extension contract. The final cost accounting shall be determined by the City upon completion of the sanitary sewer extension, and final accounting shall be made to the developer of any additional fee required or refund due to the developer.
- (c) Sewer extension fees paid to the City prior to July 1, 2021, shall run with the land described in the sewer extension contract and may be used for the purpose of defraying sewer development fees. Any sewer extension fees paid on or after July 1, 2021, shall not be used for the purpose of defraying sewer development fees as determined in Section 33-62.

Sec. 33-66. [Sec. 13-16-6] Urban Service Boundary; Definition and Amendment.

The Urban Service Boundary is defined by the Memphis 2000 Policy Plan and Map adopted by the Memphis City Council in September 1981 or its most recent adopted amendment. The Memphis and Shelby County Office of Planning and Development (O.P.D.) and the Division of Public Works shall review the Urban Service Boundary periodically, and recommendations for amendments, if any, shall be forwarded to the Memphis City Council for consideration.

Sec. 33-67. [Sec. 13-16-7] Internal Sewers and Upstream Properties.

- (a) The owner/developer or his successors in title or assigns shall, at the time of developing the property covered in the sewer extension contract, construct all internal sanitary sewers necessary to serve the property at their sole expense.
- (b) The owner/developer, upon entering into a sewer extension contract, shall grant permanent sanitary sewer easements and temporary construction easements to the City at no cost for future extension of the sanitary sewers through the property covered by the sewer extension contract to serve upstream properties. The sewer easement alignment shall be recommended by the owner/developer and be subject to the approval of the City. Acceptance of the sanitary sewer easements does not impose upon the City any obligation or responsibility to participate in the cost of or construct sanitary sewers within the easements.

Sec. 33-68. [Sec. 13-16-8] Expenditure of City Funds; Limitation.

The City may only expend City funds on construction for which the City has contracted through the standard bidding process.

Sec. 33-69. [Sec. 13-16-9] Fees Deposited in Sewer Fund.

All sewer development fees, connection fees and sewer extension fees collected herein shall be placed in the sewer collection and treatment fund established by Division 2 of Article III of this chapter and used for the purpose stated therein.

Sec. 33-70. [Sec. 13-16-10] Connection to Be at Expense of Owner; Indemnification of City; Construction.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City and its employees from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. All construction on the owner's property shall conform to the applicable plumbing code.

Sec. 33-71. [Sec. 13-16-11] Separate and Independent Connection Required for Each Building; Exception.

A separate and independent building sewer shall be provided for every building and for every dwelling unit in single family detached, single family attached and duplex developments, except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Sec. 33-72. [Sec. 13-16-12] Connection of Old Building Sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Division of Public Works, to meet all requirements of Articles II and III of this chapter.

Sec. 33-73. [Sec. 13-16-13] Construction Standards - Size; Slope; Materials; Methods of Excavation.

The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the City.

Sec. 33-74. [Sec. 13-16-14] Construction Standards - Elevation; Lifts, Where Required.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building gradient is too shallow to permit gravity flow to the public sewer, sanitary sewage carried by such building gradient shall be lifted by an approved pumping system and discharged to the building sewer. The installation and operational expenses of this system shall be borne solely by the property owner.

Sec. 33-75. [Sec. 13-16-15] Construction Standards - Connection to Sanitary Sewer of Sources of Surface Runoff, Approval Required.

No Person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer which in turn is connected directly or indirectly to a public sanitary sewer, unless connection is approved by the Division of Public Works.

Sec. 33-76. [Sec. 13-16-16] **Construction Standards - Conformity of Connection to Codes, Connection to Be Made Gastight and Watertight; Inspection During Construction.**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the City. All such connections shall be made watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Division of Public Works before installation. The Division of Public Works shall have the right to inspect the work at any stage of construction, and in any event, the covers of all building sewer manholes, inspection chambers, cleanouts, and the like shall be watertight and shall be capable of withstanding, without damage or displacement, any traffic load to which they may be subjected.

Sec. 33-77. [Sec. 13-16-17] **Notification to Division of Public Works Prior to Covering of Work Underground; Final Inspection.**

The applicant for the building sewer permit shall notify the Division of Public Works before covering portions of the work to be underground, and when the building sewer is ready for final inspection and connection to the public sewer. The connection and testing shall be made under supervision of the Division of Public Works.

Sec. 33-78. [Sec. 13-16-18] **Guarding of Excavations Posing Hazard to Public; Restoration of Public Property; Posting of Bond.**

All excavations for building any sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. The posting of a bond of appropriate value may be required to safeguard the interest of the City with regard to damage to public property.

Sec. 33-79. [Sec. 13-16-19] **Sewer Infrastructure Surcharge Fees.**

(a) There is established a sewer infrastructure surcharge fee, as set forth herein, to defray the construction costs, bond costs, and/or design costs associated with providing sewer services to a special service to a Special Sewer Service Area. Such a fee may take any of the following forms:

- 1) Sewer development infrastructure surcharge fee;
- 2) Sewer construction connection infrastructure surcharge fee;
- 3) Sewer extension infrastructure surcharge fee; and/or
- 4) Sewer user infrastructure surcharge fee.

(b) Sewer infrastructure surcharge fees may not be credited against extension fees.

Sec. 33-80—33-100. **Reserved.**

SECTION 3. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 33, Article II, Divisions 5 and 6 are hereby repealed with the repeal of corresponding provision in Chapters 13-20 and 13-24.

SECTION 4. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 33, Article III, Divisions 1 thru 4 are hereby amended to state as follows with corresponding changes to

be made to Chapters 13-28, 13-32 and with any cross-references herein to Chapter 33 provisions also be deemed to apply to the corresponding Chapter 13 provision:

Art. III. Administration of Wastewater Treatment Facilities, ##33-126--33-185

Div. 1. Generally, ##33-126--33-130

Div. 2. Sewer Fees and Charges, ##33-131--33-140 [Chapter 13-28]

Div. 3. Powers and Authority of Inspectors, ##33-141--33-155 [Chapter 13-32]

Div. 4. Billing Procedures, ##33-156--33-170 [Chapter 13-28-7]

ARTICLE III. ADMINISTRATION OF WASTEWATER TREATMENT FACILITIES

DIVISION 1. GENERALLY

Sec. 33-101--33-130. **Reserved.**

DIVISION 2. SEWER FEES AND CHARGES [Chapter 13-28]

Sec. 33-131. [Chapter 13-28-1] **Established; Bases for Determination.**

(a) Requirements generally. In accordance with Public Law 92-500 and Title 40, Chapter 1, Subchapter B, Part 35, Subpart E, Section 35.925-11, which requires the city to implement a Wastewater treatment User's charge, each User will pay its proportionate share of the cost for operation and maintenance of the total treatment works. Direct and incidental costs to the city, including, but not limited to, administrative, technical and legal expenses, shall be considered a part of the cost of operations and maintenance of the total treatment works. There shall be two (2) types of charges: The first type of charge is volumetric charge; the second is a charge for treating Wastewater, which has an excessive strength.

(b) Sewer Service Charge. The sewer service charge shall be made up of two (2) types of charges.

(1) Volumetric charge. All customers will be charged a volumetric charge based on the equivalent strength of domestic sewage BOD5 of two hundred fifty (250) milligrams per liter, SS of three hundred (300) milligrams per liter, and COD of eight hundred (800) milligrams per liter. Since seven and forty-eight one hundredths (7.48) gallons equal one cubic foot, one thousand (1,000) gallons equals 133.689 cubic feet (cf) or one thousand (1,000) gallons equals 1.33689 hundred cubic feet (cf). The volumetric charge per one thousand (1,000) gallons shall be based on annual debt service, capital costs, treatment and operations and maintenance costs, and all other charges assigned to the sewer fund.

All customers shall be charged a volumetric charge in accordance with the following fee schedule until changed by amendment to this section. The volumetric charge shall be assessed against the name in which a meter has been installed.

Beginning January 1, 2020, the volumetric charge will be \$3.32 per one thousand (1,000) gallons of flow. A residential maximum volume fee of seventy-five dollars (\$75.00) and a minimum of eight dollars and seventy-five cents (\$8.65) per month per individual dwelling unit is herewith established.

Notwithstanding the foregoing, in the case of multifamily dwellings, a portion of the volumetric charge may be recovered through a monthly flat rate per customer charge. The charge, as determined by the Director of Public Works, shall not exceed the amounts set forth in the fee schedule below. Amounts collected through any monthly flat rate charge shall be credited in accordance with section 33-156.

Beginning January 1, 2020 \$12.95 per month

All citizens who qualify for the Solid Waste Fee Discount Program as delineated in Chapter 15, Section 12, City of Memphis, Code of Ordinances shall be charged a reduced fee for wastewater use in accordance with the following fee schedule, until changed by amendment to this section:

Beginning January 1, 2020 \$2.43 per 1,000 gallons

- (2) Additional Treatment Charge. In addition to the volumetric charge, all Users who Discharge Wastewater with a strength greater than domestic sewage which shall include, but not be limited to, BOD of 250 milligrams per liter, SS of 300 milligrams per liter, and COD of 800 milligrams per liter will be assessed an Additional Treatment Charge (ATC) based on the following formula:

$$ATC = \frac{U(B)T(B)}{B} + \frac{U(S)T(S)}{S} + \frac{U(C)T(C)}{C}$$

Where:

U(B) = BOD loading in excess of 250 milligrams per liter

T(B) = Treatment costs assigned to BOD (includes debt service, operation, maintenance, and replacement costs)

B = Total BOD loading or BOD capacity of treatment plants, whichever is less

U(S) = Suspended solids loading in excess of 300 milligrams per liter

T(S) = Treatment costs assigned to suspended solids (includes debt service, operation, maintenance, and replacement costs)

S = Total suspended solids loading or suspended solids capacity of treatment plants, whichever is less

U(C) = COD loading in excess of 800 milligrams per liter

T(C) = Treatment costs assigned to COD (includes debt service, operation, maintenance, and replacement costs)

C = Total COD loading or COD capacity of treatment plants, whichever is less

Sampling frequency for determination of the ATC will be specified in the Discharge Permit.

COD or TOC analytical results may be used in lieu of the BOD test if the BOD test is not applicable due to a toxic effect of the wastewater or a substantial correlation can be developed between BOD and the substitute test, and if allowed by the Approving Authority. If a BOD test is not applicable due to a toxic effect, then the Approving Authority has the authority to require the discharger to determine the cause of the toxic effect and then to eliminate the constituent causing the toxic effect.

- (3) The Division of Public Works may impose and modify such additional surcharges as it deems appropriate to address, among other things, disproportional costs associated with the Discharge of Wastewater by one or more Users. For example, a fee schedule may be established to address disproportional costs the City incurs due to color, COD (due to its impacts on the City's disinfection process), sulfur (due to its impact on biogas generation), dissolved organics (due to its impact on disinfection costs) or fats oils and grease (due to its impact on the collection system). Nothing herein shall be deemed to require the City to accept such wastes for treatment.
- (c) Cooperative agreements. The sewer service charges in this section are applicable to every person inside and outside the corporate limits of the city whose sewage or Wastewater empties into the City's sewage system for eventual disposal through the sewage system and sewage or Wastewater Treatment Plants. The City may enter into appropriate agreements with the county and all other municipalities in the county or elsewhere using the city's sewage system for the disposal of their sewage or Wastewater, which agreements shall provide for the implementation of the charges herein and the billing and collection thereof. Such county and municipalities shall be required to enter into such agreement in order to continue their position of Discharging their sewage and Wastewater through the sewerage system established by the City. All funds collected shall be deposited with the City in the sewer treatment fund in accordance with applicable agreements.
- (d) Private wells. Those users having private wells will install either water meters on the wells or approved flow metering devices on Wastewater discharged to the City sewers. These water meters are subject to approval, inspections, and any maintenance, calibration, record keeping, and reporting requirements deemed necessary by the Control Authority to continually and reliably produce accurate flow volumes. Wastewater Discharge flow metering devices requirements are found in Section 33-247. Users will be classified as residential or commercial-industrial according to classifications established by the light, gas and water division or other water-serving utility.
- (e) Seasonal Adjustment of Sewer Fees. Section 33-131(b) establishes a monthly maximum charge for residential sewer service regardless of the amount of water flow measured in a billing period. During the months of June, July, August, and September, the maximum charge shall be reduced, and the following fee shall apply for residential customers until changed by amendment to this section:
- June through September 2020 and during such months for subsequent years: \$50.00
- Those residential customers living in special sewer service surcharge areas will not be relieved of the flat rate charges even if their volumetric charges are reduced by the monthly maximum charge. The appropriate flat rate charge will be added to the volumetric charge to reach the adjusted monthly value. No such relief shall be granted to those customers residing in other cities or service areas whose fees are assessed based upon current contracts and agreements.
- (f) Any User desiring to exercise his option of installing an approved metering device shall notify the Control Authority of his exercise of the option, and the Control Authority from the date of installation of the metering device shall adjust its charges back to the date of the notice of the User to install the metering

device or ninety (90) days, whichever is sooner and such adjustment shall be based upon the average charge for the ninety (90) days following the installation of the metering device. Those Users having private wells shall have ninety (90) days in which to install a water meter or a metering device for measuring Wastewater Discharged into the City sewer system. The City shall estimate charges for the period of time prior to the installation of the device and shall adjust the charges based on ninety (90) days experience after the installation of the device. If a private well owner installs a water meter and thereafter elects to install a metering device for measuring Wastewater Discharge into the City sewerage system, then he likewise shall have his charges adjusted from the time of the installation of the device back to the date of notice to the Control Authority or ninety (90) days, whichever is sooner, and such adjustment shall be based on the charges for ninety (90) days following the installation. Wherever used in this section, the word "sewer" shall mean "sanitary sewer".

- (g) Groundwater Remediation and Monitoring Wells. Owners or operators of groundwater remediation and/or monitoring wells, such as for TDEC Leaking Underground Storage Tank (LUST) sites or Dry Cleaner Environmental Remediation Program (DCERP) sites, shall be subject to applicable rates based on flow and pollutants.

Sec. 33-132. [Chapter 13-28-2] Distribution of Funds, Accounting Therefore.

The Division of Public Works shall institute an accounting system reflecting an equal distribution of total funds produced under the division based upon the respective needs of each segment of the Wastewater treatment operations and maintenance functions, including but not limited to, treatment plant operations; sewer maintenance; sewer design; sewer construction; pollution control monitoring; Wastewater treatment capital improvements bond indebtedness loan repayments; direct and incidental costs to the city, including, but not limited to, administrative, technical and legal expenses; and other expenditures necessary for an effective Wastewater treatment program. Revenue generated under this division shall be used exclusively for the Wastewater treatment program.

Sec. 33-133. [Chapter 13-28-3] Sewer Fee Review.

Rates generated under Articles II and III of this chapter shall be reviewed periodically and approved or adjusted by the Division of Public Works subject to the approval of the Memphis City Counsel.

Sec. 33-134. [Chapter 13-28-4] Appeals.

Appeals related to sewer use fees, connection fees, development fees, and/or sewer extension fees in situations in which the owner, user, company, etc., feels that extenuating circumstances exist that warrant a modification of the applicable fee should be made to the Director of Public Works or his/her designee. The Director of Public Works or his/her designee shall have authority to modify or waive fees as is considered appropriate. The decision of the Director of Public Works or his/her designee shall be final.

Sec. 33-135. [Chapter 13-28-5] Grays Creek Special Sewer Service District 1.

Due to the cost of designing, constructing, construction and financing a sewer system for the Grays Creek Drainage Basin the following sewer infrastructure surcharge fees are hereby established for any Person directly or indirectly served by the Grays Creek Outfall Sewer outfall sewer:

- (a) Residential lot infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be One Thousand Dollars (\$1,000.00) per lot.
- (b) Multifamily dwelling infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be the greater of Three Thousand Five Hundred Dollars per acre or Four Hundred and Fifteen (\$415) per unit.
- (c) Commercial and industrial multi-unit building infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be the greater of Fifty Dollars (\$50.00) per front foot, or Three Thousand Five Hundred Dollars (\$3,500.00) per acre.
- (d) Residential and commercial infrastructure user surcharge fee (which shall be in addition to normal user fees) shall be Six Dollars (\$6.00) per month.
- (e) Industrial User infrastructure surcharge fee (which shall be in addition to normal user fees) shall be sixty cents (\$0.60) per one thousand (1,000) gallons.

Sec. 33-136. [Chapter 13-28-6] Loosahatchie River Special Sewer Service Area.

There is now established the Loosahatchie River special sewer service area. Due to the cost of designing, constructing and financing a sewer system for the Loosahatchie River Drainage Basin east of the Illinois Central railroad and north of the existing city limits for the city (as of March 31, 1999), the following sewer infrastructure surcharge fees are established for any Person directly or indirectly served by the Loosahatchie River interceptor within the bounds delineated above.

- (a) Residential lot infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be one thousand dollars (\$1,000.00) per lot.
- (b) Multifamily dwelling infrastructure surcharge development fee (which shall be in addition to normal development fee shall be the greater of three thousand five hundred dollars (\$3,500.00) per acre or four hundred fifteen dollars (\$415.00) per unit.
- (c) Commercial and industrial multiunit building infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be the greater of fifty dollars (\$50.00) per front foot or three thousand five hundred dollars (\$3,500.00) per acre.

Sec. 33-137. [Chapter 13-28-7] Reserved.

Sec. 33-138. [Chapter 13-28-8] Mary's Creek Special Sewer Service Area.

There is now established the Mary's Creek Special Sewer Service District. Due to the cost of designing, construction and financing a sewer system for the Mary's Creek drainage basin the following sewer infrastructure surcharge fees are established for any Person directly or indirectly served by the Mary's Creek. Mary's Creek is a tributary of Gray's Creek in an area north of the Wolf River, east of the City of Memphis, and in the City of Memphis annexation reserve area as of July 2004. Mary's Creek runs generally east to west. Sewer service provided to Mary's Creek will only service land in the city and/or city annexation area:

- (a) Residential lot infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be two thousand two hundred dollars (\$2,200.00) per lot.

- (b) Multifamily dwelling infrastructure surcharge development fee (which shall be in addition to normal development fees) shall be the greater of seven thousand seven hundred dollars (\$7,700.00) per acre or nine hundred fifteen dollars (\$915.00) per unit.
- (c) Commercial and industrial multiunit building infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be the greater of one hundred ten dollars (\$110.00) per front foot or seven thousand seven hundred dollars (\$7,700.00) per acre.
- (d) Residential and commercial infrastructure user surcharge fee (which shall be in addition to normal user fees) shall be twelve dollars (\$12.00) per month.
- (e) Industrial User infrastructure surcharge fee (which shall be in addition to normal user fees) shall be one dollar and twenty cents (\$1.20) per one thousand (1,000) gallons.

Sec. 33-139. [Chapter 13-28-9] **Grays Creek Special Sewer Service District 2.**

There is now established the Grays Creek Special Sewer Service District 2. Due to the cost of designing, construction and financing a sewer system for the Grays Creek Special Sewer Service District 2, the following sewer infrastructure surcharge fees are established for any person directly or indirectly served by this portion of the Grays Creek sewer basin. Grays Creek District 2 begins at the upstream terminus of the interceptor constructed under the original Grays Creek Special Sewer Service Area (hereafter called District 1). The general boundaries of district 2 are the Memphis annexation area in the Grays Creek drainage basin that is upstream of a point approximately one mile east of Pisgah Road. This encompasses the area outside of Grays Creek District 1 that is bounded on the north by U.S. Highway 64, on the west by (1) the eastern ridge line of an unnamed tributary to Grays Creek that is approximately two thousand (2,000) feet west of Roland Road; said tributary is north of and drains southward into Grays Creek and (2) the eastern ridge line of an unnamed tributary to Grays Creek approximately one thousand eight hundred (1,800) feet east of Pisgah Road; said tributary is south of and drains northward into Grays Creek. The southern boundary of this district is the Grays Creek Basin ridge line which generally follows Macon Road east of Pisgah. The eastern boundary is the Shelby County line which is also the eastern limit of the City of Memphis annexation reserve area. Sewer service will only be provided to those areas in Grays Creek District 2 that are within the current limits of the City of Memphis and/or the City of Memphis annexation reserve area.

- (a) Residential lot infrastructure surcharge development fee (which fee shall be in addition to normal development fees) shall be two thousand five hundred dollars (\$2,500.00) per lot.
- (b) Multifamily dwelling infrastructure surcharge development fee (which shall be in addition to normal development fees) shall be the greater of eight thousand seven hundred fifty dollars (\$8,750.00) per acre or one thousand forty dollars (\$1,040.00) per unit.
- (c) Commercial and industrial multiunit building infrastructure surcharge development fee (which fee shall be addition to normal development fees) shall be the greater of one hundred twenty-five dollars (\$125.00) per front foot or eight thousand seven hundred fifty dollars (\$8,750.00) per acre.
- (d) Residential and commercial infrastructure user surcharge fee (which shall be in addition to normal user fees) shall be twelve dollars (\$12.00) per month.
- (e) Industrial User infrastructure surcharge fee (which shall be in addition to normal user fees) shall be one dollar and twenty cents (\$1.20) per one thousand (1,000) gallons.

Sec. 33-140. **Reserved.**

DIVISION 3. POWERS AND AUTHORITY OF INSPECTORS [Chapter 13-32]

Sec. 33-141. [13-32-1] **Authority to Enter, Sampling and Oversight.**

Inspectors may include representatives of the City of Memphis, Division of Public Works, Control Authority, and/or its designee (including contractors), bearing proper credentials and identification. Inspectors shall be permitted to enter appropriate property areas at all reasonable times for the purpose of inspection, observation, measurement, sampling, and testing as the inspector deems necessary in accordance with of this chapter. Sampling, inspection and other oversight may be undertaken at any location at the Facility Site including, but not limited to, effluent discharge points, internal wastestream points and manholes located on the User's owned or occupied property. This includes the authority to inspect production, waste and other areas to ascertain whether the purposes of this chapter are being met and all requirements are being complied with. Persons or occupants of premises where regulated activities occur shall allow the inspector ready access at all reasonable times, at a minimum the days and hours of operations for the purposes of inspection, sampling, testing, photographing, videotaping, copying documents and records, conducting interviews in the performance of their duties. Access to the property for the purposes set forth herein shall not be conditioned upon the City of Memphis and/or the inspectors signing an access agreement, including, but not limited to, a document pertaining to the potential waiver or release from liability or provisions pertaining to secrecy, confidentiality or disclosure of information. The inspector shall have the right to set up on the User's property such sensors or other devices as are necessary to conduct sampling, metering operations or other oversight, which includes, but is not limited to, composite samplers, discrete samplers, flow measuring devices, continuous monitoring devices and/or sensors, controllers, remote telemetry devices, modems, and cleaning devices such as air blasts or water blasts. Where a User has security measures in force, which would require proper identification and clearance before entry into the premises, the User shall make necessary arrangements with security personnel so that, upon presentation of suitable identification, inspectors shall be permitted to enter without delay for the purposes of performing their specific responsibilities.

Sec. 33-142. [13-32-2] **Injury to or by City Employees Engaged in Inspection Activities.**

While performing the necessary work on private properties referred to in Section 33-141 above, representatives of the Division of Public Works, Control Authority and/or its designee shall observe all safety rules applicable to the premises established by the company except as otherwise deemed necessary by the City (e.g., to address an emergency situation).

Sec. 33-143. [13-32-3] **Authority to Enter upon Easements for the Purposes of Inspection of Sewerage Works.**

Representatives of the Division of Public Works (including its designee), and Tennessee Department of Environment and Conservation bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewerage works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 33-144--33-155. **Reserved.**

DIVISION 4. BILLING PROCEDURES [Chapter 13-28-7]

Sec. 33-156. Billing and Collection.

- (a) The sewer service charge shall be included each month on the bills rendered by the light, gas and water division, or other serving utility, in accordance with its standard billing practices. Such charges shall be rendered on the first bill of the serving utility sent out on and after June 1, 1979, and for each month thereafter. Billings separate from those made by the light, gas and water division, as determined by the Director of Public Works, may be made to commercial and Users. Failure to pay the sewer service charge within thirty (30) days from due date of the utility statement shall be grounds for terminating water service by the serving utility.
- (b) When service commences or ceases, applicable charges may be prorated.
- (c) If service shall be supplied to a location, the occupant or tenant of which was vacated, and the city is satisfied that there has been a termination of sewer service, then the city, on timely application of the owner or agent thereof, may suspend liability for such charges, and such charges shall be reinstated for the next utility bill rendered to the occupant or tenant of such premises.
- (d) Charges based on metered measurement of volume discharged to the sewer system and/or additional treatment charges based on Wastewater strength, shall be paid monthly to the City in a manner prescribed by the Division of Public Works.
- (e) The sewer service charges are applicable to every person, inside and outside the corporate limits of the city, whose sewage and Wastewater empties into the city's collection and treatment systems.
- (f) Credit for prior billing errors is limited to errors occurring less than or equal to twelve (12) months prior to the date that the claim for credit is made by residential or commercial customers.
- (g) In accordance with the apartment credit program the Approving Authority has the right to charge each tenant twelve dollars and ninety-five cents (\$12.95) per month effective January 1, 2020, if so requested in writing by the apartment owner, until this section is otherwise amended. The total amount collected will then be credited against the amount billed from the master water meter reading each month.
- (h) Commercial and Industrial Users that are billed separately from the light, gas, and water division or other serving utility billing system will be charged a late fee of (1) percent or \$500, whichever is less, for any portion of each month in which billing information as required is not submitted to the sewer billing office by the fifteenth (15th) of each month for the previous month.

Sec. 33-157-- 199. Reserved.

SECTION 5. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 33, Article IV is hereby created to state as follows with corresponding changes to be made to Chapter 13-24 and with any cross-references herein to Chapter 33 provisions also be deemed to apply to the corresponding Chapter 13 provision:

Art. IV. Pretreatment, 33-200--33-309

Div. 1. Generally and Definitions, ## 33-200--33-219 [13-24-1--13-24-19]

- Div. 2. System Discharge Permits and Incorporation of Federal and State Requirements, ## 33-220--33-239 [13-24-20--13-24-39]
- Div. 3. Discharge to Public Sanitary Sewers, ##33-240--33-259 [13-24-40--13-24-59]
- Div. 4. Review and Enforcement, ## 33-260--33-289 [13-24-60--13-24-89]
- Div. 5. Review and Oversight of Outlying Jurisdictional Programs with Dischargers to Memphis STP(s), ## 33-290--33-299 [13-24-90--13-24-99]
- Div. 6. Miscellaneous Provisions, ## 33-300--33-309 [13-24-100--13-24-109]

ARTICLE IV. PRETREATMENT

DIVISION 1. GENERALLY AND DEFINITIONS

Sec. 33-200. [13-24-1] Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this Article IV shall be the definitions as set forth in Section 33-16 of Article 1, which are hereby incorporated by reference into this Article IV. Terms for which definitions are not specifically provided shall be interpreted consistent with the intent and substance of this Ordinance and as otherwise provided by state regulation at 0400-40-14-.03 or EPA regulation at 40 C.F.R. § 403.3.

Sec. 33-201--33-219. [13-24-2 --19] Reserved.

DIVISION 2. SYSTEM DISCHARGE AND INCORPORATION OF FEDERAL AND STATE REQUIREMENTS

Sec. 33-220. [13-24-20] User compliance with these requirements is required whether or not such requirements are specifically incorporated into an SIU Discharge Permit or Other User Permit. This includes fees and charges as set forth in Article II and Article III, as well as other fees the Division of Public Works may impose (*e.g.*, permit fees, sampling fees, and inspection fees) on Users.

Sec. 33-221. [13-24-21] Incorporation of Federal and State Pretreatment Requirements by Reference.

The regulatory requirements pertaining to Users as set forth in (a) 40 C.F.R. Part 403, (b) 40 C.F.R., Chapter I (Environmental Protection Agency), Subchapter N (Effluent Guidelines and Standards), Parts 405 *et. seq.*, and (c) Tennessee Pretreatment Requirements as set forth in Chapter 0400-40-14, are hereby incorporated by reference, including all future changes to such regulations. User compliance with these requirements is required, and subject to enforcement for noncompliance, whether or not such requirements are specifically incorporated into an SIU Discharge Permit or Other User Permit.

Sec. 33-222. [13-24-22] SIU Permits and Other Permits.

(a) Requirements to Obtain a Permit

Except as provided in Sec. 33-222(c), below, the Discharge of Wastewater by (i) a Significant Industrial User or (ii) such other commercial or industrial facility that the City, based upon the exercise of its discretion, identifies as requiring a Discharge Permit, is illegal unless such entity has an SIU Discharge Permit or Other User Permit, as applicable, issued by the City or an Outlying Jurisdiction which is authorized under the City's pretreatment program and this Ordinance to issue a Discharge Permit.

(b) Discretionary Permitting of Non-Significant Industrial Users

In addition to food establishments and waste haulers, non-Significant Industrial Users that the City, subject to its discretion, may require to obtain an Other User Permit are commercial or industrial facilities that: result in additional treatment costs to the City; have the potential for Discharge of acidic Wastewater; have the potential for Discharge of Wastewater with offensive characteristics (e.g., odors); have a wastestream or treatment process that the City believes is preferable to be regulated under a permit; any new or expanded development where the additional flows raise potential concerns regarding capacity associated with the collection system, pump station, and/or WWTP; Discharge Wastewater containing a Pollutant that could potentially result in additional requirements (e.g., monitoring or effluent limitation) being imposed in the City's NPDES permit; or as the City otherwise deems appropriate. Conditions included in Other User Permits and the City regulation of non-Significant Industrial Users are subject to the City's sole discretion.

(c) Time Frame for Obtaining Permit

An existing User designated by the Control Authority as requiring an SIU Discharge Permit or Other User Permit, shall submit a permit application and/or such other information as the City may require for a permit within the timeframe specified by the City. Any proposed new discharger which has not Discharged prior to the date it is notified that it must be permitted, shall not Discharge to the system until a permit is issued and it is in compliance with the terms of such permit. The City may issue individual or general discharge permits. It is illegal to Discharge Wastewater to the City's POTW (including the collection system) in violation of a Discharge Permit, Other User Permit and/or this Ordinance. The City may adjust the timeframes for applying for a permit on a case-by-case basis as it deems appropriate.

(d) Construction Summary Submission

A letter report setting forth an engineering summary of proposed changes shall be submitted to the Control Authority prior to commencement of construction, if applicable, by any existing or other industrial or commercial facility intending to discharge to the City's POTW. The Control Authority does not by its approval of the letter report, submitted by an industrial or commercial facility, warrant or aver in any manner that the implementation of such measures will result in compliance with the applicable Pretreatment Requirements. Notwithstanding any approval of such letter report by the City, the industrial or commercial facility remains solely responsible for compliance with the applicable Pretreatment Requirements and all other Federal, state, and local requirements.

(e) City Options for Non-Significant Industrial Users

Notwithstanding anything to the contrary in this Ordinance, nothing herein shall preclude the City of Memphis from issuing a letter or other authorization allowing Discharge into the POTW for Wastewater involved in groundwater clean-ups or other such Discharges as the City deems appropriate. SIUs, however, shall be regulated by an SIU Discharge Permit (see Section 33-222(f)).

(f) SIU Discharge Permits

- (1) Except as otherwise specifically provided in this Ordinance, an SIU shall apply for and obtain an SIU Discharge Permit (individual or general).
- (2) The application for an individual SIU Discharge Permit shall contain, but not be limited to, the following information: Standard industrial classification; facility name, physical address, and mailing address; if applicable, corporate name and address; facility contact name and contact information; Authorized

Representative of the User; date facility began operations or expects to start-up; number of employees; water supply and use information; raw material and chemical use rates; production rates; byproduct and waste generation rates; if applicable, service volume rates; if applicable, descriptions of onsite and office waste storage and disposal; volumes of Wastewater to be Discharged, whether process Wastewater, equipment or vehicle wash water, condensate, non-contact cooling water, boiler Blowdown, storm water, domestic sanitary Wastewater, or other Wastewater; Wastewater constituents and characteristics; time and duration of Discharge, and whether Discharges are batch or continuous; average Wastewater flow rates, including daily, monthly, and seasonal variations, or estimates of such where such information is not yet available; site plans and floor plans showing all drains and sewers, description of activities, facilities and plant processes; if applicable, descriptions of Pretreatment systems; Discharge and monitoring locations; and any additional information, data, diagrams, and drawings as required by the Control Authority to make permitting decisions. Applications for specialized individual permits, such as for groundwater remediation sites, may not require all the information listed above. This will be determined by the Control Authority.

- (3) Except for Existing Dischargers, Industrial Users seeking an SIU Discharge Permit shall obtain a permit application form from the Control Authority and file with the Control Authority a completed permit application form with all required descriptions, certifications, determinations, reports, information, data, plans, diagrams, and drawings, in the form prescribed by the Control Authority, not less than 180 days prior to the first Discharge of industrial Wastewater to the POTW, unless modified or waived by the Control Authority. Existing Dischargers shall file for a permit in accordance with Section 33-222(c), above.
- (4) At the discretion of the Control Authority, the Control Authority may use general SIU Discharge Permits to control SIU Discharges to the POTW if, in the opinion of the Control Authority, the following conditions are met. All facilities to be covered by a general permit must:
 - (A) Involve the same or substantially similar types of operations;
 - (B) Discharge the same types of wastes;
 - (C) Require the same effluent limitations;
 - (D) Require the same or similar monitoring; and
 - (E) In the opinion of the Control Authority, are more appropriately controlled under a general permit than under individual permits.
- (5) To be covered by the general SIU Discharge Permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general SIU Discharge Permit, any requests in accordance with Section 33-242(h) for a monitoring waiver for a Pollutant neither present nor expected to be present in the Discharge, and any other information the Control Authority deems appropriate. A monitoring waiver for a Pollutant neither present nor expected to be present in the Discharge is not effective in the general SIU Discharge Permit until after the Control Authority has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 33-242(h).

(g) Other User Permits

- (1) A User required to obtain an Other User Permit shall submit an application, or such information as the City may require, for developing permit conditions and evaluating issues associated with the Other User Permit, within the timeframe identified by the City.
- (2) Subject to its discretion, the Control Authority may use general Other User Permits to control non-SIUs or other Users to the POTW subject to such requirements as the City deems appropriate.

(h) Requirement for a Permittee with a General Permit to Obtain an Individual Permit

Notwithstanding any provision to the contrary, the City may require any permittee subject to a General SIU Discharge Permit or a General Other User Permit to be covered by an individual permit instead. In such instance, the permittee shall submit an individual permit application, or such information as the City may require, as applicable, within the timeframe specified by the City.

Sec. 33-223. [13-24-23] **Permit Provisions.**

(a) General Authority/Change of Discharge

The Control Authority has the right to deny issuance of a permit (and, as such, the use of the City's sewer system and treatment facilities) or to impose such conditions in a Discharge Permit as the City deems appropriate, including conditions upon the types of wastes that can be discharged (*e.g.*, precluding wastes which are solid or viscous in nature), new or increased contributions of Pollutants, or changes in the nature of Pollutants to the POTW by Industrial Users or other Users. Except as otherwise provided by the Control Authority, any Significant Industrial User changes that have the potential to substantially increase flow or Pollutants Discharged or otherwise substantially affect the POTW, the treatability of the Wastewater entering the POTW, or the ability of the POTW to meet NPDES, sludge and other applicable requirements, are subject to Control Authority approval prior to SIU implementation. The Authority may require the SIU to undertake a compatibility study to demonstrate to the satisfaction of the Control Authority that the Wastewater to be Discharged is compatible with the existing POTW, will not affect any requirements imposed upon the City (including sludge disposal requirements), and will not otherwise adversely affect the POTW. The Control Authority may preclude the discharge of certain wastes even if those wastes would otherwise meet numeric effluent limits for specific pollutants.

(b) Requirements Applicable to All Users

Users, whether permitted (*e.g.*, with an individual or a general permit), are hereby expressly subject to all provisions pertaining to Users as set forth in (1) 40 C.F.R. Part 403, (2) 40 C.F.R., Chapter I (Environmental Protection Agency), Subchapter N (Effluent Guidelines and Standards), Parts 405 *et. seq.* (categorical pretreatment requirements), (3) Tennessee pretreatment requirements as set forth in Rule 0400-40-14-.05, and (4) Article IV of this chapter, as well as all other applicable ordinances, regulations, charges, and fees administered by the Division of Public Works. User compliance with these requirements is required whether or not such requirements are specifically incorporated into an SIU Discharge Permit or Other User Permit.

(c) Permit Conditions

SIU Discharge Permits and Other User Permits, whether individual or a general permit, may contain such conditions as the City deems appropriate including, but not limited to, the following conditions:

- (1) Minimum and maximum pH limits in standard units and/or hydroxide loading;

- (2) Daily Maximum Limits, Weekly Average limits, Monthly Average Limits, and Instantaneous Maximum Limits
- (3) Daily maximum, weekly and monthly average Discharge flow limits and, when deemed appropriate by the Control Authority, flow regulation and/or equalization, including average and/or maximum flow rates;
- (4) Requirements for installation of inspection and sampling facilities, and when required, for continuous pH monitoring and flow monitoring;
- (5) When Categorical Standards are applicable, Categorical Pretreatment Standards, effluent limits, Best Management Practices, baseline monitoring reports, compliance monitoring, and certification statements, based on applicable general pretreatment standards in Part 403 of the Federal Regulations;
- (6) Other Best Management Practices (*e.g.*, to implement Local Limits and/or the requirements of Sections 33-243 and 33-244 in addition to, or in lieu of, the underlying Local Limits and/or requirements of Sections 33-243 and 33-244);
- (7) A prohibition on the use of dilution to meet permit limits (*e.g.*, to meet color limits) and/or the imposition of mass limitations to prevent dilution to meet applicable Pretreatment Standards or Pretreatment Requirements or where otherwise deemed appropriate;
- (8) Self-monitoring, sampling, reporting (*e.g.*, electronic reporting), notification and record keeping requirements, including an identification of the Pollutants to be monitored, sample location, sampling frequency, sample type, and numbers, types, and standards for tests;
- (9) Requirements for submission of self-monitoring and other reports;
- (10) Maintaining plant records relating to Wastewater Discharge, as specified by the Control Authority, and for affording the Control Authority access thereto;
- (11) Maximum Discharge rates, or other appropriate limits or prohibitions, when a potentially incompatible Pollutant is proposed or present in the User's Wastewater Discharge or otherwise deemed appropriate by the Control Authority;
- (12) Penalties and damages for violation of the permit and provisions of Article IV of this chapter, including any daily penalties, costs to the Control Authority, and damages. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any schedule to achieve compliance with applicable requirements, however, such schedules do not extend the compliance date beyond applicable Federal and state deadlines;
- (13) Statement of duration;
- (14) Statement of non-transferability or a provision allowing transfer of a permit with, at a minimum, prior notification to the Control Authority and provision of a copy of the existing Control Mechanism to the new owner or operator;
- (15) When deemed appropriate by the Control Authority, compliance schedules to meet applicable requirements (*e.g.*, local ordinance requirements and/or Federal Categorical Pretreatment Standards);

- (16) Requirements for repeat sampling after becoming aware of a violation;
- (17) Requirements to control Slug Discharges, if determined by the Control Authority to be necessary;
- (18) Requirements pertaining to the proper operation and maintenance of the User's treatment, sampling and analytical equipment, and notification to the Authority regarding the failure of such equipment;
- (19) Requirements to address Control Authority concerns about the potential effect of influent sulfur content (e.g., upon the biogas at the WWTP) or the effect of other Wastewater characteristics upon activities at the WWTP;
- (20) Action Levels;
- (21) Other conditions as deemed appropriate by the Control Authority; and
- (22) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 33-242(h).

Sec. 33-224. [13-24-24] Time Period of Permits; Continuation of Expired Permits.

- (a) SIU Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. Other User Permits may be issued for such time period as the City deems appropriate. To continue discharging Wastewater to the POTW, a User with an existing permit must obtain a permit application form from the Control Authority, if applicable, and file with the Control Authority a completed permit application and/or such other information required by the City with all required descriptions, certifications, determinations, reports, information, data, plans, diagrams, and drawings, in the form prescribed by the Control Authority not less than 180 days prior to the expiration date of the existing Discharge Permit (unless an alternative period is provided by the City). General permits are automatically continued after its expiration date pending a City decision to reissue the general permit, except for any Discharger that does not timely submit such information as required by the City, if applicable.
- (b) Notwithstanding any provision to the contrary, the conditions of an expired SIU Discharge Permit and Others Permits, as applicable, continue in force until the effective date of a new permit or the date of a decision by the City not to reissue the permit, as applicable, if (i) the permittee has submitted a complete and timely permit application or such other information as the Control Authority may require and (ii) the Control Authority, through no fault of the permittee, does not reissue a permit on or before the expiration date of the previous permit (for example, when issuance is impractical due to time or resource constraints).

Sec. 33-225. [13-24-25] Modification, Suspension, or Revocation of Permits and Appeals.

- (a) During the life of the permit, the Control Authority may conduct review of the permit to assess if the individual or general permit should be modified, suspended, or revoked.
- (b) The terms and conditions of a permit, or any part thereof, are subject to modification for good cause, including, but not limited to, the following reasons:
 - (1) To incorporate any new or revised Federal, state, or local requirements;

- (2) To address significant alterations or additions to the User's operation, processes, or Wastewater volume or character;
 - (3) A change in the POTW'S NPDES permit or in the POTW (*e.g.*, changes in the design or capability of WWTP or sludge disposal options);
 - (4) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized activity;
 - (5) Information indicating that the authorized discharge poses a threat to the City's WWTP (*e.g.*, would adversely impact the wastewater treatment process) or the collection system (*e.g.*, could cause corrosion to the pipes or pumping station), City personnel, the receiving waters, or that contradicts prior information;
 - (6) Violation of any term or condition of the permit and/or any requirement set forth in applicable law, regulation, and/or this Ordinance;
 - (7) Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting or the tampering of monitoring equipment;
 - (8) Failure to allow timely access to the User's facility or records;
 - (9) Failure to timely pay fines or applicable sewer charges;
 - (10) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to Tennessee Rule 0400-40-14-.13;
 - (11) To correct typographical errors, omissions, or other errors in the permit;
 - (12) Changes to the local sewer Discharge requirements;
 - (13) To change monitoring, sampling, or reporting requirements; and/or
 - (14) For such other reason as the City deems appropriate.
- (c) When a permit is modified, only the conditions subject to modification are reopened. The User may request that the Control Authority modify the permit. All other terms and conditions of the existing SIU Discharge Permit and/or Other User Permit remain unchanged. In lieu of modifying or changing an existing permit, the Control Authority may require the User to apply for a new permit when there are significant changes to a User's facility, significant changes to the Discharges, or other good cause exists. A User newly designated as a Significant Industrial User shall obtain an SIU permit, in which case its Other User Permit for the same Discharge, if applicable, shall terminate upon issuance of an SIU Discharge Permit.
- (d) A request for modification or other change to a permit does not stay any term or condition set forth in the existing or modified permit pending a determination upon the request. The Control Authority may, upon its own initiative or in response to a request by the permittee, stay contested permit conditions or actions.
- (e) Any User is subject to having its permit modified, suspended, or revoked and sewer service discontinued for cause, including:

- (1) Violation of the SIU Discharge Permit, Other User Permit, or any provision of this Ordinance;
 - (2) Failure of a User to fully disclose all relevant facts, or the permittee's misrepresentation of any relevant facts, including the reporting of the Wastewater constituents and characteristics of its Discharge;
 - (3) Failure of the User to report significant changes in operations, which affect Wastewater constituents and characteristics;
 - (4) Refusal of reasonable access at the User's premises for the purpose of inspection or monitoring the applicable sewage or Wastewater System;
 - (5) Refusal or failure to pay all appropriate fees, charges, or civil penalties;
 - (6) Causing the City to violate any condition of its NPDES permit(s); or
 - (7) A determination by EPA, TDEC, or the Control Authority that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- (f) **Duty to Provide Information:** The User shall furnish the Control Authority, within a reasonable time, any information which the Control Authority may request to determine whether cause exists for issuing, modifying, reissuing, suspending, or revoking an SIU Discharge Permit or Other User Permit or to determine compliance. The User shall also furnish to the Control Authority, upon request, copies of records required to be kept. Where the User becomes aware that it failed to submit any relevant facts in an application for a permit, or submitted incorrect information in an application for a Permit, report to the Control Authority, or in any other correspondence pertaining to its regulated activities, it shall promptly submit such facts or information.
- (g) A User shall not refuse to provide the City of Memphis or its representatives (*e.g.*, inspector) information or refuse to allow the City to undertake actions authorized by this Ordinance, based upon the User's belief that the information would be confidential business information. The User may request that the information be treated as confidential in accordance with Section 33-229.
- (h) A Permittee shall have the right to appeal the issuance, reissuance, modification, suspension, or revocation of a permit to the Local Hearing Authority under Division 4 of this Ordinance. Any appeal must be received within thirty (30) days of the City's action.
- (i) Action of the Control Authority for which review has been available (*e.g.*, enactment of an ordinance, or issuance, reissuance, modification, suspension, or revocation of a permit) shall not be subject to administrative or judicial review in any civil or criminal proceeding for enforcement. Among other things, this means that an underlying permit condition or ordinance requirement cannot be challenged in an enforcement proceeding.

Sec. 33-226. [13-24-26] Limitation to Specific Operation of Specific User; Nontransferable.

- (a) SIU Discharge Permits and Other User Permits are issued to a specific User for a specific operation and the SIU Discharge Permit and Other User Permit shall not be reassigned, transferred, or sold to a new owner, other Industrial User, or different premises. The City, subject to its discretion, may modify the existing SIU

Discharge Permit and/or Other User Permit to include the new owner and may make such changes to the SIU Discharge Permit or Other Permit as the City deems appropriate.

- (b) The User shall provide the City 90 days written notice prior to requested transfer of a permit and shall include a permit application (unless waived by the City).

Sec. 33-227. [13-24-27] Monitoring Facilities, Provisions to Be Outlined in Discharge Permit.

Monitoring facilities, in accordance with Section 33-247 of this chapter, may be required in the SIU Permit or Other User Permit.

Sec. 33-228. [13-24-28] Right of Inspection, Sampling and Oversight; Access to Premises by Control Authority.

Inspectors may include representatives of the Division of Public Works, Control Authority, and/or its designee (including contractors), bearing proper credentials and identification. Inspectors shall be permitted to enter appropriate property areas at all reasonable times for the purpose of inspection, observation, measurement, sampling, and testing as the inspector deems necessary, to assure User compliance with Article IV of this chapter. Sampling, inspection, and other oversight may be undertaken at any location at the Facility Site including, but not limited to, effluent discharge points, internal wastestream points, and manholes located on the User's owned or occupied property. This includes the authority to inspect the production, sewage, and Wastewater facilities of any User to ascertain whether the purposes of this chapter are being met and all requirements are being complied with. Persons or occupants of premises where Wastewater is Discharged shall allow the inspector ready access at all reasonable times, at a minimum, the days and hours of operations indicated in the permit application submitted by the User, for the purposes of inspection, sampling, testing, photographing, videotaping, copying documents and records, and conducting interviews in the performance of their duties. Access to the property for the purposes set forth herein shall not be conditioned upon the City of Memphis and/or the inspectors signing an access agreement, including, but not limited to, a document pertaining to the potential waiver or release from liability or provisions pertaining to secrecy, confidentiality, or disclosure of information. The inspector shall have the right to set up on the User's property such sensors or other devices as are necessary to conduct sampling, metering operations, or other oversight, which includes, but is not limited to, composite samplers, discrete samplers, flow measuring devices, continuous monitoring devices and/or sensors, controllers, remote telemetry devices, modems, and cleaning devices such as air blasts or water blasts. Where a User has security measures in force, which would require proper identification and clearance before entry into the premises, the User shall make necessary arrangements with security personnel so that, upon presentation of suitable identification, the inspectors shall be permitted to enter without delay for the purposes of performing their specific responsibilities.

Sec. 33-229. [13-24-29] Availability of Information on User to Public; Use of Claimed Confidential Information.

(a) Confidential Business Information

All information and data on a User obtained from reports, questionnaires, applications, permits, inspection, monitoring programs, or submitted to the Control Authority pursuant to this Ordinance shall be available to the public, subject to the restrictions of the Tennessee Open Records Act codified at 10-7-501 *et seq.*, and applicable statutory exemptions. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submission, by stamping the words

“confidential business information” on each page containing such information. If no claim is made at the time of submission, the Control Authority may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the standards in 40 C.F.R. Part 2 (Public Information).

(b) Effluent Data

Notwithstanding any provision to the contrary, User information and data which are effluent data shall be available to the public without restriction.

(c) State or Control Authority

All other information which is submitted to the State or Control Authority shall be available to the public at least to the extent provided by T.C.A. §§ 10-7-501 *et seq.*

(d) Information Requested by Another Governmental Agency

Where User information is lawfully requested by another governmental agency (*e.g.*, TDEC or EPA), the City may provide such information to the governmental agency and the City will not be required to make a confidentiality determination regarding such information. The User seeking confidentiality protection of the information shall bear the burden of demonstrating to the other governmental agency that such information is entitled to confidential protection. Prior to providing such information to the other governmental agency, the City shall provide notice to the User.

Sec. 33-230. [13-24-30] Reporting and Recordkeeping.

(a) General

The Control Authority has the right to require the submission of such notices and self-monitoring reports from Users as are necessary to assess and assure compliance by, among others, Users with Pretreatment Standards and Pretreatment Requirements, including, but not limited to, the reports required in 40 C.F.R. § 403.12. Industrial Users shall submit the following reports, as applicable, and Industrial Users and other Users shall submit such reports as may be required by the Control Authority and shall contain the certification statement set forth in paragraph 33-230(j)(1), below.

(b) Baseline Monitoring Report (BMR)

- (1) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard or the final administrative decision on a category determination under Tennessee Rule 0400-40-14-.06(1)(d), whichever is later, existing Categorical Industrial Users currently Discharging to or scheduled to Discharge to the WWTP shall submit to the Control Authority a report which contains the information listed in paragraphs 2(A) through (E), (3) and (4), below. At least ninety (90) days prior to commencement of their Discharge, New Sources and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Control Authority a report which contains the information listed in paragraph (2) below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards and shall provide estimates of the information required under paragraphs (b)(2)(D) and (E), below, regarding its anticipated flow and quantity of Pollutants to be discharged.

(2) Industrial Users described above shall submit the information set forth below.

- (A) Identifying Information. The Username and address of the facility including: the names of operators and owners.
- (B) Permit Information. A listing of any environmental control permits held by or for the facility.
- (C) Description of Operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of Discharge to the WWTP from the regulated processes.
- (D) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula pursuant to Section 33-242(b) (See Tennessee Rule 0400-40-14-.06(5)). The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations. In addition, Discharge flow data showing whether flow-proportional, time-proportional composite, and/or grab sampling are required for collecting representative samples for Discharge monitoring purposes based on the consistency of the Discharge flows.
- (E) Measurement of Pollutants.
 - (i) Identification of the Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the Pretreatment Standard or by the Control Authority), of regulated Pollutants in the Discharge from each regulated process.
 - (iii) Instantaneous, daily maximum, and long-term average concentrations (or masses, where required), shall be reported.
 - (iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 C.F.R. § 136 and amendments, unless otherwise specified in an applicable Categorical Standard. Where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the Industrial User shall submit documentation as required by the Control Authority, or the applicable Standards, to determine compliance with the Pretreatment Standard.
 - (v) The Industrial User shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.
 - (vi) Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment, the Industrial User should measure the flows and concentrations necessary to allow use of the combined wastestream formula pursuant to Section 33-242(b) and Tennessee Rule 0400-40-14-.06(5) to evaluate compliance with the Pretreatment Standards.

(vii) The Control Authority may allow the submission of a baseline report, which utilizes only historical data, so long as the data provide information sufficient to determine the need for industrial Pretreatment measures.

(viii) The baseline report shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the WWTP.

- (3) Compliance certification. Existing Industrial Users shall submit a statement, reviewed by the Authorized Representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards.
- (4) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, existing Industrial Users shall submit the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule for meeting a Categorical Pretreatment Standard shall not be later than the compliance date established for the applicable Categorical Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in paragraph (c) of this section, below.

(c) Compliance Schedule Progress Report

The following conditions shall apply to the compliance schedule required under the BMR section above:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring a Tennessee State licensed professional engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).
- (2) No increment referred to above shall exceed nine (9) months.
- (3) The User shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it has complied with the increment of progress and, if not, the date on which it expects to comply with this increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule.
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.
- (5) At the discretion of the Control Authority, progress reports may be submitted by the 15th of each calendar month until full compliance is achieved, as determined by the Control Authority.

(d) Report on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source, following commencement of the introduction of Wastewater into

the POTW, any Industrial User subject to Pretreatment Standards and requirements shall submit to the Control Authority a report containing the information described in Sections 33-230(b)(2)(D) &(E) and 33-230(b)(3). For Industrial Users subject to equivalent mass or concentration limits, established by the Control Authority in accordance with the procedures in Section 33-242(e) or (f), this report shall contain a reasonable measure of the Industrial User's long term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(e) Self-Monitoring Reports (SMRs)

- (1) All Significant Industrial Users (including CIUs, except for non-significant CIUs) must submit, at a frequency determined by the Control Authority, but no less than twice per year, reports indicating the nature, concentration of Pollutants in the Discharge, which are limited or otherwise required to be sampled by the Discharge Permit and such other Pretreatment Standards as are applicable, and the measured or estimated average and maximum daily flows, as applicable, for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP (or pollution prevention alternative), the Industrial User must submit documentation necessary to determine the compliance status of the Industrial User, including documentation required by the Control Authority and/or the Pretreatment Standard. If a semi-annual reporting schedule is established, then such reports are to be submitted on April 15 and October 15 for the preceding six full-month calendar period, unless a different schedule is established by the Control Authority. Monthly self-monitoring reports (and reports at other frequencies established by the Control Authority) are required to be submitted on the 15th of the month following the compliance report (*i.e.*, monthly compliance reports are due by the 15th of each successive calendar month) unless an alternative approach is established in writing by the Control Authority.
- (2) All self-monitoring reports must be signed and certified in accordance with this Ordinance (*see* subsection (j), below).

(f) Potential Reduced Reporting for Small CIUs

If allowed by State law or regulation, the Control Authority may reduce the requirement for self-monitoring reports by a Categorical Industrial User in Section 33-230(e) herein, to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the State, where the Industrial User's total categorical Wastewater flow does not exceed any of the following, and the Industrial User otherwise meets the requirements as set forth in 40 C.F.R § 403.12(e)(3)(ii) – (v).

- (1) One one-hundredth (0.01) of a percent of the design dry weather hydraulic capacity of the POTW or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device, unless the Industrial User discharges in batches;
- (2) One one-hundredth (0.01) of a percent of the design dry weather organic treatment capacity of the receiving treatment plant as determined by the Control Authority; and
- (3) One one-hundredth (0.01) of a percent of the maximum allowable headworks loading (MAHL) of the receiving treatment plant for any Pollutant regulated by applicable Categorical Pretreatment Standard for which Local Limits were developed as determined by the Control Authority.

(g) Reporting of Alternate Concentration or Mass Limits

Where an alternate concentration or mass limit has been calculated in accordance with Section 33-242(f), this adjusted limit, along with supporting data, shall be submitted to the Control Authority.

(h) Reports of Changed Conditions

Each Industrial User must notify the Control Authority at least thirty (30) days before any significant changes to the Industrial User's operations or system or any substantial increase to the nature, quality, or volume of its Wastewater Discharged, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under subsection (k), below, or any changes that could reasonably be expected to cause Interference or Pass-Through.

- (1) The Control Authority may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a new or updated permit application.
- (2) The Control Authority may issue an individual or general permit under section 33-222, modify, suspend, or revoke an existing Discharge Permit in response to, among other things, changed conditions or anticipated changed conditions.

Control Authority approval is required before a Significant Industrial User can make such changes.

(i) Report of Potential Problems

- (1) In the case of any Discharge, including, but not limited to, accidental Discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a Slug Discharge that might cause potential problems to the POTW (including problems to the collection system that may be caused by fats, oils or grease clogging the sewer system or lift stations), the Industrial User shall immediately notify the Control Authority of the incident. This notification shall include the location of the Discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the Industrial User.
- (2) Within five (5) days following such Discharge, the Industrial User shall, unless waived by the Control Authority, submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWTP, natural resources, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Ordinance.
- (3) A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in paragraph (1), above. Employers shall ensure that all employees, who could cause such a Discharge to occur, are advised of the emergency notification procedure.
- (4) Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility that significantly increases the potential for a Slug Discharge.

(j) Certification Statements

- (1) The following reports shall be signed by the Authorized Representative of the User and shall have the certification statement set forth below in the indented language: permit applications, periodic self-

monitoring reports, compliance schedule compliance reports, baseline monitoring, reports of accidental or Slug Discharges, and such other reports as the City identifies in writing to a User:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (2) Annual Certification for Non-Significant Categorical Industrial Users. The City may determine that an Industrial User, subject to Categorical Pretreatment Standards, is a non-significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User meets the definition of "Non-Significant Categorical Industrial User" in Section 33-16 due to its discharge of less than one hundred (100) gallons of total categorical Wastewater on any given day. A facility identified by the City as a non-significant Categorical Industrial User based upon such criteria must annually submit the following certification statement signed by the Authorized Representative of the Industrial User filling in the appropriate information:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 C.F.R. _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 33-16 Definitions;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never Discharged more than one hundred (100) gallons of total categorical Wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____.

- (3) Certification of Pollutants Not Present. Industrial Users that have an approved monitoring waiver based on Section 33-242(h) must certify on each report with the following statement that there has been no increase in the Pollutant in its wastestream due to activities of the Industrial User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list Pollutant(s)] in the Wastewaters due to the activities at the facility since filing of the last self-monitoring report under Sec. 33-230(e).

- (k) Notification of the Discharge of Hazardous Wastes

- (1) Industrial/Commercial Users shall notify the Control Authority, the EPA Regional Waste Management Division, and the Tennessee Department of Environment and Conservation (TDEC) in writing of any Discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261 or Rule 0400-2-01. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261 or Rule 0400-12-01, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the Industrial User Discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream Discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be Discharged during the following twelve months. All notifications for Dischargers existing at the time should have taken place within one hundred eighty (180) days of the City's first adoption of this rule (*i.e.*, within 180 days of March 26, 1982). Industrial Users who commence Discharging after March 26, 1982, were and are required to provide the notification no later than 180 days after the Discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste Discharged. However, notifications of changed Discharges must be submitted under Section 33-230(h). The notification requirement in this section does not apply to Pollutants already reported under the self-monitoring requirements of this Ordinance.
- (2) Dischargers are exempt from the requirements of paragraph (k)(1) in this section during a calendar month in which they Discharge no more than fifteen (15) kilograms (kg) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). A Discharge of more than fifteen (15) kg of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e) requires a one-time notification.
- (3) In the case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921, identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Division Control Authority, and the TDEC of the Discharge of such substance within 90 days of the effective date of such regulations.
- (4) In the case of any notification made under paragraph (k) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(l) Recordkeeping

Users subject to the reporting requirements of this Ordinance shall retain and make available for inspection and copying all reports, and records of information obtained pursuant to any monitoring activities required by this Ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action or litigation concerning the User's compliance with its Discharge Permit or this Sewer Ordinance, or an enforcement action or litigation concerning the City, or where the User has been specifically notified of a longer retention period by the Control Authority.

(m) Submission of All Monitoring Data

A User may monitor its Discharge more frequently than the minimum set forth in its Discharge Permit, this Sewer Use Ordinance, or as otherwise required. If a User subject to reporting requirements monitors any regulated Pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in Section 33-248, the results of this monitoring shall be included in the reports required under Section 33-230 and/or the Discharge Permit, as applicable.

(n) Electronic Reporting

Reports of permittees shall contain all results of sampling and analysis of the discharge, including the flow, nature, concentration, production and/or mass, where required. Upon the City of Memphis receiving approval from TDEC of a Cross Media Electronic Reporting Regulation (CROMERR) system, compliant with the Code of Federal Regulations Title 40, Part 3 (CROMERR), the City of Memphis may require all or some of its Users to submit such reports as the City deems appropriate in an electronic-only format through a CROMERR compliant system. CROMERR is an Environmental Protection Agency approved system allowing states, tribes, and local governments that receive or plan to begin receiving *electronic* documents in lieu of paper documents to satisfy regulations under an authorized program. Each User shall submit such CROMERR reports as the City identifies in a Control Mechanism (*e.g.*, permit or letter) to the User within the time frame set forth, which shall provide the User at least ninety (90) days to become CROMERR compliant. The User may request additional time for good cause, but such request does not automatically extend the deadline for becoming CROMERR compliant. New Significant Industrial User dischargers, including those located in Outlying Jurisdictions, shall submit reports through a CROMERR compliant system unless waived by the City of Memphis, Division of Public Works, in writing.

Sec. 33-231--33-239. [13-24-31 -- 39] **Reserved.**

DIVISION 3. DISCHARGE TO PUBLIC SANITARY SEWERS

Sec. 33-240. [13-24-40] **Reserved**

Sec. 33-241. [Sec. 13-24-41] **Discharges of Storm Water, Groundwater, etc., into Sanitary Sewer Prohibited; Exceptions; Discharges into Sanitary Sewer System Other Than through Specifically Permitted Building Sewer, Permit Required.**

- (a) No Person shall Discharge or cause to be Discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, or uncontaminated cooling water to any sanitary sewer except by permission of the City of Memphis and under permit from the Control Authority.
- (b) No Person shall Discharge, whether directly or by truck or other transportation, any substance into a manhole or other opening in a public sewer, other than through an approved building sewer, unless he/she has been issued a Discharge Permit by the Control Authority that specifically authorizes a Discharge at such location. No Person shall Discharge any holding tank waste into the City POTW, including the collection system, unless he/she has been issued a permit by the Control Authority specifically authorizing such Discharge. Unless otherwise allowed by the Control Authority under the terms and conditions of the permit, a separate permit must be secured for each separate Discharge. This permit may state the specific location of Discharge, the time of day the Discharge is to occur, the volume of the Discharge, the maximum Discharge rate, Wastewater constituents and characteristics, and such other conditions as the Control Authority deems appropriate. If a permit is granted for Discharge of such waste into a community sewer,

the User shall pay the applicable charges and fees and shall meet such other conditions as are required by the Control Authority.

- (c) No Person who generates Wastewater at one property shall Discharge it at another property without approval from the Control Authority.
- (d) No Person shall flush commercial or other non-domestic Wastewater down the toilet or Discharge it through other bathroom connections (*e.g.*, shower drain).

Sec. 33-242. [Sec. 13-24-42] **Implementation of Categorical Pretreatment Standards.**

(a) Compliance with Categorical Pretreatment Standards Required

Users must comply with the Categorical Pretreatment Standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405–471, as applicable. Compliance by Existing Sources with Categorical Pretreatment Standards shall be within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of Subchapter N or the *Federal Register* promulgation of the Standard. Existing Sources, which become Industrial Users subsequent to promulgation of an applicable Categorical Pretreatment Standard, shall be considered existing Industrial Users except where such sources meet the definition of a New Source. New Sources shall install, have in operating condition and, “start-up” all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. Within the shortest feasible time (not to exceed ninety (90) days), New Sources must meet all applicable Pretreatment Standards.

(b) Use of the Combined Wastestream Formula

When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same Standard, the Control Authority may impose an alternate limit in accordance with the combined wastestream formula as set forth in Tennessee Rule 0400-40-14-.06(5) or take such other action as necessary to assure compliance with Categorical Pretreatment Standards.

(c) Fundamentally Different Factors Variance

A Discharger may request a variance from Categorical Pretreatment Standards in accordance with applicable procedures. *See, e.g.*, Tennessee Rule 0400-40-14-.13.

(d) Net Gross Adjustment

A Categorical Industrial User (CIU) may obtain a net/gross adjustment to a Categorical Pretreatment Standard in accordance with the following paragraphs:

- (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of Pollutants in the Industrial User’s intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake Pollutants must make application to the City. Upon request of the Industrial User, the applicable Pretreatment Standard will be calculated on a “net” basis (*i.e.*, adjusted to reflect credit for Pollutants in the intake water) if the requirements of paragraphs (2) through (5) of this section are met.
- (2) Criteria

- (A) The applicable Categorical Pretreatment Standards contained in 40 C.F.R. subchapter N specifically provide that they shall be applied on a net basis; or
- (B) The Industrial User demonstrates that the control system it proposes or uses to meet applicable Categorical Pretreatment Standards would, if properly installed and operated, meet the Pretreatment Standards in the absence of Pollutants in the intake waters.

- (3) Credit for generic Pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the Industrial User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water Pollutants either at the outfall or elsewhere.
- (4) Credit shall be granted only to the extent necessary to meet the applicable Categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Pretreatment Standard(s) adjusted under this section.
- (5) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW Discharges. The City may waive this requirement if it finds that no environmental degradation will result.

(e) Implementation of Production-based Limits

- (1) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of Pollutant Discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (2) Any Industrial User operating under a Control Mechanism incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Control Authority within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any Industrial User not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its Control Mechanism that were based on the original estimate of the long-term average production rate.

(f) Imposition of Equivalent Mass or Concentration Based Limits

- (1) When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, the Control Authority may also establish equivalent mass limits so that local, state, or Federal authorities may enforce either concentration or mass limits. In the alternative, an Industrial User may request that the Control Authority convert the concentration limits to equivalent mass limits and include only the equivalent mass limits in the permit. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits in lieu of a concentration limit only if the Industrial User meets all the conditions set forth in paragraphs (f)(1)(A) through (E) below.

- (A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Discharge Permit;

- (B) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard and has not previously used or plan to use dilution as a substitute for treatment;
 - (C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - (D) Not have daily flow rates, production levels, or Pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - (E) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
- (2) An Industrial User subject to equivalent mass limits must:
- (A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (B) Continue to record the facility's flow rates with a continuous effluent flow monitoring device;
 - (C) Continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than twenty (20) percent from its baseline production rates. Upon notification of a revised production rate, the Control Authority may reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - (D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (f)(1)(A) of this section, so long as it Discharges under an equivalent mass limit.
- (3) When developing equivalent mass limits, the Control Authority may:
- (A) Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
 - (B) Upon notification of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility;
 - (C) Retain the same equivalent mass limit in subsequent Discharge Permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment; and

- (D) Deny or condition equivalent mass limits upon the Industrial User also being in compliance with Section 33-246(c)(4) regarding the prohibition of bypass.
- (4) The Control Authority may convert the mass limits of the Categorical Pretreatment Standards of 40 C.F.R. Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Control Authority.
- (5) If only equivalent mass limitations are included in the Control Mechanism, once included in the Control Mechanism, the Industrial User must comply with the equivalent limitations in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.

