

# What we want you to know.

community would like to see happen to the historic Mud Island There have been 2 community engagement events hosted by the Downtown Neighborhood Association around what the Amphitheater

unfiltered feedback from the community via Slido polling and Each event was very well-attended and we gathered live,

We would like to share with you that data!

## #The Voice of Downtown

In one word, describe the amphitheater as it is

71 7

Abandoned / an ex

Needs a faceluft Decrepit **WORTHY Terrible** Abandoned

Grand old lady

Delapitated Wasteful Need facelift

Landmark Rundown Wasted

Horrible Pitiful Majestic Desolate Eye soar Potential Sad Masty worm out Lonely

Deteriorating Unkept A Wasted icon Unused Destitute

Derelict Waste

Shambles Deplorable Beautiful Nostalgia Promise Benign neglect Needing renovation Shameful

## #The Voice of Downtown

Who was your favorite concert at the Amphitheater?

0 4

Joan rivers Local talent Paul Simon James Alexander

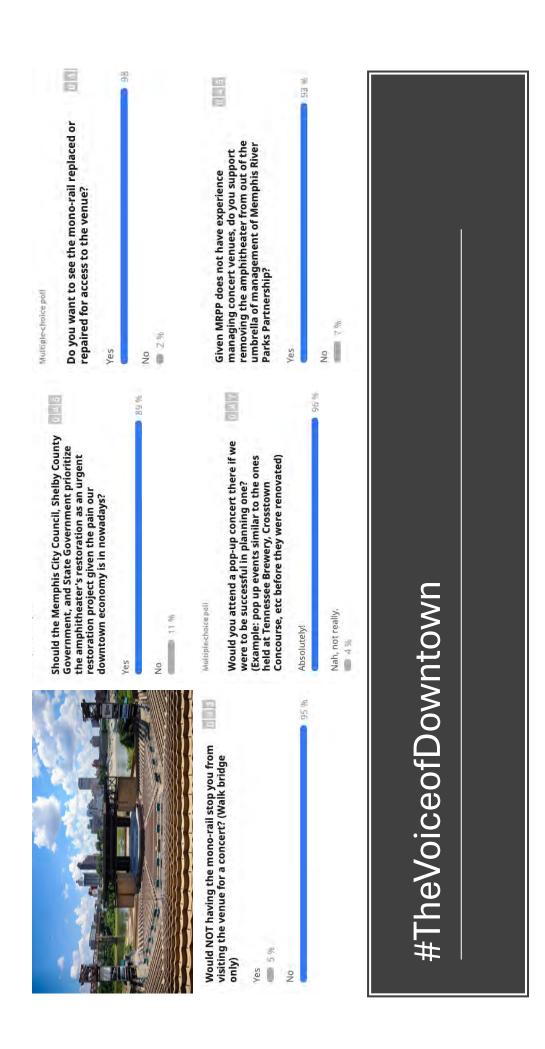
Fall out boy Barkays Paramore Marbon 5 Al Greene

The Beach Boys Eric clapton Kid Rock Algareau Tony Bennett Tony Bennett

### Widespread Panic!!!!

Sammy Hagar James Taylor Yes Journey John Mayer Journey, Cheap Trick Kool & the gag PANIC Bar Kays Robert Plant Memphis skyline

Memphis Symphony / Moody Blues Greg Alman







### The Findings...

"It is MTA's opinion that the overall structure seems to be reasonably sound and poses no immediate threat to its integrity..."

- MTA Engineers

(A copy of this evaluation letter has been sent to each council members email)

### Our Plan & Ask

The DNA would like to partner to do a temporary activation of the space for a 3-4 day concert series. This is in alignment of DMC's vision of activating vacant spaces and a partnership has already been discussed!

downtown, especially during a time our downtown business need it most! We would use these events to raise money for new seating, which is priority #1 based on community input. Purpose: To activate the space and bring more people to

### We would raise money for new seating, which is priority #1 based on community input at a cost of anywhere between

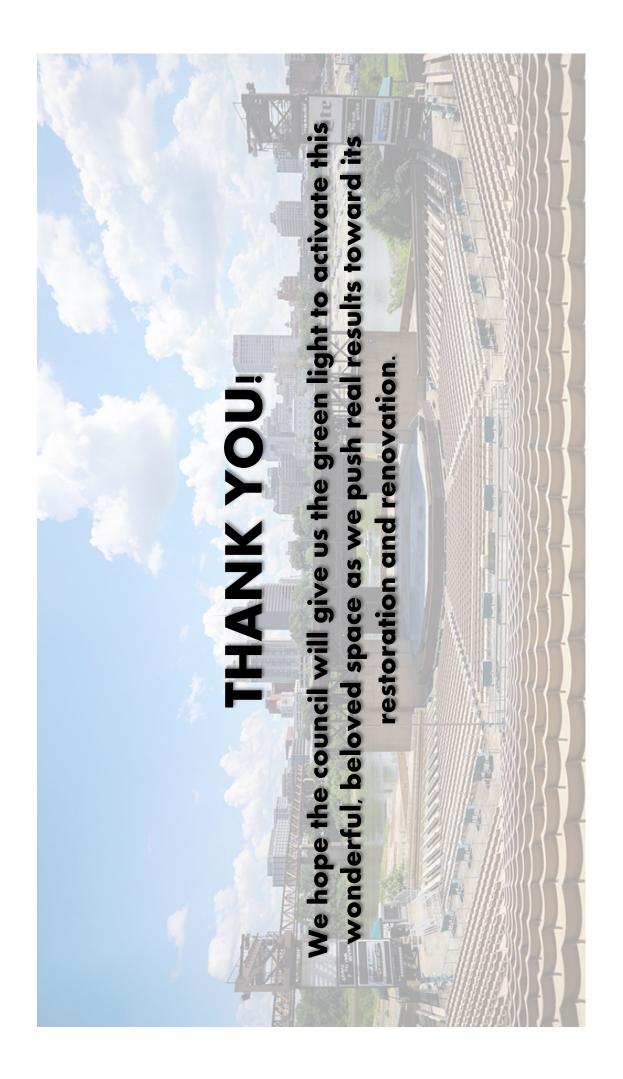
\$750,000 - 850,000.

We would utilize temporary services such as port-a-pottys, food trucks, and only portions of the space.

We would feature LOCAL entertainers!

Cost would be covered by the DNA & DMC NO COST TO THE CITY! Shooting for a Thursday-Sunday in November for

activation dates.





## A Valuable Non-Profit Partner

- The Wolf River Conservancy has invested more than \$21 million dollars into the Greenway project
- WRC has donated 6.2 miles of Greenway covering 37 acres of trail right-of-way
- In total for the Greenway project to date, WRC has increased public park land by 345 acres within the City of Memphis

## Building a Connected Community



26 MILES



22 NEIGHBORHOODS



180,000 RESIDENTS WITHIN A 20-MINUTE WALK

### DID YOU KNOW?

Relatively modest investments can improve neighborhood park conditions to encourage physical activity for everyone, regardless of age, gender, or income. Across the US, an average of \$83 per city resident is spent on city parks.



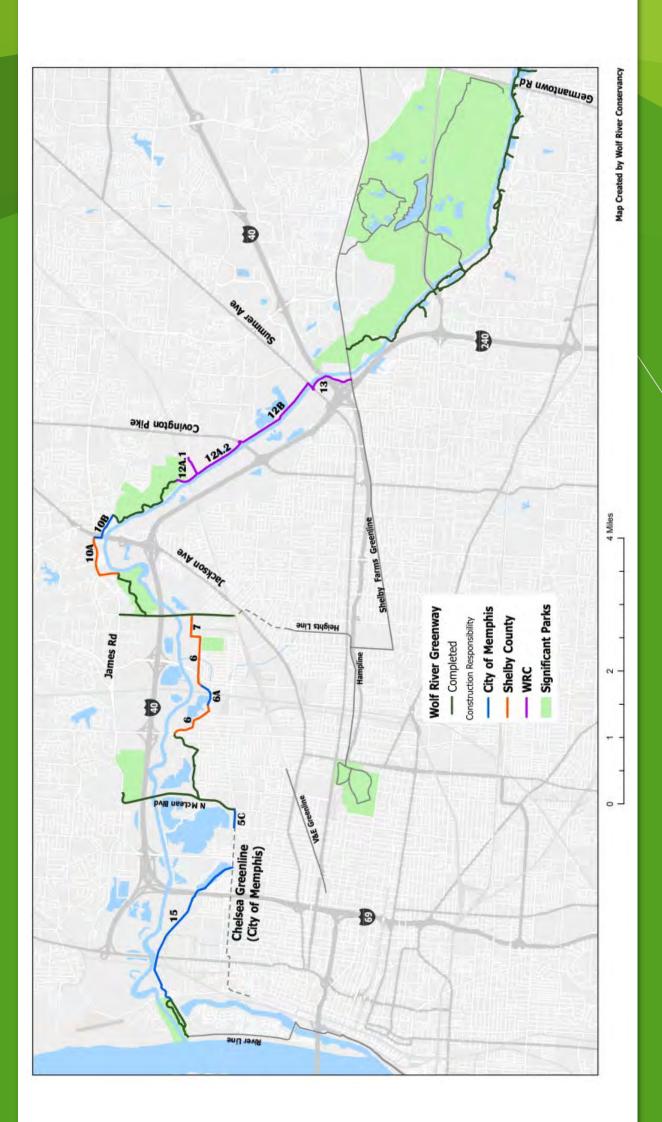


### Connecting Communities

The Wolf River Conservancy is making further investment into activating neighborhoods along the Greenway.

- The Wolf River and Discover the Greenway 5k's
- The Wolf River Restoration Series
- Educational programming with more than 7,000 annual participants
- Staff investment into outreach programming
- Fall Discover the Greenway Series.





02 03 2031 급 8 0,1 0,2 0,3 2030 8 ö 2029 8 당 8 ESTIMATED SCHEDULE AS OF AUGUST 27, 2024 ö 6 5 9 ö 8 당 **WOLF RIVER GREENWAY** 8 ö 2026 8 급 8 ö 2025 8 5 "Actual time may very, this timeline is meant to be an estimate only. 8 COMPLETE 0,1 0,2 0,3 Completed Remaining 2024 Design & Permitting Design & Permitting Design & Permitting Design & Permitting Bid & Construction Bid & Construction Design & Permitting Design & Permitting Preliminary Design Bid & Construction Design & Permitting Bid & Construction Preliminary Design Design & Permitting Bid & Construction Bid & Construction Preliminary Design Design & Permitting Preliminary Design Bid & Construction Preliminary Design Design & Permitting Preliminary Design Design & Permitting Bid & Construction Preliminary Design Preliminary Design Bid & Construction Preliminary Design Bid & Construction Preliminary Design Preliminary Design Bid & Construction Design & Permitting Bid & Construction Preliminary Design TASK WOLF RIVER CONSERVANCY PERMITTING CONSTRUCTIO CONSERVANCY CONSERVANCY CONSERVANCY ENGINEERING **WOLF RIVER** ENGINEERING **WOLF RIVER WOLF RIVER** ENGINEERING BIDDING & CITY OF MEMPHIS SHELBY CO. MEMPHIS MEMPHIS SHELBY CO. SHELBY CO. MEMPHIS MEMPHIS ROADS & ROADS & ROADS & BRIDGES CITY OF BRIDGES BRIDGES CITY OF CITY OF CITY OF RESPONSIBLE ENTITY WOLF RIVER CONSERVANCY CONSERVANCY CONSERVANCY DESIGN & CONSERVANCY CONSERVANCY CONSERVANCY CONSERVANCY CONSERVANCY CONSERVANCY **WOLF RIVER** ENGINEERING **WOLF RIVER WOLF RIVER WOLF RIVER WOLF RIVER WOLF RIVER WOLF RIVER** ENGINEERING ENGINEERING **WOLF RIVER** MEMPHIS MEMPHIS MEMPHIS CITY OF CITY OF CITY OF Phase 12A1 Phase 12A2 Chelsea Ave. Phase 12B Phase 10A Phase 10B Phase 6A Phase 15 Greenline Phase 5C Phase 13 Phase 6 Phase 7 PHASE



### Memphis City Council Summary Sheet

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

Resolution to accept additional grant funds in the amount of Two Million, Six Hundred, Thirty-Three Thousand and Five Hundred Fifty Dollars (\$2,633,550.00) from TDOT. Same night minutes request.

- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)
  Initiating party is Public Works with Engineering administering the project.
- 3. State whether this is a change to an existing ordinance or resolution, if applicable.

This is an amendment to an existing grant to accept additional grant funds from the Tennessee Department of Transportation.

4. State whether this will impact specific council districts or super districts.

Council Distrists 6 and 8.

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

A new contract will be required.

- 6. State whether this requires an expenditure of funds/requires a budget amendment

  This requires an expenditure of funds.
- 7. If applicable, please list the MWBE goal and any additional information needed MWBE goal set at 8%.



A Resolution to accept, allocate and appropriate additional grant funds in the amount of Two Million, Six Hundred, Thirty-Three Thousand and Five Hundred Fifty Dollars (\$2,633,550.00) from the Tennessee Department of Transportation (TDOT) for Surface Transportation Block Grant; Harbor Avenue Repaving, Project No. PW04118. Same night minutes request. Council Districts 6 and 8.

WHEREAS, the Council of the City of Memphis approved a Resolution September 11, 2018, for a Surface Transportation Block Grant funds in the amount of \$3,764,000.00 from Tennessee Department of Transportation with required 20% local match; and

WHEREAS, the Tennessee Department of Transportation has amended the Surface Transportation Block Grant amount for additional grant funds in the amount of \$2,633,550.00 (Amendment I) with required 20% local match to assist with completion of the Harbor Avenue Repaving, Project Number PW04118; and

WHEREAS, it is necessary to accept the grant funds in the amount of Two Million, Six Hundred, Thirty-Three Thousand and Five Hundred Fifty Dollars (\$2,633,550.00) funded by the Tennessee Department of Transportation (TDOT); and

WHEREAS, it is necessary to amend the Fiscal Year 2025 Capital Improvement Budget by establishing an allocation of \$2,633,550.00; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of Two Million, Six Hundred, Thirty-Three Thousand and Five Hundred Fifty Dollars (\$2,633,550.00) for the Harbor Avenue Repaving, Project Number PW04118.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Memphis that the Fiscal Year 2025 Capital Improvement Budget is hereby amended by accepting the sum of \$2,633,550.00 from Tennessee Department of Transportation (TDOT); and

**BE IT FURTHER RESOLVED**, that the Fiscal Year 2025 Capital Improvement Budget be amended by establishing an allocation and appropriation in the amount of \$2,633,550.00 and credited as follows:

Revenue	
Tennessee Department of Transportation	\$2,633,550.00
GO Bond Match	\$ 526,710.00
Expenditures	\$3,160,260.00
Contract Construction	\$2,780,735.00
Construction Inspection (A&E)	\$ 379,525.00
	\$3,160,260.00

Project Title: Harbor Avenue Repaving

 Project Number:
 PW04118

 Amount:
 \$2,633,550.00

### EXHIBIT "A"

AGREEMENT #: 180013

Project Identification #: 127036.00 Federal Project #: STP-M-9409(216) STATE Project #: 79LPLM-F3-594

PROJECT DESCRIPTION: Harbor Avenue, From Pier Street to Riverside Boulevard

CHANGE IN COST: Cost hereunder is controlled by the Surface Transportation Program funding available to or allocable to the Agency.

### TYPE OF WORK: Resurfacing

FUNDING SOURCE	FED %	STATE %	LOCAL %	, ESTIMATED COST
M-STBG	₿0	Ō	20	\$50,000.00
M-STBG	80	Ö	20	\$155,000.00
M-STBG	80	0	20	\$4,005,000.00
M-STBG	80	0	20	\$450,000.00
M-STBG	80	0	20	\$45,000.00
	M-STBG M-STBG M-STBG M-STBG	M-STBG 80 M-STBG 80 M-STBG 80 M-STBG 80	M-STBG 80 0 M-STBG 80 0 M-STBG 80 0 M-STBG 80 0	M-STBG 80 0 20

INCLUDIELE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure of the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: 8TP: 23 U.S.C.A, Section 133, Surface Transportation Program funds allecated or subject to allocation to the Agency.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

### **EXHIBIT "A" for AMENDMENT 1**

Agreement #: 180013

Project Identification #: 127036.00

Federal Project #: STP-M-NH-9409(216)

State Project #: 79LPLM-F3-594

Project Description: Harbor Avenue, From Pier Street to Riverside Boulevard - Milling and repaving of Harbor Avenue from Pier Street to Riverside Boulevard

Change in Cost: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

Type of Work: Resurfacing

Phase	Funding Source	Fed %	State %	Local %	Estimated Cost
PE-NEPA	STBG-U	80	0	20	\$48,322.00
PE-DESIGN	STBG-U	80	0	20	•
CONSTRUCTION	STBG-U	80	o		\$38,724.00
CEI	STBG-U	80	_	20	\$7,126,025.00
TDOT ES	STBG-U		0	20	\$712,602.00
	01000	80	0	20	\$71,260.00

Ineligible Cost: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration.

Legislative Authority: STBG: 23 U.S.C.A., Section 133, Surface Transportation Block Grant Program funds allocated or subject to allocation to the Agency

TDOT Engineering Services (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction inspection and Material and Testing Expenses (Quality Assurance Testing).

City Council Resolution - Accepting insurance proceeds, in CIP project # GS24107 – Contingencies, totaling \$4,239.39 for damage suffered at 281 E Parkway N, increasing allocations by said amount, and appropriating these funds in Contract Construction.



### **Memphis City Council Summary Sheet**

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

A resolution accepting insurance proceeds, in CIP project # GS24107 – Contingencies, totaling \$4,239.39 for damage suffered at 281 E Parkway N, increasing allocations by said amount, and appropriating these funds in Contract Construction.

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.

Does not change an existing ordinance

4. State whether this will impact specific council districts or super districts.

District 5, Super District 9

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

6. State whether this requires an expenditure of funds/requires a budget amendment A budget amendment is needed to accept funds from insurance proceeds for damage suffered at 281 E Parkway N.

7. If applicable, please list the MWBE goal and any additional information needed N/A

City Council Resolution - Accepting insurance proceeds, in CIP project # GS24107 – Contingencies, totaling \$4,239.39 for damage suffered at 281 E Parkway N, increasing allocations by said amount, and appropriating these funds in Contract Construction.



WHEREAS, the Council of the City of Memphis included CIP Project GS24107 FY24 Major Mod – Contingency, in Fund 0400, as part of the FY 2024 Capital Improvement Plan (CIP) Budget, for unexpected break/fix needs; and

WHEREAS, a building and several vehicles, at 281 E Parkway N, suffered storm damage due to a fallen tree; and

 $\textbf{WHEREAS}, \ the \ City \ of \ Memphis' \ GS-Property/\ Building \ Maintenance \ filed \ a \ claim \ for \ the \ aforementioned \ damage; \ and$ 

WHEREAS, the City's insurance company has agreed to pay \$4,239.39, after the \$100,000 deductible, for the needed repairs; and

WHEREAS, the insurance proceeds have been received and are now being held in the City's concentration account; and

WHEREAS, it is necessary to amend CIP Project GS24107 FY24 Major Mod – Contingency, in Fund 0400, by transferring \$4,39.39, in insurance proceeds to CIP Project GS24107 FY24 Major Mod – Contingency, in Fund 0400, increasing allocations by \$4,239.39; and

WHEREAS, it is necessary to appropriate \$4,239.39 in CIP Project GS24107 FY24 Major Mod – Contingency, in Fund 0400, funded by insurance proceeds;

NOW, THEREFORE, BE IT RESOLVED that there be and is hereby approved by the Council of the City of Memphis a transfer, of insurance proceeds, from the City's concentration account to Project GS24107 FY24 Major Mod – Contingency, in Fund 0400; and

**BE IT FURTHER RESOLVED**, that there is hereby appropriated the sum of \$4,239.39 in CIP Project GS24107 FY24 Major Mod – Contingency – Contract Construction, in Fund 0400, funded by insurance proceeds and credited as follows:

**Project Title:** 

FY24 Major Mod - Contingency

**Project Number:** 

GS24107

Amount:

\$4,239.39



### **Memphis City Council Summary Sheet**

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

A Resolution approving a Ground Lease for 777 Firestone, also known as the former Manassas High School, Parcel ID #039050 00001 Memphis, Tennessee 38103. Requesting same night minutes

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 7 and Super district 8

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



### A Resolution approving a Ground Lease for 777 Firestone, also known as the former Manassas High School, Parcel ID #039050 00001 Memphis, Tennessee 38103

Whereas the City of Memphis owns real property located at 777 Firestone and is further identified by Shelby County Tax Assessor as Parcel ID# 039050 00001 containing 6.19 ac, more or less (the "Property");

Whereas the Hospitality Hub of Memphis, Inc. (the "Hub"), a non-profit organization, desires to enter into a ground lease with the City of Memphis, for the purpose of building and operating a homeless shelter for the benefit of the citizens of the community;

Whereas the Hub's goal is to provide relief from homelessness while working with families to ensure housing and financial stability to reduce the risk of reentry into homelessness and circumvent the associated traumas within the family unit;

Whereas the Hub is seeking City Council's approval to enter into a long-term ground lease pursuant to Code of Ordinance 2-16-1 (J), where it states in part "any lease or license agreement 2 years or more shall be considered a conveyance and shall be submitted to City Council for approval..."; and

Whereas the Hospitality Hub has raised more than \$5.2M towards the construction of the new state of the art facility which would be the regions' barrier-free emergency shelter for families offering immediate stability and a space to heal for its guest. The facility would ideally include space for 60 families with individual shelter units and sites, case management and other amenities including a gardening area and sitting area all working together to provide the necessary baseline from which to rebuild a stable life. If approved, the Ground Lease would include and the Hub must commit to the following terms to ensure that the development and preservation of the Property is completed in a timely manner: 1) have preliminary plans, including site prep and design, reviewed and approved by the Public Works and Engineering Divisions; 2) show substantial construction progress in building a facility at 777 Firestone, located at the southeast corner of Firestone Ave & Manassas Street, within twelve months of the signed Ground Lease; 3) open for community outreach within three months following the substantial completion of construction; 4) if the Hub fails to develop this Property within 24 months, the Property will revert back to the City of Memphis with no recourse by the Hub; and

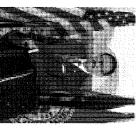
T-071

5) the Hub cannot assign its rights under the Ground Lease without the express written consent of the City of Memphis.

Whereas the City and the Hub shall continue coordination and cooperation to seek and secure additional funding for the expansion of improvements and operations at the above-described property

**Now therefore, be it resolved** by the Council of the City of Memphis that the long-term ground lease with the Hub of Memphis of Shelby County Tennessee on the above-described property is hereby approved.

**Be it further resolved**, the City of Memphis Real Estate Department shall prepare and arrange for the execution of the ground lease and the Mayor of the City of Memphis is hereby authorized to execute said lease or any other documents necessary to complete the ground lease.



Shelby County Register of Deeds Willie F. Brooks, Jr.

