Memphis City Council Summary Sheet

1. **Description of the Item (Resolution, Ordinance, etc.)**
   This Ordinance provides Safety & Health guidance to City of Memphis Employees.

2. **Initiating Party (e.g. Public Works, at request of City Council, etc.)**
   Human Resources, Office of Workplace Safety & Compliance

3. **State whether this is a change to an existing ordinance or resolution, if applicable.**
   Yes. This is an update to Ordinance 5081 based on recommendations from the Tennessee Department of Labor Occupational Safety & Health Administration.

4. **State whether this requires a new contract, or amends an existing contract, if applicable.**
   Not Applicable

5. **State whether this requires an expenditure of funds/requires a budget amendment.**
   Not Applicable

ORDINANCE NO: 5081
ORDINANCE TO AMEND CHAPTER 2,
ARTICLE IX, CODE OF ORDINANCES
SO AS TO UPDATE THE OCCUUPATIONAL
SAFETY AND HEALTH PROGRAM SECTIONS

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Memphis established the Occupational Safety and Health Program for the employees of the City of Memphis, and

WHEREAS, due to various changes in subsequent years, it has become necessary to amend said Sections 2-376 through 2-394 of the City Code to comply with more recent state requirements.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 2, Article IX, Code of Ordinances, Section 2-376 through 2-394, be and the same are hereby amended as follows:

ARTICLE IX. OCCUPATIONAL
SAFETY AND HEALTH PROGRAM

Section 2-376. Title

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

Section 2-377. Created

There is hereby created and modified a safety and health program for the employees of the City as follows hereinafter.

Section 2-378. Purpose

This plan is applicable to all employees, part-time or full-time, seasonal or permanent. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Memphis.

Provide a safe and healthful place and condition of employment that includes:

a. Top Management Commitment and Employee Involvement;
b. Continually analyze the worksite to identify all hazards and potential hazards;

c. Develop and maintain methods for preventing or controlling the existing or potential hazards; and Train managers, supervisors, and employees to understand and deal with worksite hazards.

The City of Memphis in electing to update and maintain an effective occupational safety and health program for its employees, shall:

a. Provide a safe and healthful place and condition of employment.

b. Acquire and safety equipment, personal protective equipment, engineering controls and /or other devices where reasonably necessary to protect employees.

c. Make, keep, preserve and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Administrator of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.

e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.

f. Assist the Commissioner of Labor and Workforce Development with monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

g. Make a report to the Commissioner of Labor and Workforce Development as may be required.

h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

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

Section 2-379. Definitions

For the purposes of this program, the following definitions apply:

a. "ACT, TOSHA, or TOSHACT" means the Tennessee Occupational Safety and Health ACT of 1972.

b. "WORKPLACE SAFETY & COMPLIANCE ADMINISTRATOR or "SAFETY ADMINISTRATOR" means the designee who shall plan, develop, and administer the City of Memphis' occupational safety and health program.

c. "APPOINTING AUTHORITY" is the Mayor of the City of Memphis having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

d. "CHIEF ADMINISTRATIVE OFFICER" means the officer immediately in command under the Mayor of the City of Memphis.

e. "CHIEF EXECUTIVE OFFICER" means Mayor of the City of Memphis.

f. "CITY" means the City of Memphis

g. "COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT" means the chief

executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

h. "EMPLOYEE" means any person performing services for the City as an employee and listed on the City payroll as an employee, including temporary and permanent employees. This definition shall not include independent contractors, their agents, their servants and their employees.

i. "EMPLOYER" means the City of Memphis and shall include each administrative department, board, commission, division, or other agency of the City of Memphis.

j. "ESTABLISHMENT" or "WORKSITE" means a single physical location under the control of the City or where business is conducted, services are rendered, or industrial operations are performed.

k. "IMMINENT DANGER" means any conditions or practices in any place of Employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

l. "INSPECTOR" means the individual(s) designated by the Mayor, Division Directors, Administrator or Safety Coordinator to conduct inspections provided for herein. If no such inspector(s) is designated, inspections shall be conduced by the Safety Coordinator, OSHA Coordinators, or others designated by the appropriate authority.

m. "PERSON" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.

n. "SAFETY COORDINATOR" means the individual(s) appointed or designated by the Workplace Safety & Compliance Administrator to carry out powers, duties, and responsibilities under this program. When the phrase "or designee" appears after the term "ADMINISTRATOR" "or designee" this phrase shall be construed to mean the SAFETY COORDINATOR, unless the context indicates otherwise.

o. "SERIOUS INJURY or HARM" means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. a part of the body would be permanently removed or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

p. "STANDARD" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workplace Development in accordance with Section VI of the Tennessee Occupational Safety and Health Act of 1972 (T.C,A. § 50-3-201), which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes, or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful employment and places of employment.

q. "STATE COMMISSIONER" means Commissioner of Labor and Workforce Development of the State of Tennessee.

Section 2-380. Coverage

The provisions of this program shall apply to employees of each administrative department, commission, board, division or other agency of the City of Memphis.

Section 2-381. Employer's rights and duties

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

a. Employer shall furnish to each employee a place of employment free from recognized hazards that cause or are likely to cause death or serious injury or harm to employees.

b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. § 50-3-201).

c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to conduct effective monitoring of activities.

d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards; participation in hearings on proposed standards; or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

f. Employer is entitled to protection of its legally privileged communication.

g. Employer shall implement a plan to inspect all installations, departments, bureaus, and offices to ensure the provisions of this program are complied with and carried out.

h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard. Employer shall ensure corrective action is being taken to mitigate exposure.

i. Employer shall notify all employees of their rights and duties under this program.

Section 2-382. Employee's rights and duties

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

a. Each employee shall comply with occupational safety and health standards and all

rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

b. Each employee shall be notified by the placement notices upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or the Safety Coordinator.

e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Coordinator or Inspector at the time of the physical inspection of the worksite.

g. Any employee may bring to the attention of the Safety Coordinator any violation or suspected violations of the standards or any other health or safety hazards.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of any of these sections may within (30) days after such violation occurs, file a complaint with the City of Memphis Equal Employment Opportunity Office. Such employee, may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

j. Nothing in this section or any other provision of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment if the employee objects thereto on religious grounds, except where it is necessary for the protection of the health or safety of others or when a medical examination may be reasonably required for performance of a specific job.

k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor prior to the end of their shift.

l. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, the employee should report the condition to a Supervisor, Manager, the Safety Administrator, Safety Coordinator or to TOSHA.

Section 2-383. Standards authorized

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

Section 2-384. Variances from standards authorized

The Safety Administrator may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Administrator should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development
The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:

   1. A specification of the standard or portion thereof from which the variance is sought.

   2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

   3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

   4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

   5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

   1. The employer

      i. is unable to comply with the standard by the effective date

because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology; or

ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard; or

iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental Program Plan as described by the TOSHACT.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance.

