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LAW OFFICES
SCHULMAN, LEROY & BENNETT, P.C.
SUITE 701-THE FIVE HUNDRED AND ONE UNION BUILDING
POST OFFICE BOX 190676
NASHVILLE, TENNESSEE 37219-0676
TELEPHONE (615) 244-6670
FACSIMILE (615) 254-5407

W. WAYNE LEROY
ANGUS GILLIS, III
GARY S. RUBENSTEIN
KEENE W. BARTLEY
BARBARA J. PERUTELLI
DOUGLAS E. JONES

OF COUNSEL
JOHN I. HARRIS, III
BRENDA MEASELLS DOWDLE
J. TIMOTHY CRENSHAW
THERESA J. NEISEN MANIATIS

I. R. SCHULMAN
(1908-1986)

T. T. McCARLEY
(1918-1975)

LEWIS D. PRIDE
(1933-1978)

H. MICHAEL BENNETT
(1949-2015)

OF COUNSEL
SEYMOUR SAMUELS, JR.
(1912-1992)

jharris@slblawfirm.com

April 5, 2018

Mr. E. Patrick McIntyre, Jr.
Executive Director & State Preservation Officer
Tennessee Historical Commission
State Preservation Office
2941 Lebanon Pike
Nashville, Tennessee 37214

Hand Delivered

Re: *Jefferson Davis Statue, Nathan Bedford Forrest Statue and Captain Mathes Statue;
The Descendants of the Nathan Bedford Forrest and Sons of Confederate Veterans,
Nathan Bedford Forrest Camp #215 v. City of Memphis and Memphis City Council;
and Memphis Greenspace, Inc.*

THC No. 18-29-III

THC Administrative Docket Number: 04.47-150937J

Dear Mr. McIntyre:

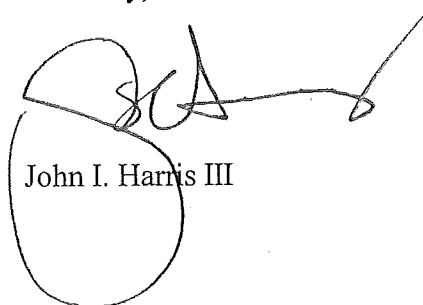
Please find enclosed an original and one copy of the Amended Petition for Declaratory Order Pursuant to Tenn. Code Ann. § 4-5-223 and § 4-5-224 for filing. **We intend for the amendment to supersede the Petition currently before the Tennessee Historical Commission.** Please stamp the copy and return it to my attention.

The original petition has already been referred by the Tennessee Historical Commission to an administrative law judge and is filed as Docket Number: 04.47-150937J.

Thank you for your attention to this matter. If you should have any questions, please do not hesitate to contact me.

Mr. E. Patrick McIntyre, Jr.
April 5, 2018
Page - 2

Sincerely,



John I. Harris III

JIH/ccw
Enclosure(s)

cc: Allan J. Wade (via email)
Chris Vescovo (via email)
Jason Pann (via email)
David Livingston (via email)
Bruce McMullen (via email)
Peter Murrey (via email)
Wilson Buntin (via email)
Robert Cooper (via email)
Alexander Park (via email)

**STATE OF TENNESSEE
HISTORICAL COMMISSION**

IN THE MATTER OF:

**THE DESCENDANTS OF NATHAN
BEDFORD FORREST**

THC 18-001

**SONS OF CONFEDERATE
VETERANS,NATHAN BEDFORD
FORREST
CAMP # 215**

Petitioners,

**Re: MEMPHIS STATUTES
(Petition for Declaratory Order)**

Docket Number 04.47-150937J

**AMENDED AND SUPERCEDING
PETITION FOR DECLARATORY ORDER
PURSUANT TO TENN. CODE ANN. § 4-5-223 AND § 4-5-224**

TO: E. PATRICK McINTYRE, JR.
Executive Director and State Historical Preservation Officer
2941 Lebanon Road
Nashville, Tennessee 37214

Your Petitioners, Walter Law Jr., Sidney Law, Brooks Bradley, Thomas Jesse Bradley III, and Kevin Bradley, being the closest living relatives of the late General Nathan Bedford Forrest and wife, Mary Ann Montgomery Forrest, hereinafter referred to as the "Forrest Descendants", by and through their Attorney, David M. Livingston, and Sons of Confederate Veterans Nathan Bedford Forrest Camp # 215, by and through their Attorney, Douglas E. Jones, and hereby submit this amended and superceding petition to the Tennessee Historical Commission pursuant to Tenn. Code Ann. § 4-5-224 and Tenn. Code § 4-5-223:

1. The jurisdiction of the Tennessee Historical Commission is embodied in the Tennessee

Heritage Protection Act of 2016 codified in Tenn. Code Ann. § 4-1-412 which is as follows, to wit:

4-1-412. Tennessee heritage protection.