CITY OF MEMPHIS

Owner:

Parcel Address: 0 N MANASSAS ST

Parcel ID: 039050 00001

2024 Appraisal: \$32,500

Tax District: MEMPHIS

Year Built:

Lot Number: 1THRU 4

Subdivision: WOODRUFF BLK 11

Plat BK & PG: UNKNOWN

Dimensions: 776.4 X 398.2 IRR

Total Acres:

Owner Address: 125 N MAIN ST

MEMPHIS TN

38103



Award Type	Division	Project Number	Project Name	Awar	Award Installment Amount	Total Appropriations	Expenditures S YTD	Expenditures PTD	Encumbrance Balance		Remaining Project Balance	Detailed Update	Current Status	Estimated Time to Complete
General Obligation Bonds	НСБ	CD01104	Southwest Twin	\$	1,750,000.00	\$ 1,750,000.00	- \$ 00	\$	\$	· ·	1,750,000.00			
General Obligation Bonds	НСБ	CD01105	Raleigh Springs	\$	1,000,000.00	\$	- \$ -	\$	\$	\$ -	•	Resolution to appropriate is pending		
General Obligation Bonds	НСБ	CD01106	Liberty Park Project	\$	1,500,000.00	\$ 1,500,000.00	- \$ 00	\$	\$	\$	1,500,000.00			
General Obligation Bonds	НСБ	CD01107	Fairgrounds Redevelopment Proj	₩	500,000.00	\$ 500,000.00	- \$ 00	· •	❖	٠,	500,000.00			
General Obligation Bonds	НСБ	CD18102		❖	250,000.00	\$ 250,000.00	- \$ 00	\$	\$-	٠,	250,000.00			
General Obligation Bonds	ENG	EN01067	HSIP Coverline	₩.	150,000.00				<b>.</b>	٠,	,	Division to use funds as state projects are identified throughout the fiscal year		
General Obligation Bonds	ENG	EN01113	Speed Hump Install Group 13	❖	1,250,000.00	\$ 1,250,000.00	- \$ 00	\$	•	٠,	1,250,000.00			
General Obligation Bonds	ENG	EN01118	TrafficSignal Chelsea@Warford	\$	685,000.00	\$ 685,000.00	- \$ 00	- \$	\$	٠,	685,000.00			
General Obligation Bonds	ENG	EN24100	erline	\$	1	\$	\$ -	\$	\$	٠,	1	All funding transferred out of coverline in Q1		
General Obligation Bonds	ENG	EN24101	Traffic Signals FF&E (FY24)	\$	590,000.00	\$ 590,000.00	00 \$ 151,671.50	\$ 151,671.50	\$ 438,328.50	\$ 05.8	1			
General Obligation Bonds	ENG	EN24200	Traffic Calming Coverline	\$	-	\$	- \$ -	\$	\$	\$ -	•	All funding transferred out of coverline in Q1		
General Obligation Bonds	ENG	EN24300	Urban Art Coverline	\$	400,000.00	\$	\$	\$	\$	\$	1	Resolution to appropriate is pending		
General Obligation Bonds	ENG	EN24400	Traffic Safety Coverline	\$	-	\$	- \$ -	\$	\$	\$ -	•	All funding transferred out of coverline in Q1		
General Obligation Bonds	ENG	EN24401	Traffic Safety Dev Grp 2	\$	500,000.00	\$ 500,000.00	- \$ 00	\$	\$ 500,000.00	\$ 00.00	1			
General Obligation Bonds	FIRE	FS02032	EMA Sirens	\$	150,000.00	\$	- \$ -	\$	\$.	٠ \$	•	Resolution to appropriate has not been submitted 9.4.24	Planning	6/30/2025
General Obligation Bonds	FIRE	FS04012	Personal Protective Equipment	\$	1,275,000.00	\$ 1,275,000.00	- \$ 00	\$	\$ 470,620.04	:0.04 \$	804,379.96	Partially encumbered in active contract; division has strong track record of execution on this project	Contracted	Contractec 6/30/2025
General Obligation Bonds	FIRE	FS24100	Fire Station Improv Coverline	\$.	4,000,000.00	\$	٠ •	\$	۰	٠.	•	Resolution to appropriate has not been submitted 9.4.24: FS #28, Gender Separation (majority), Chester Anderson.	Planning	
General Obligation Bonds	FIRE	FS25001	New Fire Station 28	\$	1,250,000.00	\$	- \$ -	\$	\$	\$ -	•	Resolution to appropriate has not been submitted 9.4.24		
General Obligation Bonds	FIRE	FS25002	Gender Separation	\$	300,000.00	\$	\$ -	\$	\$	· ·	1	Resolution to appropriate has not been submitted 9.4.24	Planning	
General Obligation Bonds	FIRE	FS25003	Chester Anderson Improvements	❖	625,000.00	\$	\$	\$	\$	٠	•	Resolution to appropriate has not been submitted 9.4.24	Planning	
General Obligation Bonds	FIRE	FS25004	BRIC Grant - Project 52	❖	337,765.00	\$	\$	\$	❖	٠	•	Resolution to appropriate has not been submitted 9.4.24		
General Obligation Bonds	EXECUTIVE	GA01034	MMLBA Property Redevelopment	<b>v</b> >	500,000.00	\$ 500,000.00	- \$ 00	vs.	vs	٠ ٠	500,000.00	Entity currently working through possible mechanisms for effective use of City funding. Current proposal is to work with environmental court to hold properties, make improvements, and resell		
General Obligation Bonds	MATA	GA03028	Innovation Corridor BRT	\$	7,041,500.00	\$	\$	\$	\$	\$ -	1	Resolution to appropriate has not been submitted 9.4.24		

MATA	GA03030	Fixed Route Vehicles	₩.	4,440,000.00	\$ 4,440,000.00	\$ 00	1	· ·	⋄	•	\$ 4,440,000.00	No invoices have been submited.  MATA has older projects with funding that has not been fully utilized No invoices have been submited.
MATA	GA03031	Paratransit Vehicles	•	287,500.00	\$ 287,500.00	\$ 00:	,		⋄	,	\$ 287,500.00	No invoices have been submitted. MATA has older projects with funding that has not been fully utilized
MATA	GA03032	Bus Facility	\$	523,231.00	\$	٠	-	\$	↔	•	\$	Resolution to appropriate has not been submitted 9.4.24
PARKS	GA07002	MRPP Coverline	\$	250,000.00	\$	٠	1	\$	↔	•	\$	Resolution to appropriate has not been submitted 9.4.24
EXECUTIVE	GA07010	FY25 MSCS UPGRADES	\$	1,000,000.00	\$	٠	1	\$	⋄	•	\$	Resolution to appropriate has not been submitted 9.4.24
GS	GS01049	Coke Facility-Adaptive Reuse	\$	1,500,000.00	\$5	٠	•	•	↔		· ·	Resolution to appropriate is pending
GS	GS0225A		₩.	5,500,000.00	\$ 5,500,000.00	\$ 00		,	⋄	1	\$ 5,500,000.00	No invoices have been submitted against project, nor have encumbrances been submitted. Orders are typically placed near the end of Q1
GS	GS0225B	FY25 CAQ-Fire	<b>⋄</b>	5,500,000.00	\$ 5,500,000.00	\$ 00		, \$	<b>⋄</b>	•	\$ 5,500,000.00	No invoices have been submitted against project, nor have encumbrances been submitted. Orders are typically placed near the end of Q1
GS	GS20170	170 N Main Modifications	❖	100,000.00	•∧-	٠,	1		↔	•	· •	Resolution to appropriate is pending
GS	GS22202	City Hall Improvements 2	↔	500,000.00		٠	,	\$	₩		· ·	Resolution to appropriate is pending
GS	GS24100	Major Mod Coverline	\$	3,000,000.00	\$	· ·	-	\$	↔	•	\$	Resolution to appropriate is pending
GS	GS24300	Convention Center Coverline	•	250,000.00	•	٠,	•	٠,	⋄	1	₩.	Resolution to appropriate is pending edits and resubmission by Convention Center Management Group (9.4.24)
IT	IT01001	Desktop & App Infrastruc/Optim	↔	600,000.00	\$ 600,000.00	\$ 00.		\$	↔	,	\$ 600,000.00	
ΙΤ	IT01002	frastruc	\$	500,000.00	\$ 500,000.00	\$ 00:	-	- \$	❖	27,034.00	\$ 472,966.00	
П	IT01003	Operational Infra Enhancements	❖	1,000,000.00	\$ 1,000,000.00	\$ 00	574,589.23	\$ 574,589.23	-•	367,250.45	\$ 58,160.32	
П	IT01004	_	❖	500,000.00	\$ 500,000.00	\$ 00.	5,600.00	\$ 5,600.00	- Λ	171,520.00	\$ 322,880.00	
IT	1701006	IT Improvement Coverline	\$	100,000.00	\$	٠	1	· \$	٠		· \$	Division holding funding for emergency IT repairs throughout the FY
П	1701007	Operational Infrastructure Fix	↔	200,000.00	\$ 200,000.00	\$ 00.	12,754.87	\$ 12,754.87	₩	60,747.53	\$ 126,497.60	
POLICE	PD02013	FY18 Police Academy Renov	\$	1,215,000.00	\$ 1,215,000.00	\$ 00	1	\$	φ.	•	\$ 1,215,000.00	
POLICE	PD02016	Iount Moriah	-\$-	1,000,000.00	\$ 1,000,000.00	\$ 00	•		⋄	146,724.85	\$ 853,275.15	
POLICE	PD02018	Crimes Unit Ition	\$	200,000.00	\$ 200,000.00	\$ 00.	-	\$	↔	•	\$ 200,000.00	
POLICE	PD04026	Helicopter Maintenance	↔	1,400,000.00	\$ 1,400,000.00	\$ 00	•	\$	↔	٠	\$ 1,400,000.00	
POLICE	PD04031	Axon Enterprise Solution	↔	10,000,000.00	\$ 10,000,000.00	\$ 00.	2,901,952.05	\$ 2,901,952.05	↔	7,098,047.95	· •	
PARKS	PK01036	Lester Community Center	Ş	7 500 000 00	Ş	٠	•	· •	v		\$	2 i che i a constante con i + 1   0 0 0 0

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Resolution to appropriate is pending	Design is being conducted by MFA						All funding transferred out of coverline in Q1	Under review with Budget & CIP	Resolution to appropriate has not been submitted 9.4.24	Resolution to appropriate has not been submitted 9.4.24	Resolution to appropriate has not been submitted 9.4.24	Street paving identified and contract awarded	Appropriate forms and coucil resolution to appropriate have not been submitted 9.4.24					
lution t	gn is bei						All funding trar coverline in Q1	er reviev	lution to submit	lution to submit	lution to submit	et paving ded	opriate Iution to submit					
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1,200,000.00	350,000.00	500,000.00	250,000.00	1,400,000.00	500,000.00	500,000.00	100,000.00	3,000,000.00	70,000.00	800,000.00	350,000.00		6,500,000.00	1,000,000.00	1,000,000.00	800,000.00	3,500,000.00	1,500,000.00
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Douglass Park Splash Pad	lajor	den	Zoo Major Maintenance	Memphis Parks Coverline	шr	Audubon Golf Clubhouse Design	A/E	Holmes Rd/S 3rd/Horn Lake	East Ir	Harbor Avenue Repaving	STBG Group 1 Resurfacing	Asphalt Paving Coverline	FY 25 CIP Paving Inhouse	verline	ADA Curb Ramp Cover	Bridge Repairs Coverline	ng FY25	Library Improvement Coverline
ass Park	Lichterman Major Maintenance	Bontanic Garden Infrastructure	lajor Ma	ohis Par	Brooks Museum	oon Gol	FY25 Parks - A/E	es Rd/S	Holmes Road East Malone-Lamar	ır Avenu	Group 1	ılt Pavin	CIP Pavi	Sidewalks Coverline	Curb Rar	e Repair	CIP Resurfacing FY25 Group 2	y Impro Iine
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PK04018	PK08037	PK08039	PK09002	PK24100	PK24106	PK24107	PK25101	'01087	01179	04118	04119	/24100	/24104	724200	/24300	724400	/25101	LI-TBD
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PARKS	PARKS	PARKS	PARKS	PARKS	PARKS	PARKS	PARKS	PUBLIC WORKS PW01087	PUBLIC WORKS PW01179	PUBLIC WORKS PW04118	PUBLIC WORKS PW04119	PUBLIC WORKS PW24100	PUBLIC WORKS PW24104	PUBLIC WORKS PW24200	PUBLIC WORKS PW24300	PUBLIC WORKS PW24400	PUBLIC WORKS PW25101	LIBRARY
uo	uo	uo	uo	uo	uo	uo	uo											
General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	Obligation	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds	General Obligation Bonds					
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### **Memphis City Council Summary Sheet**

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

Resolution approving the use of \$2,500,000 compounded interest earned on the proceeds of Accelerate Memphis Bonds to fund the Traffic Engineering Camera Mesh project GA07011.

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

**Executive Division** 

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.

**ALL** 

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

Requires expenditure of compounded interest from bonds issued for Accelerate Memphis.

7. If applicable, please list the MWBE goal and any additional information needed

N/A

P047



Resolution Approving Use of Compounded Interest earned on proceeds of Accelerate Memphis Bonds to fund the Traffic Engineering Camera Mesh Project, GA07011.

WHEREAS, on February 2, 2021, City Council approved an outline of projects for Accelerate Memphis, a \$200M bond issuance to make improvements to three categories: Activating Memphis 3.0, Revitalizing City Assets, and Improving Parks; and

WHEREAS, the Traffic Engineering Camera Mesh project seeks to improve Traffic Engineering camera infrastructure and provide additional visibility to Memphis Police through the installation of advanced intersection cameras; and

**WHEREAS,** this project is in collaboration with Memphis Police, Traffic Engineering, and Information Technology; and

WHEREAS, project deliverables include the installation of additional cameras to the existing Traffic Engineering Camera Network to enhance traffic monitoring, case solvability, and real-time event monitoring through expanded camera feeds.

**NOW, THEREFORE, BE IT RESOLVED,** by the Council of the City of Memphis that the Executive Division is authorized to allocate and appropriate \$2,500,000 of compounded interest earned on the proceeds of Accelerate Memphis bonds to Fiscal Year 2025 CIP Project Number GA07011, to cover the costs associated with the following:

**Project Title:** 

**Camera Mesh Project** 

**Project Number:** 

GA07011

Amount:

\$2,500,000

Resource Groups:

A&E: \$150,000

Equipment Capital Acquisition: \$1,258,496.58

Contract Construction: 1,091,503.42



No.

N.A.

### **Memphis City Council Summary Sheet**

- Description of the Item (Resolution, Ordinance, etc.)
   Report on Debt Obligation for the issuance of \$135,345,000 for General Improvement Bonds,
   Series 2024A.
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)
  The Finance Division is the initiating party.
- 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. N.A.
- 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.

7. If applicable, please list the MWBE goal and any additional information needed.



Jason E. Mumpower Comptroller

### Report On Debt Obligation

	Entity and D	ebt Information				
Entity Name						
City of Memphis						
Entity Address						
125 North Main Street Room 368 Memphis	s, Tennessee 38103-2	080				
Debt Issue Name						
General Improvement Bonds, Series 2024	A					
Debt Issue Face Amount						
\$135,345,000.00	WHE EVER BETWEEN THE					
Face Amount Premium or Discount?		Premium Amount				
Premium		\$15,352,088.70				
Tax Status						
Tax - Exempt						
Tax Example						
Interest Type		True Interest Cost (	ric)			
True Interest Cost (TIC)	test det attendes	3.645062%				
Debt Obligation						
Bond						
Moody's Rating	Standard & Poor's	Rating	Fitch Rating			
Aa2	AA		Unrated			
Other Rating Agency Name		Other Rating Agend	ev Pating			
N/A		N/A				
		***************************************	The second secon			
Security						
General Obligation						
Type of Sale Per Authorizing Document						
Competitive Bid						
Dated Date	Issue/Closing Date		Final Maturity Date			
8/7/2024	8/7/2024		4/1/2044			

Debt Purpose			
Percentage	Description		
100%	Refund 2023-2024 General Obligation Commercial Paper		
0%	N/A		
	Percentage  100%  0%  0%  0%		

	Cost of Issua	nce and Professionals	
oes your Debt Issue have costs or pro	fessionals?		
Yes		MAANIN MAAAA	
Description	Amount	Recurring Portion	Firm Name
Financial Advisor Fees	\$133,636.00	N/A	PFM Financial Advisors; CLB Porter
Legal Fees - Bond Counsel	\$156,592.00	N/A	Ahmad Zaffarese; Carpenter Law
Legal Fees - Disclosure Counsel	\$117,444.00	N/A	Bruce Law; Bass Berry & Sims
Rating Agency Fees	\$163,646.66	N/A	S&P Moody's
Underwriter's Discount %	0.085448%	N/A	BofA Securities, Inc.
Printing and Advertising Fees	\$4,453.55	N/A	Imagemaster/MuniOS;
Paying Agent Fees	\$900.00	650	Regions Bank
Disclosure/Dissemination Agent	\$2,500.00	N/A	DAC
CUSIP numbers	\$1,073.00	N/A	CUSIP Global Services
Underwriter's Discount Dollar Amount	\$115,649.87	N/A	BofA Securities, Inc.
TOTAL COSTS	\$695,895.08		

	Maturity Dates, Am	ounts, and Interest Rates
Year	Amount	Interest Rate
2025	\$3,560,000.00	5.000
2026	\$3,560,000.00	5.000
2026	\$3,565,000.00	5.000
2027	\$3,560,000.00	5.000
2027	\$3,565,000.00	5.000
2028	\$3,560,000.00	5.000
2028	\$3,565,000.00	5.000
2029	\$3,560,000.00	5.000
2029	\$3,565,000.00	5.000
2030	\$3,560,000.00	5.000
2030	\$3,565,000.00	5.000
2031	\$3,560,000.00	5.000
2031	\$3,565,000.00	5.000
2032	\$3,560,000.00	5.000
2032	\$3,565,000.00	5.000
2033	\$3,565,000.00	5.000
2034	\$7,125,000.00	5.000
2035	\$7,125,000.00	5.000
2036	\$7,125,000.00	5.000
2037	\$7,125,000.00	5.000
2038	\$7,120,000.00	5.000
2039	\$7,120,000.00	5.000
2040	\$7,120,000.00	5.000
2041	\$7,120,000.00	5.000
2042	\$7,120,000.00	5.000
2043	\$7,120,000.00	5.000
2044	\$7,125,000.00	5.000

\*See final page for Submission Details and Signatures\*

## **Submission Details and Signatures** Is there an official statement or disclosure document, as applicable, that will be posted to EMMA: https://emma.msrb.org/? Name and title of individual responsible for posting continuing disclosure information to EMMA André D. Walker, Deputy Chief Financial Officer Signature - Chief Executive or Finance Officer of the Public Entity Name Title/Position Paul A. Young Mayor **Email Alternate Email** mayor@memphistn.gov N/A Signature - Preparer (Submitter) of This Form Name Title/Position

Miska L. Shaw

Partner and Chair, Public Finance

Email

mshaw@azlawllc.com

Alternate Email

N/A

Relationship to Public Entity

Co-Bond Counsel

Organization

Ahmad Zaffarese LLC

#### **Verification of Form Accuracy**

By checking the box below as the signing of this form, I attest the following:

- 1. I certify that to the best of my knowledge the information in this form is accurate.
  - 2. The debt herein complies with the approved Debt Management Policy of the public entity.
  - 3. If the form has been prepared by someone other than the CEO or CFO, the CEO or CFO has authorized the submission of this document.

Verify Form Accuracy

#### Date to be Presented at Public Meeting

Date to be emailed/mailed to members of the governing body

09/24/2024

09/17/2024

#### **Final Confirmation:**

I hereby submit this report to the Division of Local Government Finance of the Tennessee Comptroller of the Treasury and understand my legal responsibility to: File this report with the members of the governing body no later than 45 days after the issuance or execution of the debt disclosed on this form. The Report is to be delivered to each member of the Governing Body and presented at a public meeting of the body. If there is not a scheduled public meeting of the governing body within forty-five (45) days, the report will be delivered by email or regular US mail to meet the 45-day requirement and also presented at the next scheduled meeting.



# **Memphis City Council Summary Sheet**

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

Report on Debt Obligation for the issuance of \$85,290,000 for General Improvement Refunding Bonds, Series 2024B.

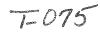
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)
  The Finance Division is the initiating party.
- 3. State whether this is a change to an existing ordinance or resolution, if applicable. This is not a change to an existing ordinance or resolution.
- 4. State whether this will impact specific council districts or super districts. Not applicable.
- 5. State whether this requires a new contract, or amends an existing contract, if applicable.

Not applicable.

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

No.

7. If applicable, please list the MWBE goal and any additional information needed. N.A.





Jason E. Mumpower Comptroller

# Report On Debt Obligation

	Entity and D	ebt Information	
Entity Name			
City of Memphis			
Entity Address			
125 North Main Street Room 368 Memphis	s, Tennessee 38103-2	2080	
Debt Issue Name			
General Improvement Refunding Bonds, S	eries 2024B		
Debt Issue Face Amount			
\$85,290,000.00			
Face Amount Premium or Discount?		Premium Amount	
Premium		\$8,073,556.55	
Tax Status			
Tax - Exempt			
Interest Type True Interest Cost (TIC)		True Interest Cost (T	ic)
True interest Cost (TiC)		4.129267%	
Debt Obligation			
Bond			
Moody's Rating	Standard & Poor's	Rating	Fitch Rating
Aa2	AA		Unrated
Other Rating Agency Name		Other Rating Agency	y Rating
N/A		N/A	
Security			
General Obligation			
Type of Sale Per Authorizing Document			
Negotiated Sale			
Dated Date	Issue/Closing Date		Final Maturity Date
8/14/2024	8/14/2024		4/1/2045

Debt Purpose		
Purpose	Percentage	Description
Refunding	100%	Partial refunding of Issuer's Series 2012A, 2014A, 2014B, 2015C and 2016 Bonds
Education	0%	N/A
General Government	0%	N/A
Other	0%	N/A
Utilities	0%	N/A

		nce and Professionals	
oes your Debt Issue have costs or pro es	ofessionals?	mili s dalaman	
Description	Amount	Recurring Portion	Firm Name
Financial Advisor Fees	\$111,364.00	N/A	PFM Financial Advisors; CLB Porter
Legal Fees - Bond Counsel	\$108,588.00	N/A	Ahmad Zaffarese; Carpenter Law
Legal Fees - Disclosure Counsel	\$81,442.00	N/A	Bruce Law; Bass Berry & Sims
Rating Agency Fees	\$102,928.34	N/A	S&P Moody's
Underwriter's Discount %	0.191537%	N/A	Siebert Williams Shank &
Paying Agent Fees	\$900.00	650	Regions Bank
Printing and Advertising Fees	\$2,570.13	0	Imagemaster/MuniOS
Escrow Agent	\$650.00	N/A	Regions Bank
Verification Agent	\$3,000.00	N/A	Banks Finley and White
Disclosure/Dissemination Agent	\$2,500.00	N/A	DAC
Data Fee	\$4,287.04	N/A	PFM Financial Advisors
(Miscellaneous)	\$5,000.00	N/A	[TBD]
Underwriter's Discount Dollar Amount	\$163,361.53	N/A	Siebert Williams Shank & Co.
TOTAL COSTS	\$586,591.04		

Year	Amount	Interest Rate	
2025	\$2,745,000.00	5.000	
2025	\$3,585,000.00	5.000	
2026	\$6,350,000.00	5.000	
2027	\$355,000.00	5.000	
2028	\$370,000.00	5.000	
2029	\$390,000,000	5.000	***************************************
2030	\$405,000.00	5.000	
2031	\$430,000.00	5.000	
2032	\$450,000.00	5.000	
2033	\$470,000.00	5.000	
2034	\$500,000,000	5.000	
2035	\$520,000.00	5.000	
2036	\$550,000.00	5.000	
2037	\$575,000.00	5.000	***************************************
2038	\$605,000.00	5.000	
2039	\$635,000.00	5.000	
2040	\$665,000.00	5.000	
2041	\$14,540,000.00	5.000	
2042	\$15,260,000.00	5.000	
2043	\$15,255,000.00	5.000	
2044	\$16,015,000.00	5.000	***************************************
2045	\$4,620,000.00	5.000	

<sup>\*</sup>See final page for Submission Details and Signatures\*

# Submission Details and Signatures

Is there an official statement or disclosure document, as applicable, that will be posted to EMMA: https://emma.msrb.org/?
Yes

Name and title of individual responsible for posting continuing disclosure information to EMMA

André D. Walker, Deputy Chief Financial Officer

#### Signature - Chief Executive or Finance Officer of the Public Entity

Name

Title/Position

Paul A. Young

Mayor

Email

Alternate Email

mayor@memphistn.gov

N/A

#### Signature - Preparer (Submitter) of This Form

Name

Miska L. Shaw

Title/Position

Partner and Chair, Public Finance

**Email** 

mshaw@azlawilc.com

Alternate Email

N/A

Relationship to Public Entity

Co-Bond Counsel

Organization

Ahmad Zaffarese LLC

#### Verification of Form Accuracy

By checking the box below as the signing of this form, I attest the following:

- 1. I certify that to the best of my knowledge the information in this form is accurate.
- 2. The debt herein complies with the approved Debt Management Policy of the public entity.
- 3. If the form has been prepared by someone other than the CEO or CFO, the CEO or CFO has authorized the submission of this document.

Verify Form Accuracy

#### Date to be Presented at Public Meeting

09/24/2024

Date to be emailed/mailed to members of the governing body

09/17/2024

#### Final Confirmation:

I hereby submit this report to the Division of Local Government Finance of the Tennessee Comptroller of the Treasury and understand my legal responsibility to: File this report with the members of the governing body no later than 45 days after the issuance or execution of the debt disclosed on this form. The Report is to be delivered to each member of the Governing Body and presented at a public meeting of the body. If there is not a scheduled public meeting of the governing body within forty-five (45) days, the report will be delivered by email or regular US mail to meet the 45-day requirement and also presented at the next scheduled meeting.

# RESOLUTION REQUESTING QUARTERLY BUDGET UPDATES FROM EACH DIVISION AND DEPARTMENT OF THE CITY OF MEMPHIS ON CIP AND OPERATING STATUS

**WHEREAS**, the City of Memphis is committed to maintaining transparency and accountability in its financial management; and

**WHEREAS**, effective oversight of both the Capital Improvement Program (CIP) and Operational budgets is essential for ensuring that public funds are being utilized efficiently and in accordance with the City's goals; and

**WHEREAS**, regular budget updates will provide the Memphis City Council and the public with timely and accurate information regarding the progress and financial status of each division and department within the City; and

**WHEREAS**, quarterly updates on both CIP and operational status will help identify potential issues early, enabling corrective actions to be taken to prevent budget overruns, delays, or inefficiencies; and

**WHEREAS**, the Memphis City Council recognizes the need for each division and department to remain accountable to both the City Council and the residents of Memphis, ensuring that tax dollars and public funds are used effectively to deliver services and complete capital improvement projects.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL**, that each division and department of the City of Memphis is hereby requested to provide a quarterly update on the status of their Capital Improvement Program (CIP) and operating budgets to the Memphis City Council.

**BE IT FURTHER RESOLVED**, that the Memphis City Council is committed to working with each division and department to ensure that adequate resources and guidance are provided for fulfilling this reporting requirement, supporting the efficient and transparent use of City funds.

Sponsor:	Chairman:
Philip Spinosa, Jr.	JB Smiley, Jr.

# Division FY25Q1 Update - Where Are We Now?

- FY2025 Approved Budget Amount:
- Total Amount Appropriated To Date:
- Projected Annual Spend:
- Plain Language Summary for Quarter:
- Wins? Losses? Key dates for upcoming appropriations?
- Plain Language Opportunities for Next Quarter:
- Anything looming out there? Any opportunities for us to help?