(g) Calculation of Categorical Limits

Many Categorical Pretreatment Standards specify one limit for calculating maximum Daily Discharge limitations and a second limit for calculating maximum monthly average, or 4-day average limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation under applicable Categorical Pretreatment Standards.

(h) Sampling Waiver

The Control Authority may authorize an Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the Pollutant is neither present nor expected to be present in the Discharge, is present only at background levels from intake water, and there will be no increase in the Pollutant due to activities of the Industrial User. See Tennessee Rule 0400-40-14-.12(5)(b). This authorization is subject to the following conditions:

- (1) The waiver may be authorized where a Pollutant is determined to be present solely due to sanitary Wastewater Discharged from the facility, provided that the sanitary Wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process Wastewater.
- (2) The monitoring waiver is valid only for the duration of the effective period of the individual Control Mechanism, but in no case longer than five (5) years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent Control Mechanism.
- (3) In making a demonstration that a Pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process Wastewater prior to any treatment present at the facility that is representative of all Wastewater from all processes.
- (4) The request for a monitoring waiver must be signed by an Authorized Representative of the User and include the certification statement in 33-230(j)(3). See 40 C.F.R. § 403.6(a)(2)(ii) and Tennessee Rule 0400-40-14-.06(1)(b)2.
- (5) EPA and TDEC have determined that, where the lowest minimum detection level for a Pollutant as set forth in 40 C.F.R. Part 136 has been used in the analysis, it is appropriate to equate a non-detectable sample result as demonstrating that a Pollutant is not present.
- (6) In order for a monitoring waiver approval by the Control Authority to be effective, it must be included as a condition in the User's Discharge Permit.

- (7) Upon approval of the monitoring waiver and revision of the User's Control Mechanism by the Control Authority, the Industrial User must certify on each report with the statement in Section 33-230(j)(3) that there has been no increase in the Pollutant in its wastestream due to activities of the Industrial User.
- (8) In the event that a waived Pollutant is found to be present or is expected to be present because of changes that occur in the Industrial User's operations, the Industrial User must immediately comply with the monitoring requirements as set forth in Section 33-230(e) or other more frequent monitoring requirements imposed by the Control Authority and notify the Control Authority.
- (9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

Sec. 33-243. [Sec. 13-24-43] **General and Specific Prohibitions.**

(a) General Prohibition Against Interference and Pass-Through

No Person shall introduce into the POTW any Pollutant(s) which cause Pass-Through or Interference. This prohibition and the specific prohibitions in paragraphs (b)(1) through (11), below, apply to each Person introducing Pollutants into the POTW, whether or not the Person is subject to other National Pretreatment Standards or any national, state, or local Pretreatment Requirements.

(b) Specific Prohibitions

No Person shall Discharge, or cause to be Discharged, any of the following to the City's POTW (including the City's sewers):

- (1) Petroleum oil (*e.g.*, gasoline, benzene, naptha, fuel oil, diesel fuel, jet fuel, or kerosene), nonbiodegradable cutting oil, products of mineral oil origin, or any other Pollutant (i) which causes Interference or Pass-Through, (ii) creates a fire or explosion hazard in the POTW, including, but not limited to, Wastewater with a closed cup flashpoint of less than 140° Fahrenheit or 60° Celsius using the test methods specified in 40 C.F.R. § 261.21, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80 or a Setaflash Closed-Cup Tester, using the test method specified in ASTM Standard D-3278-78, and/or (iii) Pollutants which cause an exceedance of 10% of the lower explosive limit (LEL) at any point within the POTW.
- (2) Pollutants, including toxic or poisonous solids, liquids, vapors, or gases in sufficient quantity, either singly or by interaction with other wastes, to result in the presence of toxic gases, vapors, or fumes within the WWTP in a quantity that may injure personnel, cause workers to have acute health or safety problems, cause fires, explosions, interfere with any sewage or Wastewater treatment process or any sanitary sewer system, constitute a hazard to humans or animals, threaten the public health or safety, create a public nuisance, or create any hazard in the receiving waters of the sewage or Wastewater Treatment Plant.
- (3) Pollutants in violation of a pH Minimum Limit, *i.e.*, having a pH lower than 5.5 standard units.

- (4) Pollutants with corrosive properties capable of causing damage or hazard to the structures, equipment, conveyances, and personnel of the sewerage works or interfering with the operation of the treatment facility.
- (5) Wastewaters in violation of a pH Maximum Limit, *i.e.*, having a pH higher than 10.0 standard units unless prior approval of a higher limit is approved by the City of Memphis, Division of Public Works, and set forth in a Discharge Permit. In order to Discharge a pH above 10.0 standard units, the City may require the User to submit a study identifying, among other things, the flow and pH concentrations requested, an estimate of the duration the Discharge will exceed 10.0 standard units, the potential impacts of the high pH on the sewer system, lift stations, WWTP or any other part of the POTW, and such other information as the City may request. In no event shall a User discharge a pH equal to or over 11.5 s.u.
- (6) Wastewaters exceeding the hydroxide loadings set forth in a Discharge Permit, as applicable.
- (7) Solid, viscous, or foaming substances in quantities of such size or amount as to reasonably raise a concern to the City of the potential to cause obstruction to the flow in sewers, overflows, Interference with the proper operation of the Wastewater facilities, or cause a violation of the POTW's NPDES permit. This prohibition includes, but is not limited to, the Discharge of surfactants, foaming agents, paper pulp, clays, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, oil, grease, underground garbage, whole blood, paunch manure, hair and fleshing, wipes, bed pads, cotton tips, tissues, entrails, paper dishes, cups, Styrofoam, milk containers, etc., either whole or ground by garbage grinders. Should blood, tissue, or other prohibited body parts be unavoidably Discharged into the sanitary sewer, then such Discharge must be accompanied by or immediately followed with a liquid disinfectant; such disinfectant may include bleach.
- (8) Any trucked or hauled Pollutants, except at Discharge points designated by the Control Authority.
- (9) Any Pollutant, including oxygen-demanding Pollutants (*e.g.*, BOD, etc.), released at a flow rate and/or Pollutant concentration which will cause Interference.
- (10) Any Wastewater having a temperature which will inhibit biological activity in the WWTP resulting in Interference, but in no case Wastewater with a temperature resulting in the temperature at the introduction into the WWTP which exceeds 40°C (104° F) unless approved by the Control Authority.
- (11) Any Wastewater or waste into street inlets or sewer manholes.

(c) pH Limits

The pH Discharge limit is an instantaneous reading of any Discharge into the sanitary sewer and not an average of any kind. In addition to standard units, the City may establish limits on pH based upon the hydroxide loading.

(d) Limits on Other Corrosive Pollutants

The City may establish limits in a Discharge Permit on other pollutants (*e.g.*, chloride and sulfates), as the City deems necessary to prevent corrosion to the collection system or other parts of the POTW.

(e) Dilution Prohibition

No Industrial User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Pretreatment Requirement or, in the case of other Discharge limitations (e.g., Local Limits), unless expressly authorized by the Control Authority.

(f) Safe Harbor Affirmative Defense

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subparagraph (a) of this paragraph and the specific prohibitions in subparagraphs (b)(1), (2), (6) and (7) where the User can demonstrate that:

- (1) It did not know, or have reason to know, that its Discharge, alone, or in conjunction with a Discharge or Discharges from other sources, would cause Pass-Through or Interference, and a Local Limit designed to prevent Pass-Through and/or Interference, as the case may be, fits one of the following descriptions:
 - (A) The Local Limit for that Pollutant is established in Section 33-244(c) for each Pollutant in the User's Discharge that caused Pass-Through or Interference, and the User was in compliance with each such Local Limit directly prior to and during the Pass-Through or Interference; or
 - (B) The Local Limit has not been established in Section 33-244(c) for the Pollutant(s) that caused the Pass-Through or Interference, the User's Discharge directly prior to and during the Pass-Through or Interference did not change substantially in nature or constituents from the User's prior Discharge activity when the WWTP was regularly in compliance with the WWTP's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

Sec. 33-244. [Sec. 13-24-44] **Certain Discharge Restricted, Local Limits, Etc.**

(a) Restricted Discharges

Except as otherwise specifically authorized by the Control Authority in writing, no Person shall Discharge or cause to be Discharged the following described Pollutants, substances, materials, Wastewaters, and/or wastes. The limitations or restrictions of materials or characteristics of waste or Wastewaters Discharged to the sanitary sewer, shall not be violated without a variance being granted. The following are restricted Discharges to the POTW:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius).
- (2) Any Wastewater or waste containing fats, wax, grease, or oils in excess of one hundred (100) milligrams per liter (mg/l) or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees Celsius). This 100 mg/l standard applies to hydrocarbons, whether measured as (i) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, (ii) animal or vegetable origin, or (iii) total hydrocarbons.
- (3) Any waste that has not been properly shredded. The installation and operation of any waste grinder equipped with a motor of three-fourths (0.75) horsepower or greater shall be subjected to the review and approval of the Control Authority.

- (4) Any Wastewaters or wastes containing strong acid, iron pickling wastes, or any waters or wastes containing concentrated plating solutions whether neutralized or not, except by written permission of the Control Authority.
- (5) Any Wastewater or wastes (e.g., contaminated waters, rinse waters, etc.) containing iron, chromium, copper, lead, mercury, zinc, other heavy metals or toxic substances to such degree that any such Discharge exceeds the Local Limits established by the Control Authority unless a variance is obtained.
- (6) Any Wastewater or wastes containing phenols and/or chlorophenols, to such degree that any such Discharge in the composite sewage at the WWTP exceeds the limits established by the Control Authority.
- (7) Any radioactive wastes or isotopes of long half-life (over one hundred (100) days) without special permit. The radioactive isotopes (I 131 and P 32) used at hospitals are not prohibited if properly diluted at the source.
- (8) Materials, which exert or cause:
 - (A) Concentrations of inert suspended solids (such as, but not limited to, clays, fibers, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate), which is reasonably anticipated to cause obstruction to the flow in sewers, damage to the sewer system, or Interference.
 - (B) BOD, chemical oxygen demand, or disinfection requirements in such quantities as to constitute Interference.
- (9) Wastewater containing objectionable substances, which are not readily amenable to treatment or reduction by the sewage treatment processes employed.
- (10) Any Wastewater that may cause the Wastewater treatment facility effluent or any product of the treatment process, residues, biogas, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- (11) Any Wastewater that could have a detrimental environmental impact or create an objectionable color, foam, or nuisance in the Waters of the State.
- (12) Any Wastewater that could cause excessive collection or treatment costs or may use a disproportionate share of the POTW.
- (13) Any Wastewater, which causes hazard to human life or creates a public nuisance.
- (14) Any Wastewater containing hydraulic fluid, brake fluid, transmission fluid, steering fluid, motor oils, or lubricants removed from vehicles or other machinery except to the extent that there is a *de minimis* amount after having gone through an oil/water separator or other treatment device.
- (15) Any Wastewater where there is a significant likelihood of producing toxic effects to the biota in the receiving water of the POTW's effluent.

(16) Any hazardous waste as classified or characterized under the Resource, Conservation, and Recovery Act (RCRA), 40 C.F.R. Part 261. This prohibition does not apply if the domestic sewage exemption as set forth in 40 C.F.R. § 261.4(a)(1) would be applicable.

(17) Any Wastewater or waste from an EPA Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site, unless approved by the U.S. Environmental Protection Agency in writing and the City (subject to the City’s sole discretion).

(b) Discharge That Potentially Interferes with Plant Operations

When it is determined by the Control Authority that a User is Discharging Wastewater so as to potentially interfere with the operation or efficacy of the POTW then the Control Authority may develop effluent limitation(s) (including a prohibition) for such User to correct the concern and/or take such other action as the City deems appropriate.

(c) Local Limits

(1) The Control Authority is authorized to establish Local Limits for Pollutants Discharged to the POTW pursuant to Tennessee Rule 0400-40-14-.05(3). Local Limits may be reviewed and revised as deemed appropriate by the Control Authority. The Local Limits may be implemented as concentration and/or mass limits, as permitted or required under applicable state or Federal rules and regulations. When mass limits are used, continuous flow monitoring of the Discharge flows may be required. Daily Discharge flow volumes and monthly average Discharge flows measured shall be reported and used to calculate Pollutant mass Discharge for each day of Discharge, the calendar Monthly Average Discharge, and the Daily Maximum Discharge for the calendar month.

(2) The following Local Limits apply to all Users Discharging into the City’s POTW (including the sewer system) unless subject to a variance under subsection (d), below, or superseded by Local Limits subsequently adopted by the Division of Public Works and approved by TDEC, with the notice of such Local Limits set forth on the Division of Public Works (e.g., website at www.memphistn.gov). Such subsequent Local Limits may also include limits on additional Pollutants beyond those identified below. Compliance with all Local Limits (including those identified on the above identified website) is required regardless of whether a Person is issued a permit.

TABLE I

LOCAL LIMITS FOR DISCHARGE INTO THE MUNICIPAL SEWERAGE SYSTEM.

Constituent	Daily * Maximum Limit Concentration mg/l	Instantaneous Maximum Limit** Concentration mg/l
Biochemical Oxygen Demand	(1)	(1)
Settleable Solids (ml/l)	(1)	(1)
Total Suspended Solids	(1)	(1)
Nitrogen (total Kjeldahl)	(1)	(1)
Arsenic	1.0	2.0
Cadmium (total)	(2)	(2)

Chromium (hexavalent)	1.0	2.0
Chromium (total)	5.0	10.0
Copper (total)	5.0	10.0
Cyanide (oxidizable) ***	2.0	4.0
Cyanide (total) ***	4.0	8.0
Lead (total)	(2)	(2)
Mercury	(2)	(2)
Nickel (total)	5.0	10.0
Zinc (total)	5.0	10.0
Ammonia NH3-N	125 ppm	250 ppm

* See definition of “Daily Maximum Limit.”

** See definition of “Instantaneous Limit” providing for noncompliance to be determined by use of a grab sample or a composite sample, as applicable.

*** Cyanide samples are required to be collected as grab samples.

(1) Effluent Limits and/or Action Levels may be established for these Pollutants.

(2) Cadmium, mercury, and lead Discharges are severely restricted due to limitations placed on the disposal of sewage sludge containing cadmium, mercury, and/or lead. Actual allowable Discharge concentrations for these constituents will be determined on a case-by-case basis.

(d) Potential Variances

The City, subject to its discretion, may grant a variance for a User’s Local Limits, as it deems appropriate. Notwithstanding such authority, nothing herein shall be deemed to entitle a User to a variance.

- (1) Consideration of variances to the Local Limits may be based on consideration of any of the following criteria:
 - (A) Age, location, land availability, and type of manufacturing processes employed;
 - (B) Total mass of Pollutant Discharged by the industry;
 - (C) Volume of industrial waste in proportion to the total Wastewater flow in the system;
 - (D) Energy requirements of the application of control and treatment technology, but only if the Discharger demonstrates that less energy consumptive alternative control technology is not available;
 - (E) Removal efficiency of the receiving WWTP to effectively treat the Pollutant, and potential to cause Interference or Pass-Through of the WWTP treatment process;
 - (F) Available Pollutant treatment capacity at the receiving WWTP;
 - (G) Potential threat to the health and safety of sewer workers;
 - (H) Protection of biosolids produced at the receiving WWTP;

- (I) Interim measures that can be undertaken to reduce the discharge of the pollutant(s) of concern;
- (J) Costs and schedule associated with installing additional pretreatment to meet the limits; and/or
- (K) Such other factors as the Control Authority deems appropriate.

(2) In no case shall a variance be granted for those parameters defined by Federal Pretreatment regulations as general and specific prohibitions at 40 C.F.R. §§ 403.5(a) and (b) (see Sections 33-243(a) and (b)), or that would violate applicable Categorical Standards.

(e) Discharge of Specific Pollutants Restricted

No User or other Person shall Discharge Wastewater containing any of the Pollutants listed herein into the municipal sewer system or shall otherwise allow any Wastewater to enter the municipal sewer system containing any of the listed Pollutants without obtaining written approval from the Control Authority.

Individual Pollutants

Groups of Pollutants

O,M,P-Xylenes
1,1-Dichloroethylene

1,2 trans,dichloroethylene
3,3-Dichlorobenzidene
Beryllium
Bromodichloromethane
Dimethylnitrosamine
Ethyl benzene
O-Dichlorobenzene
Tin
1,1,1,2-Tetrachloroethane
1,1,2-Trichloroethane
1,1-Dichloroethane
1,1-Dichloropropane
1,2,3-Trichloropropane
1,2-Cis,dichloroethylene
1,2-Dibromo-3-Chloropropane
1,2-Dichloroethane
1,2-Dichloropropane
1,3-Dichloropropane
1,3-Dichloropropene
1,4-Dichlorobenzene(p)
2,2-Dichloropropane
2,4-Dinitroluene
2,4-Dinitrophenol
2-butanone (MEK)
2-Chlorophenol
4-methyl-2-pentanone (MIBK)
Acetone

a) Total Polychlorinated Biphenyls (PCBs),
Arochlor compounds

(b) Herbicides and Pesticides, including, but not limited to:

Aldrin
Chlordane
Demeton
Dieldrin
Endosulfan I
Endosulfan II
Endosulfan sulfate
Endrin
Endrin aldehyde
Guthion
Heptachlor
Heptachlor epoxide
Hexachlorocyclo-hexane
Hexachlorocyclopentadiene
Lindane
Mirex
Methoxychlor
Parathion
4,4-DDD
4,4-DDE
4,4 DDT
Alpha BHC, Beta BHC, Delta BHC, or Gamma BHC
Tetrachlorodiphenylethane (TDE)
Toxaphene

(c) Total Dioxin

Acrylonitrile
Aluminum
Barium
Benzo (a) pyrene
Benzotrachloride
Bromobenzene
Bromoform
Chlorobenzene
Chlorodibromomethane
Chloroethane
Chloroform
Cumene
Dichloroethyl ether(Bis(2-chloroethyl))
Diisobutylenes
Hexachlorobenzene
Hexachlorobutadiene
Hexane
Isopropylbenzene
M-Dichlorobenzene
Molybdenum
O-Chlorotoluene
Para-Dichlorobenzene
P-Chlorotoluene
Phenanthrene
Pyrene
Titanium
Toluene
Vinyl chloride

The Control Authority reserves the right to modify this list of Pollutants restricted from entering the POTW as may become necessary to protect the POTW from Interference and Pass-Through or as the City otherwise deems appropriate. This may be undertaken by the City providing an updated list of restricted Pollutants on the City website or in any other manner that provides a Discharger notice.

(f) 15% of Maximum Allowable Loading Limitation

Unless otherwise agreed to in writing by the Control Authority, no User shall Discharge a mass loading of any compound or Pollutant, which has a Local Limit, of more than fifteen (15) percent of the Maximum Allowable Industrial Loading (MAIL) of that compound or Pollutant as calculated from current Local Limits. The City may impose a fifteen percent limit on pollutants based upon the rated capacity of the WWTP.

(g) Best Management Practices

The City may develop Best Management Practices (BMPs), by ordinance or in individual and/or general wastewater discharge permit, to implement Local Limits and such other requirements, as it deems appropriate. The City may decide not to apply a local limit to User(s) that are subject to a best management practice designed to address that pollutant.

Sec. 33-245. [Sec. 13-24-45] **Discretionary Actions of Control Authority with Respect to Restricted Discharges.**

(a) Potential Options for Acceptance of Wastewater

If any waters or wastes are Discharged or are proposed to be Discharged to the public sanitary sewers, which waters contain substances or possess characteristics which, in the judgment of the Control Authority, are incompatible with the capacities of the Publicly Owned Treatment Works (including the collection system) and/or may have a deleterious effect upon the sewerage works, processes, sludge use, equipment, or receiving waters, or which otherwise may create a hazard to life or constitute a public nuisance, the Control Authority may undertake such action(s) as it deems appropriate, including but not limited to of the following: (1) Reject the wastes; (2) Require Pretreatment or an acceptable condition for Discharge to the public sanitary sewers; (3) Require control over the quantities and rate of Discharge; and/or (4) Require payment to cover the added cost of handling and treating the wastes as provided in division 2 of Article III of this chapter.

(b) Flow and Other Associated Requirements

The City, in response to potential capacity concerns associated with the collection system, Wastewater Treatment Plant, and/or pumping/lift station, or for other good cause, may impose flow limits including limitation on the hours that flows may enter the sewer system (*e.g.*, limiting the discharge of wastewater and/or domestic wastewater to off-peak hours), may require any User to install on-site storage as a condition to connect or increase flow, and/or may impose such other conditions as the Control Authority deems appropriate. Such conditions may be set by the Control Authority in a control mechanism (*e.g.*, permit, letter of approval, or conditional letter of approval). No Person shall violate the conditions established by the Control Authority set forth in a control mechanism issued by the Control Authority.

(c) Control Authority Review of Pretreatment System

If the Control Authority permits the Pretreatment or equalization of waste flows, the design and installation of any new process Pretreatment or flow equalization system installed in connection therewith shall, upon request from the City, be subject to the review and/or approval of the Control Authority. The City of Memphis does not by its approval of any of the designs, installation, or the construction of the plans and equipment or any of the information or plans submitted by the Permittee, warrant or aver in any manner that the Permittee's implementation of such measures will result in compliance with the applicable Pretreatment requirements. Notwithstanding such review and/or approval, compliance with Federal, state, and local law (including this Ordinance and/or a Discharge Permit) is the sole responsibility of the User. In no event shall the City of Memphis be deemed liable for any User actions based upon the City's review and/or approval of User documents.

(d) Use of Interceptors, Traps and/or Separators

Interceptors, traps, and/or separators shall be provided by industrial and commercial Dischargers (in addition to those cases otherwise specified in this Ordinance) when, in the opinion of the Control Authority, they are necessary for the proper handling of water or waste containing such materials as fats, oils, greases, sand, or flammable reactive or corrosive liquids, substances which may solidify or become viscous in the system, or other harmful ingredients. In maintaining interceptors, traps, and separators, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the waste manifests, laboratory reports, chain-of-custodies, any field reports, log sheets, field test data (*e.g.*, pH, temperature, ammonia, or chlorine), dates, and means of disposal, which are subject to review by the Control Authority. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by waste transport and disposal firms and must be documented by the facility.

Any transport to a Memphis WWTP or to a designated Discharge point must be undertaken by a City approved waste transport firm.

(e) Removed Substances

Except as provided by paragraph (d) above, or otherwise approved in a Discharge Permit or in writing by the City of Memphis, Division of Public Works, removed substances, such as solids removed from liquid wastestreams, sludges, filter backwash, or other residuals removed in the course of treatment or control of Wastewater, shall be disposed of in a manner such as to prevent such material from entering the sewer system and Waters of the State.

Sec. 33-246. [Sec. 13-24-46] Proper Operation and Maintenance/Maintenance and Inspection of Pretreatment or Flow Equalization Facilities, Bypass and Upset

(a) Proper Operation and Maintenance

The User shall, at all times, properly operate and maintain all Pretreatment facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Industrial User to achieve and monitor compliance with Pretreatment Standards and Pretreatment Requirements. This includes adequate laboratory controls and appropriate quality assurance procedures, the operation of back-up or auxiliary facilities, or similar systems which are installed by the Industrial User only when the operation is necessary to achieve compliance. Except as provided by 33-246(c), the intentional diversion of waste streams from any portion of the Industrial User's treatment facility is prohibited. In no event shall the diversion of waste streams from any portion of the User's treatment facility cause Interference or Pass-Through.

(b) Pretreatment and/or Flow Equalization

Where pretreatment or flow equalization facilities are required for any water or Wastewater, they shall be maintained continuously and satisfactorily and in effective operation by the owner at his expense and shall be subject to periodic inspection by the Control Authority. The owner or operator shall maintain and make available, as requested, operating records as prescribed by the Control Authority.

(c) Bypass

(1) For the purposes of this section,

(A) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility or around required metering or sampling equipment.

(B) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Pretreatment Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) Bypass Notifications

- (A) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, at least ten (10) days before the date of the bypass, if possible.
- (B) A User shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass

- (A) Bypass is prohibited, and the Control Authority may take an enforcement action against a User for a bypass, unless bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; and the User submitted notices as required under paragraph (3) of this section. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass, which occurred during normal periods of equipment downtime or preventive maintenance.
- (B) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in 33-107(c)(4)(A) of this section.
- (C) In no event shall the diversion of flows cause the City to violate its NPDES permit(s). Notwithstanding any provision to the contrary, bypass shall not be a defense to causing Interference or Pass-Through.

(d) Upset

- (1) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (3), below, are met. An upset is not an affirmative defense for violation of any other requirement (e.g., general and specific prohibitions, Local Limits).
- (3) A User who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs or other relevant evidence that:

- (A) An upset occurred and the User can identify the cause(s) of the upset;
 - (B) The facility was, at the time being operated, in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (C) The User has submitted the following information to the Control Authority within twenty-four (24) hours of becoming aware of the upset (and, if this information is provided orally, a written submission must be provided within five (5) days) that includes: a description of the indirect Discharge and cause of noncompliance; the period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and steps being taken and/or planned to reduce, and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Review of whether an event meets the upset criteria is available to a User only in the context of an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

(e) Reduction in Production Required as Necessary to Achieve Compliance

Users shall control production to the extent necessary to maintain compliance with Discharge limitations upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 33-247. [Sec. 13-24-47] Monitoring, Control Facilities for Sampling and Observation of Industrial and Commercial Wastes/ Flow Monitoring and Repeat Monitoring.

(a) Installation of Control Facility

When required by the Control Authority, the owner or operator of any industrial, commercial property, any new or expanded development (including developments discharging only domestic flow), or facility serviced by a sewer, shall install a suitable control facility for sampling together with such necessary equipment, which could include: meters, instruments, refrigerated samplers, connections such as contact closures or flowmeter output to drive flow-proportional composite sampler, digital read-outs, data-loggers, recorders, and other appurtenances, in the sewer to facilitate observation, sampling, measurement, and recording of the wastes and Discharge and/or domestic flows.

(b) Monitoring Manhole and Related Provisions

Unless otherwise required by the City and/or federal or State regulations, all regulated and permitted non-domestic waste from the property or facility shall be Discharged through the control facility or facilities, as applicable, after any pretreatment of the waste. Unless otherwise required by the City, those industries with a permitted average daily maximum BOD₅ or TSS of ten thousand (10,000) pounds per day or greater and/or with a permitted average daily maximum Discharge flow of 700,000 gallons per day or greater and/or as deemed necessary by the Control Authority to monitor other permitted Pollutants shall install a monitoring manhole. The facility, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Control Authority. The facility shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Plans for such facilities for

the installation of control and related equipment must be reviewed and/or approved by the Control Authority before construction is begun.

(c) Calibration

The User shall ensure that all monitoring, analytical, and sampling equipment used to monitor flow or analyze Pollutants Discharged under a permit are periodically calibrated and maintained at intervals which ensure the accuracy and reliability of measurements, and when required by the Control Authority, the User shall provide written documentation and certification of the calibrations.

(d) Flow Monitoring Maintenance and Calibration Logs

When the measurement or reporting of Discharge flow is required, appropriate effluent flow measurement devices and methods consistent with accepted scientific and engineering practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored Discharges. The City of Memphis may require that the entire flow measuring system be designed, stamped, signed, constructed, and installed under the direct supervision of a Tennessee State Licensed Professional Engineer. The devices shall be installed, calibrated, and maintained to ensure that the accuracy and reliability of the measurements are consistent with the accepted capabilities of the device and in accordance with the device manufacturer. The flow measuring devices shall be capable of measuring flows with a maximum deviation of less than plus or minus five (5) percent from the true Discharge rates throughout the range of expected Discharge flows (*i.e.*, from the highest peak flow to the minimum flow) using no less than three (3) calibration points, unless otherwise approved by the Control Authority. The flow measuring device shall be calibrated and maintained at the expense of the Permittee as often as recommended by the device manufacturer or at least annually, whichever is more frequent. The City, subject to its discretion, may require a User to have a qualified third-party undertaking calibration. If the flow measuring device can be tested and certified to prove accuracy of $\pm 5\%$, then recalibration is not required. Calibration reports and/or verification reports shall be submitted as required by the City. The Permittee shall maintain written maintenance and calibration logs for the flow measuring device, which will include at least the following information:

- (1) Name of Permittee's facility;
- (2) Name, signature, and affiliation of person(s) performing maintenance and/or calibration;
- (3) Device type, manufacturer, model, and serial number;
- (4) Date and time of maintenance and/or calibration;
- (5) Description of maintenance and/or calibration;
- (6) Whether the maintenance and/or calibration was routine or due to problem with device, with brief explanation;
- (7) Whether or not it was likely that the device was producing accurate flow readings before maintenance and/or calibration, with brief explanation; and
- (8) Whether and/or not it is likely that the device is producing accurate flow readings after maintenance or calibration, with brief explanation.

(e) Flow Monitor Calibration Report

The Permittee shall submit a flow measuring device calibration certification letter to the Control Authority within thirty (30) days, or such alternative time established by the Control Authority, of initial permitted sewer Discharge and all subsequent letters before June 30th every year thereafter. Any User first subject to this

requirement shall submit the certification June 30th of every year it Discharges. If required by the City of Memphis, each of these letters must be certified by either (i) the manufacturer that calibrated the meter or (ii) both a Tennessee State Licensed Professional Engineer and a responsible corporate officer. The flow measuring device calibration reports shall include at least the following information:

- (1) Name of Permittee's facility;
- (2) Location and ID of the device;
- (3) Device type, manufacture, model, serial number, and size;
- (4) Total range capacity of the device;
- (5) Maximum range used at the facility;
- (6) Minimum of three (3) calibration points evenly spaced within the maximum range used at the facility to determine accuracy of the device (e.g., 0%, 25%, 50%, 75% and 100%; 4 mA, 8 mA, 12 mA, 16 mA and 20 mA; or 0 GPM, 200 GPM, 400 GPM, 600 GPM and 800 GPM when the maximum range is 800 GPM);
- (7) Final accuracy of device at each of the calibration points used;
- (8) Date of calibration;
- (9) Name of person performing the calibration; and,
- (10) Name and signature of certifying Tennessee State Licensed Professional Engineer (if required) or other appropriate third-party approved by the Control Authority.

(f) Monitoring Instrumentation Calibration and Maintenance

Instrumentation used for self-monitoring (e.g., pH monitoring) shall be calibrated and maintained at least as often as recommended by the manufacturer and shall be calibrated and maintained more frequently when necessary to maintain instrument reading accuracy and reliability within acceptable error limits based upon the manufacturer's specifications. The Permittee shall maintain a maintenance and calibration log for each instrument, which would include at least the following information:

- (1) Name of Permittee facility;
- (2) Name, signature, and affiliation of person(s) performing maintenance and/or calibration;
- (3) Instrument type, manufacturer, model, and serial number;
- (4) Date and time of maintenance and/or calibration;
- (5) Description of maintenance and/or calibration;
- (6) Whether the maintenance and/or calibration was routine or due to problem with the instrument, with brief explanation;
- (7) Whether or not it was likely that the instrument was producing accurate readings before maintenance and/or calibration, with brief explanation; and
- (8) Whether or not it is likely that the instrument is producing accurate readings after maintenance and/or calibration, with brief explanation.

(g) Repeat Monitoring

If sampling performed by an Industrial User indicates a violation, the Industrial User shall notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation (or sooner if so directed by the Control Authority or its designee). Repeat sampling within thirty (30) days of a violation under this section need not be undertaken if the Control Authority undertakes sampling and indicates in writing to the Industrial User that such repeat sampling is not required.

(h) Toxicity Testing/Toxicity Reduction Evaluation

The User shall undertake effluent toxicity testing as required by the Authority, using the test procedures and methodology specified by the Authority. In the event toxicity is indicated, the User shall undertake a toxic reduction evaluation and take steps to reduce toxicity, as required by the City of Memphis and/or the Control Authority.

Sec. 33-248. [Sec. 13-24-48] **Measurement and Testing Methods.**

(a) Analytical Requirements

All Pollutant analyses, including sampling techniques, to be submitted as part of a Discharge Permit application or report(s) shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other qualified parties approved by EPA.

(b) Representative Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report and be based on data that is representative of conditions occurring during the reporting period. The Control Authority, subject to its sole discretion, may undertake all or part of the sampling and/or analysis otherwise required by the SIU in lieu of requiring the SIU to undertake the minimum sampling.

- (1) Except as indicated in subsections (b)(2) and (3) below, the Industrial User must collect Wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate. Notwithstanding anything to the contrary, grab samples may be required to show compliance with instantaneous limits.

- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (3) For sampling required in support of baseline monitoring report and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the self-monitoring reports required by 33-230(e), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Pretreatment Requirements.
- (4) Chain-of-custody forms must be filled out and maintained in the User's files for a period of at least three (3) years. Upon request of the Control Authority, the chain-of custody forms shall be submitted to the City.

(c) Approval Required to Change Sampling Locations

The Control Authority may specify User monitoring points. In such a case, compliance monitoring points shall not be changed without the approval of the Control Authority.

(d) Monitoring and Flow Measurement Facilities

Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that non-compliant sample results are not representative of its Discharge.

Sec. 33-249. [Sec. 13-24-49] **Accidental and Slug Discharges.**

(a) Authority to Require Development of a Plan

The Control Authority may require a User to develop a plan to provide protection from accidental and/or Slug Discharge of prohibited materials or other substances regulated by these regulations. Any facilities to prevent accidental and/or Slug Discharge of prohibited material shall be provided and maintained at the User's own cost and expense.

(b) Minimum Requirements for SIU Slug Control Plans

If a Significant Industrial User is required to develop a slug control plan by the Control Authority, the plan shall contain, at a minimum, the following elements:

- (1) Detailed descriptions of Discharge practices, including routine and non-routine batch Discharges;
- (2) Detailed descriptions of stored chemicals, and/or stored waste;
- (3) Procedures for immediately notifying the POTW of Slug Discharge, including any Discharges that would violate a prohibition under Section 33-243, with procedures for follow-up written notification within five (5) days;

- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operation, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (include solvents), and/or measure and equipment for emergency response.

(c) Additional Potential Requirements for SIU Slug Control Plans

Upon notice from the Control Authority, an SIU shall submit the following additional information in a Slug control plan as indicated in the Control Authority's notice:

- (1) Material safety data sheets, when applicable;
- (2) Best Management Practices to prevent, control, and cleanup releases of chemicals, materials, and/or wastes;
- (3) If necessary, engineering practices (e.g., temporary storage) to assure that Interference or Pass-Through does not occur;
- (4) Employee education;
- (5) Adequate storage or other practices (e.g., trucking the waste off-site for disposal) to assure that potential batch Discharges (whether Wastewater or off-specification product) will not interfere with the operation of the POTW (including the collection system); and
- (6) Such other requirements as the Control Authority deems appropriate.

(d) Potential Requirements for Non-SIU Slug Control Plans

The Control Authority may require a non-SIU to develop a Slug control plan containing such requirements as set forth in Sec. 33-249(b) and (c) as the Control Authority deems appropriate.

(e) Control Authority Approval of Slug Control Plan

Subject to the Control Authority's discretion, a User may be required to submit a plan to the Control Authority for approval. Failure to submit a Slug control plan to the Control Authority, meeting the requirements of Sec. 33-249, may subject the User to an enforcement action.

(f) Notice to Potentially Avoid Downstream Problem at POTW

In order to ensure the integrity of the Wastewater Treatment Plant at a high level and protect the treatment process from unacceptable flows, any User facility at which an accidental spill occurs or any person causing an accidental spill that may enter the sewer system, shall notify the POTW as soon as reasonably possible by telephone and e-mail as to the spill's nature, relating its location, quantity, duration of event, the time of such spill, and corrective action, so that further action may be taken at the Wastewater Treatment Plant to deal with any problems which the incoming flow may create. The applicable e-mail and telephone numbers for notification are as follows:

- Stiles Wastewater Treatment Plant: 901-636-4300
- Maxson Wastewater Treatment Plant: 901-789-0510

- E-Mail: pretreatment@memphistn.gov

(g) Written Notice

See Section 33-230(i) regarding reporting of, among other things, accidental Discharges or Slug Discharges.

(h) Notice to Employees

A notice shall be permanently posted on the Industrial User's bulletin board(s) or other prominent places advising employees who to call in the event of a dangerous Discharge. Employers shall ensure that all employees who become aware of a Slug Discharge occurring are advised of the emergency notification procedure.

(i) Closure Plan

In the event a Significant Industrial User will be terminating its Discharge on a temporary or permanent basis, the Discharger shall notify the Control Authority at least sixty (60) days prior to such termination. The Control Authority, subject to its discretion, may require any User to submit a closure plan to the Control Authority for approval at least thirty (30) days before cessation of Discharge. If required, the closure plan, at a minimum, shall address the cleaning and other activities that will be occurring, the anticipated effect on the quality and quantity of the Discharge, and how the Discharger will assure that such activities will not adversely impact the POTW or otherwise cause Interference or Pass-Through.

Sec. 33-250 [Sec. 13-24-50] **[Reserved]**

Sec. 33-251-. [Sec. 13-24-51] **Discharge of Hauled Wastes.**

(a) Requirements Applicable to Trucked or Hauled Wastes

The requirements of this Ordinance apply to Pollutants from domestic and non-domestic sources, which are transported (*e.g.*, by truck or rail) to the POTW. These requirements apply to such trucked or hauled Pollutants to the same extent as Pollutants Discharged directly into the sewer system. Except for wastewater from residential household septic tank, food establishment grease, drive through car wash traps, and portable toilets, no User shall have wastewater hauled to the Memphis WWTP without receiving preapproval from the City of Memphis.

(b) Requirements for Generators and/or Haulers of Wastewater

The Control Authority may require any generator and/or hauler of Wastewater, including but not limited to, those pertaining to holding tank wastes, industrial waste, sludge, septage, fats, oils and grease, or other sanitary sewage to:

- (1) Monitor, sample, and analyze the Wastewater;
- (2) Provide a representative waste analysis of the waste prior to Discharge;
- (3) Submit reports, including a waste tracking form, and such other information as requested by the Control Authority for every load or at such other frequency as the Control Authority deems appropriate; and/or

- (4) Undertake such additional requirements as deemed appropriate by the Control Authority to implement Pretreatment Requirements and to protect the POTW, human health, and the environment.

(c) Designated Discharge Points and Approvals

No Person may Discharge hauled Wastewater of any type into the sewer system or WWTP except at a Discharge point designated by the City of Memphis and with proper permit, approvals, and manifest. Alternate site locations must be approved or designated by the City of Memphis. Sewer systems treated by the POTW include all sewer systems located in Memphis, Germantown, certain systems located in Bartlett, Collierville, Lakeland, Millington, unincorporated Shelby County, and certain parts of Desoto County, Mississippi, including Southaven, Mississippi, and Horn Lake, Mississippi. Except for the Memphis designated point(s), wastewater may not be hauled into any sewer systems treated by the Memphis POTW.

(d) Hauling License Required and Other Requirements

Any Person engaged in the hauling of Wastewater to the Memphis WWTP must obtain any necessary approvals from the Shelby County Health Department. Licensed haulers shall be responsible for complying with all the terms and conditions contained in the license, in addition to Section R.5 of the Septic Cleaner Regulations of the Memphis and Shelby County Plumbing Code. Additionally, if the waste hauler intends to use the POTW disposal site, the hauler must obtain a disposal permit from the Control Authority and shall be responsible for complying with all the terms and conditions contained in the permit and the City of Memphis Sewer Use Ordinance. All trucks must be marked with the company name, phone number, waste hauler permit number, city, and state. The tank must also be marked with the company name and capacity of the tank in gallons.

(e) Hauled Waste Tracking Form Required for Every Load

Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and a certification that none of the hauled wastes are RCRA hazardous wastes as defined in 40 C.F.R. Part 261 or State Rule 0400-12-01.

(f) Absolute Prohibition on Hauling of Hazardous Waste to Memphis POTW

In no event shall any Person arrange for or deliver to the POTW (including the collection system), by truck or rail, any Pollutant or waste which would be a hazardous waste as defined in 40 C.F.R. Part 261 or State Rule 0400-12-01.

(g) Letter of Approval and Manifest

Except as provided in Section 33-251(h), below, or the City of Memphis otherwise provides in writing, no Wastewater may be picked up and disposed at the POTW (including the collection system) unless the entity producing the waste has a Letter of Approval from the City of Memphis authorizing receipt of the particular wastestream, and each truck load or other load is accompanied with a properly completed manifest. Misrepresentation as to the waste delivered by a hauler may lead to civil and/or criminal enforcement. The generator of the waste must submit a written request to the City of Memphis containing all required

information requesting approval to dispose of the waste and must receive the Letter of Approval prior to the pickup of the waste. The following are the requirements for the written request:

- (1) Must be on company letterhead and must be signed by an Authorized Representative of the User;
- (2) Must include the physical address or location of the facility;
- (3) Must include the address or physical location of the waste sump, pit, or catch basin;
- (4) Must include estimated volume or volumes of Wastewater and/or sludge from each basin, sump, pit, basement, etc.;
- (5) Must include source of waste for each basin, sump, pit, basement, etc. (*e.g.*, sanitary or septic waste, lift station sludge, sediment from industrial Pretreatment system, laundry waste, maintenance shop sludge, mop water, storm water, etc.);
- (6) Must include a Certification Statement of Non-Hazardous Waste, "I certify that the waste to be disposed of would not be classified as hazardous waste as defined under the Resource Conservation and Recovery Act at 40 C.F.R. Part 261 and State Rule 0400-12-01;"
- (7) Must include a Certification Regarding Inapplicability or Compliance with Categorical Pretreatment Standards in accordance with one of the following two options:
 - (A) "I certify that the waste is not subject to Categorical Pretreatment Standards as set forth in 40 C.F.R. Chapter I, Subchapter N, Part 405 *et seq.*" or
 - (B) "I certify that the waste is from the following category [**insert category**], is subject to Categorical Pretreatment Standards as set forth in 40 C.F.R. Chapter I, Subchapter N, Part 405 *et seq.*, and that based upon the attached sampling information, the waste is in compliance with the applicable categorical pretreatment standard.

If option B applies, the letter must include the sampling information.

- (8) Must include the number of expected disposals or frequency of disposals from each basin, sump, or pit (*e.g.*, a one-time event, one-disposal every three months for 12 months, one disposal per month for 12 months, etc., but not for any longer than 12 months); and
- (9) When required by the Control Authority, must include the laboratory report(s) of test results for a representative grab sample collected from each basin, sump, pit, basement, etc., with completed chain-of-custody document(s) attached, and must include any required field test results (*e.g.*, pH) or such additional information as the Control Authority may require.

(h) Wastestreams Not Requiring Separate Written Approval

Notwithstanding Section 33-251(g), above, the following wastestreams are not required to have a separate Written Approval for each particular wastestream unless otherwise required by the Control Authority on a case-by-case basis:

- (1) Wastewater from residential household septic tanks;

- (2) Food establishment grease removal equipment;
- (3) Drive-through car wash traps; and
- (4) Portable toilets.

(i) Documents Required During Disposal and Fee

A copy of the Approval Letter and properly completed manifest must accompany the permitted waste hauler during the disposal at the City of Memphis' designated Discharge point. The disposal fee will be a charge based on a rate established by the Division of Public Works in accordance with the gallon capacity of the truck.

(j) Pollutant Limits and Other Conditions

Maximum hauled waste Pollutant limits and such other conditions as the Control Authority deems appropriate may be set by the Control Authority in a permit and/or Letter of Approval for determining whether a request to transport and dispose of waste to the designated Discharge point is acceptable or not. No Person shall violate the Pollutant limits established by the Control Authority for hauled Wastewater or otherwise be in violation of a waste hauler permits, disposal permit, Letter of Approval, or Other User Permit issued by the Control Authority.

(k) pH Limits for Hauled Wastewater and Volume

- (1) All hauled Wastewater must not violate a pH Minimum Limit of 5.5 standard units, *i.e.*, having a pH lower than 5.5 standard units.
- (2) Notwithstanding Section 33-243(b)(5), all hauled Wastewater must not violate a pH Maximum Limit of 10.0 standard units.
- (3) Decanting or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.

(l) Forfeiture of Hauler Waste Privileges

Failure to renew and/or obtain a waste hauler permit or disposal permit or recurrence of late payment of disposal fees may result in the waste hauler not being allowed to use the City of Memphis' designated Discharge point for disposal.

(m) City Reservation of Rights

The City of Memphis, subject to its discretion, may prohibit the disposal and/or Discharge of Pollutants or wastes hauled or trucked to the POTW or any subcategories thereof.

Sec. 33-252. [Sec. 13-24-52] Specific Charge for Hauled Waste Transported for Disposal at the Discharge Point Designated by the City of Memphis.

The disposal fee charge for hauled Wastewater originating from residential household septic tanks, food establishment grease removal equipment, drive through car washes, portable toilets, and industrial Wastewater and sludge shall be a flat rate based upon the volume of the truck (tank capacity). All customers

will be charged on a hauled waste disposal charge based on rate in cents per gallon of Wastewater multiplied by the capacity in gallons of the truck hauling the Wastewater. The rate may be reviewed and adjusted by the Division of Public Works.

Sec. 33-253. [Sec. 13-24-53] Food Establishment Wastewater.

Sec. 33-253-01. [Sec. 13-24-53-01] Waste Disposal – Construction Plans Approval and Permit Required.

(a) Compliance with Ordinance

All food service establishments (“FSE”), including but not limited to cafes, restaurants, hotels, retirement centers, nursing homes, hospitals, grocery stores, markets, prisons, mobile food units, or other food preparation establishments, Discharging Wastewater to the City's POTW, including the sewer system, shall comply with this Ordinance except to the extent that any requirement is specifically superseded by the City of Memphis, Division of Public Works, Fats, Oil and Grease (“FOG”) Plan, if applicable. The FOG Management Plan, if applicable, would be available at www.memphistn.gov.

(b) Grease Trap Required/Design Criteria

- (1) An FSE shall not Discharge to the POTW, including the collection system, unless it has installed and is operating and maintaining a sufficiently sized oil and grease, water and solids separator (hereinafter called grease removal equipment) necessary to prevent the accumulation of oil and grease in the sewer collection system. Approval of the City of Memphis, Division of Public Works, shall be required during the construction plans approval process.
- (2) All grease traps used in conjunction with food service establishments shall have the capacity of 15 gallons per seat of dining capacity, except that no single grease trap shall be smaller than 750 gallons or larger than 3,000 gallons. In certain cases, multiple grease traps may be utilized. Alternative treatment technologies shall be considered on a case-by-case basis for food establishments that are to be located in an existing building where large grease removal equipment is not feasible. The use of enzymes and other chemical agents to dissolve, emulsify, or break-up fats, oil, and greases (FOG) in lieu of physically cleaning and removing FOG with grease removal equipment is prohibited.

(c) Food Establishment Wastewater Discharge (“FEWD”) Permits

All FSE’s shall obtain a FEWD permit to Discharge to the POTW, including the collection system, from the Control Authority. This permit shall be posted on the premises and renewed as needed. Except where the Control Authority requires the FSE to obtain an individual permit, an FSE may be covered by a general Other User Permit.

(d) Multi-Dwelling Units, Apartments and Other FSE’s – Control of Fats, Oils & Grease (FOG) Discharges

Any multi-dwelling unit, or apartment building, complex or FSE’s may be subject to enforcement action for discharging FOG that contributes to a sanitary sewer overflow event, or obstruction to the sewer system.

(e) Person Who Causes Obstruction of Sewers

No Person shall Discharge or cause a Discharge that results in an obstruction of the sewer system. For example, a plumber shall take such actions as necessary to avoid the release of FOG material that is lodged in a pipe to be released into the sewer system.

Sec. 33-253-02. [Sec. 13-24-53-02] **Subject to Industrial Wastewater Limitations.**

Wastewater Discharged into public sewers from FSE's are subject to the limitations set forth in Sections 33-243 and 33-244 of this Ordinance and such other provisions of this Ordinance and City Code provisions that apply to Discharges to the POTW (including the sewer system), general and specific prohibitions, reporting, user charges, permit fees, sampling fees, inspection fees, and any other fees established from time to time by the City, and such conditions as the Control Authority includes in a permit.

Sec. 33-253-03. [Sec. 13-24-53-03] **Permit for Food Establishment Wastewater Discharge.**

In addition to requirements otherwise set forth in this Ordinance, a permit for Food Establishment Wastewater Discharge may require pretreatment of Wastewater before Discharge, restriction of peak flow Discharges, Discharge of certain Wastewater only to specified sewers of the City, relocation of point of Discharge, prohibition of Discharge of certain Wastewater components, restriction of Discharge to certain hours of the day, payment of additional charges to defray increased costs of the City created by the Wastewater Discharge, and such other conditions as may be required. Except as otherwise provided in this Section 33-253 and subparts thereof, FEWD permits are subject to the same provisions in this Ordinance applicable to Other User Permits.

Sec. 33-253-04. [Sec. 13-24-53-04] **Permit Application Required for New Construction and Others.**

Any newly constructed building or redevelopment resulting in a new FEWD establishment shall complete and file with the Division of Public Works, an application in the form prescribed by the Division of Public Works. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (a) Name and address of applicant;
- (b) Volume of Wastewater to be Discharged;
- (c) Time of daily food preparation operations;
- (d) Description of food preparation, dining room capacity by seats, number of employees, and size of kitchen;
- (e) Type of FOG treatment; and
- (f) Any other information as may be deemed by the Approving Authority to be necessary to evaluate the permit application.

The Division of Public Works, subject to its discretion, may require other FEWDs (*e.g.*, existing FEWDs) to submit permit applications. The Division of Public Works, after evaluating the data furnished by the applicant, may require additional information. After evaluation and acceptance of the data furnished, an on-site inspection of the waste Discharge system, treatment systems, or other systems relating to the waste Discharge

may be required. The Approving Authority may then issue a FEWD Permit subject to the terms and conditions provided herein.

Sec. 33-253-05. [Sec. 13-24-53-05] Duration of FEWD Permits.

FEWD Permits shall be issued for a specified time period, not to exceed five (5) years. If the Permittee is not notified by the City thirty (30) days prior to the expiration of the permit, the permit shall be extended under Sec. 33-224(b) until such time as the City (1) reissues a new FEWD permit or (2) decides that a new FEWD permit should not be reissued. The terms and conditions of the permit may be subject to modification and change by the City during the life of the permit as limitations or requirements as identified in Sections 33–243 and 33-244 are modified and changed or as otherwise deemed appropriate by the Control Authority. See Section 33-225 pertaining to modification of permits, including FEWD permits.

Sec. 33-253-06. [Sec. 13-24-53-06] Revocation of Food Establishment Wastewater Permit.

In addition to causes set forth in Section 33-225, the Division of Public Works may revoke the FEWD permit of any permittee who is found to be in violation of this Ordinance or who:

- (a) Fails to install grease pretreatment devices as required by permit;
- (b) Fails to fulfill reporting requirements or pretreatment maintenance as required by permit;
- (c) Refuses reasonable access to the permittee’s premise for the purpose of inspection or monitoring; or
- (d) Violates any condition of the FEWD permit.

Sec. 33-253-07. [Sec. 13-24-53-07] Grease Pretreatment Required.

(a) Grease Reduction Equipment/Oil and Grease Limit

FEWDs shall make Wastewater acceptable under the limitations established herein (*see, e.g.*, Section 33-244(a)(2) setting forth a FOG limit of 100 mg/l) before Discharging to any public sewer. All permittees are required to install an approved type of grease removal equipment (“GRE”) in the waste line leading from the food preparation area, or from sinks, drains, appliances, dish washers, mop sinks, floor drains, and other fixtures or equipment used in food preparation or cleanup where grease may be introduced into the sewerage system. Such grease Pretreatment devices shall be installed to remove grease from Wastewater and shall be maintained in efficient operating conditions by periodic removal of the accumulated grease. No such collected grease shall be introduced into any drainage piping or public sewer. Such grease may, however, be hauled by a licensed waste hauler to the City’s WWTP subject to the provisions of this Ordinance.

(b) Segregation of Oils, Greases and Greasy Solids

Each FEWD shall also be required to provide a collection drum or container for the purpose of physically segregating oils, greases, and greasy solids. FEWDs shall establish procedures for personnel to practice maximum segregation of oils, greases, and greasy solids to the collection drum or container prior to washing and other water cleaning, which goes into sewers. The FEWD is responsible for the proper removal and disposal by appropriate means of the material captured from either grease pretreatment devices on Wastewater lines or the collection drum for segregating oils, grease, and greasy solids.

(c) Training Program to Assure Proper Handling of Grease Waste

Upon notification from the Division of Public Works, the FEWD shall undertake a training program to assure that its employees are familiar with and implement a program to assure that grease waste is properly handled. Recordkeeping and reporting of such training program, and other food and grease related activities may be required.

Sec. 33-253-08. [Sec. 13-24-53-08] **Maintenance Reports.**

The FEWD shall maintain records of grease Pretreatment device cleaning, maintenance, and grease removal on site. The Division of Public Works may require the FEWD to provide results of periodic measurements of its Discharge, which may include chemical analysis of oil and grease content and measurements of FOG content in GRE. FEWDs shall allow the City or its representative ready access at all reasonable times to all parts of the premises for purposes of sampling and inspections.

Sec. 33-253-09. [Sec. 13-24-53-09] **Penalty for Violation and Civil Liability.**

Any person(s) Discharging Wastewater in violation of a FEWD Permit and/or this Ordinance is subject to fines, penalties, cost recovery, injunction, termination of sewer service, permit revocation, and/or such other remedies as are available to the Control Authority.

Sec. 33-253-10. [Sec. 13-24-53-10] **Surcharges for Oil and Grease.**

The Division of Public Works may impose and modify such additional surcharges, as it deems appropriate, to address disproportional costs or other concerns associated with the Discharge of FOG (*e.g.*, the impact on the collection system).

Secs. 33-253-11—33-253-20. [Sec. 13-24-53-11 -- 20] **Reserved.**

Sec. 33-254 – 33-259. [Sec. 13-24-54 -- 59] **Reserved.**

DIVISION 4. REVIEW AND ENFORCEMENT

Secs. 33-260 -- 33-269. [Sec. 13-24-60 -- 69] **Reserved.**

Section 33-270 [Sec. 13-24-70] **Violations and Enforcement Actions.**

(a) Enforcement

A violation of any of the foregoing may result in enforcement actions including, among other things, administrative fines, civil penalties, withdrawal of the privilege to use the City of Memphis Wastewater System, and suspension or termination of the existing permit (*e.g.*, waste hauler permit) and/or prohibition from obtaining a new permit.

(b) Criminal Penalties

Any person in violation of this Ordinance shall be guilty of a misdemeanor and subject to punishment as provided in section 1-24-1. Any person who willfully and negligently violates permit conditions may be subject to other criminal penalties, including criminal penalties imposed by the State of Tennessee and/or the United States.

(c) Damaging Sewerage Works

The prohibitions and requirements of Section 33-30 (Damaging Sewerage Works) are hereby incorporated by reference. A violation of Section 33-30 is also a violation of Article IV of this Ordinance.

Sec. 33-271. [Sec. 13-24-71] **Local Hearing Authority.**

There is hereby created and established a local hearing authority to be known as the Memphis Wastewater Hearing Authority and referred to hereinafter as the "Hearing Authority."

Sec. 33-272. [Sec. 13-24-72] **Purpose.**

The Hearing Authority shall serve as the local hearing authority as prescribed in Tenn. Code Ann. § 69-3-124 and shall be responsible for the review of orders issued or actions undertaken by the Director of Public Works or his designee pursuant to the Sewer Use Ordinance, pretreatment statutes codified at Tennessee Code Annotated §§ 69-3-123 through 69-3-129, and such requirements as set forth in the National Pollutant Discharge Elimination System ("NPDES") permits issued to the City of Memphis.

Sec. 33-273. [Sec. 13-24-73] **Composition, Length of Term, Officers.**

(a) The Hearing Authority shall be composed of the following seven (7) members and two (2) alternates who shall be appointed by the Mayor subject to approval by the Memphis City Council, and shall constitute the voting members of the Hearing Authority:

Representative Group (# of members)	Length of Term (years)
Industry (2)	1
Private Citizenry (3)	2
Engineering/Science (2)	2
Public Interest Group/University (2)	1

(b) Each member and alternate shall serve without compensation and may be reappointed, but do not succeed themselves automatically.

(c) One (1) alternate shall be appointed from the "Industry" group and one (1) from the "Public Interest/University" group.

(d) A chairperson of the Hearing Authority shall be elected at the first meeting of each newly appointed Hearing Authority from among its own membership to serve for a term of one (1) year. Another member shall serve as vice chair for a period of one (1) year upon a majority vote of all members.

(e) The Hearing Authority shall keep complete and accurate records of the proceedings of all meetings and the Director of Public Works or his designee shall serve as the Hearing Authority's technical secretary.

- (f) The Hearing Authority may issue subpoenas requiring attendance of witnesses and production of such evidence as requested, administer oaths, and take testimony as the Hearing Authority deems necessary to fulfill its purpose.
- (g) No member or alternate shall participate in the appeal of any matter in which the member or alternate has a direct personnel or financial interest.

Sec. 33-274. [Sec. 13-24-74] Removal.

Members may be removed from the Hearing Authority for continued absence from meetings or other just cause in accordance with the procedure for removal of board or commission members set forth within House Rule Ordinance No. 1852 of the City Charter.

Sec. 33-275. [Sec. 13-24-75] Power and Duties.

In addition to any other duty or responsibility otherwise conferred upon the Hearing Authority by this Chapter, the Hearing Authority shall have the duty and power as follows:

- (a) To recommend to the Director of Public Works as the local administrative officer that this Article or any provision included within this Chapter be amended or modified;
- (b) To establish, modify, or amend procedural rules governing hearings, orders, issuance of permits, and all other matters not specifically requiring a hearing, provided that such rules do not conflict with applicable State or Federal law or the City Code of Ordinances;
- (c) To establish a schedule of the amount of civil penalty that can be assessed for certain specific violations or categories of violations in accordance with T.C.A. § 69-3-125(a)(3);
- (d) To hold meetings and such special meetings as the Hearing Authority may find necessary;
- (e) To hold hearings upon appeals from orders or actions of the Director of Public Works as the local administrative officer in accordance with Tennessee Code Annotated § 69-3-124;
- (f) To hold hearings related to the issuance, reissuance, suspension, revocation, or modification of an SIU Discharge Permit or Other User Permit and issue appropriate orders related thereto;
- (g) To hold such other hearings related to any aspect or matter in the administration of this Chapter and to make such determinations and issue such orders as may be necessary to effectuate the purpose of this Chapter;
- (h) To obtain assistance upon request from the Director of Public Works or his designee as the Hearing Authority might need;
- (i) In addition to any other power granted by this title, the Hearing Authority is granted the authority to review the assessment of a civil penalty against any person in the amount not to exceed the sum of ten thousand dollars (\$10,000) per day for each day of violation during which the act or omission continues or occurs in accordance with Tennessee Code Annotated § 69-3-125;
- (j) The decision of the Hearing Authority shall become final and binding on all parties unless appealed to the courts as provided in Section 33-176, which governs appeals.

Sec. 33-276. [Sec. 13-24-76] **Appeal.**

Pursuant to Tennessee Code Annotated § 69-3-124(b), an appeal may be taken from any final order or other final determination of the Hearing Authority by any party who is or may be adversely affected thereby, to the chancery court pursuant to the common writ of certiorari set out in Tennessee Code Annotated § 27-8-101, within sixty (60) days from the date such order or determination is made.

Sec. 33-277. [Sec. 13-24-77] **Quorum.**

A quorum of the Hearing Authority must be present at any regular or special meeting in order to conduct a hearing. Four (4) members of the authority shall constitute a quorum.

Sec. 33-278. [Sec. 13-24-78] **Members to Be Residents of the City.**

Each member and alternate of the Hearing Authority must have been a resident of Memphis for not less than one (1) year and shall continue to maintain such residency throughout such member's term.

Sec. 33-279. [Sec. 13-24-79] **Members Oath.**

Each member of the Hearing Authority shall take an oath to faithfully perform the duties imposed upon him without fear or favor, and in full accordance with the constitution and laws of the State and the ordinances of the City.

Sec. 33-280. [Sec. 13-24-80] **Hearings.**

Any hearing or rehearing brought before the Hearing Authority shall be conducted in accordance with Tenn. Code Annotated Section 69-3-124.

Sec. 33-281. [Sec. 13-24-81] **Administrative Order/Emergency Order Procedures.**

(a) Complaint issued by Director or His Designee

- (1) Whenever the Director or his/her designee has reason to believe that a violation of any provision of the pretreatment program (including but not limited to a violation of the Sewer Use Ordinance, SIU Discharge Permit or Other User Permit) or orders of the Hearing Authority issued pursuant thereto has occurred, is occurring, or is about to occur, the Director or his/her designee may cause a written complaint to be served upon the alleged violator or violators.
- (2) The complaint should specify the provision or provisions of the pretreatment program (including but not limited to a violation of the Sewer Use Ordinance, SIU Discharge Permit or Other User Permit) or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the Hearing Authority.
- (3) Any such order shall become final and not subject to review unless the Person or Persons named therein request by written petition a hearing before the Hearing Authority, no later than thirty (30)

days after the date such order is served; provided, however, that the Hearing Authority may review such final order on the same grounds upon which a court of the state may review default judgments.

(b) Emergency Circumstances

- (1) Whenever the Director or his/her designee finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the POTW, the Director or his/her designee may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Director or his designee deems necessary to meet the emergency (*e.g.*, immediate termination of sewer service).
- (2) If the violator fails to respond, or is unable to respond, to the Director or his/her designee's order, the Director or his/her designee may take such emergency action, as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The Director or his designee may assess the Person or Persons responsible for the emergency condition for actual costs incurred by the POTW and local agencies in meeting the emergency.
- (3) Any Person to whom an emergency order is issued shall comply with the emergency order immediately, but on petition to the Hearing Authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the Hearing Authority.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this Division 4 may be served on any person affected thereby personally, by the Director or any person designated by him/her, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the Director.

(d) User compliance with the requirements of an Administrative Order or Emergency Order does not relieve the User of liability for any violations occurring before or after receipt of the Order. Failure of a User to comply with any condition or requirement set forth in an Administrative Order or Emergency Order is a violation and is independently enforceable for each day of violation. An Administrative Order and Emergency Order have the full force of law and are enforceable in a court of law. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, whether or not an Administrative Order or Emergency Order has been issued.

Sec. 33-282. [Sec. 13-24-82] **Violations and Penalties.**

(a) Violations

- (1) Any Person including, but not limited to, residential, carwash, restaurant, waste haulers, commercial facilities, or Industrial Users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per day for each day during which the act or omission continues or occurs:
 - (A) Violates an effluent standard or limitation imposed by the pretreatment program (including a violation of the Sewer Use Ordinance);
 - (B) Violates the terms or conditions of an SIU Discharge Permit or Other User Permit;

- (C) Fails to complete a filing requirement of the pretreatment program (including a violation of a filing requirement of the Sewer Use Ordinance);
 - (D) Fails to allow or perform an entry, inspection, and monitoring or reporting requirement of the pretreatment program (including the Sewer Use Ordinance);
 - (E) Fails to pay user or cost recovery charges imposed by the pretreatment program (including the Sewer Use Ordinance); or
 - (F) Violates a final determination or order of the Hearing Authority or the Director or his designee.
- (2) Any civil penalty may be assessed in the following manner:
- (A) The Director or his/her designee may issue an assessment against any Person or Industrial User responsible for the violation;
 - (B) Any Person or Industrial User against whom a civil penalty assessment has been issued may secure a review of such assessment by filing with the Director or his/her designee a written petition setting forth the grounds and reasons for his/her objections and asking for a hearing in the matter involved before the Hearing Authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;
 - (C) Whenever any assessment has become final because of a Person's failure to appeal the Director or his/her designee's assessment, the Director or his/her designee may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.
 - (D) In assessing the civil penalty, the Director or his/her designee may consider the following factors:
 - (i) Whether the civil penalty imposed will be a substantial economic deterrent to illegal activity;
 - (ii) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, and also including any penalties, costs, and attorneys' fees incurred by the Control Authority as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;
 - (iii) Cause of the Discharge or violation;
 - (iv) The severity of the Discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters;
 - (v) Effectiveness of action taken by the violator to cease the violation;
 - (vi) The technical and economic reasonableness of reducing or eliminating the Discharge; and
 - (vii) The economic benefit gained by the violator.

(E) The Director or his/her designee may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the Control Authority.

(3) The Division of Public Works may establish a schedule of the amount of civil penalty which can be assessed by the Director or his/her designee for certain specific violations or categories of violations.

(b) Imprisonment

In accordance with TCA 6-54-306, any violation of this Ordinance shall be subject to a maximum imprisonment under State law of thirty (30) days. A violator may be subject to a greater length of imprisonment under Federal and/or State law.

(c) State or Federal Enforcement

Notwithstanding anything to the contrary, violation of a pretreatment program requirements by a User may subject a User to an enforcement action by TDEC, EPA, or a citizen suit including but not limited to the following:

(1) In the case of civil enforcement under the federal Clean Water Act by EPA or a citizen suit, a User may be subject to, among other things, civil penalties of \$55,800 per day, per violation, and such additional amounts as provided for by the Civil Monetary Penalty Inflation Adjustments in 40 C.F.R. § 19.4.

(3) Any person who negligently or knowingly violates any requirement imposed in a pretreatment program including, but not limited to, SIU Discharge Permit or Other User Permit (*e.g.*, hauled Wastewater Permit or Food Establishment Wastewater Permit conditions) may be subject to criminal penalties under the Clean Water Act.

(d) Interest/Lien

Interest may accrue on unpaid balances. A lien against the User's property may be sought for unpaid charges, fines, and penalties.

Sec. 33-283. [Sec. 13-24-83] Damages Assessment.