Section 2-385. Inspections

It is the intention of the City and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the identification of hazards or unsafe conditions or operations that will require correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

Advance Notice of Inspections

1. Generally, advance notice of inspections will not be given, as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

Authorization

In order to carry out the purposes of this program, the Safety Administrator or the Administrator's designee or authorized representative(s), are authorized:

1. To enter without delay and at any reasonable time, any establishment, facility, construction site, plant or any other worksite, area, work place or environment where work is being performed by an employee of the City; and

2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to interview any supervisor, operator, agent, or employee working therein.

3. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Administrator or designee during a routine inspection, he/she shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

4. A management representative and an employee representative shall be given an opportunity to consult with or to accompany the inspector during the physical inspection of any work place for the purpose of aiding such inspection. The right of accompaniment may be denied to any person whose conduct interferes with a full and orderly inspection.

5. The inspection shall be such as to preclude unreasonable disruptions of the operations of the workplace or establishment.

6. Interviews of employees during the course of the inspection may be made when such interviews are essential to the investigation.

7. The Safety Administrator or designee need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

8. Inspections conducted by supervisors or other personnel should be at least as effective as those made by the Safety Administrator or designee.

9. Records are made of the inspections, discrepancies found and corrective actions taken. This information is forwarded to the Safety Administrator. The Safety Administrator shall maintain records of inspections to include identification of worksite inspected, dates of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

Section 2-386. Notice of Unsafe or Unhealthy Conditions Hearings

a. If upon an inspection or investigation, the Safety Administrator or the Administrator's authorized representative, finds that any work place is not in compliance with any applicable standard, rule, regulation, or order, the Safety Administrator shall, with reasonable promptness, issue to the administrative officer responsible for the workplace a written notice that states;

(1) the nature and location of the violation;
(2) the standard rule, regulation or order violated;
(3) the abatement and correction requirements; and
(4) a period of time during which such abatement and correction must be accomplished.

If required by the Safety Administrator or the Safety Administrator's representative, a copy of such notice shall immediately be posted at the location referred to in the notice and remain posted until the alleged violation has been corrected or vacated.

b. At any time within ten (10) days after receipt of such Notice of Unsafe or Unhealthful Conditions, anyone affected may advise the Safety Administrator of objections to the terms and conditions of the notice. Upon receipt of such objections and after an investigation, the Safety Administrator shall determine whether such notice as written should be affirmed, modified or vacated.

Section 2-387. Penalties

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

1. Oral reprimand.
2. Written reprimand.
3. Suspension for three (3) or more working days.
4. Termination of employment.

c. The employee being disciplined under this paragraph shall have all usual rights of appeal regarding any discipline received based on whether the employee is temporary or permanent, and whether the employee is appointed or serves in a Civil Service position.

Section 2-388. Recordkeeping and Reporting

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

Section 2-389. Administration

a. The Safety Administrator of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.

1. The Safety Administrator of Occupational Safety and Health may designate person or persons as the Safety Administrator deems necessary to carry out the Safety Administrator's powers, duties, and responsibilities under this program.

2. The Safety Administrator of Occupational Safety and Health may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Administrator.

3. The Safety Administrator of Occupational Safety and Health shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

4. The Safety Administrator of Occupational Safety and Health or designee may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as the Safety Administrator may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The Safety Administrator of Occupational Safety and Health or designee shall prepare all required reports to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.

6. The Safety Administrator of Occupational Safety and Health shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

7. The Safety Administrator of Occupational Safety and Health shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

8. The Safety Administrator of Occupational Safety and Health shall maintain or cause to be maintained records required by this plan.

9. The Safety Administrator of Occupational Safety and Health or designee shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours from the time that the Safety Administrator or designee learned of such occurrence.

b. The administrative or operational head of each department, division, service center, board, or other agency of the City shall be responsible for the implementation of this occupational safety and health program within their respective areas.

1. The administrative or operational head shall follow the directions of the Safety Administrator on all issues involving occupational safety and health of employees as set forth in this plan.

2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Administrator within the abatement period.

3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Administrator or designee along with his findings and/or recommendations.

Section 2-390. Compliance with City or State regulations not to excuse compliance with the other.

Compliance with any other law, statute, resolution, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statue, resolution, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, resolution, or executive order, as applicable, is specifically repealed.

Section 2-391 A EMPLOYEE COMPLAINT PROCEDURE

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

2. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h)of Section 1 of this plan).

3. Upon receipt of the complaint letter, the Safety Administrator will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Administrator will answer the complaint in writing stating whether or not the complaint is deemed to be valid. If valid, what action has been or will be taken to correct or abate the condition(s), and the designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

4. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the City Council explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

5. The Chief Executive Officer or the City Council will evaluate the complaint. If warranted, the Chief Executive officer or City Council will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions. An answer with a decision concerning the complaint will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the City Council whichever is greater.

6. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development shall include copies of all related correspondence with the Safety Administrator and the Chief Executive Officer or the representative of the governing body.

7. Copies of all complaints and answers thereto will be filed by the Safety Administrator who shall make them available to the Commissioner of Labor and Workforce Development or his

designated representative upon request.

Section 2-391 B., Education and Training

a. Safety Administrator and/or Inspector(s):

1. Arrangements will be made for the Safety Administrator and/or designee Safety Coordinator to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. .

2. Access to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

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

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.

2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, personal hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment on how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress, Confined Spaces and Drowning.

5. Instruct employees on hazards and dangers of confined or enclosed spaces.

i. "Confined or enclosed space" means a space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, lift stations and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and

emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

Section 2-392. Imminent Danger Procedures

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The Safety Administrator or Safety Coordinator or their designee shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the Safety Administrator he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the Safety Administrator or Safety Coordinator or Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Administrator or Safety Coordinator and to the mutual satisfaction of all parties involved.

5. The imminent danger shall be deemed abated if:

i. The imminence of the danger has been eliminated by removal of employees from the area of danger.

ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

6. A written report shall be made by or to the Safety Administrator describing in detail the imminent danger and its abatement. This report will be maintained by Safety Administrator in accordance with state guidelines and regulations.

b. Refusal to Abate.

1. Any refusal to abate an imminent danger situation shall be reported to the Safety Administrator and Chief Executive Officer immediately.