#### TRUST INDENTURE

#### **BETWEEN**

#### MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION

**AND** 

REGIONS BANK, AS BOND TRUSTEE

DATED AS OF OCTOBER 1, 2024

\$[16,000,000]
CENTER CITY REVENUE FINANCE CORPORATION
ECONOMIC DEVELOPMENT BONDS
(CITY OF MEMPHIS PROJECT)
SERIES 2024

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THIS TRUST INDENTURE (as the same may from time to time be supplemented, amended and restated, this "Indenture"), dated as of October 1, 2024, is entered into between MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION, a public nonprofit corporation organized under the laws of the State of Tennessee (as hereinafter defined, the "Issuer"), and REGIONS BANK, an Alabama banking corporation, as bond trustee (as hereinafter defined, the "Bond Trustee"), duly established, existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the State of Alabama, with a corporate trust office and post office address at Nashville, Tennessee.

#### WITNESSETH:

**WHEREAS**, the Issuer is a public nonprofit corporation organized under the laws of the State of Tennessee and created under Sections 7-53-101 *et seq.*, Tennessee Code Annotated (as heretofore and hereafter amended, the "**Act**"); and

WHEREAS, the City of Memphis, Tennessee (as hereinafter defined, the "Borrower") desires to provide for Bonds (as hereinafter defined) to be issued under and pursuant to this Indenture and the loan of the proceeds thereof to the Borrower to (i) pay Costs of the Project (as hereinafter defined), and (ii) pay certain expenses incurred in connection with the issuance of Bonds, all as permitted under the Act, by entering into a Loan Agreement, dated as of October 1, 2024, by and between the Issuer and the Borrower (as the same may from time to time be amended, supplemented and restated, the "Loan Agreement") providing for a loan by the Issuer to the Borrower; and

WHEREAS, the Issuer is authorized under the Act, among other things, to issue bonds for the purpose of loaning funds to the Borrower for the foregoing purposes and to enter into a trust indenture providing for the issuance of such bonds and for their payment and security; and

WHEREAS, the Issuer has determined that the public interest will be best served and that the purposes of the Act can be more advantageously obtained by the Issuer's issuance of bonds in order to loan funds to the Borrower as aforesaid; and

WHEREAS, the execution and delivery of this Indenture and the Loan Agreement have been in all respects duly and validly authorized by resolutions duly passed and approved by the Issuer; and

WHEREAS, all things necessary to make the Bonds, when authorized by the Issuer and authenticated by the Bond Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the payments and prepayments under the Loan Agreement to be applied to the payment of the principal of, premium, if any, and interest on the Bonds and a valid assignment of certain of the rights of the Issuer under the Loan Agreement, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

**GRANTING CLAUSES** 

That the Issuer in consideration of the premises and of the purchase of the Bonds and of other good and lawful consideration, the receipt of which is hereby acknowledged, and to secure the payment of the principal of, premium, if any, and interest on the Bonds and the performance and observance of all of the covenants and conditions herein or therein contained, has executed and delivered this Indenture and has conveyed, granted, assigned, transferred, pledged, set over and confirmed and granted a security interest and by these presents does hereby convey, grant, assign, transfer, pledge, set over and confirm and grant a security interest, unto the Bond Trustee, its successor or successors and its or their assigns forever, in the property hereinafter described (said property being herein sometimes referred to as the "**Trust Estate**") to wit:

#### **DIVISION I**

All right, title and interest of the Issuer in and to the Loan Agreement and all amounts payable to the Issuer under the Loan Agreement and all security therefor (excluding Unassigned Rights as hereinafter defined);

#### **DIVISION II**

All right, title and interest of the Issuer in and to the funds, accounts and subaccounts established pursuant to this Indenture and the assets thereof and income and earnings thereon for the benefit of the Holders of the Outstanding Bonds; and

#### **DIVISION III**

Any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder by the Issuer or the Borrower or by anyone on their behalf to the Bond Trustee, including without limitation funds of the Borrower held by the Bond Trustee as security for any of the Bonds;

TO HAVE AND TO HOLD, all and singular, the properties and the rights and privileges hereby conveyed, assigned and pledged by the Issuer or intended so to be, unto the Bond Trustee and its successors and assigns forever, in trust, nevertheless, with power of sale for the equal and pro rata benefit and security of each and every Holder of the Bonds issued and to be issued hereunder, without preference, priority or distinction as to participation in the benefit and protection hereof of one Bond over or from the other Bonds, by reason of priority in the issue or negotiation or maturity thereof, or for any other reason whatsoever, except as herein otherwise expressly provided, so that each and all of the Bonds shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby with the same effect as if the same had all been made, issued and negotiated simultaneously with the delivery hereof and were expressed to mature on one and the same date, except as herein otherwise expressly provided;

**PROVIDED, NEVERTHELESS**, and these presents are upon the express condition that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of such Bonds with interest according to the provisions set forth in the Bonds and each of them or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Bond Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions hereof, and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then these presents and the estate and rights hereby

granted shall cease, determine and become void, and thereupon the Bond Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture, including if appropriate any required discharge of record, and if necessary shall grant, reassign and deliver to the Issuer, its successors or assigns, all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force.

AND IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that all Bonds are to be issued, authenticated and delivered, and that all the Trust Estate is to be held and applied, subject to the further covenants, conditions, releases, uses and trusts hereinafter set forth, and the Issuer, for itself and its successors, does hereby covenant and agree to and with the Bond Trustee and its respective successors in said trust, for the benefit of those who shall hold the Bonds, or any of them, as follows:

#### ARTICLE I

#### **DEFINITIONS**

Section 101. <u>Definitions</u>. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Act" has the meaning given to such term in the recitals to this instrument.

"Authorized Officer" means, when used in connection with the Borrower, the Mayor, Comptroller and Chief Financial Officer of the City of Memphis, Tennessee, or any other officer of the Borrower designated in writing by the Mayor of the City of Memphis, Tennessee, to execute an Officer's Certificate on behalf of the Borrower, and when used in connection with the Issuer, the [President & CEO, the Chairman, Vice Chairman, the Secretary], and any officer of the Issuer authorized by its bylaws or by or pursuant to a resolution of the Issuer to act on behalf of the Issuer.

"Bond" or "Bonds" means one or more of the Bonds, collectively, issued by the Issuer pursuant to the terms and conditions of Article II hereof.

"Bond Counsel" means Bass, Berry & Sims, PLC, Carpenter Law, PLLC or any other nationally recognized municipal bond counsel acceptable to the Issuer and the Bond Trustee.

"Bond Register" means the registration books of the Issuer kept by the Bond Trustee to evidence the registration and transfer of Bonds.

"Bond Registrar" means the Bond Trustee, as keeper of the Bond Register.

"Bond Trustee" means Regions Bank, as bond trustee hereunder, or any successor trustee hereunder.

"Bond Year" means any twelve-month period beginning on [] 1 in one calendar year
and ending on, but including, [] [] of the next calendar year. For the purpose of calculating
debt service payable on the Bonds in any Bond Year, principal and interest payable on the Bonds
on [ ] 1 of any Bond Year shall be deemed to be payable on [ ] [ ] of the preceding
Bond Year.

"Bondholder," "Holder" and "owner of the Bonds" means any Person in whose name a Bond is registered on the Bond Register.

"Borrower" means the City of Memphis, Tennessee, a municipal corporation organized under the laws of the State, and any of the Borrower's successors and assigns.

"Business Day" means any day of the year on which banks located in Memphis, Tennessee, or in the city in which the principal corporate trust office of the Bond Trustee is located, are not required or authorized by law or executive order to remain closed.

"Code" means the Internal Revenue Code of 1986, as amended from time to time and the regulations promulgated thereunder.

"Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 302 hereof.

"Costs of the Project" means any cost of the Project permitted to be financed pursuant to the Act.

"County" means the County of Shelby, Tennessee, a political subdivision of the State.

"Debt Service Fund" means the Debt Service Fund created by Section 402 hereof.

"Defaulted Interest" means interest on any Bond which is payable but not duly paid on the date due.

"**Determination of Taxability**" means and shall be deemed to have occurred on the first to occur of the following:

- (a) on the date when the Issuer or the Borrower files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;
- (b) on the date when a Bondholder or any former Bondholder notifies the Issuer and the Borrower that it has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Issuer or the Borrower of such notification from such Bondholder or such former Bondholder, the Issuer or the Borrower shall deliver to such Bondholder or such former Bondholder, as applicable, a ruling or determination letter issued to or on behalf of the Issuer by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government

Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred or the Internal Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service makes a determination that an Event of Taxability has not occurred;

- (c) on the date when the Issuer or the Borrower shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the Issuer or the City, or upon any review or audit of the Issuer or the City or upon any other ground whatsoever, an Event of Taxability shall have occurred; or
- (d) on the date when the Issuer or the Borrower shall receive notice from a Bondholder or any former Bondholder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on the Bonds due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (b), (c) or (d) above unless the Issuer and the Borrower have been afforded the reasonable opportunity, at the Borrower's expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; provided further, however, that upon demand from a Bondholder or former Bondholder, the Borrower shall promptly reimburse such Bondholder or former Bondholder for any payments, including any taxes, interest, penalties or other charges, such Bondholder (or former Bondholder) shall be obligated to make as a result of the Determination of Taxability.

#### "Escrow Obligations" means:

- (e) noncallable Government Obligations; or
- (f) noncallable senior debt obligations described in (b) of Permitted Investments if:
  - (i) money and noncallable Escrow Obligations on deposit in the escrow are sufficient at all times to pay in full all principal of and interest and premium, if any, on such debt obligations which sufficiency has been verified by the report of an independent certified public accountant or financial analyst (a "Verification of Sufficiency") and no replacement of an Escrow Obligation in such escrow shall be permitted except with a direct obligation of the United States of America or money, and then only upon delivery of a new Verification of Sufficiency,
  - (ii) the Bond Trustee has received an opinion of Independent Counsel (which counsel and opinion, including without limitation the form, scope substance and other

aspects thereof are acceptable to the Bond Trustee and not objected to by the Issuer) to the effect that such money and Escrow Obligations are not available to satisfy any other claims, including those by or against the Bond Trustee or escrow agent for such bonds and notes, and

(iii) the Bond Trustee has received an opinion of nationally recognized bankruptcy counsel (which counsel and opinion, including without limitation the form, scope, substance and other aspects thereof are acceptable to the Bond Trustee and not objected to by the Issuer) to the effect that payments made on such debt obligations from such escrow would not be both (A) avoidable as a preferential transfer under section 547(b) of title 11 of the United States Code (the "Bankruptcy Code") and (B) recoverable under section 550 of the Bankruptcy Code, in a case under the Bankruptcy Code in which either issuer or any other person liable on such debt obligations is a debtor should the issuer or any other person liable on such debt obligations become a debtor in a proceeding commenced under the United States Bankruptcy Code.

"Event of Taxability" means a (a) change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Issuer or the Borrower, or the failure to take any action by the Issuer or the Borrower, or the making by the Issuer or the Borrower of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bonds) which has the effect of causing interest paid or payable on the Bonds to become includable, in whole or in part, in the gross income of a Bondholder or any former Bondholder for federal income tax purposes or (b) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury (or any other government agency exercising the same or a substantially similar function from time to time), which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on the Bonds to become includable, in whole or in part, in the gross income of such Bondholder or such former Bondholder for federal income tax purposes with respect to the Bonds.

"Fiscal Year" means any twelve-month period beginning on July 1 of any calendar year and ending on and including June 30 of the next succeeding calendar year, or such other twelve-month period selected by the Borrower, from time to time, as its fiscal year.

"Fitch" means Fitch Ratings Inc., or any of its successors and assigns, or, if no longer performing the functions of a securities ratings agency, any other nationally recognized securities ratings agency designated by the Borrower by notice to the Bond Trustee.

"Government Obligations" means (i) direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, or (ii) obligations the payment of which is fully and unconditionally guaranteed by the United States of America.

"Indenture" has the meaning given to such term in the initial paragraph of this instrument.

"Independent Counsel" means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and, without limitation, may include independent legal counsel for the Issuer, the Borrower or the Bond Trustee; provided, however, that any such attorney may not be an employee of the Issuer or the Borrower or of any affiliate or subsidiary of, or other entity controlled by, either of them.

"Interest Pay	ment Date" mea	ns, with respect to the Bon	ds, each [	] 1 and [	] 1,
commencing on [	] 1, 2024.				

"Issuer" has the meaning given to such term in the first paragraph of this instrument, and any of the Issuer's successors and assigns.

"Lien" means any mortgage or pledge of, security interest in or lien, charge or encumbrance on any Property of the Borrower which secures any obligation to any Person and any capitalized lease under which the Borrower is the lessee or lessor.

"Loan Agreement" has the meaning given to such term in the recitals to this instrument.

"Moody's" means Moody's Investors Service, Inc., or any of its successors and assigns, or if no longer performing the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower by notice to the Bond Trustee.

"Non-Property Tax Revenues" means all legally available revenues of the City, a portion of which shall be appropriated and paid by the City and applied to the payments required by the Loan Agreement and in accordance with Section 6-54-118, Tennessee Code Annotated, and which shall not include ad valorem property tax revenues.

"Officer's Certificate" means a certificate signed (i) in the case of a certificate delivered on behalf of the Borrower, by an Authorized Officer of the Borrower or, (ii) in case of a certificate delivered on behalf of the Issuer, by an Authorized Officer of the Issuer or, (iii) in case of a certificate delivered on behalf of any corporation, by the President or any authorized Vice-President of such corporation or any other officer duly authorized by such corporation or, (iv) on behalf of any other Person, by the chief executive officer, the chief financial officer or any other authorized officer of such other Person, in each case whose authority to execute such Certificate shall be evidenced to the satisfaction of the Bond Trustee.

"Operating Expenses" means all costs, fees and expenses of any kind arising out of or incurred by the Issuer, the Bond Trustee, or any other person in connection with the administration of the trust estate, or the performance or exercise by such person of any duties, powers and rights hereunder or under the Bonds, including but not limited to the fees and expenses of the Bond Trustee, bond insurance premiums not paid from the Proceeds of Bonds, costs of compliance with Section 607 hereof, but shall not include the principal or redemption price of or redemption premium or interest on Bonds, in each case to the extent constituting a Cost of the Project.

"Opinion of Bond Counsel" means a written opinion of Bond Counsel in form and substance acceptable to the Issuer and the Bond Trustee.

"Opinion of Counsel" means a written opinion of counsel who is acceptable to the Bond Trustee and the Issuer in form and substance acceptable to the Issuer and the Bond Trustee.

"Optional Redemption Fund" means the Optional Redemption Fund created by Section 403 hereof.

"Outstanding" means when used in connection with any Bond, a Bond which has been duly authenticated and delivered by the Bond Trustee under this Indenture, other than:

- (a) A Bond cancelled after purchase in the open market or because of payment at or redemption prior to maturity;
- (b) A Bond for the payment or redemption of which money or Escrow Obligations shall have been theretofore deposited with the Bond Trustee pursuant to the provisions of Article XI hereof (whether upon or prior to the maturity or Redemption Date of any such Bonds); provided, however, that if such Bond is to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Bond Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Bond Trustee shall have been filed with the Bond Trustee;
- (c) A Bond in lieu of which another Bond has been authenticated under this Indenture; and
- (d) For the purpose of any waivers, consents, notices or other actions hereby required or permitted to be given or taken, a Bond owned by or on behalf of the Issuer or the Borrower or by or on behalf of any affiliate or subsidiary of, or any other entity controlled by, either the Issuer or the Borrower.

"Paying Agent" means the bank or banks, if any, designated pursuant to this Indenture to receive and disburse the principal of and interest on the Bonds.

"Permitted Investments" means and includes any of the following, to the extent, at the time of the acquisition thereof, the same are legal for investment of the Issuer's funds under the Act:

- (a) Government Obligations;
- (b) debt obligations of any agency or instrumentality of the United States of America created by an act of Congress including, but not limited to, the Federal Home Loan Banks, Freddie Mac, Federal Farm Credit Banks Funding Corporation, and Fannie Mae;
- (c) obligations issued by any state of the United States of America or any political subdivision thereof, rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise), provided that such obligations are fully secured by and payable solely from an escrow fund held by a trustee consisting of money or Government Obligations;

- (d) (i) U.S. dollar denominated corporate notes, bonds, or other debt obligations of any United States or foreign corporation, financial institution, non-profit organization, trust, or other entity which obligations are rated by at least one Rating Agency in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise), or (ii) commercial paper of any United States corporation, company, financial institution, non-profit organization, trust or other entity rated by at least two Rating Agencies in one of the two highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise);
- (e) certificates of deposit or time deposits of any bank, trust company or savings and loan, which (a) deposits are fully insured by a federally sponsored deposit insurance program, or (b) bank or its parent holding company's, or trust company's, debt conforms to the rating requirements of (d)(i) above;
- (f) banker's acceptances of any bank, which bank or its parent holding company's debt conforms to the rating requirements of (d)(i) above;
- (g) repurchase agreements, entered in conformance with prevailing industry standard guidelines, of obligations listed in (a) or (b) above, delivered versus payment to the Bond Trustee and continuously collateralized at (i) 104% or greater if invested in obligations consisting of the securities described in (a) above or (ii) 105% or greater if invested in obligations consisting of the securities described in (b) above, provided that under both (i) and (ii) the counterparties' debt is rated in conformance with the rating requirements of (d)(i) above;
- (h) forward delivery agreements with any financial institution that at the time of investment has long-term obligations rated by at least one Rating Agency in one of the four highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) under which obligations described in (a) and/or (b) above are delivered:
- (i) investment agreements of any corporation which agreements or the corporation's longterm debt is rated by at least one Rating Agency in one of the three highest ratings categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise);
- (j) asset backed securities of corporations, trusts or financial institutions which are rated in the highest rating category (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) by at least two Rating Agencies; and
- (k) shares of a money market fund or commingled trust which fund's or trust's investments are restricted to investments described in (a), (b), (c), (e), (f), (g) and/or (j) above.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, public body, agency or political subdivision thereof or any other similar entity.

"Proceeds" means the aggregate principal amount of Bonds minus any original issue discount and plus any original issue premium on the Bonds, and accrued interest, if any.

"Project" means and consists of the acquisition, construction, maintenance, reconstruction, and improvement of (i) AutoZone Park (home of the Memphis Redbirds, the Triple-A affiliate of Major League Baseball's St. Louis Cardinals) and (ii) parking infrastructure improvements associated with the redevelopment and adaptive reuse of the 37-story 100 North Main building, the tallest structure in the City of Memphis, Tennessee.

"Project Fund" means the Project Fund created by Section 303 hereof.

"Property" means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible, and wherever situated.

" <b>Purchaser</b> " mear	ıs Webster Ba	nk, a [	]
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"Rating Agency" means Fitch, Moody's or Standard & Poor's and any other nationally recognized credit rating agency then maintaining a rating on any Outstanding Bonds at the request of the Issuer or the Borrower. If at any time any of the aforementioned agencies does not have a rating with respect to any Outstanding Bonds, then a reference herein to Rating Agency or Rating Agencies shall not include such agency.

"Redemption Date" means any date on which Bonds are to be redeemed in accordance with the provisions of Article V hereof.

"S&P" or "Standard & Poor's" means S&P Global Ratings, or any of its successors and assigns, or if no longer performing the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Borrower by notice to the Bond Trustee.

"Sinking Fund Redemption" means, when used in connection with the Bonds, the mandatory redemption thereof required to be made in accordance with this Indenture.

"State" means the State of Tennessee.

"Supplemental Indenture" means any indenture amending or supplementing this Indenture or any prior Supplemental Indenture executed and becoming effective in accordance with the terms and provisions of Article IX hereof

"Tax Certificate" means a certificate or certificates of an Authorized Officer of the Issuer and the Borrower, including the appendices, schedules and exhibits thereto, executed in connection with the issuance the Bonds in which the Issuer and Borrower make representations and agreements as to arbitrage compliance with the provisions of Section 141 through 150, inclusive, of the Code, or any similar certificate, agreement or other instrument made, executed and delivered in lieu of said certificate, in each case as the same may be amended or supplemented.

"Taxable Date" means the date on which interest on the Bonds is first includable in gross income of the Bondholders thereof as a result of an Event of Taxability as such a date is established pursuant to a Determination of Taxability.

"Unassigned Rights" means the right of the Issuer to receive payment of its fees and expenses, the Issuer's right to indemnification under the Loan Agreement, the Issuer's right to approve, execute and deliver supplements, amendments and restatements to the Loan Agreement, the Issuer's right to grant consents under the Loan Agreement, and the rights provided the Issuer in Section 11.7 of the Loan Agreement.

"Written Request" means with reference to the Issuer, a request in writing signed by the President, Chairman, Vice-Chairman, Treasurer or Secretary of the Issuer, and, with reference to the Borrower, means a request in writing signed by any officer of the Borrower authorized to execute an Officer's Certificate on its behalf, as the case may be.

Section 102. <u>Accounting Terms</u>. All accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles. Headings of articles and sections herein and the table of contents hereof are solely for the convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof

Section 103. <u>Construction</u>. All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

#### ARTICLE II

#### THE BONDS

Section 201. <u>Authorization of Bonds</u>. The Bond Resolution authorizes, among other things, the sale and issuance of up to \$[16,000,000] aggregate principal amount of Bonds for the purposes of providing funds for a loan to the Borrower pursuant to the Loan Agreement to (a) pay the Costs of the Project and (b) pay certain expenses incurred in connection with the issuance of the Bonds.

#### Section 202. Issuance and Certain Terms of the Bonds.

(a) The Bonds shall be designated "Economic Development Bonds (City of
Memphis Project), Series 2024." The Bonds shall be issued on October [], 2024, in the
aggregate principal amount of \$[]. The balance of the authorized principal amount
of the Bonds, \$[ ], shall not be issued pursuant to the Bond Resolution

(b) The Bonds shall mature on March 1 and September 1 of each of the years set forth and in the principal amount set forth opposite such respective date in the following schedule:

Maturity Date
March 1, 2025
September 1, 2025
March 1, 2026

Principal Amount

\$

September 1, 2026 March 1, 2027 September 1, 2027 March 1, 2028 September 1, 2028 March 1, 2029 September 1, 2029

- (c) The Bonds shall bear interest (based on a 360-day year of twelve 30-day months) from their date at the rate of three and forty-eight hundredths percent (3.48%) per annum; provided, however, that in the event, but only during the continuance, of an "event of default" hereunder, the Bonds shall bear interest at the rate of five and forty-eight hundredths percent (5.48%) per annum (the "Default Rate"); provided further, however, that in the event, but only during the continuance, of a Determination of Taxability, the Bonds shall bear interest at the rate of four and sixty-four hundredths percent (4.64%) per annum (the "Taxable Rate"). Interest on the Bonds shall be payable on March 1 and September 1 of each year, commencing March 1, 2025.
- (d) The Series Bonds shall be issuable as registered bonds without coupons, initially payable to and registered in the name of the Purchaser, subject to limited transfer as provided herein. The Bonds of each maturity shall be in a denomination equal to the outstanding principal amount of such maturity. Unless an Authorized Officer of the Corporation shall otherwise direct, the Bonds shall be lettered "2024 R—" and numbered from one upward in order of issuance.
- (e) [The Issuer agrees that all amounts payable with respect to the Bonds in respect of principal, interest, redemption, prepayment or otherwise shall be made to the Purchaser directly by the Bond Trustee (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States as may be designated by the Purchaser in writing to the Bond Trustee and the Issuer. Any payment made in accordance with the provisions of this subsection (e) shall be accompanied by sufficient information to identify the source and proper application of such payment. The Purchaser shall notify the Issuer in writing of any failure of the Bond Trustee to make any payment of principal of or interest on the Bonds when due.]
- Section 203. <u>Initial Registered Owner; Transfer Restricted.</u> The Bonds when initially issued shall be payable to and registered in the name of the Purchaser. The Purchaser shall not transfer Bonds pursuant to Section 209 hereof except to an affiliate thereof.
- Section 204. <u>Limited Obligation; No Liability of State</u>. The Bonds shall be limited obligations of the Issuer payable solely from (i) amounts payable under the Loan Agreement (except for Unassigned Rights) and (ii) moneys on deposit in funds or accounts held under this Indenture as and to the extent provided in this Indenture, all of which are hereby assigned and pledged hereunder for the payment as herein provided or the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the

Bonds, except as may be otherwise expressly authorized or provided in this Indenture. The Issuer has no taxing power.

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

Section 205. <u>Execution</u>. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Chair, Vice Chair or President and by the manual or facsimile signature of its Secretary or Treasurer (or such other officer as may be designated by the Issuer). The facsimile signatures of said officers shall have the same force and effect as if such officers had manually signed each of said Bonds. In case any officer the facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 206. <u>Authentication</u>. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form on Exhibit A hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or deemed necessary by the Bond Trustee and the Issuer, shall have been duly executed by the Bond Trustee, and such executed certificate of the Bond Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Bond Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if manually signed by an authorized officer or signatory of the Bond Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 207. <u>Form of Bonds</u>. The Bonds issued under this Indenture shall be substantially in the form set forth on Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or deemed necessary by the Bond Trustee and the Issuer.