(a) The Director or his/her designee may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any Person's or Industrial User's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or Sections 33-275, 33-281, and 33-282, herein.

(b) Any polluter or violator against whom a damage assessment has been issued may secure a review of such assessment by filing with the Hearing Authority an appeal asking for a hearing in the matter. If an appeal from such assessment is not made to the Hearing Authority by the polluter or violator within thirty (30) days of notification of such assessment, he/she shall be deemed to have consented to such assessment and it shall become final.

- (c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or Tennessee Code Annotated, Section 69-3-123 through 69-3-129 in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.
- (d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the Director may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

Sec. 33-284. [Sec. 13-24-84] **Additional Enforcement Provisions.**

(a) Other Enforcement Actions

In addition to the enforcement remedies and responses otherwise identified in Sections 33-270 through 33-283 of this Ordinance, noncompliance by a User may subject a User to enforcement response(s) including, but not limited to, a phone call, e-mail, Notice of Violation, increased monitoring, Consent Order or Agreement, Show Cause Request, case referral to Federal or state government, or such other remedy as the Control Authority deems appropriate. These enforcement responses include:

- (1) Notice of Violation: The Control Authority may issue a Notice of Violation to a User when the Control Authority determines that a User violated, or continues to violate, any provision of this Ordinance, an SIU Discharge Permit, Other User Permit, enforcement Order issued hereunder, or any Pretreatment Standard or Pretreatment Requirement. The Notice of Violation may request that the User promptly respond to the Control Authority and to identify, among other things, an explanation of the cause(s) of the violation and a plan for the satisfactory correction and prevention of future violations. Submission of the response by a User does not relieve the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, whether or not a Notice of Violation has been issued.
- (2) Increased Monitoring: The Control Authority, in response to User violation(s), may require the User to increase the sampling and monitoring of its Discharge or the Control Authority may undertake increased sampling and monitoring of the User's Discharge. If increased monitoring is undertaken by the Authority, the costs associated with such increased sampling and monitoring may be charged to the User.

The increase in a User's sampling and monitoring activities in response to violation(s) may be imposed upon the Industrial User by the Control Authority issuing a modification to the User's SIU Discharge Permit or Other User Permit, issuing an Administrative Order, or by issuing any other appropriate mechanism. An option the Control Authority, subject to its discretion, may include in an SIU Discharge Permit or Other User Permit is a permit condition which automatically provides for increased sampling upon User noncompliance.

- (3) Consent Order or Consent Agreement: The Control Authority may enter into a Consent Order or Consent Agreement when the Control Authority determines that a User violated, or continues to violate, any provision of this Ordinance, a SIU Discharge Permit, Other User Permit or enforcement Order issued hereunder, or any Pretreatment Standard or Pretreatment Requirement. A Consent Order or Consent Agreement may provide for monetary penalties for past violation(s), stipulated monetary penalties for future violation(s), an enforceable compliance schedule setting forth specific

action(s) to be taken by the User to correct noncompliance within a specified time period, and/or such other conditions as the Control Authority deems appropriate.

Failure of a User to comply with any condition or requirement set forth in a Consent Order or Consent Agreement is a violation of this Ordinance and each day of a violation is independently enforceable. A Consent Order and Consent Agreement have the full force of law and are enforceable in a court of law. A Consent Order is subject to judicial approval as a precondition to its effectiveness whereas a Consent Agreement is not subject to such judicial approval prior to its adoption.

- (4) Show Cause Request: The Control Authority may issue a Show Cause Request to a User when the Control Authority determines that a User violated, or continues to violate, any provision of this Ordinance, a SIU Discharge Permit, Other User Permit, enforcement Order issued hereunder, or any Pretreatment Standard or Pretreatment Requirement. A Show Cause Request may provide for the User to appear before the Control Authority (at a Show Cause Meeting) and show cause as to why a proposed or subsequent enforcement action should not be taken. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, whether or not a Show Cause Request has been issued or a Show Cause Meeting has been held.
- (5) Referral to State or Federal Government: The Control Authority may refer a matter to a Federal and/or state government for enforcement by such governmental entity when the Control Authority determines that a User violated, or continues to violate, any provision of this Ordinance, an SIU Discharge Permit, or enforcement Order issued hereunder, or any Pretreatment Standard or Pretreatment Requirement. The Control Authority may assist the Federal and/or state government in a Federal or state-initiated enforcement action against a User.

(b) City Enforcement Options Not Limited

Nothing in this Ordinance, the Control Authority's Enforcement Response Plan, or any other provision of Memphis' approved pretreatment program shall be intended to limit the enforcement discretion of the Control Authority as otherwise provided for by law.

(c) User Liability for Causing City Violations

A User shall be liable for any penalty imposed upon the City (whether the penalty is a result of a judicial or administrative trial or hearing or the settlement of a judicial or administrative penalty action) where the City's violation was caused by the User, either alone or in conjunction with the Discharge(s) from other source(s). Where the User has violated a Local Limit under Section 33-244(c) and a violation of the NPDES Permit applicable to the City's POTW subsequently occurred for the same Pollutant or associated Pollutant(s), a rebuttable presumption is deemed to exist that the permittee caused the violation of the NPDES Permit. The User shall have the burden of proof to demonstrate that its Discharge did not cause, in whole or part, the City to violate its NPDES permit limitation.

(d) Exhaustion of Administrative Remedies and Appeals

Any issue that was decided by the Hearing Authority in a prior hearing or could have been decided by the Hearing Authority had the Permittee or Defendant, as applicable, appealed the matter, shall be binding upon such Permittee or Defendant in subsequent hearing(s) unless there is a change in law (*e.g.*, a court overturned the Hearing Authority's decision or the underlying Ordinance standard has been amended) or a significant change in the underlying facts.

(e) Need to Halt or Reduce Activity not a Defense

It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. See Section 33-246(e), requiring the reduction in production as necessary to achieve compliance.

(f) Duty to Mitigate.

The User shall take all reasonable steps to minimize or prevent any Discharge which has a reasonable likelihood of adversely affecting human health or the environment or any action which has the reasonable likelihood of obstructing flow in the sewer collection system.

Sec. 33-285. [Sec. 13-24-85] **Special Fund.**

All damages and/or penalties assessed and collected under Section 33-282 and/or 33-283 shall be placed in a special fund by the pretreatment agency and allocated and appropriated to the City of Memphis for the administration of its pretreatment program.

Sec. 33-286. [Sec. 13-24-86] **Public Notification and Significant Noncompliance.**

(a) Publication of SNC

As provided for by 40 C.F.R. § 403.8, the Control Authority may publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City, of Industrial Users, which at any time during the year were in significant noncompliance with applicable Pretreatment Requirements. For purposes of this provision, a significant Industrial User (or any Industrial User which violates subparts (3), (4), or (8) of this part) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of Wastewater Discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements for each Pollutant taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Pretreatment Requirement, including instantaneous limits, for the same Pollutant parameter;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements for each Pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Pretreatment Requirement, including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other Pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Pretreatment Requirement (Daily Maximum, long term average, instantaneous limit or narrative standard) that the Control Authority determines has caused, alone, or in combination with other Discharges, Interference or Pass-Through (including endangering the health of POTW personnel or general public);
- (4) Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or reduce such a Discharge;

- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within forty-five (45) days after the due date, Federal or State required reports such as baseline monitoring reports, ninety (90)-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules (however an Industrial User is not in Significant Noncompliance if the late report only pertains to the reporting of a Pollutant value for surcharge purposes, not for compliance purposes);
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations, which may include a violation of Best Management Practices, the Control Authority determines will adversely affect the operation or implementation of the Control Authority's pretreatment program.

(b) Publication of non-SNC Violations

Notwithstanding any provision to the contrary, the Control Authority may publish in a newspaper of general circulation any other noncompliance that does not meet the criteria or is not addressed in paragraph 33-286(a) above (*e.g.*, exceedance of the TRC by a non-Significant Industrial User).

Secs. 33-287--33-289. [Sec. 13-24-87 -- 89] **Reserved.**

DIVISION 5. REVIEW AND OVERSIGHT OF OUTLYING JURISDICTIONAL PROGRAMS WITH PERMITTED INDUSTRIAL USER AND/OR OTHER DISCHARGES TO MEMPHIS STP(S)

Sec. 33-290. [Sec. 13-24-90] Purpose of This Division

- (a) Inasmuch as Memphis is the NPDES permittee that owns and operates WWTPs that receive wastewater, not only from discharges within the City but discharges from facilities located outside of the City's corporate limits, this Division of Article IV is drafted to provide a mechanism to assure that (i) Industrial User permits for discharge to Memphis issued by Outlying Jurisdictions impose requirements at least as stringent as that required by federal law, Tennessee law, and as set forth in this Article and (ii) Outlying Jurisdictions do not approve any discharges that would enter Memphis' sewers or WWTPs (*e.g.*, Discharges originating from outside the corporate limits of the Outlying Jurisdiction) without Memphis' approval.
- (b) The provisions of this Division are modeled after the Clean Water Act ("CWA") §§ 401 and 402(b) provisions and implementing regulations (*see, e.g.*, 40 C.F.R. §§ 122.4(a), 123.44 and 124.53) wherein EPA or an approved NPDES state review, comment upon, and potentially object to a draft permit proposed to be issued by the other governmental entity.

Sec. 33-291. [Sec. 13-24-91] Prohibitions Applicable to Outlying Jurisdiction Issuance of Industrial User Permits for Discharge to Memphis

- (a) No permit may be issued by an Outlying Jurisdiction to an Industrial User to Discharge to a Memphis WWTP when:
 - (1) The conditions of the Industrial User permit do not provide for compliance with the applicable requirements of CWA and regulations, Tennessee pretreatment Rules, and Article IV of this Ordinance of Memphis;
 - (2) The Outlying Jurisdiction has failed to provide Memphis an opportunity to review and object to an Industrial User permit under section 33-292;
 - (3) The Outlying Jurisdiction has failed to provide Memphis the requested information under section 33-292(b); and/or
 - (4) Memphis has objected to issuance of the permit under § 33-292 and (i) the permit has not been changed to resolve the objection(s) or (ii) Memphis and the Outlying Jurisdiction have not otherwise resolved the issue(s).
- (b) No User shall introduce Sewage or Wastewater to the Memphis POTW, including to the sewers, pipes, and other conveyances that convey wastewater to the Memphis WWTP if:
 - (1) A permit cannot be issued to that User under section 33-291(a), above;
 - (2) The Industrial User is an existing source and has been identified as a significant Industrial User by the Outlying Jurisdiction and/or Memphis and a permit has not been issued to such Industrial User within 180 days of being identified as a Significant Industrial User;
 - (3) A permit has not yet been issued to a new source unless the new source facility is designated as a Non-Significant Categorical Industrial User; or
 - (4) The User is located in an Outlying Jurisdiction which does not have a written agreement with Memphis allowing the discharge of its Users to the Memphis POTW.
- (c) Unless Memphis agrees in writing, in no event shall an Outlying Jurisdiction allow any person (including any Industrial User) located outside of its jurisdictional boundaries to introduce sewage or wastewater to that Outlying Jurisdiction's sewer system such that it would discharge to the Memphis POTW, including to the sewers, pipes, and other conveyances that convey wastewater to the Memphis WWTP.
- (d) Issuance of a permit by an Outlying Jurisdiction or other authorization of the Outlying Jurisdiction for a User to discharge in contravention of the requirements set forth in this Division, once approved as part of Memphis' pretreatment program, shall be deemed a violation by the Outlying Jurisdiction of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251 *et seq.*, Tennessee Water Quality Control Act ("TWQCA"), T.C.A. §§ 68-3-101 *et seq.*, and Article IV of this Ordinance.
- (e) The introduction of sewage or wastewater to the Memphis POTW, including sewers, pipes, and other conveyances that convey wastewater to the Memphis WWTP, in contravention of the requirements set forth in this Division, once approved as part of Memphis' pretreatment program, shall be deemed a violation by an Industrial User in an Outlying Jurisdiction of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251 *et seq.*, Tennessee Water Quality Control Act ("TWQCA"), T.C.A. §§ 68-3-101 *et seq.*, and Article IV of this Ordinance.

Sec. 33-292. [Sec. 13-24-92] Memphis Review of and Objections to Outlying Jurisdiction Permits.

- (a) Before issuing, reissuing, or modifying an Industrial User permit for a Discharge to the Memphis WWTP, an Outlying Jurisdiction shall provide a draft of the permit to Memphis and provide Memphis a minimum of thirty (30) days to review and comment upon the draft permit. Memphis may extend the time to comment on the draft permit for an additional thirty (30) day period for an existing permitted facility, and sixty (60) day period for a newly permitted facility, upon providing the Outlying Jurisdiction written notice of such extension.
- (b) If Memphis needs more information (*e.g.*, Industrial User permit application, Outlying Jurisdiction rationale for the permit conditions) regarding its evaluation of the proposed Industrial User permit, Memphis may request that the Outlying Jurisdiction provide Memphis the requested information. The time periods under section 33-292(a), above, are automatically extended during the pendency of the request until Memphis receives all the requested information.
- (c) Memphis may object to the issuance, reissuance, or modification of an Industrial User permit by an Outlying Jurisdiction. Such objection may identify permit conditions in the draft permit that must be changed (*e.g.*, modified or deleted) or additional conditions that must be added to the permit.
 - (1) In objecting to the Industrial User permit, Memphis shall provide a statement of the reason(s) for the objection(s) and the actions that must be taken by the Outlying Jurisdiction to eliminate the objection. These changes may be based upon the specific wording of a federal, Tennessee, or Memphis requirement or Memphis' general approach for implementing requirements for Industrial Users.
 - (2) An objection may be based upon the objective that Industrial Users in Outlying Jurisdictions should not be subject to more lenient requirements than Industrial Users located in Memphis.
 - (3) Objections may address any provisions of the proposed permit as well as the absence of permit conditions, including those relating to effluent limitations, the maintenance of records, reporting, monitoring, sampling, enforcement, or assuring that Memphis receives notice and information from the Industrial User (*e.g.*, slug reports, permit applications, etc.).
 - (4) Unless Memphis agrees to withdraw its objections, if the Outlying Jurisdiction does not resubmit a permit revised to resolve an objection to Memphis' satisfaction, the permit shall not be issued by the Outlying Jurisdiction to the Industrial User.
- (d) Where a Memphis objection is not resolved:
 - (1) If an unresolved Memphis objection involves a proposed modification to the Industrial User permit, then the permittee can continue to discharge to Memphis under the preexisting unmodified Industrial User permit for the remaining term of the permit unless precluded by subsequent legal requirements.
 - (2) If an unresolved Memphis objection involves a new Industrial User permit, the Industrial User may not discharge to Memphis unless it obtains a valid Industrial User permit. The Industrial User may request that Memphis issue the permit under section 33.293.
 - (3) If an unresolved Memphis objection involves the reissuance of an Industrial User permit, the Industrial User may continue to discharge to Memphis under the preexisting permit, subject to the limitation in section 33-294(b).
- (e) In addition, Memphis may provide recommendations with respect to the proposed permit issuance, reissuance, or amendment. Failure of the Outlying Jurisdiction to follow a recommendation does not trigger the requirements of section 33-291(a).

- (f) Notwithstanding anything to the contrary, nothing herein shall be deemed to require Memphis to review Industrial User permits issued by Outlying Jurisdictions.

Sec. 33-293. [Sec. 13-24-93] Memphis Issuance of Industrial User Permits for Dischargers in Outlying Jurisdiction

- (a) Where an unresolved Memphis objection exists, the Industrial User may request that Memphis issue an Industrial User permit authorizing the discharge to the Memphis sewers and WWTP. Memphis may condition its willingness to issue the permit to an Industrial User located in an Outlying Jurisdiction, on the Industrial User entering into a separate written agreement with Memphis wherein the Industrial User agrees to be subject to such conditions as Memphis deems appropriate, including, but not limited to, being subject to:
 - (1) Memphis' pretreatment Ordinance,
 - (2) Announced and unannounced inspections and sampling by Memphis, and/or
 - (3) Any and all enforcement actions as deemed appropriate by Memphis, including agreeing to be subject to administrative actions before Memphis and judicial actions in Tennessee State Courts, subject to the civil penalty amounts and damages as provided in Tennessee law and/or Memphis' Ordinance. Notwithstanding this provision, the Industrial User does not waive any arguments as to whether it actually committed the alleged violation.
- (b) A permit issued by Memphis to an Industrial User in an Outlying Jurisdiction may be appealed to the Memphis Hearing Authority.
- (c) Wherein Memphis issues a permit to an Industrial User in an Outlying Jurisdiction, nothing herein shall be deemed to waive federal, State, and local legal obligations of the Industrial User that apply in the Outlying Jurisdiction.

Sec. 33-294. [Sec. 13-24-94] Miscellaneous Provisions Regarding Outlying Jurisdictions Issuance of Permits

- (a) For the purposes of this Division, an "Outlying Jurisdiction" means a city, town, county, district, association, or other public body created by or pursuant to state law in which an Industrial User is located outside the Memphis City limits that discharges sewage and/or wastewater to a sewer system located in that jurisdiction, wherein the sewage and/or wastewater empties into the Memphis sewage system for eventual treatment at the Memphis WWTP(s). An "Outlying Jurisdiction" also includes a state that is approved pursuant to 40 C.F.R. § 403.10(e), that issues permits to Industrial User(s) for discharging sewage and/or wastewater to a sewer system located in that state, wherein the sewage and/or wastewater empties into the Memphis sewage system for eventual treatment at the Memphis WWTP(s). The City of Memphis is not an "Outlying Jurisdiction."
- (b) Where an Industrial User in an Outlying Jurisdiction has submitted a timely and complete permit renewal application or request for permit reissuance, in no event shall the existing permit, if not reissued by the expiration date, be continued for a period longer than six (6) months.

Secs. 33-295--33-299. [Sec. 13-24-95 -- 99] **Reserved.**

DIVISION 6. MISCELLANEOUS PROVISIONS

Sec. 33-300. [Sec. 13-24-100] **Reservation of Rights.**

Nothing contained in Articles I, II, III, IV, V or otherwise contained in a City Ordinance shall be construed to interfere with any additional requirements that may be imposed by the Control Authority subject to its sole discretion. Notwithstanding any other pretreatment program provision to the contrary, nothing in this Ordinance, any other City Ordinance, or in the City's pretreatment program shall be deemed a legally binding commitment under the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, the Tennessee Water Quality Control Act of 1977, T.C.A. §§ 69-3-101 *et seq.*, and applicable regulations (*e.g.*, 40 C.F.R. Part 403, Rule 1400-40-14) for the City to undertake pretreatment implementation or enforcement activities beyond the minimum otherwise required by these Federal/state laws and regulations. Nevertheless, the City maintains its discretionary authority to undertake pretreatment activities beyond the minimum required.

Sec. 33-301. [Sec. 13-24-101] **Special Agreements or Arrangements.**

Nothing contained in this Ordinance shall be construed as prohibiting any special agreement or arrangement between the Control Authority and any Person, or for the Control Authority to otherwise waive requirements herein, when conditions and circumstances making such special agreement(s), arrangement(s), or waiver(s) advisable and/or necessary, in the opinion of the Control Authority, are present. In no event shall special agreement(s), arrangement(s), or waiver(s) permit any Industrial User to violate applicable minimum Federal or State pretreatment requirements (*e.g.*, National Categorical Pretreatment Standards) as set forth in 40 C.F.R. Part 403 and Rule 1400-40-14.

Secs. 33-302--33-309. [Sec. 13-24-102 -- 109] **Reserved.**

SECTION 6. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, 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 7. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, 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 Mayor in writing by the comptroller and become effective as otherwise provided by law.

Frank Colvett, Jr., Chairman
Memphis City Council

ATTEST:

Comptroller

SUBSTITUTE ORDINANCE NO. _____
A SUBSTITUTE ORDINANCE TO AMEND THE CITY OF MEMPHIS CODE OF ORDINANCES CHAPTER 16 “HEALTH AND SANITATION”, TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT, PRESERVE THE MEMPHIS SAND AQUIFER, AND PROMOTE ENVIRONMENTAL JUSTICE

WHEREAS, the City of Memphis relies on the groundwater of the Memphis Sand Aquifer for its drinking water supply and, according to the United States Geological Survey (“USGS”), Memphis and Shelby County (population more than 950,000) comprise one of the largest metropolitan areas in the world that relies exclusively on groundwater for its municipal water supply; however, despite the importance of ensuring that Memphis’ drinking water resources remain plentiful and uncontaminated, the existing system of federal, state, and local review for many development projects does not adequately consider risks to groundwater in many situations.

WHEREAS, the potential risks to groundwater resulting from improper siting and routing of underground hazardous liquids transportation infrastructure do not receive sufficient scrutiny at any level of government in Tennessee.

WHEREAS, recognizing the important and traditional role of city government in protecting the quality of the drinking water of its citizens, the Memphis City Council has determined a need to ensure increased oversight of structures that may impact the City’s drinking water supply, and particularly the Memphis Sand Aquifer or Wellhead Protection Areas.

WHEREAS, acknowledging that patterns of racial, ethnic, and economic inequality in the United States have resulted in the inequitable geographic concentration of potential environmental hazards, the Memphis City Council has determined that this increased level of oversight must also ensure that new development in the City does not cause adverse impacts on the minority populations, low-income populations, and neighborhoods historically burdened by environmental pollution.

WHEREAS, experience has shown that companies handling hazardous liquids are not always able to fully remediate environmental damage caused by accidents, leaving local governments responsible for expending resources to complete the remediation, such that it is in the fiscal stewardship interest of Memphis to regulate the transport of hazardous liquids.

WHEREAS, because the long-term success of the City of Memphis depends on thoughtful and deliberate planning, the City must carefully consider where underground infrastructure is sited to ensure that future growth and development is not unduly constrained.

WHEREAS, the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, requires states to protect public water supplies, and pursuant to the Act the United States Environmental Protection Agency has authorized the Tennessee Department of Environment and Conservation (“TDEC”) to enforce the Act.

WHEREAS, TDEC, pursuant to the Tennessee Safe Drinking Water Act of 1983, T.C.A. §§ 68-221-701 *et seq.*, promulgated regulations, including Tenn. Comp. R. & Regs. 0400-45-01-.34, and those state regulations identify the important role of local governments in protecting public drinking water, including through the enactment of ordinances to implement or support the Wellhead Protection Plans developed by public water system operators.

WHEREAS, TDEC has stated that Tennessee does not have an Executive Order or specific language within a rule or statute that requires or provides TDEC the explicit authority to consider environmental justice within its environmental regulatory program actions.

WHEREAS, the locating of new underground hazardous liquids transportation infrastructure in minority, low-income neighborhood would adversely affect property values disproportionately in these neighborhoods.

WHEREAS, various infrastructure has been located above the Memphis Sand Aquifer and already poses a significant threat to the viability of the City’s drinking water supply and wherein the routing and siting of further underground infrastructure that poses significant additional risks should be avoided.

WHEREAS, USGS determined that there is broad agreement in the scientific community that a continuing concern exists for a major destructive earthquake in the New Madrid seismic zone, that structures in Memphis are vulnerable and at risk from severe ground shaking, and that Memphis would be severely impacted by such earthquakes.

WHEREAS, the City deems it necessary for all the reasons above to assess the associated risks inherent in the locating and routing of new underground hazardous liquids transportation infrastructure in Memphis.

WHEREAS, Memphis City Charter, Section 409, grants the City power to pass all laws to preserve the health of the City.

WHEREAS, Memphis City Charter, Section 405, grants the City power to regulate the keeping and storage of combustible articles.

WHEREAS, Memphis City Charter, Section 369, grants the City power over all affairs in the City in which the general welfare of the inhabitants is interested.

WHEREAS, Memphis City Charter, Section 834, grants the City power to provide rules and regulations for the use, handling, storage and sale of inflammable liquids and the products thereof.

WHEREAS, the Memphis City Council hereby adopts the following requirements designed to preserve the drinking water supply of the City of Memphis, and particularly the Memphis Sand Aquifer; to ensure that future potentially hazardous development does not further inequitably concentrate environmental pollutants in already burdened communities; and to protect the health and well-being of the people of Memphis.

NOW, THEREFORE BE IT ORDAINED by the Memphis City Council that:

Section 1, Chapter 16, Article XIII shall be added and entitled “Aquifer Pollution Control”, as follows:

I. Definitions

For the purposes of this section:

1. **Development:** Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than ten cubic yards on any lot or excavation.
2. **Groundwater:** Any waters of the State as defined in T.C.A. § 69-3-103 (Tennessee Water Quality Control Act), occurring below the surface of the ground not contained by artificial barriers.
3. **Hazardous liquids:** Any of the following materials, when in liquid form: anhydrous ammonia, crude oil, non-fuel petroleum products (including methanol, ethylene, propylene, butadiene, benzene, toluene, and xylene and any other flammable, toxic, or corrosive products obtained from distilling and processing crude oil or other hydrocarbon compounds), non-petroleum biofuels (such as biodiesel, kerosene, and ethanol), petroleum fuel products (including diesel fuel, gasoline, jet fuel, and any other flammable, toxic, or corrosive products obtained from distilling and processing crude oil or other hydrocarbon compounds), sodium hydroxide (caustic soda solutions), and sulfuric acid (including spent sulfuric acid). Natural gas or mixtures of natural and artificial gas are not hazardous liquids for the purpose of this ordinance, even when in liquid form.

4. **Underground hazardous liquids transportation infrastructure:** Any structure or combination of structures intended to move hazardous liquids from one location to another, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. Underground hazardous liquids transportation infrastructure includes the following structures, so long as they are used for or intended for use for the transportation of hazardous liquids: pipes and pipelines (as well as associated valves and appurtenances), pumping units and any associated assemblies, and metering and delivery stations.
5. **Wellhead Protection Area:** The surface and subsurface area surrounding a water well, well field or spring supplying a public water system. The Wellhead Protection Area contains both the Wellhead Protection Zone (Zone 1) and the Wellhead Management Zone (Zone 2), as described in Tenn. Comp. R. & Regs. 0400-45-01-.34.

II. Underground Infrastructure Advisory Board

1. There is created an Underground Infrastructure Advisory Board (“Board”), whose purpose is to review particular development projects within the City of Memphis, as described in this Ordinance, and submit advisory opinions to the Memphis City Council (“Council”) regarding those projects.
2. The Board shall consist of one representative from the Memphis Division of Engineering, one representative from the Memphis Division of Public Works, one representative from the Memphis and Shelby County Division of Planning and Development (as appointed by the Director of that Division), one representative from Memphis Light, Gas and Water (“MLGW”), one representative from the Council, two representatives of the Greater Memphis Chamber of Commerce, one representative of the University of Memphis, and one citizen representative with a proven track record of working to promote environmental justice in the Memphis community.
3. The members of the Board shall be selected as follows:
 - a. the Mayor of the City of Memphis will appoint the representative of the Memphis Division of Engineering and the representative of the Memphis Division of Public Works;
 - b. the Director of the Memphis and Shelby County Division of Planning and Development will appoint the representative of that division;
 - c. the President of MLGW will appoint the representative of that entity;
 - d. the chairperson of the Council will appoint the representative of that body;

- e. the Mayor of the City of Memphis will appoint two representatives of the Greater Memphis Chamber of Commerce, which representatives shall be confirmed by the Council;
 - f. the Mayor of the City of Memphis will appoint a representative of the University of Memphis, which representative shall be confirmed by the Council; and
 - g. the Mayor of the City of Memphis will appoint a citizen member with a proven track record of working to promote environmental justice in the Memphis community, which representative shall be confirmed by the Council.
4. The Board shall meet as needed in order to review applications for Underground Infrastructure Permits, as described in Sections III and IV below, and provide advisory opinions to the Council regarding those permits.

III. Development of Underground Hazardous Liquids Transportation Infrastructure Prohibited

New development (including construction or installation of new structures) of underground hazardous liquids transportation infrastructure is prohibited throughout the City of Memphis, unless in compliance with an Underground Infrastructure Permit issued by the Council. This prohibition will not apply to private or public waste water, septage, or sewerage infrastructure.

IV. Underground Infrastructure Permit Applications

1. Any person seeking Council approval to construct, install, expand, or otherwise develop underground hazardous liquids transportation infrastructure within the City of Memphis shall first submit to the Board an application for an Underground Infrastructure Permit. The application shall include:
 - a. a description of the planned development, including a description of the type and volume of hazardous liquids to be transported;
 - b. documentation of all other required local, state, and federal permits necessary for the development;
 - c. written confirmation from MLGW confirming that the planned development does not pass within 1,000 feet of all Wellhead Protection Areas and all existing public water supply wells as reflected in MLGW's Wellhead Protection Plan;
 - d. a site plan that shows:
 - i. the area of the development that is in the City of Memphis; and
 - ii. the location of all known existing private water supply wells within 1,000 feet of the project boundary, to be determined by the applicant after reasonable investigation;

- e. an analysis of the potential for the development to cause disproportionate adverse impacts on minority populations, low-income populations, and neighborhoods historically burdened by environmental pollution;
 - f. an analysis of any potential adverse environmental, groundwater, and drinking water impacts resulting from the development;
 - g. an analysis of the estimated short-term and long-term remediation costs associated with any such potential adverse impacts, and the long-term fiscal viability of the applicant to pay such remediation costs, including the extent to which the applicant has cash reserves or insurance available to pay such remediation costs;
 - h. a copy of all certificates of insurance for all insurance policies that may provide coverage for remediation costs or liability claims arising from any leak, spill or discharge of hazardous liquids;
 - i. a detailed description of the abandonment or closure plan for the underground hazardous liquids transportation infrastructure, including how any structures would be removed upon abandonment or otherwise safely abandoned, what conditions would constitute such abandonment, how the City would be notified in case of abandonment, an analysis of the estimated costs of removal, and the long-term fiscal viability of the applicant to pay such costs; and
 - j. any other additional information as may be requested by the Board regarding the proposed development, its potential impacts on the environment, drinking water, or the public interest, hydrogeologic information, and monitoring and mitigation measures.
2. After receiving any such application, the Board shall ensure that the application is complete, and request further information from the applicant as may be required. The Board shall also seek comments on the application from the following:
 - a. MLGW;
 - b. Memphis and Shelby County Land Use and Development Services; and
 - c. the Shelby County Groundwater Quality Control Board.
 3. The Board shall solicit and collect public comments regarding the application. The Board shall:
 - a. give public notice of the application, which must include access to the application materials and a means for the public to submit comments to the Board; and
 - b. accept public comments for at least 30 days from the public notice of the application.
 4. The Board may request that the Council allocate reasonable funding as required for the Board to process and analyze a particular application.

5. The Board shall hold a public hearing on the application, allowing a presentation by the applicant and comments from members of the public. At least 30 days prior to holding the public hearing, the Board must give notice to the applicant and members of the public regarding the time and date of the hearing, as well as providing public access to the application materials.
6. Following the public hearing, the Board may request such additional information from the applicant or others as the Board deems appropriate; otherwise no new information shall be submitted to the Board by the public or the applicant. If the Board deems it appropriate, the Board may hold a subsequent public hearing based upon the nature of the information submitted to the Board after a public hearing.
7. After full consideration of all application materials and all comments received, and any additional information that the Board may, in its discretion, request, the Board will vote to determine their recommendation. A majority vote of the members present shall be required for a passage of any matter before the Board.
8. The Board shall select one or two appointees to present their recommendation to the Memphis City Council at the next scheduled Planning and Zoning Committee Meeting following a majority vote.
9. The Board shall only issue an advisory opinion recommending that the Memphis City Council approve the application if the Board finds that approval would be in the public interest. Such a finding must include a determination that:
 - a. the development will not go through or pass within 1,000 feet of any Wellhead Protection Area, as delineated in the most recent Wellhead Protection Plan finalized by MLGW;
 - b. MLGW has no objections to the development;
 - c. the project poses no unacceptable risk of adverse environmental, groundwater, or drinking water impacts resulting from the proposed development, or any future land uses associated with the development;
 - d. the application presents no significant risk that the City will be responsible for expending resources on environmental remediation should an unanticipated accident or event cause such adverse impacts, or should the infrastructure be abandoned; and
 - e. the development will cause no disproportionate adverse impacts on minority populations, low-income populations, or neighborhoods historically burdened by environmental pollution.

10. Board's advisory opinion shall be placed on the agenda of the next Council Full Meeting following the Board's submission of its advisory opinion to the Planning and Zoning Committee.
11. The Council may take up the Board's advisory opinion and recommendation at whenever the Council so chooses. Upon taking up the Board's advisory opinion, the Council may vote on whether to approve or reject the Underground Infrastructure Permit application, or to hold the vote until a later Council Meeting. Any approval of the permit application must be accompanied by the Council's determination, based on a majority vote of present Council Members, that the project is in the public interest.
12. Any person who may be aggrieved by the Council's decision regarding the permit application may have the decision reviewed by the courts, according to the general procedures for the common law writ of certiorari specified at Tenn. Code Ann. §§ 27-9-101 *et seq.* Any person seeking such review shall, within sixty (60) days of the Council's decision, file a petition of certiorari in the Circuit Court of Shelby County, the Chancery Court of Shelby County, or any other court with jurisdiction.

V. Existing Development

1. Development of underground hazardous liquids transportation infrastructure that would be prohibited without an Underground Infrastructure Permit, which has completed construction and is in operation at the time this ordinance becomes effective may continue operation without applying for an Underground Infrastructure Permit.
2. The owner or operator of such existing underground hazardous liquids transportation infrastructure must apply for and receive an Underground Infrastructure Permit prior to initiating any addition to or expansion of such infrastructure, unless covered by one of the exceptions to permit requirements listed in Part VI of this ordinance.

VI. Exceptions to Permit Requirements

An Underground Infrastructure Permit is not required for:

1. maintenance, repairs, and replacement of existing underground hazardous liquids transportation infrastructure, so long as in compliance with all other local, state, and federal authority, and so long as the repairs and replacement do not represent a significant increase in capacity, expansion of footprint, or change in operations;

2. development of underground hazardous liquids transportation infrastructure to be located within the property boundaries of an oil refinery, oil terminal, associated docks or processing facilities, or a retail service station and providing service to that oil refinery, oil terminal, associated docks or processing facilities, or retail service station; or
3. development (including construction, installation, maintenance, repairs, replacement, addition, and/or expansion) of underground hazardous liquids transportation infrastructure that directly provides, or intends to provide, fuel services to airports and other terminals engaged in the transportation of passengers or cargo.

VII. Compliance with Other Authority

1. All activities and development being considered by the Board and the Council under this ordinance shall also comply with all other relevant local ordinances and regulations, as well as all relevant state and federal laws and regulations.
2. Any approval of an application for an Underground Infrastructure Permit by the Council shall not be taken as a finding of public purpose, public benefit, or public use in the context of any other legal or administrative proceedings, including eminent domain proceedings, and conveys no additional rights or privileges to applicant beyond those specifically enumerated in the Underground Infrastructure Permit.
3. To the extent that the development regulated by this ordinance is also regulated by any other local, state, or federal regulation, and simultaneous compliance with both this ordinance and those other regulations is not possible, the more restrictive or protective of the two shall apply.

VIII. Savings Clause

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole, or any other part thereof.



RESOLUTION accepting public improvements for **Porter-Leath Early Childhood Academy 2** and authorizing release of the bond

WHEREAS, **Porter-Leath** the Developer has completed the public improvement with the City of Memphis, located at 3060 Baskin Street, northeast corner lot in the Baskin Street/Whitney Avenue intersection in the City of Memphis, Tennessee as reflected on the final plan entitled **Porter-Leath Early Childhood Academy 2** and

WHEREAS, all public improvements required by the standard improvement contract for the project are completed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the engineering plan for **Porter-Leath Early Childhood Academy 2 [CR-5320]** and the completion of the public improvements therein, be and the same are hereby accepted by the City.

BE IT FURTHER RESOLVED, that the **Performance Bond No. 107076501** in the amount of **\$90,900.00** held as security for the standard improvement contract is ordered released.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 1 to Contract No. 11922, Corporate Backup Hardware with Thomas Consultants, Incorporated to ratify and renew the current contract in the funded amount of \$46,390.40. (This change is to ratify and renew annual maintenance for the current contract for the period covering June 28, 2021 through June 27, 2022.)

2. Additional Information

The project scope is to provide maintenance for a Quantum i6000 Tape Library and appliances. This change is to ratify and renew annual maintenance for the current contract for the period covering June 28, 2021 through June 27, 2022 in the funded amount of \$46,390.40. This ratification and renewal complies with all applicable laws and policies. The new contract value is \$594,464.64.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 11922, Corporate Backup Hardware with Thomas Consultants, Incorporated to ratify and renew the current contract in the funded amount of \$46,390.40.

The project scope is to purchase, install, and provide maintenance for a new Quantum i6000 Tape Library and appliances. All quantum hardware installation services will be based on Quantum base part number SSC2K-LS07-CG11 or equivalent provided by Quantum. This change is to ratify and renew annual maintenance for the current contract for the period covering June 28, 2021 through June 27, 2022 in the funded amount of \$46,390.40. This ratification and renewal complies with all applicable laws and policies. The new contract value is \$594,464.64.

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. 1 to Contract No. 11922, Corporate Backup Hardware with Thomas Consultants, Incorporated to ratify and renew the current contract in the funded amount of 46,390.40 as outlined in the foregoing preamble, is approved and further,

THAT, the President, or his designated representative is authorized to execute the Ratification and 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 7th day of July, 2021, at which a quorum was present.

 Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 1 to Contract No. 11922, Corporate Backup Hardware with Thomas Consultants, Incorporated to ratify and renew the current contract in the funded amount of \$46,390.40, and is now recommending to the Council of the City of Memphis that it approves said ratification and renewal as approved; and

WHEREAS, the project scope is to purchase, install, and provide maintenance for a new Quantum i6000 Tape Library and appliances. All quantum hardware installation services will be based on Quantum base part number SSC2K-LS07-CG11 or equivalent provided by Quantum. This change is to ratify and renew annual maintenance for the current contract for the period covering June 28, 2021 through June 27, 2022 in the funded amount of \$46,390.40. This ratification and renewal complies with all applicable laws and policies. The new contract value is \$594,464.64; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 11922, Corporate Backup Hardware with Thomas Consultants, Incorporated to ratify and renew the current contract in the funded amount of \$46,390.40 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12308, B2GNow Maintenance Software Service Agreement to B2GNow, in the funded amount of \$102,636.00.

2. Additional Information

The project scope is to allow B2GNow, as a sole source provider, to secure a maintenance agreement for the B2GNow Diversity Management System which provides a baseline and vendor management system that allows diversity users to add and manage vendor accounts, run reports, interface with existing systems, securely attach transaction records to files, select desired transaction templates, password-protect accounts, and share along with track communications. The management system is currently being utilized by MLGW's Supplier Diversity Department to monitor Prime and Subcontractor payments in providing a more efficient way to track diversity spend. MLGW is requesting approval of this sole source award, which can only be provided by B2GNow, due to the B2GNow Diversity Management System being a proprietary system that is developed and hosted exclusively by B2GNow. The term of this contract is for 60 months from the date of the Notice to Proceed with continuous maintenance in the amount of \$102,636.00. This sole source award complies with all applicable laws and policies.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12308, B2GNow Maintenance Software Service Agreement to B2GNow in the funded amount of \$102,636.00.

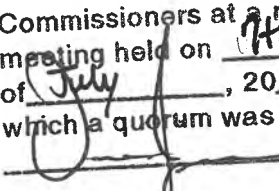
The project scope is to allow B2GNow, as a sole source provider, to secure a maintenance agreement for the B2GNow Diversity Management System which provides a baseline and vendor management system that allows diversity users to add and manage vendor accounts, run reports, interface with existing systems, securely attach transaction records to files, select desired transaction templates, password-protect accounts, and share along with track communications. The management system is currently being utilized by MLGW's Supplier Diversity Department to monitor Prime and Subcontractor payments in providing a more efficient way to track diversity spend. MLGW is requesting approval of this sole source award, which can only be provided by B2GNow, due to the B2GNow Diversity Management System being a proprietary system that is developed and hosted exclusively by B2GNow. The term of this contract is for 60 months from the date of the Notice to Proceed with continuous maintenance in the amount of \$102,636.00. 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. 12308, B2GNow Maintenance Software Service Agreement to B2GNow in the funded amount of \$102,636.00, 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 7th day of July, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021, awarded Contract No. 12308, B2GNow Maintenance Software Service Agreement to B2GNow in the funded amount of \$102,636.00, and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to allow B2GNow, as a sole source provider, to secure a maintenance agreement for the B2GNow Diversity Management System which provides a baseline and vendor management system that allows diversity users to add and manage vendor accounts, run reports, interface with existing systems, securely attach transaction records to files, select desired transaction templates, password-protect accounts, and share along with track communications. The management system is currently being utilized by MLGW's Supplier Diversity Department to monitor Prime and Subcontractor payments in providing a more efficient way to track diversity spend. MLGW is requesting approval of this sole source award, which can only be provided by B2GNow, due to the B2GNow Diversity Management System being a proprietary system that is developed and hosted exclusively by B2GNow. The term of this contract is for 60 months from the date of the Notice to Proceed with continuous maintenance in the amount of \$102,636.00. 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. 12308, B2GNow Maintenance Software Service Agreement to B2GNow in the funded amount of \$102,636.00 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 2 to Contract No. 11595, Telvent Maintenance Agreement with Schneider Electric Smart Grid Solutions, LLC (formerly Telvent USA, LLC), in the funded amount of \$239,700.00. (This change is to renew the current contract for maintenance and support services for a three year term for the period covering January 1, 2022 through December 31, 2024, which reflects a 53% decrease in rates from the previous term. In addition, this change is to add an Enterprise License Agreement (ELA) for ArcFM Solutions. MLGW is requesting continuous maintenance of the acquired system, which can only be performed by Schneider Electric Smart Grid Solutions, LLC.)

2. Additional Information

The project scope is to provide maintenance and support services for the Oracle eBusiness Suite System and add an Enterprise License Agreement.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

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. 11595, Telvent Maintenance Agreement with Schneider Electric Smart Grid Solutions, LLC (*formerly* Telvent USA, LLC) to change and renew the current contract in the funded amount of \$239,700.00.

The project scope is to provide maintenance and support for the Oracle eBusiness Suite System. This change is to renew the current contract for maintenance and support services for a three (3) year term for the period covering January 1, 2022 through December 31, 2024 in the funded amount of \$239,700.00, which reflects a 53% decrease in rates from the previous term. In addition, this change is to add an Enterprise License Agreement (ELA) for ArcFM Solutions. MLGW is requesting continuous maintenance of the acquired system, which can only be performed by Schneider Electric Smart Grid Solutions, LLC. This change and renewal complies with all applicable laws and policies. The new contract value is \$1,460,000.00.

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. 11595, Telvent Maintenance Agreement with Schneider Electric Smart Grid Solutions, LLC (*formerly* Telvent USA, LLC) to change and renew the current contract in the funded amount of \$239,700.00, as outlined in the foregoing preamble, is approved; and further,

THAT, The President, or his designated representative is authorized to execute the Change and 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 7th day of July, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 2 to Contract No. 11595, Telvent Maintenance Agreement with Schneider Electric Smart Grid Solutions, LLC (*formerly* Telvent USA, LLC) to change and renew the current contract in the funded amount of \$239,700.00, and is now recommending to the Council of the City of Memphis that it approves said change and renewal as approved; and

WHEREAS, the project scope is to provide maintenance and support for the Oracle eBusiness Suite System. This change is to renew the current contract for maintenance and support services for a three (3) year term for the period covering January 1, 2022 through December 31, 2024 in the funded amount of \$239,700.00, which reflects a 53% decrease in rates from the previous term. In addition, this change is to add an Enterprise License Agreement (ELA) for ArcFM Solutions. MLGW is requesting continuous maintenance of the acquired system, which can only be performed by Schneider Electric Smart Grid Solutions, LLC. This change and renewal complies with all applicable laws and policies. The new contract value is \$1,460,000.00; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 2 to Contract No. 11595, Telvent Maintenance Agreement with Schneider Electric Smart Grid Solutions, LLC (*formerly* Telvent USA, LLC) to change and renew the current contract in the funded amount of \$239,700.00 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 1 to Contract No. 12304 (Formerly Purchase Order #7015763), Veeam Backup and Replication Enterprise Plus Annual Production with Logicalis, Inc., in the funded amount of \$88,211.55. (This change is to renew annual maintenance for Veeam software support and maintenance services and to co-term Veeam license agreements 02249375, 02407580 and 0235760 for the periods covering November 13, 2021 through November 12, 2022. MLGW will have cost savings of 4.67% by co-termining the license agreements to synchronize renewal dates.)

2. Additional Information

The project scope is for annual maintenance and support for Veeam software. The software is used to back up virtual and physical servers used by the Customer Information System (CIS), Geographical Information System (GIS), Smart Meter, and other applications.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

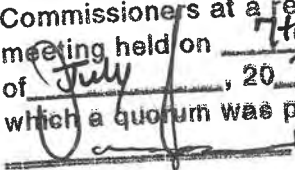
The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 12304 (*Formerly Purchase Order #7015763*), Veeam Backup and Replication Enterprise Plus Annual Production with Logicalis, Inc. to renew the current contract in the funded amount of \$88,211.55.

The project scope is for annual maintenance and support for Veeam software. The software is used to back up virtual and physical servers used by the Customer Information System (CIS), Geographical Information System (GIS), Smart Meter, and other applications. This change is to renew annual maintenance for Veeam software support and maintenance services and to co-term Veeam license agreements 02249375, 02407580 and 0235760 for the periods covering November 13, 2021 through November 12, 2022 in the amount of \$88,211.55. MLGW will have cost savings of 4.67% by co-termining the license agreements to synchronize renewal dates. This renewal complies with all applicable laws and policies. The new contract value is \$153,516.81.

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. 1 to Contract No 12304 (*Formerly Purchase Order #7015763*), Veeam Backup and Replication Enterprise Plus Annual Production with Logicalis, Inc. to renew the current contract in the funded amount of \$88,211.55, as outlined in the foregoing 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 7th day of July, 2021, at which a quorum was present.

Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 1 to Contract No. 12304 (*Formerly Purchase Order #7015763*), Veeam Backup and Replication Enterprise Plus Annual Production with Logicalis, Inc. to renew the current contract in the funded amount of \$88,211.55, 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 for annual maintenance and support for Veeam software. The software is used to back up virtual and physical servers used by the Customer Information System (CIS), Geographical Information System (GIS), Smart Meter, and other applications. This change is to renew annual maintenance for Veeam software support and maintenance services and to co-term Veeam license agreements 02249375, 02407580 and 0235760 for the periods covering November 13, 2021 through November 12, 2022 in the amount of \$88,211.55. MLGW will have cost savings of 4.67% by co-termining the license agreements to synchronize renewal dates. This renewal complies with all applicable laws and policies. The new contract value is \$153,516.81; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 1 of existing equipment under Contract No. 12304 (*Formerly Purchase Order #7015763*), Veeam Backup and Replication Enterprise Plus Annual Production with Logicalis, Inc. to renew the current contract in the funded amount of \$88,211.55 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving a position for a Pipeline Integrity Engineer 3 with a proposed annual salary of \$102,600.

2. Additional Information

The Pipeline Integrity Engineer 3 requires extensive experience with transmission systems, gas operations, engineering standards, corrosion controls, direct assessments, verification digs, specialized materials, and mitigation efforts that are critical to performing the Pipeline Integrity Engineer 3 job functions.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

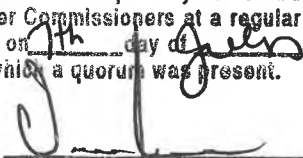
The President & CEO recommended to the Board of Light Gas and Water Commissioners an annual salary in the amount of \$102,600 for position 03956, per the attached document:

Position No. 03956 - Pipeline Integrity Engineer 3

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

THAT, Position number 03956 as listed in the foregoing preamble is approved.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~regular~~ ^{special} meeting held on 7th day of July, 2021, at which a quorum was present.



Secretary - Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners at their meeting of July 7, 2021, approved an annual salary in the amount of \$102,600 for Pipeline Integrity Engineer 3.

WHEREAS, the City Charter requires the above mentioned items to be approved by the City Council.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that the above identified salary is hereby approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 3 to Contract No. 12023, Aerial Patrol of Gas Transmission Right-of-Way with Tennessee Helicopter Services, Inc., in the funded amount of \$60,000.00. (This change is to renew the current contract for the third of four annual renewal terms for the period covering August 29, 2021 through August 28, 2022, with no increase in rates from the previous year.)

2. Additional Information

The project scope is to provide transportation of MLGW employee(s) to conduct bi-monthly aerial surveys of all gas transmission lines throughout Memphis and Shelby County, Tennessee in accordance with MLGW's operation and maintenance procedures and the Code of Federal Regulations.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

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. 12023, Aerial Patrol of Gas Transmission Right-of-Way with Tennessee Helicopter Services, Incorporated to renew the current contract in the funded amount of \$60,000.00.

The project scope is to provide transportation of MLGW employee(s) to conduct bi-monthly aerial surveys of all gas transmission lines throughout Memphis and Shelby County, Tennessee in accordance with MLGW's operation and maintenance procedures and the Code of Federal Regulations. This change is to renew the current contract for the third of four (4) annual renewal terms for the period covering August 29, 2021 through August 28, 2022 in the funded amount of \$60,000.00, with no increase in rates from the previous year. This renewal complies with all applicable laws and policies. The new contract value is \$311,800.00.

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, the approval of Change No. 3 to Contract No. 12023, Aerial Patrol of Gas Transmission Right-of-Way with Tennessee Helicopter Services, Incorporated to renew the current contract in the funded amount of \$60,000.00, as outlined in the foregoing 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 adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 7th day of July, 2021, at which a quorum was present.


Secretary - Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 3 to Contract No. 12023, Aerial Patrol of Gas Transmission Right-of-Way with Tennessee Helicopter Services, Incorporated to renew the current contract in the funded amount of \$60,000.00, 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 transportation of MLGW employee(s) to conduct bi-monthly aerial surveys of all gas transmission lines throughout Memphis and Shelby County, Tennessee in accordance with MLGW's operation and maintenance procedures and the Code of Federal Regulations. This change is to renew the current contract for the third of four (4) annual renewal terms for the period covering August 29, 2021 through August 28, 2022 in the funded amount of \$60,000.00, with no increase in rates from the previous year. This renewal complies with all applicable laws and policies. The new contract value is \$311,800.00; 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. 12023, Aerial Patrol of Gas Transmission Right-of-Way with Tennessee Helicopter Services, Incorporated to renew the current contract in the funded amount of \$60,000.00 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12194, NERC Professional Engineering Compliance Consultant to Guidehouse, Inc., in the funded amount of \$1,074,508.44.

2. Additional Information

The project scope is for the Consultant to assist MLGW with on-going support for its Internal Compliance Program (ICP) for utility operations. These professional consulting activities include process and procedures documentation and implementation, technical studies and evaluation, readiness assessments, and other work deemed necessary for MLGW's ICP.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12194, NERC Professional Engineering Compliance Consultant to Guidehouse, Incorporated in the funded amount of \$1,074,508.44.

The project scope is for the Consultant to assist MLGW with on-going support for its Internal Compliance Program (ICP) for utility operations. These professional consulting activities include process and procedures documentation and implementation, technical studies and evaluation, readiness assessments, and other work deemed necessary for MLGW's ICP.

The Request for Qualifications was advertised using MLGW's On-Line Bid Notification System on August 31, 2020. MLGW solicited nine (9) companies; and received five (5) proposals on September 21, 2020 with the most responsive proposal being from Guidehouse, Incorporated in the amount of \$976,825.84. Two (2) of the proposals did not meet the Supplier Diversity goal and were deemed nonresponsive. Proposals were evaluated on the following criteria: 1) Firm Introduction; 2) Demonstrate the competence and qualification of the individual who will be directly responsible for the management and delivery of the proposed work; 3) Demonstrate the technical adequacy of the personnel and sub-consultants to be utilized for the proposed work; 4) Demonstrate the experience of the firm based upon previous work similar to that of the type considered; 5) Demonstrate the success of the firm based upon the record of performance on other projects (both MLGW projects and projects for other entities); 6) Demonstrate the firm's history of accuracy of cost estimates and ability to perform within budget constraints; 7) Workload Capacity and History of Performing Work within a Specified Schedule; and 8) Proposed Approach for the Project. MLGW is requesting \$97,682.60 in contingency funds for unforeseen changes in NERC standards and any additional work which may be required to meet compliance standards. The term of this contract is for 36 months from the date of the Notice to Proceed, with

provisions for annual maintenance and support. 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. 12194, NERC Professional Engineering Compliance Consultant to Guidehouse, Incorporated in the funded amount of \$1,074,508.44 as outlined in the above 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 adopted by the Board of Light, Gas and Water Commissioners at a regular ~~special~~ meeting held on 15 day of July, 2021, at which a quorum was present.


Secretary - Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 awarded Contract No. 12194, NERC Professional Engineering Compliance Consultant to Guidehouse, Incorporated in the funded amount of \$1,074,508.44, 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 for the Consultant to assist MLGW with on-going support for its Internal Compliance Program (ICP) for utility operations. These professional consulting activities include process and procedures documentation and implementation, technical studies and evaluation, readiness assessments, and other work deemed necessary for MLGW's ICP.

The Request for Qualifications was advertised using MLGW's On-Line Bid Notification System on August 31, 2020. MLGW solicited nine (9) companies; and received five (5) proposals on September 21, 2020 with the most responsive proposal being from Guidehouse, Incorporated in the amount of \$976,825.84. Two (2) of the proposals did not meet the Supplier Diversity goal and were deemed nonresponsive. Proposals were evaluated on the following criteria: 1) Firm Introduction; 2) Demonstrate the competence and qualification of the individual who will be directly responsible for the management and delivery of the proposed work; 3) Demonstrate the technical adequacy of the personnel and sub-consultants to be utilized for the proposed work; 4) Demonstrate the experience of the firm based upon previous work similar to that of the type considered; 5) Demonstrate the success of the firm based upon the record of performance on other projects (both MLGW projects and projects for other entities); 6) Demonstrate the firm's history of accuracy of cost estimates and ability to perform within budget constraints; 7) Workload Capacity and History of Performing Work within a Specified Schedule; and 8) Proposed Approach for the Project. MLGW is requesting \$97,682.60 in contingency funds for unforeseen changes in NERC standards and any additional work which may be required to meet compliance

standards. The term of this contract is for 36 months from the date of the Notice to Proceed, with provisions for annual maintenance and support. 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. 12194, NERC Professional Engineering Compliance Consultant to Guidehouse, Incorporated in the funded amount of \$1,074,508.44 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 6 to Contract No. 11427, Audio-log Recorders Upgrade with Carolina Recording System, in the funded amount of \$51,276.39. (This change is to extend the current contract for a one year term for the period covering November 1, 2021 through October 31, 2022, with a 3% increase in rates due to inflation. This extension is needed to continue the transition from the Audio-log Voice Recording System to the Genesys Media Server application for voice recording on the Genesys IVR system.)

2. Additional Information

The project scope is to upgrade audio log voice recorders that record customer calls, as well as mobile radio systems.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 6 to Contract No. 11427, Audio-log Recorders Upgrade with Carolina Recording System to extend the current contract in the funded amount of \$51,276.39.

The project scope is to upgrade audio log voice recorders that record customer calls, as well as mobile radio systems. This change is to extend the current contract for a one (1) year term for the period covering November 1, 2021 through October 31, 2022 in the funded amount of \$51,276.39, with a 3% increase in rates due to inflation. This extension is needed to continue the transition from the Audio-log Voice Recording System to the Genesys Media Server application for voice recording on the Genesys IVR system. This extension complies with all applicable laws and policies. The new contract value is \$888,993.54.

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. 6 to Contract No. 11427, Audio-log Recorders Upgrade with Carolina Recording System to extend the current contract in the funded amount of \$51,276.39 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 7th day of July, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 6 to Contract No. 11427, Audio-log Recorders Upgrade with Carolina Recording System to extend the current contract in the funded amount of \$51,276.39; 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 upgrade audio log voice recorders that record customer calls, as well as mobile radio systems. This change is to extend the current contract for a one (1) year term for the period covering November 1, 2021 through October 31, 2022 in the funded amount of \$51,276.39, with a 3% increase in rates due to inflation. This extension is needed to continue the transition from the Audio-log Voice Recording System to the Genesys Media Server application for voice recording on the Genesys IVR system. This extension complies with all applicable laws and policies. The new contract value is \$888,993.54; and

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby approved Change No. 6 to Contract No. 11427, Audio-log Recorders Upgrade with Carolina Recording System to extend the current contract in the funded amount of \$51,276.39 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution approving Change No. 1 to Contract No. 11954, Basic Long Distance with AT&T Corporation, in the funded amount of \$68,629.94. (This change is to renew the current contract for the first of two annual renewal terms for the period covering January 1, 2022 through December 31, 2022 in the amount of \$40,630.92 which includes 10% for contingency funds for any unforeseen services. In addition, this change is to increase the current contract value in the amount of \$27,999.02 due to the increased long distance demand from dialing into Zoom calls during the COVID-19 Pandemic.)

2. Additional Information

The project scope is to provide long distance services at MLGW facilities.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

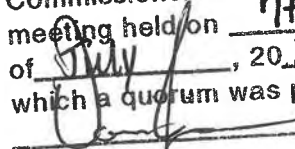
The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners the approval of Change No. 1 to Contract No. 11954, Basic Long Distance with AT&T Corporation to renew and increase the current contract value in the funded amount of \$68,629.94

The project scope is to provide long distance services at MLGW facilities. This change is to renew the current contract for the first of two annual renewal terms for the period covering January 1, 2022 through December 31, 2022 in the amount of \$40,630.92 which includes 10% for contingency funds for any unforeseen services. In addition, this change is to increase the current contract value in the amount of \$27,999.02 due to the increased long distance demand from dialing into Zoom calls during the COVID-19 Pandemic. The total funded amount of this renewal and change is \$68,629.94. This renewal and change complies with all applicable laws and policies. The new contract value is \$118,629.94.

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. 1 to Contract No. 11954, Basic Long Distance with AT&T Corporation to renew and increase the current contract value in the funded amount of \$68,629.94, as outlined in the above preamble, is approved; and further

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

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 7th day of July, 2021, at which a quorum was present.

Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved Change No. 1 to Contract No. 11954, Basic Long Distance with AT&T Corporation to renew and increase the current contract value in the funded amount of \$68,629.94, and is now recommending to the Council of the City of Memphis that it approves said renewal and change as approved; and

WHEREAS, the project scope is to provide long distance services at MLGW facilities. This change is to renew the current contract for the first of two annual renewal terms for the period covering January 1, 2022 through December 31, 2022 in the amount of \$40,630.92 which includes 10% for contingency funds for any unforeseen services. In addition, this change is to increase the current contract value in the amount of \$27,999.02 due to the increased long distance demand from dialing into Zoom calls during the COVID-19 Pandemic. The total funded amount of this renewal and change is \$68,629.94. This renewal and change complies with all applicable laws and policies. The new contract value is \$118,629.94; and

NOW THEREFORE BE IT RESOLVED BY THE Council of the City of Memphis, that there be and is hereby approved Change No. 1 to Contract No. 11954, Basic Long Distance with AT&T Corporation to renew and increase the current contract value in the funded amount of \$68,629.94 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding a purchase order to Travis Pattern & Foundry, Inc., for replacement fittings, in the amount of \$141,974.65.

2. Additional Information

The scope of this request is to purchase fittings for transformer and circuit breaker replacements. These fittings will be used for the replacement of bus work, seven (7) transformers and two (2) circuit breakers. The fittings will be used to replace aging equipment and to upgrade bus capacity at MLGW's Substation No. 5.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards a purchase order to Travis Pattern and Foundry, Inc. in the amount of \$141,974.65 for replacement fittings.

The scope of this request is to purchase fittings for transformer and circuit breaker replacements. These fittings will be used for the replacement of bus work, seven (7) transformers and two (2) circuit breakers. The fittings will be used to replace aging equipment and to upgrade bus capacity at MLGW's Substation No. 5.

Bids were opened on April 14, 2021. Notice to Bidders was advertised. Five (5) bids were solicited and two (2) bids were received with the most responsive and best complying bidder being Travis Pattern and Foundry, Inc. This award complies with all applicable laws and policies.

The 2021 budget amount for Electric Substation is \$28,270,000.00; the amount spent to date is \$15,414,220.79; leaving a balance of \$12,855,779.21 available to be spent in 2021; of which \$141,974.65 will be spent on this purchase order in 2021; leaving a balance of \$12,713,804.56 after award; and

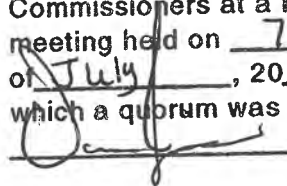
NOW THEREFORE BE IT RESOLVED BY the Board of Light, Gas and Water Commissioners:

THAT, subject to the consent and approval of the Council of the City of Memphis, award of purchase order to Travis Pattern and Foundry, Inc. is approved for furnishing:

Thirty-four (34) items of replacement fittings to be furnished as needed for use during MLGW's transformer and circuit breaker replacements at Poplar Avenue Substation No. 5.

The total award amounts to \$141,974.65; f.o.b. Memphis, Tennessee, our dock, transportation prepaid; said prices being firm; terms net 30 days; delivery 3-5 weeks after receipt.

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 7th day of July, 2021, at which a quorum was present.

 Secretary-Treasurer

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12280, South Service Center Re-paving to Lehman-Roberts Company in the funded amount of \$774,389.50.

2. Additional Information

The project scope is to furnish supervision, labor, equipment, and materials to remove and replace the existing pavement for designated drives, storage, and parking areas at MLGW's South Service Center located at 2981 South Center Road, Memphis, TN 38109.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12280, South Service Center Repaving to Lehman Roberts Company in the funded amount of \$774,389.50.

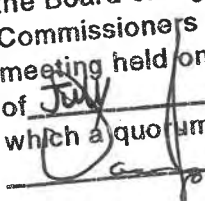
The project scope is to furnish supervision, labor, equipment, and materials to remove and replace the existing pavement for designated drives, storage, and parking areas at MLGW's South Service Center located at 2981 South Center Road, Memphis, TN 38109.

The Notice to Bidders was advertised using MLGW's Online Bid Notification System and the Memphis Daily News on March 5, 2021. MLGW solicited thirteen (13) bids; and received four (4) bids on March 30, 2021. The best bid received was from Lehman-Roberts Company in the amount of \$774,389.50. The term of this contract is for one (1) year from the date of the Notice to Proceed. 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. 12280, South Service Center Repaving to Lehman Roberts Company in the funded amount of \$774,389.50, 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 7th day of July, 2021, at which a quorum was present.

Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021, awarded Contract No. 12280, South Service Center Repaving to Lehman Roberts Company in the funded amount of \$774,389.50, and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, equipment, and materials to remove and replace the existing pavement for designated drives, storage, and parking areas at MLGW's South Service Center located at 2981 South Center Road, Memphis, TN 38109.

WHEREAS, the Notice to Bidders was advertised using MLGW's Online Bid Notification System and the Memphis Daily News on March 5, 2021. MLGW solicited thirteen (13) bids; and received four (4) bids on March 30, 2021. The best bid was received from Lehman-Roberts Company in the amount of \$774,389.50. The term of this contract is for one (1) year from the date of the Notice to Proceed. 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. 12280, South Service Center Repaving to Lehman Roberts Company in the funded amount of \$774,389.50 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding Contract No. 12281, Hickory Hill Service Center Re-paving to A and B Construction Company, Inc. in the funded amount of \$522,448.12.

2. Additional Information

The project scope is to furnish supervision, labor, transportation, equipment, and materials to remove and dispose of the existing pavement and replace the pavement for designated portions of the main drives, storage, and parking area at MLGW's Hickory Hill Service Center located at 6012 Winchester Road, Memphis, TN 38115.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards Contract No. 12281, Hickory Hill Service Center Re-Paving to A & B Construction Company, Incorporated in the funded amount of \$522,448.12.

The project scope is to furnish supervision, labor, transportation, equipment, and materials to remove and dispose of the existing pavement and replace the pavement for designated portions of the main drives, storage, and parking area at MLGW's Hickory Hill Service Center located at 6012 Winchester Road, Memphis, TN 38115.

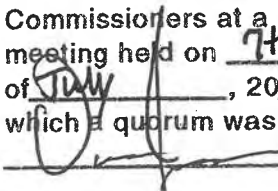
The Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on March 5, 2021. MLGW solicited twelve (12) bids; and received five (5) bids on March 30, 2021. The best bid received was from A & B Construction Company, Incorporated in the amount of \$522,448.12. The term of this contract is for one (1) year from the date of the Notice to Proceed. 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. 12281, Hickory Hill Service Center Re-Paving to A & B Construction Company, Incorporated in the funded amount of \$522,448.12, 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 7th day of JULY, 2021, at which a quorum was present.


Secretary-Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021, awarded Contract No. 12281, Hickory Hill Service Center Re-Paving to A & B Construction Company, Incorporated in the funded amount of \$522,448.12, and is now recommending to the Council of the City of Memphis that it approves said award as approved; and

WHEREAS, the project scope is to furnish supervision, labor, transportation, equipment, and materials to remove and dispose of the existing pavement and replace the pavement for designated portions of the main drives, storage, and parking area at MLGW's Hickory Hill Service Center located at 6012 Winchester Road, Memphis, TN 38115.

WHEREAS, the Notice to Bidders was advertised using MLGW's On-Line Bid Notification System and the Memphis Daily News on March 5, 2021. MLGW solicited twelve (12) bids; and received five (5) bids on March 30, 2021. The best bid received was from A & B Construction Company, Incorporated in the amount of \$522,448.12. The term of this contract is for one (1) year from the date of the Notice to Proceed. 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. 12281, Hickory Hill Service Center Re-Paving to A & B Construction Company, Incorporated in the funded amount of \$522,448.12 as approved.

Memphis City Council Summary Sheet for MLGW Items

1. Description of the Item

Resolution awarding a twenty-four month purchase order to M & H Valve Company, for fire hydrants, in the amount of \$1,133,406.40.

2. Additional Information

This request will cover the purchase of six (6) inch fire hydrants which will be placed into storeroom inventory and issued to crews as they are needed for planned jobs and to cover replacement of hydrants.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
July 7, 2021

The Manager of Procurement and Contracts recommends to the Board of Light, Gas and Water Commissioners that it awards a twenty-four (24) month purchase order to M & H Valve Company in the amount of \$1,133,406.40 for fire hydrants.