2. Safety Administrator and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

ABATEMENT ORDERS AND HEARINGS

a. Whenever, as a result of an inspection or investigation, the Safety Administrator or Safety Coordinator(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Administrator shall:

   1. Issue an abatement order to the head of the worksite.
   2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:

   1. The standard, rule, or regulation which was found to violated.
   2. A description of the nature and location of the violation.
   3. A description of what is required to abate or correct the violation.
   4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Administrator in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Administrator shall refer the matter to the CAO to conduct an investigation or hearing if necessary with all interested and/or responsible parties in an effort to resolve any objections. Within (5) working days after completion of the investigation or hearing, a decision will be issued that shall be binding on all parties and final.

Section 2-393. Confidentiality of Privileged Information

All information obtained by or reported to the Safety Administrator or designee pursuant to this plan of operation or the legislation (Ordinance, or Executive Order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential to the extent allowed by law. In addition to making disclosures as required by law, the City may provide when relevant in any proceeding under this program. This information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

Section 2-394. Reserved.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of said 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 3. BE IT FURTHER ORDAINED, that this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by

from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

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

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

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

Memphis City Council Summary Sheet

Resolution seeking to accept sub-award grant funds in the amount of $398,667.00 from Shelby County Government through the U. S. Department of Justice for the FY 13 Edward Byrne Justice Assistance Grant Program.

1. **Initiating Party:**

   The City of Memphis Police Department at the request of Shelby County Government.

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

   This is not a change to an exisiting ordinance or Resolution.

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

   This resolution requires a new contract between the Shelby County Government and the City of Memphis.

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

   This Resolution requires an expenditure of funds and it also requires a budget amendment.

A Resolution to accept grant funds in the amount of Three Hundred and Ninety Eight Thousand, Six Hundred and Sixty Seven Dollars ($398,667.00) from Shelby County Government through the U. S. Department of Justice.

WHEREAS, the City of Memphis Division of Police Services has been awarded grant funds in the amount of Three Hundred and Ninety Eight Thousand, Six Hundred and Sixty Seven Dollars ($398,667.00) from Shelby County Government through the U. S. Department of Justice for the FY 13 Local Edward Byrne Justice Assistance Grant Program (JAG); and

WHEREAS, these funds will be used to support and equip the Memphis Police Department in areas of law enforcement, prosecution, education, crime prevention technology improvement, and crime victims/witness initiatives; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2014 Operating Budget to establish funds for the FY 13 Local Edward Byrne Justice Assistance Grant Program; and

WHEREAS, it is necessary to appropriate the FY 2014 grant funds in the amount of Three Hundred and Ninety Eight Thousand, Six Hundred and Sixty Seven Dollars ($398,667.00) for the FY 13 Local Edward Byrne Justice Assistance Grant Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the FY 13 Local Edward Byrne Justice Assistance Grant Program in the amount of Three Hundred and Ninety Eight Thousand, Six Hundred and Sixty Seven Dollars ($398,667.00) be accepted by the City Of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2014 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Local Edward Byrne Justice Assistance Program in the amount of Three Hundred and Ninety Eight Thousand, Six Hundred and Sixty Seven Dollars ($398,667.00) as follows:

Revenue	
Shelby County Government	$398,667.00
Total	**$398,667.00**
Expenditures	
Personnel	$123,587.00
Training	91,693.00
Equipment	91,694.00
Contractual	91,693.00
Total	**$398,667.00**

Memphis City Council
Summary Sheet

Resolution seeking acceptance of grant funds in the amount of $197,000.00 from the State of Tennessee Office of Criminal Justice Program for the continuation of the City of Memphis Police Department's Internet Crimes Against Children. (ICAC).

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

   This is a resolution to accept grant funds from The State of Tennessee Office of Criminal Justice Programs in the amount of $197,000.00 to help the City of Memphis Police Services combat computer-facilitated sexual child exploitation through forensic and investigative techniques.

2. **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.

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

   This resolution requires a new contract between the Tennessee Office of Criminal Justice and the City of Memphis.

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

   Acceptance will require an expenditure of funds and it will also require a budget amendment to the 2014 Operating Budget.

A resolution to accept grant funds in the amount of One Hundred and Ninety Seven Thousand Dollars ($197,000.00) from the State of Tennessee Office of Criminal Justice Programs.

WHEREAS, the City of Memphis Division of Police Services has been awarded grant funds in the amount of One Hundred and Ninety Seven Thousand Dollars ($197,000.00) from the State of Tennessee Office of Criminal Justice Programs for the FY 14 Internet Crimes Against Children Program; and

WHEREAS, these funds will be used by the Memphis Police Department to increase its investigative capabilities in the detection, investigation, apprehension, and the prosecution of offenders committing internet crimes against children; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2014 Operating Budget to establish funds for the FY 14 Internet Crimes Against Children Program; and

WHEREAS, it is necessary to appropriate the FY 14 grant funds in the amount of One Hundred and Ninety Seven Thousand ($197,000.00) for the FY 14 Internet Crimes Against Children Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the FY 14 Internet Crimes Against Children in the amount of One Hundred Ninety Seven Thousand ($197,000.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2014 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Internet Crimes Against Children Program in the amount of One Hundred Ninety Seven Thousand ($197,000.00) as follows:

REVENUES	
State of Tennessee Office of Criminal Justice	**$197,000.00**
TOTAL	**$197,000.00**
EXPENDITURES	
Personnel Costs	**$ 72,018.00**
Equipment	**53,500.00**
Miscellaneous Professional Services	**4,500.00**
Supplies	**49,001.00**
Travel	**17,981.00**
TOTAL	**$197,000.00**

Memphis City Council
Summary Sheet
W05 120/130 42" CIPP Rehab

1. This project is to repair and rehab existing damaged sanitary sewer pipe using cured in place technology adjacent to I-240, north of Walnut Grove.

2. This item is being submitted by Public Works (Environmental Engineering)

3. This item does not change an existing ordinance or resolution.

4. This item does require a new contract.

5. This item requires an expenditure of funds.

6. The MWBE Goal for this project was 6%.

This is a resolution appropriating Construction Funds for SW02114 W05 120/130 42" CIPP Rehab

WHEREAS, the Council of the City of Memphis approved Rehab Existing Sewers, project number SW02001, as part of the Public Works Fiscal Year 2014 Capital Improvement Budget; and

WHEREAS, bids were taken on August 9, 2013 for installation of cured in place pipe (CIPP) liner in a section of the Wolf River interceptor with the lowest complying bid of three bids being $1,598,847.00 submitted by Layne Inliner LLC; and

WHEREAS, it is necessary to reduce Sewer Revenue Bonds in Rehab Existing Sewers, project number SW02001 and establish an allocation funded by Capital Pay Go-Sewer in W05 120/130 42" CIPP Rehab, project number SW02114 in the amount of $1,758,732.00; and

WHEREAS, it is necessary transfer a construction allocation of $1,758,732.00 from Rehab Existing Sewers, project number SW02001 to W05 120/130 42" CIPP Rehab, project number SW02114; and

WHEREAS, it is necessary to appropriate $1,758,732.00 funded by Capital Pay Go-Sewer in W05 120/130 42" CIPP Rehab, project number SW02114 as follows:

Contract Amount	**$1,598,847.00**
Project Contingencies	**159,885.00**
Total Amount	**$1,758,732.00**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2014 Capital Improvement Budget be and is hereby amended by reducing Sewer Revenue Bonds in Rehab Existing Sewers, project number SW02001 and establishing an allocation funded by Capital Pay Go-Sewer in W05 120/130 42" CIPP Rehab, project number SW02114 in the amount of $1,758,732.00 for installation of cured in place pipe (CIPP) liner in a section of the Wolf River interceptor.