Section 208. <u>Mutilated, Lost, Stolen or Destroyed Bonds</u>. In the event any temporary or definitive Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Bond Trustee may authenticate a new Bond of like form, date, maturity and denomination

as that mutilated, lost, stolen or destroyed; provided, however, that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Bond Trustee evidence of such loss, theft or destruction satisfactory to the Bond Trustee, together with indemnity satisfactory to the Bond Trustee and the Issuer. In the event any such Bond shall have matured, instead of issuing a duplicate Bond the Issuer may pay the same without surrender thereof. The Issuer and the Bond Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 209. <u>Transfer and Exchange of Bonds; Persons Treated as Owners</u>. The Issuer shall cause the Bond Register to be kept by the Bond Trustee at its designated corporate trust office. At reasonable times and under reasonable regulations established by the Bond Trustee, the Bond Register may be inspected and copied by the Issuer.

Upon surrender for transfer of any Bond at the designated corporate trust office of the Bond Trustee, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same maturity and of authorized denomination for the aggregate principal amount which the registered owner is entitled to receive. Any Bond or Bonds may be exchanged at said office of the Bond Trustee for a like aggregate principal amount of Bond or Bonds of the same maturity of other authorized denominations. The execution by the Issuer of any Bond shall constitute full and due authorization of such Bond, and the Bond Trustee shall thereby be authorized to authenticate, date and deliver such Bond.

All Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Bond Trustee, duly executed by the registered owner or by such owner's duly authorized attorney.

No service charge shall be imposed for any exchange or transfer of Bonds. The Issuer and the Bond Trustee may, however, require payment by the person requesting an exchange or transfer of Bonds of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, except in the case of the issuance of a Bond or Bonds for the unredeemed portion of a Bond surrendered for redemption.

The Issuer and the Bond Trustee shall not be required to register the transfer of or exchange any Bond after notice calling such Bond or portion thereof for redemption has been given.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bond surrendered.

The Issuer and the Bond Trustee may treat the registered owner of any Bond as the absolute owner thereof for all purposes, whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary. All payments of or on account of the principal of and premium, if any, and interest on any such Bond as herein provided shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be

changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond surrendered for the purpose of payment or retirement or for exchange or transfer, or for replacement pursuant to Section 208 hereof, shall be cancelled upon surrender thereof to the Bond Trustee or any Paying Agent. If the Issuer or the Borrower shall acquire any of the Bonds, the Issuer or such Borrower shall deliver such Bonds to the Bond Trustee for cancellation and the Bond Trustee shall cancel the same. Any such Bonds cancelled by any Paying Agent other than the Bond Trustee shall be promptly transmitted by such Paying Agent to the Bond Trustee. Certification of Bonds cancelled by the Bond Trustee and Bonds cancelled by a Paying Agent other than the Bond Trustee which are transmitted to the Bond Trustee shall be made to the Issuer and to the Borrower. Cancelled Bonds may be destroyed by the Bond Trustee unless instructions to the contrary are received from the Issuer or the Borrower.

#### ARTICLE III

#### APPLICATION OF BOND PROCEEDS AND REQUIRED FUND DEPOSITS

Section 301. <u>Deposit of Funds</u>. The Issuer, for and on behalf of the Borrower, shall deposit with the Bond Trustee, or as otherwise may be directed by the Borrower, all of the net Proceeds loaned to the Borrower from the sale of the Bonds (including accrued interest on such Bonds from the date from which interest is to be paid thereon to the date of their delivery to the purchasers), and the Bond Trustee shall apply such Proceeds, as follows:

- (a) \$15,000,000.00 shall be deposited in the Project Fund to be used for the payment of the Costs of the Project.
- (b) \$[\_\_\_\_] shall be deposited in the Costs of Issuance Fund hereby created to be used for the payment of expenses for any recording, trustee's and depository's fees and expenses, accounting and legal fees, financing costs (including costs of acquiring investments for the funds and escrows) and other fees and expenses incurred or to be incurred by or on behalf of the Issuer or the Borrower in connection with or incident to the issuance and sale of the Bonds.

At such time as the Bond Trustee is furnished with a Written Request executed by the Borrower stating that all such fees and expenses have been paid, the Bond Trustee shall transfer any money remaining in the Costs of Issuance Account to the Debt Service Fund, in accordance with such Written Request.

Section 302. <u>Cost of Issuance Fund</u>. There is hereby established with the Bond Trustee a separate fund to be known as the "**Costs of Issuance Fund**." Any such Proceeds may be credited to the Costs of Issuance Fund to be used for the payment of expenses for any recording, trustee's and depository's fees and expenses, accounting and legal fees, municipal bond insurance premiums, financing costs (including costs of acquiring investments for the funds and escrows) and other fees and expenses incurred or to be incurred by or on behalf of the Issuer or the Borrower in connection with or incident to the issuance and sale of such Bonds. Accounts may be created in the Costs of Issuance Fund for any purpose pursuant to a Written

Request from the Borrower delivered to the Bond Trustee. At such time as the Bond Trustee is furnished with a Written Request executed by the Borrower stating that all such fees and expenses have been paid, the Bond Trustee shall transfer any money remaining in the Costs of Issuance Fund to the Debt Service Fund or otherwise in accordance with such Written Request.

#### Section 303. <u>Project Fund</u>.

- (a) There is hereby established with the Bond Trustee a separate fund to be known as the "**Project Fund**," to the credit of which deposits shall be made pursuant to the provisions of Section 301 hereof. Additional accounts may be created in the Project Fund for any purpose pursuant to a Written Request from the Borrower delivered to the Bond Trustee. Any money received by the Bond Trustee from any source for the acquisition, construction, renovation, rehabilitation, remodeling, furnishing or equipping portions of the Project shall be deposited in the Project Fund unless otherwise specifically excepted hereunder. The money in the Project Fund shall be held in trust by the Bond Trustee, shall be applied to the payment of Costs of the Project and, pending such application, shall be held as trust funds under this Indenture in favor of the Holders of the Outstanding Bonds and for the further security of such Holders until paid out or transferred as provided in this Section.
- (b) All payments from the Project Fund shall be made only upon receipt by the Bond Trustee of a requisition of the Borrower, signed by an Authorized Officer of the Borrower, in the form attached hereto as <u>Exhibit B</u> setting forth or certifying the following:
  - A. the name of the Person or Persons to whom payment is due;
  - B. the respective amounts to be paid to each such Person;
  - C. the purpose in terms sufficient for identification for which each obligation to be paid was incurred and the items for which payment or reimbursement is being requested;
  - D. that obligations in the stated amounts have been incurred by or on behalf of the Borrower or any grantee of the Borrower and are presently due and payable and constitute Costs of the Project within the meaning of this Indenture and that each item thereof is a proper charge against the Project Fund and has not been paid or reimbursed, as the case may be, from the proceeds of the Bonds;
  - E. that such requisition contains no item representing payment on account of any retained percentage which the Borrower or any grantee of the Borrower is at the date of such requisition entitled to retain, unless the Borrower has waived such retention right;
  - F. that there is no outstanding indebtedness known to the Borrower, after due inquiry, for work, materials or supplies which, if unpaid, could be the basis for a vendor's or mechanic's or similar lien on the Project or any part of it, other than indebtedness to be paid pursuant to the requisition or from amounts withheld to secure completion, and that no notice of any lien or claim affecting the right of

any Person to receive a payment requested in the requisition has been filed with or served upon the Borrower or any grantee of the Borrower;

- G. that the withdrawal and use of the Project Fund money for the purpose intended will not cause any representations or certifications of the Borrower to be untrue; and
  - H. that, as to any payment to be made under a construction contract:
- (1) the Borrower or any grantee of the Borrower has obtained written waiver by the construction manager or general contractor under such contract of mechanics' and vendors' liens for all work and material described in the requisition performed or furnished by such construction manager or general contractor; and
- (2) either (i) a lien search report dated within two business days of the date of the requisition reflects no liens, stop notices or other evidence of nonpayment of any mechanic, materialman or other person; or (ii) the Borrower or any grantee of the Borrower shall have received waivers of mechanics' and vendors' liens for all work and material performed or furnished to the Project from all others (other than the construction manager or general contractor); and
- (3) the contractor is entitled to payment in the amount shown in the requisition.
  - (c) The Bond Trustee shall maintain adequate records pertaining to the Project Fund and all disbursements therefrom. All such records and all requisitions, certificates and other documents or instruments received by the Bond Trustee pertaining to the Project Fund or disbursements therefrom or in connection with the Project or its completion, may be relied upon by the Bond Trustee and shall be retained by the Bond Trustee until the [sixtieth month] following certification of the completion of the Project pursuant to paragraph (d) of this Section.
  - (d) The completion date of the Project shall be established by the filing with the Bond Trustee of an Officer's Certificate of the Borrower to the effect that the moneys, if any, on deposit in the Project Fund are no longer required by the Borrower for the payment of Costs of the Project.

Upon the filing of such Officer's Certificate, any money then remaining in the Project Fund, shall upon the Written Request of the Borrower be (x) transferred to the Debt Service Fund in the amounts set forth in such Written Request, or (y) applied to the redemption or defeasance in accordance with Section 1103 hereof of Outstanding Bonds in accordance with such Written Request.

#### ARTICLE IV

#### **REVENUES AND FUNDS**

Section 401. <u>Source of Payment of Bonds</u>. The Bonds herein authorized and all payments to be made by the Issuer thereon and into the various funds established under this Indenture are not general obligations of the Issuer but are limited obligations payable solely from the sources described in Section 204 hereof.

#### Section 402. Debt Service Fund.

- (a) There is hereby established with the Bond Trustee a separate fund to be known as the "Debt Service Fund." All payments of Non-Property Tax Revenues made by the Borrower pursuant to the Loan Agreement pledged hereunder, as and when received by the Bond Trustee, shall be deposited in the Debt Service Fund and shall be held therein until disbursed as herein provided. Pursuant to the assignment and pledge of payments under the Loan Agreement set forth in the granting clauses contained herein, the Issuer will direct the Borrower to make such payments to the Bond Trustee when and as the same become due and payable by the Borrower under the Loan Agreement.
- (b) The Bond Trustee shall apply the money on deposit in the Debt Service Fund, first, to the payment of interest on Outstanding Bonds when due, and, then, to the payment of the principal of Outstanding Bonds when due at maturity.
- Section 403. Optional Redemption Fund. The Issuer shall establish with the Bond Trustee and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the "Optional Redemption Fund." In the event of (a) prepayment by or on behalf of the Borrower of amounts payable under the Loan Agreement pledged under this Indenture, including prepayment with condemnation or insurance proceeds, or (b) deposit with the Bond Trustee by the Borrower or the Issuer of money from any other source for redeeming Bonds, except as otherwise provided in this Indenture, such money shall be deposited in the Optional Redemption Fund. Money on deposit in the Optional Redemption Fund shall be used, first, to make up any deficiencies existing in the Debt Service Fund and, second, for the redemption or purchase of Bonds in accordance with the provisions of Article V hereof.

#### Section 404. Investment of Funds.

(a) Upon a Written Request of the Borrower filed with the Bond Trustee, money in the Debt Service Fund, Costs of Issuance Fund, Project Fund, and Optional Redemption Fund shall be invested in Permitted Investments. Such investments shall be made so as to mature or allow withdrawals at par on or prior to the date or dates that money therefrom is anticipated to be required, and the income resulting therefrom shall be credited to the fund or account from which the investment was made, subject to application as provided by subsection (b) of this Section. The Bond Trustee, when authorized by the Borrower, may trade with itself in the purchase and sale of securities for such investment. The Bond Trustee shall not be liable or responsible for any loss resulting from any such investments.

- (b) Except as otherwise provided herein, all income in excess of the requirements of the funds specified in paragraph (a) of this Section derived from the investment of money on deposit in any such funds shall be deposited in the following funds, in the order listed:
  - (i) the Debt Service Fund to the extent of the amounts required to be deposited therein to provide for the payments due on the next required payment date on the Bonds occurring within thirteen (13) months of the date of such deposit; and
  - (ii) the balance, if any, in the Optional Redemption Fund, in accordance with the Written Request of the Borrower;
- (c) The Bond Trustee will not make any investment of any money in any fund or account held by it hereunder, or sell any investment held in any such fund or account, except on the following terms and conditions:
  - (i) Each such investment shall be made in the name of the Bond Trustee (in its capacity as such) or in the name of a nominee for the Bond Trustee under its complete and exclusive control;
  - (ii) The Bond Trustee shall have sole control over such investment, the income thereon, and the proceeds thereof;
  - (iii) Any certificate or instrument evidencing such investment shall be delivered to the Bond Trustee or its agent or securities depository; and
  - (iv) The proceeds of each sale of such an investment shall be remitted by the purchaser thereof directly to the Bond Trustee for deposit in the fund or account to which such investment was credited.
- Section 405. <u>Trust Funds</u>. All money received by the Bond Trustee under the provisions of this Indenture shall be trust funds under the terms hereof for the benefit of all Bonds Outstanding hereunder and shall not be subject to lien or attachment of any creditor of the Issuer or the Borrower. Such money shall be held in trust and applied in accordance with the provisions of this Indenture. The Issuer shall be deemed to have fulfilled its obligation to establish the funds created by this Article IV upon the execution and delivery of this Indenture.

#### ARTICLE V

#### REDEMPTION OF BONDS

The Bonds maturing on or after September 1, 2027, are subject to redemption prior to their stated maturities from any available moneys at any time on and after March 1, 2027, as a whole, or in part, upon the Written Request of the Borrower to the Purchaser not less than thirty (30) days prior to any such redemption at a Redemption Price equal to the principal amount of such Bonds or portions thereof to be redeemed, together with the interest accrued on such principal amount to the date fixed for redemption; provided that a partial redemption (a) may occur no more than once

per year, (b) shall be in a minimum amount of \$1,000,000, and (c) must first be applied to the longest maturities.

#### ARTICLE VI

#### **GENERAL COVENANTS**

Section 601. Payment of Principal, Premium, if any, and Interest. Subject to the limited source of payment referred to in Section 204 hereof, the Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof. Nothing in the Bonds or in this Indenture shall be considered as assigning or pledging any funds or assets of the Issuer (except the money and the Loan Agreement (other than Unassigned Rights)) pledged under this Indenture.

Legal Authorization; Right to Indemnity. The Issuer represents that Section 602. it is duly authorized under the Constitution and laws of the State to issue the Bonds authorized hereby and to execute this Indenture and to assign the Loan Agreement and to pledge the payments thereunder and the other rights and assets herein pledged in the manner and to the extent herein set forth; that all action on its part required for execution and delivery of this Indenture has been duly and effectively taken (or for the issuance of the Bonds will be duly taken as provided therein); and that the Bonds in the hands of the owners thereof will be valid and enforceable obligations of the Issuer according to the import thereof. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. However, the Issuer shall not be required to take any action not expressly provided for herein. Furthermore, the other provisions of this Indenture notwithstanding, the Issuer shall not be obligated to take any action or execute any document which might in its reasonable judgment involve it in any expense or liability unless it shall have been furnished with assurance of payment or reimbursement for any expense and with reasonable indemnity for liability of the Issuer, its incorporators, directors, officers and counsel.

Section 603. Ownership; Instruments of Further Assurance. The Issuer represents that it lawfully owns the Loan Agreement and that the pledge and assignment thereof and of the payments to be made thereunder hereby made are valid and lawful. The Issuer covenants that it will defend its interest in the Loan Agreement and the assignment thereof to the Bond Trustee, for the benefit of the Holders and owners of the Bonds, against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Bond Trustee may reasonably require for better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Bond Trustee, the Loan Agreement and all payments thereon and thereunder (except Unassigned Rights) and all other funds pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds.

Section 604. <u>Books and Records</u>. The Issuer covenants that so long as any Bonds are Outstanding and unpaid, to the extent of the amounts derived from the Loan Agreement, it will keep, or cause to be kept by the Bond Trustee, proper books of record and account. Such books shall at all times be open for any lawful purpose to the inspection of such accountants or other agencies as the Bond Trustee may from time to time designate.

Section 605. <u>Rights Under the Loan Agreement</u>. The Issuer agrees that the Bond Trustee in its own name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement for and on behalf of the Bondholders (other than the rights of the Issuer to decline to make additional loans and to issue Bonds and Unassigned Rights), whether or not the Issuer is in default hereunder.

Section 606. <u>Designation of Additional Paying Agents</u>. The Issuer may cause the necessary arrangements to be made through the Bond Trustee and to be thereafter continued for the designation of alternate Paying Agents, if any, and for the making available of funds hereunder for the payment of such of the Bonds as shall be presented when due at the designated corporate trust office of the Bond Trustee, or its successor in trust hereunder, or at the designated office of said alternate Paying Agents.

Section 607. Tax Exemption; Rebates. In order to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Bonds, the Issuer shall comply with the provisions of the Code applicable to the Bonds, including without limitation the provisions of the Code relating to the computation of the yield on investments of the "gross proceeds" of the Bonds, as such term is defined in the Code, and reporting of the earnings on such gross proceeds and rebates of earnings on such gross proceeds to the United States Department of the Treasury. All necessary computations of the yield on investments and of the amount required to be rebated to the United States Department Treasury shall be made by the Borrower at times and in amounts required by the Code. In furtherance of the foregoing, the Issuer shall comply with the provisions of any Tax Certificate applicable and with such written instructions as may be provided by Bond Counsel or a special tax counsel.

The Issuer shall not take any action or fail to take any action which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code; nor shall any part of the Proceeds of the Bonds or any other funds of the Issuer be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code. The Issuer shall make any and all payments required to be made to the United States Department of the Treasury in connection with any Bonds pursuant to Section 148(f) of the Code to the extent that funds are made available therefor by the Borrower, pursuant to the Loan Agreement. The Issuer shall make any and all payments required by Section 148(f) of the Code to be made to the United States Department of the Treasury in connection with any Bonds to the extent that money is made available therefor by the Borrower pursuant to the Loan Agreement. The obligation of the Issuer to comply with the provisions of this Section with respect to the rebate to the Department of the Treasury of the United States of America relating to any Bonds shall remain in full force and effect so long as the Issuer shall be required by the Code to rebate such earnings on the gross proceeds of Bonds notwithstanding that any such Bonds are no longer Outstanding.

## ARTICLE VII

#### **EVENTS OF DEFAULT; REMEDIES**

Section 701. <u>Events of Default</u>. Each of the following events is hereby declared an "event of default":

- (a) payment of any installment of interest payable on any of the Bonds shall not be made when the same shall become due and payable; or
- (b) payment of the principal of or the premium, if any, payable on any of the Bonds shall not be made when the same shall become due and payable, either at maturity, by proceedings for redemption, through failure to make any payment to any fund hereunder or otherwise; or
- (c) any event of default as defined in Section 8.1 of the Loan Agreement shall occur and be continuing from and after the date the Issuer is entitled under the Loan Agreement to declare the amount due thereunder to be immediately due and payable; or
- the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereto to be performed on the part of the Issuer, and such default shall continue for the period of thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Borrower by the Bond Trustee (or if such default cannot with due diligence and dispatch be wholly cured within thirty (30) days but can be wholly cured, the Issuer or the Borrower shall fail immediately upon receipt of such notice to commence with due diligence and dispatch the curing of such default or, having so commenced the curing of such default, shall thereafter fail to prosecute and complete the same with due diligence and dispatch); provided, however, that if such default cannot with due diligence and dispatch be wholly cured within thirty (30) days but can be wholly cured, the failure of the Issuer to remedy such default within such thirty (30) day period shall not constitute a default hereunder if the Issuer shall immediately upon receipt of such notice commence with due diligence and dispatch the curing of such default and, having so commenced the curing of such default, shall thereafter prosecute and complete the same with due diligence and dispatch; or
- (e) the default by the Borrower in the performance of its covenant in Section 7.7 of the Loan Agreement relating to the discharge, vacating, bonding or stay of any order, writ or warrant of attachment, garnishment, execution, replevin or similar process filed against any part of the funds or accounts held by the Bond Trustee hereunder, such default being an event of default specified in Section 8.1(b) of the Loan Agreement.
- Section 702. <u>Remedies; Rights of Bondholders</u>. Upon the occurrence of any event of default, the Bond Trustee may, subject to its right to indemnification as provided in Section 801 hereof, pursue any available remedy including a suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bonds then Outstanding

hereunder or to compel performance hereunder or under the Loan Agreement, or seek to enjoin any violation hereunder or thereunder; provided, however, that in no event may the principal of any Bonds be declared to be immediately due and payable upon the occurrence of an Event of Default hereunder.

If an event of default shall have occurred, and if it shall have been requested so to do by the registered owner of the Bonds and the Bond Trustee shall have been indemnified as provided in Section 801 hereof, the Bond Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section as the Bond Trustee shall deem most expedient in the interests of the Holders of Bonds; provided, however, that the Bond Trustee shall have the right to decline to comply with any such request if the Bond Trustee shall be advised by counsel (who may be its own counsel) that the action so requested may not lawfully be taken.

No remedy by the terms of this Indenture conferred upon or reserved to the Bond Trustee (or to the Holders of Bonds) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bond Trustee or to the Holders of Bonds hereunder now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default, or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or event of default, hereunder, whether by the Bond Trustee or by the Holders of Bonds, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 703. <u>Direction of Proceedings by Bondholders</u>. Upon compliance with Section 801(m) hereof, the Holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Bond Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, including the enforcement of the rights of the Issuer under the Loan Agreement or the appointment of a receiver or any other proceedings hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture. For the avoidance of doubt, Bondholders cannot direct that the Bonds be accelerated and the Bond Trustee may not accelerate the Bonds on its own accord.

Section 704. <u>Appointment of Receivers</u>. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and the Holders of Bonds under this Indenture, the Bond Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the rights and properties pledged hereunder and of the revenues, issues, payments and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 705. Application of Money. All money received by the Bond Trustee pursuant to any right given or action taken under the provisions of this Article shall, after any payments as may be required by Section 8.2(b) of the Loan Agreement, be deposited in the Debt Service Fund and together with all money in the funds maintained by the Bond Trustee under Article III and IV (except money held for the payment of Bonds called for prepayment or redemption which have become due and payable) shall be applied as follows:

First: To the payment to the Persons entitled thereto of all installments of interest then due on the Outstanding Bonds, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then ratably according to the amounts due on such installment, without any discrimination or privilege; and

Second: To the payment to the Persons entitled thereto of the unpaid principal of any of the Outstanding Bonds which shall have become due (other than Bonds called for redemption for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, then ratably according to the amount of principal due on such date, without any discrimination or privilege.

Whenever all Bonds and interest thereon have been paid under the provisions of this Section and all expenses and charges of the Bond Trustee have been paid, any balance remaining shall be paid to the Persons entitled to receive the same; if no other Person shall be entitled thereto, then the balance shall be paid to the Borrower.

Section 706. Remedies Vested in Bond Trustee. All rights of action including the right to file proof of claims under this Indenture or under any of the Bonds may be enforced by the Bond Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Bond Trustee shall be brought in its name as Bond Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall be, except as otherwise provided in Section 712 hereof, for the equal benefit of the Holders of the Outstanding Bonds.

Section 707. <u>Termination of Proceedings</u>. In case the Bond Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Bond Trustee, then and in every case the Issuer and the Bond Trustee shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder with respect to the property pledged and assigned hereunder, and all rights, remedies and powers of the Bond Trustee shall continue as if no such proceedings had been taken.

Section 708. <u>Waiver of Events of Default</u>. The Bond Trustee may in its discretion waive any event of default hereunder and its consequences and may rescind any declaration of maturity of principal, and shall do so upon written request of the Holders of the Bonds; provided, however, that there shall not be waived (a) any event of default in the payment of the

principal of any Outstanding Bonds when due or (b) any default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission all arrears of interest, with interest thereon (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal when due, as the case may be, and all expenses of the Bond Trustee and any Paying Agent in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission or in case any proceeding taken by the Bond Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Bond Trustee and the Bondholders shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 709. <u>Borrower's Rights of Possession and Use of Its Property.</u> Whether or not the Borrower is in full compliance with the terms and provisions of the Loan Agreement or an event of default hereunder shall have occurred and be continuing, none of the Issuer, the Bond Trustee, the holders of Bonds or any receiver appointed pursuant to Section 704 hereof shall be permitted to possess, use or control the Borrower's Property and appurtenances thereto, which at all times shall be free of claims of the Issuer, the Bond Trustee, the Holders of Bonds and any such receiver.

Section 710. <u>Notice of Default</u>. In the event of any default hereunder, the Bond Trustee will promptly give written notice thereof to the Issuer and the Borrower setting forth the nature of such default.

Section 711. Extension of Payment; Penalty. In case the time for the payment of principal of or the interest on any Bonds shall be extended, whether or not such extension be by or with the consent of the Issuer, such principal or such interest so extended shall not be entitled in case of default hereunder to the benefit or security of this Indenture except subject to the prior payment in full of the principal of all Bonds then Outstanding and of all interest thereon, the time for the payment of which shall not have been extended.

#### ARTICLE VIII

#### THE BOND TRUSTEE

Section 801. <u>Acceptance of the Trusts</u>. The Bond Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Bond Trustee, prior to the occurrence of an event of default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Bond Trustee. In case an event of default has occurred (which has not been cured or waived), the Bond Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care

and skill in the exercise of such rights and powers as an ordinary, prudent man would exercise or use in the conduct of his own affairs.