This request will cover the purchase of six (6) inch fire hydrants which will be placed into storeroom inventory and issued to crews as they are needed for planned jobs and to cover replacement of hydrants.

Bids were opened on April 14, 2021. Notice to Bidders was advertised. Six (6) bids were solicited and six (6) bids were received with the lowest and best complying bidder being the firm of M & H Valve Company. This award complies with all applicable laws and policies.

The 2021 budgeted amount for Planned Water Maintenance is \$3,000,000.00; the amount spent to date is \$840,306.80; leaving a balance available of \$2,159,693.20 to be spent in 2021; of which \$283,351.62 will be spent on this purchase order in 2021; leaving a balance of \$1,876,341.58 after award; the remaining balance of \$850,054.78 to be spent from subsequent budget years as approved; and

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, award of twenty-four (24) month purchase order to M & H Valve Company is approved for furnishing:

110 - Hydrant 6" MJ inlet 3' bury 3-way fire; hydrant, fire, 6", 5-1/4" valve opening, 3-way nozzles, two 2-1/2" hose and one 4" steamer/pumper connection. 3' bury depth, to be furnished with all nozzle caps and painted aluminum. To be made in accordance with Division Specification No. 56-23X6S dated October 12, 2018;

550 - Hydrant 6" MJ inlet 4' bury 3-way fire; hydrant, fire, 6", 5-1/4" valve opening, 3-way nozzles, two 2-1/2" hose and one 4" steamer/pumper connection. 4' bury depth, to be furnished with all nozzle caps and painted aluminum. Hydrants shall be made in accordance with Division specification No. 56-23X6S dated October 12, 2018;

145 - Hydrant 6" MJ inlet 5' bury 3-way fire; hydrant, fire, 6", 5-1/4" valve opening, 3-way nozzles, two 2-1/2" hose and one 4" steamer/pumper connection. 5' bury depth, to be furnished with all nozzle caps and painted aluminum. Hydrant shall be made in accordance with Division specification No. 56-23X6S dated October 12, 2018;

The total award for twenty-four (24) months is \$1,133,406.40; f.o.b. Memphis, Tennessee, transportation prepaid; our dock; said prices being firm for the full term of the contract; delivery as needed; terms 2%-15/Net 30 days.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular - special meeting held on 17th day of July, 2021, at which a quorum was present.


Secretary - Treasurer

RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners in their meeting of July 7, 2021 approved a twenty-four (24) month purchase order for the purchase of fire hydrants and is now recommending to the Council of the City of Memphis that it approves said purchase as approved in the 2021 fiscal year budget and subsequent budget year contingent upon approval; and

WHEREAS, this request will cover the purchase of six (6) inch fire hydrants which will be placed into storeroom inventory and issued to crews as they are needed for planned jobs and to cover replacement of hydrants; and

WHEREAS, bids were opened on April 14, 2021. Notice to Bidders was advertised. Six (6) bids were solicited and six (6) bids were received with the lowest and best complying bidder being the firm of M & H Valve Company. 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 the purchase of fire hydrants from M & H Valve Company in the amount of \$283,351.62 chargeable to the MLGW 2021 fiscal year budget and the balance of \$850,054.78 chargeable to subsequent budget year as approved.

June 28, 2021

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

Dear Chairman Carlisle:

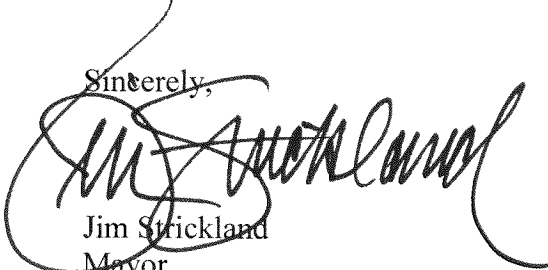
Subject to Council approval, I hereby recommend that:

Mary Baker

be reappointed to the Memphis and Shelby Board of Adjustment with a term expiring
December 31, 2023.

I have attached biographical information.

Sincerely,



Jim Strickland
Mayor

JSS/sss

Cc: Council Members

June 28, 2021

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

Dear Chairman Carlisle:

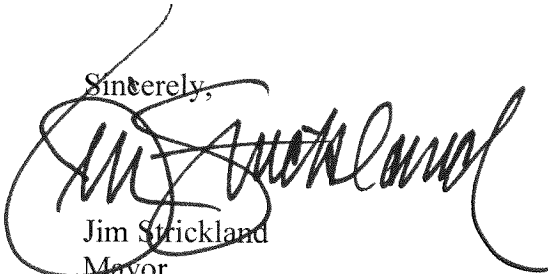
Subject to Council approval, I hereby recommend that:

Mary Baker

be reappointed to the Memphis and Shelby Board of Adjustment with a term expiring
December 31, 2023.

I have attached biographical information.

Sincerely,



Jim Strickland
Mayor

JSS/sss

Cc: Council Members

MEMPHIS & SHELBY COUNTY BOARD OF ADJUSTMENT

8 Member Board

(4) City & (4) County

Oath of Office Required

3 Year Terms

Purpose:

The Memphis & Shelby County Board of Adjustment hears appeals from the administration of zoning laws adopted pursuant to the enabling legislation allowing the control of land uses.

Members:

Doss, Joy (City)	F/B	12-31-17
Jackson, John (City)	M/B	12-31-17
Baker, Mary (City)	F/W	12-31-20
Rainey, Timothy (City)	M/W	12-31-17

Attendance Records for Current Members
Memphis & Shelby Co Board of Adjustment
From January 2019 to date Total No. of Meetings - 27

Member	Present	Total Meetings
Mary Baker (partial term)	19	19
Joy Doss	22	27
John Jackson III	24	27
Timothy Rainey	26	27

Updated 062521

City of Memphis



JIM STRICKLAND
MAYOR

TENNESSEE

June 28, 2021

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

Dear Chairman Carlisle:

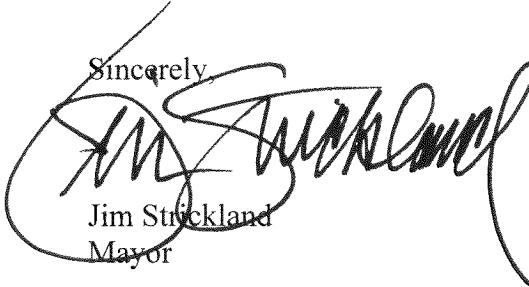
Subject to Council approval, I hereby recommend that:

Timothy Rainey

be reappointed to the Memphis and Shelby Board of Adjustment with a term expiring
December 31, 2023.

I have attached biographical information.

Sincerely,



Jim Strickland
Mayor

JSS/sss

Cc: Council Members

MEMPHIS & SHELBY COUNTY BOARD OF ADJUSTMENT
8 Member Board
(4) City & (4) County
Oath of Office Required
3 Year Terms

Purpose:

The Memphis & Shelby County Board of Adjustment hears appeals from the administration of zoning laws adopted pursuant to the enabling legislation allowing the control of land uses.

Members:

Doss, Joy (City)	F/B	12-31-17
Jackson, John (City)	M/B	12-31-17
Baker, Mary (City)	F/W	12-31-20
Rainey, Timothy (City)	M/W	12-31-17

Attendance Records for Current Members
Memphis & Shelby Co Board of Adjustment
From January 2019 to date Total No. of Meetings - 27

Member	Present	Total Meetings
Mary Baker (partial term)	19	19
Joy Doss	22	27
John Jackson III	24	27
Timothy Rainey	26	27

Updated 062521

ADOPTING ORDINANCE

ORDINANCE NO. 5769

An Ordinance Adopting and Enacting a New Code of Ordinances of the City of Memphis, Tennessee; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending such Code; and Providing When such Code and this Ordinance Shall Become Effective

WHEREAS, the Council of the City of Memphis, as the City's legislative body, has the full power and authority under the Charter of the City to codify, revise and collect in the form of a code of ordinances of a general nature, and in doing so has the full power, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances to conform such ordinances to the legislative intent of the Council before inclusion in said code;

WHEREAS, the last official code of ordinances was adopted by the City Council on September 1, 1985 pursuant to Ordinance No. 3490 (the "1985 Code");

WHEREAS, the City has contracted with different publishing companies to republish and supplement the 1985 Code, but such republications and supplements have not been reviewed and adopted by the Council as an official code from time to time as suggested by the City's Charter;

WHEREAS, the absence of an official code of ordinances and the use of unofficial republications of the former code with amendments has created confusing and lack of certainty as to the form, content and existence of new and amending ordinances adopted since September 1, 1985;

WHEREAS, due to clerical errors and omissions there have been many instances in which new and amending ordinances adopted since September 1, 1985 have been omitted or misstated in the unofficial republications

of the City's Ordinances;

WHEREAS, the use of numbering systems in the unofficial republications of the former code that are different from that used in the 1985 Code has made placement of new and amending ordinances more difficult and more susceptible to the opinion of the publisher of the republications rather than the intent of the Council.

WHEREAS, the Council has delegated to the City Attorney and the Council's Attorney the responsibility of making a thorough review of new and amending ordinances adopted by the Council since September 1, 1985 for the purpose of producing for adoption by the City Council a new Official Code of Ordinances that accurately reflects the state of law of the City as of the date(s) of adoption by the City Council.

WHEREAS, due to the volume of ordinances to be considered and codified and the need to provide clear guidance to the City and its citizens, the City Attorney and the Council's Attorney have presented this adopting ordinance consisting of the codification of 4 of the 49 Chapters of the 1985 Code and will periodically provide for adoption by the Council supplementary codification ordinances to supplement the codification herein approved.

Be It Ordained by the Council of the City of Memphis That

Section 1. A Code of Ordinances, consisting of Chapters 1 through 49, each inclusive, and the errata thereto, is hereby adopted and enacted as the "2021 Code of Ordinances, City of Memphis, Tennessee" (the "2021 Code").

Section 2. The Chapters of the 2021 Code will be approved in a series of Codification Adoption Ordinances. As and when chapters of the 2021 Code are approved by

ordinance, such approved chapters shall supersede and replace all then existing general and permanent ordinances of the City to the extent included in such codified chapters or to the extent such ordinances are inconsistent with the provisions of the chapters so codified.

Section 3. The Council does hereby further ordain that the following chapters of the 2021 Code as presented to and considered by the Council are hereby adopted and codified, namely:

Chapter 1-General Provisions

Chapter 2-Administration

Chapter 3-Personnel

Chapter 4-Pension and Retirement System

Section 4. All provisions of the Chapters of the 2021 Code adopted and codified by this ordinance shall be in full force and effect from and after this ordinance becomes effective, and all conflicting codes, provisions, chapters, sections, paragraphs and sentences of ordinances of a general and permanent nature in existence or enacted on final passage on or before the effective date of this ordinance, and not included in the 2021 Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this Ordinance.

Section 5. Any and all additions and amendments to the

2021 Code, when passed by ordinance in a form to specifically indicate the intention of the Council to make such additions and amendments a part of the 2021 Code, shall be deemed to be incorporated in the 2021 Code, so that reference to the 2021 Code shall be understood and intended to include such additions and amendments.

Section 6. Three (3) copies of the 2021 Code shall be kept on file in the office of the comptroller preserved in loose-leaf form, or in such other form as the comptroller may consider most expedient. The comptroller is also authorized to contract for the republication of the 2021 Code and supplements as approved by the Council in electronic format through a nationally recognized legal code publication company.

It shall be the express duty of the comptroller or someone authorized by him to insert in such copies and in their designated places all amendments or ordinances which the council has specifically approved, from time to time, to be to made a part of the 2021 Code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the Council. Such copies shall be available for all persons desiring to examine the same.

Section 7. The provisions the 2021 Code as approved by the Council or any copy thereof which purports to be published and maintained, in written or electronic

form, by authority of the City of Memphis shall be conclusively held to be evidence of the law of the City of Memphis from and after the times of their passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. Any prior uncodified republications of ordinances of the City with respect to any subject or provisions contained in the 2021 Code shall not be read and accepted in evidence from and after the adoption of any chapter of the 2021 Code.

Section 8. The provisions the 2021 Code as approved by the Council, or any copy thereof which purports to be published by authority of the City of Memphis, may be read and accepted in evidence in any court in this State without further proof of its passage.

Section 9. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. Severability. The provisions of this Ordinance are hereby declared to be severable. If any of the sections, amendments, provisions, sentences, clauses, phrases, or parts hereof are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 11. Effective Date. The provisions of 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 Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSOR:
Council Chairman

PATRICE ROBINSON
CHAIRPERSON

Ordinance No. 5790

ORDINANCE TO AMEND THE CITY OF MEMPHIS CODE OF ORDINANCES CHAPTER 15 "GARBAGE, TRASH, REFUSE AND SOLID WASTE" ARTICLE I, DIVISION 4 "DISPOSAL AND REMOVAL OF PERSONAL PROPERTY" REGARDING LANDLORDS OR PROPERTY OWNERS

WHEREAS, it is the desire of the Memphis City Council to take action to reduce the amount of illegal dumping in the City of Memphis in order to help improve blight that is present in City neighborhoods on public property, sidewalks, vacant lots, and abandoned properties.

WHEREAS, the improper placement of an evicted person's personal property on sidewalks, streets, utility easements and public rights of way following an eviction, also known as an eviction set-out, contributes to blight and the propagation of illegal dumping.

WHEREAS. It is necessary to amend certain sections of the Memphis City Code that were enacted by Ordinance No. 5705 on September 25, 2018.

NOW, THEREFORE BE IT ORDAINED by the Memphis City Council that

Section 1. Chapter 15, Article 1, Division 4 "**DISPOSAL AND REMOVAL OF PERSONAL PROPERTY**" of the Official Memphis Code of Ordinances ("City Code"), also referenced in the unofficial republication of City Ordinances by Municipal Code Corporation ("MuniCode") as Title 9, Chapter 9- 56, Article I, Division 4 titled "**DISPOSAL AND REMOVAL OF PERSONAL PROPERTY**" is hereby amended as follows:

DIVISION 4 DISPOSAL AND REMOVAL OF PERSONAL PROPERTY

Sections 15-30, 15-31, 15-32 and 15-33 of the City Code and corresponding MuniCode Sections 9-56-30, 9-56-31, 9-56-32 and 9-56-33 shall be deleted in their entirety and substituted with new sections 15-30 [9-56-30], 15-31 [9-56-31] and 15-32 [9-56-32], which shall read as follows:

Section 15-30 [9-56-30] Disposition of abandoned property following an eviction.

In accordance with state law a landlord or property owner is prohibited from disturbing a tenant's personal property for forty-eight (48) hours after the entry of a judgment for possession in favor of the landlord or property owner. After such forty-eight (48) hour period, a landlord or property owner or their designated representative(s) may discard the personal property remaining in the premises, only by placing such personal property:

- A. On the premises from which the defendant or tenant is being removed;
- B. In an appropriate area clear of the entrance to the premises; and
- C. At a reasonable distance from any sidewalk, street, utility easement, public right of way or public property appurtenant to the premises.

Under no circumstances may eviction belongings, abandoned or otherwise, be placed on a sidewalk, street, utility easement or public right of way or on any public property appurtenant to the premises or otherwise.

Eviction belongings, abandoned or otherwise shall not be allowed to remain on the premises for which a judgment for possession was entered for more than seventy-two hours after placement on the premises from which the defendant or tenant is being removed. Continued placement of such property after the expiration of the seventy-two (72) hour period shall constitute a public nuisance that is injurious to the health, safety and public welfare and the City may avail itself of all or any legal remedies to abate such nuisances, including but not limited to (i) injunctive relief, (ii) self-help removal of the property; (iii) imposition of a lien and recovery of the City's costs in effecting such self-help removal or (iv) pursuit of all remedies available under this Code of Ordinances or state law.

Sec.15-31 [9-56-31]. - Violations for failure to remove and dispose of personal property discarded onto City right-of-way.

- A. *Violations.* Any landlord, property owner, or person who violates this ordinance, where applicable, shall be issued a misdemeanor citation in accordance with Article II of this chapter and assessed a civil penalty equal to the actual costs incurred by the City for the removal and disposal of such property. Each day that the discarded property remains in a City right-of-way, easement, or on property owned or maintained by the City in violation of this section shall constitute a separate offense punishable up to \$50.00, plus costs, per offense.
- B. *Offense of criminal littering.* Criminal littering is littering in an amount more than five pounds (5 lbs.) in weight or seven and one half (7.5) cubic feet in volume and less than or equal to ten pounds (10 lbs.) in weight or fifteen (15) cubic feet in volume.
- C. Criminal littering is a Class B misdemeanor punishable by no more than (six) 6 months imprisonment, a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute in accordance with TCA § 40-35-111.
- D. In addition to the penalties established in this section, the court, to the extent authorized by applicable law, shall require a person convicted under this section to remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public locations for not more than eighty (80) hours. The court, in its discretion, may also require a person convicted under this section to work in a recycling center or other appropriate location for any stated period of time not to exceed eight (8) hours.

Section 15-32 [9-56-32]. Disposal and removal by City.

- A. In addition to the penalties set forth in section 15-31 [9-56-31], upon failure of any landlord or property owner to discard and remove such property in the manner set forth in section 15-30 [9-56-30], the solid waste division is hereby authorized and directed to have such property removed and disposed, and to provide a statement of costs to the director of finance or his designee. A lien is hereby declared on such property for all costs and expenses incurred by the city provided that, such costs and expenses shall not exceed the amounts set forth in subsection 15-31. A. [9-56-31.A] together with a reasonable attorney's fee if the City is required to institute suit to enforce this ordinance or to exercise its rights to enforce the lien. .
- B. Upon receipt of the statement of costs of disposal and removal by the city, the director of finance or his designee may transmit a true copy thereof to the city attorney, who

shall forthwith institute suit or take such other action as may be necessary to enforce the lien on such property.

C. All uncollected costs for the current year shall be certified to the city treasurer on or before December 31 of each year. It shall be the duty of the city treasurer to collect, as a special tax, the amount so certified at the time city taxes levied against the property for which the disposal and removal was performed for the next succeeding year are collected. The cost of disposal and removal pursuant to this section is hereby declared to be a special tax to be collected as general taxes levied by the city

Section 15-34 [9-56-34] shall be renumbered 15-33 [9-56-33].

Sections 15-34 [9-56-34]—15-40 [9-56-40] shall be reserved.

Section 2. Inconsistency. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed and this ordinance shall supersede and replace any ordinances of the City to the extent that such ordinances are inconsistent with the provisions of this ordinance.

Section 3. Ordinance Status. The Memphis City Code (the “City Code”) is the official code of the City of Memphis. This ordinance amends, modifies or supplements provisions of the City Code. This ordinance shall be maintained by the Comptroller in the official records of the City and until amended, modified, supplemented or codified by a subsequent ordinance, it shall be evidence of the official action of the Memphis City Council. The original of this ordinance deposited with or any copy hereof certified under the hand or facsimile signature of the Comptroller to be a true and correct copy may be read in evidence in all courts of the State without further proof of its validity as an official ordinance of the City.

Section 4. Severability. The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 5. Effective Date. 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 Mayor in writing by the comptroller and become effective as otherwise provided by law.

Sponsor
JB Smiley, Jr.
Patrice J. Robinson
Michalyn Easter-Thomas
Rhonda Logan
Martavius Jones
Dr. Jeff Warren

Chairman
Frank Colvett, Jr.

Received

JUN 16 2021

T137

Chief Administrative Office

RECEIVED

JUN 16 2021



City Council Item Routing Sheet

CITY ATTORNEY'S OFFICE
June 1, 2021

Division Finance Committee Budget
District 1 Super District 9

Hearing Date

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

RECEIVED

JUN 21 2021

MAYOR'S OFFICE
CITY OF MEMPHIS

Item Description :
Resolution to transfer \$75,000 from PK20100-Parks Coverline to GA01031-Play Yard Renovation and appropriate same.

Recommended Council Action:
Approval of Resolution

Status of MWBE planned expenditures funding, if applicable:
N/A

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

Does this item require city expenditure? <u>No</u> <u>Yes</u>	Source and Amount of Funds
\$ Amount <u>\$75,000</u>	\$ Operating Budget
\$ Revenue to be received _____	\$ CIP Project # GA01031 - \$75,000
	\$ Federal/State/Other

Approvals

Director _____ Date _____

Budget Manager Lucretia Wyatt Date 5/13/2021

Chief Financial Officer D. Ford Date 06/07/2021

Deputy Financial Officer _____ Date _____

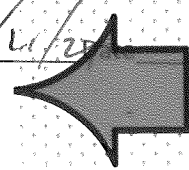
Chief Legal Officer James Ford Date 6/16/21

Chief Administrative Officer

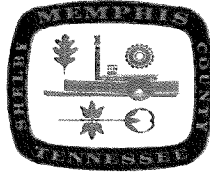
[Signature]

Council Committee Chair

_____ Date _____



SIGN HERE



Memphis City Council Summary Sheet

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

Resolution to transfer \$75,000 from PK20100-Parks Coverline to GA01031-Play Yard Renovation and appropriate same.

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

Finance

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

N/A

4. State whether this will impact specific council districts or super districts.

Memphis Animal Services is located in District 1, Super District 9.

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

N/A

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

This resolution authorizes the transfer of allocated funding in an existing coverline to a new project whereby expenditures will be made in Fiscal Year 2022.

7. If applicable, please list the MWBE goal and any additional information needed

N/A



RESOLUTION

To transfer an allocation of \$75,000 from PK20100-Parks Coverline to GA01031-Play Yard Renovation and appropriate same

WHEREAS, in preparation for Fiscal Year-end 2021, the Administration has reviewed its Capital Improvement Program (CIP) spending and execution; and

WHEREAS various CIP projects retain unspent allocations or unencumbered appropriations that are sufficient and available for other uses; and

WHEREAS Memphis Animal Services has assessed its play area and determined that renovation is needed; and

WHEREAS a total cost of \$75,000 to address safety and drainage issues has been reasonably estimated; and

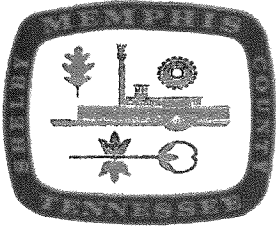
WHEREAS available funding for the play yard renovation has been identified in Project #PK20100-Parks Coverline; and

WHEREAS it is necessary to transfer an allocation of \$75,000 from Project #PK20100-Parks Coverline to Project #GA01031-Play Yard Renovation; and

WHEREAS it is necessary to appropriate \$75,000 for Contract Construction in Project #GA01031-Play Yard Renovation, funded by General Obligation (G.O.) bonds;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2022 CIP Budget be amended by transferring an allocation of **\$75,000** in **Contract Construction** from Project #PK20100-Parks Coverline to Project #GA01031-Play Yard Renovation for **Contract Construction**.

BE IT FURTHER RESOLVED by the Council of the City of Memphis that there be and is hereby appropriated the amount of **\$75,000** in **Contract Construction** in Project #GA01031-Play Yard Renovation, funded by G.O. Bonds.



A resolution to accept funding from Tennessee Department of Environment & Conservation Volkswagen Diesel Settlement Environmental Mitigation Trust (VW Settlement EMT) Medium and Large Truck Grant Program in the amount of Nine Hundred Ninety-Nine Thousand Seven Hundred Seventy-Nine and 29/100 (\$999,779.29) to be used for partial funding for the purchase of medium and large trucks.

WHEREAS, The City of Memphis Division of Fire Services and Public Works has been awarded grant funds in the amount of Nine Hundred Ninety-Nine Thousand Seven Hundred Seventy-Nine and 29/100 (\$999,779.29) from the TN Department of Environment and Conservation for partial funding for the purchase of medium and large trucks with City funding estimated to be Four Hundred Nineteen Thousand Dollars (\$419,000.00); and

WHEREAS, These funds will be used for partial funding on the purchase of one (1) logistics truck, one (1) hydrant truck, three (3) ambulances, two (2) dump trucks, and one (1) tandem axle dump truck; and

WHEREAS, It is necessary to accept the grant funding for the State of Tennessee Volkswagen Diesel Settlement Environmental Mitigation Trust (VW Settlement EMT) Medium and Large Truck Grant Program. Funds will be allocated and appropriated when received in Fund 0400-Capital Improvement Program to offset the Capital Acquisition request for fiscal years 2022 and 2023 if approved as requested; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the State of Tennessee Volkswagen Diesel Settlement Environmental Mitigation Trust (VW Settlement EMT) Medium and Large Truck Grant Project funds in the amount of Nine Hundred Ninety-Nine Thousand Dollars Seven Hundred Seventy-Nine and 29/100 (\$999,779.29) be accepted by the City of Memphis as an offset to the proposed FY22 and FY23 CIP Capital Acquisition budget.



A Resolution approving the sale of 1925 Union Avenue, Memphis, Tennessee 38104; Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022: " The Former Union Avenue Police Precinct."

WHEREAS, The City is the owner of 1925 Union Avenue (Midtown Overlay District) in Memphis, Shelby County, Tennessee Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022 acquired by the City of Memphis as shown in Instrument #S29026 at the Shelby County Register of Deeds.

WHEREAS, the City operated 1925 Union Avenue as the Union Avenue Police Precinct and Fleet Maintenance Facility;

WHEREAS, the Police Precinct and Fleet Maintenance Facility located at 1925 Union Avenue have been replaced by the newer and more modern facility at Raleigh Town Center;

WHEREAS, 1925 Union Avenue has been vacated by both Police and Fleet Services and the City of Memphis no longer has an operational use for the property; and

WHEREAS, the City of Memphis solicited, received and evaluated four (4) proposals for the sale and the highest and best reuse of 1925 Union Avenue in accordance with City Ordinance 2-291(A), as amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that it shall approve the sale of 1925 Union Ave pursuant to the following procedures described in City Ordinance 2-291 (A) as amended by Code of Ordinance No. 5637:

- after a valuation has been placed on any property to be sold, either by the City Real Estate Manager or by appraisal, the City Real Estate Manager shall be authorized to sell any such property subject to the approval of the City Council by resolution, except that for any property with a designated value of \$20,000.00 or more the City Real Estate Manager shall use the procedure specified in subsection of 4 hereof.
- For any property having a designated value of \$20,000.00 or more, the Real Estate Manager shall advertise for bids to purchase said property, which advertisement shall specify the purchase price, terms of the sale and potential uses of said property consistent with uses of surrounding properties. The advertisement shall reserve the right to reject any and all bids submitted by prospective purchasers. All bids submitted by prospective purchasers shall specify the purchase price, terms of the sale and intended uses of said property consistent with prevailing land use

City Council Resolution

patterns and shall also include earnest money in good and sufficient funds, which may be forfeited for failure to follow through with the purchase of the property, if approved by the City Council.



A Resolution approving the sale of 1925 Union Avenue, Memphis, Tennessee 38104; Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022: “ The Former Union Avenue Police Precinct.”

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WHEREAS, the Police Precinct and Fleet Maintenance Facility located at 1925 Union Avenue have been replaced by the newer and more modern facility at Raleigh Town Center;

WHEREAS, 1925 Union Avenue has been vacated by both Police and Fleet Services and the City of Memphis no longer has an operational use for the property; and

WHEREAS, the City of Memphis solicited, received and evaluated four (4) proposals for the sale and the highest and best reuse of 1925 Union Avenue in accordance with City Ordinance 5637 Section 2-291(A), as amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis shall approve the sale of 1925 Union Ave pursuant to the following procedures described in City Ordinance 5637 Section 2-291 (A):

- after a valuation has been placed on any property to be sold, either by the City Real Estate Manager or by appraisal, the City Real Estate Manager shall be authorized to sell any such property subject to the approval of the City Council by resolution, except that for any property with a designated value of \$20,000.00 or more the City Real Estate Manager shall use the procedure specified in subsection of 4 hereof.
- For any property having a designated value of \$20,000.00 or more, the Real Estate Manager shall advertise for bids to purchase said property, which advertisement shall specify the purchase price, terms of the sale and potential uses of said property consistent with uses of surrounding properties. The advertisement shall reserve the right to reject any and all bids submitted by prospective purchasers. All bids submitted by prospective purchasers shall specify the purchase price, terms of the sale and intended uses of said property consistent with prevailing land use

City Council Resolution

patterns and shall also include earnest money in good and sufficient funds, which may be forfeited for failure to follow through with the purchase of the property, if approved by the City Council.

BE IT FURTHER RESOLVED, that subject to the ordinance, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the quit claim deed, and any other documents incidental to the completion of the transfer, and the Mayor of the City of Memphis is hereby authorized to execute said deeds or any other documents necessary to complete the sale and conveyance after the proposals have been heard and considered, and a selection has been made.



**JIM STRICKLAND
MAYOR**

DIVISION OF GENERAL SERVICES

**To: Jim Strickland, Mayor
Doug McGowen, COO**

**From: Antonio M. Adams Director
1925 Union Avenue RFP Evaluation Committee**

Date: May 12, 2021

Re: RFP Process and Recommendation

The RFP and information for the disposition of 1925 Union Avenue were released on January 22, 2021. There was a website landing page and virtual deal room created through Real Capital Marketplace and an email campaign was conducted that reached out to over 7800 potential bidders. More than 2700 viewed the email, 48 viewed the agreement and 38 reviewed the documents. Several media venues were used to publish the opportunity. These media venues consisted of CoStar & LoopNet, City of Memphis website, Colliers International Memphis website, the City of Memphis issued press releases and advertised via local newspapers namely The Daily Memphian, La Prensa and Tri-State Defender.

There was a total of 5 offers received. Three of the offers were from qualified buyers with complete submissions. Two of the offers were submitted via email without any of the requested information and were well below market value. The 3 qualified submission were below the appraised value. Because the offers were below the appraised value, the recommendation was to ask the 3 short listed proposers to submit a best and final offer within ten (10) days of written notice from the City. It was also asked that if the best and final offers were below the appraised value, the bidder should submit a pro-forma to justify their bid price. All three qualified bidders were below the minimum asking price. However, we also asked an independent real estate developer to conduct pro-forma information of the property so that we would have a comparison to the bidder's submissions. The best and finals bids were as follows:

- A. Urban Distinction, LLC – Increased original Purchase price by \$500,000 to \$2,000,000.
- B. Burroughs Proposal – Remained the same at \$2,000,000.
- C. Union Station Development Partnership – Increased original Purchase price by \$300,000 to \$3,500,000.

The Evaluation Committee met to score the best & final RFP submissions. Members of the Evaluation Committee were Dan Springer – Deputy Chief Operating Officer, Antonio Adams - Director General Service Division, John Zeanah – Director Division of Planning & Development, Mairi Albertson – Interim Director Housing & Community Development Division and Carlton Osborne – Supervisor Real Estate. After careful consideration by the Committee of the evaluation criteria, scores were assigned to the bidders in each of the areas. Of the three bidders Union Station Development Partnership had the highest score of 36 (see scoring sheet attached). The Committee was unanimously in favor of awarding the RFP to Union Station Development. **The Evaluation Committee recommends that Union Station Development Partnership be awarded the bid for the purchase of 1925 Union Avenue.**

APPRAISAL REPORT

**PROPERTY OF CITY OF MEMPHIS
MEMPHIS POLICE DEPARTMENT TRAFFIC DIVISION COMPLEX
1925 UNION AVENUE, MEMPHIS, SHELBY COUNTY, TN 38104
0 UNION AVENUE (TAX PARCEL 16-52-29), 0 UNION AVENUE (TAX PARCEL 16-52-28)
AND 192 SOUTH BARKSDALE STREET (TAX PARCEL 16-52-22)
SOUTH SIDE OF UNION AVENUE, APPROXIMATELY 154' EAST OF SOUTH BARKSDALE STREET
MEMPHIS, SHELBY COUNTY, TN 38104**

Prepared For

**Mr. Carlton Osborne, PEM, RWA-EU
Supervisor
City of Memphis Real Estate
125 N. Main Street, Room 568
Memphis, TN 38103**

Prepared by

**Eric A. Trotz, MAI
Trotz Real Estate Services, Inc.
4709 Spottswood Avenue
Memphis, Tennessee 38117**

Dates of Inspection

February 22, 2018 and February 23, 2018

Date of Valuation

February 23, 2018

Date of Report

March 1, 2018

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ADDENDA

Appraiser's Qualifications
Appraiser's License
Photographs of the Subject Property
City/Regional Map Indicating the Location of the Subject Property
Memphis Metro Population Totals by Municipality – 2010 Decennial Census
List of Memphis Area Major Employers
Memphis Employment by Industry Chart
Cost of Living Index Chart for Memphis
Map – Counties of the Memphis MSA
Area Demographic Information
Neighborhood Map Indicating the Location of the Subject Property – Overall
Neighborhood Map Indicating the Location of the Subject Property – Detailed
Aerial View of the Subject Property Area – Overall
Aerial View of the Subject Property Area – Detailed
Legal Description
Tax Plat of the Subject Property – Overall
Tax Plat of the Subject Property – Detailed
Survey of the Subject Property Dated August 7, 1998
Photographs of Typical Street Scenes
Current Zoning Map Indicating the Location of the Subject Property
Midtown District Overlay Map Indicating the Location of the Subject Property
Zoning Information
Flood Map Indicating the Location of the Subject Property
Neighborhood Maps Indicating the Location of the Subject Property and
All Comparable Land Sales

PART ONE

INTRODUCTION

March 1, 2018

Mr. Carlton Osborne, PEM, RWA-EU
Supervisor
City of Memphis Real Estate
125 N. Main Street, Room 568
Memphis, TN 38103

Re: Appraisal Report of Property of City of Memphis; Memphis Police Department Traffic Division Complex; 1925 Union Avenue, Memphis, Shelby County, TN 38104; 0 Union Avenue (Tax Parcel 16-52-29), 0 Union Avenue (Tax Parcel 16-52-28) and 192 South Barksdale Street (Tax Parcel 16-52-22); South Side of Union Avenue, Approximately 154' East of South Barksdale Street Memphis, Shelby County, TN 38104

Dear Mr. Osborne:

At your request, I have made the necessary inspection and analysis to appraise the above property. This transmittal letter is not the appraisal report and briefly outlines my findings. The attached report and addenda set forth the data, research, analysis, and conclusions for this appraisal.

I have experience in appraising properties similar to the subject, and I have the knowledge and experience to complete the assignment competently. Please see the addenda for a set of my qualifications and a copy of my state license.

I have performed no services, as an appraiser or in any other capacity, regarding the subject property within the three-year period immediately preceding acceptance of this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results. Furthermore, this appraisal is not based on a requested minimum or maximum valuation, or a specific valuation.

The purpose of this appraisal is to develop an opinion of the as-is all cash market value of the fee simple estate of the subject property, as of February 23, 2018, which is the date of my property inspection. The intended user of this appraisal is the client. Potential additional users include the client's authorized representatives. The use of this report by others is not intended by the appraiser. The intended use of this appraisal is to assist the client with establishing an asking price for the potential sale of the subject property. It is not intended for any other use, and the appraiser is not responsible for any unauthorized use of this report.

Mr. Carlton Osborne

March 1, 2018

To the best of my knowledge, this appraisal conforms to the appraisal guidelines of the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute.

This is an Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the *Uniform Standards of Professional Appraisal Practice (USPAP)*. It presents summary discussions of the data, reasoning, and analyses that were used in the appraisal process whereas supporting documentation is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use as noted herein.

The scope of work is the type and extent of research and analysis in an assignment. It includes the extent to which the property was identified, the extent to which the property was inspected, the type and extent of data researched, and the type and extent of analysis applied to arrive at a credible opinion of value. The scope of work for this assignment is identified in the Scope of Work section and in some parts of this report.

Based on the valuation analysis in the attached report, and subject to the definitions, assumptions, and limiting conditions expressed in the report, it is my opinion that the market value of the subject property, in terms equivalent to cash, as of February 23, 2018, is:

(Six Million and Fifty Thousand Dollars) \$6,050,000

A careful reading of the attached report and addenda, which includes current photographs of the subject property, is urged in order that the data, analyses and assumptions and limiting conditions upon which this opinion of value is based may be understood.

The opportunity of serving you in the course of this assignment is greatly appreciated. If you have any questions about this appraisal, please do not hesitate to contact me at once.

Very truly yours,

TROTZ REAL ESTATE SERVICES, INC.



Eric A. Trotz, MAI
Designated Member of the Appraisal Institute
Tennessee State Certified General Real Estate Appraiser - CG-1174

CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- I have performed no services, as an appraiser or in any other capacity, regarding the subject property within the three-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results. Furthermore, this appraisal is not based on a requested minimum valuation, a specific valuation, or the approval of a loan.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice (USPAP)*.
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- I have experience in appraising properties similar to the subject and am in compliance with the Competency Rule of *USPAP*. No one provided me with significant real property appraisal assistance regarding this assignment.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, I have completed the requirements of the continuing education program for designated members of the Appraisal Institute.



Eric A. Trotz, MAI
Designated Member of the Appraisal Institute
Tennessee State Certified General Real Estate
Appraiser License No. CG-1174



Date

PART TWO

GENERAL INFORMATION

IDENTIFICATION OF TYPE OF APPRAISAL REPORT

The reporting of an appraisal falls under one of two categories: an Appraisal Report or a Restricted Appraisal Report. The Appraisal Report presents a summary of information and analyses. The Restricted Appraisal Report is used to present the minimal amount of information.

This report falls under the category of being an Appraisal Report. This Appraisal Report is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the *Uniform Standards of Professional Appraisal Practice (USPAP)*. This report presents summary discussions of the data, reasoning, and analyses that were used in the appraisal process whereas supporting documentation is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use as noted herein.

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to develop an opinion of the as-is all cash market value of the fee simple estate of the subject property, as of February 23, 2018, which is the date of my property inspection.

IDENTITY OF THE CLIENT

The client of this appraisal is Mr. Carlton Osborne, PEM, RWA-EU, Supervisor – City of Memphis Real Estate Department.

INTENDED USER OF REPORT

The intended user of this appraisal is the client. Potential additional users include the client's authorized representatives. No other users are intended.

INTENDED USE OF THE APPRAISAL

The intended use of this appraisal is to assist the client with establishing an asking price for the potential sale of the subject property. It is not intended for any other use, and the appraiser is not responsible for any unauthorized use of this report.

MARKET VALUE DEFINITION

Market value is defined as:

“The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.”

This appraisal has been prepared according to the above market value definition as per *The Appraisal of Real Estate*, Fourteenth Edition, Appraisal Institute, Chicago 2013, page 58.

The market value of the subject of this appraisal is in terms equivalent to cash.

EFFECTIVE DATE OF THE APPRAISAL VALUE

The effective date of appraisal value is February 23, 2018.

DATE OF THE REPORT

The date of the report is March 1, 2018.

PROPERTY RIGHTS APPRAISED

The property rights appraised of a property are typically a fee simple estate or leased fee interest. A fee simple estate implies absolute ownership unencumbered by any other interest or estate. This is the most complete form of ownership. However, this type of ownership is not absolute because it is subject to the four powers of government (taxation, eminent domain, public power, and escheat). A leased fee interest is the lessor's or landlord's, interest.

A Fee simple estate is defined as:

“Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.”

A Leased fee interest is defined as:

“The ownership interest held by the lessor, which includes the right to the contract rent specified in the lease plus the reversionary right when the lease expires.”

Per the client's instructions, the property rights appraised are the rights that accrue to a fee simple estate.

EXTRAORDINARY ASSUMPTIONS

An extraordinary assumption is an assumption directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis. Any extraordinary assumption may affect the assignment results. Extraordinary assumptions made: None.

HYPOTHETICAL CONDITIONS

A hypothetical condition is that which is contrary to what exists, but is asserted by the appraiser for the purpose of analysis. Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. Any hypothetical condition may affect the assignment results. Hypothetical conditions present: None.

SCOPE OF WORK

The USPAP Scope of Work rule states that for each appraisal assignment, an appraiser must: 1) identify the problem to be solved; 2) determine and perform the scope of work necessary to develop credible assignment results; and 3) disclose the scope of work in the report. Scope of work includes, but is not limited to, the following:

- The extent to which the property was identified and inspected;
- The type and extent of data researched; and
- The type and extent of analysis applied to arrive at a credible opinion of value.

The appraiser is responsible for determining the appropriate scope of work in the appraisal assignment. To determine the appropriate scope of work for this assignment, consideration was given to such factors as the intended use of the appraisal, the needs of the user and the complexity of the subject property. The scope of work centers around what is typically acceptable by the appraiser's peers as well as what is best suited to perform a credible analysis. The major scope of work items that pertain to this assignment, at a minimum, include:

- Identification of the subject property;
- Determined and performed the scope of work necessary to develop credible assignment results;
- Identification of problem to be solved (client, intended user, intended use, objective – type of value, and effective date);

- Identification of property characteristics that are relevant to the assignment (e.g. interest valued, physical and legal characteristics);
- Identification of assignment conditions (e.g. hypothetical conditions, assumptions, extraordinary assumptions, jurisdictional exceptions, laws and regulations);
- Determined and applied the solution for the problem to be solved;
- Made exterior and interior appraisal inspections of the subject property on February 22, 2018 and February 23, 2018;
- Interviewed the following to gather information on the subject property: Mr. Carlton Osborne, PEM, RWA-EU – Supervisor, City of Memphis Real Estate Department and Mr. Don Jones – Municipal Planner, Memphis and Shelby County Office of Planning and Development – Land Use Controls Section;
- Researched public records and available market data, and collected factual information about the subject and surrounding market;
- Developed an opinion of the highest and best use of the real estate;
- Researched Chandler Reports, LLC, CoStar and Courthouse Retrieval System for comparable sales data;
- When available, interviewed buyers, sellers and/or real estate agents to gather information on the comparable sales used and to confirm data;
- Reviewed deeds of all sales transactions used in the sales comparison approach;
- Drive-by curbside observation made of all comparable sales used in the report as well as others that were considered;
- Analyzed market information and considered the use of the three traditional approaches to value (income, sales comparison, cost);
- Application of the necessary approaches to value;
- Reconciliation of data to reach conclusion of market value; and
- Prepared an Appraisal Report in compliance with *USPAP* and the *Code of Professional Ethics & Standards of Professional Appraisal Practice* of the Appraisal Institute.

EXPOSURE TIME AND MARKETING TIME

Exposure time is always presumed to precede the effective date of the appraisal. Exposure time is a retrospective opinion based on an analysis of past events assuming a competitive and open market.

Marketing time occurs after the effective date of the market value opinion and is defined as:

“An opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after

the effective date of an appraisal. Marketing time differs from exposure time, which is always presumed to precede the effective date of an appraisal.”

The development of an exposure time and marketing time estimate is not intended to be a prediction of a date of sale. Instead, it is an estimate based on statistical information about days on market, information gathered through sales verification, and/or interviews of market participants. Exposure time is different for various types of property and under various market conditions. The marketing time estimate considers anticipated changes in market condition and the cost and availability of funds.

Both exposure time and marketing time assume that an adequate, sufficient, and reasonable effort and a professional marketing plan would have been/will be employed by the property owner.

The estimates of exposure time and marketing time, based on the concluded opinion of market value, are as follows:

Exposure time – 12 to 24 months

Marketing time – 12 to 24 months

PRICE, COST AND VALUE

Price refers to the amount a particular purchaser agrees to pay and a particular seller agrees to accept under the circumstances surrounding their transaction. A price refers to a transaction price and implies an exchange. Price is a fact. The term cost is used by appraisers in relation to production, not exchange. Cost may be either an accomplished fact or an estimate. Cost does not necessarily equal value. Value can have many meanings in real estate appraisal (i.e. market, use, investment, assessed). Since values can change over time, an appraisal reflects value at a particular point in time.

DEFINITIONS

Unless otherwise stated, all definitions in this report are taken from *The Dictionary of Real Estate Appraisal*, Sixth Edition, Appraisal Institute, Chicago, 2015, *The Appraisal of Real Estate*, Fourteenth Edition, Appraisal Institute, Chicago, 2013, or the most recent edition of the *Uniform Standards of Professional Appraisal Practice (USPAP)* published by the Appraisal Foundation.

The following definitions are from the USPAP 2018-2019 edition.

APPRAISAL: (noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

Comment: An appraisal must be numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).

APPRAISAL PRACTICE: valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.

Comment: *Appraisal practice* is provided only by appraisers, while *valuation services* are provided by a variety of professionals and others. The terms *appraisal* and *appraisal review* are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review assignment. The use of other nomenclature for an appraisal or appraisal review assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the *Uniform Standards of Professional Appraisal Practice*.

APPRAISAL REVIEW: (noun) the act or process of developing an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.

Comment: The subject of an appraisal review assignment may be all or part of a report, workfile, or a combination of these.

APPRAISER: one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

Comment: Such expectation occurs when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, or agreement with the client or intended users, represent that they comply.

APPRAISER'S PEERS: other appraisers who have expertise and competency in a similar type of assignment.

ASSIGNMENT: a valuation service that is provided by an appraiser as a consequence of an agreement with a client.

ASSIGNMENT CONDITIONS: Assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work.

Comment: Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

ASSIGNMENT RESULTS: An appraiser's opinions or conclusions developed specific to an assignment.

Comment: Assignment results include an appraiser's:

- opinions or conclusions developed in an appraisal assignment, not limited to value;
- opinions or conclusions developed in an appraisal review assignment, not limited to an opinion about the quality of another appraiser's work; or

- opinions or conclusions developed when performing a valuation service other than an appraisal or appraisal review assignment.

Physical characteristics are not assignment results.

BIAS: a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment.

CLIENT: the party or parties who engage, by employment or contract, an appraiser in a specific assignment.

Comment: The client may be an individual, group, or entity, and may engage and communicate with the appraiser directly or through an agent.

CONFIDENTIAL INFORMATION: information that is either

- identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or
- classified as confidential or private by applicable law or regulation.

COST: the amount required to create, produce, or obtain a property.

Comment: Cost is either a fact or an estimate of fact.

CREDIBLE: worthy of belief.

Comment: Credible assignment results require support, by relevant evidence and logic, to the degree necessary for the intended use.

EXPOSURE TIME: estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

Comment: Exposure time is a retrospective opinion based on an analysis of past events assuming a competitive and open market.

EXTRAORDINARY ASSUMPTION: an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.

FEASIBILITY ANALYSIS: a study of the cost-benefit relationship of an economic endeavor.

HYPOTHETICAL CONDITION: a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

INTANGIBLE PROPERTY (INTANGIBLE ASSETS): nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.

INTENDED USE: the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.

INTENDED USER: the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.

JURISDICTIONAL EXCEPTION: an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.

MARKET VALUE: a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.

Comment: Forming an opinion of market value is the purpose of many real property appraisal assignments, particularly when the client's intended use includes more than one intended user. The conditions included in market value definitions establish market perspectives for development of the opinion. These conditions may vary from definition to definition but generally fall into three categories:

1. the relationship, knowledge, and motivation of the parties (i.e., seller and buyer);
2. the terms of sale (e.g., cash, cash equivalent, or other terms); and
3. the conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale).

MASS APPRAISAL: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

MASS APPRAISAL MODEL: a mathematical expression of how supply and demand factors interact in a market.

PERSONAL PROPERTY: identifiable tangible objects that are considered by the general public as being "personal" - for example, furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.

PRICE: the amount asked, offered, or paid for a property.

Comment: Once stated, *price* is a fact, whether it is publicly disclosed or retained in private. Because of the financial capabilities, motivations, or special interests of a given buyer or seller, the price paid for a property may or may not have any relation to the *value* that might be ascribed to that property by others.

REAL ESTATE: an identified parcel or tract of land, including improvements, if any.

REAL PROPERTY: the interests, benefits, and rights inherent in the ownership of real estate.

Comment: In some jurisdictions, the terms *real estate* and *real property* have the same legal meaning. The separate definitions recognize the traditional distinction between the two concepts in appraisal theory.

REPORT: any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.

SCOPE OF WORK: the type and extent of research and analyses in an appraisal or appraisal review assignment.

SIGNATURE: personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.

VALUATION SERVICES: services pertaining to aspects of property value.

Comment: Valuation services pertain to all aspects of property value and include services performed both by appraisers and by others.

VALUE: the monetary relationship between properties and those who buy, sell, or use those properties.

Comment: *Value* expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value. In appraisal practice, value must always be qualified - for example, market value, liquidation value, or investment value.

WORKFILE: documentation necessary to support an appraiser's analyses, opinions, and conclusions.

ASSUMPTIONS AND LIMITING CONDITIONS OF THE APPRAISAL

THIS APPRAISAL IS FOR NO PURPOSE OTHER THAN PROPERTY VALUATION, AND THE APPRAISER IS NEITHER QUALIFIED NOR ATTEMPTING TO GO BEYOND THAT NARROW SCOPE. THE READER SHOULD BE AWARE THAT THERE ARE ALSO INHERENT LIMITATIONS TO THE ACCURACY OF THE INFORMATION AND ANALYSIS CONTAINED IN THIS APPRAISAL. BEFORE MAKING ANY DECISION BASED ON THE INFORMATION AND ANALYSIS CONTAINED IN THIS REPORT, IT IS CRITICALLY IMPORTANT TO READ THIS ENTIRE SECTION TO UNDERSTAND THESE LIMITATIONS.

THIS APPRAISAL REPORT AND ALL OF THE APPRAISER'S WORK IN CONNECTION WITH THE APPRAISAL ASSIGNMENT ARE SUBJECT TO THE FOLLOWING ASSUMPTIONS AND LIMITING CONDITIONS, AND ALL OTHER TERMS STATED IN THE REPORT. ANY USE OF THIS APPRAISAL BY ANY PARTY, REGARDLESS OF WHETHER SUCH USE IS AUTHORIZED OR INTENDED BY THE APPRAISER, CONSTITUTES ACCEPTANCE OF ALL SUCH ASSUMPTIONS AND LIMITING CONDITIONS AND TERMS, INCLUDING:

Standard

It is assumed that the subject property is available for its highest and best use and will be used for its highest and best use unless otherwise stated in this report.

Any legal description furnished to us for purposes of this appraisal is assumed to be correct.

There are no existing judgments or pending or threatened litigation that could affect the value of the property.

No responsibility is assumed for matters of a legal nature, nor do I render any opinions as to title of subject property, which is assumed to be good, marketable and free and clear of all liens, encumbrances, encroachments, easements and restrictions. In the event an abstract or title search of the property was provided, no detailed examination of either was made.

It is assumed that the property is under responsible ownership and competent management.

All engineering studies, if provided, are assumed to be correct. Maps, site plans, sketches, drawings and other such exhibits included in this report might have been provided by others and are included only to assist the reader in visualizing the property and are not necessarily to scale. I assume no liability for their accuracy.

An appraisal is not a survey. No survey of the property has been made by the appraiser, who is not competent to make one, and no responsibility is assumed in connection with such matters. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted within the report. A surveyor should be consulted if there is any concern about boundaries, setbacks, encroachments or other survey matters.

The appraiser is not a contractor and does not have the expertise to fully evaluate the quality of construction of any improvements, workmanship or materials existing or proposed. Unless otherwise stated, any construction type figures or cost to cure items provided are estimates only and not a guarantee.

This appraisal should not be considered a report on the physical items that are a part of this property. Although the appraisal may contain information about the physical items being appraised (including their adequacy and/or condition), it should be clearly understood that this information is only to be used as a general guide for property valuation and not as a complete or detailed physical report.

Unless otherwise stated, my observation as noted in the scope of work included a casual ground level exterior perimeter observation and a walk-through interior observation of readily accessible areas. The subject property was not checked for building code violations. No structural or mechanical inspections were made. Should the client determine that a full inspection is needed, it is recommended that the client retain experts who are qualified to render such property condition opinions.

An appraisal is not a building or improvement inspection. Because no detailed inspection was made, and because such knowledge goes beyond the scope of the appraisal, any observed condition or other comments given in this appraisal report should not be taken as a guarantee a problem does not exist. Specifically, no guarantee is made as to the adequacy or condition of the foundation, roof, exterior walls,

interior walls, floors, heating system, air conditioning system, plumbing, electrical service, insulation, or any other detailed construction matters. If any interested party were concerned about the existence, condition, or adequacy of any particular item, it is strongly suggested that a construction expert be hired for a detailed inspection.

No responsibility or liability is assumed for matters of structural, architectural, mechanical or engineering nature, or hidden or unapparent adverse conditions of the property not visible through casual ordinary inspection, nor do I assume responsibility for obtaining any study required to discover any conditions of the property.

Wells and septic systems, if any, are assumed to be in good working condition and of sufficient size and capacity for the stated highest and best use.

The age of any improvements or the reported square footage of improvements or land of the subject property mentioned in this report should be considered a rough estimate. I am not sufficiently skilled in the construction trades to be able to reliably estimate the age of improvements by observation. Square footage often varies among plans, assessor's records, field measurements, data services, etc. The square footage reported is deemed to be accurate but is not guaranteed. Should the client or any reader of the report have any concerns about the reported sizes of the subject land or improvements, it is recommended that an architect or engineer be retained to certify the subject's square footage prior to performing any acts related to this appraisal.

Information obtained from the owner of the subject property, public records, government agencies, real estate agents, property managers, attorneys, accountants, office files, buyers and sellers, etc. was utilized in the preparation of this report. The information obtained from these sources was assumed to be accurate and correct. A reasonable effort has been made to verify all such information; however, no responsibility for its accuracy is assumed by the appraiser or this office.

A distribution of the total valuation in this report between land and improvement applies only under the existing program of utilization.

Values and conclusions for various components of the subject parcel as contained within this report are valid only when making a summation; they are not to be used independently for any purpose and must be considered invalid if so used. The allocation of the total value in this report between land and improvements applies only under the reported highest and best use of the property. The separate valuations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.

This report is intended to be read and used as a whole and not in part. Separation of any section or page from the main body of the report is expressly forbidden and will be considered as invalidating the report.

Any projections of future rents, expenses, net operating income, mortgage debt service, capital outlays, cash flow inflation, capitalization rates, and interest rates are intended solely for analytical purposes and are not to be construed as predictions or as representing the thinking of the author of this report or this office. To the extent that they are used in estimating the value of an interest or interests in real property, they represent only my judgment of the assumptions likely to be used by purchasers and sellers active in the marketplace. I can neither guarantee the accuracy of these assumptions and projections nor accept any responsibility for their accuracy.

It is assumed that the property conforms to all applicable zoning, use and subdivision regulations and restrictions unless a non-conformity has been identified, described and considered in the appraisal report. Information and analysis shown in this report concerning these items are based only on a simple investigation. Any significant question should be addressed to local zoning or land use officials and/or an attorney.

It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based. Appropriate government officials and/or an attorney should be consulted if an interested party has any questions or concerns about this item since the appraiser has not made a comprehensive examination of laws and regulations affecting the subject property.

Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interests has been set forth in the report.

An appraisal is inherently subjective and represents only an opinion as to the value of the property appraised as of the effective date of value. The opinion of value may not be valid in other time periods. It is understood by the client and intended user that the estimated value is subject to change with property and/or market changes over time, and value is highly related to current economic circumstances, physical changes to the property, exposure time, promotional effort, terms, motivation and conditions surrounding the offering.

Environmental

I am not a wetland or environmental expert, and I do not have the expertise necessary to determine the existence of wetlands or environmental hazards such as the presence of urea-formaldehyde foam insulation, toxic waste, asbestos or hazardous building materials, or any other environmental hazards on the subject property or surrounding properties. No chemical or scientific tests were performed by the appraiser on the subject property, and it is assumed that the air, water, ground and general environment associated with the property present no physical or health hazard of any kind. It is further assumed that the lot does not contain any type of dumpsite and that there are no underground tanks (or any underground source) leaking toxic or hazardous chemicals into the ground water or the environment, unless so stated in the report. An expert in the field should be consulted if any interested party were to have questions on environmental factors.

My appraisal assumes that there are no hazardous materials on the property. I am not aware of the existence of potentially hazardous materials on the property. I am not qualified to detect such substances. I urge the client to retain an expert in this field if desired.

Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous material, which may or may not be present on the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, area-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no additional materials on the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them or the costs involved to remove them. The appraiser reserves the right to revise the final value estimate if such substances are found on or in the property.

I am not aware of any soil or subsoil conditions that would affect the property. The discovery of soil conditions is beyond my area of expertise.

It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, described, and considered in the appraisal report. A comprehensive examination of environmental laws and regulations affecting the subject property was not performed for this appraisal.

It is assumed that there are no hidden, unapparent or undisclosed conditions of the land, or of the improvements, that would render the property more or less valuable. Furthermore, it is assumed that there is no asbestos in the property.

Americans With Disabilities Act

The Americans with Disabilities Act ("ADA") became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since there was no direct evidence relating to this issue, the appraiser did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.

Limited Data

There is a significant possibility that the appraiser does not possess all information relevant to the subject property.

Before relying on any statement made in this appraisal report, interested parties should contact us for the exact extent of our data collection on any point that they believe to be important to their decision making. This will enable such interested parties to determine whether they think the extent of our data gathering process was adequate for their needs or whether they would like to pursue additional data gathering for a higher level of certainty.

Engineering analyses of the subject property were neither provided for use nor made as a part of the appraisal contract, except as specifically noted in the report. Any representation as to the suitability of the property for uses suggested in this analysis is therefore based only on a rudimentary investigation by the appraiser, and the value conclusions are subject to said limitations.

Appraisal Report Limitations

Appraisal reports are technical documents addressed to the specific technical needs of clients. Casual readers should understand that this report does not contain all the information I have concerning the subject property or the real estate market. While no factors I believe to be significant but unknown to the client have been knowingly withheld, it is always possible that I have information of significance that may be important to others but which, with my limited acquaintance of the property and my limited expertise, does not seem to be important to me.

Appraisal reports made for lenders are technical documents specifically made to lender requirements. Casual readers are cautioned about their limitations and cautioned against possible misinterpretation of the information contained in these reports.

The appraiser should be contacted with any questions before this report is relied on for decision making.

Other

Opinions and estimates expressed herein represent our best judgment but should not be construed as advice or recommendations to act. Any actions taken by you, the client, or others should be based on your own judgment, and the decision process should consider many factors other than just the value opinion and information given in this report.

Disclosure of the contents of this appraisal report is governed by the *Standards of Professional Appraisal Practice* of the Appraisal Institute.

Neither all nor any part of the contents of this report (including any conclusions of value, the identity of the appraiser or the firm with which he is connected, or any reference to the Appraisal Institute or the MAI designation) shall be conveyed to the public through advertising, public relations, news, sales or any other media or public means of communication without the prior consent and approval of the appraiser.

This appraisal was prepared at the request of and for the exclusive use of the client to whom the appraisal is addressed. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the appraiser's written consent, does so at its own risk. Acceptance of this report constitutes an agreement by the addressee to limit the distribution of this report so as to prevent any other person from contending that this report has damaged them. Receipt of this appraisal report by any party not identified as the client or intended user shall not entitle that recipient to rely on the appraisal for any purpose or to use the appraisal report in any manner other than for the intended use by intended users identified in this report. Furthermore, no third party shall have any right to use or rely upon this appraisal for any purpose.

If this appraisal is found to be defective, it should be returned for correction immediately.

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subpoena with reference to the property in question, unless sufficient notice is given to allow adequate preparation and unless arrangements have been previously made for such appearances and preparation necessitated thereby.

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Specific

Specifically excluded from this appraisal are the following items of personal property: automobiles, automobile repair equipment, air compressors, above ground hydraulic lifts, automobile parts, storage racks, office equipment, computers, police equipment, and any other item generally considered non-realty in character.

PART THREE

AREA AND ECONOMIC ANALYSIS

REGIONAL AND CITY ANALYSIS

Shelby County is situated at the southwest corner of the State of Tennessee. The State of Arkansas lies directly across the Mississippi River to the west, and the State of Mississippi borders Shelby County along the south. Shelby County is situated on the east bank of the Mississippi River and is the largest county between St. Louis and New Orleans, serving as the center of commerce for the Mid-South region, a 105-county area in Tennessee, Arkansas and Mississippi. Among other things, Shelby County is known for having very good access to all primary transportation methods and is a major center for distribution. The nine-county Memphis metropolitan area records a total current population of approximately 1,350,000 persons, which ranks the Mid-South area as the 42nd largest in the United States. Most of this population is centered in Shelby County and the City of Memphis. Nearby major cities and approximate distances are as follows: Nashville, TN – 200 miles east; Little Rock, AR – 140 miles west; Jackson, TN – 85 miles east; Jackson, MS – 210 miles south; Birmingham, AL – 240 miles southeast; St. Louis, MO – 300 miles north.

The counties in the Memphis Mid-South area are as follows:

County	Area in Square Miles
Shelby, TN	785
Tipton, TN	473
Fayette, TN	706
Crittenden, AR	637
Benton, MS	409
Desoto, MS	497
Tunica, MS	481
Tate, MS	411
Marshall, MS	710

The City of Memphis is the largest city located within Shelby County. According to the United States Census Bureau, the city has a total area of 324 square miles.

A number of incorporated cities and towns within Shelby County surround Memphis. Each has its own unique character and appeal.

- Arlington is a former rural outpost located in the northeast corner of Shelby County. The town is now a rapidly growing bedroom community. According to the United States Census Bureau, the Town has a total area of 20.4 square miles. Wright Medical Technology, Inc. employs approximately 1,000 persons in Arlington and is the Town's largest employer.
- Bartlett, a family-oriented community located to the northeast of Memphis, boasts that 96% of the town's residents live in single-family dwellings that range from starter homes to luxurious estates. Bartlett is noted for its good schools, numerous churches, shopping centers and library, a performing arts center and a public

recreation center. According to the City of Bartlett, the city limits encompass a total area of 23.42 square miles.

- Collierville has experienced rapid growth recently, but this east Shelby County city still has plenty of small charm. Excellent schools, an historic Old Town Square, antique shops and a performing arts center are just a few of the amenities that attract residents to this southeast Shelby County community. FedEx and Carrier Corporation are among the major employers of Collierville. According to the United States Census Bureau, the town has a total area of 24.6 square miles.
- Germantown, Memphis' premiere executive bedroom community, still bears traces of its origins as a village of white picket-fenced horse farms and narrow, hilly streets. The city features more than 300 acres of parkland, a large recreation center that includes indoor and outdoor swimming facilities, a community theater, chamber orchestra and a state-of-the-art performing arts center. Germantown is also known for its high-end shopping and growing medical community. According to the United States Census Bureau, the city has a total area of 17.6 square miles. Approximately 66% of its residents have a bachelors degree or higher.
- Lakeland features beautiful lakefront homes and new subdivisions. Residents feel this northeast Shelby County town is an ideal place to raise a family. According to the United States Census Bureau, the city has a total area of 18.0 square miles. Lakeland has had significant population growth since 2000, and was recently named #3 as a Tennessee city for young families.
- Millington, located in northwest Shelby County, is experiencing new commercial growth and investment. Nearby Meeman-Shelby State park is a 12,500-acre, natural wonderland skirting the Mississippi River. Millington was granted the title "Flag City Tennessee" by Tennessee State Legislative. According to the United States Census Bureau, the city has a total area of 15.6 square miles.

A summary of demographic information for Shelby County and the immediate surrounding area is as follows:

Area	Current Population	Population 2000-2010	Population 2010-2017	2017 Median Household Income
Shelby County, TN	960,562	3.4%	3.5%	\$50,896
Memphis, TN	668,228	-5.7%	2.5%	\$40,135
Bartlett, TN	60,011	23.4%	4.9%	\$80,492
Collierville, TN	48,715	34.8%	7.7%	\$108,028
Germantown, TN	39,719	4.6%	2.3%	\$115,867
Arlington, TN	13,594	263.6%	18.0%	\$100,669
Lakeland, TN	13,499	70.9%	8.6%	\$91,458
Millington, TN	11,063	-10.3%	2.7%	\$49,197
Tipton County, TN	63,565	19.1%	4.1%	\$55,588

Atoka, TN	9,259	104.0%	10.4%	\$84,596
Fayette County, TN	40,153	33.4%	4.5%	\$58,997
Oakland, TN	7,579	156.0%	14.4%	\$65,219
DeSoto County, MS	178,009	50.4%	10.4%	\$60,892
Southaven, MS	53,981	54.3%	10.2%	\$56,779
Olive Branch, MS	37,606	55.3%	12.3%	\$68,887

As indicated above, there has been modest population growth within Shelby County since 2000 whereas the City of Memphis has only recently rebounded from a 2000-2010 population loss despite the city's 2002 annexation of an 11.5 square mile area of Cordova which contained 35,000 residents at the time. Of the other cities located in Shelby County, all but Millington have recorded steady population growth between 2000-2017. While Shelby County has had moderate growth since 2000, the adjoining counties grew much faster. Tipton County, Fayette County and DeSoto County reflect significant growth having occurred since 2000 with most of the growth developing between 2000-2010. Per a recent United States Census Bureau estimation, the Memphis TN-MS-AR Metropolitan statistical area grew 1.36% between 2010 and 2016. Unfortunately, poverty continues to be prevalent in the inner city and other areas of this community. It is estimated that the City of Memphis has a poverty rate of 26.9% and Shelby County has a poverty rate of 20.8%. This statistic is a negative attribute to the entire community. The City of Memphis and Shelby County are working to improve this situation by offering job training and counseling programs.

To a certain extent, the demographics of other areas of Tennessee may be considered as a basis of comparison to Shelby County. The following chart reflects growth and income for Tennessee's largest cities:

Area	Current Population	Population 2000-2010	Population 2010-2017	2017 Median Household Income
Tennessee	6,766,460	11.5%	6.6%	\$48,049
Nashville-Davidson County Metropolitan	672,371	10.1%	11.4%	\$50,123
Knoxville, TN	188,386	3.4%	5.3%	\$35,970
Chattanooga, TN	182,788	7.3%	7.7%	\$40,329
Clarksville, TN	153,577	29.4%	15.5%	\$51,000
Murfreesboro, TN	130,131	44.0%	19.3%	\$54,366
Franklin, TN	75,152	33.0%	20.5%	\$89,218
Jackson, TN	70,046	7.1%	4.4%	\$41,299
Johnson City, TN	66,020	11.0%	4.8%	\$42,030

When compared to other areas of Tennessee, overall growth in Shelby County has been relatively slow which appears to be primarily due to the slow rate of growth in Memphis.