BE IT FURTHER RESOLVED that the Fiscal Year 2014 Capital Improvement Budget be and is hereby amended by transferring a construction allocation of $1,758,732.00 from Rehab Existing Sewers, project number SW02001 to W05 120/130 42" CIPP Rehab, project number SW02114.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of $1,758,732.00 funded by Capital Pay Go-Sewer chargeable to the FY 2014 Capital Improvement Budget and credited as follows:

Project Title	**W05 120/130 42" CIPP Rehab**
Project Number	**SW02114**
Total Amount	**$1,758,732.00**

Memphis City Council
Summary Sheet

- This item is a resolution appropriating funds for the purchase of 15,707 ninety six gallon roll carts.
- The Public Works Division is requesting this resolution.
- This is a resolution to amend the Solid Waste Management budget by $674,302.00.
- This item amends an existing contract by increasing the number of ninety six gallon roll carts to be purchased.
- This item requires an amendment of the FY14 Solid Waste Management budget.

RESOLUTION

WHEREAS, the Council of the City of Memphis approved the Fiscal Year 2014 Operating Budget Appropriation Ordinance #5509 effective July 1, 2013; and

WHEREAS, it is necessary to purchase of 15,707 (96) gallon roll carts for Solid Waste Management; and

WHEREAS, it is necessary to amend the Fiscal Year 2014 Operating Budget by increasing Capital Outlay in the amount of $674,302.00 funded by the Solid Waste Management Fund Balance for the purchase of 15,707 (96) gallon roll carts; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2014 Operating Budget is hereby amended by increasing Capital Outlay in the amount of $674,302.00 funded by the Solid Waste Management Fund Balance.

Memphis City Council Summary Sheet

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

   Extension of the Report dated April 2, 2013, for the Review of the Refunding Plan for the Proposed Sanitary Sewerage System Revenue Refunding Bonds, Series 2013

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

   Initiating Party is the Division of Finance.

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

   Not applicable.

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

   Not applicable.

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

   Not applicable.

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF STATE AND LOCAL FINANCE
SUITE 1600 JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7872
FAX (615) 741-5986

August 15, 2013

Honorable A. C. Wharton, Mayor
City of Memphis
125 North Main RM 368
Memphis, TN 38103-2017

Re: Extension of the Report dated April 2, 2013, for the Review of the Refunding Plan for the Proposed Sanitary Sewerage System Revenue Refunding Bonds, Series 2013

Dear Mayor Wharton:

This letter acknowledges receipt of a letter on August 12, 2013, requesting the extension of a report of the review for the Plan of Refunding dated April 2, 2013, for the proposed issuance of Sanitary Sewerage System Revenue Refunding Bonds, Series 2013 (the "2013 Refunding Bonds"). The City provided updated schedules for the proposed refunding.

UPDATED REFUNDING SCHEDULES

The following table is included to compare the originally submitted refunding plan to the updated schedules.

Refunding Plan Comparison

	Original Refunding Plan March 14, 2013	Updated Refunding Schedules August 9, 2013
Par Amount 2013 Refunding Bonds	$ 39,400,000.00	$ 38,955,000.00
Premium	$ 7,512,250.00	$ 3,384,873.30
2013 Refunding Bonds Average Coupon	5.00%	4.72%
2013 Refunding Bonds Average Life	7.2 Years	6.01 years
Net Present Value Savings	$3,813,893.00	$1,558,145.00
Net Present Value Savings as Percent of Refunded Bonds Principal	8.9%	4.5%
Refunded Bonds Principal	$43,060,000.00	$34,455,000.00
Refunded Bonds Average Coupon	4.79%	4.91%
Refunded Bonds Average Life	7.07 Years	5.97 years
Cost of Issuance	$421,970.00	$351,911.18
Cost of Issuance Per $1,000 Bond Par Amount	$10.71	$10.55

August 15, 2013
Letter to the City of Memphis
Re: Extension of the Report for the Review of the Refunding Plan for the Proposed Sanitary Sewerage System Revenue Refunding Bonds, Series 2013

REPORT EXTENSION

This letter serves as confirmation of the extension of the report of April 2, 2013, for the proposed issuance of the 2013 Refunding Bonds.

This extension does not constitute approval or disapproval for the proposed plan or a determination that a refunding is advantageous or necessary nor that any of the outstanding obligations should be called for redemption on the first or any subsequent available redemption date or remain outstanding until their respective dates of maturity.

If the refunding has not been completed within 240 days from the date of the original letter, a new plan of refunding must be submitted to this Office.

The extension letter and a copy of the plan submitted to this Office is to be provided to each member of the City Council and reviewed at the next Public Meeting subsequent to the receipt of this letter.

PUBLIC DEBT ENTITY REPORT

Enclosed is a revised Form CT-0253 - Report on Debt Obligation. The Form CT-0253 must be filed with the governing body of the public entity issuing the debt not later than forty-five (45) days following the issuance or execution of a debt obligation by or on behalf of any public entity, with a copy (including attachments, if any) filed with the Director of the Office of State and Local Finance either by mail to the address on this letterhead or by email to StateandLocalFinance.PublicDebtForm@cot.tn.gov. No public entity may enter into additional debt if it has failed to file the Report on Debt Obligation.

Sincerely,

Sandra Thompson

Sandra Thompson
Director of the Office of State & Local Finance

Cc: Mr. Jim Arnette, Director of Local Government Audit, COT
Mr. Andre D. Walker, Deputy Director of Finance, City of Memphis
Ms. Pamela Z. Clary, ComCap Advisors
Mr. Doug Earthman, Glankler Brown

Enclosure: Form CT-0253

Memphis City Council Summary Sheet

1. **This item is a resolution seeking approval to transfer and appropriate $60,000.00 in Contract Construction from CIP Project Number PK07092, City Park Rehab and Maintenance to CIP Project Number PK01026 – Gaston Community Center Repairs funded by G. O. Bonds General.**

2. **The initiating party is the Division of Parks and Neighborhoods.**

3. **This Resolution does not change any existing Ordinance or Resolution.**

4. **This Resolution does not require a new contract.**

5. **This Resolution does require an expenditure of funds in the amount of $60,000.00.**

A Resolution to appropriate funds in Contract Construction for Gaston Community Center.