- (b) The Bond Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers, or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder, and may in all cases pay such reasonable compensation to any attorney, agent, receiver or employee retained or employed by it in connection herewith. The Bond Trustee may act upon the opinion or advice of an attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care or, if selected or retained by the Issuer or the Borrower, approved by the Bond Trustee in the exercise of such care. The Bond Trustee shall not be responsible for any loss or damage resulting from any action or nonaction based on its good faith reliance upon such opinion or advice.
- The Bond Trustee shall not be responsible for any recital herein, or in the (c) Bonds (except with respect to the certificate of the Bond Trustee endorsed on the Bonds), or for the investment of money as herein permitted as directed by the Issuer (except that no investment shall be made except in compliance with Section 404 hereof), or for the recording or re-recording, filing or re-filing of this Indenture, or any supplement or amendment hereto, or for the validity of the execution by the Issuer of this Indenture, or of any instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof. The Bond Trustee may (but shall be under no duty to) require of the Issuer and the Borrower full information and advice as to the performance of the covenants, conditions and agreements in the Loan Agreement and shall make its best efforts, but without any obligation, to advise the Issuer and the Borrower of any impending default known to the Bond Trustee. Except as otherwise provided in Section 703 hereof, the Bond Trustee shall have no obligation to perform any of the duties of the Issuer under the Loan Agreement.
- (d) The Bond Trustee shall not be accountable for the use or application by the Issuer or the Borrower of any of the Bonds or the Proceeds thereof or for the use or application of any money paid over by the Bond Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any Paying Agent. The Bond Trustee may become the owner of Bonds secured hereby with the same rights it would have if not Bond Trustee.
- (e) The Bond Trustee shall be protected in acting upon any notice, order, requisition, request, consent, certificate, order, opinion (including an opinion of Independent Counsel), affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Bond Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

- (f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Bond Trustee shall be entitled to rely upon a certificate signed on behalf of the Issuer by its President, Chair, Vice Chair or Secretary as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Bond Trustee has been notified as provided in paragraph (h) of this Section, or of which by said paragraph it is deemed to have notice, may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Bond Trustee may accept a certificate of the President, Chair, Vice Chair or Secretary of the Issuer to the effect that a resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.
- (g) The permissive right of the Bond Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Bond Trustee shall not be answerable for other than its gross negligence or willful default.
- (h) The Bond Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Bond Trustee required to be made by Article IV unless the Bond Trustee shall be specifically notified in writing of such default by the Issuer or by any Holder of any Bond then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Bond Trustee must, in order to be effective, be delivered at the corporate trust office of the Bond Trustee, and in the absence of such notice so delivered the Bond Trustee may conclusively assume there is no default except as aforesaid.
- (i) The Bond Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing any Property constituting the Project.
- (j) At any and all reasonable times, the Bond Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all books, papers and records of the Issuer pertaining to the Bonds, and to take such memoranda from and in regard thereto as may be desired.
- (k) The Bond Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.
- (l) Notwithstanding anything elsewhere in this Indenture contained, the Bond Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any money, the release of any Property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Bond Trustee deemed reasonably necessary for the purpose of establishing the right of the Issuer

to the authentication of any Bonds, the withdrawal of any money, the release of any Property or the taking of any other action by the Bond Trustee.

- (m) Before taking any action under this Article VIII hereof the Bond Trustee may require that a satisfactory security or an indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability.
- (n) All money received by the Bond Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law or by this Indenture. Neither the Bond Trustee nor any Paying Agent shall be under any liability for interest on any money received hereunder except such as may be agreed upon.
- (o) The Bond Trustee agrees that it will file all continuation statements in such manner and in such places as may be required by law in order to continue any security interest of the Holders of the Bonds and the rights of the Bond Trustee with respect to each financing statement originally filed in connection with the issuance of the Bonds in the jurisdictions where the original financing statements were filed, if any. The Bond Trustee shall have no responsibility for determining the jurisdictions or the filing requirements to establish perfection of any financing statement proposed to be filed in connection with the issuance of the Bonds.

Section 802. Fees, Charges and Expenses of Bond Trustee and any Additional Paying Agent. The Bond Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Bond Trustee in connection with such services. The Bond Trustee shall be entitled to payment and/or reimbursement for the reasonable fees and charges of the Bond Trustee as Paying Agent and Bond Registrar for the Bonds as hereinabove provided. Any additional Paying Agent shall be entitled to payment and reimbursement for its reasonable fees and charges as additional Paying Agent for the Bonds. Upon an event of default, but only upon an event of default, the Bond Trustee and any additional Paying Agent shall have a right of payment prior to payment on account of interest or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred.

Section 803. Notice to Bondholders if Default Occurs. If a default occurs of which the Bond Trustee is by paragraph (h) of Section 801 hereof required to take notice or if notice of default be given as in said paragraph (h) provided, then the Bond Trustee shall give written notice thereof by mail to the last known owners of all Bonds then Outstanding shown by the Bond Register; provided, however, that if an event of default occurs (other than an event of default under Sections 701(a) and 701(b)) the Bond Trustee may withhold such notice if, in the judgment of the Bond Trustee, such withholding is in the interests of the owners of the Bonds.

Section 804. <u>Intervention by Bond Trustee</u>. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Bond Trustee and its counsel has a

substantial bearing on the interests of owners of the Bonds, the Bond Trustee may intervene on behalf of Bondholders and, subject to the provisions of Section 801(a) and Section 801(m), shall do so if requested in writing by the Holders of the Bonds. The rights and obligations of the Bond Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 805. Successor Bond Trustee. Any corporation, association or other entity into which the Bond Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided such corporation or association is otherwise eligible under Section 806 hereof, shall be and become successor Bond Trustee hereunder and vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 806. <u>Bond Trustee Required; Eligibility.</u> There shall at all times be a Bond Trustee hereunder which shall be a bank or trust company organized under the laws of the United States of America, the State of Tennessee, or any other state authorized to exercise corporate trust powers, subject to supervision or examination by federal or state authorities, and having a reported combined capital and surplus of not less than \$100,000,000. If at any time the Bond Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner provided in Section 807 hereof. No resignation or removal of the Bond Trustee and no appointment of a successor Bond Trustee shall become effective until the successor Bond Trustee has accepted its appointment under Section 810 hereof

Section 807. <u>Resignation by the Bond Trustee</u>. The Bond Trustee and any successor Bond Trustee may at any time resign from the trusts hereby created by giving written notice to the Issuer and the Borrower and by registered or certified mail to each registered owner of Bonds then Outstanding. Such notice to the Issuer and the Borrower may be served personally or sent by registered or certified mail.

Section 808. Removal of the Bond Trustee. The Bond Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Bond Trustee and to the Issuer and signed by the owners of a majority in aggregate principal amount of the Bonds then Outstanding. So long as no event of default has occurred and is continuing under this Indenture or the Loan Agreement and no event shall have occurred which with the passage of time or the giving of notice or both would become an event of default under this Indenture or the Loan Agreement, the Bond Trustee may be removed at any time by an instrument in writing signed by the Issuer and delivered to the Bond Trustee. The foregoing notwithstanding, the Bond Trustee may not be removed by the Issuer unless written notice of the delivery of such instrument or instruments signed by the Issuer is mailed to the owners of all Bonds Outstanding under this Indenture, which notice indicates the Bond Trustee will be removed and replaced by the successor trustee named in such notice (which successor trustee must be consented to by the Issuer), such removal and replacement to become effective on the 90th day next succeeding the date of such notice, unless the owners of not less than ten percent (10%) in aggregate principal

amount of the Bonds then Outstanding under this Indenture shall object in writing to such removal and replacement. Such notice shall be mailed by first class mail postage prepaid to the owners of all Bonds then Outstanding at the address of such owners then shown on the Bond Register.

Section 809. Appointment of Successor Bond Trustee by the Bondholders; Temporary Bond Trustee. In case the Bond Trustee hereunder shall resign or be removed, or be dissolved, or shall be in the process of dissolution or liquidation, or otherwise becomes incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed, with the consent of the Issuer, by the owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized; provided, however, that in case of such vacancy the Issuer by an instrument executed and signed by its President, Chair, Vice Chair or other authorized officer of the Issuer, may appoint a temporary Bond Trustee to fill such vacancy until a successor Bond Trustee shall be appointed by the Bondholders in the manner above provided; provided, further, that if no permanent successor Bond Trustee shall have been appointed by the Bondholders within the six calendar months next succeeding the month during which the Issuer appoints such a temporary Bond Trustee, such temporary Bond Trustee shall without any further action on the part of the Issuer or the Bondholders become the permanent successor Bond Trustee. The foregoing notwithstanding, any such temporary Bond Trustee so appointed by the Issuer shall immediately and without further act be superseded by any successor Bond Trustee so appointed by such Bondholders within the six calendar months next succeeding the month during which such temporary Bond Trustee is appointed.

Concerning Any Successor Bond Trustees. Every successor Bond Section 810. Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the Written Request of the Issuer, or of its successor, execute and deliver an instrument transferring to such successor Bond Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Bond Trustee shall deliver all securities and money held by it as Bond Trustee hereunder to its successors. Should any instrument in writing from the Issuer be required by any successor Bond Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Bond Trustee and the instrument or instruments removing any Bond Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed and/or recorded by the successor Bond Trustee in each recording office, if any, where this Indenture shall have been filed and/or recorded.

Section 811. <u>Bond Trustee Protected in Relying Upon Resolution, Etc.</u>. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Bond Trustee as conclusive evidence of the facts and conclusions stated therein

and shall be full warrant, protection and authority to the Bond Trustee for the release of property and the withdrawal of money hereunder.

- Section 812. <u>Bond Trustee as Paving Agent and Registrar</u>. The Bond Trustee is hereby designated and agrees to act as principal Paying Agent and Bond Registrar for and in respect to the Bonds.
- Section 813. Successor Bond Trustee as Trustee of Funds, Paying Agent and Bond Registrar. In the event of a change in the office of Bond Trustee, the predecessor Bond Trustee which has resigned or been removed shall cease to be trustee of the Debt Service Fund, Optional Redemption Fund, Project Fund, Costs of Issuance Fund, and any other funds provided hereunder and Bond Registrar and Paying Agent for principal of, premium, if any, and interest on the Bonds, and the successor Bond Trustee shall become such Bond Trustee, Bond Registrar and Paying Agent unless a separate Paying Agent or Agents are appointed by the Issuer in connection with the appointment of any successor Bond Trustee.
- Section 814. Required Bond Trustee Reports. The Bond Trustee shall deliver a report to the Issuer, the Borrower and the State of Tennessee thirty days following the end of each calendar quarter (March 31, June 30, September 30 and December 31) detailing the following information for the prior calendar quarter, or more frequently with respect to any shorter period: a statement of all funds (including investments thereof) held by such Bond Trustee and the Issuer pursuant to the provisions hereof; a statement of all payments made by the Borrower pursuant to the Loan Agreement collected in connection herewith.
- Section 815. <u>List of Bondholders.</u> The Bond Trustee, in its capacity as Bond Registrar, shall keep on file at its office the Bond Register. At reasonable times and under reasonable regulations established by the Bond Registrar, said Bond Register may be inspected and copied by the Borrower, the Issuer or the authorized representative of any Holder or Holders of ten percent or more in principal amount of the Bonds Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Bond Registrar.

#### ARTICLE IX

#### SUPPLEMENTAL INDENTURES

- Section 901. <u>Supplemental Indentures Not Requiring Consent of Bondholders.</u> The Issuer and the Bond Trustee may, without the consent of, or notice to, any of the Bondholders, enter into a Supplemental Indenture or Supplemental Indentures, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:
  - (a) to cure any ambiguity or formal defect or omission in this Indenture;
  - (b) to grant to or confer upon the Bond Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders and the Bond Trustee, or either of them;

- (c) to assign and pledge under this Indenture additional revenues, properties or collateral;
- (d) to evidence the appointment of a separate co-trustee or the succession of a new trustee hereunder;
- (e) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification of this Indenture under the Trust Indenture Act of 1939, as then amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any state of the United States of America;
- (f) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the exchange of Bonds from registered form to coupon form and vice versa;
- (g) to make any other change that, in the judgment of the Bond Trustee, does not materially adversely affect the rights of any Bondholders.

Section 902. Supplemental Indentures Requiring Consent of Bondholders. In addition to Supplemental Indentures covered by Section 901 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Holders of not less than a majority in aggregate principal amount of the Bonds which are Outstanding hereunder at the time of the execution of such Supplemental Indenture, or, in the case that less than all of the several series of Bonds Outstanding are affected thereby, the Holders of not less than a majority in aggregate principal amount of the Bonds of each series so affected which are Outstanding at the time of such execution, shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Bond Trustee of such Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that if such modification, alteration, amendment or addition will, by its terms, not take effect so long as any Bonds remain Outstanding, the consent of the Holders of such Bonds shall not be required; provided, further, that nothing in this Section contained shall permit, or be construed as permitting, a Supplemental Indenture to effect: (a) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of paying of interest on, or reduction of any premium payable on the redemption of, any Bonds, without the consent of the Holders of such Bonds; (b) a reduction in the amount or extension of the time of any payment required to be made to or from the Debt Service Fund or any interest or Sinking Fund Redemption applicable to any Bonds without consent of the Holders of such Bonds; (c) the creation of any Lien prior to or on a parity with the lien of this Indenture, without the consent of the Holders of all the Bonds at the time Outstanding; (d) a reduction in the aforesaid aggregate principal amount of Bonds the Holders of which are required to consent to any such Supplemental Indenture or any action permitted by Section 709 hereof, without the consent of the Holders of all the Bonds at the time Outstanding which would be affected by the action to be taken; or (e) a modification of the rights, duties or immunities of the Bond Trustee, without the written consent of the Bond Trustee. Holders of Bonds issued at the time of the execution of any amendatory Supplemental Indenture or thereafter may be deemed to have consented to any amendment described in such amendatory Supplemental Indenture if so provided by the Supplemental Indenture authorizing the issuance thereof.

If at any time the Issuer shall request the Bond Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Bond Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be sent to each Holder of Bonds affected thereby as shown on the Bond Register. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Bond Trustee for inspection by all Bondholders. The Bond Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to give such notice to such Bondholder or a defect in the notice given to such Bondholder, and any such failure or defect as to any Bondholder shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section. If the Holders of the requisite principal amount of Bonds which are Outstanding hereunder at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Bond Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 903. Supplemental Indentures Generally. Anything herein to the contrary notwithstanding, so long as the Borrower is not in default under the Loan Agreement, a Supplemental Indenture under this Article IX which adversely affects the rights of the Borrower under the Loan Agreement shall not become effective unless and until the Borrower shall have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Bond Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture to which the Borrower has not already consented, together with a copy of the proposed Supplemental Indenture and a written consent form to be signed by the Borrower, to be mailed by certified or registered mail to the Borrower at least thirty days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Before the Issuer and the Bond Trustee enter into any supplement to this Indenture, the Issuer or the Bond Trustee may request that the Borrower deliver to the Bond Trustee and the Issuer an Opinion of Bond Counsel to the effect that (i) such supplement is authorized or permitted by the Act and is authorized under this Indenture, (ii) such supplement to this Indenture will, upon the execution and delivery thereof, be valid, binding and enforceable in accordance with its terms, and (iii) such supplement will not adversely affect the exclusion from gross income of the interest on any Bond for purposes of federal income taxation of the Holder of any Bond.

#### ARTICLE X

#### AMENDMENTS TO THE LOAN AGREEMENT

Section 1001. <u>Amendments, Etc. Not Requiring Consent</u>. The Issuer, the Borrower and the Bond Trustee may, without the consent of or notice to the Holders of the Bonds, consent to any amendment, change or modification of the Loan Agreement as may be required or permitted (i) by the provisions of this Indenture or the Loan Agreement, (ii) for the purpose of curing any ambiguity or formal defect or omission, or (iii) in connection with any other change therein which, in the judgment of the Bond Trustee, is not to the prejudice of the Bond Trustee or, in the case of an amendment to the Loan Agreement, the Holders of the Outstanding Bonds.

Section 1002. Amendments, Etc. Requiring Consent of Bondholders. (a) Except for the amendments, changes or modifications as provided in Section 1001 hereof, neither the Issuer nor the Bond Trustee shall consent to any other amendment, change or modification of the Loan Agreement without the written approval or consent, given and procured as in this Section provided, of the Holders of not less than a majority in aggregate principal amount of the Bonds which are Outstanding hereunder at the time of execution of any such amendment, change or modification, or in case less than all of the of the Bonds then Outstanding are affected thereby, the Holders of not less than a majority in aggregate principal amount of the Bonds so affected which are Outstanding hereunder at the time of execution of any such amendment, change or modification; provided, however, that if such amendment, change or modification will, by its terms, not take effect so long as any Bonds remain Outstanding, the consent of the Holders of such Bonds shall not be required. If at any time the Issuer and the Borrower shall request the consent of the Bond Trustee to any such proposed amendment, change or modification of the Loan Agreement, the Bond Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be in the same manner as provided by Section 902 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Bond Trustee for inspection by all Bondholders. The Bond Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to give such notice to such Bondholder or a defect in the notice given to such Bondholder, and any such failure or defect as to any Bondholder shall not affect the validity of such amendment, change or modification when consented to and approved as provided in this Section. If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding hereunder at the time of the execution of any such amendment, change or modification of the Loan Agreement Loan Agreement (or, in either case, the Holders of not less than a majority in aggregate principal amount of the Bonds so affected then Outstanding, as the case may be) shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Borrower, the Bond Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

Section 1003. <u>No Amendment May Alter Borrower Payments</u>. Under no circumstances shall any amendment to the Loan Agreement alter the amount or delay the time

of payments required to be made by the Borrower thereunder on account of the principal, premium, if any, and interest on the Bonds without the consent of the Holders of all the Outstanding Bonds.

Section 1004. <u>Bond Counsel Opinion</u>. Before the Issuer and Bond Trustee consent to any amendment to the Loan Agreement, the Issuer or the Bond Trustee may request that the Borrower deliver to the Bond Trustee and the Issuer an Opinion of Bond Counsel to the effect that such amendment is authorized or permitted by the Act and this Indenture, and that such amendment will, upon the execution and delivery thereof, be valid, binding and enforceable in accordance with its terms.

#### ARTICLE XI

#### SATISFACTION OF THIS INDENTURE

Section 1101. <u>Defeasance</u>. If the Issuer shall pay or provide for the payment of the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on all Bonds Outstanding, as and when the same become due and payable;
- (b) by depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds Outstanding (including the payment of premium, if any, and interest payable on such Bonds to the maturity or Redemption Date thereof), provided that such money, if invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon a verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;
- (c) addition to that by the terms hereof required as a condition of such action by the Bond Trustee
- (d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

and if the Issuer shall pay or cause to be paid all other sums payable hereunder by the Issuer, this Indenture and the estate and rights granted hereunder shall cease, determine, and become null and void, and thereupon the Bond Trustee shall, upon Written Request of the Issuer, and upon receipt by the Bond Trustee of a Borrower Officer's Certificate and an Opinion of Counsel, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, forthwith execute proper instruments acknowledging satisfaction of and discharging this Indenture and the lien hereof. The satisfaction and discharge of this Indenture shall be without prejudice to the rights of the Bond Trustee to charge and be reimbursed by the Issuer and the Borrower for any expenditures which it may thereafter incur in connection herewith.

Any money, funds, securities, or other property remaining on deposit in the Debt Service Fund, Optional Redemption Fund, Project Fund, Costs of Issuance Fund, or in any other fund or investment under this Indenture (other than said Escrow Obligations or other money deposited in trust as above provided) may be deposited with the Bond Trustee pursuant to paragraph (b) or (d) of this Section, upon the Written Request of the Borrower, and, upon the full satisfaction of this Indenture, shall forthwith be transferred, paid over and distributed to the Borrower.

The Issuer or the Borrower may at any time surrender to the Bond Trustee for cancellation by it any Bonds previously authenticated and delivered, which the Issuer or the Borrower may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 1102. <u>Liability of Issuer Not Discharged</u>. Upon the deposit with the Bond Trustee, in trust, at or before maturity, of money or Escrow Obligations in the necessary amount to pay or redeem all Outstanding Bonds (whether upon or prior to their maturity or the Redemption Date of such Bonds) and compliance with the other payment requirements of Section 1101 hereof, provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article V herein provided, or irrevocable instructions to redeem such Bonds shall have been given and provisions satisfactory to the Bond Trustee shall have been made for the giving of such notice, this Indenture may be discharged in accordance with the provisions hereof but the liability of the Issuer upon the Bonds shall continue provided that the Holders thereof shall thereafter be entitled to payment only out of the money or the Escrow Obligations deposited with the Bond Trustee as aforesaid.

- Section 1103. <u>Provision for Payment of all Bonds or any Portion Thereof.</u> If the Issuer shall pay or provide for the payment of the entire indebtedness on all Bonds, or any portion thereof, in any one or more of the following ways:
  - (a) by paying or causing to be paid the principal of (including premium, if any) and interest on all Bonds Outstanding or any such portion thereof, as and when the same shall become due and payable;
  - (b) by depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds Outstanding or any such portion thereof (including the payment of premium, if any, and interest payable on such Bonds to the maturity or Redemption Date thereof), provided that such money, if

invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding or any such portion thereof at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

- (c) by delivering to the Bond Trustee, for cancellation by it, all Bonds Outstanding or any such portion thereof; or
- (d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds or any such portion thereof at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit;

and if the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer with respect to the Bonds or any such portion thereof, and, if the Bonds or any such portion thereof are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article V of this Indenture provided or provisions satisfactory to the Bond Trustee shall have been made for the giving of such notice, such Bonds shall cease to be entitled to any lien, benefit or security under this Indenture. The liability of the Issuer in respect of such Bonds shall continue but the Holders thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the money or Escrow Obligations deposited with the Bond Trustee as aforesaid.

#### ARTICLE XII

#### MANNER OF EVIDENCING OWNERSHIP OF BONDS

Section 1201. <u>Proof of Ownership</u>. Any request, direction, consent or other instrument provided by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture and shall be conclusive in favor of the Bond Trustee and the Issuer, with regard to any action taken by them, or either of them, under such request or other instrument, namely:

- (a) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and
- (b) the ownership of Bonds and the amounts and registration numbers of such Bonds and the date of holding the same shall be proved by the Bond Register.

Any action taken or suffered by the Bond Trustee pursuant to any provision of this Indenture, upon the request or with the assent of any person who at the time is the Holder of any Bond or Bonds, shall be conclusive and binding upon all future Holders of the same Bond or Bonds.

#### **ARTICLE XIII**

#### **MISCELLANEOUS**

Section 1301. <u>Limitation of Rights; Borrower as Third-Party Beneficiary</u>. With the exception of rights expressly conferred by this Section, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto, the Holders of the Bonds and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Holders of the Bonds as herein provided. Notwithstanding the foregoing, to the extent that this Indenture specifically grants certain rights to the Borrower, the Borrower may enforce such rights as a third-party beneficiary.

Section 1302. <u>Unclaimed Money</u>. Any money deposited with the Bond Trustee by the Issuer in order to redeem or pay any Bond in accordance with the provisions of this Indenture which remain unclaimed by the Holders of the Bond for four years after the redemption or maturity date, as the case may be, shall, if the Issuer is not at the time, to the knowledge of the Bond Trustee, in default with respect to any of the terms and conditions of this Indenture or the Bonds, be paid by the Bond Trustee to the Borrower upon its written request therefor; and thereafter the Holders of the Bond shall be entitled to look only to the Borrower for payment thereof. Investment income on any such unclaimed money received by the Bond Trustee shall be deposited as provided in Section 404 hereof until the final maturity or Redemption Date of the Bonds. Any such income generated after such date shall be deemed to be unclaimed money of the type referred to in the first sentence of this Section and shall be disposed of in accordance with such sentence. The Issuer hereby covenants and agrees to indemnify and save the Bond Trustee harmless from any and all loss, costs, liability and expense suffered or incurred by the Bond Trustee by reason of having returned any such money to the Issuer as herein provided.

Section 1303. <u>Severability</u>. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for

any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

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

Section 1304. <u>Notices</u>. Except as otherwise provided in this Indenture, it shall be sufficient service of any notice, request, complaint, demand or other paper on the following parties if the same shall be duly mailed by registered or certified mail and addressed as follows:

#### To the Issuer:

Memphis Center City Revenue Finance Corporation 114 N. Main Street Memphis, Tennessee 38103 Attention: President and CEO

#### With a copy to:

Adams and Reese LLP 6075 Poplar Ave., Suite 700 Memphis, Tennessee 38119 Attention: James B. McLaren Jr., Esq.

#### To the Bond Trustee:

Regions Bank Corporate Trust Services 150 Fourth Avenue North, Suite 1500 Nashville, Tennessee 37219 Attention: Corporate Trust Services

#### To the Borrower:

City of Memphis, Tennessee 125 North Main Street, Room 368 Memphis, Tennessee 38103 Attention: Chief Financial Officer/Director of Finance

#### With a copy to:

City of Memphis, Tennessee 125 North Main Street, Room 336 Memphis, Tennessee 38103 Attention: Chief Legal Officer/City Attorney Section 1305. <u>Counterparts</u>. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1306. <u>Applicable Law</u>. This Indenture shall be governed exclusively by the applicable laws of the State of Tennessee.

Section 1307. Immunity of Officers, Employees and Members of Issuer. No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future officer, director, member, employee or agent of the Issuer, or of any successor public corporation, as such, either directly or through the Issuer or any successor public corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of such Bonds. Notwithstanding any other provision of this Indenture, the Issuer shall not be liable to any person for any failure of the Issuer to take action under this Indenture unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in connection with such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action and reasonable indemnity for taking such action.

Section 1308. <u>Holidays</u>. If the date for making any payment or the date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture and, in the case of payment of principal, premium, if any, or interest, without additional interest.