The Memphis metropolitan area enjoys a strategic geographical location and is served by two interstate systems, I-55 and I-40, an interstate loop system, I-240, and many numerous highways that converge in the Memphis area. Memphis' central location and year-round good weather have made the Memphis International Airport an ideal freight and passenger hub. In addition, six Class I railroads serve Memphis. The Port of Memphis, situated along the Mississippi River, connects the city to many inland waterways via the Mississippi River. Known as "America's Distribution Center," Memphis has very good transportation facilities and is the headquarters of FedEx Corporation. The Memphis International Airport, which serves as the primary hub for FedEx shipping, is the world's second busiest cargo airport in terms of cargo tonnage.

As compared to many regions in the United States, the topography of Memphis is relatively flat and many roadways are built in a straight path. Traffic flows have improved recently in the Memphis area due to the upgrading of some portions of I-40 interstate and I-240 circumferential loop. Public transportation for the overall city appears to be average inside the city limits but virtually non-existent in the outer portions of Shelby County and beyond. The lack of public transportation in some areas of Shelby County and beyond does not affect the economic growth of those neighborhoods.

Memphis is the home of three firms in the Fortune 500 and five firms in the Fortune 1000.

Downtown is the original location of the business center of Memphis. As the metropolitan area expanded to the east, Poplar Avenue became the backbone of commercial development in this area, and today a second major center of businesses and offices exists near the intersection of Poplar Avenue and I-240 Interstate. Along with Downtown/Midtown, the Poplar Avenue/I-240 area forms an urban core of business. Beneficial to the eastern portion of this community is the presence of the FedEx World Headquarters and the FedEx Technology Center, both of which have spurred investment along the TN 385 corridor between Southwind and Collierville.

Major employment centers in the Memphis area would include such locations as the downtown business district, the University of Tennessee Medical Center and surrounding medical district, the Memphis International Airport area and adjacent industrial/distribution areas, the East Memphis/Poplar Avenue corridor office areas, numerous regional shopping mall areas, and along several major thoroughfares such as Poplar Avenue, Winchester Road, Union Avenue, Summer Avenue, Germantown Parkway, Stage Road/Highway 64, Lamar Avenue/Highway 78, and major exits along I-240 Interstate.

The Memphis area is home to many industries. Medicine and bio-medical research is a main industry in Memphis. The University of Tennessee Health Science Center is located near the downtown central business district, is part of the statewide, multi-campus University of Tennessee system, and is the home of six colleges including the Colleges of Medicine, Dentistry, Nursing, Pharmacy, Graduate Health Sciences and Allied Health Sciences. Memphis is also home to the world renowned St. Jude Children's Research Hospital, Le Bonheur Children's Medical

Center, Regional One Health and numerous other hospitals and research institutions. Situated in the middle of Memphis, The University of Memphis is a 100+ year-old university offering undergraduate and graduate degrees in all types of disciplines. Current enrollment is approximately 23,000, and the university staffs over 2,500 employees. Other higher educational institutions in the Memphis area include Rhodes College, a small, private, predominately undergraduate liberal arts college, Christian Brothers University, the oldest collegiate degree-granting institution in the City of Memphis, LeMoyne-Owen College, a four-year, private, historically black college, and numerous community colleges and technical institutes. The Mid-South has become one of the gambling centers of the country with numerous casinos operating in Tunica County, Mississippi (approximately 20 miles south of the Tennessee/Mississippi state line) and a gaming and racing facility (dog track) operating in West Memphis, Arkansas. Memphis is situated in the middle of one of the most fertile productive agricultural regions in the country. Primary crops such as cotton, soybeans, corn and feed grains are grown throughout a 100-mile radius in Tennessee, Arkansas, and Mississippi.

Professional sports are present in Memphis and include the Memphis Grizzlies, a National Basketball Association franchise, and the Memphis Redbirds, an AAA baseball minor league franchise of the St. Louis Cardinals. The Grizzlies play at FedEx Forum, and the Redbirds play at AutoZone Park. Both venues are situated in Downtown Memphis. Memphis is also home to the Liberty Bowl Memorial Stadium, which is also the site of the annual AutoZone Liberty Bowl and is the home field of the University of Memphis football team. Memphis is also the location of an annual professional golf tournament. TPC Southwind boasts a championship golf course which is the PGA TOUR's only private golf club in the State of Tennessee and home to the PGA TOUR's FedEx St. Jude Classic.

The Memphis area is the location of some of the region's most relevant museums and facilities such as the National Civil Rights Museum, the Memphis Zoo and Aquarium, the Brooks Museum of Art, the Pink Palace Museum, the Germantown Performing Arts Center, Children's Museum of Memphis, Stax Museum, Dixon Gallery and Gardens, and Graceland, which was Elvis Presley's estate and is one of the most visited private homes in America with over 600,000 visitors a year.

Memphis is home to Shelby Farms, a 4,500-acre park located along Walnut Grove Road just east of I-240 Interstate. The park is the second largest urban county park in the United States according to the Trust for Public Land. Memphis is also the home of another large urban park, the 342-acre Overton Park, which is located in Midtown at the intersection of Poplar Avenue and East Parkway North. In 2010, the Shelby Farms Greenline opened, providing bike access from Midtown to Shelby Farms. Currently, there are plans to expand the Greenline to connect this project to other areas of this community, including the Harahan Bridge, which is a pedestrian/bike path connecting Downtown Memphis to West Memphis, Arkansas. In 2012, *Bicycling* magazine named Memphis "America's Most Improved Bike City", citing 35 miles of new bike lanes.

The cost of living in Memphis is below average.

CoStar is a leading provider of verified commercial real estate information which assists real estate professionals, appraisers, owners, investors and developers that make strategic decisions to lease, sell, buy and develop commercial properties. The Memphis Area Association of Realtors tracks home sales in the Memphis area each month. The following is a summary of the above reported information.

Retail

The CoStar Retail Report calculates Retail statistics using CoStar Group's base of existing, under construction and under renovation Retail buildings in each given metropolitan area. All Retail building types are included, including Community Center, Freestanding Retail, Neighborhood Center, Power Center, Regional Mall, Specialty Center and Unanchored Strip Center, in both single-tenant and multi-tenant buildings, including owner-occupied buildings. All rental rates reported in the CoStar Retail Report are calculated using Triple Net (NNN) rental rates.

Memphis's retail vacancy rate decreased in the fourth quarter 2017, ending the quarter at 4.8%. Over the past four quarters, the market has seen an overall decrease in the vacancy rate, with the rate going from 5.2% in the first quarter 2017, to 5.3% at the end of the second quarter 2017, 5.3% at the end of the third quarter 2017, to 4.8% in the current quarter. The amount of vacant sublease space in the Memphis market has trended up over the past four quarters.

Average quoted asking rental rates in the Memphis retail market are up over previous quarter levels, and up from their levels four quarters ago. Quoted rents ended the fourth quarter 2017 at \$11.27 per square foot per year. That compares to \$11.15 per square foot in the third quarter 2017, and \$10.72 per square foot at the end of the first quarter 2017. This represents a 1.1% increase in rental rates in the current quarter, and a 4.88% increase from four quarters ago.

During the fourth quarter 2017, 13 buildings totaling 241,445 square feet were completed in the Memphis retail market. Over the past four quarters, a total of 567,442 square feet of retail space has been built in Memphis. In addition to the current quarter, seven buildings with 38,512 square feet were completed in third quarter 2017, four buildings totaling 34,661 square feet completed in second quarter 2017, and 252,824 square feet in nine buildings completed in first quarter 2017. There was 454,785 square feet of retail space under construction at the end of the fourth quarter 2017. Some of the notable 2017 deliveries include: Poplar Commons, a 135,000-square-foot facility that delivered in fourth quarter 2017 and is now fully occupied, and Millington Farms, a 106,495-square-foot building that delivered in first quarter 2017 and is now 95% occupied. Total retail inventory in the Memphis market area amounted to 87,137,511 square feet in 7,883 buildings and 889 centers as of the end of the fourth quarter 2017.

Memphis's retail market is performing well. Absorption has settled in, many empty buildings have been demolished, vacancy compression has been impressive, and rent growth has picked up over the last few years. These improving fundamentals can be partially attributed to the fact that developers are only building about half of the inventory typically brought to market in any other cycle. And much of what developers have been building is the smaller, ground-floor

retail that is starting to pop around Downtown/Midtown. Investment activity has maintained momentum, with many investors placing capital in suburban submarkets such as Cordova and Germantown.

Currently, the retail market in the downtown/midtown area has a 4.0% vacancy rate and an average quoted rental rate of \$14.05 psf which is below the overall area average. There is approximately 77,681 square feet of new retail currently under construction.

Office

The CoStar Office Report, unless specifically stated otherwise, calculates office statistics using CoStar Group's entire database of existing and under construction office buildings in each metropolitan area. Included are office, office condominium, office loft, office medical, all classes and all sizes, and both multi-tenant and single-tenant buildings, including owner-occupied buildings. All rental rates reported in the CoStar Office Report have been converted to a Full Service equivalent rental rate.

The office vacancy rate in the Memphis market area increased to 12.2% at the end of the fourth quarter 2017. The vacancy rate was 11.6% at the end of the third quarter 2017, 11.9% at the end of the second quarter 2017, and 11.8% at the end of the first quarter 2017. Class-A projects reported a vacancy rate of 10.4% at the end of the fourth quarter 2017, Class-B projects reported a vacancy rate of 12.5% at the end of the fourth quarter 2017, and Class-C projects reported a vacancy rate of 13.0% at the end of the fourth quarter 2017. The overall vacancy rate in Memphis's central business district at the end of the fourth quarter 2017 decreased to 16.1%, and the vacancy rate in the suburban markets increased to 11.2% in the fourth quarter 2017.

The average quoted asking rental rate for available office space, all classes, was \$17.45 per square foot per year at the end of the fourth quarter 2017 in the Memphis market area. This represented a 4.5% increase in quoted rental rates from the end of the third quarter 2017, when rents were reported at \$16.70 per square foot. The average quoted rate within the Class-A sector was \$20.64 at the end of the fourth quarter 2017, while Class-B rates stood at \$16.89, and Class-C rates at \$14.34. The average quoted asking rental rate in Memphis's CBD was \$17.15 at the end of the fourth quarter 2017, and \$17.51 in the suburban markets.

The Memphis office market has performed well this cycle, spurring a wave of deliveries in 2017. Rent growth has improved over the past few years, with rents roughly the same as they were at their prerecession peak. Healthy fundamentals have attracted investors to Memphis, and total sales volume for 2017 nearly doubled the historical average and surpassed 2016's record-setting year.

Currently, the midtown office market reflects a vacancy rate of 8.1% which indicates strength in this segment. However, the average quoted rate is \$15.35 psf which is below the area average which indicates weakness.

Industrial

The CoStar Industrial Statistics calculates Industrial statistics using CoStar Group's base of existing, under construction and under renovation Industrial buildings in each given metropolitan area. All Industrial building types are included, including warehouse, flex / research & development, distribution, manufacturing, industrial showroom, and service buildings, in both single-tenant and multi-tenant buildings, including owner-occupied buildings. All rental rates reported in the CoStar Industrial Report are calculated using the quoted modified gross rental rate for each property.

The Industrial vacancy rate in the Memphis market area decreased to 5.9% at the end of the fourth quarter 2017. The vacancy rate was 6.8% at the end of the third quarter 2017, 7.6% at the end of the second quarter 2017, remaining the same from the end of the first quarter 2017. Flex projects reported a vacancy rate of 11.7% at the end of the fourth quarter 2017, and warehouse projects reported a vacancy rate of 5.6% at the end of the fourth quarter 2017.

The average quoted asking rental rate for available Industrial space was \$3.49 per square foot per year at the end of the fourth quarter 2017 in the Memphis market area. This represented a 1.7% decrease in quoted rental rates from the end of the third quarter 2017, when rents were reported at \$3.55 per square foot. The average quoted rate within the Flex sector was \$7.91 per square foot at the end of the fourth quarter 2017, while Warehouse rates stood at \$3.30.

Memphis is a national industrial hub with major tenants including Nike, Williams-Sonoma, and Target. Strong demand pushed vacancies to an all-time low of around 6% at the end of 2017. Strong fundamentals have enticed developers to build here, a number of speculative buildings are in the pipeline which will likely increase vacancies in the forecast. Rent growth has been solid, with rents that are nearly 10% higher than their prerecession peak. Improving fundamentals have attracted investors to the metro, and annual sales volume has surpassed the historical average over the past few years.

Multifamily

Midtown contains a number of large employers, including the University of Tennessee Health Science Center, and in the center of the submarket is the Medical District, with its high-wage jobs. The city is planning on a major transformation that is anchored by a \$1 billion expansion of St. Jude Children's Research Hospital and a multi-million dollar renovation of the Memphis Cook Convention Center. The jobs created by these institutions will help fuel additional apartment demand in an area that historically has some of the best absorption in Memphis. Monthly rents in Midtown are nearly 30% lower than the neighboring Downtown Submarket but are in-line with the market average. Developers have shied away from this submarket, focusing more on the Downtown Submarket that achieves higher asking rents, and the last major delivery was in 2013. Less than \$10 million typically trades here on an annual basis, and almost \$20 million traded in 2017.

The Midtown Submarket is anchored by the University of Tennessee Health Science Center, Rhodes College, Southwest Tennessee Community College Union Campus, as well as multiple hospitals, which provide strong demand for apartments. The population of 36,000 is projected to grow slightly over the next four years, and while that size may fail to impress, this submarket has the second-smallest land area, at eight square miles. This higher-density submarket supports the highest percentage of renters of any submarket in the metro.

The Pinch District's revitalization that is in the making will likely push apartment demand into the Midtown forecast.

Vacancies have remained relatively flat since 2014, maintaining the historical spread that is significantly below the metro average. Unlike many surrounding submarkets, Midtown's 4 & 5 Star stock has been met with high demand, with vacant units in these assets lower than that in 3 Star stock.

Asking rents are in-line with the metro average. Rent growth has been strong over the past few years, but has recently slowed, mirroring a metro wide trend. The 220-unit Bristol on Union, located approximately 1.3 miles west of the subject property, has some of the most expensive units in Midtown at \$1,225/unit or \$1.50/SF. However, as this is a gentrifying area, there are units that go for as low as \$350/month just a few blocks away. In fact, 4 & 5 Star apartment units hold more than a 40% premium over 3 Star assets. Most of the luxury product is near downtown.

Midtown has about 6,000 units spread across one of the smaller geographic submarkets in the metro. The submarket has an above-average share of aged 1 & 2 Star stock, representing 50% of inventory compared with 30% for the metro. The concentration of buildings more than 40 years old is also high, and less than 10% of inventory was built in the last decade.

Historically, the eastern portion of the Midtown Submarket hosted the majority of the development, but most recently, apartment construction is closer to Downtown (west of I-240 and south of I-40). Construction has been limited in Midtown in the past couple of years. Belz Enterprises' The Citizen, a \$35 million mixed-use project on the southwest corner of Union Avenue and McLean Boulevard, is the only major Midtown project that is currently under construction. Per the Shelby County Office of Planning and Development, a number of multifamily developments are expected to break ground soon.

In mid-2017, the Economic Development Growth Engine (EDGE) approved a trial program to grant payment-in-lieu-of-taxes incentives that could spur multifamily development. During this trial, EDGE will allow ten projects to receive tax abatements for 75% of new city and county taxes for a maximum of 15 years. Along with bringing more apartment units to the Midtown Submarket, the city anticipates that this policy will create more jobs and help revitalize the area. The first project was approved in July 2017 that will include a 108-unit building at the site of the old Midtown Nursery. SWH Partners and Development Services Group were approved for a 20-year, \$18.8 million tax break from the Downtown Memphis Commission to construct a

286-unit luxury apartment next to the former Wonder Bread Bakery location off of Monroe Avenue. The new project plans to charge an average rent that is north of \$1.50/SF.

Based on new jobs being created in the area and a pent-up demand for newer apartment units, and considering a relatively low overall current vacancy rate of 7%, the Midtown apartment market can be considered healthy at the moment.

Housing

In January 2018, the Memphis Area Association of Realtors released its year ending December 2017 Market Report. This report compared area wide housing statistics from year 2017 to year 2016. The information presented reflects Memphis-area total sales YTD 2017 increased 5.8% to 19,274 units. The average sale price YTD increased 5.0% to \$173,100. Inventory at the end of 2017, which includes single family, condo/co-op and duplex, was down 11.2% with 4,190 units listed for sale. The average asking list price of available properties was \$256,292. During 2017, bank sales decreased 34.6% to 1,229 units, and YTD 2017 foreclosure actions were down 17.1% to 1,828 units. The following sold price groups were present for Multiple Listing Service (MLS) sales during 2017: \$0 to \$99,999 – 26.2%, \$100,000 to \$199,999 – 35.5%, \$200,000 to \$399,999 – 29.8%, and \$400,000 and above – 8.5%.

Included in the addenda are the following items:

- City/regional map indicating the location of the subject property
- Memphis Metro Population Totals by Municipality – 2010 Decennial Census
- List of Memphis Area Major Employers
- Memphis Employment by Industry chart
- Cost of Living Index Chart for Memphis
- Map – Counties of the Memphis MSA

Conclusion:

The overall Shelby County area has grown since 2000, and many neighboring and competing areas have had a population surge. After having lost population between 2000-2010, the City of Memphis has rebounded with a recent modest population increase. From 2007 to 2012, real estate and business development slowed in the overall Memphis and Shelby County area. However, since 2012 there has been a noticeable increase of activity in most real estate and business sectors. Some of the growth has occurred in and around the downtown central business district; however, most of the growth has occurred in eastern Shelby County, northern Mississippi, and the adjacent Tipton and Fayette Counties. The growth has been widespread among residential, office, retail, and industrial markets. Some of the larger commercial projects include the opening in the former Pyramid arena of a Bass Pro superstore, the redevelopment of Overton Square, the redevelopment of Peabody Place Mall into the ServiceMaster headquarters, and the redevelopment of Crosstown Concourse (multi-use development of a former Sears multi-level warehouse that is one of the largest redevelopment projects in Memphis history). A significant amount of apartment growth has recently occurred in the downtown area whereas

most of the residential growth continues to occur in suburban locations. The unemployment rate in Memphis has recently fallen and is near a historical low.

The medical community in Memphis continues to be a generator to the economy. One major economic catalyst of the entire area is St. Jude Children's Research Hospital. Over the past decade St. Jude has acquired numerous blighted and other properties, demolished the improvements, and created an entirely new and cleaner look for the area. St. Jude has recently complete or is currently constructing several buildings which is part of a \$1.3 billion expansion on their campus. St. Jude recently announced plans to hire additional workers and as a result has intentions to facilitate development of the Pinch area into a significant multi-use residential and commercial area.

As the largest economic driver in the state, Memphis International Airport alone injects over \$20 billion a year into the region's economy, highlighting the metro's strategic advantage as a transportation hub. Thanks to FedEx, Memphis International Airport is the second-busiest cargo airport in the world. The metro also has an extensive rail network served by five Class I railroads and offers access to I-55 and I-40 interstates, among the busiest trucking corridors in the nation. The recently completed I-22 interstate also provides Shelby County with an additional transportation corridor. In addition, the Port of Memphis is the fifth-largest inland port in the U.S. Unsurprisingly; the transportation sector offers robust employment prospects and is one of the metro's primary demand drivers. The industry is far more concentrated in Memphis than in any other major U.S. metro, directly employing more than one out of four workers. Strong consumer demand, low oil prices, and a shift to online shopping have contributed to logistics success.

A diversified economic base will allow the Memphis area to grow in the future and sustain most negative downturns. It is noted that Memphis has had a long history with poverty issues, and, as a result, strong growth will likely be somewhat muted. The cost of living for the Memphis area is generally less than the national average. This will help attract new businesses into this area that are considering relocating their operations from more expensive locations. It is ultimately concluded that the most likely future of the overall Memphis area includes slow real estate growth, flat to slightly rising property values, and modest overall economic growth.

NEIGHBORHOOD/MARKET AREA ANALYSIS

For the purpose of this appraisal, the subject's neighborhood includes its market area as well as a group of complementary land uses. The main criteria that defines the subject property's neighborhood includes location, size of area, major thoroughfares, property types, tenant and owner profiles, protection from detrimental uses and ease of access into the subject's location from other areas. Included in the addenda are the following: area demographic information, two neighborhood maps – overall and detailed, and two aerial views of the subject area – overall and detailed.

Neighborhood characteristics are summarized as follows:

Location: Urban

Zip Code: 38104

Boundaries:

- North – North Parkway
- South – Central Avenue
- East – E. Parkway N. and E. Parkway S.
- West – S. Cleveland Street/N. Watkins Street

Major Roads and Thoroughfares:

- Primary – Union Avenue, N. Parkway, Poplar Avenue, Central Avenue, McLean Boulevard, S. Cleveland Street/N. Watkins Street
- Secondary – Madison Avenue, Belvedere Boulevard, Cooper Street

Specific Property Usage:

- One family residential – 45%
- Two to four family residential – 5%
- Multifamily – 5%
- Church/school/park – 15%
- Office – 5%
- Retail – 15%
- Light industrial – 5%
- Miscellaneous – 5%

Types of Properties in Immediate Vicinity: Numerous older and newer freestanding commercial buildings along Union Avenue (restaurants – mostly fast food, drycleaners, convenience stores, small neighborhood retail buildings); Chick-Fil-A; WMC Action News 5 building; Panera Bread; Childers Law Firm; Orion Federal Credit Union branch; Jack Morris Glass; Midtown Church of Christ; SunTrust Bank and other bank branches; Walgreens Pharmacy; Community Foundation of Greater Memphis; Starbucks; numerous older small to medium-sized garden apartment buildings; Las Savell Jewelry; City of Memphis fire station; Kroger; Idlewild Church; numerous older and some newer residential properties; Idlewild Elementary School; Grace-St. Luke’s Episcopal School; Central Gardens area homes (located to the south of the subject property – mostly well-kept homes in high demand); freestanding small office buildings; McDonald’s Restaurant; Huey’s Restaurant (southwest corner of Madison Avenue and Tucker Street); Overton Square; Hattiloo Theatre; Rite-Aid Pharmacy; The Gilmore Towers; many miscellaneous businesses and uses too numerous to mention.

Demographic Factors:

Subject Zip code population **decline** between 2000-2010 – 9.0%
Subject Zip code population growth between 2010-2017 – 1.6%
Subject Zip code median household income for 2017 – \$39,930
Zip code to north 38112 population growth between 2010-2017 – 1.2%
Zip code to north 38112 median household income for 2017 – \$32,296
Zip Code to north 38107 population **decline** between 2010-2017 – 1.3%
Zip Code to north 38107 median household income for 2017 – \$29,787
Zip code to south 38106 population growth between 2010-2017 – 1.8%
Zip code to south 38106 median household income for 2017 – \$22,987
Zip Code to south 38114 population growth between 2010-2017 – 1.9%
Zip Code to south 38114 median household income for 2017 – \$25,567
Zip code to east 38111 population growth between 2010-2017 – 4.7%
Zip code to east 38111 median household income for 2017 – \$38,795
Zip code to west 38103 population growth between 2010-2017 – 7.3%
Zip code to west 38103 median household income for 2017 – \$63,975
Zip Code to west 38126 population growth between 2010-2017 – 2.9%
Zip Code to west 38126 median household income for 2017 – \$14,591

Included in the addenda is an Executive Summary from ESRI. This information is a summary of the U. S. Census Bureau, Census 2010 Summary File 1, in addition to ESRI forecasting for 2017 to 2022. The information presented shows population changes and income levels within a one-mile, two-mile and four-mile radius of the subject property.

Based on the above, the demographic information indicates that the subject area experienced a population decline between 2000-2010; however, this decline has reversed and the subject area is now showing modest gains. The median household income of the immediate and general area is lower than average; however, the density of the subject area compensates for the lower income levels with regards to buying power and overall economics.

Housing:

Predominant price range – \$100,000 to \$1,000,000+
Value trends – increasing
Supply/demand characteristics – in balance to undersupply

Other:

Land Supply/demand characteristics – undersupply
Commercial properties – in balance
Industrial properties – in balance

Market Activity:

Markets are typically characterized as follows: **Active market** – a market characterized by numerous transactions; **Depressed market** – a market in which a drop in demand is accompanied by a relative oversupply and a decline in prices; **Buyer’s market** – a market in which buyers have the advantage; exists when market prices are relatively low due to an oversupply of property or reduced buyer demand; **Seller’s market** – an active market in which the sellers of available properties can obtain higher prices than those obtainable in the immediately preceding period; a market in which a few available properties are demanded at prevailing prices by many users and potential users; and **Weak market** – a market characterized by low demand and declining price levels; also called a *soft market*.

The following markets exist in the subject’s neighborhood:

Class	Type of Market
Residential	Active/Seller’s
Vacant land	Seller’s
Multifamily	Seller’s
Industrial	Active
Office	Active
Retail	Seller’s

Additional Information:

Life Cycle State	Stable to some growth and revitalization
Development Activity	Stable to revitalization
Predominant Quality and Condition of Properties	Fair to good, mostly average
Predominant Age of Properties	New to 100 years
General Appearance of Properties	Mostly Average
Adequacy of Utilities	Average
Adequacy of Street Improvements	Average
Typical Rental Rates and Property Values	Higher than Average
Convenience to Shopping and Support Services	Good
Convenience to Schools	Good
Convenience to Parks and Recreational Uses	Good
Convenience to Employment Centers	Excellent
Employment Stability	Good
Convenience to Public Transportation	Excellent
Convenience to Major Thoroughfares	Excellent
Comparability to Other Neighborhoods	Good
Appeal to Market	Average to Good

Conclusion:

The following summarizes the subject neighborhood:

Area – The subject neighborhood is a part of Midtown and is located near the center of Memphis. Midtown is located just east of the medical district of Memphis and approximately 2.5 miles east of Downtown. Located in the general vicinity of the subject neighborhood are Rhodes College and Christian Brothers University. There are many schools, both public and private, that are located in the subject area and immediate vicinity. The subject area is also the location of numerous, older and well established churches. The subject neighborhood is a strong area that has held up well through the years with regard to economics, housing, aesthetics, location, relevance, and other similar factors. There are two districts in the subject neighborhood listed on the National Register of Historic Places, Central Gardens which is located south of the subject property and Evergreen Historic District which is located north of the subject property. Central Gardens was built primarily between 1850 and 1930 and originally served as home to the city's wealthy middle-class residents who moved east during the heyday of the cotton boom along with the expanding city limits, which by 1900 shifted to East Parkway in what is now Midtown. The years 1900-1929 were the boom years for Central Gardens, and the period in which it was the newest, most prestigious neighborhood in Memphis, with homes ranging from elegant mansions to Queen Anne cottages and cozy bungalows. Central Gardens was designated as a level 3 arboretum by the State of Tennessee on May 31, 2008. One of just two in Tennessee, it is the only level 3 arboretum in West Tennessee. The designation noted that "many of the trees are well over 80+ years and this arboretum has well over the 90 different species of trees needed to be considered a level 3." Located within the Evergreen Historic District are Overton Park, which is one of the largest urban parks in the nation, and the Memphis Zoo. Overton Park is a 342-acre public park which among other features contains the Memphis Brooks Museum of Art and the Levitt Shell. The Memphis College of Art is also located in and around Overton Park but recently announced plans to close the school effective 2020. The college has current plans to sell its facilities which have an approximate value of \$13 million. Evergreen Historic District is unique to Midtown because there is a mix of old and new homes due to the attempt to split the neighborhood and Overton Park in half to make way for Interstate 40. The neighborhood was able to fight the interstate, and the case eventually went all the way to the U. S. Supreme Court, which ruled in favor of the neighborhood. Many of the homes were demolished, but, in the early 90s, construction started to replenish lost homes on the vacant lots, many of which were above average in value.

Major characteristics – The subject neighborhood is a very dense area that is centrally located within the City of Memphis. This neighborhood has a diverse population that is mostly well educated, and there are many long-term and multigenerational inhabitants of this area. Union Avenue is the main retail artery of this area, and there has been a significant amount of commercial, retail and office growth/revitalization along this thoroughfare during the past 24 months. The subject property is located near Overton Square, which is an entertainment, restaurant and shopping district that was recently revitalized. The Overton Square area is home to several local theatres including the Hattiloo Theatre, which is one of only a few black repertory theatre companies in existence. Most of the subject property neighborhood is built

up, and there is little vacant land located in this area available for current development. The southern portion of the subject's neighborhood has better aesthetics than the northern portion which is due primarily to Central Gardens' pride of ownership.

Convenience to shopping – Good. The subject neighborhood offers many locally-owned and chain store shopping options. Most of the available shopping is provided by smaller stores that have been in business for many years. However, a number of larger chain stores exist in this area as well. Kroger, located approximately 0.20 miles west of the subject, recently completed a major rehabilitation of their store at 1761 Union Avenue. Fresh Market, located approximately 0.40 miles east of the subject, recently opened their new store at the southeast corner of Union Avenue and S. Cooper Street. Walgreen's Pharmacy and CVS also have a major presence in the subject neighborhood. Although there are many stores in the subject area, it is still necessary for residents of the neighborhood to travel outside of the area for a complete shopping experience.

Convenience to support services – Good. The subject neighborhood is the location of many service businesses and industries. For the most part, this neighborhood is self-sufficient.

Convenience to major thoroughfares – Excellent. Many of the city's major thoroughfares and streets pass through the subject neighborhood or are located in close proximity.

Convenience to employment centers – Excellent. There are many businesses and offices located in the immediate and general vicinity which provide employment opportunities, and the medical center is located less than one mile west of the subject's western boundary. The downtown CBD is located approximately 2.8 miles west of the subject property which offers additional employment opportunities.

Neighborhood state – Mostly stable with some growth and revitalization noted. Recently, there have been numerous buildings demolished along Union Avenue, and the remaining land has been developed into new retail/commercial uses. The old French Quarter Inn, located at the northeast corner of Madison Avenue and N. Cooper Street approximately 0.50 miles northeast of the subject property, was recently demolished to make room for Ballet Memphis' new home in Midtown. The Citizen, located at the southwest corner of Union Avenue and S. McLean Blvd. approximately 615' west of the subject property, is a major mixed-use development at the southwest corner of Union Avenue and S. McLean Blvd. which recently had a groundbreaking for its 173 one- and two-bedroom apartment building with 10,000 square feet of retail space. After many years since new apartment growth occurred in Midtown, a number of projects have been announced recently which will add multifamily units to this area. Also included in the neighborhood revitalization efforts are numerous new single family residences and remodeling work.

Value trends – Housing prices have risen lately and there has also been some appreciation in the commercial sector.

Aesthetics – Ranges from fair to good. Some properties are older and suffer from deferred maintenance; however, there are a number of rehabbed and newer properties in this area which tend to brighten the neighborhood and help it maintain at least average aesthetics.

Trend of neighborhood – The Midtown area has more relevance these days as there is a trend towards moving back into Midtown and Downtown. There have been numerous properties along Union Avenue that have demolished over the past several years in order to redevelop into new retail or commercial. Many other properties have been totally renovated and modernized or are soon to be built. Based on current demand, and considering the heavy traffic within this neighborhood, commercial and retail development should continue at least until the near future. The revitalization of Overton Square is beginning to draw new patrons to this area, and the growth within the medical center should benefit the subject neighborhood as well. This neighborhood is conveniently located within the City of Memphis and offers many alternatives for housing, dining, shopping and entertainment. Based on the subject neighborhood density, demographics, daytime population, location, and other relevant factors, it is projected that the subject neighborhood will continue to thrive in the near future and beyond.

PART FOUR

GENERAL PROPERTY DATA

IDENTIFICATION OF THE SUBJECT PROPERTY

Tax Parcel Identification Numbers: Ward 16 – Block 52 – Parcels 29, 28 and 22

Address: 0 Union Avenue (Parcels 29 and 28) and 192 S. Barksdale Street (Parcel 22), Memphis, Shelby County, TN 38104. The subject property is commonly known as 1925 Union Avenue, Memphis, Shelby County, TN 38104.

Property Type: Memphis Police Department Traffic Division complex (offices, automobile repair/maintenance shop, motorcycle repair/maintenance shop, fuel pump, paved parking lot, related site improvements).

Included in the addenda is a legal description of the subject property. It is recommended that the user of this appraisal consult an attorney or engineer, or both, about the accuracy of the legal description provided.

HISTORY OF THE SUBJECT PROPERTY

USPAP requires an appraiser, if such information is available to the appraiser in the normal course of business, to analyze all agreements of sale, options and listings of the subject property current as of the effective date of the appraisal, and analyze all sales of the subject property that occurred within three years prior to the effective date of the appraisal. The client did not provide a title search to the appraiser. Public records were researched regarding the sale or transfer history of the subject property for a minimum of the three-year period prior to the effective date of this appraisal. A title search was not performed by the appraiser; however, based on a limited review of public records, it appears that the subject property is owned by the City of Memphis. The following information was gathered from the property inspection and/or an interview with the client. To the best of the appraiser's knowledge, a summary of pertinent information is as follows:

Current Use – Memphis Police Department Traffic Division complex and automobile/motorcycle repair shops; large parking lot for police cars.

Current Tenants – The subject property is owner-occupied.

Current Listings – The subject property is not listed for sale.

Past Listings – There have been no recent listings of the subject property.

Current Offers – There are no current offers on the subject property.

Pending Contracts – The subject property is not currently under contract.

Sales History – Per Warranty Deed S2-9026, dated February 17, 1981, recorded February 25, 1981, in the Shelby County Register’s Office, the subject property was transferred to the City of Memphis by Carr-Fisher Realty Company. There is no purchase price listed on the deed. The appraiser is not aware of any recent transfers of the subject property.

REAL ESTATE TAX ANALYSIS

Market value for assessment purposes is generally determined through the application of mass appraisal techniques. Mass appraisal is the process of valuing a group of properties as of a given date using common data, standardized methods, and statistical testing. Typically, a mass appraised value considers a property’s use (such as home, business, vacant land, etc.), a property’s characteristics (location, size, age, quality, condition and amenities), a property’s net earning power, and current market conditions.

Real estate tax assessments are administered by the Shelby County Assessor of Property. Tax records reflect mass appraised and assessed values for the subject property for the following years:

Tax Year	Appraised Value	Assessed Value
2017	\$2,217,900	\$0
2016	\$1,904,500	\$0
2015	\$1,904,500	\$0
2014	\$1,904,500	\$0
2013	\$1,904,500	\$0

All of the above appraised value is allocated to the subject property land per the Shelby County Assessor. The subject property is a tax exempt property.

SITE DATA AND ANALYSIS

The characteristics of the site are summarized as follows:

Size	Per an unsigned boundary and topographic survey dated August 7, 1998, provided to the appraiser by the client, the subject property contains 3.657 acres or 159,278 square feet of land area.
Street Frontage	Union Avenue – 332.65’; Linden Avenue – 100.00’; S. Barksdale St.– 83.60’
Street Characteristics	Union Avenue is a six-lane street, Linden Avenue is a two- to three-lane street (one-lane traffic with parking on both sides), and S. Barksdale Street is a two- to three-lane street. All streets are improved with asphalt paving that is in average condition. Additional improvements: Poured concrete curbs – Yes ; Poured concrete gutters – Yes; Sidewalks – Yes; Streetlights – Yes.

Shape	Slightly Irregular
Corner	No
Topography	The subject elevation ranges from approximately 293' to 298'. There is a slight slope down from Union Avenue to Linden Avenue and a slight slope down from S. Barksdale Street to the east property line. Overall, the subject property is mostly level.
Drainage	Appears adequate
Access	Good
Visibility	Good
Availability of Utilities	All public utilities are present and are adequate.
Soil and Subsoil Conditions	The appraiser was not furnished with a soil analysis; however, no known soil or subsoil conditions exist that would affect development of the subject property.
Environmental Hazards Present	All former uses of the subject property and surrounding uses are unknown, and environmental evaluation is beyond the appraiser's scope of expertise. However, it is assumed that the subject is not adversely affected by environmental hazards. A qualified engineer should be consulted on this matter, and an environmental study is strongly recommended due to the appraiser's lack of knowledge in this field.
Nuisances, Hazards, or Detrimental Influences	No known nuisances or hazards. There do not appear to be any detrimental influences surrounding the subject property.
Zoning Designation	The subject property is governed by The Memphis and Shelby County Unified Development Code (UDC). Most of the subject property, or approximately 80% of the total land area, is situated in the Commercial Mixed Use-3 (CMU-3) district zoning category. Typical uses in this district include high intensity commercial uses that are typically located along major traffic arteries. Approximately 15% of the subject land area, or that rectangular 20,875 sq. ft. portion along Linden Avenue, is located in the Commercial Mixed Use-1 Historic Overlay District (CMU-1-H) zoning category. Typical uses in this zoning include a less intensive commercial and office use with residential uses encouraged above the ground floor. The remaining portion of the subject property, or approximately 5% of the total land area located along S. Barksdale Street, is located in the Residential Urban-3 Historic Overlay District (RU-3-H) zoning category. Typical uses in this zoning include a wide variety of housing types including multifamily. The Historic Overlay District is intended to protect and conserve the heritage and character of the community for the preservation of designated area. It is intended to encourage design which is harmonious with the character of the area. All of the subject site is located in the Midtown District Overlay (MD). This district encourages rehabilitation and new construction that is sensitive to the existing urban form and reflects appropriate uses, scale and character of the neighborhood. The uses permitted in the Midtown District Overlay include most uses allowed in the underlying zoning with a few exceptions requiring approval of a special use permit. This overlay district could be considered as placing additional restrictions on the subject site. The

Zoning Designation (cont.)	subject property appears to have been grandfathered in to legally meet the current zoning requirements as a nonconforming use.
Potential for Zoning Changes	Assumed not likely.
Flood Zone Information	As per FEMA Flood Insurance Rate Map No. 47157C0290F, dated 9/28/07, the subject property does not appear to be situated in a flood hazard area. This is a flood hazard area determination only and not a certification.
Easements and Restrictions	A current "as built" survey was not provided to the appraiser. Therefore, there are no easements or restrictions known to exist that would affect the subject property. It is recommended that the client obtain a current survey.
On-Site Improvements Present	Memphis Police Department Union Avenue Traffic Division complex; automobile repair and maintenance shop; motorcycle repair and maintenance building with attached office; paved asphalt driveways and parking areas; poured concrete sidewalks; washed gravel concrete sidewalks; underground fuel tank with above ground concrete island with metal overhang; fuel pump; underground concrete vault which surrounds 12,000-gallon fuel tank; chain link fencing; some metal fencing; covered parking areas; landscaping; miscellaneous items.
Surrounding Property Uses	N- Parking lot for WMC TV; Midtown Church of Christ S- Older one- to two-story one and two-family residences; Idlewild Elementary School E- Jack Morris Auto Glass W- SunTrust Bank branch; older one- and two-family two-story residential properties; older two-story multifamily apartment building NW- Community Foundation of Greater Memphis SW- Older two-story apartment building
Functional Utility of Site	Good

Included in the addenda are the following items:

- Tax plat of the subject property – overall
- Tax plat of the subject property – detailed
- Survey of the subject property dated August 7, 1998
- Photographs of typical street scenes
- Current zoning map indicating the location of the subject property
- Midtown District Overlay map indicating the location of the subject property
- Zoning information
- Flood map indicating the location of the subject property

Conclusion:

Union Avenue is one of the most heavily traveled streets in this community. The Tennessee Department of Transportation (TDOT) reports traffic history which reflects the Average Annual

Daily Traffic (AADT) count along specific locations on Tennessee's road network. Per TDOT, the following AADT counts exist at Station 000155/Route SR023 (Union Avenue just west of E. Parkway South): 2016 – 29,902; 2015 – 30,285; 2014 – 29,090; 2013 – 29,335; 2012 – 27,548; 2011 – 28,775. The following traffic counts are provided as a comparison:

Station	Location	2016	2015	2014	2013	2012
000297	Poplar Avenue between Stonewall Street and N. Cleveland Street	24,995	25,187	24,043	24,526	23,556
000269	North Parkway just west of E. Parkway North	25,141	24,973	23,840	26,079	23,837
000163	Poplar Avenue just east of S. Highland Street	26,972	27,706	26,473	26,452	25,668

The subject site has a slightly irregular shape; however, the majority of the site is a part of the Union Avenue frontage which would allow many different types of development. Having frontage along Linden Avenue and S. Barksdale Street would normally be a positive benefit. However, there is reportedly some neighborhood opposition which exists regarding the use of the Linden Avenue curb cut as an outlet for egress from the subject site. The S. Barksdale Street frontage would not be allowed to have a curb cut serving a commercial development along Union Avenue under most circumstances. However, under a mixed use development the potential exists for possible ingress and egress from that part of the subject. Most of the subject site is located in the CMU-3 district with the remaining portion being located in a less intensive commercial and residential district with a historic overlay. All of the subject is located in the Midtown District Overlay which places additional restrictions on the use of the subject land. Most factors of the site are positive attributes, and the physical characteristics of the site are generally suitable for most of the uses permitted by zoning. Therefore, it is concluded that the subject site is well suited to meet the demands for a tract of land in this neighborhood to serve the typical market participant.

IMPROVEMENT DESCRIPTION AND ANALYSIS

The subject improvements are described as follows:

Current Property Use	Offices for the Memphis Police Department Traffic Division, MPD automobile and motorcycle repair facilities, large parking lot.
Competitive Class and General Property Type	Class B to C
Building Category/Type of Construction	Class C
Quality of Construction	Average
Occupancy Type	Single-tenant
Gross Building Area	The total gross building area according to a 1981 survey is approximately 34,581 square feet. The two buildings which

Gross Building Area (cont.)	comprise the total gross building area are the office and automobile repair building which contains 32,900 square feet, and the freestanding motorcycle repair building which contains 1,681 square feet. Most of the larger building is dedicated to automobile repair for the Memphis Police Department (MPD). Approximately 12,456 square feet, or 36% of the larger building, is dedicated to the office and spare motor bay. The freestanding motorcycle repair building contains approximately one-half shop area and one-half office area.
Number of Buildings	Two
Stories	Mostly one with some second level space above the spare motor bay at the west end of the larger building.
Functional Utility	Average
Year Built	Approximately 1965.
Condition	The current condition of the subject property, based on a limited visual observation, is below average.
Deferred Maintenance Present	Deteriorating asphalt paved parking lot and drives; peeling paint around exterior; older interior cosmetics and stained ceiling tiles; older roof; miscellaneous.
Foundation	Reinforced concrete slab
Basement	None
Structural Frame	Steel
Exterior Walls	Brick veneer; painted concrete block; standing seam metal panel; metal panel and some plaster.
Windows	Mostly plate glass in office areas with some single hung aluminum.
Roof	Standing seam metal panel and built-up tar over the larger building, and built-up tar over the smaller building or motorcycle repair area.
Interior Walls	Offices – painted drywall, painted concrete block and some brick veneer; Automobile and motorcycle repair areas – mostly painted concrete block.
Interior Floors	Offices – mostly vinyl composition tile, terrazzo and some poured concrete; Automobile and motorcycle repair areas – poured concrete slab.
Interior Ceilings	Offices – mostly suspended acoustical tile; Automobile and motorcycle repair areas – exposed to metal roof deck with insulation in the automobile repair area.
Interior Lighting	Offices – mostly recessed fluorescent 4' fixtures; Automobile and motorcycle repair areas – hanging strip fluorescent fixtures.
HVAC	Offices – forced air central heating and cooling; Automobile and motorcycle repair areas – suspended gas fired unit heaters. There is some forced air central heating and air conditioning within the break room, restrooms and manager's office located adjacent to the automobile repair area.

Restrooms	Appears to be adequate for the premises
Sprinkler System	The larger building and part of the automobile repair area (break room, customer service/manager's office and parts department) are sprinklered.
Elevator	None
Landscaping	Fair
Parking	Being a former automobile dealer site, it appears as if the subject property has ample parking available for most anticipated uses.
Other/Special Features	Gasoline pumping station with metal canopy overhang (12,000 gallon tank encased in an underground concrete lined vault, gasoline pump, electronic reader, overhead lights, exhaust fan located within vault, emergency shutoff valve on side of building, permanent ladder type stairs leading to concrete vault); front and side covered driveways; covered parking areas; spare motor bay in larger building; Grinnell Model A water sprinkler system and fire alarm system; numerous private offices, conference rooms, meeting rooms and break room within traffic office; spare motor bay with hydraulic equipment lift next to offices; attic above spare motor bay with room for storage and exercise equipment; rear covered porch behind mechanic/shop area (air compressors, waste oil tank excluded); approximately 19 drive-in bays with overhead garage type doors; rear overhead door with electric motor; heated and cooled customer area/manager's office within mechanic/shop area; parts area with loft located next to manager's office; floor drain in shop area; chain link security fenced areas within shop; 12 above ground hydraulic lifts; wash bay with floor drain; 2 restrooms within shop area; kitchen/break room within shop area; freestanding motorcycle repair building with 3 overhead doors, attached heated and cooled office area, manager's office, customer area and restroom; miscellaneous.
General Appeal	The subject improvements serve their intended purpose; however, this is not a market demanded building or improvement. Therefore, the appeal of this type of building and improvements at this location is marginal.
Comparability to Competing Properties	Fair
Conformity with Surrounding Uses and Overall Neighborhood	Fair
Compliance with Existing Zoning Requirements	The improvements appear to conform to the current zoning requirements due to being grandfathered in.

The following definitions are applicable when analyzing the subject improvements:

Actual Age - "The number of years that have elapsed since construction of an improvement was completed; also called *historical* or *chronological age*."

Effective Age - "The age of property that is based on the amount of observed deterioration and obsolescence it has sustained, which may be different from its chronological age."

Economic Life - "The period over which improvements to real property contribute to property value."

Remaining Economic Life - "The estimated period during which improvements will continue to represent the highest and best use of the property; an estimate of the number of years remaining in the economic life of the structure or structural components as of the date of the appraisal; used in the economic age-life method of estimating depreciation."

- Actual age of subject improvements – 53 years
- Estimated effective age of subject improvements – 45 years
- Estimated economic life of subject improvements – 55 years
- Remaining economic life of subject improvements – 10 years

Conclusion:

The improvements are atypical of most improvements located along Union Avenue and in the immediate vicinity. The subject area is a highly desirable commercial area that is not conducive under highest and best use to a police precinct or large automobile repair business with attached offices and other related improvements. The subject improvements serve their intended purpose for a public use that is not market demanded by most users. There is a significant amount of functional obsolescence due to the special purpose layout of the office building and the older style of the other improvements. The quality of construction is average, and the improvements are in below average condition at the current time due to deferred maintenance. Based on market demand and not public interest demand, the subject improvements do not conform with most surrounding uses of the overall neighborhood. The final conclusion is that the subject improvements are not well suited for most market participants in this neighborhood.

PART FIVE

ANALYSIS OF DATA AND CONCLUSIONS

HIGHEST AND BEST USE ANALYSIS

Highest and best use is defined as:

“The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.”

The highest and best use analysis is viewed from the following two perspectives: 1) The use of a property based on the assumption that the parcel of land is vacant or can be made vacant by demolishing any improvements; and, 2) the use that should be made of a property as it exists (i.e., considering the current improvements).

To estimate the highest and best use, four elements are considered:

1. Legal permissibility – What uses of the site are permitted by zoning codes, land use plans, easements and private deed restrictions?
2. Physical possibility – What uses of the site are physically possible with regard to size, shape, terrain and accessibility?
3. Financial feasibility – Which legal and physically possible uses will produce a positive net return to the owner of the site or positive functional utility for owner occupancy?
4. Maximum productivity – Among the feasible uses, which use will produce the highest net return to the subject property or the highest present worth?

To answer the question of highest and best use, the following is considered. Many uses may be legally permissible, but only some of those will be physically possible. And of those, only some will be financially feasible. The question ultimately becomes, which of those uses (legally permissible, physically possible, financially feasible) will be maximally productive by bringing the highest economic return to the owner of the rights to the land?

For an improved property, a highest and best use analysis typically involves selecting and supporting the highest and best use for the property as if vacant and as improved. For a vacant property, the highest and best use as improved would not be applicable.

Considering the attributes of the subject property, which include the type of property, location, zoning and most probable use, it was determined a full-scale highest and best use analysis was not necessary in order to develop a credible opinion of value.

Highest and Best Use as if Vacant

Highest and best use of land or a site as if vacant is defined as:

“Among all reasonable, alternative uses, the use that yields the highest present land value, after payments are made for labor, capital, and coordination. The use of a property based on the assumption that the parcel of land is vacant or can be made vacant by demolishing any improvements.”

Legally Permissible – Given the current zoning and overlay district in place, and considering potential zoning and prevailing land use patterns in the area, as well as the principle of conformity, it is reasonable to give further consideration to commercial mixed use with a residential component in determining highest and best use of the site, as if vacant. This would include retail and multifamily residential uses for the Union Avenue frontage and Linden Avenue portion of the subject property. The S. Barksdale Street portion of the subject would be more conducive to a freestanding residential improvement developed in accordance with the Historic Overlay District as governed by the Memphis Landmarks Commission.

Physically Possible – After considering the physical attributes of the subject property land, it has been concluded that the subject site would be conducive for development at the current time.

Financially Feasible – Consideration of financial feasibility should include the probable and market demanded use for property, not the speculative use for property. For a use to be financially feasible, the market must appreciate it to the extent that the use has value commensurate with at least its cost. Based on supply and demand factors, and considering the current economic conditions present at the subject location, it appears at the current time as if development on the subject property site would have a value commensurate with at least its cost.

Maximum Productivity – The maximally productive use is the physically possible, legally permissible and financially feasible use that results in the greatest net return or highest present value, assuming risks associated with different uses are approximately equal.

Highest and Best Use as if Vacant – Commercial Mixed Use development with a residential component for the majority of the subject property site. The S. Barksdale Street portion of the subject would have a highest and best use of freestanding residential developed in accordance with the Historic Overlay District. It is noted that the Linden Avenue frontage could be used as an accessory parking lot to support the larger CMU-3 frontage along Union Avenue.

Highest and Best Use as Improved

Highest and best use of property as improved is defined as:

“The use that should be made of a property as it exists. An existing improvement should be renovated or retained as is so long as it continues to contribute to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing the existing building and constructing a new one.”

The appraisal of existing improvements is based on their actual contribution to the site.

Legally Permissible – The use of the current subject improvements appear to have been grandfathered in regarding zoning. Therefore, the current use is assumed to be legally permissible.

Physically Possible – The improvements have occupied this site for approximately 53 years, demonstrating that its use is physically possible. However, the current use and property condition of the improvements would not be considered to be acceptable by most market participants. Therefore, the improvements only add value to the overall site if used for owner occupancy or if used by a small segment of the market.

Financially Feasible – A financially feasible use considers what is market demanded instead of focusing on speculative uses. The financially feasible uses of the subject would be those that can produce a positive net operating income or positive functional utility for owner occupancy. Additionally, a financially feasible use includes the value produced by the existing improvements exceeding the value of the site as if vacant. The subject meets this test only due to positive functional utility for owner occupancy and is therefore financially feasible.

Maximum Productivity – The maximally productive use is the physically possible, legally permissible and financially feasible use that results in the greatest net return or highest present value, assuming risks associated with different uses are approximately equal. Consideration is given to keep using the improvements the way they exist, make modifications to what exists or demolish the existing improvements to obtain a vacant site.

There are no other probable legal alternative uses for the site that are believed to exist that would have a more profitable impact than the existing subject property improvements. However, the subject property improvements are showing their advanced age and will require much repair and maintenance over the next few years to remain useful to the Memphis Police Department. It is not economically feasible and does not appear likely that MPD will spend the necessary funds to keep this building relevant as MPD is planning to consolidate this precinct along with another into a new facility in the Raleigh area in approximately two years. The current improvements are only an interim use as demand for prime land along Union Avenue has been steadily increasing over the last few years and is expected to continue to do so in the future.

Highest and Best Use as Improved – Interim use – current use; Ultimate highest and best use – demolish improvements and develop into commercial mixed use with a residential component with exception to the S. Barksdale Street frontage which should be developed into a freestanding residential improvement in accordance with the Historic Overlay District.

THE VALUATION PROCESS

In summary, an appraisal is an economic theory used to form a conclusion about value. The valuation process assumes that a property is currently being used, or can be made readily available, to its highest and best use. The valuation process involves the following seven steps:

1. **Definition of the Problem** - Identification of the real estate; identification of property rights to be valued; date of value estimate, use of the appraisal; definition of value; other limiting conditions.
2. **Preliminary Analysis and Data Selection and Collection** - Collection of general data such as social, economic, government, and environmental; collection of specific data on items such as the site and improvements, sales, building costs, depreciation, income and expenses and capitalization rates.
3. **Highest and Best Use Analysis** - Highest and best use of the land as though vacant; highest and best use of the property as improved.
4. **Land Value Estimate** - Valuation of the site from comparable land sales.
5. **Application of the Three Approaches** - Use of the cost approach; use of the sales comparison approach; use of the income capitalization approach.
6. **Reconciliation of Value Indications and Final Value Estimate** - Compare the three approaches and select value based on strengths and weaknesses of each approach.
7. **Report of Defined Value** - Provide report with explanation of supporting data.

The three traditional approaches to a value estimate in appraising real property are as follows:

- Cost approach
- Sales comparison approach
- Income capitalization approach

The cost approach estimates the cost to construct the existing or proposed structure, and then deducts all depreciation present in the property from the cost of the existing or new structure as of the effective date of appraisal. The depreciated value of the site improvements along with the site value are added to this figure, and the result is the indication of value by the cost approach. The cost approach assumes that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility. The cost approach is generally most applicable in valuing relatively new construction and when no functional or external obsolescence is evident and the site value is well supported. This approach is also used when the subject property has unique or specialized improvements for which there is little or no sales/rental data from comparable properties. The cost approach is weakened when determining the value of an older property with significant depreciation present.

The sales comparison approach assumes that an informed purchaser would pay no more for a property than the cost of acquiring another existing property with the same utility. The sales comparison approach is most applicable in an active market where there is good and sufficient data on recent bona fide arms-length transactions to indicate a normal value pattern. The sales comparison approach is often relied upon for owner-user properties. This approach is based on a major premise that holds that the market value of a property is directly related to the prices paid for comparable, competitive properties. In this approach, data on comparable property sales is gathered and analyzed. Since no two properties are usually ever exactly the same, adjustments must be made to compare one property to another. Price adjustments are made to comparable properties for the elements of comparison that affect value. When a sale is inferior to the subject property, the comparable price is adjusted upwards. When the sale is superior to the subject property, the comparable price is adjusted downwards.

The income capitalization approach involves the capitalization (dividing income by a rate of return) of the net income that a property is producing, or is capable of producing, to form a value conclusion. Income producing property is typically purchased for investment purposes and from the investor's point of view earning power is the critical element affecting the property's value. A basic investment belief reasons that the higher the earnings, the higher the value, provided there is no change in risk. The income approach is most applicable when a bona fide rental is currently in place or there is sufficient market data from competitive rentals and expenses to indicate a likely net income.

Consideration was given to the subject improvements having value at the current time. While it is possible that there is some market value for the improvements for some users, any possible value is outweighed by the demolition costs that the majority of market participants would incur as a result of not being able to use the subject improvements for most highest and best use developments. Thus, it has been determined that some users would place a small amount of value on the improvements, most users would not place any value on the improvements, and some users would possibly assign a negative value for the improvements due to demolition costs.

The cost approach was not used due to the following: Older improvements do not lend themselves to the use of the cost approach due to the difficulty of accurately estimating accrued depreciation present. Additionally, most functionally obsolete and older buildings along Union Avenue and other prime streets have been demolished in order to make room for new development. Therefore, the subject improvements do not add any market value from a cost standpoint to the overall site and are fully depreciated from a market perspective.

The sales comparison approach for the improvements was not used due to the following: This is a special purpose property for which there have been no sales of similar properties in a similar location. Additionally, the land value to building value ratio at the subject is significantly higher than most other properties and the sales comparison approach would be weakened in such an analysis.

The sales comparison approach for land was used due to the following: Market participants consider this the most reliable way to estimate value; there were an adequate number of sales to consider to form a meaningful conclusion of value.

The income approach not was used due to the following: Not enough data exists to form a meaningful conclusion of value; there is no rental in place at the subject property at the current time.

Reconciliation is the final step in the valuation process in which an appraiser considers alternative value indications and selects a final value estimate. To properly conduct the reconciliation process, an appraiser reviews the entire appraisal. The strengths and weaknesses of each approach are then determined. Finally, the appraiser is then able to select a final value estimate that has taken into consideration the validity of data presented, the authenticity of data obtained, and the quantity of evidence provided by a particular comparable or value approach. The final value estimate in an appraisal report is normally stated as a single figure.

SITE VALUATION

In order to develop an opinion of the subject property land, consideration is given to the highest and best use of the site.

Land valuation is determined by such basic principles as anticipation, change, supply and demand, substitution, and balance. The valuation of land considers property rights and public controls that affect land use and land value such as limitations on land development, subdivision guidelines, zoning ordinances, and other public restrictions. Also, the physical characteristics of a site, such as size, shape, frontage, topography, and view, affect its use and value.

Some common land valuation techniques, or procedures to value land, include the sales comparison approach, allocation method, extraction method, land residual technique, and ground rent capitalization. Nearly all market participants in the subject's neighborhood buy, sell, and list land based on an analysis of closed sales, listings or pending sales of properties that are similar to the subject property, or the sales comparison approach. Therefore, the sales comparison approach is the most applicable and supportable valuation method for land in this neighborhood and is the approach used in this analysis.

Since no two parcels of real estate are usually exactly alike, adjustments must be made where the market indicates such adjustments are justified. Downward adjustments are made to the comparable sale when the sale property is superior to the subject, and upward adjustments are made to the comparable sale when the sale property is inferior to the subject.

The sales comparison approach has a relationship to several appraisal principles. Property prices are determined by the principle of supply and demand because if demand for a particular type of property is high, then prices tend to increase, and, conversely, if demand is low, prices

tend to decline. The principle of balance states that the forces of supply and demand tend to be in equilibrium, but absolute equilibrium is rarely ever attained. The principle of substitution states that when several similar properties are available, the one with the lowest price will attract the greatest demand. The principle of externalities states that positive and negative external forces have effects on a property's value.

Generally, numerous sales of exact identical properties do not sell within a limited time frame or within a certain short period of time. Therefore, in choosing comparable sales, those comparables having the best combination of the following characteristics were chosen:

1. Properties most similar to the subject with regard to physical characteristics, zoning, property use, and tenant or owner-occupant user profiles;
2. Properties in the same neighborhood as the subject, or similar competing neighborhood, which cater to the same market;
3. Properties that have most recently been sold.

Elements of comparison are the characteristics of properties and transactions that help explain the variances in the prices paid for real property. The basic elements of comparison used by market participants in this neighborhood include property rights conveyed, financing terms, conditions of sale (motivation), date of sale (market conditions), location, physical characteristics, available utilities, zoning, legal encumbrances, economic characteristics, and highest and best use.

The most common units of comparison in site valuation include sales prices per square foot, sales price per acre, sales prices per frontage foot or sales prices per depth of lot footage. In this market, the primary unit of comparison used by most market participants is the sale or listing price per square foot or acre.

The process of sales comparison in this appraisal began with an extensive search for comparable sales of similar properties that occurred in the subject's neighborhood, or similar locations, during the past three to four years. The use of any sale older than four years is deemed unreliable for comparison purposes by most market participants.

Due to the lack of recent comparable sales of properties similar to the subject property and situated in the same area as the subject property, it was necessary to use some comparable sales that are slightly older than normally used and some sales situated in competing areas slightly outside of the subject's immediate marketing area.

The following land sales were selected as being the most reliable indicators of market value for the subject site.

COMPARABLE LAND SALE NO. 1



821 Poplar Avenue
Southwest corner of Poplar Avenue and N. Dunlap Street
Tax Parcel ID: 23-26-8

Proximity: Approximately 1.6 miles northwest

Grantor: Georgia Commercial Stores, Inc.

Grantee: Orion Federal Credit Union

Deed: 15025850

Sale Date: March 20, 2015

Sale Price: \$1,300,000

Site Size: 0.47 acres or 20,473 square feet

Unit Sale Price: \$63.50 per square foot

Comparable Land Sale No. 1 (cont.)

Zoning: CMU-3-Commercial Mixed Use-3

Comment: At time of sale there was a small convenience store situated on this site. Orion Federal Credit Union purchased this property and subsequently developed it into a Medical Center branch. This property is located across the street from LeBonheur Children's Hospital and also across the street from a Checker's fast food restaurant. It is also located next door to a plasma donation center. This property is located just east of the Central Business District. The newly constructed building has approximately 2,725 square feet of gross building area. The buyer was reportedly very motivated to acquire this site for business reasons.

Adjustment: An upward adjustment was necessary due to older date of sale. Downward adjustments were necessary due to improvements value, buyer motivation, smaller site size and corner location.

Adjusted Unit Sale Price: \$34.92 per square foot

COMPARABLE LAND SALE NO. 2



0 Monroe Avenue
Northeast corner of Monroe Avenue and Danny Thomas Boulevard
Tax Parcel ID: 7-1-4C

Proximity:	Approximately 2.8 miles west
Grantor:	PGK Properties, LLC
Grantee:	Orion Federal Credit Union
Deed:	18010260
Sale Date:	January 31, 2018
Sale Price:	\$1,450,000
Site Size:	1.18 acres or 51,400 square feet
Unit Sale Price:	\$28.21 per square foot

Comparable Land Sale No. 2 (cont.)

Zoning: SCBID-SE-South Central Business Improvement District-Sports and Entertainment

Comment: This is the former location of the Wonder Bread Bakery which Orion purchased and is reportedly going to redevelop. This area is located between the Central Business District and the Medical District in an area now known as The Edge. This is an up and coming area that is currently undergoing significant revitalization. Most of the value was in the land; however, the improvements did add some value to the transaction. Orion plans to rehabilitate this property and relocate their headquarters from Bartlett into this building. There is significant frontage along Monroe Avenue; however, this is a long rectangular shaped piece of land which is somewhat unusual due to its elongated shape.

Adjustment: Upward adjustments were necessary due to inferior location and inferior shape. Downward adjustments were necessary due to improvements value, and corner location.

Adjusted Unit Sale Price: \$31.03 per square foot

COMPARABLE LAND SALE NO. 3



0 Briarcrest Avenue
East side of Briarcrest Avenue, 411.08' north of Poplar Avenue
Tax Parcel ID: 80-8-508

Proximity:	Approximately 8.5 miles east
Grantor:	Grandview Memphis, LLC
Grantee:	CD-HRA (Germantown), LLC
Deed:	18014143
Sale Date:	February 12, 2018
Sale Price:	\$4,000,000
Site Size:	3.26 acres or 142,005 square feet
Unit Sale Price:	\$28.17 per square foot

Comparable Land Sale No. 3 (cont.)

Zoning: Planned development allowing CMU-2-Commerical Mixed Use-2 uses with restrictions

Comment: This property is located just north of Poplar Avenue, next to Ortho Memphis and across the street from the Memphis Regions Bank Headquarters. At one time a residential condominium was proposed to be developed on this site. The current proposed use is a 140-unit, six-story memory care facility.

Adjustment: Upward adjustments were necessary due to inferior zoning and inferior location.

Adjusted Unit Sale Price: \$32.40 per square foot

COMPARABLE LAND SALE NO. 4



2240 Union Avenue
North side of Union Avenue, 100' east of S. Cox Street
Tax Parcel ID: 28-22-11C

Proximity: Approximately 0.60 miles east

Grantor: Elaine Rosenberg, Trustee, et al

Grantee: Memphis Restaurant Holdings, LLC

Deed: 16031833

Sale Date: February 26, 2016

Sale Price: \$910,000

Site Size: 1.028 acres or 44,771 square feet

Unit Sale Price: \$20.33 per square foot

Comparable Land Sale No. 4 (cont.)

Zoning: CMU-3-Commercial Mixed Use-3

Comment: At time of sale, the Union Place Apartments were situated on this site. This apartment building consisted of 48 units and 30,356 square feet of gross building area. The improvements were subsequently demolished and the site was redeveloped into a Zaxby's fast food restaurant. This property is located next to a convenience store and across the street from Outback Steakhouse. Even though this property is located along Union Avenue and is near the subject property, this part of Union Avenue is not considered to be the main retail area of this neighborhood.

Adjustment: Upward adjustments were necessary due to older date of sale and inferior location.

Adjusted Unit Sale Price: \$24.33 per square foot

COMPARABLE LAND SALE NO. 5



6646 Poplar Avenue
North side of Poplar Avenue, 541.51' west of Kirby Parkway
Tax Parcel ID: 80-8-227

Proximity:	Approximately 9.2 miles east
Grantor:	Desianna Properties
Grantee:	Kroger Limited Partnership I
Deed:	10722626
Sale Date:	March 1, 2017
Sale Price:	\$3,340,000
Site Size:	1.06 acres or 46,173 square feet
Unit Sale Price:	\$72.34 per square foot

Comparable Land Sale No. 5 (cont.)

Zoning: CMU-2-Commercial Mixed Use-2

Comment: This property is located directly in front of a Kroger grocery store. At time of sale, there was an "All in One" C-store with a Burger King that was located on this property. Additionally, there was a small freestanding building which contained an automatic drive thru car wash. The improvements were subsequently demolished and this site was redeveloped into the Kroger Fuel Center. This property is located between McDonald's restaurant and Poplar Place Apartment Homes, and is also located across the street from the CarreFour at Kirby Woods Shopping Center. The improvements were only 20 years old at time of demolition and added significant value to the overall site. It is believed that a significant premium was paid due to adjoining ownership.

Adjustment: Downward adjustments were necessary due to improvements value and sale to adjoining owner.

Adjusted Unit Sale Price: \$39.78 per square foot

COMPARABLE LAND SALE NO. 6



1294 Union Avenue, Memphis, Shelby County, Tennessee 38104
Northeast corner of Union Avenue and S. Claybrook Street
Tax Parcel ID: 17-12-13

Proximity: Approximately 1.1 miles west

Grantor: William E. Stemmler, Jr. et al

Grantee: Iberiabank

Deed: 14012217

Sale Date: January 30, 2014

Sale Price: \$375,000

Site Size: 0.286 acres or 12,473 square feet

Unit Sale Price: \$30.06 per square foot

Comparable Land Sale No. 6 (cont.)

Zoning: CMU-3-Commercial Mixed Use-3

Comment: This property is located across the street from Methodist University Hospital and was a former surface parking lot prior to development by Iberiabank. After the closing, Iberiabank filed a \$850,000 building permit for a 2,265 square foot bank branch.