WHEREAS, the Council of the City of Memphis did include Gaston Community Center Repairs, Capital Improvement Project Number PK01026, as part of the Fiscal Year 2011 Capital Improvement Budget with an allocation of $350,000.00 in Contract Construction; and

WHEREAS, the Council of the City of Memphis did approve the Barnes and Brower bid and contingency of $159,108.00 in August of 2012; and

WHEREAS, during repair work it was determined that the West facing structural wall was also failing and the South facing wall required additional repairs beyond the original scope of work; and

WHEREAS, it is necessary to appropriate $60,000.00 in Contract Construction for Capital Improvement Project Number PK01026 funded by G.O. Bonds General for additional repairs at Gaston Community Center; and

WHEREAS, the Council of the City of Memphis via a resolution submitted by the Finance Division did remove the remaining Unappropriated project funding in PK01026; and

WHEREAS, in order the make the additional repairs, it is necessary to transfer $60,000.00 in Contract Construction funding from City Park Rehab and Maintenance, Capital Improvement Project Number PK07092 to Gaston Community Center Repairs, Capital Improvement Project Number PK01026.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that there be transferred and is hereby appropriated the amount of $60,000.00 from City Park Rehab and Maintenance, Capital Improvement Project Number PK07092 to Gaston Community Center Repairs, Capital Improvement Project NumberPK01026, funded by G.O. Bonds General for additional repairs at Gaston Community Center.

Project Title:	**Gaston Community Center Repairs**
Project Number:	**PK01026**
Total Construction Cost:	**$60,000.00**

Memphis City Council Summary Sheet

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

   A Resolution requesting City Council Approval for the acceptance and expenditure of $4,000.00 in Grant funds from the National Recreation and Parks Association (NRPA), for the purpose of implementing an Arthritis Foundation Exercise Program (AFEP) within the City's senior/community centers.

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

   The Division of Parks & Neighborhoods

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

   NO

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

   No – City will be required to submit an 'MOU' agreeing to conduct the Arthritis Foundation Exercise Program.

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

   No City funds - Funds will be provided via the NRPA Grant.

A Resolution to accept grant funds in the amount of Four Thousand Dollars ($4,000.00) from the National Recreation and Parks Association (NRPA).

WHEREAS, the City of Memphis has been informed by the National Recreation and Park Association (NRPA) of its selection as one of twenty-four grantee cities to receive the "Implementing Arthritis Interventions in Local Park and Recreation Agencies" grant opportunities; and

WHEREAS, the City of Memphis Division of Parks & Neighborhoods desires to implement within its senior and community centers the Arthritis Foundation Exercise Program (AFEP), which would be funded via the NRPA grant; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2014 Operating Budget to establish funds for the Arthritis Foundation Exercise Program; and

WHEREAS, it is necessary to appropriate the FY 2014 grant funds in the amount of Four Thousand Dollars ($4,000.00) for the Arthritis Foundation Exercise Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Arthritis Foundation Exercise Program grant funds in the amount of Four Thousand Dollars ($4,000.00) be accepted by the City Of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2014 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the NRPA grant in the amount of Four Thousand Dollars ($4,000.00) as follows:

Revenue	
National Recreation and Park Association	$4,000.00
Expenditures	
Seminars Training Education	$1,300.00
Athletic Rec Supplies	1,615.00
Travel Expenses	500.00
Hospitality	200.00
Materials and Supplies	385.00
Total	$4,000.00

Memphis City Council Summary Sheet

1. **Description of the Item (Resolution, Ordinance, etc.)**
   This item is a resolution that accepts and appropriates $51,643.31 in grant funds for Memphis Public Library and Information Center for Food Stamp Outreach services by LINC211.

2. **Initiating Party (e.g. Public Works, at request of City Council, etc.)**
   The City of Memphis Division of Parks and Neighborhoods, Memphis Public Library and Information Center has drafted this resolution and is recommending City Council approval.

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

4. **State whether this requires a new contract, or amends an existing contract, if applicable.**
   This amendment requires a new contract with United Way of Metropolitan Nashville and the City of Memphis.

5. **State whether this requires an expenditure of funds/requires a budget amendment.**
   This program requires a FY14 budget amendment to accept and appropriate grant funds for Food Stamp Outreach by LINC211.

A resolution to accept funding for Memphis Public Library for LINC/2-1-1 Food Stamp Outreach from United Way of Metropolitan Nashville.

WHEREAS, the City of Memphis, Division of Parks and Neighborhoods, Memphis Public Library and Information Center have received grant funds in the amount of Fifty One Thousand Six Hundred Forty Three Dollars and Thirty One Cents ($51, 634.31) from United Way of Metropolitan Nashville; and

WHEREAS, all these funds will be used for Food Stamp Outreach provided by LINC/2-1-1; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of Fifty One Thousand Six Hundred Forty Three Dollars and Thirty One Cents ($51,634.31) for Food Stamp Outreach by LINC/2-1-1; and

NOW, THEREFORE, BE IT RESOLVED by the council of the City of Memphis $51,643.31 for LINC/2-1-1 Services by accepted by the City of Memphis

BE IT FURTHER RESOLVED, that the Fiscal Year 2014 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for LINC/2-1-1 Services in the amount of Fifty One Thousand Six Hundred Forty Three Dollars and Thirty One Cents ($51,634.31) as follows:

<u>Revenue</u>

United Way of Metropolitan Nashville	$51,643.31

<u>Expense</u>

Marketing for LINC211	$51,643.31

Memphis City Council Summary Sheet

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

   Resolution approving actuarial funding to the Retirement and Pension System in the amount of $30,705,469.00, for the 2013 Plan Year.

2. **Initiating Party (e.g. Public Works, at request of City Council, etc.)**
   This Resolution is being initiated by MLGW on behalf of the MLGW Retirement and Pension System.

3. **State whether this is a change to an existing ordinance or resolution, if applicable.**
   The Retirement and Pension Plan requires funding on an annual basis.

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

5. **State whether this requires an expenditure of funds/requires a budget amendment.**
   No.

WHEREAS, the Board of Light, Gas and Water Commissioners at their meeting held August 15, 2013, approved an amendment to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2009 (the "Plan").