[Signature Page Follows]

IN WITNESS WHEREOF, THE MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION has caused these presents to be signed in its name and on its behalf by its President and CEO and, to evidence its acceptance of the trusts hereby created, Regions Bank has caused these presents to be signed in its name and on its behalf by one of its authorized signatories, all as of the day and year first above written.

By:	
	nandell Ryan esident and CEO
Pro	esident and CEO
REGIO	ONS BANK, as Bond Truste
By:	
•	AME]
_	ITLE]

MEMPHIS CENTER CITY REVENUE

[Signature Page to Trust Indenture]

#### **EXHIBIT A**

#### FORM OF BOND

No. 2024 R-	•
NO. 2024 K-	$\mathbf{D}$

# UNITED STATES OF AMERICA STATE OF TENNESSEE MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION ECONOMIC DEVELOPMENT BONDS (CITY OF MEMPHIS PROJECT) SERIES 2024

<u>Dated Date</u>	Maturity Date	<u>Interest Rate</u>
October [_], 2024	, 20	%
REGISTERED OWNER: []		
PRINCIPAL SUM:		DOLLARS

The MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION (the "Issuer"), a public nonprofit corporation created under Sections 7-53-101 et seg., Tennessee Code Annotated, as amended (the "Act"), for value received, hereby promises to pay in lawful money of the United States of America to [\_\_\_\_], or registered assigns, on the maturity date specified above, unless this Bond shall be redeemed and shall have previously been called for redemption and payment of the redemption price made or provided for, but solely from (i) amounts payable under the Loan Agreement dated as of October 1, 2024, by and between the City of Memphis, Tennessee (the "Borrower") and the Issuer (the "Loan Agreement"); and (ii) other funds held under the Trust Indenture dated as of October 1, 2024 (the "Indenture"), by and between the Issuer and Regions Bank, as bond trustee (the "Bond Trustee"), specified therefor and not otherwise, upon surrender hereof, the principal sum set forth above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on such principal amount in like manner, but solely from amounts payable under the Loan Agreement and other funds held under the Indenture specified therefor, from the Interest Payment Date (hereinafter defined) next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an Interest Payment Date, in which case from such Interest Payment Date if interest has been paid to such date, provided that such interest shall be payable from the dated date specified above if the date of authentication is prior to the first Interest Payment Date, at the rate per annum specified above, payable on each March 1 and September 1 beginning with March 1, 2025 (each such date being an "Interest Payment Date"), until payment of such principal amount, or provision therefor, shall have been made upon redemption or at maturity. Principal and interest shall be paid in the manner provided by the Indenture.

From and after the Taxable Date, if such date shall occur, the interest rate on this Bond shall be established at a rate equal to the Taxable Rate. Upon the occurrence and continuation of

any event of default under the Indenture, from and after the effective date of such event of default, the interest rate on this Bond shall be established at a rate equal to the Default Rate.

The Bonds, including this Bond, are issued pursuant to and in full compliance with the Constitution and laws of the State of Tennessee, particularly the Act, and pursuant to a resolution adopted and approved by the Issuer, which resolution authorized the execution and delivery of the Indenture. The Bonds and the interest payable thereon do not give rise to a pecuniary liability of the Issuer, the Borrower, the County of Shelby or the State of Tennessee or any political subdivision thereof (except to the extent that the Borrower is obligated under the Loan Agreement) or a charge against the general credit or taxing powers of the Issuer, the Borrower, the County of Shelby, the State of Tennessee or any political subdivision thereof and such Bonds and the interest payable thereon do not now and shall never constitute a debt of the Issuer, the Borrower, the County of Shelby, the State of Tennessee or any political subdivision thereof within the meaning of any constitutional or statutory provision whatsoever. None of the Borrower, the County of Shelby nor the State of Tennessee nor any political subdivision thereof shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer (except to the extent that the Borrower is obligated under the Loan Agreement). No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the Borrower, the County of Shelby or the State of Tennessee or any political subdivision thereof or any charge upon its general credit or its taxing power. The Issuer has no taxing power.

The Bonds, including this Bond, and the interest payable hereon and thereon, are limited obligations of the Issuer and are payable solely from and to the extent of (i) amounts payable under the Loan Agreement, including Non-Property Tax Revenues (as defined in the Indenture) of the Borrower pledged to the payment of the Bonds (other than fees and expenses of the Issuer and the Issuer's right to indemnification in certain circumstances), and (ii) moneys on deposit in any fund held under the Indenture.

This Bond is one of an authorized series of Bonds (hereinafter defined) in the aggregate principal amount of \$ \_\_\_\_\_ designated Economic Development Bonds (City of Memphis Project), Series 2024 (the "Bonds"), issued under the Indenture for the purpose of loaning funds to the Borrower, which will be used to (i) pay Costs of the Project, and (ii) pay costs associated and incurred in connection with the issuance of the Bonds, all as permitted under the Act.

The Bonds are all issued under and equally and ratably secured solely by and entitled to the security of the Indenture, duly executed and delivered by the Issuer to the Bond Trustee, and all of the right, title and interest of the Issuer in and to the Loan Agreement (excluding the right of the Issuer to receive payment of its fees and expenses, the Issuer's right to indemnification in certain circumstances and the Issuer's right to approve, execute and deliver supplements and amendments to the Loan Agreement), are assigned by the Issuer to the Bond Trustee as security for the Bonds. Reference is made to the Indenture, to the Loan Agreement and to all amendments thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Bond Trustee and the rights of the holders of the Bonds, and to all the provisions of which the holder hereof by the acceptance of this Bond assents.

The Bonds are issuable only as registered Bonds and may be transferred by the registered owner to the limited extent and in the manner permitted by the Indenture. The Bonds of each maturity shall be in a denomination equal to the outstanding principal amount of such maturity.

The Bonds maturing on or after September 1, 2027, are subject to redemption prior to their stated maturities from any available moneys at any time on and after March 1, 2027, as a whole, or in part, upon the Written Request of the Borrower to the Purchaser not less than thirty (30) days prior to any such redemption at a Redemption Price equal to the principal amount of such Bonds or portions thereof to be redeemed, together with the interest accrued on such principal amount to the date fixed for redemption; provided that a partial redemption (a) may occur no more than once per year, (b) shall be in a minimum amount of \$1,000,000, and (c) must first be applied to the longest maturities.

The Issuer may also pay or provide for the payment of the entire indebtedness on all the Bonds or any portion thereof by: (a) paying or causing to be paid the principal of, and interest on, all Bonds Outstanding, as and when the same become due and payable; (b) depositing with the Bond Trustee, in trust, at or before maturity, money in an amount sufficient to pay or redeem (when redeemable) all Bonds Outstanding (including the payment of premium, if any, and interest payable on such Bonds to the maturity or Redemption Date thereof), provided that such money, if invested, shall be invested in Escrow Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates; it being understood that the investment income on such Escrow Obligations may be used by or for the benefit of the Borrower for any other purpose under the Act provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit; (c) by delivering to the Bond Trustee, for cancellation by it, all Bonds Outstanding, or (d) by depositing with the Bond Trustee, in trust, Escrow Obligations in such amount as the Bond Trustee shall determine will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, and with any money so deposited which is to remain uninvested, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Bonds Outstanding at or before their respective maturity dates, provided that the Bond Trustee shall be permitted to rely upon an independent certified public accountant's or financial analyst's verification report acceptable to the Bond Trustee and the Issuer as conclusive evidence of the sufficiency of the amount of such deposit. Upon such deposit, such Bonds Outstanding thereof shall cease to be entitled to any lien, benefit or security under the Indenture. The liability of the Issuer shall continue but the holders thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the moneys or Escrow Obligations deposited with the Bond Trustee.]

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In no event may the principal of any Bonds be declared to be immediately due and payable upon the occurrence of any Event of Default under the Indenture. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the Act and under the Indenture precedent to and in the issuance of this Bond, exist, have happened and have been performed, and that the issuance, authentication and delivery of this Bond have been duly authorized by resolution of the Issuer duly adopted.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any past, present or future officer, director, member, employee or agent of the Issuer, or any incorporator, officer, director, member, trustee, employee or agent of any successor public corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officers, directors, trustees, members, employees or agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of any of the Bonds.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Bond Trustee by manual signature.

IN WITNESS WHEREOF, as provided by the Act, the MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION has caused this Bond to be executed in its name and on its behalf by the signatures of its President and Secretary, all as of the dated date specified above.

	MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION
	By:
	President
ATTEST:	
Secretary	

# CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in	the within-mentioned Indenture.
Authentication Date:, 20	
	REGIONS BANK, as Bond Trustee
	By:
	Authorized Officer

# **ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

	(Name and Address of Assignee)
the v	vithin Bond and does hereby irrevocably constitute and appoint, Attorney, to transfer the said Bond on the
Bond Regist	ter thereof with full power of substitution in the premises.
Dated:	
Signature gu	uaranteed:
NOTICE:	The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever. Furthermore, such signature must be guaranteed by a member firm of a Medallion Program acceptable to the Bond Trustee.

#### **EXHIBIT B**

## FORM OF PROJECT COST REQUISITION

REQUISITION #
---------------

Regions Bank Corporate Trust Services 150 Fourth Avenue North, Suite 1500 Nashville, Tennessee 37219 Attention: Corporate Trust Services

Re: Memphis Center City Revenue Finance Corporation Economic Development Bonds (City of Memphis Project), Series 2024

#### Ladies and Gentlemen:

In connection with the Project Fund established under a Trust Indenture dated as of October 1, 2024 (the "Indenture"), by and between the Memphis Center City Revenue Finance Corporation and Regions Bank, as Trustee, as may be amended and supplemented to the date hereof, the undersigned Authorized Officer of the City of Memphis, Tennessee (the "Borrower"), hereby requests disbursement from the Project Fund to each of the following payees in the respective amounts and for the respective purposes set forth below.

# [INSERT THE NAME OF EACH PAYEE, THE STATED PURPOSE(S) IN TERMS SUFFICIENT FOR IDENTIFICATION, AND THE RESPECTIVE STATED DOLLAR AMOUNT TO BE PAID TO EACH PAYEE].

As required by Section 303 of the Indenture, the undersigned does hereby certify as follows:

- 1. The above obligations in the stated amounts constitute Costs of the Project within the meaning of the Indenture and that each item thereof is a proper charge against the Project Fund and has not been paid or reimbursed, as the case may be, from the proceeds of the Bonds.
- 2. This requisition contains no item representing payment on account of any retained percentage which the Borrower or any grantee of the Borrower is at the date of such requisition entitled to retain, unless the Borrower or such grantee has waived such retention right.
- 3. There is no outstanding indebtedness known to the Borrower, after due inquiry, for work, materials or supplies which, if unpaid, could be the basis for a vendor's or mechanic's or similar lien on the Project or any part of it, other than indebtedness to be paid pursuant to the requisition or from amounts withheld to secure completion, and no notice of any lien or claim affecting the right of any Person to receive a payment requested in this requisition has been filed with or served upon the Borrower or any grantee of the Borrower.

- 4. The withdrawal and use of the Project Fund money for the purpose intended will not cause any representations or certifications of the Borrower made herein or in the Loan Agreement to be untrue.
  - 5. As to any payment to be made under a construction contract:
  - (i) the Borrower or any grantee of the Borrower has obtained written waiver by the construction manager or general contractor under such contract of mechanics' and vendors' liens for all work and material described in the requisition performed or furnished by such construction manager or general contractor; and
  - (ii) either (a) a lien search report dated within two business days of the date of the requisition reflects no liens, stop notices or other evidence of nonpayment of any mechanic, materialman or other person; or (b) the Borrower or any grantee of the Borrower shall have received waivers of mechanics' and vendors' liens for all work and material performed or furnished to the Project from all others (other than the construction manager or general contractor); and
  - (iii) the contractor is entitled to payment in the amount shown in this requisition.

Capitalized terms used but not defined herein have the meaning set forth in the Indenture.

#### CITY OF MEMPHIS, TENNESSEE

Dated:	By:
	Authorized Officer

45369745.2

#### LOAN AGREEMENT

#### BY AND BETWEEN

THE CITY OF MEMPHIS, TENNESSEE

AND

MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION

ECONOMIC DEVELOPMENT BONDS (CITY OF MEMPHIS PROJECT) SERIES 2024

DATED AS OF OCTOBER 1, 2024

The rights of the Memphis Center City Revenue Finance Corporation hereunder have been assigned to Regions Bank, as Bond Trustee, under a Trust Indenture dated as of October 1, 2024, from the Memphis Center City Revenue Finance Corporation except to the extent such rights constitute Unassigned Rights as defined herein.

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This is a LOAN AGREEMENT dated as of October 1, 2024 (herein referred to sometimes as this "Loan Agreement"), by and between the CITY OF MEMPHIS, TENNESSEE, a Tennessee municipal corporation (the "Borrower"), and the MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION (the "Issuer"), a public nonprofit corporation created and existing under and by virtue of Sections 7-53-101 et seq., Tennessee Code Annotated, as amended (the "Act").

#### PRELIMINARY STATEMENT

The Issuer and Regions Bank, as bond trustee (the "Bond Trustee"), have entered into a Trust Indenture (as the same may from time to time be supplemented, amended and restated, the "Trust Indenture") dated as of October 1, 2024, authorizing and providing for the issuance of Bonds to (i) pay Costs of the Project and (ii) pay certain expenses incurred in connection with the issuance of Bonds, all as permitted under the Act (collectively, "Financing Purposes").

The Borrower desires to obtain the proceeds of the Bonds, which will be loaned to the Borrower hereunder for Financing Purposes.

Pursuant to the Act, the Issuer desires to obtain funds for such loan to the Borrower by the issuance and sale of its Economic Development Bonds (City of Memphis Project), Series 2024 (the "Bonds"), issued under and secured by the Trust Indenture. Pursuant to the Trust Indenture, the Issuer will pledge and assign its rights under this Loan Agreement (except for the right of the Issuer to receive payment of its fees and expenses, the Issuer's right to indemnification under this Loan Agreement, the Issuer's right to approve, execute and deliver supplements, amendments and restatements to this Loan Agreement, the Issuer's right to grant consents under this Loan Agreement, and the rights provided the Issuer in Section 11.7 hereof, herein referred to collectively as the "Unassigned Rights"), as security for Bonds issued under the Trust Indenture. Also pursuant to the Trust Indenture, an amount equal to the principal of, premium, if any, and interest on the Bonds will be payable to the Bond Trustee, solely out of (i) the payments to be made by the Borrower under this Loan Agreement (except for Unassigned Rights) and (ii) money on deposit in certain funds held under the Trust Indenture (collectively, the "Funds").

In consideration of the premises, the respective representations and agreements contained herein, the acceptance of this Loan Agreement by the Issuer to evidence said loan to the Borrower and for other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest payable under this Loan Agreement and the performance of all the covenants of the Borrower contained herein, the parties hereto agree as follows:

#### ARTICLE I

#### **DEFINITIONS**

Unless the context requires otherwise, the capitalized terms used and not otherwise defined in this Loan Agreement shall have the same meanings as set forth in the Trust Indenture.

All accounting terms not otherwise defined in the Trust Indenture or herein shall have the meanings assigned to them in accordance with generally accepted accounting principles.

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

#### **ARTICLE II**

#### REPRESENTATIONS

Section 2.1. *Representations by the Issuer*. The Issuer represents and warrants that:

- (a) The Issuer is a public nonprofit corporation validly created and existing under the Act, is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder, has been duly authorized to execute and deliver this Loan Agreement and agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.
- (b) The issuance and sale of the Bonds, the loan of the proceeds of Bonds to the Borrower to provide a portion of the money required for the Financing Purposes, the approval, execution and delivery of this Loan Agreement and the Trust Indenture, the performance of all covenants and agreements of the Issuer contained in this Loan Agreement and the Trust Indenture, and of all other acts and things required under the Constitution and laws of Tennessee to make this Loan Agreement a valid and binding obligation enforceable against the Issuer in accordance with its terms, are authorized by the Act and have been duly authorized by proceedings of the Issuer adopted at meetings thereof which were duly called and held.
- (c) To provide funds to loan to the Borrower for Financing Purposes, the Issuer has authorized the Bonds to be issued upon the terms set forth in the Trust Indenture, under the provisions of which Trust Indenture the Issuer's interest in this Loan Agreement and the payments of principal, interest and other revenues hereunder (other than Unassigned Rights) are pledged and assigned to the Bond Trustee as security for the payment of the principal of, premium, if any, and interest on the Bonds.
- (d) The execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate restriction or of any agreement or instrument to which the Issuer is now a party and do not and will not constitute a default under any of the foregoing. Furthermore, the recitals of fact and statements contained in this Loan Agreement with respect to the Issuer are true.
- (e) No litigation, proceeding or investigation is pending or, to the knowledge of the Issuer, threatened against the Issuer seeking to restrain, enjoin or in any way limit the approval, issuance or delivery of the Bonds or this Loan Agreement by the Issuer or which would in any manner challenge or adversely affect the corporate existence or powers of the Issuer to enter into or carry out the transactions described in or contemplated by, the execution, delivery or validity of

or the performance by the Issuer of the terms and provisions of, this Loan Agreement or the Trust Indenture.

- Section 2.2. *Representations and Warranties by the Borrower*. The Borrower makes the following representations and warranties as the basis for its covenants herein:
- (a) The Borrower is duly authorized and has full power under the laws of Tennessee and all other applicable provisions of law and its charter and bylaws to create, issue, enter into, execute and deliver, as the case may be, this Loan Agreement; all action on its part necessary for the valid execution and delivery of this Loan Agreement has been duly and effectively taken; and this Loan Agreement, in the hands of the holder hereof, will be the legal and valid obligation of the Borrower.
- (b) The execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate restriction or of any agreement or instrument to which the Borrower is now a party and do not and will not constitute a default under any of the foregoing. Furthermore, the recitals of fact and statements contained in this Loan Agreement with respect to the Borrower are true.
- (c) No litigation, proceeding or investigation is pending or, to the knowledge of the Borrower, threatened against the Borrower seeking to restrain, enjoin or in any way limit the approval, issuance or delivery of the Bonds by the Issuer or this Loan Agreement by the Borrower or which would in any manner challenge or adversely affect the corporate existence or powers of the Borrower to enter into or carry out the transactions described in or contemplated by, the execution, delivery or validity of or the performance by the Borrower of the terms and provisions of, this Loan Agreement. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Borrower, threatened against it except litigation, proceedings or investigations involving claims for which the probable ultimate recoveries and the estimated costs and expenses of defense, in the opinion of the Borrower (i) will be entirely within its applicable insurance policy coverage limits, subject to applicable deductibles or (ii) will not have a material adverse effect on the operations or condition, financial or otherwise, of the Borrower, taken as a whole.
- (d) This Loan Agreement and any other written statement furnished by the Borrower to the Issuer do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein or herein not misleading. There is no fact which the Borrower has not disclosed to the Issuer which materially adversely affects or, so far as the Borrower can now foresee, will materially adversely affect the financial condition of the Borrower, its ability to own, operate and lease its facilities or its ability to make the payments under this Loan Agreement when and as the same become due and payable.
- (e) The Borrower represents and warrants that the proceeds of the Bonds will be used solely for Financing Purposes, which are deemed to be a "project" as defined in Section 7-53-101 of the Act, all for use in connection with its governmental purposes.

#### **ARTICLE III**

#### THE PROJECT

Section 3.1. *Completion of the Project*. The Borrower agrees to use reasonable efforts to cause the Project to be constructed, renovated, rehabilitated, remodeled, furnished and equipped and completed with reasonable dispatch.

#### **ARTICLE IV**

# PROJECT FUND; INVESTMENT OF FUNDS

Section 4.1. *Operation of the Project Fund.* 

- (a) Disbursements from the Project Fund. The Borrower agrees that money on deposit in the Project Fund shall be disbursed by the Bond Trustee only in accordance with or as permitted by the provisions of Section 303 of the Trust Indenture.
- (b) Disposition of Surplus Project Fund Money. The Borrower agrees that if after payment by the Bond Trustee of amounts requested pursuant to Written Requests theretofore tendered under the provisions of Section 303(b) of the Trust Indenture there shall remain any money in the Project Fund, such money may be withdrawn and shall be used or deposited as provided in Section 303(d) of the Trust Indenture.
- Section 4.2. *Investment of Funds*. The Borrower agrees that money at any time on deposit in any Fund created under the Trust Indenture shall at all times be invested or reinvested by the Bond Trustee in Permitted Investments in the manner and to the extent provided in the Trust Indenture and that the Borrower will take all actions necessary, including without limitation providing the Bond Trustee with all necessary directions, to assure that such money is invested in accordance with the provisions of the Trust Indenture.

#### **ARTICLE V**

#### **ISSUANCE OF THE BONDS**

- Section 5.1. *Proceeds of the Bonds; Security Interest in Funds*. The Borrower agrees that the proceeds of the Bonds being loaned to the Borrower under this Loan Agreement shall be deposited with the Bond Trustee and applied as provided in the Trust Indenture. The Borrower hereby assigns to the Issuer, and grants a security interest to the Issuer in, all right, title and interest of the Borrower in any funds held by the Bond Trustee pursuant to the Trust Indenture, except as otherwise provided in the Trust Indenture.
- Section 5.2. Payment of the Bonds; Assignment of Loan Agreement. The Borrower agrees that the principal of, premium, if any, and interest on the Outstanding Bonds shall be made payable in accordance with the provisions of the Trust Indenture and this Loan Agreement and that this Loan Agreement and payments to be made hereunder (excluding Unassigned Rights) shall be assigned and pledged to the Bond Trustee to secure the payment of the Bonds.

Section 5.3. Right of Bond Trustee to Enforce Loan Agreement. The Borrower agrees that this Loan Agreement and the Trust Indenture, and all of the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer hereunder and under the Trust Indenture, may be protected and enforced in conformity with the Trust Indenture and (excluding Unassigned Rights) may be thereby assigned by the Issuer to the Bond Trustee as additional security for the Bonds and may be exercised, protected and enforced for or on behalf of the Bondholders in conformity with the provisions of this Loan Agreement and the Trust Indenture.

# **ARTICLE VI**

# PAYMENTS HEREUNDER; FUND DEPOSITS; PREPAYMENTS AND OTHER PAYMENTS

- Section 6.1. Payment of Principal, Premium, if any, and Interest. The Borrower will duly and punctually pay the principal of, premium, if any, and interest payable under this Loan Agreement, and any other payment pledged under the Trust Indenture at the dates and the places, in the manner mentioned in and subject to the limitations set forth in this Loan Agreement or in any additional instrument pledged under the Trust Indenture, according to the true intent and meaning hereof and thereof. Notwithstanding any schedule of payments under this Loan Agreement or any other instrument pledged under this Loan Agreement or the Trust Indenture, the Borrower agrees to make payments hereunder and thereunder and to be liable therefor at such times and in such amounts (including principal, premium, if any and interest) so as to provide for payment of the principal of, premium, if any, and interest on the Bonds from time to time Outstanding under the Trust Indenture when due, whether upon a scheduled interest payment date or at maturity.
- Section 6.2. Payment of Non-Property Tax Revenues. To provide for payments and prepayments under this Loan Agreement, the Borrower covenants and agrees to appropriate and pay to the Bond Trustee, on or before the 25<sup>th</sup> day of the month prior to each Interest Payment Date, a portion of Non-Property Tax Revenues, in accordance with Section 6-54-118, Tennessee Code Annotated, sufficient to provide for deposit and/or payment by the Bond Trustee in accordance with and as prescribed by the Trust Indenture. Notwithstanding the forgoing, payments of Non-Property Tax Revenues by the Borrower pursuant to this Loan Agreement are subject to annual appropriation by the Borrower, and the provisions of this Section shall not preclude the Borrower from using Non-Property Tax Revenues for any other purpose, including the payment of other indebtedness of the Borrower.
- Section 6.3. *Credits toward Obligations*. Notwithstanding any provision contained in this Loan Agreement or in the Trust Indenture to the contrary, in addition to any credits toward payments under this Loan Agreement resulting from the payment or prepayment thereof from other sources, the Borrower shall receive credits for the following:
- (a) Interest and Principal. Any money on deposit from funds provided by the Borrower under this Loan Agreement or otherwise (including from the Non-Property Tax Revenues paid to the Bond Trustee in accordance with the provisions of Section 6.2 hereof) deposited in the Debt Service Fund shall be credited against the obligations of the Borrower under Section 6.1 hereof to

pay interest and principal under this Loan Agreement as the same become due in order to provide for the payment of interest and principal on the Outstanding Bonds as the same become due.

(b) Purchase of Bonds. The principal amount of Bonds of any maturity purchased by the Borrower and delivered to the Bond Trustee for cancellation, or purchased by the Bond Trustee on behalf of the Borrower and cancelled, shall be credited against the obligation of the Borrower to pay under this Loan Agreement the principal (including through a mandatory Sinking Fund Redemption) in connection with the Bonds of the maturity so purchased. Such purchases may be made by the Borrower in such order as the Borrower shall elect prior to such purchase or, if no such election is made prior to such purchase, in the inverse order thereof; provided, however, that the purchase of a Bond of one maturity may not be credited against a payment under this Loan Agreement which would be used, in the normal course, for payment of the principal of another maturity of Bonds.