Adjustment: An upward adjustment was necessary due to older date of sale. Downward adjustments were necessary due to corner location and smaller size.

Adjusted Unit Sale Price: \$30.05 per square foot

COMPARABLE LAND SALE NO. 7



285 Union Avenue, Memphis, Shelby County, Tennessee 38103
South Side of Union Avenue, 417' west of Danny Thomas Boulevard;
Also 250' east of S. Fourth Street; also frontage along Gayoso Avenue
Tax Parcel ID: 5-3-4, 2C, 13, 14C and 21

Proximity:	Approximately 2.8 miles west
Grantor:	CCL Label, Inc.
Grantee:	C & O Memphis, LLC
Deed:	15126359
Sale Date:	December 18, 2015
Sale Price:	\$3,500,000
Site Size:	3.32 acres or 144,619 square feet
Unit Sale Price:	\$24.20 per square foot

Comparable Land Sale No. 7 (cont.)

Zoning: SCBID-SE – South Central Business Improvement District – Sports and Entertainment

Comment: The listing agent was interviewed to confirm details of this sale. This property is located diagonal to AutoZone Park baseball stadium. The two Ohio-based development firms that purchased this property are planning to build a 166-room Cambria Hotel & Suites on this property which will include a “24/7” convenience store. This property has frontage along two streets which is similar to the subject having additional street frontage. This property is located two blocks north of FedEx Forum, across the street from a newer four story apartment complex (Fielder’s Square Apartments) and next to a smaller motel property (Vista Inn & Suites). This property is located approximately two blocks east of the Central Business District. Per the agent this property was under contract for \$5,000,000 in 2006/2007 when the economy was better but the deal fell through before closing. Prior to the 2015 sale the asking price of this land was \$4,000,000. A former printing company warehouse once stood on this property but it was demolished prior to sale.

Adjustment: Upward adjustments were necessary due to older date of sale and inferior location.

Adjusted Unit Sale Price: \$31.46 per square foot

COMPARABLE LAND SALE NO. 8



245 S. Front Street and 275 S. Front Street
Northwest corner of S. Front Street and Dr. M. L. King, Jr. Avenue and west side of S. Front Street, Approximately 130' south of Dr. M. L. King, Jr. Avenue
Tax Parcel ID: 2-99-8 and 2-98-4A

Proximity: Approximately 3.4 miles west

Grantor: Wm. C. Ellis & Sons Iron Works, Inc./Machine Tools of Memphis, Inc.

Grantee: Front Street Devco, LLC

Deed: 16117584 and 16117585

Sale Date: November 15, 2016

Sale Price: \$3,500,000

Site Size: 1.8357 acres or 79,964 square feet

Unit Sale Price: \$43.77 per square foot

Comparable Land Sale No. 8 (cont.)

Zoning: SM – South Main

Comment: The selling agent was interviewed to confirm details of this sale. This property consists of two related transactions that were sold as one unit. 245 S. Front Street consists of 1.0093 acres and transacted for \$2,200,000 whereas 275 S. Front Street consists of 0.8264 acres and transacted for \$1,300,000. This property was purchased by the adjoining owner who is the developer for the proposed One Beale two to three story tower development overlooking the Mississippi River. This property is located approximately 0.25 miles west of the FedEx Forum and 0.30 miles southwest of the Beale Street Entertainment District. This property is also located in the immediate vicinity of the Orpheum Theater and the rapidly growing South Front Street/South Main Street area. Due to the adjoining ownership of the proposed One Beale land, it is believed that the buyer paid a significant premium above market price.

Adjustment: An upward adjustment was necessary due to older date of sale. Downward adjustments were necessary due to corner location and purchase by adjoining owner.

Adjusted Unit Sale Price: \$32.83 per square foot

COMPARABLE LAND SALE NO. 9



195 Union Avenue
Southeast corner of Union Avenue and Hernando Street
Tax Parcel ID: 2-65-6

Proximity:	Approximately 3.0 miles west
Grantor:	Greyhound Lines, Inc.
Grantee:	Nitinkumar B. Patel
Deed:	14029028
Sale Date:	March 13, 2014
Sale Price:	\$1,675,000
Site Size:	1.372 acres or 59,764 square feet
Unit Sale Price:	\$28.03 per square foot

Comparable Land Sale No. 9 (cont.)

Zoning: SCBID-SE – South Central Business Improvement District – Sports and Entertainment

Comment: The listing agent and representative of the buyer were interviewed to confirm details of this sale. This property is located directly across the street (Union Avenue) from AutoZone Park and across the street (Hernando Street) from the Doubletree Hotel. The Peabody Hotel is located in the immediate vicinity. The Buyer is a Knoxville, TN investor who reportedly will construct a 118-room Hilton Garden Inn at this location. This land was assembled with an additional lot to the south in order to create the hotel lot. This property is the former location of the Memphis terminal of Greyhound Bus. The improvements were demolished prior to sale at the expense of the seller. Per the representative of the buyer, the price paid is slightly lower than market due to past environmental issues associated with this land. This property was on the market for a total of approximately two years and was originally listed for \$1,800,000. In September 2013, the Buyer of this land purchased the parking lot at 235 Union Avenue with plans to develop that land into a Holiday Inn Express hotel. There is a three-level garage which separates the two properties (195 Union Avenue and 235 Union Avenue). On March 14, 2017 this property along with extra land transferred for \$4,000,000 in what was a non arms-length transaction due to the buyer and seller relationship.

Adjustment: Upward adjustments were necessary due to older date of sale, conditions of sale and inferior location. A downward adjustment was necessary due to corner location.

Adjusted Unit Sale Price: \$36.44 per square foot

COMPARABLE LAND SALE NO. 10



2144 Madison Avenue
Northeast corner of Madison Avenue and N. Cooper Street
Tax Parcel ID: 28-4-21C

Proximity: Approximately 0.55 miles northeast

Grantor: NCE Realty & Capital Group, LLC

Grantee: Ballet Memphis Corporation

Deed: 15078399

Sale Date: August 6, 2015

Sale Price: \$4,230,000

Site Size: 1.736 acres or 75,620 square feet

Unit Sale Price: \$55.94 per square foot

Comparable Land Sale No. 10 (cont.)

Zoning: RW-Residential Work

Comment: The buyer was interviewed to confirm the details of this sale. At time of sale there was an older, five-story, vacant former motel situated on this site. The motel consisted of 137 rooms, and even though it had been constructed in 1984 it was in a state of disrepair. The improvements were subsequently demolished and the site was redeveloped into Ballet Memphis's Ballet Studio and Performing Arts Center. The new building is two stories and contains approximately 30,000 square feet. The buyer considered another similar property located in this area but liked the location of this Overton Square property due to its proximity to neighboring theaters and numerous restaurants. The buyer acquired title to the property as-is and spent approximately \$300,000 on demolition costs. The buyer paid the asking price and it appears that a premium was paid due to significant buyer motivation. The zoning of this land is similar to the former O-L zoning district.

Adjustment: Upward adjustments were necessary due to older date of sale and inferior zoning. Downward adjustments were necessary due to corner location and buyer motivation.

Adjusted Unit Sale Price: \$44.74 per square foot

Included in the addenda are neighborhood maps indicating the location of the subject property and all comparable land sales.

All of the above sales are believed to be arms-length. All sales used represent sales of fee simple estate, or its equivalent, and no adjustment was necessary for property rights conveyed. All sales were transacted in cash, or terms equivalent to cash, and no adjustment for financing terms were required. No adjustment for conditions of sale were necessary as there did not appear to be any unusual buyer or seller motivation. There were no market differences between the sale dates of the comparables and the effective date of the appraisal. Therefore, no adjustments were necessary for timing.

The land sales indicate an initial unadjusted unit range in value from \$20.33 to \$72.34 per square foot. The adjusted unit prices of the comparable land sales produced a range of \$24.33 to \$44.74 per square foot. When determining the market unit value of the subject property, the following sales offer the highest overall comparability: Sale 2 – recent date of sale and similar location; Sale 3 – most recent date of sale; Sale 7 – location along Union Avenue and similar size; Sale 8 – recent date of sale and similar location; Sale 10 – similar location and similar size. Further consideration was given to the financial details of the recently signed ground lease between Pinnacle Bank and 1615 Union Development, LLC for the property located at the southwest corner of Union Avenue and Rozelle Street, which is located approximately 0.45 miles west of the subject property. The details of this transaction may be found in the appraiser’s file.

Accordingly, the unit value selected is \$38.00 per square foot.

Conclusion:

The indicated value of the subject’s site is calculated as follows:

159,278 Square Feet of Land Area x \$38.00 Per Square Foot Unit Value:	\$6,052,564
Indicated Value of the Subject Site:	(Rounded) \$6,050,000

FINAL RECONCILIATION AND MARKET VALUE OPINION

Final reconciliation is defined as follows:

“The last phase in the development of a value opinion in which two or more value indications derived from market data are resolved into a final value opinion, which may be either a range of value, in relation to a benchmark, or a single point estimate.

When more than one valuation approach is applied, each approach typically results in a different indication of value. Therefore, if two or more approaches are used, the appraiser must reconcile the different value conclusions. Reconciliation is the analysis of alternative value

indications to determine a final value conclusion. Reconciliation includes a review of the entire valuation process that would consider the validity, consistency, and authenticity of data found. Reconciliation also involves the appraiser weighing the relative significance, applicability, strengths and weaknesses, and defensibility of each value indication.

The current use of the subject property as of the effective date of value is: Memphis Police Department Traffic Division Complex.

The highest and best use of the subject property as of the effective date of value is: Interim Use – current use; Ultimate Highest and Best Use – demolish improvements and develop into commercial mixed use with a residential component.

The value indications for each applicable approach are as follows:

Sales Comparison Approach (Land only):	\$6,050,000
Cost Approach:	N/A
Sales Comparison Approach (Improvements plus Land):	N/A
Income Approach:	N/A

Based on the valuation analysis in the attached report, and subject to the definitions, assumptions, and limiting conditions expressed in the report, it is my opinion that the market value of the subject property, in terms equivalent to cash, as of February 23, 2018, is:

(Six Million and Fifty Thousand Dollars) \$6,050,000

ADDENDA

QUALIFICATIONS OF THE APPRAISER

ERIC A. TROTZ, MAI

BUSINESS

President, Trotz Real Estate Services, Inc., Memphis, Tennessee.

Since 1984, engaged in sales and leasing of residential, commercial and industrial properties. Brokerage area covered includes all of Shelby County, Tennessee. Since 1990, engaged in the appraisal, leasing and sales of residential, commercial, multi-family, and industrial properties. Appraisal projects include existing and proposed development in the Memphis and mid-south area.

EDUCATION

College:

Graduated University of Tennessee, Knoxville, with Bachelor of Business Degree in 1981

Professional Courses Completed:

Principles of Real Estate, Memphis State University; Office Brokerage and Management, Memphis State University; Basic Construction and Design Course, Memphis State University; Course 1A1/8-1, Real Estate Appraisal Principles, American Institute of Real Estate Appraisers; Course 8-2 Residential Valuation, American Institute of Real Estate Appraisers; Course 1A2, Basic Valuation Procedures, Appraisal Institute; Course SPP, Standards of Professional Practice Part A and B, Appraisal Institute; Course SPP-430, Standards of Professional Practice, Part C, Appraisal Institute; Course 1BA, Capitalization Theory & Techniques, Part A, Appraisal Institute; Course 1BB, Capitalization Theory & Techniques, Part B, Appraisal Institute; Course 540, Report Writing and Valuation Analysis, Appraisal Institute; Course 550, Advanced Applications (Case Studies), Appraisal Institute; Course Comprehensive Appraisal Workshop, The Comprehensive Appraisal Workshop/Ted Whitmer

Seminars for Continuing Education Credit:

Accrued Depreciation; Appraisal Regulations of the Federal Banking Agencies; Appraisal Reporting of Complex Residential Properties; Understanding Limited Appraisals and Reporting Options; The High Tech Appraisal Office; Litigation Skills for the Appraiser; Appraisal Office Management, FHA and the Appraisal Process; Fundamentals of Relocation Appraising; Analyzing Commercial Lease Clauses; Evaluating Commercial Construction; Evaluating Residential Construction; Analyzing Operating Expenses; Appraisal Consulting; New Technology for Real Estate Appraisers; Professionals Guide to the URAR; Real Estate Investment and Development - A Valuation Viewpoint; Forecasting Revenue; Eminent Domain and Condemnation; National Association of Realtors Quadrennial Ethics Training; REO Appraisal: Appraisal of Residential Property for Foreclosure and Pre-Foreclosure; The New Residential Market Conditions Form; Real Estate Appraisal Operations; Appraisal Curriculum Overview (2-Day General); The Discounted Cash Flow Model; Mortgage Fraud and the TN Real Estate Appraiser Commission; Using Spreadsheet Programs in Real Estate Appraisals: The Basics; Data Verification Methods; Litigation Appraising for Residential Appraisers; Complex Litigation Appraisal Case Studies; Marketability Studies: Advanced Considerations & Applications; Cool Tools; The Appraiser as an Expert Witness: Preparation & Testimony; Business Practice and Ethics; Compliance, Completeness & Competency; Advanced Land Valuation; National USPAP Update 2018-2019

ERIC A. TROTZ, MAI (CONTINUED)

TYPICAL APPRAISAL CLIENTS

Banks:

First Tennessee National Bank	Cadence Bank
SunTrust Bank	Bank of Bartlett
Tennessee Bank and Trust	INSOUTH Bank
Bank of America	American Savings Bank
BancorpSouth	Regions Bank

Mortgage Bankers:

H & R Block Mortgage Company	Financial Federal Mortgage Co.
Atlantic Mortgage Company	Sebring Capital Corporation
CitiMortgage, Inc.	GE Capital Asset Management
Option One Lending	Huntington Mortgage Company
First Trust Mortgage	

Employee Transfer Companies:

Cartus Corporation	Corporate Relocation International
Schering-Plough Corporation	Crown Relocations
Graebel Relocation Services	Newell Rubbermaid
Weichert Relocation Company	Roadway Express, Inc.
National Medical Resources	Aluminum Corp. of America (Alcoa)
Royal LePage Relocation Services	U.S. Relocation Co.
Burgdorff Realtors	

Municipalities and Governmental Authorities:

County of Shelby, Tennessee	City of Covington, Tennessee
City of Memphis, Tennessee	Covington, TN Municipal Airport
Town of Arlington, Tennessee	City of Germantown, Tennessee
Town of Collierville, Tennessee	Memphis Light, Gas & Water Division (MLG&W)
Veterans Administration (VA)	Tennessee Department of Finance and Administration
Shelby County Schools	Federal Housing Administration (FHA)
Memphis City Schools	Memphis & Shelby County Airport Authority
Memphis Center City Commission	Memphis Area Transit Authority (MATA)
Memphis Housing Authority (MHA)	Tennessee Department of Transportation (TDOT)
Tennessee Valley Authority (TVA)	

Multi-Family:

KEB NY Financial Corporation	Federal Home Loan Mortgage Corp.
Wachovia	

Manufacturing/Industrial:

Delta Foremost Chemical Corp.	Delta-Detroit Diesel Allison
Aluma-Form, Incorporated	Hershey Foods
Sodexo Management Services	Cargill, Inc.

Special Case Studies:

Ray-O-Vac Corporation; Chicago Title Insurance Company; GTE Mobilnet/Contel Cellular, Inc.; Baptist Memorial Health Care System; Perkins Interstate Company; Mid-America Pipeline Company (MAPCO); PriceWaterhouseCoopers

Miscellaneous:

University of Tennessee; Lawyers Title Insurance Corporation; BNSF Railway Corporation; ALSAC/St. Jude Children's Research Hospital; Catholic Diocese of Memphis; Westinghouse Credit Corporation; National Realty Advisors, Inc.; Methodist Health Systems, Inc.; St. Francis Hospital; TransCanada Pipeline Limited/ANR Pipeline; Numerous Attorneys and Individuals

ERIC A. TROTZ, MAI (CONTINUED)

COURT TESTIMONY

Shelby County Circuit Court	Davidson County, TN Chancery Court
Shelby County Probate Court	United States Federal Court
Shelby County Criminal Court	United States Bankruptcy Court
Town of Collierville Municipal Court	

PROFESSIONAL AFFILIATIONS

National Association of Realtors; Tennessee Association of Realtors; Memphis Area Association of Realtors

Appraisal Institute - Designated Member; MAI Certificate Number 12141

OFFICES HELD

President - Memphis Chapter of the Appraisal Institute (2012 and 2006)

Vice President - Memphis Chapter of the Appraisal Institute (2011 and 2005)

Secretary/Treasurer - Memphis Chapter of the Appraisal Institute (2004, 2003 and 2002)

Memphis Chapter of the Appraisal Institute - Education Director; Membership Admission, Development and Retention Chair; Membership Guidance Chair; Financial Committee Chair

Past Board of Director Member - Memphis Chapter of the Appraisal Institute

Past Member of Intax Committee - Memphis Area Association of Realtors

Professional Development Committee - Memphis Area Association of Realtors

OTHER

Nominated and Participated - Leadership Development and Advisory Council LDAC 2005 - Washington, DC - Advisor to National Leadership of Appraisal Institute and lobbied to U. S. Congressional Staff on behalf of Appraisal Institute

Appraisal Institute, Region IX - Nominating Committee

Recipient of William S. King Scholarship Program (Given by the Memphis Chapter of the Appraisal Institute)

STATE LICENSES

Tennessee State Certified General Real Estate Appraiser - CG-1174

Tennessee Real Estate Commission, Real Estate Broker, License No. 00215814

10584808

State of Tennessee

TENNESSEE REAL ESTATE APPRAISER COMMISSION
CERTIFIED GENERAL REAL ESTATE APPRAISER
ERIC A TROTZ

This is to certify that all requirements of the State of Tennessee have been met.

ID NUMBER: 1174
LIC STATUS: ACTIVE
EXPIRATION DATE: August 03, 2019



IN-1313
DEPARTMENT OF
COMMERCE AND INSURANCE



Front view – looking southwest from Union Avenue



Front view – looking south from Union Avenue



Front view – looking southeast from Union Avenue



Curb cut off of S. Barksdale Street – looking east



Curb cut off of Linden Avenue – looking north



Rear view – looking north



Side view – looking northeast towards garage



Front entrance drive



Entrance



Typical office



Roll call room



Typical view of hallway



Typical office



Break room



Locker room



Typical view of garage



Parts department and office in garage



Typical office in garage



Break room in garage



Parts area in garage



Spare motor bay on west side – looking southeast



Spare motor bay interior



Hydraulic lift in spare motor bay



Attic above spare motor bay



Motorcycle squad garage



Motorcycle squad office



Motorcycle bay area



Gas pump and canopy



Typical interior view – looking north from south property line



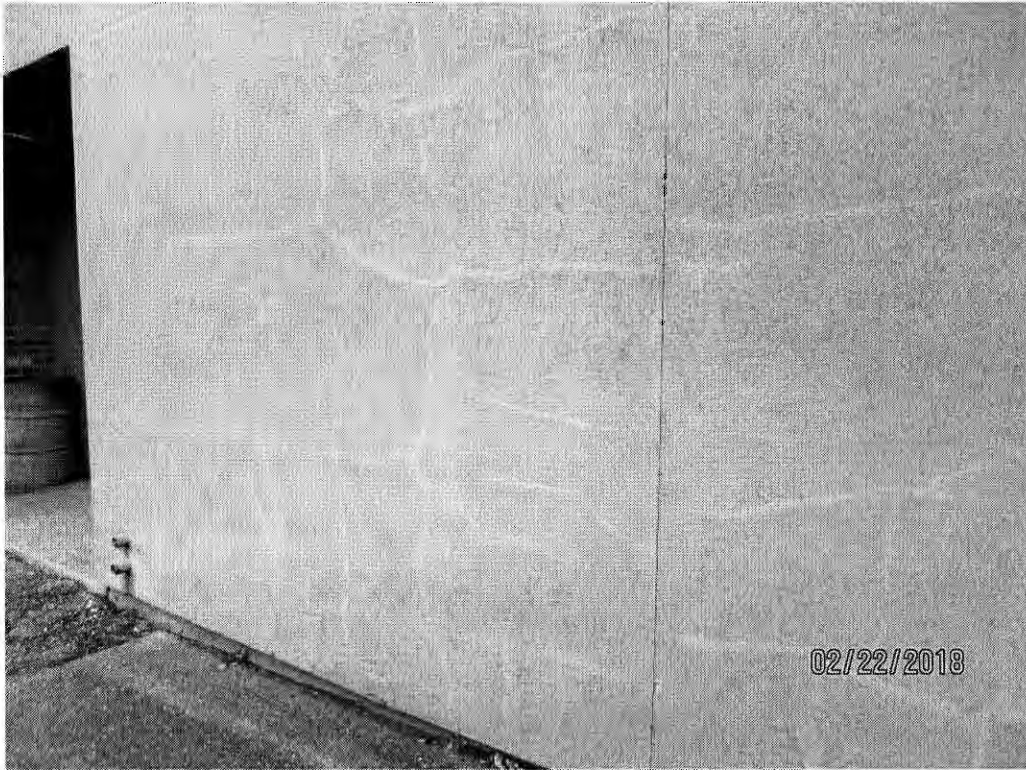
Typical interior view – looking east from S. Barksdale Street



Deferred maintenance – interior paint



Deferred maintenance – exterior paint



Deferred maintenance – stress cracks



Deferred maintenance – ceiling



Deferred maintenance – parking lot



Deferred maintenance – parking lot



Deferred maintenance – missing metal



Deferred maintenance – gutters



Deferred maintenance – siding



Deferred maintenance – flooring

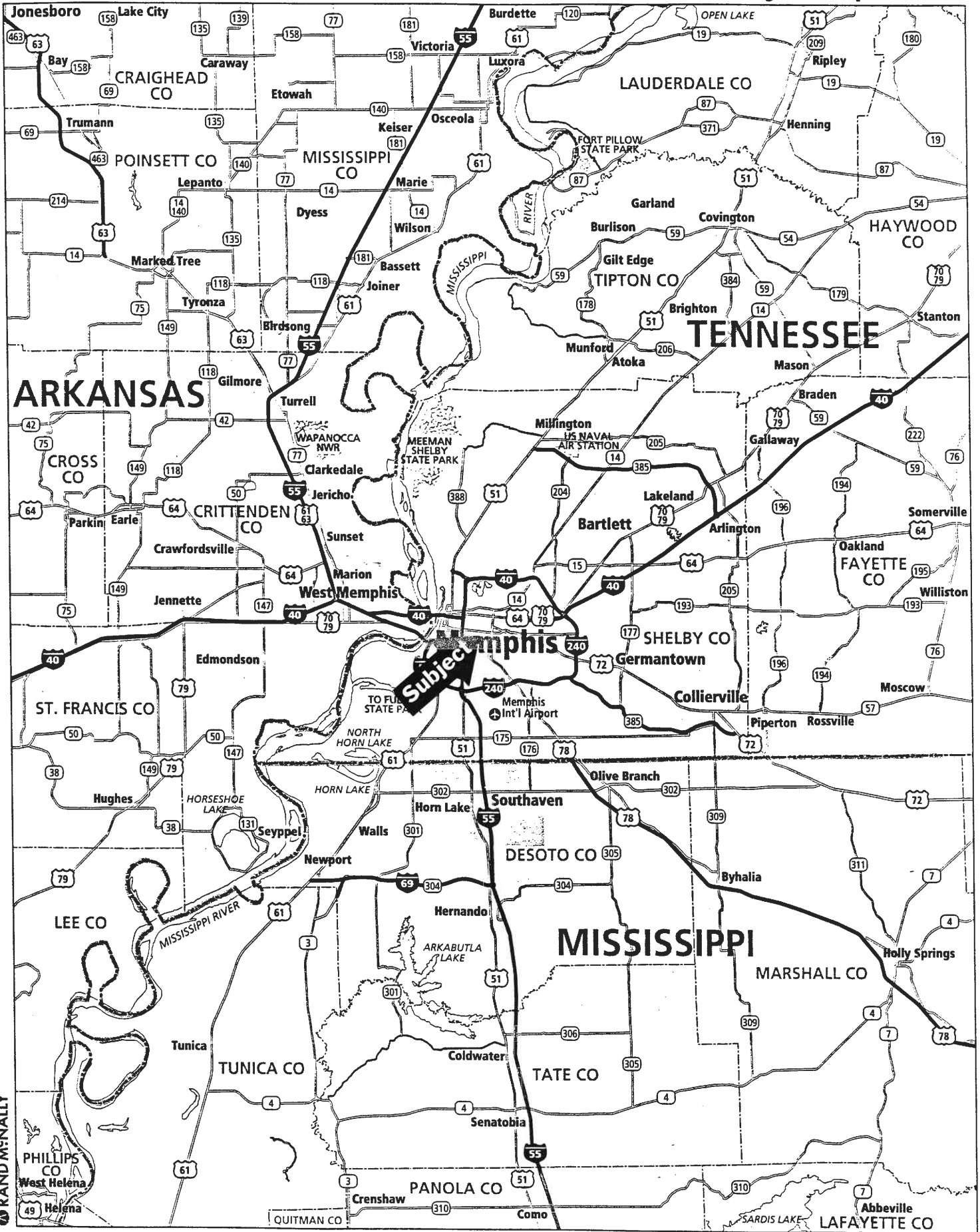


Deferred maintenance – ceilings



Deferred maintenance – exterior ceilings

Vicinity Map



© RAND McNALLY

0 10 20 miles
1 in. = 10 mi.

Memphis Metro Population Totals by Municipality

2010 Decennial Census

Geography	Total	White alone	Black or African American alone	Hispanic or Latino	American Indian and Alaska Native alone	Asian alone	Native Hawaiian and Other Pacific Islander alone	Some Other Race alone	Two or More Races:
States									
Tennessee	6,346,105	4,800,782	1,049,391	290,059	16,302	90,311	2,767	6,422	90,071
Arkansas	2,915,918	2,173,469	447,102	186,050	20,183	35,647	5,509	2,121	45,837
Mississippi	2,967,297	1,722,287	1,093,512	81,481	13,845	25,477	948	1,828	27,919
Memphis TN-AR-MS MSA Counties									
Crittenden County, AR	50,902	29,028	25,953	1,014	120	301	6	15	465
DesSoto County, MS	161,252	113,553	35,124	8,086	343	2,011	76	145	1,914
Marshall County, MS	37,144	18,161	17,369	1,192	67	74	6	24	251
Tate County, MS	28,886	19,091	8,723	639	62	65	2	18	286
Tunica County, MS	10,778	2,486	7,894	245	14	60	5	2	72
Fayette County, TN	38,413	26,193	10,742	858	106	186	3	23	302
Shelby County, TN	927,644	359,106	481,431	52,092	1,804	21,245	274	1,097	10,595
Itorton County, TN	61,081	46,831	11,393	1,269	217	356	48	59	908
Memphis TN-AR-MS MSA Cities									
Anthonyville town, AR	161	14	144	0	0	0	0	0	0
Clarkedale city, AR	371	303	50	2	3	1	0	0	2
Crawfordsville town, AR	479	311	155	9	0	0	0	0	4
Eate city, AR	2,414	396	1,975	16	1	9	0	0	17
Edmondson town, AR	427	118	281	14	0	2	0	0	12
Gilmare city, AR	188	42	144	10	0	0	0	0	0
Horseshoe Lake town, AR	292	264	10	8	7	0	0	1	2
Jennette town, AR	115	7	108	0	0	0	0	0	0
Jericho town, AR	119	2	116	1	0	0	0	0	0
Marion city, AR	12,345	8,299	3,434	250	51	180	1	0	128
Sunset town, AR	198	8	182	6	0	0	0	0	2
Turrell city, AR	615	87	523	2	0	0	0	0	3
West Memphis city, AR	26,245	8,843	16,608	419	39	103	4	12	217
Bridgetown CDP, MS	1,742	1,666	29	17	9	9	0	0	12
Byhalia town, MS	1,302	644	582	52	7	0	0	1	23
Coldwater town, MS	1,677	369	1,260	7	3	3	0	4	10
Hernando city, MS	14,090	11,171	1,835	774	28	144	3	13	122
Holly Springs city, MS	7,699	1,471	6,069	96	12	14	0	6	31
Horn Lake city, MS	26,066	14,664	8,537	2,093	66	251	11	25	419
Lynchburg CDP, MS	2,437	1,846	482	49	4	23	0	0	33
North Tunica CDP, MS	1,035	44	987	2	0	0	0	0	2
Olive Branch city, MS	33,484	23,493	7,696	1,397	47	434	23	40	354
Poffis Camp town, MS	523	336	166	18	0	0	0	0	3
Senobia city, MS	8,165	4,989	2,855	192	16	24	1	7	81
Southaven city, MS	48,982	33,992	10,827	2,472	120	833	25	42	671
Tunica town, MS	1,030	694	300	15	4	8	0	2	7
Tunica Resorts CDP, MS	1,910	634	1,158	65	4	31	4	0	14
Walls town, MS	1,162	387	707	35	2	7	0	4	20
White Oak CDP, MS	692	10	672	3	2	0	0	0	5
Arlington town, TN	11,517	9,141	1,583	343	17	206	2	13	212
Atoka town, TN	8,387	6,933	918	222	41	108	10	4	151
Barfield city, TN	54,613	42,158	8,721	1,470	116	1,350	20	46	732
Braden town, TN	282	244	30	5	0	2	0	0	1
Brighton town, TN	2,735	2,175	426	63	9	17	0	4	41

Memphis Metro Population Totals by Municipality

2010 Decennial Census



Geography	Total	White alone	Black or African American alone	Hispanic or Latino	American Indian and Alaska Native alone	Asian alone	Native Hawaiian and Other Pacific Islander alone	Some Other Race alone	Two or More Races:
Burlison town, TN	425	419	0	3	1	0	0	1	1
Collierville town, TN	43,965	34,344	4,740	1,154	64	3,111	12	76	464
Covington city, TN	9,038	4,157	4,595	106	24	28	4	14	110
Gallaway city, TN	680	329	336	3	1	0	1	1	9
Garland town, TN	310	300	0	1	0	1	0	0	8
German town, TN	38,844	34,233	1,381	733	71	1,994	7	45	380
Gill Edge city, TN	477	459	6	4	4	0	0	0	4
Grand Junction city, TN	325	196	122	0	1	0	0	0	6
La Grange town, TN	133	120	0	0	0	0	0	0	0
Lakeland city, TN	12,430	10,109	1,159	424	27	551	1	7	152
Mason town, TN	1,609	430	1,014	144	1	3	0	2	15
Memphis city, TN	646,889	177,735	408,075	41,294	1,186	10,067	159	742	6,931
Millington city, TN	10,176	6,398	2,585	600	60	235	19	4	275
Moscow city, TN	556	223	311	18	0	0	1	0	3
Murford city, TN	5,927	5,109	419	175	33	87	13	7	84
Oakland town, TN	6,623	5,443	901	144	15	66	0	3	51
Piperton city, TN	1,445	1,057	348	19	2	10	0	0	9
Rossville town, TN	664	549	82	9	4	12	0	0	8
Somerville town, TN	3,094	1,617	1,368	61	7	16	0	0	25
Williston city, TN	395	246	138	5	1	4	0	0	1

*Some city population totals are not available.

THE LIST

Research by Jason Bolton
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jbolton@bizjournals.com

LARGEST MEMPHIS AREA EMPLOYERS

RANKED BY LOCAL FULL-TIME EMPLOYEES

Rank / Prior rank / URL	Address	Local full-time employees	Year founded locally	Type of business	Top local executive
1 FedEx Corp. ① fedex.com	942 S. Shady Grove Rd. Memphis, TN 38120 901-369-3600	30,000	1971	Transportation, e-commerce & business services	Frederick Smith, Chairman/CEO
2 Tennessee State Government ② tn.gov	40 S. Main St. Memphis, TN 38103	14,200	NA	State government	Bill Haslam, Governor
3 United States Government ③ firstgov.gov	Memphis, TN 38403 800-333-4636	13,200	NA	Federal government	NA
4 Methodist Le Bonheur Healthcare ⑤ methodisthealth.org	1211 Union Ave. #700 Memphis, TN 38104 901-516-0791	13,000	1918	Health care	Michael Ugwueke, CEO
5 Shelby County Schools ④ sck12.org	160 S. Hollywood St. Memphis, TN 38112 901-416-5300	11,500	1867	Primary & secondary education	Dorsey Hopson, Superintendent
6 City of Memphis ⑥ memphistn.gov	125 N. Main St. #18-38 Memphis, TN 38103 901-636-6411	7,000	1819	City government	Jim Strickland, Mayor
7 The Kroger Co. ⑧ kroger.com	800 Ridge Lake Blvd. Memphis, TN 38120 901-765-4100	6,927	1883	Retail groceries	Scot Hendricks, President, Delta Division
8 Wal-Mart Stores Inc. ⑨ walmart.com	Memphis, TN 800-881-9180	6,800	1962	Discount general merchandise	Sean Riley, Regional GM, Store Operations
9 Baptist Memorial Health Care Corp. ⑦ baptistonline.org	350 N. Humphreys Blvd. Memphis, TN 38120 901-227-2727	6,647	1912	Integrated health care system	Jason Little, President/CEO
10 Naval Support Activity Mid-South ⑩ cnic.navy.mil	5722 Integrity Dr. Millington, TN 38054 901-874-5111	6,500	1918	Military installation	David Bryson, Commanding Officer
11 Shelby County Government ⑪ shelbycountytin.gov	160 N. Main St. 11th Fl. Memphis, TN 38103 901-222-2000	4,824	1819	County government	Mark Luttrell, Mayor
12 St. Jude Children's Research Hospital ⑬ stjude.org	262 Danny Thomas Pl. Memphis, TN 38105 901-595-3300	4,479	1962	Medical research hospital	James Downing, President/CEO
13 DeSoto County School District ⑭ desotocountyschools.org	5 E. South St. Hernando, MS 38632 662-429-5271	3,959	1954	Primary & secondary education	Cory Useton, Superintendent
14 XPO Logistics Supply Chain ⑮ xpologistics.com	4895 Citation Dr. Memphis, TN 38118 866-463-9273	3,716	2001	Warehousing, logistics	NA
15 University of Tennessee Health Science Center ⑯ uthsc.edu	920 Madison Ave. Memphis, TN 38163 901-448-5500	3,667	1911	Health science university	Steve Schwab, Chancellor
16 Technicolor ⑰ technicolor.com	4155 E. Holmes Rd. Memphis, TN 38118 901-433-4100	3,500	1995	Distribution of movies, DVDs, electronic games, software & consumer electronics	Rob Whipper, SVP, Operations
17 Century Management Inc. ⑰ centurymanagement.com	5645 Murray Ave. Memphis, TN 38119 901-767-9330	3,100 ¹	1958	Operation of quick-service restaurants	Fred Tillman, President
18 International Paper Co. ⑱ ipaper.com	6400 Poplar Ave. Memphis, TN 38197 901-419-9000	2,800	1987	Packaging, paper & distribution	Mark Sutton, Chairman/CEO
19 Memphis Light, Gas & Water ⑲ mlgw.com	220 S. Main St. Memphis, TN 38103 901-544-6549	2,700	1939	Utilities	Jerry Collins, President/CEO
20 Regional One Health ⑳ regionalonehealth.org	877 Jefferson Ave. Memphis, TN 38103 901-545-7100	2,694	1829	Health system	Reginald Coopwood, CEO
21 Nike Inc. ㉑ nike.com	3699 Swoosh Dr. Memphis, TN 38128 901-366-6453	2,621	1982	Sports & fitness footwear & apparel	Reagan Griffin, GM, Shelby Drive Facility
22 The University of Memphis ㉒ memphis.edu	3720 Alumni Ave. Memphis, TN 38152 901-678-2000	2,466	1912	Post-secondary, graduate & legal education	M. David Rudd, President
23 Saint Francis Healthcare ㉓ saintfrancisosp.com	5959 Park Ave. Memphis, TN 38119 901-765-1000	2,430	1974	Health care	Audrey Gregory, CEO
24 Smith & Nephew Inc. ㉔ smith-nephew.com	7135 Goodlett Farms Pkwy. Cordova, TN 38016 901-396-2121	2,270	1934	Orthopedic medical devices	Matt Stober, President, Global Operations Laura Whitsitt, Divisional SVP, Research & Emerging Tech.
25 Veterans Affairs Medical Center ㉕ memphis.va.gov	1030 Jefferson Ave. Memphis, TN 38104 901-523-8990	2,225 ¹	1922	Medical center	David Dunning, Medical Center Director/CEO

► CLOSER LOOK

163 k

Number of employees at Top 25 List companies, 2017

566 k

Number of private sector employees in Memphis area, April 2017

645 k

Number of total employees in Memphis area, April 2017

ABOUT THE LIST
Information on The List was obtained from each individual organization through surveys and published sources and could not be independently verified. Although every attempt is made to ensure the accuracy and thoroughness of The Lists, omissions sometimes occur. In case of ties, companies are listed alphabetically. Local and Memphis area refers to Shelby, Tipton and Fayette counties in Tenn.; DeSoto, Marshall, Tate and Tunica counties in Miss. and Crittenden County, Ark.

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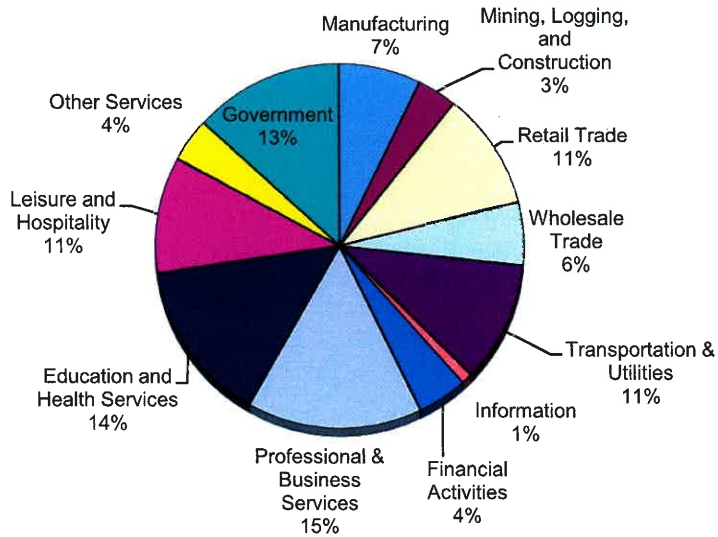
WANT TO BE ON THE LIST?
If you would like to be surveyed when The List is next updated, or if you would like to be considered for other Lists, email your contact information to Data Editor Jason Bolton at jbolton@bizjournals.com.

¹ Estimated.
NOTES: NA - not applicable, not available or not approved. * - not ranked in 2016.

EMPLOYMENT BY INDUSTRY

Memphis Metro Area

2016



12,400 Net New Jobs in 2016

INDUSTRY SECTOR	2016	2015	% Change
Manufacturing	46,100	45,200	2.0%
Mining, Logging, and Construction	21,900	21,700	0.9%
Retail Trade	68,200	65,900	3.5%
Wholesale Trade	35,600	34,800	2.3%
Transportation & Utilities	68,200	67,800	3.8%
Information	5,700	5,800	-1.7%
Financial Activities	28,000	27,600	1.4%
Professional & Business Services	97,100	97,000	0.1%
Education and Health Services	92,500	89,800	3.0%
Leisure and Hospitality	67,300	65,300	3.1%
Other Services	25,000	24,300	2.9%
Government	80,400	82,700	-2.8%
Total Non-Farm Employment:	638,200	625,800	2.0%

Source: U.S. Bureau of Labor Statistics

Prepared By: Greater Memphis Chamber Research Department



NOTE: Numbers may not add due to rounding or match previously released data due to adjustments by the BLS.
Updated 03/27/2017

C2ER COST OF LIVING INDEX 2016 Annual Averages

U.S. Metro Average =100



GREATER MEMPHIS CHAMBER

Metropolitan Area	Composite	Grocery	Housing	Utilities	Transportation	Health Care	Misc. Goods
New York, New York	228.2	128.2	465.9	127.1	133.6	115.6	148.0
Honolulu, HI	190.5	164.1	313.6	202.4	133.4	112.7	125.0
San Francisco, CA	177.4	131.0	323.1	107.1	135.9	119.5	119.1
Washington, DC	149.2	117.4	234.6	118.7	104.3	98.5	121.3
Oakland, CA	148.7	131.2	227.0	107.3	128.7	117.3	114.9
Boston, MA	148.1	105.7	201.2	158.0	112.6	133.5	131.3
Portland, OR	128.5	117.3	172.7	77.8	107.6	109.9	120.5
Philadelphia, PA	118.6	115.7	134.5	123.2	114.7	105.9	108.3
Chicago, IL	118.5	108.5	144.8	94.9	125.7	102.7	108.2
Miami-Miami Beach, FL	111.0	103.5	129.7	98.4	108.3	101.3	104.8
Denver, CO	110.4	106.3	131.9	92.6	104.2	106.8	102.4
Charleston, SC	104.0	104.2	97.9	123.8	93.0	103.3	106.0
Tacoma, WA	103.0	101.2	89.1	109.5	102.7	116.3	111.2
Dallas, TX	100.4	108.5	88.0	98.7	101.5	106.3	106.6
Houston, TX	98.8	87.4	103.0	106.2	94.3	91.1	100.0
Cleveland, OH	98.7	113.9	87.8	91.2	106.3	99.7	101.4
Atlanta, GA	98.7	103.8	88.5	103.1	107.1	107.9	101.6
Gainesville, FL	98.0	103.1	88.9	110.6	102.4	101.7	98.0
New Orleans, LA	97.3	97.5	99.6	87.1	106.1	89.3	96.9
Jacksonville, FL	95.8	97.7	85.1	110.0	100.3	86.0	99.3
Nashville, TN	95.5	95.8	86.9	89.9	101.5	83.1	103.4
Little Rock, AR	95.1	93.2	88.8	115.0	92.8	90.1	96.2
Charlotte, NC	94.8	94.0	85.1	91.9	96.8	103.6	101.9
Raleigh, NC	94.4	113.4	69.3	96.2	91.5	103.9	106.0
Richmond, VA	94.3	93.5	88.8	98.3	94.5	104.8	96.6
Pittsburgh, PA	94.0	97.1	93.0	102.1	106.3	95.1	87.7
Tampa, FL	91.5	98.0	75.9	113.7	99.4	95.9	92.3
St. Louis, MO	90.4	103.2	70.5	112.8	94.2	96.3	92.9
Columbus, OH	90.0	94.6	75.2	86.4	96.4	94.6	98.6
Louisville, KY	88.8	85.3	77.4	89.7	98.1	89.4	96.1
Birmingham, AL	88.5	97.7	78.2	100.6	91.2	86.7	88.9
Jackson, MS	86.1	94.1	75.4	85.8	87.1	88.2	90.9
Jonesboro, AR	84.2	92.2	72.1	82.4	85.6	82.3	90.9
Memphis, TN-MS-AR	83.0	90.7	65.6	90.9	92.1	89.3	88.3
<i>Weighting Factor:</i>	100%	14%	28%	10%	12%	4%	31%

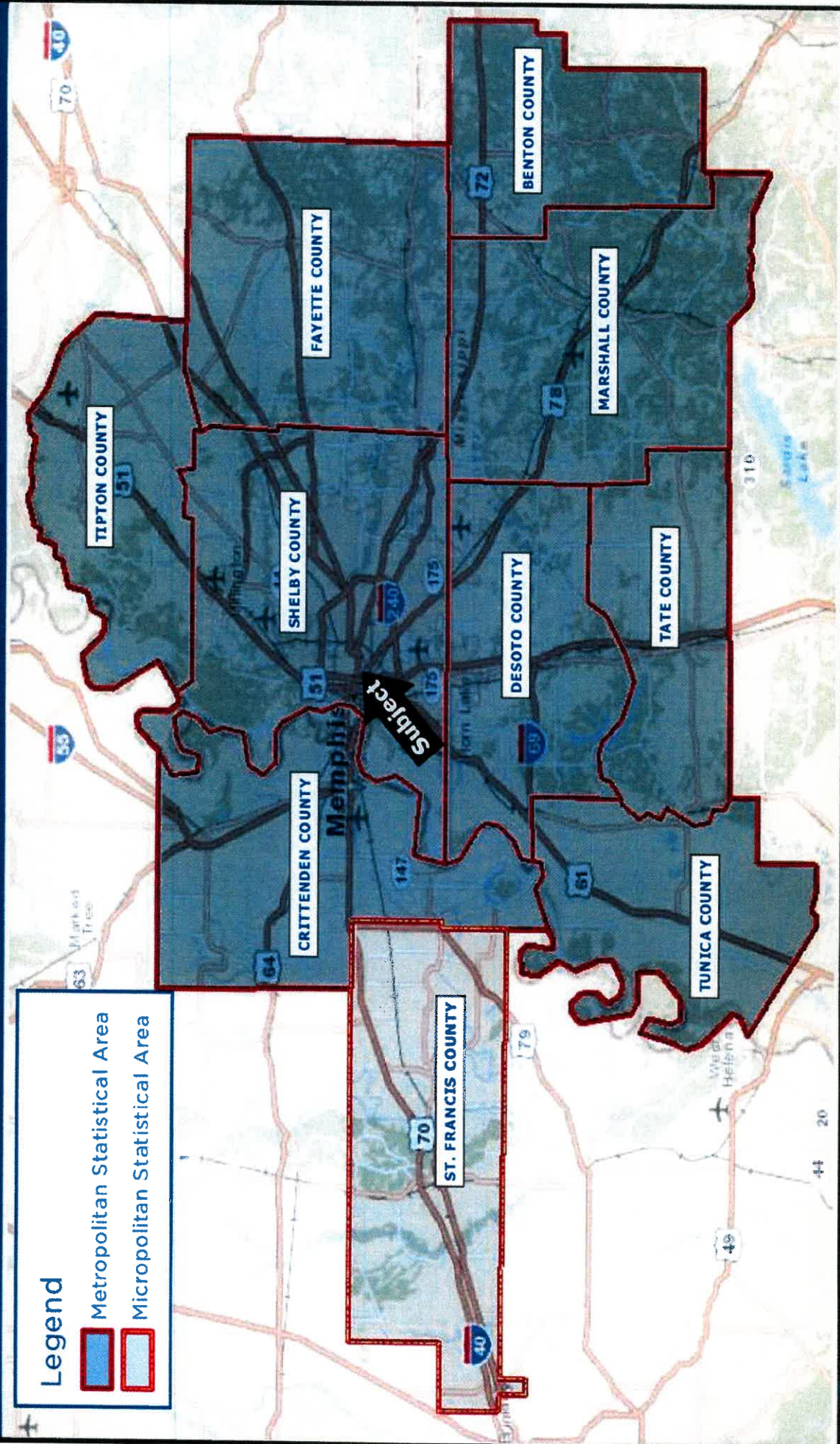
The quarterly Cost of Living Index is available by subscription for \$165.00 per year. Send check, payable to C2ER Subscription Office, PO Box 100127 Arlington, VA 22210. For additional information locally, contact the Greater Memphis Chamber Research Department at (901) 543-3500 or call C2ER at 703-522-4980.

1/1/2017

Prepared By: The Greater Memphis Chamber
<http://www.memphischamber.com/>

Memphis - Forrest City, TN-MS-AR

Core Base Statistical Area



Greater Memphis Chamber



Executive Summary

1925 Union Ave, Memphis, Tennessee, 38104
Rings: 1, 2, 4 mile radii

Prepared by Esri
Latitude: 35.13491
Longitude: -89.99750

	1 mile	2 miles	4 miles
Population			
2000 Population	15,452	59,113	201,202
2010 Population	14,617	52,433	175,694
2017 Population	15,016	53,480	178,838
2022 Population	15,345	54,494	181,933
2000-2010 Annual Rate	-0.55%	-1.19%	-1.35%
2010-2017 Annual Rate	0.37%	0.27%	0.24%
2017-2022 Annual Rate	0.43%	0.38%	0.34%
2017 Male Population	49.8%	49.0%	48.8%
2017 Female Population	50.2%	51.0%	51.2%
2017 Median Age	39.6	37.8	36.3

In the identified area, the current year population is 178,838. In 2010, the Census count in the area was 175,694. The rate of change since 2010 was 0.24% annually. The five-year projection for the population in the area is 181,933 representing a change of 0.34% annually from 2017 to 2022. Currently, the population is 48.8% male and 51.2% female.

Median Age

The median age in this area is 39.6, compared to U.S. median age of 38.2.

Race and Ethnicity

2017 White Alone	73.3%	44.7%	26.2%
2017 Black Alone	19.8%	47.8%	68.2%
2017 American Indian/Alaska Native Alone	0.3%	0.3%	0.2%
2017 Asian Alone	2.5%	2.5%	1.6%
2017 Pacific Islander Alone	0.1%	0.1%	0.0%
2017 Other Race	1.4%	2.5%	2.1%
2017 Two or More Races	2.5%	2.1%	1.7%
2017 Hispanic Origin (Any Race)	3.0%	4.1%	3.6%

Persons of Hispanic origin represent 3.6% of the population in the identified area compared to 18.1% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 50.2 in the identified area, compared to 64.0 for the U.S. as a whole.

Households

2000 Households	8,537	26,681	81,791
2010 Households	7,927	24,083	73,424
2017 Total Households	8,147	24,548	75,047
2022 Total Households	8,320	25,005	76,477
2000-2010 Annual Rate	-0.74%	-1.02%	-1.07%
2010-2017 Annual Rate	0.38%	0.26%	0.30%
2017-2022 Annual Rate	0.42%	0.37%	0.38%
2017 Average Household Size	1.75	2.06	2.26

The household count in this area has changed from 73,424 in 2010 to 75,047 in the current year, a change of 0.30% annually. The five-year projection of households is 76,477, a change of 0.38% annually from the current year total. Average household size is currently 2.26, compared to 2.27 in the year 2010. The number of families in the current year is 36,952 in the specified area.

Data Note: Income is expressed in current dollars

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2017 and 2022. Esri converted Census 2000 data into 2010 geography.



Executive Summary

1925 Union Ave, Memphis, Tennessee, 38104
Rings: 1, 2, 4 mile radii

Prepared by Esri
Latitude: 35.13491
Longitude: -89.99750

	1 mile	2 miles	4 miles
Median Household Income			
2017 Median Household Income	\$50,948	\$39,046	\$31,082
2022 Median Household Income	\$57,770	\$43,981	\$33,671
2017-2022 Annual Rate	2.55%	2.41%	1.61%
Average Household Income			
2017 Average Household Income	\$82,604	\$66,197	\$54,675
2022 Average Household Income	\$96,246	\$76,233	\$62,685
2017-2022 Annual Rate	3.10%	2.86%	2.77%
Per Capita Income			
2017 Per Capita Income	\$44,208	\$31,463	\$24,195
2022 Per Capita Income	\$51,389	\$36,022	\$27,594
2017-2022 Annual Rate	3.06%	2.74%	2.66%

Households by Income

Current median household income is \$31,082 in the area, compared to \$56,124 for all U.S. households. Median household income is projected to be \$33,671 in five years, compared to \$62,316 for all U.S. households

Current average household income is \$54,675 in this area, compared to \$80,675 for all U.S. households. Average household income is projected to be \$62,685 in five years, compared to \$91,585 for all U.S. households

Current per capita income is \$24,195 in the area, compared to the U.S. per capita income of \$30,820. The per capita income is projected to be \$27,594 in five years, compared to \$34,828 for all U.S. households

Housing

2000 Total Housing Units	9,232	29,410	91,106
2000 Owner Occupied Housing Units	3,403	11,615	38,046
2000 Renter Occupied Housing Units	5,135	15,066	43,745
2000 Vacant Housing Units	694	2,729	9,315
2010 Total Housing Units	9,252	28,836	89,480
2010 Owner Occupied Housing Units	3,383	10,447	31,665
2010 Renter Occupied Housing Units	4,544	13,636	41,759
2010 Vacant Housing Units	1,325	4,753	16,056
2017 Total Housing Units	9,554	29,786	92,774
2017 Owner Occupied Housing Units	3,185	9,801	29,688
2017 Renter Occupied Housing Units	4,962	14,747	45,359
2017 Vacant Housing Units	1,407	5,238	17,727
2022 Total Housing Units	9,795	30,526	95,128
2022 Owner Occupied Housing Units	3,257	9,982	30,186
2022 Renter Occupied Housing Units	5,062	15,024	46,291
2022 Vacant Housing Units	1,475	5,521	18,651

Currently, 32.0% of the 92,774 housing units in the area are owner occupied; 48.9%, renter occupied; and 19.1% are vacant. Currently, in the U.S., 55.6% of the housing units in the area are owner occupied; 33.1% are renter occupied; and 11.3% are vacant. In 2010, there were 89,480 housing units in the area - 35.4% owner occupied, 46.7% renter occupied, and 17.9% vacant. The annual rate of change in housing units since 2010 is 1.62%. Median home value in the area is \$96,372, compared to a median home value of \$207,344 for the U.S. In five years, median value is projected to change by 3.71% annually to \$115,609.

Data Note: Income is expressed in current dollars

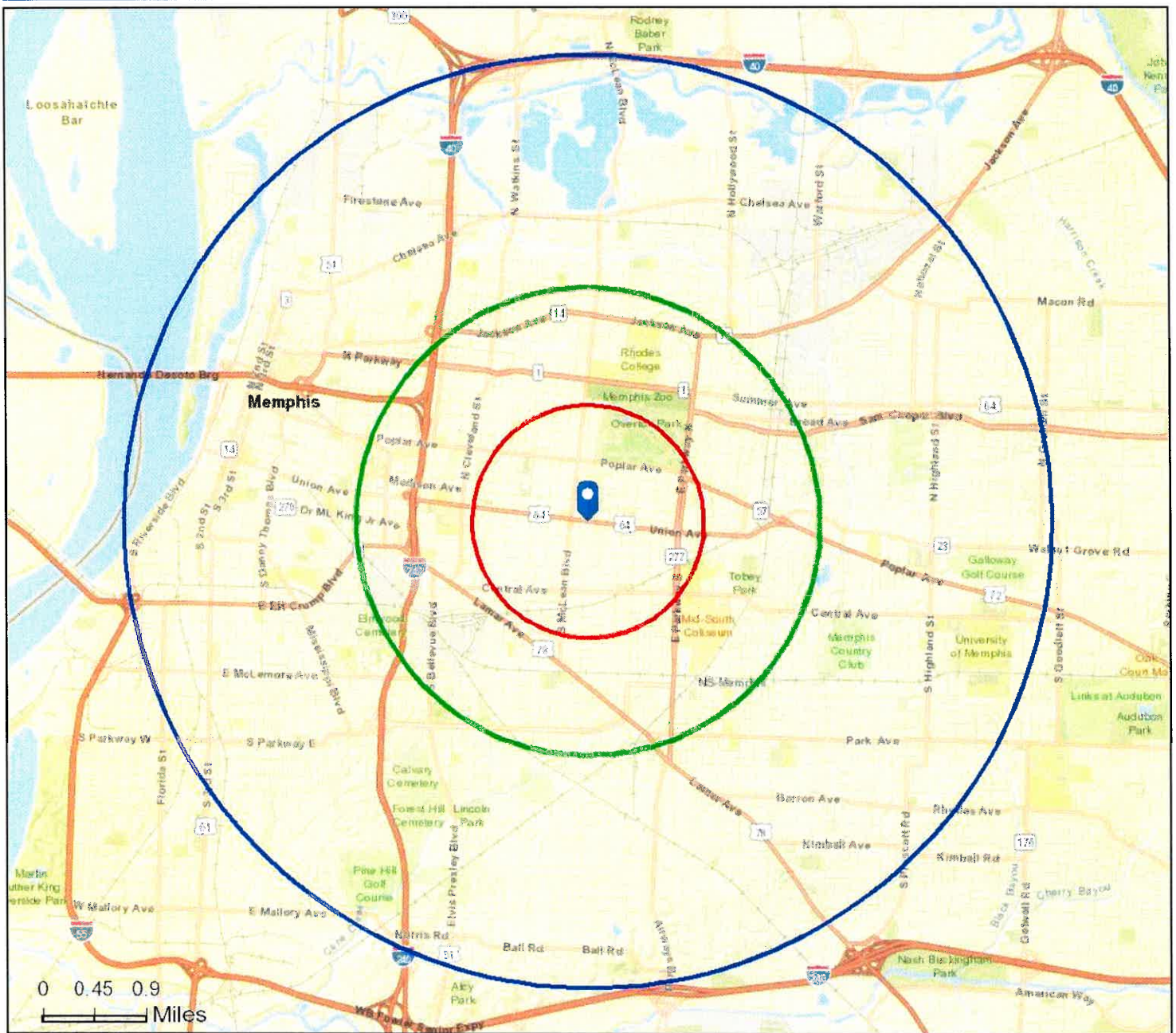
Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2017 and 2022. Esri converted Census 2000 data into 2010 geography.



Site Details Map

1925 Union Ave, Memphis, Tennessee, 38104
Rings: 1, 2, 4 mile radii

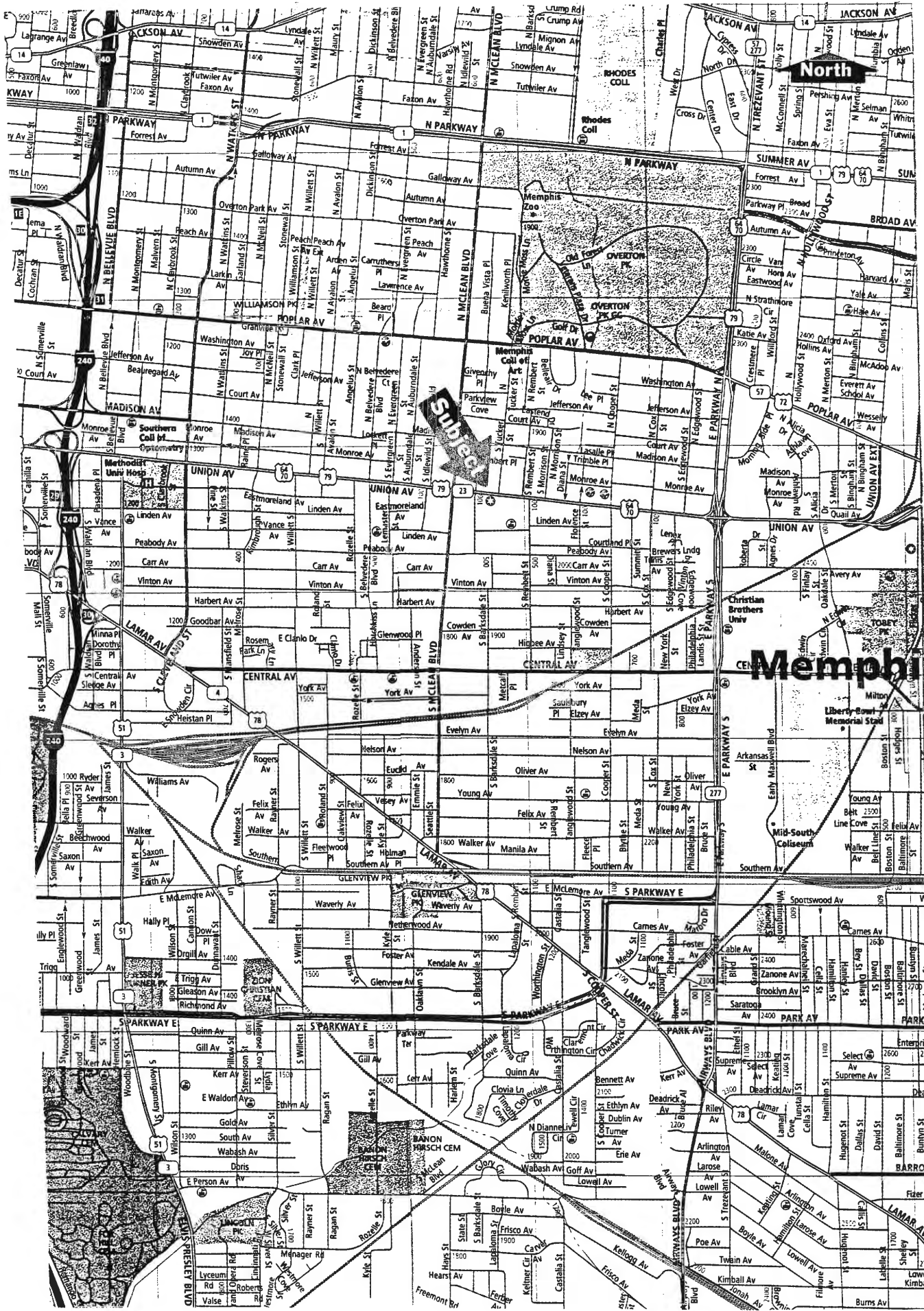
Site Details Map
Latitude: 35.13491
Longitude: -89.99750



This site is located in:

City: Memphis
County: Shelby County
State: Tennessee
ZIP Code: 38104
Census Tract: 47157003200
Census Block Group: 471570032003
CBSA: Memphis, TN-MS-AR Metropolitan Statistical Area

February 19, 2018



North

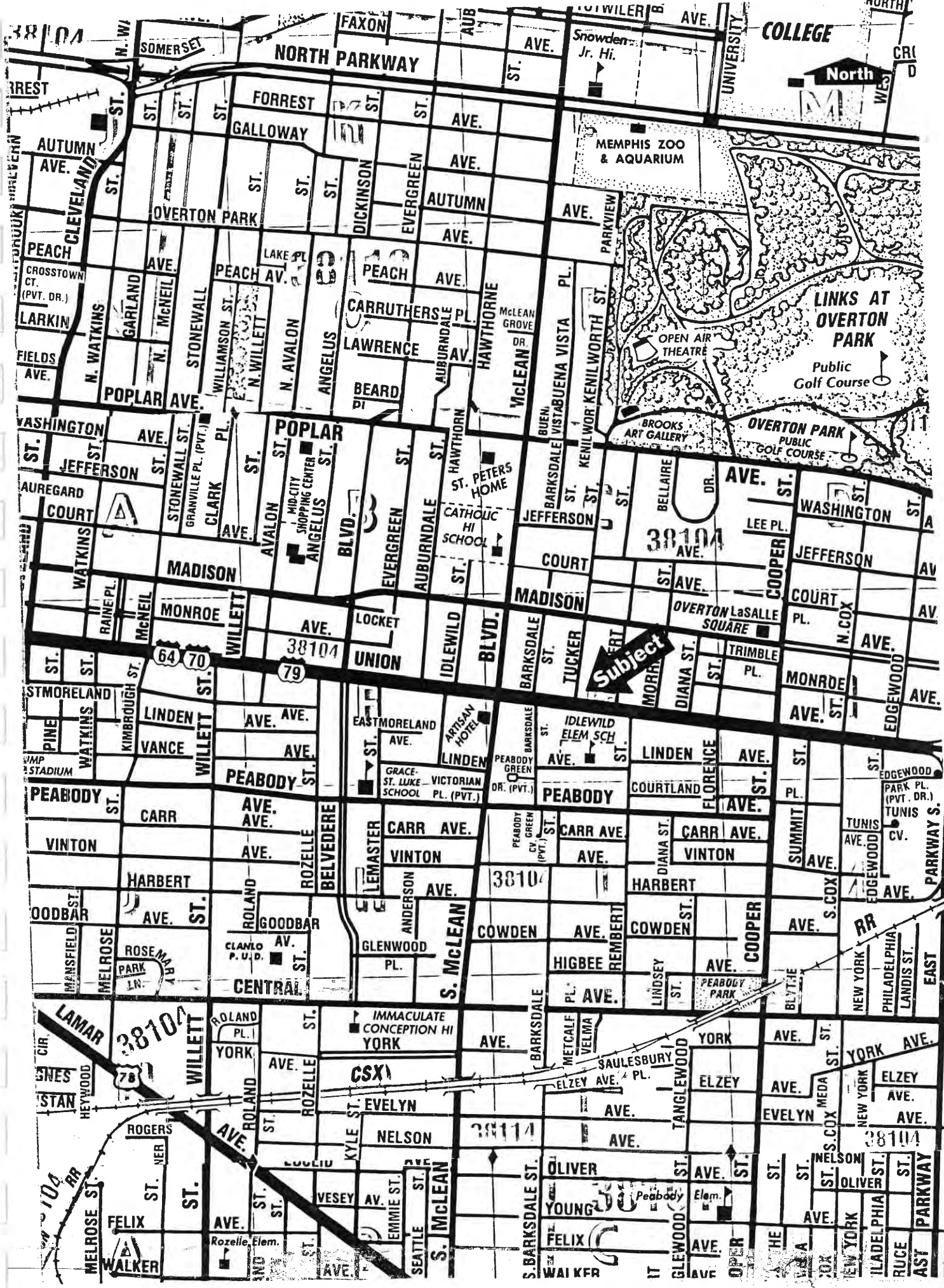
Subdiv

Memphis

Liberty Bell Memorial

Memphis

BARRON



COLLEGE



Subject

38104

POPLAR

38104

38104

38114

38104

38104

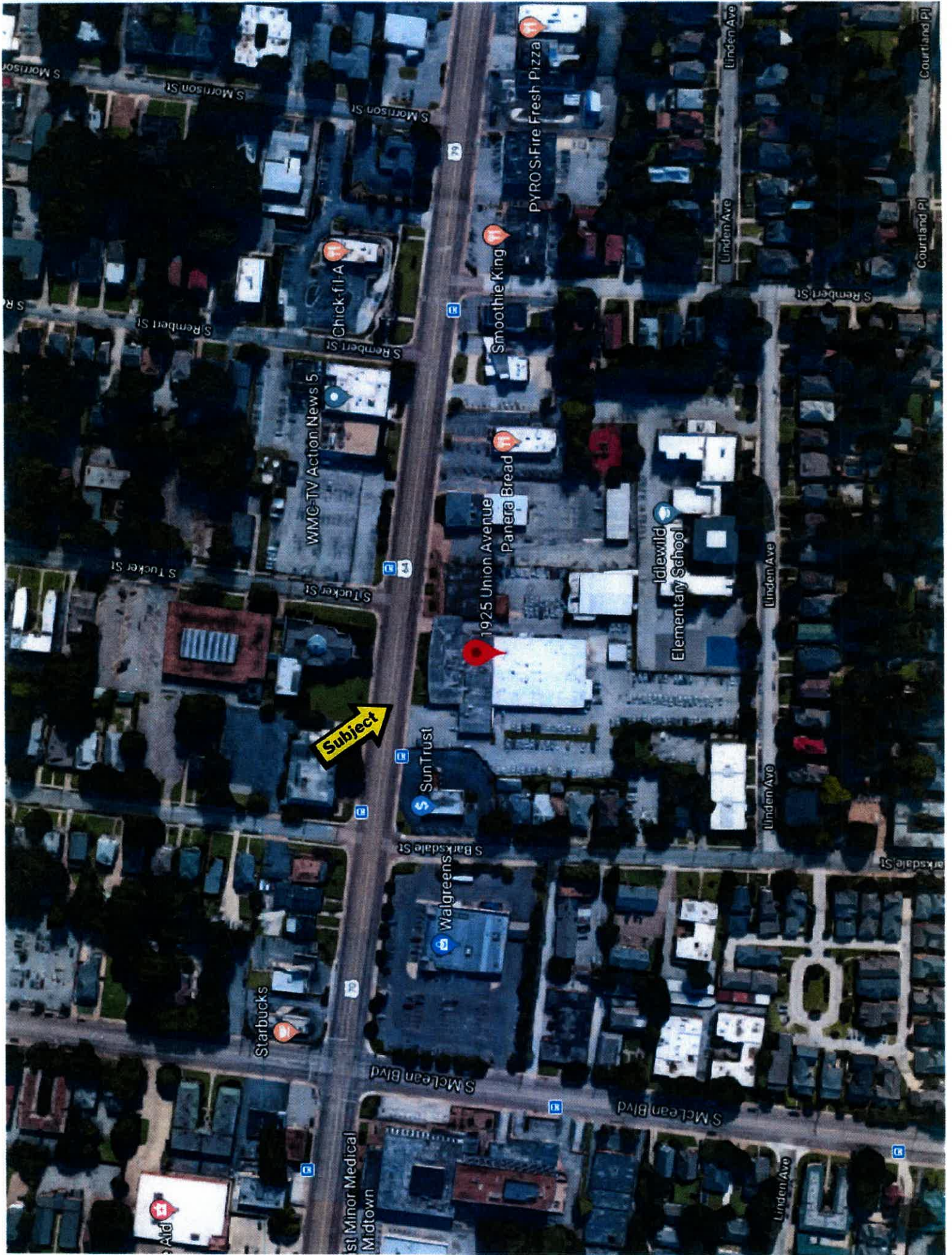
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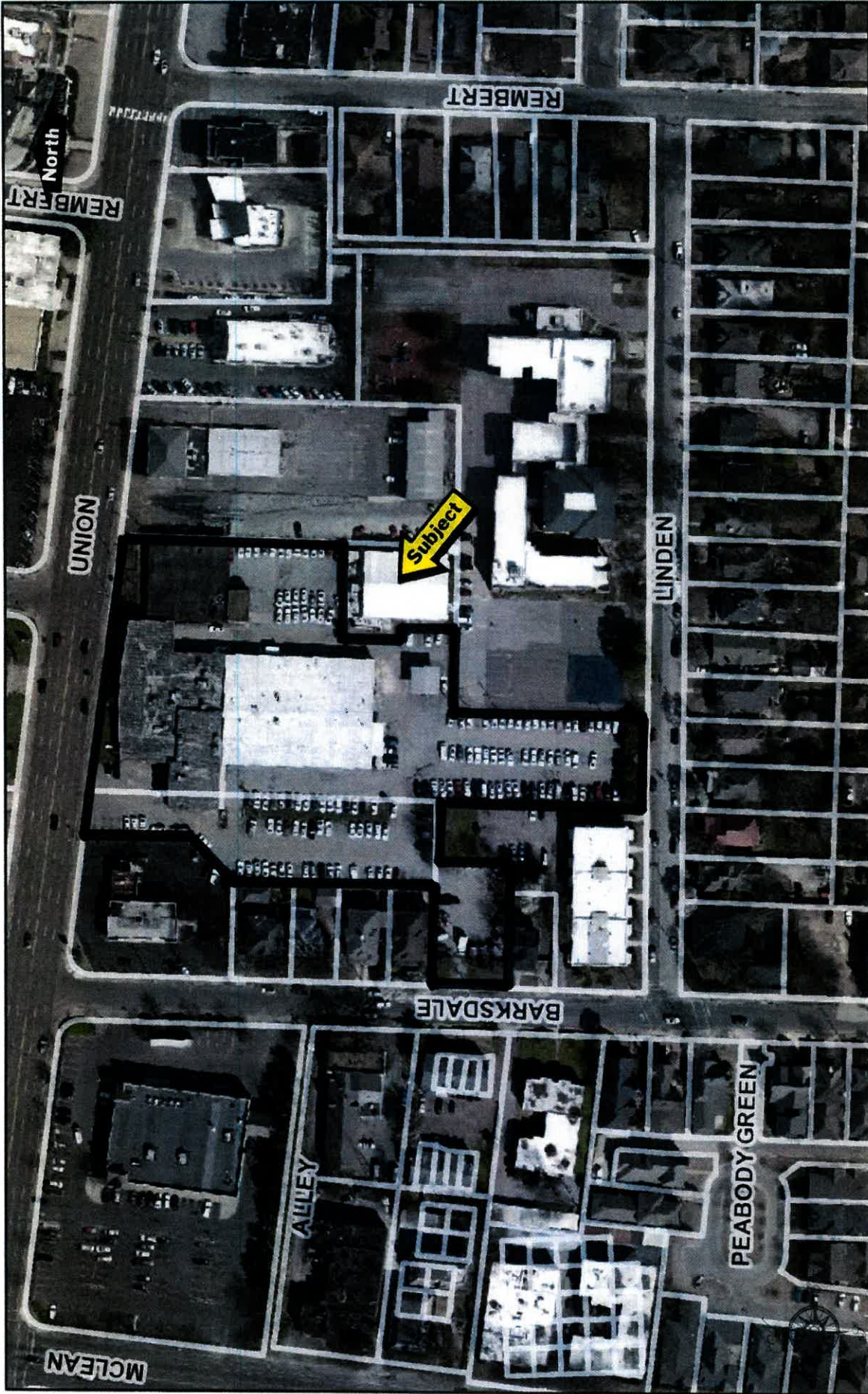
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1925 Union Avenue

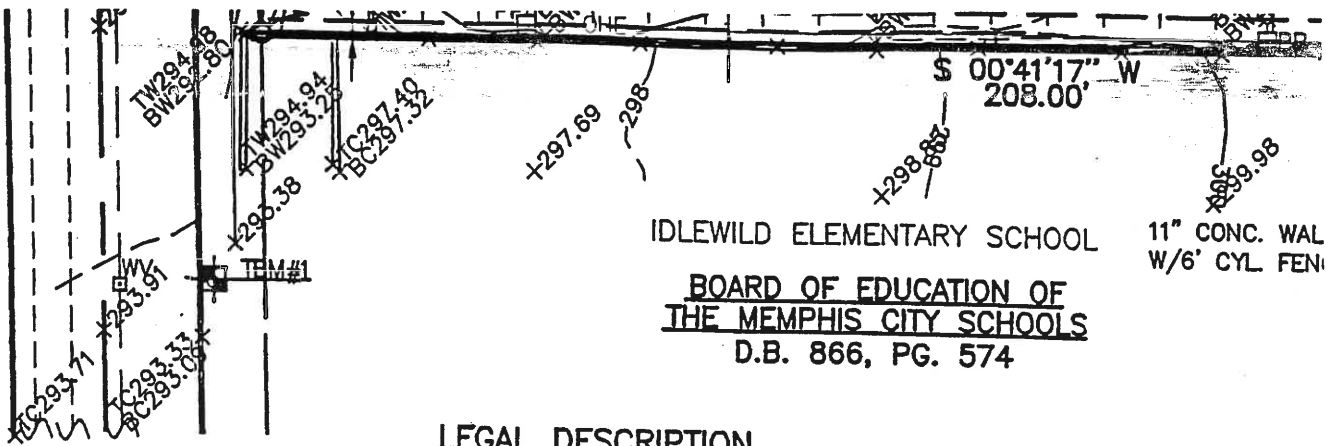


**TOM LEATHERWOOD, REGISTER OF DEEDS
SHELBY COUNTY, TENNESSEE**

DISCLAIMER: PROPERTY TAX MAPS AND PARCEL BOUNDARIES DO NOT REFLECT ACCURATE SURVEY INFORMATION OR EXACT LEGAL OWNERSHIP BOUNDARIES, AND ARE ONLY PROVIDED FOR GENERAL INFORMATION PURPOSES. THEREFORE, THEY SHOULD NOT BE RELIED UPON AS A REPRESENTATION OF ANY PROPERTY FOR ANY PURPOSE.