NOW, THEREFORE, BE IT RESOLVED BY the Council of the City of Memphis that the Memphis Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

ARTICLE III, Section 3.2 *Contributions by the Division*, subparagraph(s) Amount, shall be amended by deleting the current said Section 3.2 (a) in its entirety and substituting in place thereof the following Section 3.2(a):

3.2 Contributions by the Division.

a) Amount. The Division shall contribute to the Fund such amounts as from time to time are estimated by the Actuary to be sufficient, on an actuarially sound basis, after taking into account Participant Contributions and earnings thereon, to provide Accrued Benefits under the Plan. Such Contributions shall be obligations of the Division, and the Board of Commissioners shall appropriate annually such amounts as are necessary to make such payments. Effective January 1, 2001, and until further determination by the Board of Commissioners with approval by the City Council, the Division's contribution shall be equal to 8% of total Compensation, as defined under the Plan, of all active Participants. Notwithstanding anything in the foregoing to the contrary, for the 2013 Plan Year, as defined in Section 1.51 hereof, but solely for said 2013 Plan Year, the Division's contribution shall be 19.89% of total Compensation (or approximately $30,705,469.00). Division contributions shall be determined and paid to the Fund as soon as practicable following each payroll period.

EXCERPT
from
MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
August 15, 2013

The Secretary-Treasurer stated that the Pension Board had approved and is recommending to the Board of Commissioners, an amendment to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2009 (the "Plan").

THAT, Subject to the consent and approval of the Council of the City of Memphis, the Memphis, Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

ARTICLE III, Section 3.2 *Contributions by the Division,* subparagraph(s) Amounts, shall be amended by deleting the current said Section 3.2 (a) in its entirety and substituting in place thereof the following Section 3.2(a):

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 Memphis Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

ARTICLE III, Section 3.2 *Contributions by the Division*, subparagraph(s) Amount, shall be amended by deleting the current said Section 3.2 (a) in its entirety and substituting in place thereof the following Section 3.2(a):

3.2 Contributions by the Division.

(a) Amount. The Division shall contribute to the Fund such amounts as from time to time are estimated by the Actuary to be sufficient, on an actuarially sound basis, after taking into account Participant Contributions and earnings thereon, to provide Accrued Benefits under the Plan. Such Contributions shall be obligations of the Division, and the Board of Commissioners shall appropriate annually such amounts as are necessary to make such payments. Effective January 1, 2001,

and until further determination by the Board of Commissioners with approval by the City Council, the Division's contribution shall be equal to 8% of total Compensation, as defined under the Plan, of all active Participants. Notwithstanding anything in the foregoing to the contrary, for the 2013 Plan Year, as defined in Section 1.51 hereof, but solely for said 2013 Plan Year, the Division's contribution shall be 19.89% of total Compensation (or approximately $30,705,469.00). Division contributions shall be determined and paid to the Fund as soon as practicable following each payro11 period.

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 15th day of August, 2013, at which a quorum was present.

Secretary - Treasurer

Memphis City Council Summary Sheet

1. Item is Resolution appropriating the additional Revenues and Expenditures for the Neighborhood Stabilization Program funds in the amount of $428,168.00.

2. The initiating party is the Division of Housing and Community Development / CD90006-Non Profit Housing Department.

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

4. Resolution will amend an existing contract.

5. There will be an expenditure of funds required.

A resolution appropriating additional Revenues and Expenditures for the Neighborhood Stabilization Program funds in the amount of $428,168.00.

WHEREAS, the City of Memphis, through the Division of Housing and Community Development, in response to the Neighborhood Stabilization Program (NSP) allocation, establishing a planning committee to examine foreclosure and sub prime loan data for the City of Memphis in order to identify the areas of greatest need for NSP funding; and

WHEREAS, the Division of Housing and Community Development (HCD) on behalf of the City of Memphis submitted a grant application to the U.S. Department of Housing and Urban Development (HUD) as required to amend the City's 2008 Annual Federal Action Plan, as authorized under Title III of the Housing and Economic Recovery Act (HERA) of 2008; and

WHEREAS, the City of Memphis was awarded Eleven Million, Five Hundred Six Thousand, Four Hundred and Fifteen Dollars ($11,506,415.00) from HUD for a period commencing April 1, 2009 and ending September 30, 2010; and

WHEREAS, the City of Memphis, Division of Housing and Community Development (HCD) proposes making the majority of the NSP funds available for use by nonprofit and for profit affordable housing developers within 10 zip codes of Memphis. HCD expects that this funding will result in the acquisition, rehabilitation, and deposition of approximately 145 units; and

WHEREAS, the Division of Housing and Community Development has generated in Program Income a total of Nine Hundred Seven Thousand, One Hundred Sixty Eight and 00/100 Dollars ($907,168.00) as of June 30, 2012. In FY 2012 and FY 2013 at total of $745,042.00 was collected in Program Income. An additional $228,168 was collected in FY 2013 and it is estimated for FY2014 an additional $200,000.00 will be collected in Program Income under the NSP Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis, that the additional Program Income generated from HUD Neighborhood Stabilization Program (NSP) in the amount of $428,168.00 be accepted by the City of Memphis; and

BE IT FURTHER RESOLVED, that the Fiscal Year 2014 Operating Budget be and is hereby amended by appropriating the additional Revenues and Expenditures for the Neighborhood Stabilization Program in the amount of $428,168.00 as follows:

Revenue	
HUD Neighborhood Stabilization Program Grant (Award #12400)	$428,168.00
Total	**$428,168.00**
Expense	
CD90122-NSP1 Award 12400/059600-Rehabilitation	$303,168.00
CD90122-NSP1 Award 12400/059600-NSP Program Delivery	$125,000.00
Total	**$428,168.00**

Memphis City Council Resolution

WHEREAS, the Memphis City Council approved the creation of the Industrial Development Board in 1977 in order to promote economic development within the City of Memphis; and

WHEREAS, the Industrial Development Board was given the power to grant Payment-In-Lieu of Taxes (PILOTs) to companies as incentives for them to locate within the boundaries of the City of Memphis and Shelby County; and

WHEREAS, this power was given to the Economic Development and Growth Engine (EDGE) in 2011 as part of a new strategy to help streamline all of the economic development activity within Shelby County; and

WHEREAS, a PILOT is contract between the board and the company that allows for a tax abatement with a maximum percentage of 90%, over a maximum of 15 years, determined by an evaluation matrix; and

WHEREAS, in 2012, the City of Memphis lost over $33 million dollars in tax revenue due to PILOTs; and

WHEREAS, the Memphis City Council deems it appropriate to decrease the maximum percentage allowed for a tax abatement to a maximum of 75% to be commensurate with the County of Shelby.

NOW, THEREFORE, BE IT RESOLVED that the maximum tax abatement amount for PILOTs granted by EDGE shall be 75%, over a maximum of 15 years.

BE IT FURTHER RESOLVED that this change will take immediate effect upon the passing of this resolution.