Section 6.4. *Prepayment Generally*. The Borrower shall be permitted to prepay its obligations under this Loan Agreement to the extent and in the manner permitted by the Trust Indenture and for the redemption of Bonds. In addition, if such prepayment is made in compliance with the terms of the Trust Indenture, the Issuer agrees to accept prepayment of payments payable under this Loan Agreement to the extent required to provide for a permitted purchase, prepayment or refunding of the Bonds. No other prepayment of payments payable under this Loan Agreement shall be permitted. Such prepayments shall be made by paying to the Bond Trustee an amount sufficient, together with income from any investments of funds permitted by the Trust Indenture for such purpose, to redeem (when redeemable) all or a part of the Bonds of the maturity designated by the Borrower at the redemption prices specified therefor in the Trust Indenture. Any prepayment pursuant to this Section shall include accrued interest and premium, if any, required for redemption of the Bonds to be redeemed by such prepayment. Notwithstanding any prepayment for a part of the Outstanding Bonds made pursuant to this Section, the Borrower is obligated to make payments payable under this Loan Agreement to the extent any portion of the Bonds remains Outstanding.

Section 6.5. Notice of Prepayment. The Borrower shall give the Issuer and the Bond Trustee a written notice of any optional prepayment made under this Loan Agreement, which notice shall be given not later than the date notice of redemption is required to be given to Bondholders pursuant to the Indenture. The notice from the Borrower shall designate the date of prepayment and the amount thereof and direct the redemption of Bonds of the maturity designated by the Borrower in the Written Request and in the amounts corresponding to the prepayment made under this Loan Agreement. Such notice may be withdrawn by the Borrower prior to delivery to the Bondholders by the Bond Trustee of notice of redemption pursuant to the Trust Indenture or in connection with the recession of any conditional notice of redemption pursuant to the Trust Indenture.

Section 6.6. Effect of Partial Prepayment. Upon any partial prepayment under this Loan Agreement, each installment of interest which shall thereafter be payable under this Loan Agreement shall be reduced, taking into account the interest rate or rates on the Bonds remaining Outstanding after the redemption of Bonds from the proceeds of such partial prepayment and after the purchase, delivery and cancellation of the Bonds described in Section 6.3(b) hereof, so that the interest remaining payable under this Loan Agreement shall be sufficient to pay the interest on such Outstanding Bonds when due.

- Section 6.7. *Principal Schedules*. On the date of any partial prepayment under this Loan Agreement, the Borrower, upon consultation with the Bond Trustee, shall deliver to the Issuer an amortization schedule setting forth the amount of the principal installments to be paid under this Loan Agreement after the date of such partial prepayment and the unpaid principal balance remaining after payment of each such installment.
- Section 6.8. *Additional Payments*. The Borrower agrees to pay the following items to the following persons as additional payments under this Loan Agreement:
- (1) To the Bond Trustee when due, all fees including any disbursements, expenses or advances of the Bond Trustee for services rendered under the Trust Indenture and all fees and charges of any Paying Agents, registrars, counsel, accountants, consultants, engineers and other persons incurred in the performance of services under the Trust Indenture on request of the Bond Trustee for which the Bond Trustee and such other persons are entitled to payment or reimbursement;
- (2) To the Issuer, upon demand, all fees and expenses incurred by the Issuer in relation to this Loan Agreement or the Bonds which are not otherwise required to be paid by the Borrower under the terms of this Loan Agreement, and all fees, expenses, taxes and assessments of the Issuer as provided for under the Act;
- (3) To the Bond Trustee, the amount of all advances of funds made by the Bond Trustee under the provisions of the Trust Indenture with respect to the Trust Indenture or this Loan Agreement, with interest thereon at the Bond Trustee's announced prime rate per annum then in effect from the date of each such advance; and
- (4) To the Bond Trustee to indemnify and save the Bond Trustee harmless from any and all loss, costs, liability and expense suffered or incurred by the Bond Trustee by reason of having returned any unclaimed money to the Borrower as provided by Section 1302 of the Indenture.
- (5) To the Issuer at the requisite times the amounts, as computed by the Borrower, required by Section 148(f) of the Code to be paid to the United States Department of the Treasury in connection with the Bonds.

# **ARTICLE VII**

# **COVENANTS OF THE BORROWER**

Section 7.1. *Maintenance of Corporate Existence and Status*. The Borrower covenants and agrees that, as long as any of the Bonds remains Outstanding, it will maintain its existence as a municipal corporation organized under the laws of the State of Tennessee and that it will not take any action nor suffer any action to be taken by others which will alter, change or destroy such status unless the successor governing body, whether the Borrower or another entity, retains or assumes all of the obligations of the Borrower under this Loan Agreement, the Trust Indenture and the Bonds.

Section 7.2. Consent to Assignment of Rights to the Bond Trustee. The Borrower agrees that this Loan Agreement and all payments to be made hereunder (excluding Unassigned Rights) shall be assigned and pledged to secure the payment of the Bonds and all of the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer thereunder may be protected and enforced in conformity with the Trust Indenture, and may be assigned by the Issuer to the Bond Trustee as additional security for the Bonds.

Maintenance; Recording. The Borrower, at its own expense, will take all Section 7.3. necessary action to maintain and preserve this Loan Agreement, the Bonds and the Trust Indenture so long as any portion of the indebtedness or other financial obligation under this Loan Agreement remains unpaid. The Borrower will, forthwith after the execution and delivery of this Loan Agreement and thereafter from time to time, cause this Loan Agreement, the Bonds, the Trust Indenture, all documents securing this Loan Agreement, any other document securing any obligation pledged under the Trust Indenture (including any amendments and supplements thereof) and any financing statements in respect thereof to be filed, registered and recorded in such manner and in such places as may be required by law in order to publish notice hereof and thereof and fully to perfect and protect the lien of the Trust Indenture upon the trust estate referred to therein or any part thereof. Furthermore, the Borrower, at its own expense, from time to time, will perform or cause to be performed any other act as provided by law and will execute or cause to be executed any and all continuation statements and further instruments that may be requested by the Bond Trustee for such publication, perfection and protection. Except to the extent it is exempt therefrom, the Borrower will pay or cause to be paid all filing and registration and recording fees incident to such filing and registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Loan Agreement, the Bonds, the Trust Indenture, any obligation pledged under the Trust Indenture and any other instruments of further assurance.

Section 7.4. *Protection of Non-Property Revenues*. The Borrower covenants that it will not take any action or permit any action to be taken which would cause the Project, including any ancillary structure or facility associated with the Project, to cease to be qualified as a "project" under the Act, in each case if the same would result in the termination or the diminution, in any way material to the security for or payment of the Bonds.

Section 7.5. *Books and Records*. The Borrower covenants that it will keep or cause to be kept proper books of records and accounts, in which entries which are full, true and correct in all material respects, for all dealings or transactions of, or in relation to, the business and affairs of the Borrower in accordance with generally accepted principles of accounting consistently applied.

Section 7.6. *Indemnity*. To the extent permitted by law and without representation that it is permitted by law, the Borrower will pay, and will protect, indemnify and save harmless the Issuer and the Bond Trustee and their officers, directors, employees, and counsel from and against any and all liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses of the Borrower, the Issuer and the Bond Trustee), causes of action, suits, claims, demands and judgments of whatsoever kind and nature (including those arising or resulting from any injury to or death of any person or damage to property) arising from or in any manner directly or indirectly growing out of or connected with the following:

- (1) the use, non-use, condition or occupancy of any of the Borrower's facilities included in the Project, any repairs, construction, alterations, renovation, relocation, remodeling and equipping thereof or thereto or the condition of any of such facilities including adjoining sidewalks, streets or alleys and any equipment at any time located on such facilities or used in connection therewith but which are not the result of the negligence of the Issuer or the Bond Trustee;
- (2) violation of any agreement, warranty, covenant or condition of this Loan Agreement by the Borrower;
- (3) violation of any contract, agreement or restriction by the Borrower relating to such facilities;
- (4) violation by the Borrower of any law, ordinance, regulation or court order affecting such facilities or the ownership, occupancy or use thereof;
- (5) any statement or information concerning the Borrower, any of its directors, officers, trustees or agents or its or their property furnished to the Issuer or the purchaser of any of the Bonds, that is untrue or incorrect in any material respect or omits to state a material fact necessary to make such statements or information not misleading in any material respect, provided that such statement or information has been approved by the Borrower and the indemnified party did not have knowledge of the omission or misstatement or did not use such statement or information with reckless disregard of, or gross negligence in regard to, the accuracy or completeness thereof;
- (6) the issuance of the Bonds, the duties, activities, acts or omissions of any Person in connection with the issuance of the Bonds, or the obligations of the various parties arising under the bond documents, or the duties, activities, acts or omissions of any Person in connection with the design, construction, installation, operation, or maintenance of the Project; and
- (7) the failure of any remarketing agent or any broker or dealer to comply in all respects with all state and federal securities and other laws in connection with the marketing of the Bonds.

Such indemnity shall extend to each person, if any, who "controls" the Issuer or the Bond Trustee, as the case may be, as that term is defined in Section 15 of the Securities Act of 1933, as amended.

The Issuer or the Bond Trustee shall promptly notify the Borrower in writing of any claim or action brought against the Issuer, the Bond Trustee or any controlling person, as the case may be, in respect of which indemnity may be sought against the Borrower under this Section 7.6, setting forth the particulars of such claim or action. The Borrower will assume the defense thereof, including the employment of counsel satisfactory to the Issuer, the Bond Trustee, or such controlling person, as the case may be, and the payment of all expenses. The Issuer, the Bond Trustee or any such controlling person, as the case may be, may employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall not be payable by the Borrower unless such employment has been specifically authorized in writing by the Borrower.

The obligations of the Borrower set forth in this Section 7.6 shall survive the termination of this Loan Agreement and shall remain in effect with respect to any event occurring prior to the time when all Bonds shall have been paid in full.

The Issuer shall not be required to take any action not expressly required herein. Further, the other provisions hereof or of the Trust Indenture notwithstanding, the Issuer shall not be obligated to take any action or execute any document which might in its reasonable judgment result in any expense or liability upon the Issuer unless the Issuer shall have been furnished with assurance of payment or reimbursement for any expense, and with reasonable indemnity for liability of, the Issuer, its incorporators, directors, officers and counsel.

Section 7.7. Discharge of Orders, Etc.. The Borrower covenants to cause any order, writ or warrant of attachment, garnishment, execution, replevin or similar process filed against any part of the funds or accounts held by the Bond Trustee under the Trust Indenture to be discharged, vacated, bonded or stayed within 90 days after such filing (which 90-day period shall be extended for so long as the Borrower is contesting such process in good faith), but, notwithstanding the foregoing, in any event not later than five days prior to any proposed execution or enforcement with respect to such filing or any transfer of money or investments pursuant to such filing.

Section 7.8. *Tax Exemption*. In order to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Bonds, the Borrower shall comply with the provisions of the Code applicable to the Bonds, including without limitation the provisions of the Code relating to the computation of the yield on investments of the "gross proceeds" of the Bonds, as such term is defined in the Code, and reporting of the earnings on such gross proceeds and rebates of earnings on such gross proceeds to the United States Department of the Treasury. All necessary computations of the yield on investments and of the amount required to be rebated to the United States Department Treasury shall be made by the Borrower at times and in amounts required by the Code. In furtherance of the foregoing, the Issuer shall comply with the provisions of the Tax Certificate and with such written instructions as may be provided by Bond Counsel or a special tax counsel.

The Borrower shall not take any action or fail to take any action which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code; nor shall any part of the proceeds of the Bonds or any other funds of the Issuer be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code.

The Borrower shall make any and all payments required to be made pursuant to Section 6.8(5) hereof at times and in amounts sufficient to enable the Issuer to make all payments required to be made to the United States Department of the Treasury in connection with the Bonds pursuant to Section 148(f) of the Code. The obligation of the Borrower to comply with the provisions of this Section 7.8 with respect to payments of rebates to the United States Department of the Treasury shall remain in full force and effect so long as the Issuer shall be required by the Code to rebate such earnings on the gross proceeds of the Bonds notwithstanding that the Bonds are no longer Outstanding.

Section 7.9. *Appropriations*. The Borrower covenants that it shall include in its annual budget and appropriate for payment to the Bond Trustee from its Non-Property Tax Revenues, and deposit in the Debt Service Fund, the amount necessary, together with all other amounts on deposit or to be deposited therein, to pay the principal of, premium, if any, and interest on the Bonds by the time moneys are required by the Trust Indenture to be on deposit in the Debt Service Fund for such purpose.

## **ARTICLE VIII**

# **EVENTS OF DEFAULT AND REMEDIES**

- Section 8.1. *Events of Default*. The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:
- (a) failure of the Borrower to make any payment of any installment of interest, principal or premium under this Loan Agreement or any other obligation pledged under the Trust Indenture or any other payment required by Section 6.1 or 6.2 hereof when the same shall become due and payable, whether upon a scheduled Interest Payment Date, at maturity, upon any date fixed for prepayment, or purchase in lieu of redemption or otherwise;
- (b) failure of the Borrower to comply with or perform any of the other covenants, conditions or provisions of this Loan Agreement and to remedy such default within 60 days after notice thereof from the Issuer or the Bond Trustee to the Borrower, unless such default is such that it is capable of being remedied but cannot be remedied within such 60 day period and corrective action is instituted by the Borrower within such 60 day period and is diligently pursued until such default is remedied;
- (c) proof that any representation or warranty made by the Borrower herein or in any statement or certificate furnished to the Issuer or the Bond Trustee or the purchaser of the Bonds in connection with the sale of the Bonds or furnished by the Borrower pursuant hereto is or was untrue in any material respect as of the date of the issuance or making thereof and shall not be made good within 30 days after notice thereof to the Borrower by the Issuer or the Bond Trustee;
- (d) insolvency or bankruptcy of the Borrower, the inability of the Borrower to pay its debts as they mature, failure of the Borrower to generally pay its debts as such debts become due, an assignment by the Borrower for the benefit of its creditors, application for, or consent by the Borrower to, the appointment of a trustee, custodian or receiver for the Borrower or for a material part of the Property of the Borrower;
- (e) appointment of a trustee, custodian or receiver for the Borrower or for the material part of the Property of the Borrower which is not discharged within 30 days after such appointment;
- (f) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, proceedings under Title 11 of the United States Code, as amended, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors instituted by or against the Borrower (other than bankruptcy proceedings instituted by the Borrower against third parties) which, if instituted against the Borrower, is allowed, consented to or is not dismissed, stayed or otherwise nullified within 30 days after such institution;

- (g) failure to pay any installment of interest, principal or premium on any Bond when the same shall become due and payable under the provisions of the Trust Indenture as a result of any act or failure to act by the Borrower which is not in accordance with the provisions of this Loan Agreement; or
- (h) failure of the Borrower to comply with or perform its obligations pursuant to Section 7.1 or 7.7 hereof.

The Borrower will give immediate notice to the Issuer and the Bond Trustee of the occurrence of any event of default described in Section 8.1(d)-(h).

- Section 8.2. *Remedies Upon Default*. Upon the occurrence and during the continuance of any event of default hereunder, the Issuer shall have the following rights and remedies, in addition to any other remedies herein or by law provided:
- (a) Right to Bring Suit, Etc. The Bond Trustee, on behalf of the Issuer, with or without entry, personally or by attorney, may, in its discretion, proceed to protect and enforce its rights by pursuing any available remedy, including a suit or suits in equity or at law, whether for damages, for the specific performance of any obligation, covenant or agreement contained in or related to this Loan Agreement or the Trust Indenture, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the Bond Trustee shall deem most effectual to collect the payments then due and thereafter to become due under this Loan Agreement or any other obligation pledged under the Trust Indenture, to enforce performance and observance of any obligation, agreement or covenant of the Borrower hereunder or thereunder or to protect and enforce any of the Issuer's rights or duties hereunder or thereunder. Notwithstanding anything herein to the contrary, in no event shall any obligation of the Borrower under this Loan Agreement be accelerated upon an event of default hereunder or otherwise.
- (b) Application of Proceeds of Remedies. The proceeds resulting from the exercise of any such remedies, together with any other sums which then may be held by the Issuer or the Bond Trustee under this Loan Agreement, whether under the provisions of this Article or otherwise, and which are available for such application shall be applied as follows:

FIRST: To the payment of the costs and expenses of the exercise of such remedies, including reasonable compensation to the respective agents, attorneys and counsel of the Issuer and the Bond Trustee, the expenses of any judicial proceedings wherein the remedies are pursued and all expenses, liabilities and advances made or incurred by the Issuer, the Bond Trustee and their respective agents, attorneys and counsel, as permitted by this Loan Agreement, together with interest at the Bond Trustee's announced prime rate per annum then in effect on all such advances; and to the payment of all taxes, assessments or claims incurred with respect to the Property of the Borrower prior to the time of the claim for which the remedy was obtained, except any taxes, assessments, liens or other charges, subject to which Property may have been sold.

SECOND: As provided by Section 705(a) of the Trust Indenture.

THIRD: To the payment of any other sums required to be paid by the Borrower pursuant to this Loan Agreement or any other obligations pledged under the Trust Indenture.

FOURTH: To the payment of any other sums required to be paid by the Borrower pursuant to any provision of the Trust Indenture.

FIFTH: If any surplus remains, to the Borrower, its successors or assigns, upon the written request of the Borrower, to whomsoever may be lawfully entitled to receive the same upon written request, or as any court of competent jurisdiction may direct.

Section 8.3. *Remedies Cumulative*. No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute.

Section 8.4. *Delay or Omission Not a Waiver*. No delay or omission of the Issuer in the exercise of any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Loan Agreement to the Issuer may be exercised from time to time and as often as may be deemed expedient by the Issuer.

Section 8.5. Waiver of Extension, Appraisement, Stay, Laws. To the extent permitted by law, the Borrower will not, during the continuance of any event of default hereunder, insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension of law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Loan Agreement; nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisement of any of the Borrower's property prior to any sale or sales thereof which may be made pursuant to any provision herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted by the United States of America or by any state or territory thereof, or otherwise, to redeem the property so sold or any part thereof; and, to the extent permitted by law, the Borrower hereby expressly waives all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Issuer, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 8.6. Remedies Subject to Provisions of Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and be limited to the extent necessary so that they will not render this Loan Agreement invalid or unenforceable under the provisions of any applicable law.

# ARTICLE IX

# SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT

Section 9.1. Supplements and Amendments to this Loan Agreement. The Borrower and the Issuer, with the consent of the Bond Trustee and the Purchaser, may from time to time enter into such supplements and amendments to- this Loan Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof; provided, however, that no such amendment shall be effective if not adopted in accordance with the terms of the Trust Indenture. In this regard, any and all supplements and amendments to this Loan Agreement, and the execution and delivery thereof, shall be subject to the provisions of Article X of the Trust Indenture. Upon the execution of any such supplement or amendment by the parties hereto as in this Section permitted and provided, this Loan Agreement shall be deemed to be supplemented, modified and amended in accordance therewith.

## ARTICLE X

# **DEFEASANCE**

Section 10.1. Defeasance. If the Borrower shall pay and discharge or provide, in a trimmer permitted by the Trust Indenture, for the payment and discharge of the whole amount of the principal of, premium, if any, and interest on the Bonds, this Loan Agreement or any obligation pledged under the Trust Indenture, and shall pay or cause to be paid all other sums payable hereunder and under the Trust Indenture, or shall make arrangements satisfactory to the Issuer for such payment and discharge, then all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Borrower and the estate, right, title and interest of the Bond Trustee and the Issuer therein shall thereupon cease, terminate and become void. Furthermore, in such case, this Loan Agreement and the covenants of the Borrower contained herein, shall be discharged and the Issuer, on demand of the Borrower and at the Issuer's cost and expense, shall execute and deliver to the Borrower a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement and shall convey, assign and transfer or cause to be conveyed, assigned or transferred, and shall deliver or cause to be delivered, to the Borrower all Property, including money, then held by the Issuer other than money deposited with the Bond Trustee for the payment of the principal of, premium, if any, or interest on this Loan Agreement or any other obligation pledged under the Trust Indenture. Furthermore, any money or other Property subsequently obtained in trust by the Issuer under or in connection with the Trust Indenture, including without limitation any unclaimed money delivered to the Issuer in accordance with the provisions of Section 1302 of the Trust Indenture, shall be promptly delivered to the Borrower.

# ARTICLE XI

# MISCELLANEOUS PROVISIONS

Section 11.1. Payment of Expenses of Issuance of Bonds. The Borrower agrees to be liable and pay for any commitment and other financing costs, recording expenses, trustee's acceptance fees, title insurance costs, legal fees, printing expenses and other fees and fair and customary

expenses incurred or to be incurred by or on behalf of the Issuer in connection with or as an incident to the issuance and sale of the Bonds.

Section 11.2. Loan Agreement for Benefit of Parties Hereto. Nothing in this Loan Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, the Bond Trustee on behalf of the Bondholders and the holders of rights under this Loan Agreement or any other obligation pledged under the Trust Indenture, any right, remedy or claim under or by reason of this Loan Agreement or any covenant, condition or stipulation hereof. The covenants, stipulations and agreements in this Loan Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto and, to the extent set forth herein, the Bond Trustee, and their respective successors and assigns and the holder of rights under this Loan Agreement or other obligations pledged under the Trust Indenture.

Section 11.3. *Severability*. In case any one or more of the provisions contained in this Loan Agreement, any instrument representing any other obligation under the Trust Indenture or in the Trust Indenture shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 11.4. *Notices*. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid or by overnight courier, with proper address as indicated below. The Issuer, the Borrower and the Bond Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required, permitted or contemplated by this Loan Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

# To the Issuer:

Memphis Center City Revenue Finance Corporation 114 N. Main Street Memphis, Tennessee 38103 Attn: President and CEO

# With a copy to:

Adams and Reese LLP 6075 Poplar Ave., Suite 700 Memphis, Tennessee 38119 Attention: James B. McLaren Jr., Esq.

# To the Borrower:

City of Memphis, Tennessee 125 North Main Street Room 368 Memphis, Tennessee 38103 Attn: Chief Financial Officer/Director of Finance

# With a copy to:

City of Memphis, Tennessee 125 North Main Street Room 336 Memphis, Tennessee 38103 Attn: Chief Legal Officer/City Attorney

# To the Bond Trustee:

Regions Bank 150 Fourth Avenue Suite 1500 Nashville, Tennessee 37219 Attn: Corporate Trust Services

Section 11.5. Successors and Assigns. Whenever in this Loan Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included. All the covenants, promises and agreements in this Loan Agreement contained by or on behalf of the Borrower, or by or on behalf of the Issuer, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

Section 11.6. *Counterparts*. This Loan Agreement is being executed in any number of counterparts, all of which are identical. Each counterpart of this Loan Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 11.7. Immunity of Officers, Employees and Members of the Issuer and the Borrower. No recourse shall be had for the payment of the principal, premium or interest payable under this Loan Agreement or any other obligation pledged under the Trust Indenture or for any claim based thereon or upon any representation, obligation, covenant or agreement contained herein or therein against any 'past, present or future officer, member, employee, director or other agent of the Issuer or the Borrower, respectively, or of any successor thereto, whether public or private, either directly or through the Issuer, the Borrower or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise. All such liability of any such officers, members, employees, directors or other agents is hereby expressly waived and released as a condition of, and in consideration for, the execution of this Loan Agreement and the issuance of any other obligation pledged under the Trust Indenture. Notwithstanding any other provision of this Loan Agreement, the Issuer shall not be liable to any person for any failure of the Issuer to take action under this Loan Agreement unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in connection with such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action and reasonable indemnity for taking such action.

Section 11.8. Governing Law. It is the intention of the parties hereto that this Loan Agreement and all other obligations pledged under the Trust Indenture, and the rights and

obligations of the parties hereunder and thereunder, shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee.

[Signature Page Follows]

IN WITNESS WHEREOF, the Borrower and the Issuer have caused this Loan Agreement to be executed in their respective corporate names and attested by their duly Authorized Officers, all as of the date first above written.

THE BORROWER:	THE ISSUER:
CITY OF MEMPHIS, TENNESSEE, a Tennessee municipal corporation  By:	MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION, a Tennessee public nonprofit corporation
Mayor	
	By:President and CEO
Attest:	
Comptroller	
Approved as to Form	
By:	
Chief Legal Officer/City Attorney	

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# **BOND PURCHASE AGREEMENT**

This **BOND PURCHASE AGREEMENT** (the "Agreement") dated October [\_\_], 2024, by and among Webster Bank (the "Purchaser"), a \_\_\_\_\_, the Memphis City Center Revenue Finance Corporation (the "Issuer"), a public nonprofit corporation organized under the laws of the State of Tennessee, and the City of Memphis, Tennessee (the "Borrower"), a municipal corporation of the State of Tennessee (the "State").