MAP DATE: February 19, 2018





IDLEWILD ELEMENTARY SCHOOL

11" CONC. WAL
W/6' CYL FENI

BOARD OF EDUCATION OF
THE MEMPHIS CITY SCHOOLS

D.B. 866, PG. 574

LEGAL DESCRIPTION

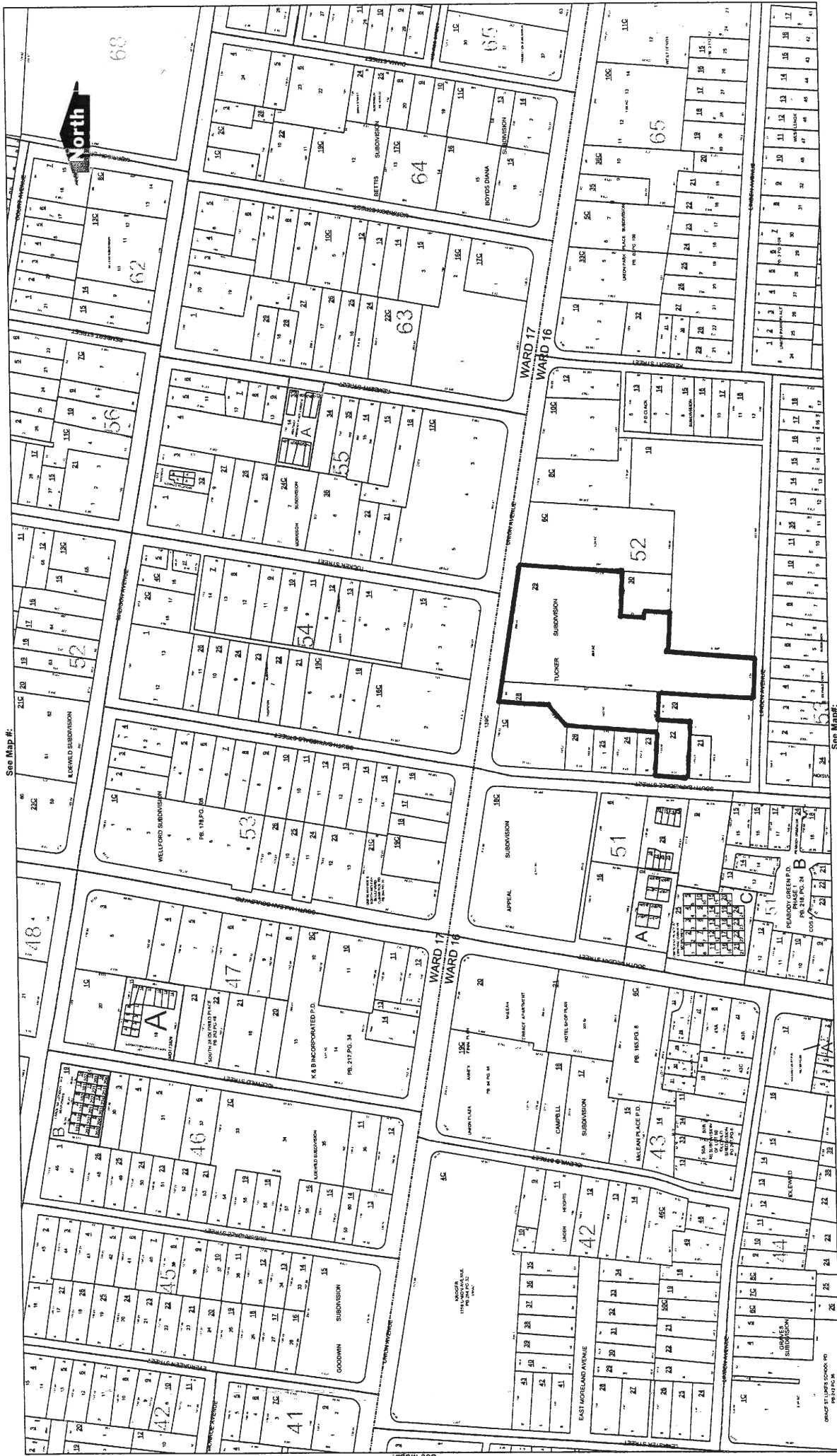
CERTAIN PARCEL SITUATED IN THE CITY OF MEMPHIS, COUNTY OF SHELBY, STATE OF TENNESSEE, AND BEING THE SAME PROPERTY CONVEYED TO THE CITY OF MEMPHIS BY DEED OF RECORD IN INSTRUMENT NO. S2-9026, IN THE SHELBY COUNTY REGISTER'S OFFICE (S.C.R.O.); LESS AND EXCEPT THE PROPERTY CONVEYED TO THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS BY DEED OF RECORD IN INSTRUMENT NO. S9 2664, S.C.R.O.; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE TANGENT INTERSECTION OF THE SOUTH R.O.W. LINE OF UNION AVENUE (80' WIDE) WITH THE EAST R.O.W. LINE OF SOUTH BARKSDALE STREET (50' WIDE); THENCE ALONG SAID SOUTH R.O.W. LINE OF UNION AVENUE S 83°55'15" E, 154.00' TO A POINT IN THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO THE NATIONAL BANK OF COMMERCE BY DEED OF RECORD IN INSTRUMENT NO. U8-8992, S.C.R.O., SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTH R.O.W. LINE S 83°55'15" E, 332.65' TO A FOUND CROSS IN THE NORTHWEST CORNER OF THE PROPERTY CONVEYED TO AUTO GLASS COMPANY OF MEMPHIS BY DEED OF RECORD IN INSTRUMENT NO. U6-4311, S.C.R.O.; THENCE ALONG THE WEST LINE OF SAID PROPERTY S 00°30'30" W, 247.11' TO A POINT IN THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS BY DEED OF RECORD IN INSTRUMENT NO. S9-2664, S.C.R.O.; THENCE N 88°46'07" W, 109.00' TO A POINT IN THE NORTHWEST CORNER OF SAID PROPERTY; THENCE ALONG THE WEST LINE OF SAID PROPERTY S 00°57'47" W, 62.00' TO A POINT; THENCE CONTINUE ALONG SAID WEST LINE S 89°02'13" E, 15.00' TO A POINT; THENCE CONTINUE ALONG SAID WEST LINE S 00°57'47" W, 63.00' TO A POINT IN THE SOUTHWEST CORNER OF SAID PROPERTY; THENCE S 89°30'00" W, 85.65' TO A POINT IN THE NORTHWEST CORNER OF THE PROPERTY CONVEYED TO THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS AS RECORDED IN DEED BOOK 866, PAGE 574, S.C.R.O.; THENCE S 00°41'17" W, 208.00' TO A POINT IN THE NORTH R.O.W. LINE OF LINDEN AVENUE (50' WIDE); THENCE ALONG SAID NORTH R.O.W. LINE S 89°30'00" W, 100.00' TO A POINT IN THE SOUTHEAST CORNER OF THE PROPERTY CONVEYED TO JOHN ALAN DERMON BY DEED OF RECORD IN INSTRUMENT NO. U9-4064, S.C.R.O.; THENCE N 00°41'17" E, 227.00' TO A POINT IN THE NORTHEAST CORNER OF SAID PROPERTY; THENCE N 89°32'02" W, 68.36' (67.52' CALL) TO A POINT IN THE MOST EASTERLY NORTHWEST CORNER OF SAID PROPERTY; THENCE S 00°31'35" W, 81.54' TO A POINT IN AN INTERIOR CORNER OF SAID PROPERTY; THENCE S 89°30'00" W, 135.50' TO A FOUND IRON PIN IN THE EAST R.O.W. LINE OF SOUTH BARKSDALE STREET; THENCE ALONG SAID EAST R.O.W. LINE N 00°30'48" E, 83.60' TO A POINT IN THE SOUTHWEST CORNER OF THE PROPERTY CONVEYED TO JAMES F. HILLIARD AND WIFE BY DEED OF RECORD IN INSTRUMENT NO. V9 5808, S.C.R.O.; THENCE S 89°36'18" E, 103.20' TO A POINT IN THE SOUTHEAST CORNER OF SAID PROPERTY; THENCE N 00°30'48" E, 103.40' TO A POINT IN THE NORTHWEST CORNER OF THE PROPERTY CONVEYED TO STEVE MAKRIS AND WIFE BY DEED OF RECORD IN INSTRUMENT NO. EP 4062, S.C.R.O.; THENCE N 00°34'36" E, 121.00' TO A POINT IN THE MOST WESTERLY SOUTHEAST CORNER OF THE NATIONAL BANK OF COMMERCE PROPERTY; THENCE N 49°32'58" E, 65.97' TO A POINT IN THE MOST EASTERLY SOUTHEAST CORNER OF SAID PROPERTY; THENCE N 00°34'36" E, 120.00' TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 3.657 ACRES (159,278 SQUARE FEET) MORE OR LESS.

CERTIFICATE OF SURVEY

I HEREBY CERTIFY THAT THIS IS A CATEGORY I SURVEY AND THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS GREATER THAN 1:10,000 AS SHOWN HEREON.

JOHN B. JERNIGAN, P.E., R.L.S.
REGISTERED LAND SURVEYOR
TENNESSEE REG. NO. 1015



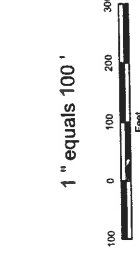
SCALE: 1" = 100'	DATE OF MAP: April 1, 2017
PHOTO DATE: March 2015	TN STATE PLANE(100)
COMPILED: JUNE 2001	MAD 4300 HAYD 89
WARD/BLOCK: 16:17	CITY: Memphis

793310	79331N	79331M
793396	79339C	79339D
793396	79339F	79339E

CORPORATE LIMIT
 WARD/DISTRICT
 BLOCK
 SUBDIV. ALPHA BOUNDARY
 WATER BODIES

SUBDIVISION LOT NUMBER
 SUBDIVISION ALPHA
 BLOCK NUMBER
 PARCEL LINE
 RAILROAD R.O.W.
 CEMETERY

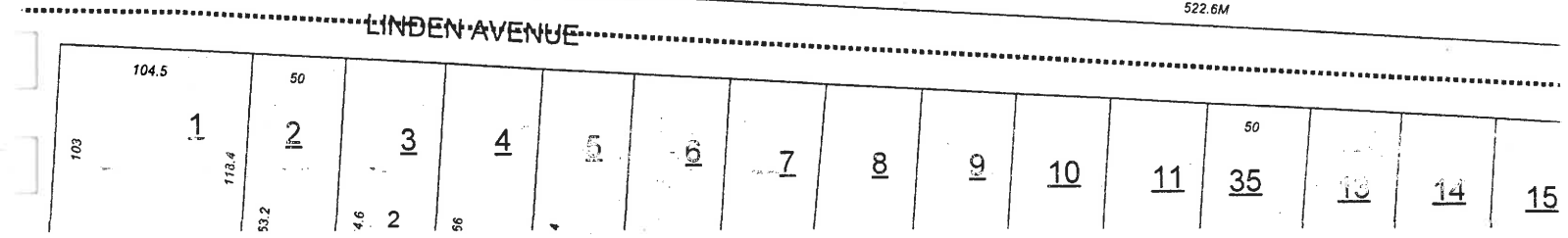
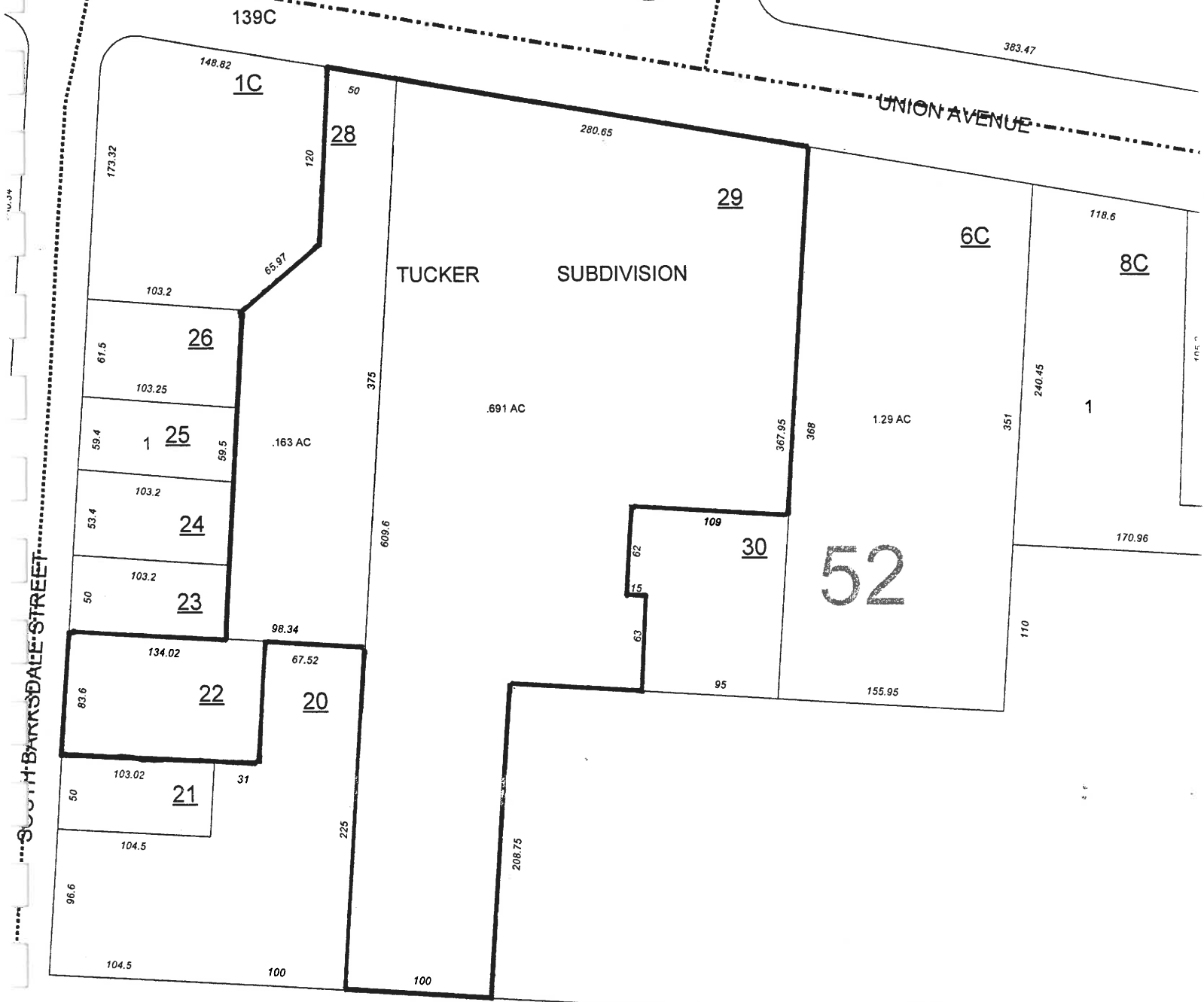
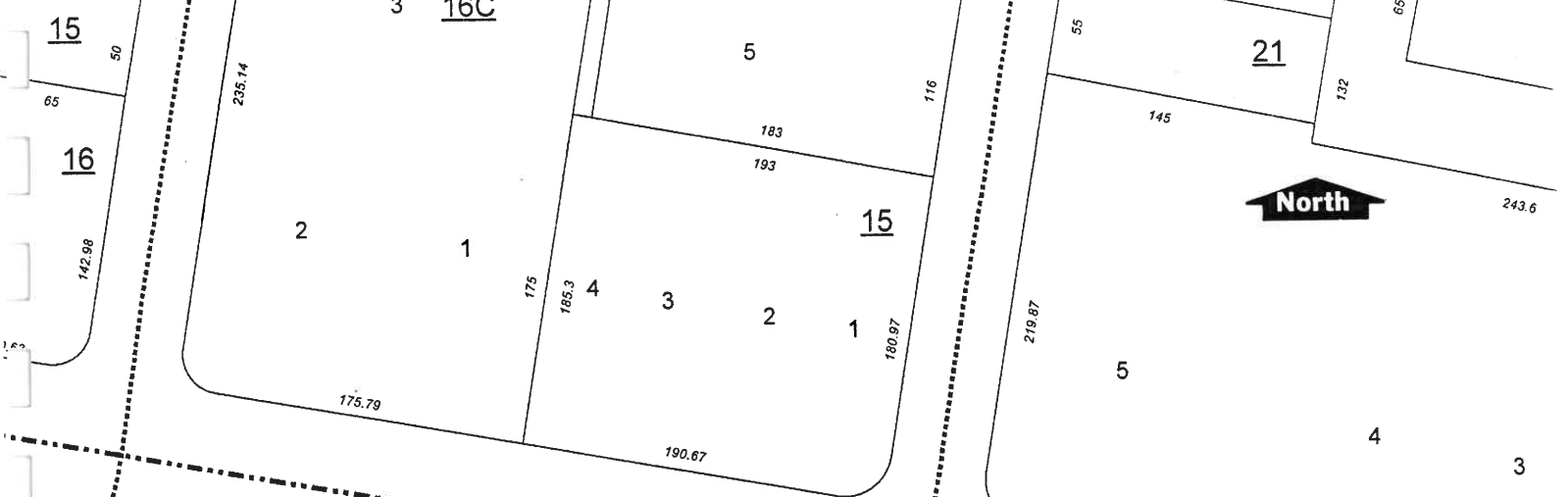
PARCEL NUMBER
 DEED ACREAGE
 CALCULATED ACREAGE
 DEED/PLAT DIMENSION
 SCALED DIMENSION
 SUBDIVISION NAME

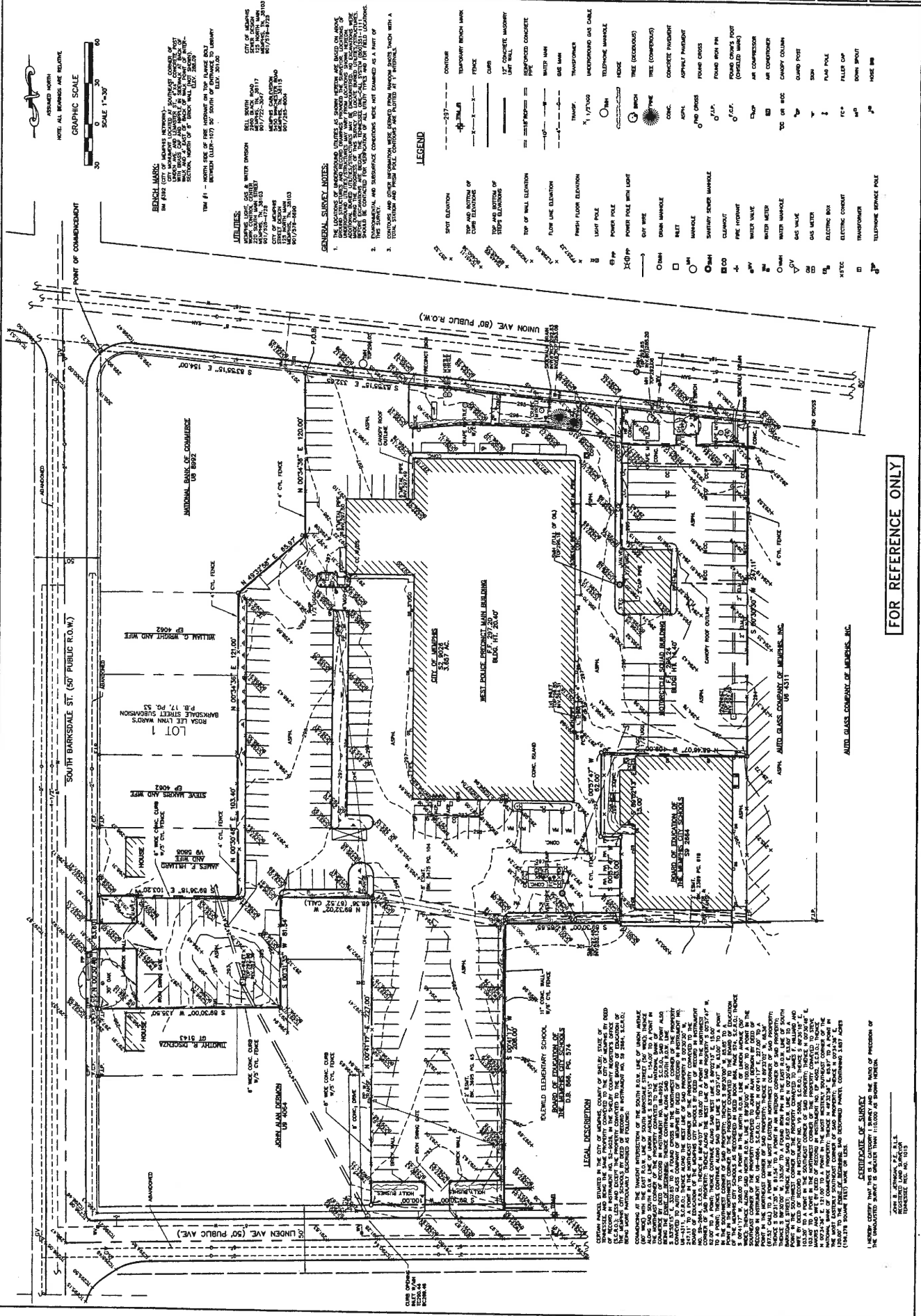


CHEYENNE JOHNSON,
ASSESSOR
SHELBY COUNTY,
TENNESSEE



THIS MAP IS FOR PROPERTY TAX ASSESSMENT PURPOSES ONLY. IT IS NOT CONCLUSIVE AS TO LOCATION OF PROPERTY OR LEGAL OWNERSHIP AND THEREFORE, SHOULD NOT BE RELED UNLESS AS REPRESENTATION OF AN INDIVIDUAL'S PROPERTY.





LEGAL DESCRIPTION

CERTIFICATE OF SURVEY

THE FOLLOWING SURVEY IS BEING MADE IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE OF THE STATE OF TENNESSEE, PASSED MARCH 10, 1915.

JOHN B. JOHNSON, C.E., S.E.
MEMPHIS, TENNESSEE, APRIL 10, 1915

FOR REFERENCE ONLY



Typical Street Scene – Looking east along Union Avenue – subject property on right



Typical Street Scene – Looking west along Union Avenue – subject property on left



Typical Street Scene – Looking east along Linden Avenue – subject property on left



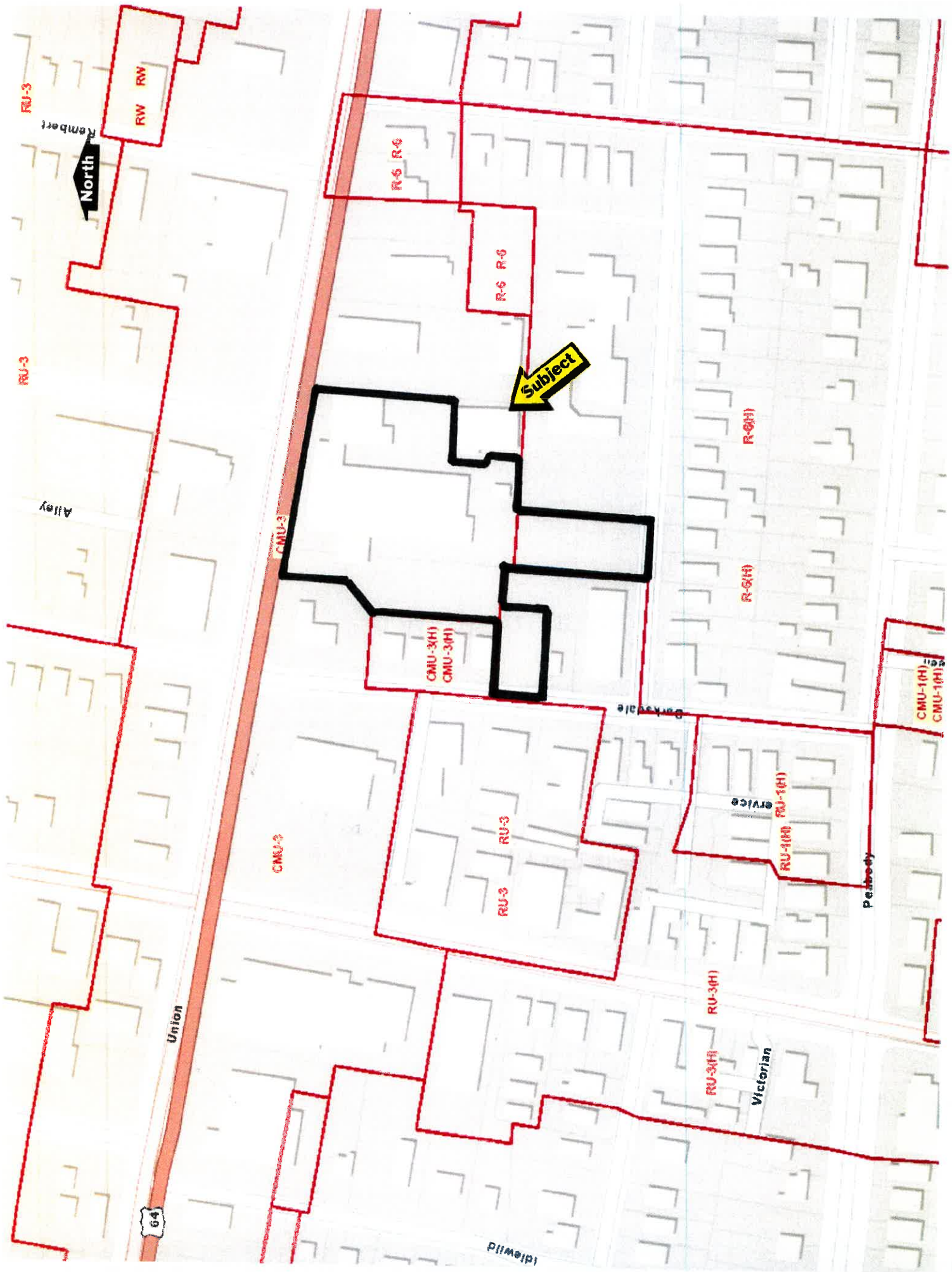
Typical Street Scene – Looking west along Linden Avenue – subject property on right



Typical Street Scene – Looking north along S. Barksdale Street – subject property on right



Typical Street Scene – Looking south along S. Barksdale Street – subject property on left



Subject

RU-3

RW RW

North

R-6 R-6

R-6 R-6

R-6(H)

R-6(H)

CMU-3(H)
CMU-3(H)

CMU-1(H)
CMU-1(H)

RU-3

Alley

CMU-3

Parkdale

RU-1(H)
RU-1(H)
SERVICE

Pebody

CMU-3

RU-3

RU-3

RU-3(H)

RU-3(H)

Victorian

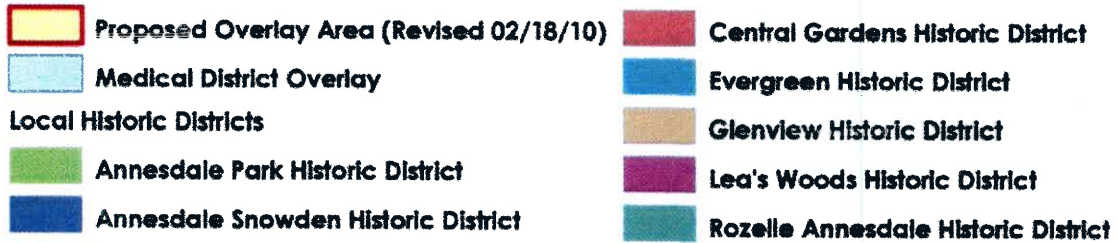
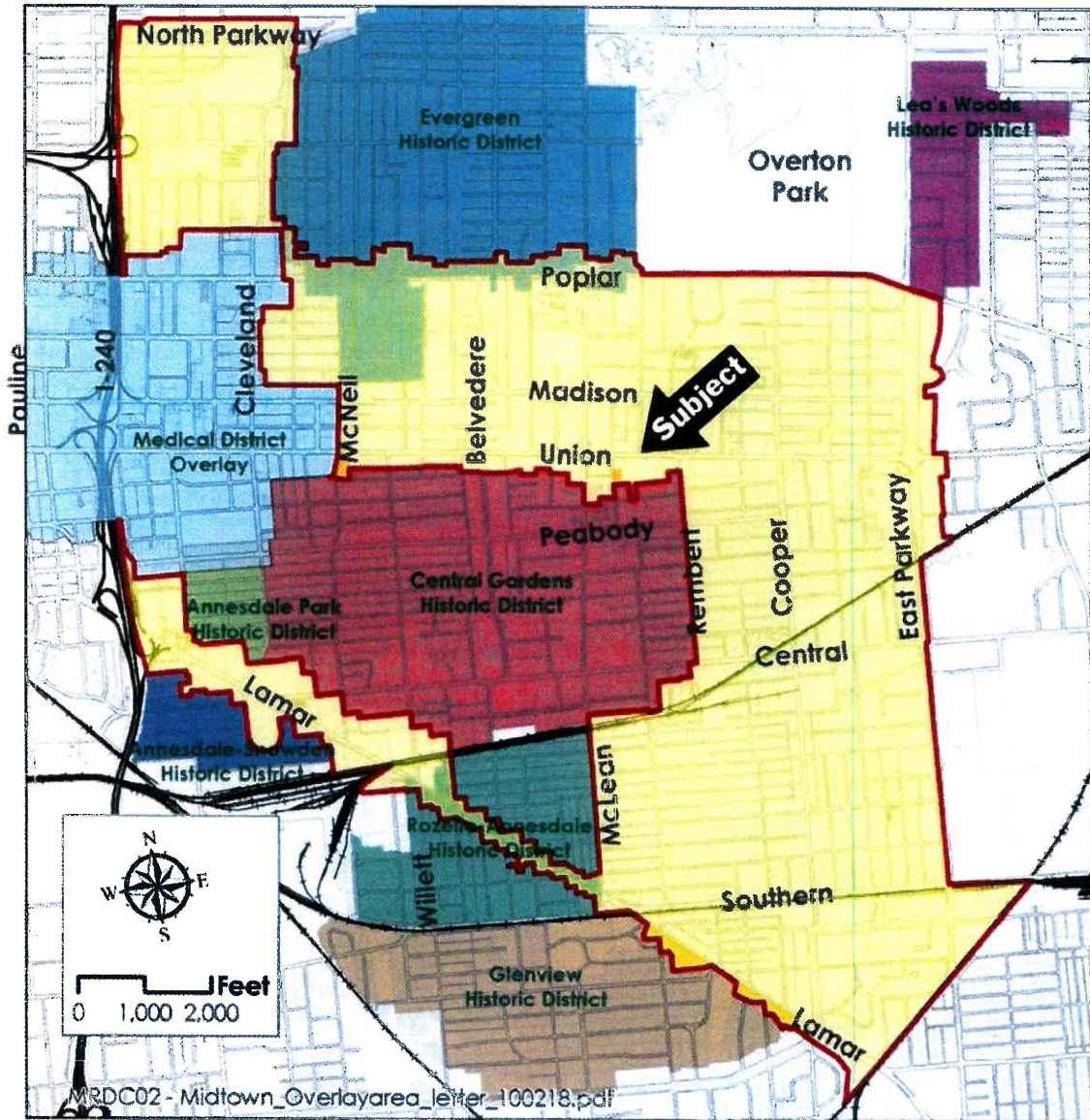
Union

64

Idemil

8.4.8 Building Envelope Standards

A. Boundaries of the Midtown District Overlay



C. Residential Single-Family (R-15, -10, -8, -6, -3)

The single-family residential districts are intended to accommodate one single-family detached principal dwelling unit per lot. These districts should be applied in areas where the land-use pattern is predominately single-family residential or where such a land use pattern is desired in the future. Five single-family residential districts are established—R-15, R-10, R-8, R-6, and R-3—which are differentiated primarily on the basis of minimum lot area and setback requirements.

1. Residential Single Family – 15 (R-15)

New R-15 districts are generally located at least 1,500 to 2,000 feet from a CMU-1, CMU-2, CMU-3 or CBD district.

2. Residential Single Family – 10 (R-10)

New R-10 districts are generally located at least 1,500 to 2,000 feet from a CMU-1, CMU-2, CMU-3 or CBD district.

3. Residential Single Family – 8 (R-8)

New R-8 districts are generally located at least 1,000 to 1,500 feet from a CMU-1, CMU-2, CMU-3 or CBD district.

4. Residential Single Family – 6 (R-6)

New R-6 districts are generally located in an infill or redevelopment location where similar lot sizes are part of the original fabric of development. Additionally, R-6 districts should have a shared street network with and are generally located at least 500 to 1,000 feet from a CMU-1, CMU-2, CMU-3, or CBD district.

5. Residential Single Family – 3 (R-3)

Residential Single Family – 3 (R-3) New R-3 districts are generally located in an infill or redevelopment location where similar lot sizes are part of the original fabric of development. Additionally, R-3 districts should have a shared street network with and are generally located at least 500 feet from a CMU-1, CMU-2, CMU-3, or CBD district.

D. Residential Urban Districts (RU-1, -2, -3, -4, -5)

The residential urban districts are intended to accommodate development where the land-use pattern is predominately urban in character or where such a land use pattern is desired in the future. The RU- districts are intended to provide for a variety of housing opportunities at intensities compatible with surrounding land uses. The districts are intended to encourage residential infill on single lots and small tracts as well as new development on larger tracts in traditional urban patterns that mimic established portions of surrounding neighborhoods. The RU-districts allow a limited set of corner commercial uses subject to performance measures.

1. Residential Urban – 1 (RU-1)

Residential development in the RU-1 District allows a variety of housing types including single-family detached (conventional, side yard house, cottage) and single-family attached (semi-attached, two-family). New RU-1 districts should have a shared street network with and are generally located at least 500 to 1,000 feet from a CMU-1, CMU-2, CMU-3, or CBD district or at are least 500 to 1,000 feet from an arterial.

2. Residential Urban – 2 (RU-2)

Residential development in the RU-2 District allows a variety of housing types including single-family detached (conventional, side yard house, cottage), single-family attached (semi-attached, two-family, townhouse), and multifamily (large home, stacked townhouse). New RU-2 districts should have a shared street network with and are generally located at least 500 to 1,000 feet from a CMU-1, CMU-2, CMU-3, or CBD district or are least 500 to 1,000 feet from an arterial.

3. Residential Urban – 3 (RU-3)

Residential development in the RU-3 District allows a variety of housing types including single-family detached (conventional, side yard house, cottage), single-family attached (semi-attached, two-family, townhouse), and multifamily (large home, stacked townhouse, apartment). New RU-3 districts are generally located in an infill or redevelopment location where similar lot sizes are part of the original fabric of development. Additionally, RU-3 districts should have a shared street network with and are generally located at least 500 feet from a CMU-1, CMU-2, CMU-3, or CBD district or are within 500 feet of an arterial.

4. Residential Urban – 4 (RU-4)

Residential development in the RU-4 District allows a variety of housing types including single-family attached (townhouse) and multifamily (large home, stacked townhouse, apartment). New RU-4 districts are generally located in an infill or redevelopment location where similar housing types are part of the original fabric of development. Additionally, RU-4 districts should have a shared street network with and are generally located within 500 feet of a CMU-3, or CBD district or are within 500 feet of an arterial.

5. Residential Urban – 5 (RU-5)

Residential development in the RU-5 District allows for higher intensity multifamily housing types as well as some corner commercial uses with an emphasis on live/work. New RU-5 districts are generally located in an infill or redevelopment location where similar housing types are part of the original fabric of development. Additionally, RU-5 districts should have a shared street network with and are generally located within 500 feet of a CMU-3, or CBD district or are within 500 feet of an arterial.

2.2.3 Mixed Use Districts

A. Residential Work (RW)

The RW District is intended to provide appropriate areas for new and existing development that incorporates both small-scale residential and office uses within close proximity to one another and adjacent neighborhoods. The district is also intended to provide for live/work opportunities where people can live and work in the same physical space. The district can also be used as a transition between arterials or more intense commercial areas and established residential neighborhoods. Typical uses contain up to 4,000 square feet of floor area.

B. Office General (OG)

The OG District is intended to accommodate a range of more intense professional office uses and a limited range of civic, residential and commercial service uses. The district is intended to be located along freeways and adjacent to commercial uses to act as a buffer between higher intensity commercial and lower intensity residential.

C. Commercial Mixed Use (CMU-)

The commercial mixed use districts are intended to accommodate retail, service and commercial uses and to ensure that commercial-zoned areas are compatible with the character of existing neighborhoods. While the districts primarily accommodate commercial uses, apartments and upper-story residential are allowed in order to promote live-work and mixed use opportunities. To provide for additional housing choice, single-family detached is permitted in the CMU- districts. The CMU- districts are not intended to provide for areas exclusively dominated by any one particular use but provide for neighborhoods that successfully integrate several types of compatible uses together.

1. Commercial Mixed Use – 1 (CMU-1)

The CMU-1 District is intended to provide for neighborhood serving commercial, office, and employment uses. Residential uses are encouraged above the ground floor. Compatible nonresidential uses should be located within walking distance to the established residential neighborhoods they are designated to serve. Auto-oriented uses are not appropriate in this district. Typical retail uses vary from 1,000 to 15,000 square feet of ground floor area.

2. Commercial Mixed Use – 2 (CMU-2)

The CMU-2 District is intended to provide for commercial, office, and employment uses that serve through traffic as well as surrounding neighborhoods. Residential uses are allowed on the ground floor but upper story units are encouraged. Typical centers may include anchor tenants up to 80,000 square feet of ground floor area. Uses in this district are intended to be located within convenient traveling distance from the multiple neighborhoods they are designated to serve.

3. Commercial Mixed Use – 3 (CMU-3)

The CMU-3 District is intended to accommodate a very board range of high intensity commercial, office and employment uses that require highly visible and highly accessible locations with direct access to arterials. Residential uses are allowed on the ground floor but upper story units are encouraged. Typical uses in this district serve regional needs. The permitted uses are generally uses not of a neighborhood or general commercial type, but serve large areas of the City and County.

8.6 HISTORIC OVERLAY DISTRICT

8.6.1 General Provisions

A. Purpose

1. The Historic Overlay District (-H) is intended to protect and conserve the heritage and character of the community by providing for the preservation of designated areas, including individual properties that embody important elements of social, economic, political, or architectural history, and by promoting the stabilization and enhancement of property values throughout such areas.
2. It is intended that this development code ensure that buildings or structures in a Historic Overlay District are in harmony with other buildings or structures located within the District. However, it is not the intention of this development code to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles from particular historic periods, but rather to encourage design, which is harmonious with the character of the area.

B. District Established

The Historic Overlay District (-H) is hereby established. All adopted Historic Overlay Districts are shown on the Zoning Map (see Chapter 2.4). In a designated Historic Overlay District, no building, structure, or site shall be constructed, altered, repaired, relocated or demolished unless the action meets with the requirements set forth in this development code for compliance with the Design Review Guidelines adopted for the District for issuance of a Certificate of Appropriateness.

C. Certificate of Appropriateness Required

If a property owner within a Historic Overlay District seeks a building permit for exterior work, the owner must receive a Certificate of Appropriateness from the Landmarks Commission for such work (see Section 8.6.3, Certificate of Appropriateness).

8.6.2 Historic Overlay (-H) District Designation

A. General Purposes

The following provisions are established in order that appropriate measures may be taken to ensure preservation of structures of historic value to the City of Memphis or Shelby County pursuant to the authority contained in Section 13-7-401 of the Tennessee Code. The general intent includes the following specific purposes:

1. To promote the educational and cultural welfare of the people of the City of Memphis or Shelby County;
2. To preserve and protect the historic and architectural value of significant resources;
3. To insure compatibility and to create an aesthetic atmosphere within a Historic Overlay District;
4. To foster civic beauty and community pride;
5. To stabilize and improve property values and to strengthen the local economy;
6. To enhance the City's or County's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided.

B. Pre-Application Conference

An applicant shall schedule a pre-application conference in accordance with Section 9.3.1.

C. Application Requirements

1. An application for a Historic Overlay District zoning change shall be submitted in accordance with Section 9.3.3, Application Requirements.
2. The Planning Director has established specific submittal requirements for a Historic Overlay District zoning change (see Application for requirements).

D. Designation

1. The Landmarks Commission (see also Section 9.1.4) shall review applications regarding a Historic Overlay District. A public hearing shall be held and notice given in accordance with Section 9.3.4, Public Hearings and Notification.
2. The Landmarks Commission shall furnish to the Land Use Control Board in writing, its recommendations regarding the application for a Historic Overlay District zoning change).
3. The governing bodies shall review and consider the recommendations of the Landmarks Commission and the Land Use Control Board prior to the establishment of a Historic Overlay District (see also Chapter 9.5, Zoning Change).

8.3.12 Definitions

PRINCIPAL USE	R6	RU-1	RU-3	CMU-1	CMU-2	CMP-2
Self-Storage						
Self-Storage as listed below						
Warehouse, self-service, mini-storage						
Warehouse, indoor multi-story				■	■	
Vehicle Sales and Service						
All Vehicle Service except as listed below						□
Lube, Oil Change Facility						□
Tire, Motor Vehicle Sales & Service						□
Full or Self-service Vehicle Wash						□
All Vehicle Repair						□
All Vehicle Sales, Rental, Leasing, except as listed below				□	□	
Manufactured Housing Sales						
Industrial Uses as listed below						
Lawn, Tree or Garden Service					□	
Light Manufacturing or Assembly of Equipment, Instruments or Goods					■	■
Photo Finishing Laboratory					□	■
Repair of Scientific or Professional Instruments, Electric Motors					□	■
Research, Testing and Development Laboratory					□	■
Sheet Metal Shop					□	■
Welding, Machine, Tool Repair Shop					□	■
Woodworking, including Cabinet Makers and Furniture Manufacturing					□	■
Warehouse					□	□
Recycling Drop-off Facility				□	□	□
Planned Development	□			□	□	

8.3.12 Definitions

For the purposes of this Chapter, the following words and terms shall have the following meanings:

- A. Blank Wall Area – For the purposes of this chapter, blank wall area shall mean a portion of the exterior façade of the building which does not include a substantial material change (paint color is not considered a substantial change; windows or doors; or columns, pilasters or other articulation greater than 12 inches in depth.
- B. Shopfront Frontage – See Section 8.3.6.
- C. Urban Frontage – See Section 8.3.6.
- D. Transparent – Material through which light can travel with minimal scattering so that objects can be viewed clearly through it.
- E. Translucent – Material through which light passes, but in such a way that a clear image cannot be formed of the object viewed through it.
- F. Upper-Story Residential – A residential unit on the upper floors of a permitted non residential use.

8.4 MIDTOWN DISTRICT OVERLAY (-MD)

8.4.1 Purpose

The purpose of this Chapter is to provide carefully tailored zoning categories that will preserve and reinforce the Midtown District by encouraging rehabilitation and new construction that is sensitive to the existing urban form and reflects appropriate uses, scale and character of the neighborhood. The intention of this Chapter is to promote development by providing owners and developers with predictability in respect to what is or is not expected of them when developing their property. This Chapter is intended to serve as a guide to assist property owners, developers, architects, builders, business owners, public officials, and other interested citizens when considering rehabilitation, redevelopment or new construction in the Midtown District. This Chapter should also be consulted by the Memphis and Shelby County Government with respect

to proposed infrastructure and streetscape improvement projects. This Chapter includes zoning regulations that govern land use, density, bulk and parking requirements.

8.4.2 **Boundaries**

The boundaries of the Midtown District Overlay are shown on the map in Section 8.4.8.

8.4.3 **Applicability**

Within the Midtown District Overlay the standards of this Chapter shall apply to:

- A. All new building construction;
- B. All building expansion with removal of more than 25% of existing walls facing a public street, or a street-facing elevation if the parcel is landlocked; or removal of more than 50% of all existing exterior walls.
- C. All existing buildings that are not in conformance with the requirements of the underlying district or this overlay district at the time of adoption shall be governed by Article 10, Nonconformities.

8.4.4 **Site Plan Review**

A. Authority

1. The Office of Planning and Development is authorized to approve site plans within the Midtown District Overlay.
2. All proposed development, except for single-family detached and single-family attached housing types, used exclusively for residential purposes on individual lots, shall be subject to the administrative site plan review process.
3. Any planned development or use requiring a special use permit shall be subject to site plan review.

B. Authority to Require Dedication and Improvement

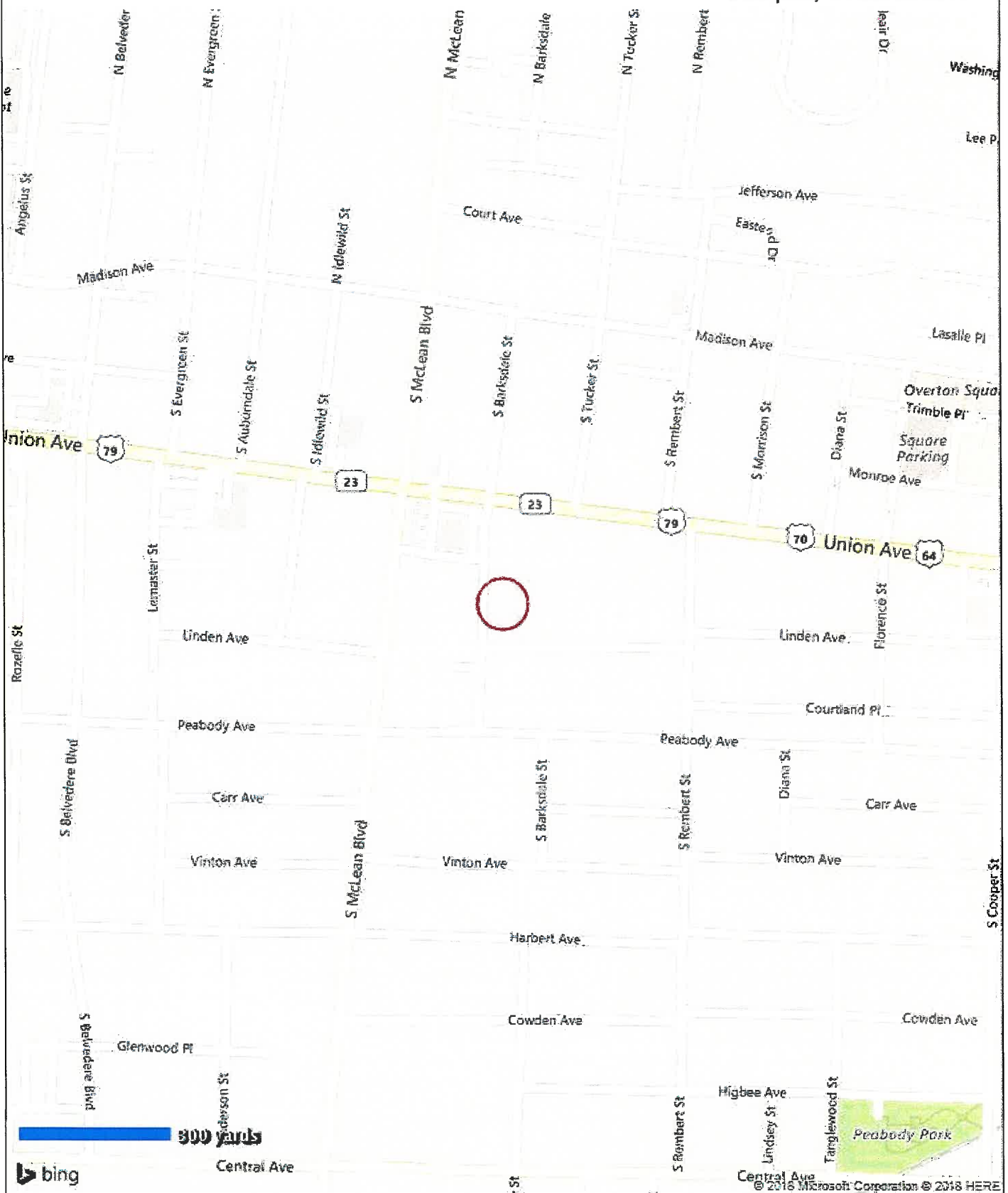
All development required to submit a site plan pursuant this Chapter shall require the dedication and improvement or designation of pedestrian easement to provide adequate sidewalks and streetscape.

C. Application Procedure

Submittal Requirements

Site plans shall be drawn at a scale of 1 inch equals 100 feet and shall include, but not be limited to, the following:

1. Property boundary lines and dimensions; available utilities; and easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property;
2. The proposed height, dimensions and arrangement of buildings;
3. The type and location of proposed fencing and landscaping (including illustrations of applicable landscape plates);
4. The location of points of ingress and egress;
5. The location of driveways and parking lots;
6. The location of trash collection, trash compaction, recycling collection and other similar services areas;
7. The location of garage doors, bay doors or loading areas;
8. The location of all roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment);
9. The location of any drive-through facilities;
10. Illustrations of the proposed building or building expansion and its relationship to existing buildings within 100 feet of the site;
11. Illustrations with dimensions of the exterior of the proposed building or building expansion; and
12. Illustrations of proposed signs including location, materials, dimensions, and type of lighting.



300 yards



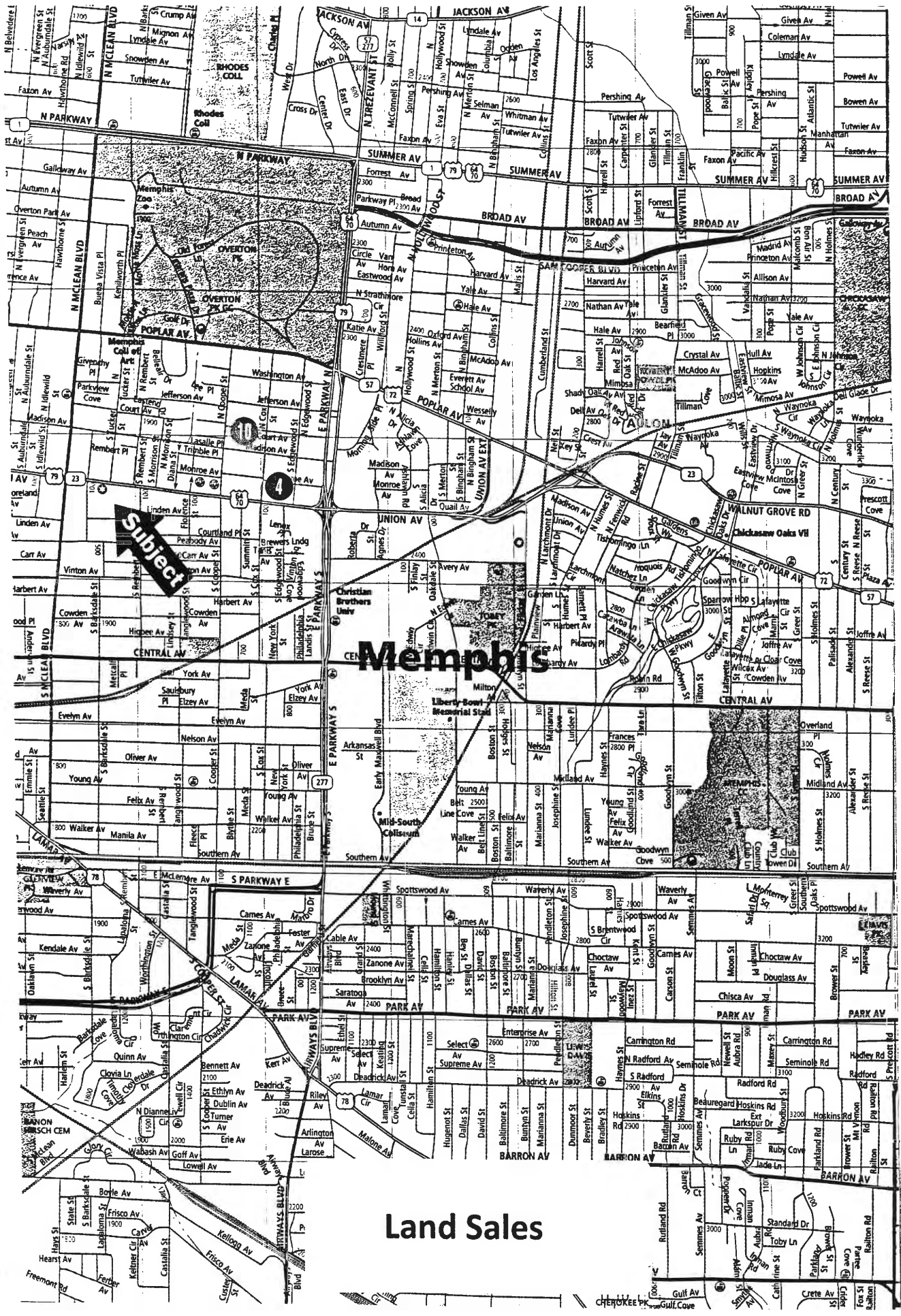
© 2016 Microsoft Corporation © 2018 HERE
 Powered by CoreLogic®

MAP DATA

FEMA Special Flood Hazard Area: No
 Map Number: 47157C0290F
 Zone: X
 Map Date: **September 28, 2007**
 FIPS: 47157

MAP LEGEND

- Areas inundated by 500-year flooding
- Areas inundated by 100-year flooding
- Velocity Hazard
- Protected Areas
- Floodway
- Subject Area



Subject

Memphis

Land Sales

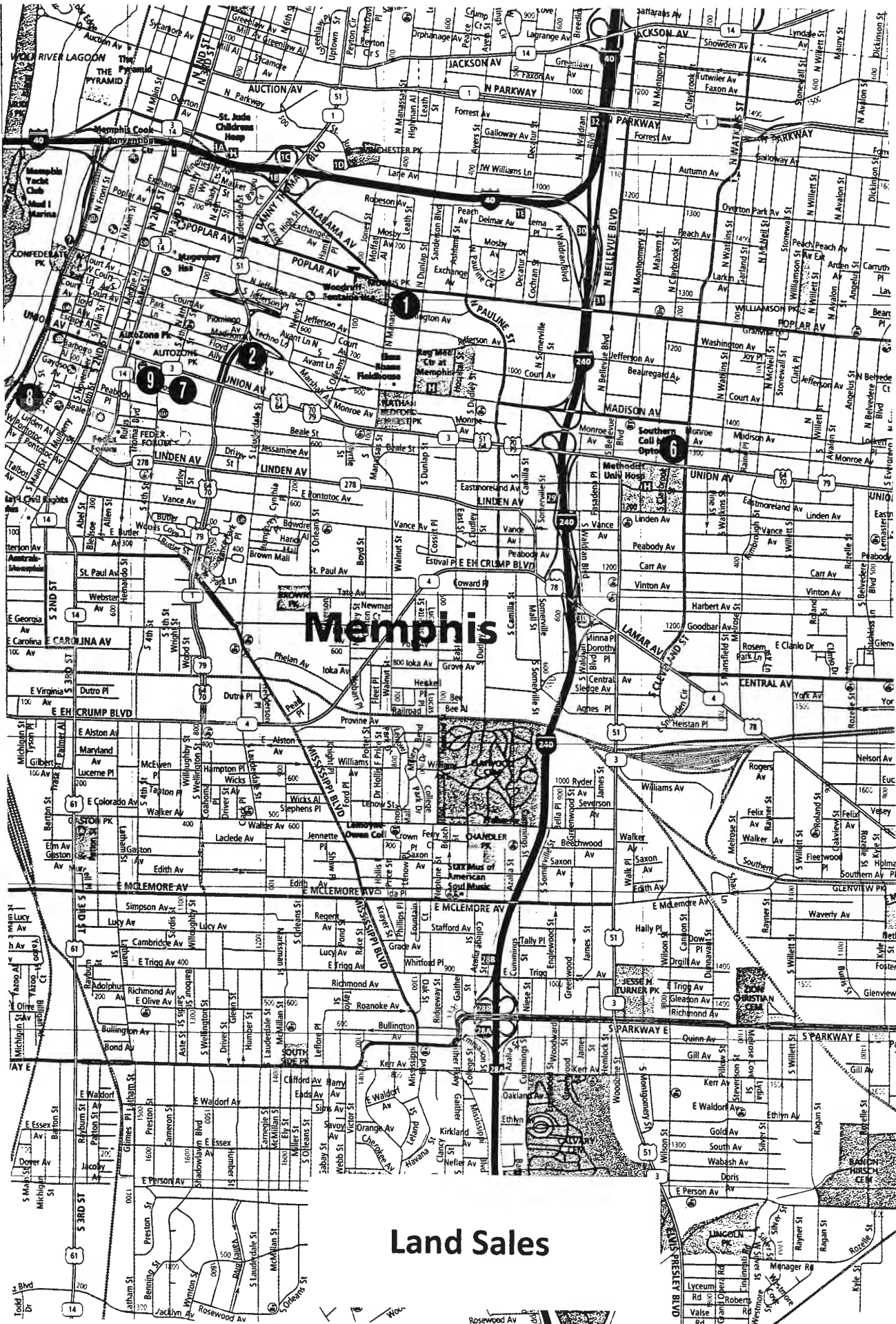
CHEROKEE PK

Gulf Cove

Crete Av

Parish

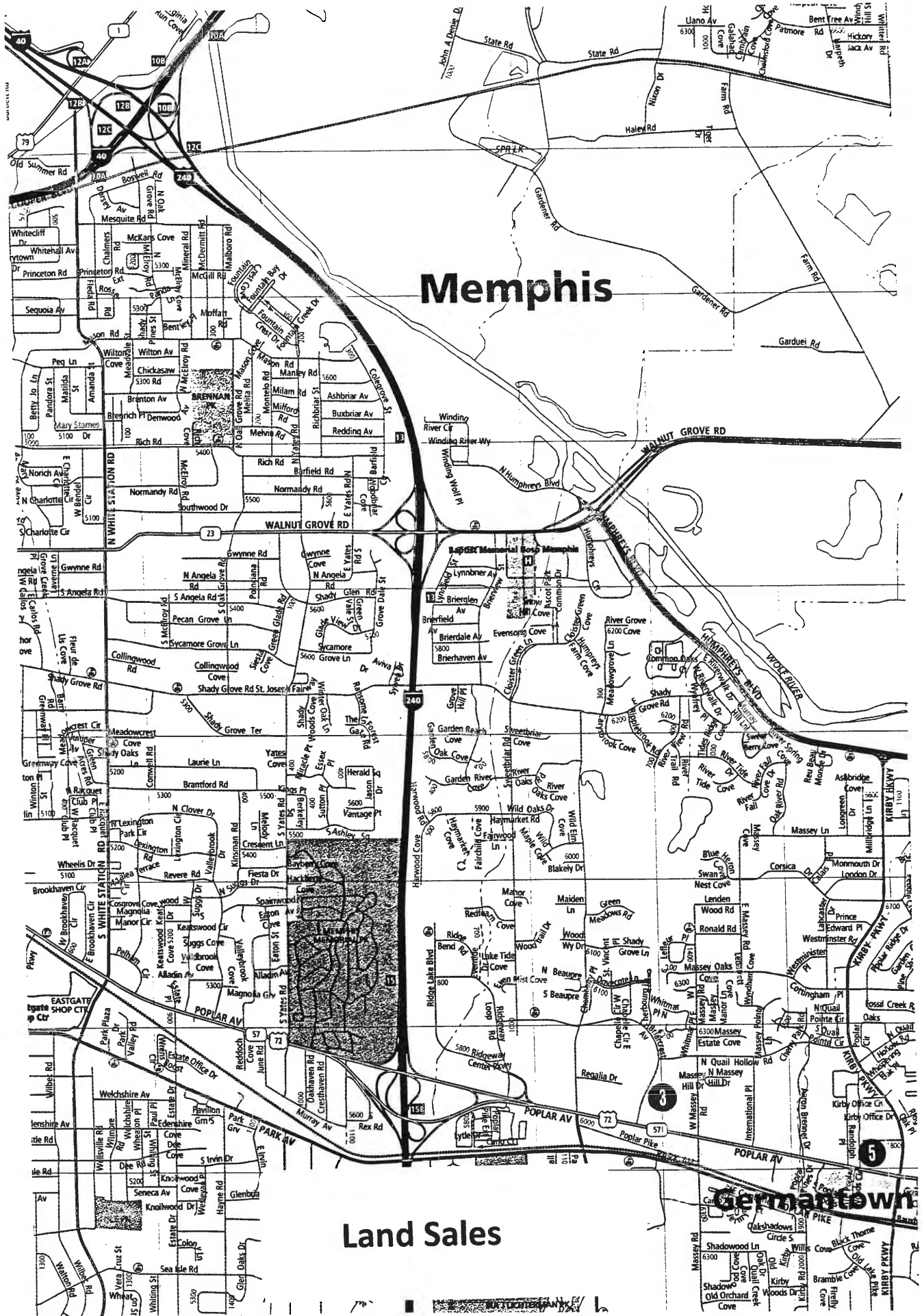
Realtor



Memphis

Land Sales

Rosewood Av



Memphis

GermanTown

Land Sales

REDEVELOPMENT OPPORTUNITY

CITY OF MEMPHIS PRIME SITE AVAILABLE FOR PURCHASE

1925 Union Avenue, Memphis, TN



Owned by



Redevelopment Opportunity | 3.65 Acres

RFO Released: 3/2/2020 Offers Due: 4/30/2020

Colliers International | Memphis
6363 Poplar Avenue, Suite 220
Memphis, TN 38119 | USA
Main: +1 901 375 4800
Fax: +1 901 375 9600



EXCLUSIVE AGENT

Alex Stringfellow

Vice President | Memphis

Direct +1 901 312 4920

Email alex.stringfellow@colliers.com

Colliers International

6363 Poplar Avenue, Suite 220

Memphis, TN 38119

+1 901 375 4800

LIMITING CONDITIONS

CONFIDENTIALITY & DISCLAIMER STATEMENT

This Offering Memorandum was prepared by Colliers International Memphis and has been reviewed by the Seller. It contains selected information pertaining to the Property and does not purport to be all-inclusive or to contain all of the information that a prospective purchaser may desire. All financial projections are provided for general reference purposes only and are based on assumptions relating to the general economy, competition, and other factors, which therefore are subject to material change or variation. Opportunities to inspect the Property will be made available to qualified prospective purchasers.