Harold Collins
Council Member

City Council Item Routing Sheet

☐ Ordinance ☒ Resolution ☐ Grant Acceptance

☐ Budget Amendment ☐ Commendation ☐ Other: Click here to enter text.

Item Description: creates a program to leverage the fees paid for "inner city economic development" by applicants equal to 5% of personal property taxes abated under PILOT Agreements to spur economic development in distressed neighborhoods by improving the quality of inner city commercial corridors and neighborhood serving businesses. Fees paid to date total $508K. This Resolution transfers this money to EDGE and allows future fees paid to remain with EDGE to be used as prescribed by the program.
Recommended Council Action: Approve the Resolution
Describe previous action taken by any other entity (i.e. board, commission, task force, council committee, etc.) and date of any action taken: The program was developed by the City of Memphis, the Mayor's Innovation Delivery Team, EDGE (who will manage the program) and community organizations.

Does this item require city expenditure? NO	**Source and Amount of Funds**
Amount Transfer of $508,389.21 of PILOT fees to EDGE	$ **Operating Budget**
$Click here to enter text.**Revenue to be received**	$Click here to enter text.**CIP Project** #Click here to enter text.
	$508,389.21 PILOT fees collected **Federal/State/Other**

Approvals

Director_____Date_____

Director_____Date_____

Budget Manager_____Date_____

Finance Director_____Date_____

City Attorney_____Date_____

Chief Administrative Officer

_____Date_____

Council Committee Chair

_____Date_____

Memphis City Council Summary Sheet

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

Since 2009 the PILOT rules require that for all personal property subject to a PILOT agreement, the applicant shall pay a fee of 5% to the City of Memphis (up to $50,000) of the taxes otherwise due which are restricted to be used for "inner city economic development." When the fee was established no guidance was given on how the fees can be used.

This Resolution allows these fees to be leveraged and used for their intended purpose, to spur economic development in distressed neighborhoods by improving the quality of inner city commercial corridors and neighborhood serving businesses. Fees paid to date total $508K. This Resolution transfers this money to EDGE and allows future fees paid to remain with EDGE to be used as prescribed by the program.

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

Program developed by Mayor's Office, Innovation Delivery Team, EDGE, and community partners

3. **State whether this is a change to an existing ordinance or resolution, if applicable.**
   N/A
4. **State whether this requires a new contract, or amends an existing contract, if applicable.**
   N/A
5. **State whether this requires an expenditure of funds/requires a budget amendment.**

There is no expenditure of city funds. This Resolution transfers the accumulated fees to EDGE, allows EDGE to retain future fees paid, and presents the program to allow these funds to be used to fulfill the intent of aiding inner city economic development.

RESOLUTION

WHEREAS, in 2009, a comprehensive review of the Industrial Development Board of Memphis and Shelby County's Payment-In-Lieu-of-Tax (PILOT) Program was performed; among the adopted recommendations was that for all personal property subject to a PILOT agreement, the applicant shall pay a fee of 5% to the City of Memphis (up to $50,000) of the taxes otherwise due; the revenue from these fees is to be "used to facilitate and strengthen inner city economic recovery;" and

WHEREAS, $508,389.21 accrued from payment of these Personal Property PILOT Fees for the purpose of inner city economic development though no companion program was presented to govern the use of these funds; and

WHEREAS, the Industrial Development Board of Memphis and Shelby County was absorbed into the Economic Development Growth Engine (EDGE) Industrial Development Board of the City of Memphis and County of Shelby, Tennessee, and the accrued funds need to be transferred to the successor entity; and

WHEREAS, EDGE shall be authorized to hold and distribute these funds pursuant to a program developed to ensure that these funds are put to the highest and best use and have the greatest impact on distressed, high visibility commercial corridors within the City of Memphis; and

WHEREAS, there is a need for investment to spur economic development in distressed neighborhoods by improving the quality of core city commercial corridors and neighborhood serving businesses within the City of Memphis; and

WHEREAS, The Mayor's Innovation Delivery Team has identified three focus areas within the core City of Memphis to refine and test new approaches to neighborhood economic development, specifically relating to growing neighborhood serving businesses.

NOW, THEREFORE BE IT RESOLVED, that funds in the amount of $508,389.21 for the purpose of inner city economic development from payment of Personal Property PILOT Fees be transferred and appropriated to EDGE to be administered consistent with the Inner City Economic Development Program (attached).

BE IT FURTHER RESOLVED, that EDGE is authorized to retain future Personal Property PILOT Fees to be paid into a fund for the sole purpose of awarding grants and loans for the purpose of inner city economic development. EDGE shall have authority approve grants and forgivable loans consistent with the Inner City Economic Development Program.

BE IT FURTHER RESOLVED, EDGE will report on the status of the fund and all grants and forgivable loans, to Memphis City Council, on a quarterly basis.

Attachment A

Economic Development Growth Engine for Memphis and Shelby County
Inner City Economic Development (ICED) Program Overview

The EDGE Inner City Economic Development program (ICED) is designed to spur economic development in distressed neighborhoods by improving the quality of inner city commercial corridors and neighborhood serving businesses. This program will be developed in two phases.

Phase 1: Program Testing and Refinement

Working with The Mayor's Innovation Delivery Team (MIDT), EDGE will allocate an initial $175,000 from the ICED fund to test and refine the types of investments that could occur within the ICED program. These test investments will be made in the South Memphis and Binghampton focus areas the boundaries of which are identified in Attachment B. This allocation will be leveraged with a contribution of $50,000 from the MIDT for a total of $225,000. The program will test low-cost strategies with the potential for high-return on investment, improvements to businesses ranging from corner stores, restaurants, general merchandise, and other neighborhood serving businesses. Program testing will be completed no later than October 2014 and unused funds reallocated to the general ICED program. The program budget will be allocated as follows:

Core City Retail Enhancement - Neighborhood Retail Strategy/MEMShop	
Business Façade and Interiors Improvement (Forgivable Loan)	$125,000
Streetscape Improvements & Street Furniture	$50,000
Improved Signage	$20,000
Business Marketing Support	$10,000
Business Mentorship/Consulting Work	$20,000
TOTAL	**$225,000**

- A minimum of eight businesses will be assisted.
- Applicants for the Business Façade and Interiors Improvement Forgivable Loan are eligible to borrow up to $25,000 (contingent on funds) but must provide a dollar for dollar cash match of the funds borrowed.
- To be eligible for the program applicants must submit a sealed engineering report stating that the applicant's building is structurally sound.
- Improvement loans to businesses are forgivable at rate of 20% per year from the close of the loan.
- An architect retained by EDGE/MIDT shall prepare plans for improvements performed under this program.
- The applicant, working with the approved architect must submit bids to EDGE staff, select a contractor, and obtain necessary permits.
- Upon receipt of a commitment letter from EDGE/MIDT, construction may begin.
- Applicant shall submit draw requests as work continues. Prior to disbursing any funds, the draw request will be reviewed to ensure the work is in compliance with the plans and letter of commitment.
- Businesses receiving forgivable loans will also receive up to 24 hours of business development consulting services and retail trends assistance.