# WITNESSETH:

**WHEREAS**, the Issuer is a public nonprofit corporation organized under the laws of the State of Tennessee and created under Sections 7-53-101 *et seq.*, Tennessee Code Annotated (as heretofore and hereafter amended, the "Act"); and

WHEREAS, the Issuer and Regions Bank, as bond trustee (the "Bond Trustee"), have entered into a Trust Indenture (as the same may from time to time be supplemented, amended and restated, the "Trust Indenture") dated as of October 1, 2024, authorizing and providing for the issuance of the Issuer's Economic Development Bonds (City of Memphis Project), Series 2024 (the "Bonds"), all as permitted under the Act; and

WHEREAS, the Issuer desires to loan the proceeds of the Bonds to the Borrower pursuant to a Loan Agreement, dated as of October 1, 2024, by and between the Issuer and the Borrower (as the same may from time to time be amended, supplemented and restated, the "Loan Agreement") to (i) pay Costs of the Project (as hereinafter defined), and (ii) pay certain expenses incurred in connection with the issuance of Bonds, all as permitted under the Act; and

**WHEREAS**, any capitalized term used in this Agreement and not otherwise defined shall have the meaning ascribed to such term in the Indenture; and

WHEREAS, the Purchaser has reviewed the Indenture and the Loan Agreement and hereby finds the terms acceptable; and

WHEREAS, on this date, the Issuer has, pursuant to provisions of the Act, the Indenture, the Loan Agreement and this Agreement, agreed to issue and sell to the Purchaser, and the Purchaser has, pursuant to the terms of this Agreement and the terms and provisions of the Indenture and the Loan Agreement, agreed to purchase, all but not less than all, of the Bonds; and

**WHEREAS**, the Issuer, the Borrower and the Purchaser have heretofore agreed upon the terms of the Bonds, the Indenture and the Loan Agreement and by execution of this Agreement each will have confirmed that such are acceptable.

**NOW THEREFORE**, the Issuer, the Borrower and the Purchaser hereby agree as follows:

1. <u>Purchase and Sale</u>. Upon the terms and conditions set forth herein and in the Bonds, the Indenture and the Loan Agreement, and upon the representations and warranties of the Issuer set forth in the Indenture and the Loan Agreement and the Borrower in the Loan Agreement and other closing certificates, the Issuer agrees to sell on October [\_], 2024 (the "Closing Date"),

subject to the conditions to purchase set forth in Section 3 hereof, the Bonds on a direct placement basis to the Purchaser, and the Purchaser agrees to purchase, with immediately available funds, all but not less than all, of the Bonds. The purchase price for the Bonds shall be [\_\_\_\_] (\$[\_\_\_]), which purchase price is equal to the principal amount of the Bonds so issued. Because the dated date of the Bonds is the date of purchase, there will be no accrued interest as part of the purchase price.

- 2. <u>Private Placement Sale</u>. The Purchaser hereby acknowledges that the purchase of the onds from the Issuer was on a direct private placement basis and that no offering document has been or will be prepared by the Issuer or the Borrower in connection with such sale nor will a CUSIP Number be assigned to the Bonds.
- 3. <u>Conditions for Purchase</u>. The Purchaser's agreement to purchase the Bonds on the Closing Date is subject to the satisfaction of the applicable conditions set forth in the Indenture and the Loan Agreement and receipt by the Purchaser of the following items in form and substance satisfactory to the Purchaser: (a) executed copies of the Indenture and the Loan Agreement; (b) the approving opinions of Bass, Berry & Sims PLC and Carpenter Law, PLLC, as co-bond counsel to the City; and (c) the Bonds shall be issued in physical definitive form and in the full principal amount thereof. The Purchaser's purchase of the Series 2022 Bonds will constitute full evidence that such conditions have been satisfied or waived.
- 4. <u>Effectiveness</u>. This Agreement shall become effective upon the execution by the appropriate officials of the Issuer, the Borrower and the Purchaser and the receipt by the Purchaser of certificates of the Issuer and the Borrower dated the date hereof, to the effect that (a) the execution and delivery of this Agreement has been duly authorized, (b) this Agreement constitutes a valid and binding obligation of the Issuer and the Borrower enforceable in accordance with its terms and (c) no default has occurred (or would be occurring) under the Indetnure or the Loan Agreement.
- 5. <u>Headings</u>. The headings set forth in this Agreement are inserted for convenience only and shall not be deemed to be a part hereof.
- 6. <u>Amendment</u>. No modification, alteration or amendment to this Agreement shall be binding upon any party until such modification, alteration or amendment is reduced to writing and executed by all parties hereto.
  - 7. <u>Governing Law</u>. The laws of the State of Tennessee shall govern this Agreement.
- 8. <u>Counterparts</u>. This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were signatories upon the same instrument.

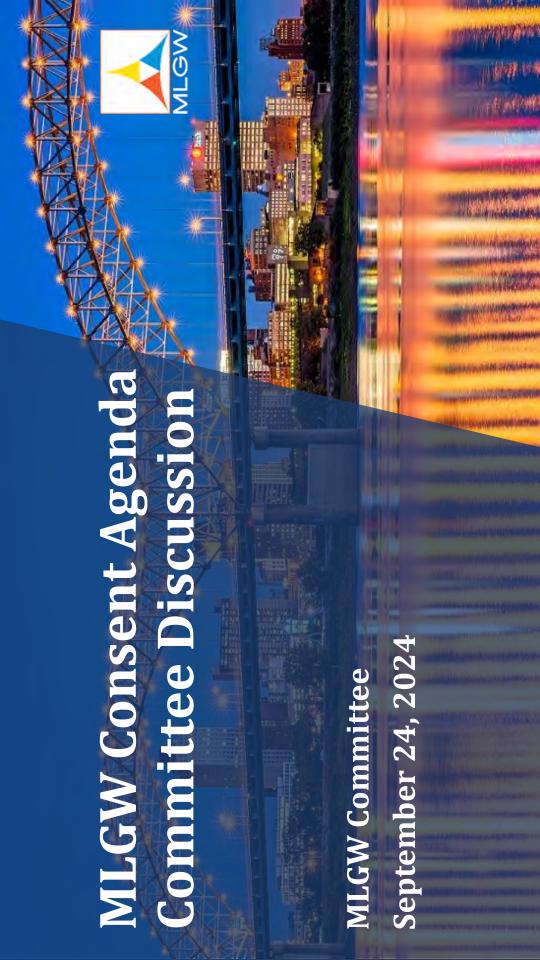
[Signatures on Following Page]

**IN WITNESS WHEREOF**, each of the Issuer, the Borrower and the Purchaser have caused this Bond Purchase Agreement to be executed by its respective duly authorized officers all as of the date hereof.

THE BORROWER:	THE ISSUER:
CITY OF MEMPHIS, TENNESSEE, a	MEMPHIS CENTER CITY REVENUE
Tennessee municipal corporation	FINANCE CORPORATION,
By:	a Tennessee public nonprofit corporation
Mayor	
	By:
Attest:	President and CEO
	THE PURCHASER:
Comptroller	WEBSTER BANK,
	a
Approved as to Form	
	By:
By:	[TITLE]
Chief Legal Officer/City Attorney	

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Appointment Documents unavailable at the time of Document Publication.



# Items for September 24th Agenda

# Items approved by BOC on September 4th

- Resolution approving Change No. 2 to Contract No. 12142, Card Payment Processing Services to Card Connect, LLC to renew the current contract in the funded amount of \$2,706,625.15.
- Resolution approving Change No. 8 to Contract No. 11462, Electronic Board Agenda Solution with Granicus (formerly Accela, Incorporated) to renew the current contract in the funded amount of \$41,459.84.
- Resolution awarding purchase order to Logicalis Inc. for network upgrade and enhancement phase three in the amount of რ
- Resolution awarding purchase order to Logicalis Inc. for network upgrade and enhancement hardware in the amount of \$240,756.07. 4.
- Resolution awarding purchase order to Scruggs Equipment Company for the purchase of steel utility service bodies in the amount of \$474,394.00. 2
- Resolution awarding purchase order to Stribling Equipment, LLC. for backhoe tractor loaders in the amount of \$391,013.00. 9
- Resolution awarding thirty-six-month purchase order to Universal Scaffold and Equipment for meter vaults in the amount of ٧.
- Resolution approving of Change No. 2 to Contract No. 12368, Mobile Sweeping Cleaning with BFCM Floor Services, LLC to renew the current contract in the funded amount of \$64,162.54. ω.

# **Card Payment Processing Services**

- Funded amount: \$2,706,625.15
- Award Duration: Change No. 2 and final annual renewal through December 31, 2025
- Type of Bid: RFP
- Awarded to: Card Connect, LLC
- LSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- Plain Language Description: To provide Card Payment Processing Services for the following MLGW payment channels: (1) Web, (2), IVR, (3) CNG (Compressed Natural Gas) fueling stations, and (4) In-Office.
- debit card (pin debits/no pin) and credit card payments. This service allows customer to pay by all Impact: The services will offer transaction processing, returns processing as well as reporting for modern credit card methods.

# **Electronic Board Agenda Solution**

- Funded amount: \$41,459.84
- Award Duration: Change No. 8 through October 31, 2025
- Type of Bid: Single Source
- Awarded to: Granicus
- LSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- Plain Language Description: To provide implementation of an Electronic Agenda Management Solution with VoteRecording and Optional Audio and Video Streaming.
- Impact: This service supports MLGW staff in preparing Board of Commissioner Agendas, audio and video recordings of the meetings as well as preparation of City Council resolutions.

# Network Upgrade and Enhancement Phase Three

- Funded amount: \$1,085,153.71
- Award Duration: N/A
- Type of Bid: Sealed Bid
- Awarded to: Logicalis Inc.
- LSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- Plain Language Description: To update the network infrastructure for the Voice Over IP Phone Implementation & Disaster Recovery Projects.
- Impact: This upgrade will transition our phone system to voice of internet protocol eliminating unsupported legacy phone system for MLGW operations.

# Network Upgrade and Enhancement Hardware

- Funded amount: \$240,756.07
- Award Duration: N/A
- Type of Bid: Sealed Bid
- Awarded to: Logicalis Inc.
- LSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- Plain Language Description: To replace existing Cisco hardware which has reached the end of the product life cycle.
- Impact: This equipment replacement is necessary to keep employees connected to the MLGW Intranet at all MLGW facilities for performing essential business functions of MLGW.

# Steel Utility Service Body Trucks

- Funded amount: \$474,394.00
- Award Duration: N/A
- Type of Bid: Sealed Bid
- Awarded to: Scruggs Equipment Company
- LSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- Plain Language Description: The fourteen steel utility service bodies will be used by Division crews to maintain the electric, gas and water systems and for various customer service functions.
- Impact: To replace existing equipment that will be retired from service based on age and operational ability to meet the Division's needs.

# **Backhoe Tractor Loaders**

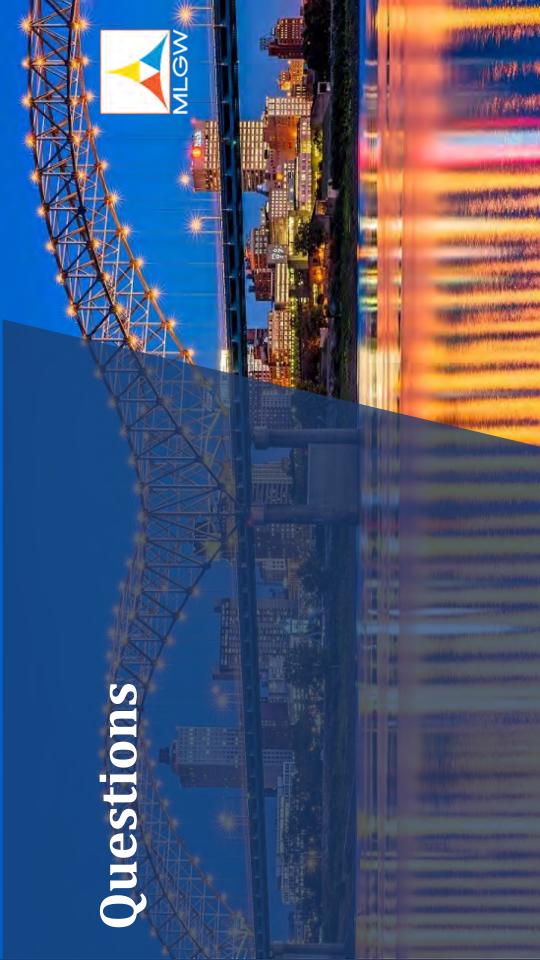
- Funded amount: \$ 391,013.00
- Award Duration: N/A
- Type of Bid: Sealed Bid
- Awarded to: Stribling Equipment, LLC
- LOSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- excavation, and various customer service functions to maintain the electric, gas and water systems. Plain Language Description: To be used by Division crews for digging, trenching, back-filling,
- Impact: To provide equipment for crews to complete job assignments.

# **Meter Vaults**

- Funded Amount: \$1,120,185.20
- Award Duration: 36 Months
- Typer of Bid: Sealed Bid
- Awarded to: Universal Scaffold and Equipment
- LOSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed. However, there is 100% participation-Universal Scaffold is a certified LSB and MBE.
- Plain Language Description: Will be used by Distribution Support to maintain the water system and for restoration projects.
- Impact: This allows us to install new and replace old water meters throughout the service territory

# **Mobile Sweeping Cleaning**

- Funded Amount: \$64,162.54
- Award Duration: Change No. 2 of 4 per 12 months
- Typer of Bid: Sealed Bid
- Awarded to: BFCM Floor Services, LLC
- LOSB/MWBE Goal Assigned/Committed: No supplier diversity goal assigned or committed.
- tools, fuel, and mobile sweeping equipment (street sweeper truck, blowers, brooms, etc.) necessary Plain Language Description: To furnish all supervision, labor, materials, transportation, equipment, to remove all trash (paper, bottles, cans, leaves, etc.) and debris from the street, parking lot curbs, drains (storm water, street drains, etc.), driveways, streets, parking areas, parking lots, sheds and garages at the MLGW facilities listed in the Specifications.
- Impact: Provides a clean environment for employees to work and prevents loose items and trash from blowing into the street and or neighborhoods.





# **Memphis City Council Summary Sheet**

- 1. Description of the Item (Resolution, Ordinance, etc.)
  A resolution amending and appropriating PILOT proceeds from the Health Educational and Housing Facility Board of the City of Memphis, Tennessee up to but not to exceed \$1,500,000.00 chargeable to the FY2025 Budget by appropriating funds to the Division of Housing and Community Development Affordable Housing Program account.
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)
  The Division of Housing and Community Development
- State whether this is a change to an existing ordinance or resolution, if applicable.Not applicable.
- 4. State whether this will impact specific council districts or super districts. Citywide
- 5. State whether this requires a new contract, or amends an existing contract, if applicable.

New contracts and contract amendments will be required.

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

Expenditure of funds will be required.

7. If applicable, please list the MWBE goal and any additional information needed. Not applicable to MWBE.

Division of Housing and Community Development-Resolution



A resolution amending and appropriating PILOT proceeds from the Health Educational and Housing Facility Board of the City of Memphis, Tennessee up to but not to exceed \$1,500,000.00 chargeable to the FY2025 Budget by appropriating funds to the Division of Housing and Community Development Affordable Housing Program account.

WHEREAS, the Division of Housing and Community Development continues in its efforts to assist in the development of affordable housing options within the City of Memphis; and

WHEREAS, the Council of the City of Memphis has declared by resolution dated May 7, 2002, that the Health Educational and Housing Facility Board of the City of Memphis, Tennessee to be performing a public function on behalf of and as a public instrumentality of the City, and recognizes that all property owned by it is exempt from all taxation in the State of Tennessee; and

WHEREAS, the Council of the City of Memphis also delegated to the Health Educational and Housing Facility Board of the City of Memphis, Tennessee by resolution dated May 7, 2002, the authority to negotiate and enter into with a lessee of the Board, payments in lieu of ad valorem taxes, provided that such authorization shall be granted only upon a finding that such payments are deemed to be in furtherance of the public purpose of the Board; and

WHEREAS, the Division of Housing and Community Development is expected to receive PILOT proceeds from the Health Educational and Housing Facility Board of the City of Memphis, Tennessee up to but not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 00/100 (\$1,500,000.00); and

WHEREAS, the Division of Housing and Community Development also desires to enter into a contractual agreement to grant allocations of the PILOT proceeds to the Affordable Housing Program and the Memphis Housing Authority Low-Income Housing Program; and

Division of Housing and Community Development-Resolution

WHEREAS, it is necessary to amend the Fiscal Year 2025 Budget by appropriating up to but not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 00/100 (\$1,500,000.00) in revenues for the Affordable Housing Program and Memphis Housing Authority's Low-Income Housing Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Division of Housing and Community Development be authorized to enter into a contractual agreement to provide of the PILOT proceeds grants up to but not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 00/100 (\$1,500,000.00) to be set aside to the Division of Housing and Community Development Affordable Housing and Memphis Housing Authority Low Income Housing Program.

**BE IT FURTHER RESOLVED** that there be and is hereby appropriated up to but not to exceed ONE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 00/100 (\$1,500,000.00) of the PILOT proceeds, chargeable to and amending the FY2025 Budget by appropriating funds for the HCD's Affordable Housing Program and MHA's Low-Income Housing Program as follows:

REVENUE	R	E	VE	N	U	E
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CD90043

Award 12106 HEHFB

\$1,500,000.00

**EXPENSE:** 

CD90043

Award 12106 Professional Svcs

\$1,500,000.00

P046



# **Memphis City Council Summary Sheet**

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

Resolution approving the use of \$1,219,142.34 in compounded interest earned on the proceeds of Accelerate Memphis Bonds to fund the Radio System Upgrade project PD04025.

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

Police Services Division

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.

**ALL** 

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

Requires expenditure of compounded interest from bonds issued for Accelerate Memphis.

7. If applicable, please list the MWBE goal and any additional information needed

N/A

P046



Resolution approving the use of \$1,219,142.34 in compounded interest earned on the proceeds of Accelerate Memphis Bonds to fund the Radio System Upgrade project PD04025.

WHEREAS, on February 2, 2021, City Council approved an outline of projects for Accelerate Memphis, a \$200M bond issuance to make improvements to three categories: Activating Memphis 3.0, Revitalizing City Assets, and Improving Parks; and

WHEREAS, the Radio Systems Upgrade project seeks to improve Radio Systems equipment and infrastructure and provide additional visibility to Memphis Police

WHEREAS, this project is a cost sharing agreement in collaboration with The Shelby County Sheriff's Department

WHEREAS, project deliverables include the replacement of the old radio system with a new radio system compatible with P25 technology

**NOW, THEREFORE, BE IT RESOLVED,** by the Council of the City of Memphis that the Police Services Division is authorized to allocate and appropriate \$1,219,142.34 of compounded interest earned on the proceeds of Accelerate Memphis bonds to CIP Project Number PD04025, to cover the costs associated with the following:

**Project Title:** 

**Radio System Upgrade** 

**Project Number:** 

PD04025

Amount:

\$1,219,142.34

**Resource Group:** 

Information Technology: \$1,219,142.34



# **Memphis City Council Summary Sheet**

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

A resolution appropriating \$150,000.00 for CIP Project Number FS02032, EMA Sirens funded by G.O.Bonds.

- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.) Fire Services is the initiating party.
- 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.

This will impact all council districts and super districts.

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

This will require a new contract.

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

This project is part of FY25 Capital Improvement Program Budget funded by G.O. Bonds, CIP Project Number FS02032.

7. If applicable, please list the MWBE goal and any additional information needed N/A



# **RESOLUTION – Fire Services**

# A resoltution appropriating \$150,000 for CIP Project FS02032, EMA Sirens.

WHEREAS, the Council of the City of Memphis did include EMA Sirens, CIP Project Number FS02032, as part of the Fiscal Year 2025 Capital Improvement Program Budget: and

WHEREAS, Fire Services has a project to replace and repair EMA Sirens and;

**WHEREAS**, it is necessary to appropriate \$150,000, CIP Project Number FS02032, Other Costs funded by G.O. Bonds General for EMA Sirens:

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Memphis there be and is hereby appropriated the amount of \$150,000, CIP Project Number FS02032, Other Costs funded by G.O. Bonds General for EMA Sirens:

**Project Title:** 

**EMA Sirens** 

**CIP Project Number:** 

FS02032

**Total Construction Cost:** 

\$150,000

# Resolution To Prioritize Fleet Service Repairs For Memphis Police And Fire Department Vehicles

WHEREAS, the Memphis City Council acknowledges the essential role of our dedicated public safety personnel, the Memphis Police Department and Memphis Fire Department, in ensuring the safety and well-being of the city's residents; and

WHEREAS, the timely repair and maintenance of MPD and MFD vehicles is critical to the effective functioning of these departments, directly impacting their ability to respond promptly to emergencies and serve the community; and

WHEREAS, the current fleet service procedure does not prioritize the repair of first responder vehicles, potentially leading to delays that could compromise public safety; and

WHEREAS, it is in the best interest of the City of Memphis to ensure that MPD and MFD vehicles receive priority in all fleet service operations to maintain a state of readiness and ensure that these departments can perform their duties without interruption.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL, that the current procedure for servicing the City of Memphis fleet is hereby amended to prioritize repairs for vehicles of the Memphis Police Department and Memphis Fire Department, ensuring that these vehicles are serviced before all others, except in cases of extreme necessity.

**BE IT FURTHER RESOLVED,** that this amendment shall take effect immediately upon its adoption, and all relevant departments and personnel are instructed to implement the necessary changes to ensure compliance with this resolution.

Sponsors:	Chairman:
Jerri Green	JB Smiley, Jr.
Philip Spinosa, Jr.	•

# A RESOLUTION TO AMEND THE INSURANCE FUND DISBURSEMENT PROCESS TO DIRECTLY ALLOCATE PROCEEDS FOR THE REPAIR AND REPLACEMENT OF FIRST RESPONDER VEHICLES

**WHEREAS,** the Memphis City Council recognizes the critical importance of maintaining a fully operational and well-equipped fleet for the city's first responders, including police, fire, and emergency medical services; and

WHEREAS, the current insurance fund disbursement process allocates proceeds from claims related to first responder vehicles into a general fund, which may result in delays or inefficiencies in the repair or replacement of these essential vehicles; and

WHEREAS, the Memphis City Council seeks to ensure that all proceeds from insurance claims related to first responder vehicles are used directly and efficiently to maintain or enhance the fleet, thereby supporting the safety and effectiveness of our first responders; and

**WHEREAS**, it is in the best interest of the City of Memphis and its residents to streamline the process by which first responder vehicles are repaired or replaced following accidents or other incidents covered by insurance.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL, that the insurance fund disbursement process is hereby amended to allow all insurance proceeds from claims involving first responder vehicles to be allocated directly to the Fleet Reserve Fund.

**BE IT FURTHER RESOLVED** that this amendment shall take effect immediately upon its adoption, and the necessary adjustments to budgetary and financial procedures shall be made to ensure compliance with this resolution.

Sponsor:	Chairman:
Jerri Green	JB Smiley, Jr.
Philip Spinosa, Jr.	

# AN ORDINANCE TO AMEND ORDINANCE 5910 TO RENAME THE LINCOLN PARK PAVILION IN HONOR OF HAZEL MOORE AS THE HAZEL MOORE PAVILION IN THE CITY OF MEMPHIS

WHEREAS, on occasion, the Memphis City Council sees fit to recognize members of the Memphis community who have had a lasting impact and Hazel Moore is certainly worthy of recognition for her contributions, service, and dedication to improving the lives of individuals in the community of Memphis, Tennessee, throughout her illustrious career; and

WHEREAS, Hazel Moore has dedicated more than fifty (50) years to the field of cosmetology as a distinguished professional and licensed instructor, tirelessly sharing her expertise and passion with countless individuals; and

WHEREAS, Hazel Moore is a successful businesswoman and the esteemed sole proprietor of Hazel's Hair Fashion, a testament to her entrepreneurial spirit and commitment to excellence in the beauty industry; and

WHEREAS, Hazel Moore has been a trailblazer and influential figure in the beauty industry, setting high standards and paving the way for future generations of cosmetologists; and

WHEREAS, Hazel Moore has been appointed by three Governors of the State of Tennessee to serve on the State Board of Cosmetology, where she has played a crucial role in regulating state laws and ensuring the integrity of the profession; and

**WHEREAS,** Hazel Moore, driven by her commitment to community improvement and youth empowerment, founded a mentoring group for young ladies, providing scholarships and guidance to help them overcome challenges and achieve personal success; and

**WHEREAS**, under Section 12-84-22 of the City of Memphis Code of Ordinances states that when the city acquires any public parks or recreational areas, the Memphis City Council is responsible for naming them; the Council also has the authority to change the official names of existing parks and recreational areas through an ordinance; and

WHEREAS, the Memphis City Council now seeks to exercise its naming authority under Section 12-84-22 of the City of Memphis Code of Ordinances to rename the City of Memphis Lincoln Park Pavilion at 1699 Cincinnati Road in the city of Memphis, Tennessee in honor of Hazel Moore in recognition of her legacy and enduring impact on the Memphis community.

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

Section 1. The City of Memphis Lincoln Park Pavilion at 1699 Cincinnati Road in the city of Memphis, Tennessee, and any replacement or successor facility, shall be renamed the "The Hazel Moore Pavilion."

Section 2. Upon passage of this ordinance, the newly named "The Hazel Moore Pavilion" shall be memorialized with a new facility sign and a suitable memorial plaque outside the clubhouse, acknowledging the honor. Any costs associated with the construction or installation of the sign shall be incurred by the City of Memphis Parks Division, and if necessary, the Memphis Parks Division shall bring a funding resolution before the City Council for consideration.

Section 3. The City of Memphis Parks Division shall make the appropriate arrangements to alter any media collateral and associated documentation to denote the name change to "The Hazel Moore Pavilion."

Section 4. Severability. All provisions of this Ordinance are hereby severable and 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.

Sponsors(s):
Jana Swearengen-Washington
JB Smiley, Jr.
Rhonda Logan
Jerri Green
Pearl Walker
Philip Spinosa
Edmund Ford, Sr.
Michalyn Easter-Thomas
Janika White
Yolanda Cooper-Sutton
Chase Carlisle
J. Ford Canale
Dr. Jeff Warren

JB Smiley, Jr. Chairman