In this Offering Memorandum, certain documents, including leases and other materials, are described in summary form and do not purport to be complete nor, necessarily, accurate descriptions of the full agreements involved, nor do they constitute a legal analysis of such documents. Interested parties are expected to independently review all documents.

This Offering Memorandum is subject to prior placement, errors, omissions, changes, or withdrawal without notice and does not constitute a recommendation, endorsement, or advice as to the value of the Property by Seller or Colliers International Memphis. Each prospective purchaser is to rely upon its own investigation, evaluation, and judgment as to the advisability of purchasing the Property described herein.

Seller and Colliers International Memphis expressly reserve the right, at their sole discretion, to reject any or all expressions of interest or offers to purchase the Property and/or to terminate discussions with any party at any time with or without notice. Seller shall have no legal commitment or obligation to any purchaser reviewing this Offering Memorandum or making an offer to purchase the Property unless a written agreement for the purchase of the Property has been fully executed, delivered, and approved by the Seller, and any conditions to Seller's obligations thereunder have been satisfied or waived. Colliers International Memphis is not authorized to make any representations or agreements on behalf of the Seller.

This Offering Memorandum is the property of Colliers International Memphis and may be used only by parties approved by Colliers International Memphis.

The terms and conditions set forth above apply to this Offering Memorandum in its entirety.

SALES PROCESS

THE OFFERING PROCESS

The Property will be sold through a sealed bid sales process

TERMS OF THE SALE

The Property will be sold “as-is” for cash due upon closing

GENERAL RULES & CONDITIONS OF INVITEES

Please submit your sealed bid proposal by 5:00 PM CST, April 30, 2020 to realestate@memphistn.gov. All inquiries relating to interpretation of this RFP should be directed to Colliers International Memphis at the address provided herein.

NO MINIMUM BID

Bids submitted at or above appraised value will be given priority. However, there is no minimum bid and all reasonable Proposals shall be considered. The City reserves the right to reject any and all Proposals.

MARKETING PERIOD

The Marketing Period shall be sixty (60) days from the bid opening date. Offers can be submitted at any point during the Marketing Period.

EVALUATION

As a part of the evaluation of the offers received, the City reserves the right to hold a Best and Final round of offers (“BAFO”).

TOUR DATES

Tour One - 10:00 AM CST to 12:00 PM CST	March 5, 2020
Tour Two - 1:00 PM CST to 3:00 PM CST	March 31, 2020
Tour Three - 9:00 AM CST to 11:00 AM CST	April 28, 2020

SALE PROCESS TIMELINE

Offers Due	April 30, 2020
Estimated Close Date	October 31, 2020



1925 UNION AVENUE

TABLE OF CONTENTS

» INVESTMENT SUMMARY

- *The Offering - p. 6*
- *Property Overview - p. 7*
- *Demographics - p. 8*
- *Property Aerial & Neighborhood Amenities - p. 9*
- *Union Avenue Retailers - p. 10*
- *Street Map - p. 11*

» LOCAL AREA OVERVIEW

- *Memphis Metro Summary - p. 13-16*



Investment Summary

REDEVELOPMENT OPPORTUNITY

3.65 ACRES

1925 Union Ave., Memphis, TN 38104

THE OFFERING



The City of Memphis is pleased to offer for purchase a significant redevelopment site at 1925 Union Avenue in Memphis, Tennessee. The former MPD Complex is comprised of two buildings totaling approximately 34,581 square feet located on 3.65 +/- acres. The former police precinct and auto repair building is 32,900 square feet and the freestanding motorcycle repair building is 1,681 square feet.

The City of Memphis is seeking sealed bid offers from qualified developers or users for the purchase and redevelopment of the Subject Property. 1925 Union Avenue is situated in the Midtown District Overlay, which encourages rehabilitation and new construction that is sensitive to the existing urban form.

This is a rare opportunity to own a major parcel of land in the heart of Midtown Memphis. The Midtown neighborhood is a very dense residential & commercial area that is centrally located within the City of Memphis. Positioned just east of the Medical District, 2.5 miles east of Downtown, and 4 miles west of the University of Memphis, Midtown is one of Memphis' oldest and most vibrant neighborhoods.

The Property fronts Union Avenue, which is the main thoroughfare in Midtown and connects East Memphis to Downtown. The Union Ave Corridor has seen significant commercial, retail, multi-family and office growth/revitalization during the past few years. This includes the revived Overton Square, a restaurant and shopping district which is home to several local theaters and attractions.

PROPERTY OVERVIEW

1925 UNION AVENUE, MEMPHIS, TN

Tax Parcels:	1925 Union Avenue (Tax Parcel: 016052 00029) 0 Union Avenue (Tax Parcel 016052 00028) 192 South Barksdale Street (Tax Parcel 016052 00022)
Total Building:	34,581 sq. ft. in two buildings.
Year Built:	1965
Land Size:	3.65 acres or 159,278 sq. ft.
Appraised Value:	\$6,050,000.00
Current Use:	Memphis Police Department Traffic Division complex
Street Frontage:	Union Avenue – 332.65'; Linden Avenue – 100.00'; S. Barksdale St. – 83.60'
Zoning:	Primarily CMU-3 district zoning.
Foundation:	Reinforced concrete slab
Exterior Walls:	Brick veneer
Roof:	Standing seam metal panel and built-up tar
Fire Protection:	Grinnell Model A water sprinkler system and firm alarm system



DEMOGRAPHICS

	RADIUS (MILES)	1-MILE	3-MILE	5-MILE
POPULATION				
2018 Estimated Population		14,738	115,086	229,342
2023 Projected Population		14,841	115,858	231,666
Trends 2018 - 2023		0.14%	0.13%	0.20%
Median Age		41.0	38.2	36.9

HOUSEHOLDS

2018 Estimated Households	7,997	48,668	94,757
2023 Projected Households	8,041	49,034	95,914
Trends 2018 - 2023	0.11%	0.15%	0.24%

HOUSING

Total Housing Units	8,086	48,667	94,757
Owner-Occupied Housing Units	2,764	16,252	34,468
Renter-Occupied Housing Units	5,322	32,415	60,289

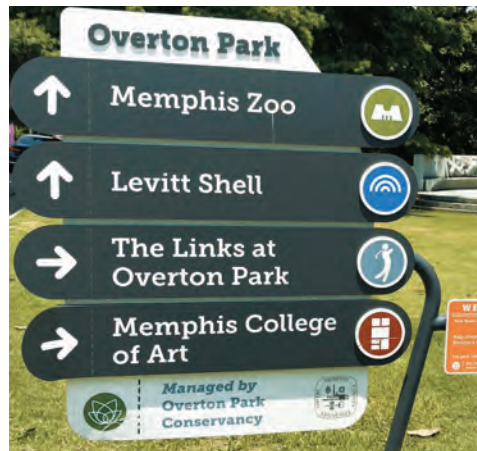
	RADIUS (MILES)	1-MILE	3-MILE	5-MILE
POPULATION BY RACE				
American Indian		0.3%	0.3%	0.2%
Asian & Pacific Islander		8.3%	3.8%	3.7%
Black		57.9%	60.2%	54.2%
White		28.3%	30.2%	35.5%
Hispanic		5.5%	6.5%	7.1%

INCOME

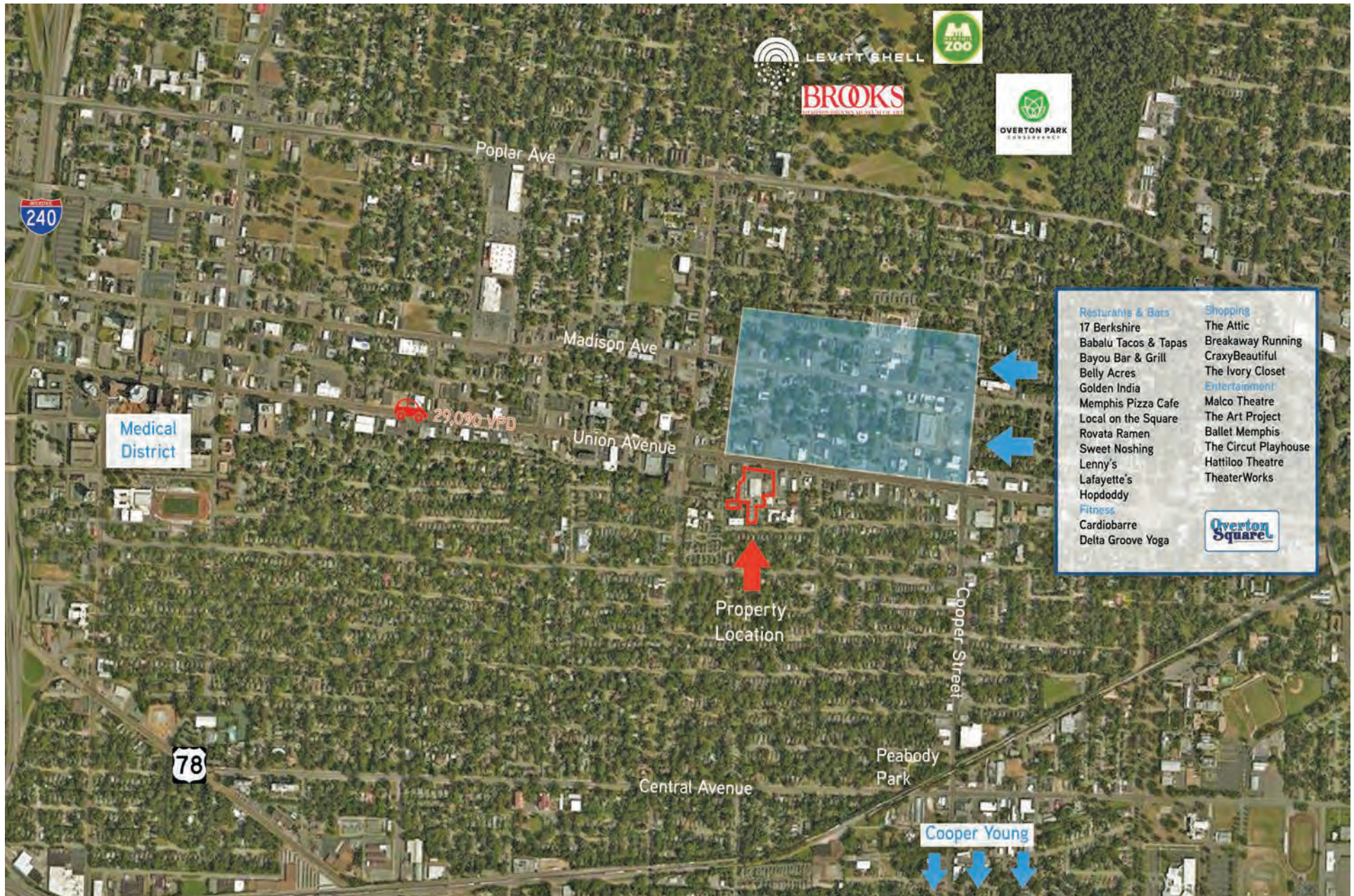
Average Household Income	\$84,621	\$54,468	\$57,526
Median Household Income	\$50,392	\$31,085	\$33,185

BUSINESS & EMPLOYMENT

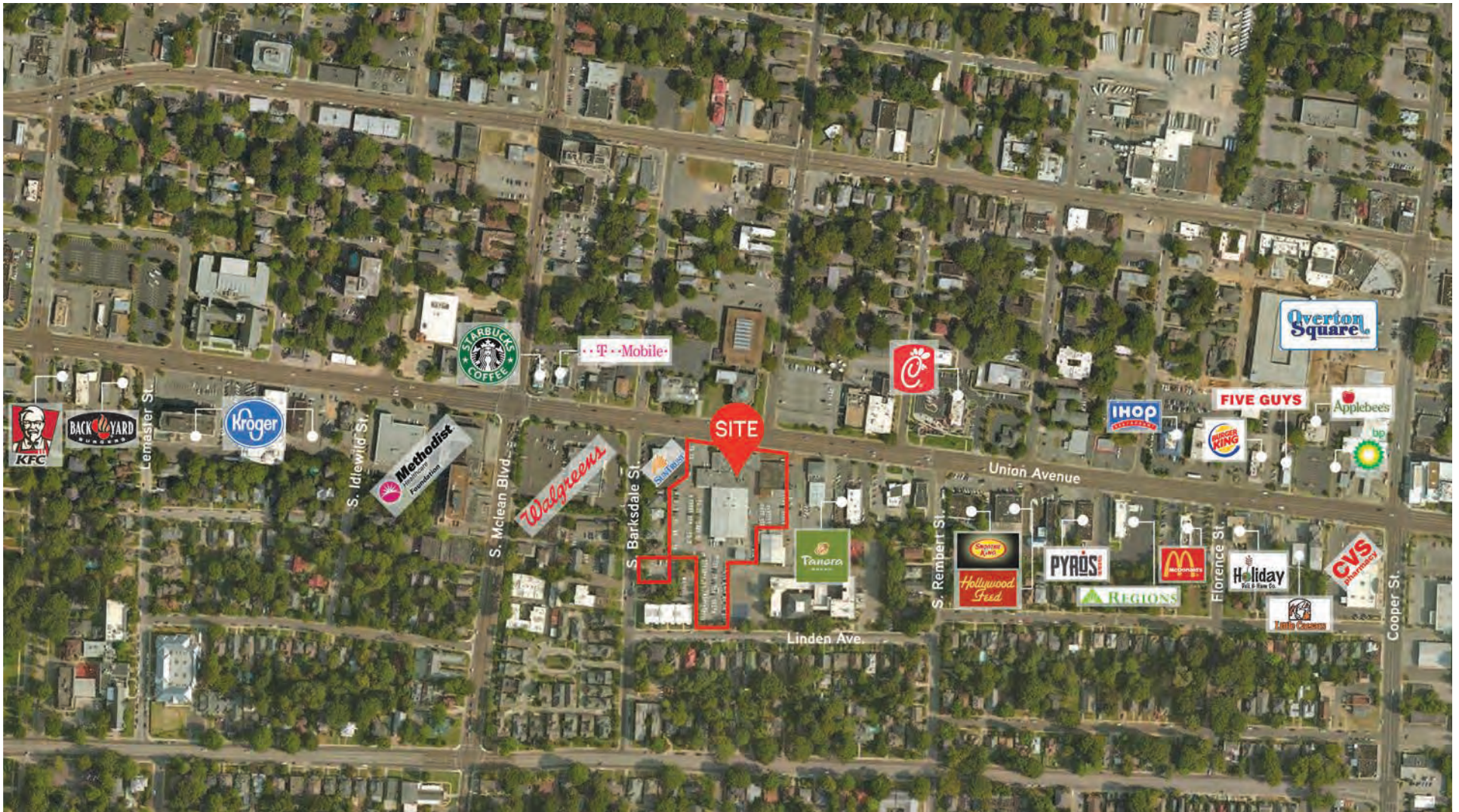
Number of Employees	12,464	77,310	157,672
Number of Establishments	847	4,409	8,695



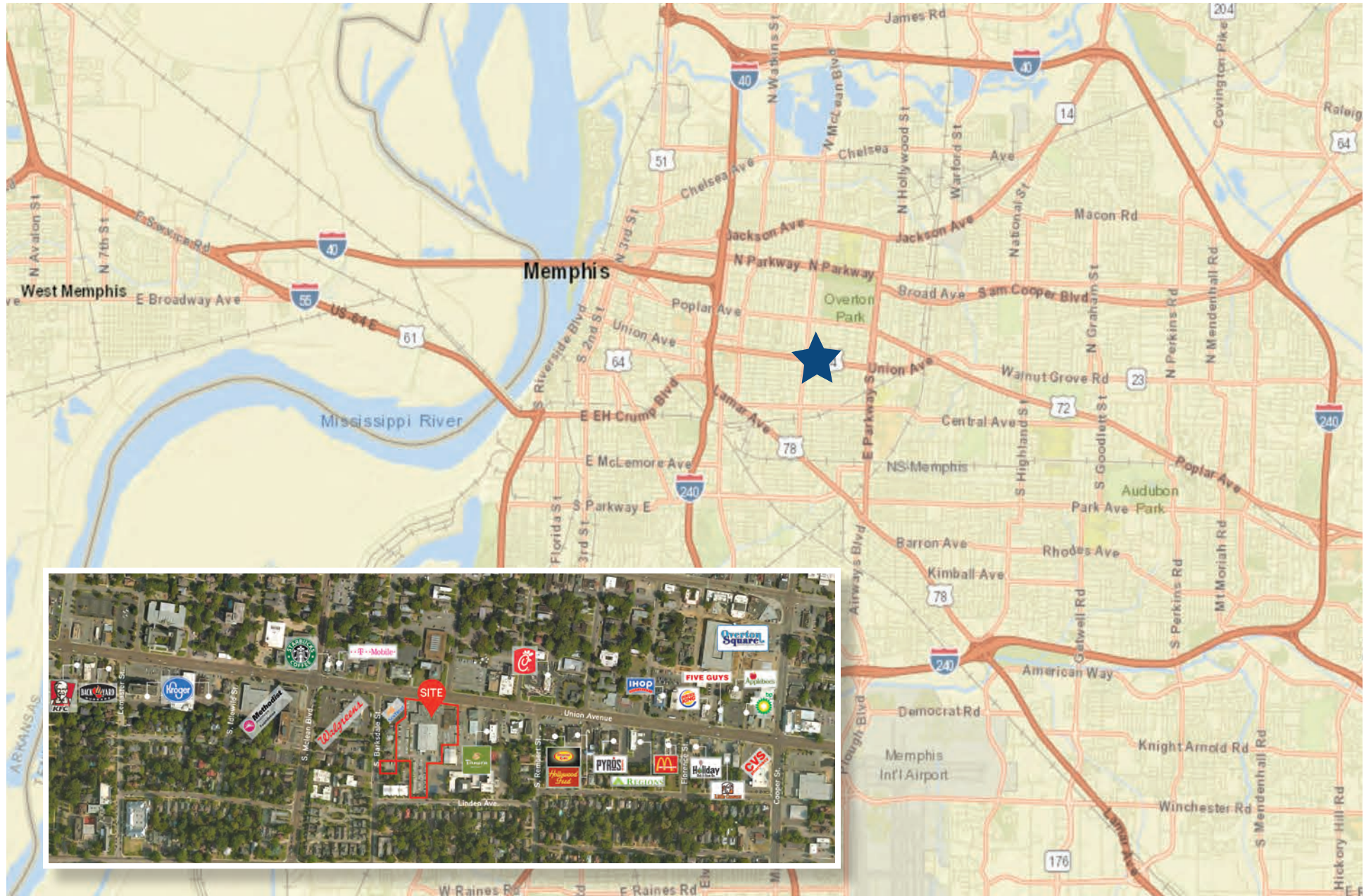
Property Aerial and Neighborhood Amenities



Union Avenue Retailers



Street Map





Memphis Overview

REDEVELOPMENT OPPORTUNITY

3.65 ACRES

1925 Union Ave., Memphis, TN 38104

Memphis Metro Summary

The Memphis Region is defined and strengthened by the diverse communities within its borders. This diversity provides a vitality, character and quality of life that are difficult to match and include a full range of opportunities for business and recreation. Factors ranging from world-renowned affordable health care to a mild climate also contribute to the exceptional livability of the city. Memphis has all the amenities that come with being the 19th largest city in the U.S. but at a cost of living roughly 10% below the national metro average.

Memphis offers a leading edge telecommunications infrastructure with its sophisticated distribution services, central geographical location and local points of presence by major telecommunications services. This Metropolitan area provides the logistical and technological superiority to position companies squarely at the forefront of electronic commerce. Memphis is at the forefront of technological business development and electronic commerce due to significant investments by virtually all of the top service providers in the market. This, coupled with a diverse workforce educated by nationally recognized schools and training programs, helps ensure Memphis' competitive technological edge in the future.

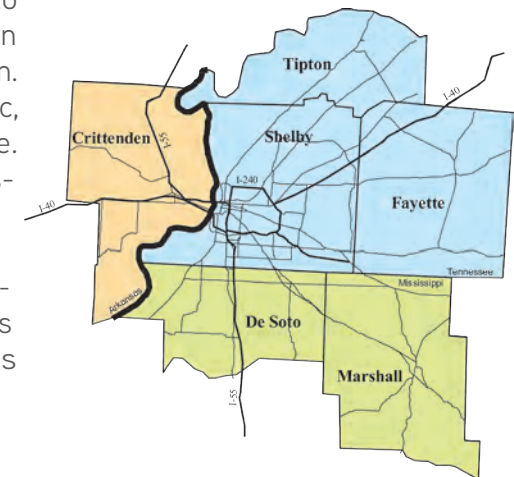
Dependable electricity, top-notch educational institutions, and a dedicated, available workforce provide a sound basis for companies. Memphis has a nationally recognized school system, state-of-the-art medical facilities, and affordable housing. Area schools attract national recognition and honors for the innovative program and academic excellence provided to students of all age. Colleges, universities and technical schools in the Memphis area are consistently cited among the top schools in America. The diversity of programs and specialized training available in Memphis generate a workforce responsive to the needs of employers competing in the global workplace.

Healthcare

The city is renowned as a leader in the medical field with the health care industry contributing over \$5 billion to the metro Memphis economy annually and employing over 70,000. Memphis has become a worldwide leader in orthopedic and spinal implants and is the second largest manufacturing center for orthopedic devices in the nation. A few of the major medical companies with manufacturing operations in Memphis are Smith & Nephew, Medtronic, Symmetry Medical and Wright Medical, as well as biotech startups like GTx, Greystone Medical and Luminete. Memphis is also home to many specialty clinics, including nationally recognized Campbell Clinic, Semmes-Murphy Clinic and Shea Clinic.

St. Jude Children's Research Hospital was opened in 1962 in Memphis, TN. The hospital is in the midst of a five-year \$1 billion expansion that will increase its research efforts and double the size of its campus. The hospital's operating cost are approximately \$1 million per day. St. Jude employs over 4,000 people from the local Memphis area.

Memphis Metropolitan Statistical Area (MSA)



Memphis Metro Summary

CORPORATE OFFICE

Over the past several years, Memphis has been chosen as the location for two of the nation's largest companies. In 2005, International Paper relocated its global headquarters from Stamford, CT to Memphis. In 2006, ServiceMaster announced the relocation of its corporate headquarters from Chicago to Memphis. These great companies joined others like FedEx and AutoZone and have discovered the advantages of calling Memphis home.

- > FedEx employs over 32,000 Memphians.
- > Memphis is the corporate headquarters for six Fortune 1000 companies.
- > Corporate real estate rates in Memphis are some of the lowest in the nation.
- > Memphis' low cost of living and low taxes means corporate workers have more money in their pockets.
- > 240 headquarter companies employing more than 91,000 people
- > 6,100 IT workers
- > Non-stop passenger service from Memphis International Airport is available from Southwest, United and American airlines with limited delays.

BACK OFFICE OPERATIONS

With an IT, financial and customer service workforce of more than 40,200 people, an abundance of Class A & B office space and a robust fiber optics network, Memphis is the choice location for the back operations of cost conscious companies.

Call Centers - More than 160 call centers operate in the Memphis metro area across all industries including mail-order pharmacies, help desk, government services and hotel reservations. These companies employ over 100,000 people and provide customer service to patrons throughout the globe.

- > Central Time Zone location provides longer incoming and outgoing calling hours allowing companies to reach a broader customer base.
- > More than 71,000 full time and part time college students available as a labor pool for call center operations (within a 50-mile radius)
- > State training assistance and dollars available for customer service representatives and technical service representatives

Telecommunications - With hundreds of millions of dollars in investment by public and private organizations into local communications technology, Memphis is an international leader in telecommunications services and one of the first United States cities with broad availability of services, a top quality workforce and incentives to help a company grow:

- > Total self-healing fiber optics network in place.
- > 100% of the city's central offices are served by fiber optics, and a Local Area Network (LAN) encircles the downtown business district.
- > More than 5,800 telecommunications workers
- > 11 Fiber Optic Providers

Source: Memphis Chamber of Commerce

Memphis Metro Summary

WORKFORCE ASSETS

Memphis offers an unmatched list of advantages that businesses can employ to become leaders in global commerce. With its natural geographic advantage, its deep pool of skilled logistics workers, and its intermodal edge, Memphis is positioned to become truly “America’s Distribution Center.” Memphis has all the amenities that come with being the 19th-largest city in the U.S. but at a cost of living roughly 10% below the national metro average.

Home of the world headquarters and hub of shipping powerhouse FedEx, over 400 trucking companies and major operations of UPS and USPS, Memphis is uniquely positioned to provide the most cost effective distribution and logistics services in the country, operating 24 hours a day for 365 days per year. FedEx Corporation moved their headquarters from Little Rock to Memphis in 1973. Since then, FedEx has grown to a family of companies, providing supply chain and logistics solutions, in addition to overnight delivery, to companies worldwide. Today, FedEx operates with some 30,000 employees. Proximity to the FedEx World Hub, and some of the latest drop-off times for overnight delivery in the country, has drawn several top logistics and distribution operations to Memphis.

Memphis offers a diverse, metropolitan workforce at wage rates that are lower than most other parts of the country. Over the past three decades, the region’s workforce has a higher percentage of logistics workers than any other metropolitan area in the country. Not only does Memphis draw from a three-state labor pool, employment is relatively balanced among industries giving the Memphis workforce breadth in both skills and experience. Memphis employs 11.6% of its workforce in transportation, warehousing, and utilities, the highest share among the top 100 Largest Metro Areas in the United States.

The Memphis International Airport continues to dominate as the world’s second busiest cargo airport and the busiest cargo airport in North America. The airport handled some 4.47 million metric tons in 2018 and features about 450 combined arrivals and departures each day. Air is not the only mode of transportation for Memphis. A critical part of Memphis’ intermodal infrastructure is the ability to take cargo from planes and barges and quickly distribute these via truck. The nation’s 3rd-busiest trucking corridor (I-40 between Little Rock and Memphis) connects the Atlantic and Pacific Coasts and runs directly through Memphis, allowing Memphis to serve more metro markets overnight (that’s within 600 miles) than any other U.S. city. Additionally, Memphis is one of only four U.S. cities served by 5 or more of the U.S.’s 6 long-haul Class I rail systems. The Mississippi River continues to be a vital component of the U.S.’s transportation network and the river has remained a critical intermodal advantage of the Memphis area. With the 4th largest inland port in the nation and the 2nd-largest still water port on the Mississippi, it handles more than 16 million tons of cargo annually.



America's Distribution Center



Memphis Metro Top 20 Employers

LARGEST MEMPHIS AREA EMPLOYERS, TOP 20	
MEMPHIS EMPLOYERS	MEMPHIS EMPLOYEES
FedEx Corporation	30,000
Tennessee State Government	14,500
United States Government	13,400
Methodist Le Bonheur Healthcare	12,923
Shelby County Schools	11,500
Baptist Memorial Health Care Corp.	7,405
City of Memphis	7,000
The Kroger Co.	6,560
Naval Support Activity Mid-South	6,500
Walmart Stores, Inc.	6,280
Shelby County Government	4,968
St. Jude Children's Research Hospital	4,405
DeSoto County School District	4,275
University of Tenn. Health Science Center	3,800
XPO Logistics Supply Chain	3,534
Technicolor Video Services, Inc.	3,500
Regional One Health	3,277
Century Management Inc.	3,100
The University of Memphis	3,019
Memphis Light, Gas & Water	2,700

Sources: Memphis Business Journal (July 2018).

MEMPHIS' BRAGGING RIGHTS

- Memphis was ranked as the number 1 "Logistics Leader" in the country and was ranked second globally by Business Facilities magazine in 2016.
- In 2017, a study by the Urban Land Institute ranked Memphis #4 among U.S. cities where millennials are moving.
- In 2016, Wallet-Hub, a leading personal finance outlet, ranked Memphis 4th for Best Places for Women Owned Businesses.
- Adobo ranked Memphis #7 for Healthcare Practitioners & technical Occupations in their report on the Best Cities for Job Seekers in 2016.
- The Memphis workforce has more experienced logistics workers per capita than any other top 100 U.S. city, based on Bureau of Labor Statistics data.
- For 23 years, Memphis International Airport, "America's Aerotropolis" has been the busiest cargo airport in North America.
- Memphis ranked 4th for "Best Cost of Living" in 2015 by Business Facilities magazine.
- Global Trade magazine names Memphis one of the "America's Best Cities for Global Trading," ranking Memphis 3rd for best infrastructure in 2015.
- In 2015, a WalletHub study named Memphis the 7th "Best City to Start a Business."
- In 2015, Glassdoor, a workplace review and job search website, ranked Memphis 18th for their "25 Best Cities for Jobs" list.
- Tennessee was ranked as having the #2 "Best Business Climate" by Business Facilities magazine in 2015.
- Tennessee also ranked #1 for "Education: Tech Skills Leaders" for investments and improvements in education.
- Tennessee also ranked #1 for "Automotive Manufacturing Strength," and #1 for "Workforce Training Leaders."

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Accelerating Success

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City Council Item Routing Sheet

Division GS Committee PW, GS Hearing Date _____

District 5 Super District 9

- Ordinance Resolution Grant Acceptance
 Budget Amendment Commendation Other:

Item Description :
 A Resolution approving the sale of 1925 Union Avenue, Memphis, Tennessee 38104; Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022: " The Former Union Avenue Police Precinct."

Recommended Council Action:
 Accept the resolution

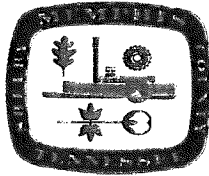
Status of MWBE planned expenditures funding, if applicable:
 N/A

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

<p>Does this item require city expenditure? No</p> <p>\$ Amount _____</p> <p>\$ Revenue to be received <u>\$3.5M</u></p>	<p>Source and Amount of Funds</p> <p>\$ Operating Budget</p> <p>\$ CIP Project #</p> <p>\$ Federal/State/Other</p>
---	---

Approvals

Director [Signature] Date 4/22/21
 Budget Manager [Signature] Date _____ **Chief Administrative Officer**
 Chief Financial Officer _____ Date _____
 Deputy Financial Officer _____ Date _____ **Council Committee Chair**
 Chief Legal Officer _____ Date _____



Memphis City Council Summary Sheet

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

A Resolution approving the sale of 1925 Union Avenue, Memphis, Tennessee 38104; Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022: The Former Union Avenue Police Precinct.

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

General Services

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 will impact specific council districts or super districts.

Council District 5 and Super District 9

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

N/A

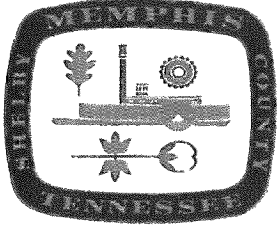
6. State whether this requires an expenditure of funds/requires a budget amendment

This does not require expenditure of funds nor a budget amendment.

7. If applicable, please list the MWBE goal and any additional information needed

N/A

City Council Resolution



A Resolution approving the sale of 1925 Union Avenue, Memphis, Tennessee 38104; Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022: " The Former Union Avenue Police Precinct."

WHEREAS, The City is the owner 1925 Union Avenue (Midtown Overlay District) in Memphis, Shelby County, Tennessee Parcel ID#'s 016052 00029, 016052 00028 & 016052 00022 acquired by the City of Memphis as shown in Instrument# S29026 at the Shelby County Register of Deeds.

WHEREAS, the City operated 1925 Union Avenue as the Union Avenue Police Precinct and Fleet Maintenance Facility;

WHEREAS, the Police Precinct and Fleet Maintenance Facility located at 1925 Union Avenue have been replaced by the newer and more modern facility at Raleigh Town Center;

WHEREAS, 1925 Union Avenue has been vacated by both Police and Fleet Services and the City of Memphis no longer has an operational use for the property; and

WHEREAS, the City of Memphis solicited, received and evaluated four (4) proposals for the sale and the highest and best reuse of 1925 Union Avenue in accordance with City Ordinance 2-291.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the proposal made by Union Station Development Partnership on the above described property is hereby accepted subject to the City Ordinance 2-16 (A) 3, which states in part, "properties receiving an initial bid offer exceeding twenty thousand dollars (\$20,000) shall be submitted for approval to the City Council for a first and second reading, which is final upon the second reading. However, at the second reading, subsequent bidders will be permitted to bid in open council session but the first increased bid must be a minimum of five hundred dollars (\$500.00). Thereafter, additional increases must be in minimum increments of fifty dollars (\$50.00)."

BE IT FURTHER RESOLVED, that subject to the ordinance, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the quit claim deed, and any other documents incidental to the completion of the transfer, and the Mayor of the City of Memphis is hereby authorized to execute said deeds or any other documents necessary to complete the sale and conveyance after the proposals have been heard and considered, and a selection has been made.

Base Case: Project Assumptions	
Project Name:	Union Ave Police Precinct
Building Style:	Low-Rise
Residential Building Efficiency:	78%
Unit Style:	Apartment
Gross SF:	143,333
Total Units:	130
Planned Opening (August 15, 2024):	2024
Construction Duration (months):	17
Financial Close Date:	3/24/2023
Financing Source:	Conventional Debt/Equity

Budget Assumptions	
Municipal Upfront Contribution:	\$0
Land Costs:	\$3,180,000
Hard Costs:	\$25,111,717
Hard Cost/GSF:	\$172
Soft Costs:	\$1,957,346
Project Contingency :	\$1,350,953
Development Fee:	\$1,082,763
Total Development Costs:	\$32,682,778
Total Cost/Unit:	\$251,406
Total Cost/GSF:	\$228

Residential Unit Program Assumptions							
Unit Type	Units	Beds	Avg. SF	Rent/Mo.	RPSF	Monthly	Annual
Studios, 1BR, 2BR Units	130	195	800	\$1,600	\$2.00	\$208,000	\$2,496,000
Totals/Averages	130	195	800	\$1,600	\$2.00	\$208,000	\$2,496,000

Operating Revenue Assumptions	
Fiscal Year for Quoted Rents:	2020
Lease Term:	12-month
Residential Vacancy:	5.0%
First Yr. Other Income:	\$650/Unit
First Yr. Parking Revenue:	\$0
First Yr. Commercial Revenue Vacancy:	50.0%
First Yr. Commercial Revenue: \$20 NNN	\$100,000
Annual Revenue Growth:	3.0%

Operating Expense Assumptions	
Operating Margin:	72.8%
Real Estate Taxes - Residential: w/PILOT	215,567
Real Estate Taxes - Commercial:	N/A
Utilities included in Rental Rates:	No
Data/Cable included in Rental Rates:	No
3rd Party Management Fee:	3.0%
Annual Capital Reserves/Unit:	\$250
Annual Expense Growth:	3.0%

Base Case: Financial Feasibility Results					
Land Market Value:	\$3,000,000	A	Year 1 NIAR:	\$2,032,117	
PILOT Fee Value:	\$490,242	B	Year 2 NIAR:	\$2,138,671	
Current Ann. City/County Taxes:	\$0		Total Development Costs:	\$32,682,778	
20-year Cumulative Increase in Taxes:	\$5,792,357		Year 1 Unlevered Yield:	6.22%	
Present Value of Cum. Tax Increase:	\$3,138,981	C	Year 2 Unlevered Yield:	6.54%	
Total Value to City:	\$6,629,223	A+B+C	Year 3 Stabilized Yield:	6.82%	

Confidential and Proprietary Work Product



Project Feasibility Solutions Menu

Base Case: First Year Yield w/ PILOT			6.22%
First Year Yield Target w/ PILOT:			7.00%
Solutions	Target Amount	Yield Impact	Cumulative Yield Impact
Base Case Scenario			6.22%
Improvement in Const. Market	\$160/GSF in HC	+ 35 bps	6.57%
Improvement in PILOT Tax	\$1,200/Unit/Yr	+ 18 bps	6.75%
Increase in Unit Count Density	TBD	TBD	TBD
\$1.0M Reduction in Total Costs	\$1,000,000	+ 21 bps	6.96% ✓

Confidential and Proprietary Work Product



CONCEPTUAL DEVELOPMENT BUDGET				BASE CASE ESTIMATES	% of Total	
LAND COSTS			Acres	Price per Acre		
Residual Land Valuation	3.65		\$821,918	\$3,000,000	9%	
Closing Costs (Includes Broker Fees)				\$180,000	1%	
Total Land Costs				\$3,180,000	10%	
HARD COSTS			Gross SF	Net	Gross	
General Contractor	143,333		\$234/SF	\$170/SF	\$24,366,667	75%
Demolition					\$300,000	1%
Surface Parking	143 spaces				Incl in HC	0%
Owner HC Contingency					Incl in HC	0%
Total Hard Costs			\$172/SF		\$24,666,667	75%
FURNITURE, FIXTURES & EQUIPMENT						
Common Area FF&E					\$195,000	1%
IT Equipment					\$100,000	0%
Electronic Locks					\$50,050	0%
Low Voltage Structural					\$100,000	0%
Flooring					Incl in HC	0%
Total FF&E					\$445,050	1%
DESIGN FEES						
Architecture/Engineering Cost- % of HC and A&E			\$24,666,667	3.00%	\$740,000	2%
Civil Engineering & Landscape Design					\$80,000	0%
Interior Design					\$35,000	0%
Geotechnical					\$9,500	0%
Environmental					\$5,000	0%
Total Design Fees					\$869,500	3%
DEVELOPMENT/LEGAL/CLOSING COSTS						
Legal, Consulting and Professional Fees					\$100,000	0%
PILOT Fee					\$490,242	2%
Operating Reserve					\$192,604	1%
Testing & Inspection					\$50,000	0%
Travel & Miscellaneous Expenses					\$5,000	0%
Property Taxes					\$0	0%
City Utility and Permitting Fees					\$75,000	0%
Impact / Tap Fees					\$125,000	0%
PreOpening & Marketing Costs					\$50,000	0%
Total Development/Legal/Closing Costs					\$1,087,846	3%
Development & Const. Mgmt Fee	\$27,069,063			Developer 4.00%	\$1,082,763	3%
PROJ CONT. (excl Land & Dev Fee)	\$27,019,063			5.00%	\$1,350,953	4%
TOTAL DEVELOPMENT COSTS			NOI After Reserves \$2,032,117	Dev. Yield 6.22%	\$32,682,778	100%



Union Ave Police Precinct Conceptual Pro Forma														
	Unit Count	20-21 Rent	FY 1 Rent	Per Unit	FY 1	FY 2	FY 3	FY 4	FY 5	FY 6	FY 7	FY 8	FY 9	FY 10
Residential Income														
Resident Rent	130	\$1,600	\$1,801	\$21,610	\$2,809,270	\$2,893,548	\$2,980,355	\$3,069,765	\$3,161,858	\$3,256,714	\$3,354,415	\$3,455,048	\$3,558,699	\$3,665,460
Surface Parking Income				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Income				\$650	\$80,275	\$82,683	\$85,164	\$87,719	\$90,350	\$93,061	\$95,853	\$98,728	\$101,690	\$104,741
Total Gross Residential Income				\$22,227	\$2,889,545	\$2,976,231	\$3,065,518	\$3,157,484	\$3,252,208	\$3,349,775	\$3,450,268	\$3,553,776	\$3,660,389	\$3,770,201
Residential Vacancy				-\$1,080	-\$140,463	-\$144,677	-\$149,018	-\$153,488	-\$158,093	-\$162,836	-\$167,721	-\$172,752	-\$177,935	-\$183,273
Bad Debt / Other				-\$108	-\$14,046	-\$14,468	-\$14,902	-\$15,349	-\$15,809	-\$16,284	-\$16,772	-\$17,275	-\$17,793	-\$18,327
Commercial Income														
Net Commercial Income					\$100,000	\$150,000	\$180,000	\$180,000	\$180,000	\$198,000	\$198,000	\$198,000	\$198,000	\$198,000
Total Commercial Income					\$100,000	\$150,000	\$180,000	\$180,000	\$180,000	\$198,000	\$198,000	\$198,000	\$198,000	\$198,000
Effective Gross Income				\$21,808	\$2,835,035	\$2,967,086	\$3,081,599	\$3,168,647	\$3,258,306	\$3,368,655	\$3,463,775	\$3,561,748	\$3,662,661	\$3,766,601
Residential Controllable Expenses														
Payroll				\$1,500	\$195,000	\$200,850	\$206,876	\$213,082	\$219,474	\$226,058	\$232,840	\$239,825	\$247,020	\$254,431
Repairs & Maintenance				\$300	\$39,000	\$40,170	\$41,375	\$42,616	\$43,895	\$45,212	\$46,568	\$47,965	\$49,404	\$50,886
Elevator Maintenance				\$104	\$13,500	\$13,905	\$14,322	\$14,752	\$15,194	\$15,650	\$16,120	\$16,603	\$17,101	\$17,614
Leasing, Marketing, Advertising				\$200	\$26,000	\$26,780	\$27,583	\$28,411	\$29,263	\$30,141	\$31,045	\$31,977	\$32,936	\$33,924
General & Administrative				\$375	\$48,750	\$50,213	\$51,719	\$53,270	\$54,869	\$56,515	\$58,210	\$59,956	\$61,755	\$63,608
Contract Services				\$500	\$65,000	\$66,950	\$68,959	\$71,027	\$73,158	\$75,353	\$77,613	\$79,942	\$82,340	\$84,810
Residential Controllable Expenses				\$0	\$387,250	\$398,868	\$410,834	\$423,159	\$435,853	\$448,929	\$462,397	\$476,269	\$490,557	\$505,273
Residential Non-Controllable Expenses														
Management Fee				\$654	\$85,051	\$89,013	\$92,448	\$95,059	\$97,749	\$101,060	\$103,913	\$106,852	\$109,880	\$112,998
Utilities				\$350	\$45,500	\$46,865	\$48,271	\$49,719	\$51,211	\$52,747	\$54,329	\$55,959	\$57,638	\$59,367
Insurance				\$285	\$37,050	\$38,162	\$39,306	\$40,486	\$41,700	\$42,951	\$44,240	\$45,567	\$46,934	\$48,342
Real Estate Taxes w/ PILOT				\$1,658	\$215,567	\$222,034	\$228,695	\$235,556	\$242,622	\$249,901	\$257,398	\$265,120	\$273,073	\$281,266
Franchise & Excise Tax				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Residential Non-Controllable Expenses				\$2,947	\$383,168	\$396,073	\$408,720	\$420,820	\$433,282	\$446,659	\$459,880	\$473,498	\$487,525	\$501,973
Total Residential Operating Expenses				\$5,926	\$770,418	\$794,940	\$819,553	\$843,978	\$869,135	\$895,587	\$922,277	\$949,767	\$978,082	\$1,007,246
Total Commercial Expenses					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Operating Expenses				27.2%	\$770,418	\$794,940	\$819,553	\$843,978	\$869,135	\$895,587	\$922,277	\$949,767	\$978,082	\$1,007,246
Net Operating Income				\$15,882	\$2,064,617	\$2,172,146	\$2,262,045	\$2,324,669	\$2,389,171	\$2,473,068	\$2,541,498	\$2,611,981	\$2,684,579	\$2,759,354
Replacement Reserves				\$250	-\$32,500	-\$33,475	-\$34,479	-\$35,514	-\$36,579	-\$37,676	-\$38,807	-\$39,971	-\$41,170	-\$42,405
Net Income After Reserves				\$15,632	\$2,032,117	\$2,138,671	\$2,227,566	\$2,289,155	\$2,352,592	\$2,435,391	\$2,502,691	\$2,572,010	\$2,643,409	\$2,716,949



RECEIVED
 JUN 11 2021
 CITY ATTORNEY'S OFFICE
 City Council Item Routing Sheet

Received
 JUN 15 2021
 Chief Administrative Office

RECEIVED
 JUN 08 2021
 Finance Division
 Budget

Division Police Services Committee Public Safety Hearing Date 7.6 6.29.2021
 District ALL Super District BOTH

- Ordinance Resolution Grant Acceptance
 Budget Amendment Commendation Other:

Item Description: To accept, allocate and appropriate grant funds in the amount of \$52,000.00 from the Shelby County Sheriff's Office to reduce violent crime in Shelby County, Tennessee through collaborative federal, state, and local criminal justice efforts.
to finance the City's work ...

Recommended Council Action:
 Approve the Resolution.

Status of MWBE planned expenditures funding, if applicable:
 N/A

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

Does this item require city expenditure? <u>No</u> Yes	Source and Amount of Funds
\$ Amount _____	\$ Operating Budget FY22
\$ Revenue to be received <u>\$52,000.00</u>	\$ CIP Project #
	\$ Federal/State/Other \$52,000.00

Approvals

Director James Byrd Date 6/4/2021

Budget Manager Kametis Wyatt Date 6/9/2021

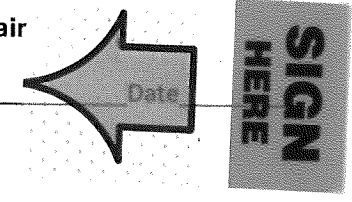
Chief Financial Officer L. Arr Date 6/11/2021

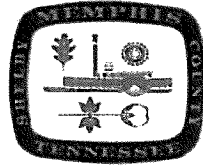
Deputy Financial Officer _____ Date _____

Chief Legal Officer Jennifer Lee Date 6/15/21

Chief Administrative Officer [Signature] Date 6/14/21

Council Committee Chair _____ Date _____





Memphis City Council Summary Sheet

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

A resolution to accept and appropriate grant funds in the amount of Fifty Two Thousand Dollars (\$52,000.00) from the Shelby County Sheriff's Office.

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

The City of Memphis, Division of Police Services is initiating this resolution.

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

This is not a change to an existing ordinance.

4. State whether this will impact specific council districts or super districts.

N/A

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

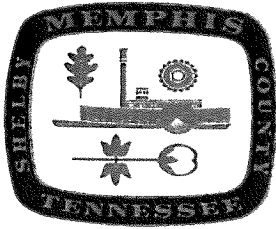
This Resolution requires an Amendment between the Shelby County Sheriff's Office and the City of Memphis.

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

This Resolution requires an expenditure of funds and a budget amendment. ✓

7. If applicable, please list the MWBE goal and any additional information needed

N/A



A resolution to accept, allocate, and appropriate grant funds from the Shelby County Sheriff's Office for the Operation Relentless Pursuit Grant Program.

WHEREAS, The City of Memphis, Police Services has been awarded grant funds in the amount of Fifty-Two Thousand Dollars (\$52,000.00) from the Shelby County Sheriff's Office for the Operation Relentless Pursuit Grant Program; and

WHEREAS, these funds to the City of Memphis, Police Services will be used to pay for equipment and a vehicle to aid in investigations; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2022 operating Budget to establish funds for the Operation Relentless Pursuit Grant Program; and

WHEREAS, it is necessary to appropriate these grant funds in the amount of Fifty-Two Thousand Dollars (\$52,000.00) for the Operation Relentless Pursuit Grant Program;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Operation Relentless Pursuit Grant Program funds in the amount of Fifty-Two Thousand Dollars (\$52,000.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the FY 2022 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Operation Relentless Pursuit Grant Program as follows:

Revenue	
Shelby County Sheriff's Office	<u>\$52,000.00</u>
Total	\$52,000.00

Expenditures	
Equipment	\$17,000.00
Vehicle	<u>\$35,000.00</u>
Total	\$52,000.00



City Council Item Routing Sheet

Division Engineering Committee PW, GS, SW Hearing Date 7-6-21

District ~~Various~~ ALL Super District ~~Various~~ Both

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

Item Description :
A Resolution appropriating \$1,000,000.00 in G.O. Bonds - to LED Traffic Signal Replacement., Project Number EN01096

Recommended Council Action:
Adopt the resolution. (City Engineering recommends approval)

Status of MWBE planned expenditures funding, if applicable:
The MWBE Goal for this project is set at 0% due to a lack of MWBE vendors certified to perform this type of work.

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

Does this item require city expenditure? No	Source and Amount of Funds
\$ Amount <u>\$1,000,000</u>	\$ Operating Budget \$0.00
\$ Revenue to be received <u>\$0.00</u>	\$ CIP Project # \$1,000,000 ☑
	\$ Federal/State/Other \$0.00

Approvals

R7.

Director [Signature] 6/16/21 Date _____

Budget Manager _____ Date _____

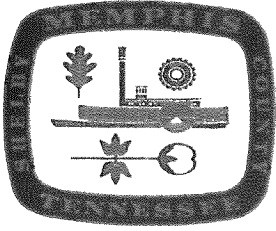
Chief Financial Officer _____ Date _____

Deputy Financial Officer _____ Date _____

Chief Legal Officer _____ Date _____

Chief Administrative Officer
_____ Date _____

Council Committee Chair
_____ Date _____



A Resolution appropriating Construction Funds for EN01096 – LED Traffic Signal Replacement

WHEREAS, the Council of the City of Memphis did include LED Traffic Signal Replacement, Project Number EN01096 as part of the Engineering Fiscal Year 2022 Capital Improvement Budget; and

WHEREAS, bids were taken on September 7, 2018 for an On-Call, LED Replacement Project (3-year term), with the lowest complying bid being submitted by Shelby Electric; and

WHEREAS, it is necessary to encumber additional funding into this existing LED Replacement Contract to expedite the replacement of LED Modules that have exceeded their useful service life at various Signalized Intersections throughout the City; and

WHEREAS, it is necessary to appropriate \$1,000,000.00 funded by G.O. Bonds to LED Traffic Signal Replacement, Project Number EN01096 in Contract Construction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that there be and is hereby appropriated the sum of \$1,000,000.00 funded by G.O. Bonds and chargeable to the Fiscal Year 2022 Capital Improvement Budget and credited as follows:

Project Title: LED Traffic Signal Replacement


Project Number: EN01096

Contract Construction: \$1,000,000.00

Council Resolution Caption (LED Traffic Signal Replacement FY22) EN01096)

A Resolution appropriating \$1,000,000.00 in G.O. Bonds - to LED Traffic Signal Replacement., Project Number EN01096,

MEMORANDUM

From: Manny Belen, PE, Director of Engineering 

To: Jim Strickland, Mayor

Via: Doug McGowen, Chief Operating Officer

DATE: June 16, 2021

SUBJECT: Resolution (LED Traffic Signal Replacement) (FY22)

Parts of the Decision Brief/Memo

1. Problem Statement or Opportunity

This resolution is appropriating \$1,000,000.00 in G.O. Bonds - to LED Traffic Signal Replacement, Project Number EN01096

2. Recommendation

The Division of Engineering recommends approval.

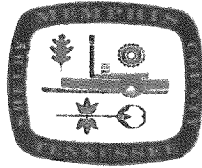
3. Prior Coordination

Bids were taken on September 7, 2018 for an On-Call, LED Replacement Project (3-year term), with the lowest complying bid being submitted by Shelby Electric. Appropriated funding will be encumbered into this existing contract to expedite the LED Replacement Work.

4. Additional Information/EBO Participation

Please see the attached Resolution documentation. The existing contract was assigned a 0% goal due to the lack of available EBO Contractors certified to perform this type of work.

R.7.



Memphis City Council Summary Sheet

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

This resolution amends the Fiscal Year 2022 Capital Improvement Budget by appropriating funds for LED Traffic Signal Replacement (EN01096)

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

This project is being initiated by the Division of Engineering.

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

This project does not involve a change to an existing ordinance or resolution.

4. State whether this will impact specific council districts or super districts.

This project will address LED Lamp Replacement City Wide and impact all City Council Districts.

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

This LED Replacement project will not require a new contract (Existing On-Call Contract available).

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

Expenditure of funding will be required.

7. If applicable, please list the MWBE goal and any additional information needed

The MWBE Goal for this project is set at 0% due to a lack of MWBE vendors certified to perform this type of work.



City Council Item Routing Sheet

Division Engineering Committee PW, GS, SW Hearing Date 7-6-21
 District ~~Various~~ All Super District ~~Various~~ Both

- Ordinance Resolution Grant Acceptance
 Budget Amendment Commendation Other:

Item Description :
 Resolution amending the FY22 Capital Improvement Budget by transferring an allocation and appropriating \$590,000.00 in G.O. Bonds - from Traffic Signals, Project Number EN22100, to Traffic Signal Furniture, Fixtures, and Equipment (FY22) , Project Number EN01109, for the purchase of traffic signal equipment needed for Emergency Maintenance and Construction throughout FY 2022.

Recommended Council Action:
 Adopt the resolution. (City Engineering recommends approval)

Status of MWBE planned expenditures funding, if applicable:
 The MWBE goal has not been set at this point.

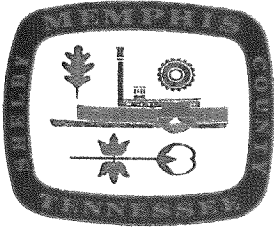
Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken:
 NA

Does this item require city expenditure? No \$ Amount <u>\$590,000</u> \$ Revenue to be received <u>\$0.00</u>	Source and Amount of Funds \$ Operating Budget \$0.00 \$ CIP Project # \$590,000 \$ Federal/State/Other \$0.00
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Approvals

R.7. Director *[Signature]* 6/16/21 Date _____
 Budget Manager _____ Date _____
 Chief Financial Officer _____ Date _____
 Deputy Financial Officer _____ Date _____
 Chief Legal Officer _____ Date _____

Chief Administrative Officer _____ Date _____
 Council Committee Chair _____ Date _____



A Resolution appropriating Funds for EN01109 – Traffic Signal Furniture, Fixtures, and Equipment (FY22)

WHEREAS, the Council of the City of Memphis did include Traffic Signals, Project Number EN22100 as part of the Engineering Fiscal Year 2022 Capital Improvement Budget; and

WHEREAS, bids are taken during the year for various purchases of traffic signal equipment needed for Emergency Maintenance; and

WHEREAS, to expedite these bids and purchases, the Engineering Division requests that this year's allocation be appropriated; and

WHEREAS, it is necessary to transfer an allocation of \$590,000.00 funded by G.O. Bonds – from Traffic Signals, Project Number EN22100 to Traffic Signal Furniture, Fixtures, and Equipment (FY22), Project Number EN01109; and

WHEREAS, it is necessary to appropriate \$590,000.00 funded by G.O. Bonds in Traffic Signal Furniture, Fixtures, and Equipment (FY22), Project Number EN01109 as follows:

Furniture, Fixtures, and Equipment	\$590,000.00
---	---------------------

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2022 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$590,000.00 funded by G.O. Bonds from Traffic Signals, Project Number EN22100 to Traffic Signal Furniture, Fixtures, and Equipment (FY22), Project Number EN01109.


BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of \$590,000.00 funded by G.O. Bonds and chargeable to the Fiscal Year 2022 Capital Improvement Budget and credited as follows:

Project Title	Traffic Signal Furniture, Fixtures, and Equipment (FY22)
Project Number	EN01109
Total Amount	\$590,000.00

Council Resolution Caption (Traffic Signals FY22, EN01109)

A Resolution amending the FY22 Capital Improvement Budget by transferring an allocation and appropriating \$590,000.00 in G.O. Bonds - from Traffic Signals, Project Number EN22100, to Traffic Signal Furniture, Fixtures, and Equipment (FY22), Project Number EN01109, for the purchase of Traffic Signal Equipment.

MEMORANDUM

From: Manny Belen, PE, Director of Engineering 
To: Jim Strickland, Mayor
Via: Doug McGowen, Chief Operating Officer
DATE: June 16, 2021
SUBJECT: Resolution (FY22 Traffic Signals, CIP)

Parts of the Decision Brief/Memo

1. Problem Statement or Opportunity

This resolution appropriates \$590,000.00 in CIP funding for the purchase of Traffic Signal equipment required for annual Traffic Signal maintenance and construction work performed by City personnel. This funding is allocated in the FY22 CIP Budget.

2. Recommendation

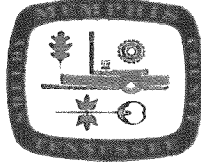
The Division of Engineering recommends approval.

3. Prior Coordination

This funding is allocated in the FY22 CIP Budget for Traffic Signals (EN22100) under Furniture, Fixtures, and Equipment.

4. Additional Information/EBO Participation

Please see the attached Resolution documentation. This resolution is not directly related to Procurement or Construction. With this being the case, there is no EBO information available at this time.



Memphis City Council Summary Sheet

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

This resolution amends the Fiscal Year 2022 Capital Improvement Budget by transferring and appropriating funds for Traffic Signal Furniture, Fixtures, and Equipment (FY22) (EN01109)

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

This project is being initiated by the Division of Engineering to allow for the purchase of Traffic Signal Equipment that will be used for Emergency Maintenance in FY22.

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

This project does not involve a change to an existing ordinance or resolution.

4. State whether this will impact specific council districts or super districts.

This project will address Traffic Signal Maintenance City Wide and impact all City Council Districts.

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

This resolution does not require a new contract, or amend an existing contract.

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

Expenditure of funding will be required.

7. If applicable, please list the MWBE goal and any additional information needed

The MWBE Goal for this project has not been set at this point.



City Council Item Routing Sheet

Division Engineering Committee PW, GS, SW Hearing Date 7-6-21

District Various ~~ALL~~ Super District Various ~~Both~~

- Ordinance
 Resolution
 Grant Acceptance
 Budget Amendment
 Commendation
 Other:

Item Description :
 Resolution amending the FY22 Capital Improvement Budget by transferring an allocation and appropriating \$1,350,000 in G.O. Bonds - from the Traffic Calming Devices Coverline EN22200, to Speed Hump Installation Group 12, Project Number EN01099

Recommended Council Action:
 Adopt the resolution. (City Engineering recommends approval)

Status of MWBE planned expenditures funding, if applicable:
 The Goal setting committee set an MWBE participation goal of 50% MWBE. The project has been awarded to Precise Concrete who is a certified MWBE contractor. MWBE participation will be 100%.

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

Does this item require city expenditure? No	Source and Amount of Funds
\$ Amount <u>\$1,350,000</u>	\$ Operating Budget \$0.00
\$ Revenue to be received <u>\$0.00</u>	\$ CIP Project # \$1,350,000
	\$ Federal/State/Other \$0.00

Approvals

R.7. Director [Signature] 6/16/21 Date _____

Budget Manager _____ Date _____

Chief Financial Officer _____ Date _____

Deputy Financial Officer _____ Date _____

Chief Legal Officer _____ Date _____

Chief Administrative Officer

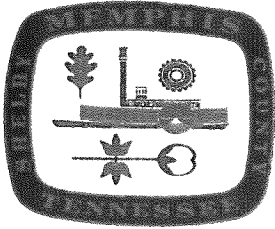
_____ Date _____

Council Committee Chair

_____ Date _____

Council Resolution Caption (Speed Hump Installation Group 12 (EN01099) (FY22)

A Resolution amending the FY22 Capital Improvement Budget by transferring an allocation and appropriating \$1,350,000 in G.O. Bonds - from the Traffic Calming Devices Coverline Project Number EN22200 to Speed Hump Installation – Group 12, Project Number EN01099, for a Construction Contract with Precise Concrete.



A Resolution appropriating Contract Construction Funds for EN01099 – Speed Hump Installation-Group 12 (FY22)

WHEREAS, the Council of the City of Memphis did include the Traffic Calming Devices Cover Line, Project Number EN22200 as part of the Engineering Fiscal Year 2022 Capital Improvement Budget; and

WHEREAS, bids were taken on July 10, 2019 for on-call speed hump installation at various locations (3-Year Term), with the lowest complying bid submitted by PRECISE CONCRETE; and

WHEREAS, it is necessary to transfer an allocation of \$1,350,000.00 funded by G.O. Bonds – from the Traffic Calming Devices Cover Line, Project Number EN22200 to Speed Hump Installation – Group 12, Project Number EN01099; and

WHEREAS, it is necessary to appropriate \$1,350,000.00 funded by G.O. Bonds in Speed Hump Installation – Group 12, Project Number EN01099 as follows:

Contract Construction \$1,350,000.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2022 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$1,350,000.00 funded by G.O. Bonds from the Traffic Calming Devices Cover Line, Project Number EN22200 to Speed Hump Installation – Group 12, Project Number EN01099.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of \$1,350,000.00 funded by G.O. Bonds and chargeable to the Fiscal Year 2022 Capital Improvement Budget and credited as follows:

Project Title	Speed Hump Installation – Group 12
Project Number	EN01099
Total Amount	\$1,350,000.00

MEMORANDUM

From: Manny Belen, PE, Director of Engineering MB
To: Jim Strickland, Mayor
Via: Doug McGowen, Chief Operating Officer
DATE: June 14, 2021
SUBJECT: Resolution (Speed Hump Installation Group 12) (FY22)

Parts of the Decision Brief/Memo

1. Problem Statement or Opportunity

This resolution is amending the FY22 Capital Improvement Budget by transferring an allocation and appropriating \$1,350,000.00 in G.O. Bonds – from the Traffic Calming Devices Coverline Project Number EN22200, to Speed Hump Installation – Group 12, Project Number EN01099, for a Construction Contract with Precise Concrete.

2. Recommendation

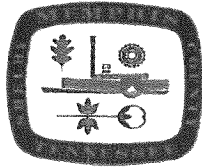
The Division of Engineering recommends approval.

3. Prior Coordination

Bids for this project were opened on 7-10-19. The lowest complying bid was submitted by Precise Concrete. This is an on-call contract (3-Year Term) with an annual spending cap of \$2,000,000.00. This funding will be used to address the current construction ready locations. Additional locations will be addressed as they are approved through the Traffic Calming Program.

4. EBO Participation

Please see the attached Resolution documentation. This project has been assigned a 50% MWBE Goal. The MWBE commitment is 100%.



Memphis City Council Summary Sheet

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

This resolution amends the Fiscal Year 2022 Capital Improvement Budget by transferring and appropriating funds to install speed humps at various locations throughout the city.

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

The Engineering Division (upon citizens' request) has determined the need for installation of speed humps in various neighborhoods.

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

This project does not involve a change to an existing ordinance or resolution.

4. State whether this will impact specific council districts or super districts.

This project will address Speed Hump installation City Wide and impact all City Council Districts.

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

This request will not require a new contract. An on-call contract is currently active.

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

Expenditure of funding will be required.

7. If applicable, please list the MWBE goal and any additional information needed

The MWBE Goal for this project was set at 50% MWBE. MWBE participation will be 100%