Results of the test enhancement strategies will be tracked and those with the highest return on investment will be recommended for inclusion in the full ICED program.

Phase 2: Full Program Launch

The EDGE Inner City Economic Development program (ICED) is designed to spur economic development in distressed neighborhoods by improving the quality of inner city commercial corridors and neighborhood serving businesses. Applications are available on a first come first served basis and are subject to availability of program funds. Clusters of buildings will be given preference, so as to maximize the program's impact. Please see the full application packet for complete instructions.

1. ICED funds may be used for purposes including but not limited to business façade and interior improvements, streetscape improvements, technical assistance from program affiliated architects and engineers, building improvements or renovations for new or expanding small businesses, and business mentorship/consulting work.

2. The majority of exterior work must be done on a street facing front or side of an existing building (e.g.: storefronts, gutters and downspouts, cornices, signs, graphics, exterior lighting, canopies, awnings, and masonry cleaning). Landscape improvements and outdoor patios are eligible as long as they are tied to a building façade improvement. The cost of permits is an eligible expense for the matching grant.

3. Façade improvement funds cannot be used to correct property damaged by collision, acts of nature or occurrences covered by insurance.

4. All work must comply with city, state and federal regulations and codes. Participants will be responsible for obtaining necessary regulatory approvals, including those of the Landmarks Commission where applicable, Construction Code Enforcement building permits and any other necessary permits.

5. Eligible applicants include both property owners and business lessees with a minimum of a five-year lease, and written authorization of the property owner.

6. Applications for loans or grants of ICED funds shall be reviewed by EDGE staff who shall make a recommendation of approval or rejection to the EDGE Board or its designated Committee, who shall make the award decision. The decision of EDGE on an application shall be final.

7. Submissions will be scored according to a matrix which awards additional point for applications made by a cluster of businesses, business association(s) or applications consistent with a neighborhood plan within a highly visible commercial corridor or area. Neighborhood buy in is key to the success of ICED Program projects. Neighborhood Association and Community Development Corporations should be engaged in the planning process and points will be awarded for forming such partnerships.

8. Applicants must utilize an architect employed by EDGE to prepare plans for improvements made pursuant to this program.

9. Once the loan is approved, applicant shall submit bids, select a contractor licensed by the State of Tennessee, and obtain necessary permits. Applicants are required to target at least 20 percent of the total project cost to certified Minority and Women Business Enterprises (MWBEs). Exceeding the 20 percent MWBE target will positively impact an applicant's score. All contracts will be between the applicant and the contractor.

10. Upon receipt of a commitment letter from EDGE, construction may begin.

11. Applicant shall submit draw requests as work continues. Prior to disbursing any funds, the draw request will be reviewed to ensure the work is in compliance with the plans and letter of commitment.

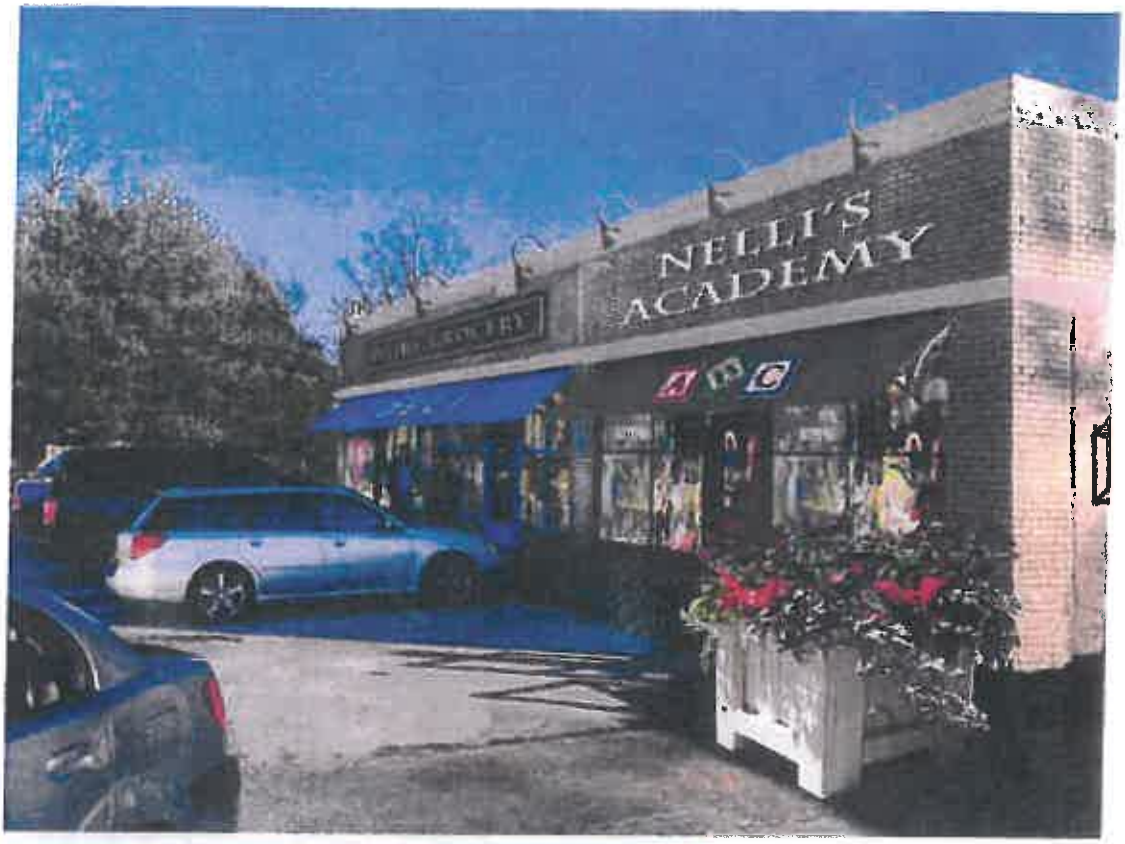
12. Improvement loans to businesses are forgivable at a rate of 20% per year from the close of the loan.

13. The owner will maintain the building and all new façade improvements to the building for a five-year period. During this period any proposed changes to the façade including tenant signage on the building or windows will need to be approved by EDGE.

14. Businesses receiving forgivable loans will also receive up to 24 hours of business development consulting services and retail trends assistance.

Tyler's Grocery Concept Sketch
Memphis Mayor's Innovation Delivery Team
Gibbs Planning Group April 5, 2013

Proposed



Existing