(a) For purposes of this section:

(1) Commission means the Tennessee historical commission;

(2) Historic conflict means any war, battle, or military conflict in which citizens of the United States or any state or territory of the United States have participated in, including, but not limited to, the French and Indian War, American Revolution, War of 1812, United States-Mexican War, the War Between the States, Spanish American War, the Mexican border period, World War I, World War II, the Korean War, the Vietnam War, Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation Just Cause (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation Enduring Freedom (Afghanistan), and Operation Iraqi Freedom (Persian Gulf War II);

(3) Historic entity means any entity recognized as having state, national, military, or historical significance;

(4) Historic event means any event recognized as having state, national, military, or historical significance;

(5) Historic figure means any individual who has been recognized as having served in any historic conflict, historic event, historic entity, public office, or in public service;

(6) Historic organization means any entity that has as one (1) or more of its material missions as the recognition or preservation of any historic conflict, historic entity, historic event, or historic figure;

(7) Memorial means:

(A) Any public real property or park, preserve, or reserve located on public property that has been named or dedicated in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; or

(B) Any statue, monument, memorial, bust, nameplate, plaque, artwork, flag, historic display, school, street, bridge, or building that has been erected for, named, or dedicated on public property in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; and

(8) Public property means all property owned, leased, rented, managed, or maintained by or under the authority of this state, any county, municipality, metropolitan government, or any other public entity that is created by act of the general assembly to perform any public function.

(b)(1) Except as otherwise provided in this section, no memorial regarding a historic conflict, historic entity, historic event, historic figure, or historic organization that is, or is located on, public property, may be removed, renamed, relocated, altered, rededicated, or otherwise disturbed or altered.

(2) Notwithstanding subdivision (b)(1), a public entity having responsibility for maintaining a memorial, or a nonprofit entity acting with permission of the public entity, shall have the authority to take proper and appropriate measures, and exercise proper and appropriate means, for the care, preservation, protection, repair, restoration, and renovation of the memorial.

(c)(1) A public entity exercising control of a memorial may petition the commission for a waiver of subdivision (b)(1).

(2) The petition for waiver shall be in writing and shall state the basis upon which the waiver is sought. The petition shall be supported by one (1) or more reports showing that there is a material or substantial need for a waiver based on historical or other compelling public interest. The petition shall also identify by name and address any private entities, groups, or individuals, including, but not limited to, descendants, that may have an interest in receiving notice of the petition. The petition for waiver shall be filed with the commission with proof of public notice as required by subdivision (c)(3).

(3) Prior to filing the petition for waiver, the public entity seeking a waiver shall publish notice of the petition for waiver on the web site of the public entity, if any, and in at least one (1) newspaper of general circulation serving the area of the memorial and one (1) in Davidson County. The notice shall state the basis on which the waiver is sought and shall provide that a copy of the petition and all supporting reports will be provided to any interested party at no cost upon written request submitted to the public entity filing or intending to file the petition for waiver.

(4) An initial hearing before the commission on a petition for waiver shall be scheduled at any regular commission meeting no sooner than sixty (60) calendar days after a petition is filed. At the initial hearing, the commission shall determine which interested entities, groups, or individuals should be given written notice by the public entity, including copies of the petition and supporting reports. The public entity may be directed to provide supplemental notice by publication if deemed necessary by the commission. If an amendment to the petition is filed, the public entity shall provide supplemental notice. If supplemental notice is required either by the commission or as a result of an amendment, notice shall be given in the same manner as notice required pursuant to subdivision (c)(3).

(5) A final hearing before the commission on a petition for waiver shall be scheduled at any regular commission meeting no sooner than one hundred eighty (180) calendar days after a petition is filed; provided, that if an amendment to the petition is filed, then no final hearing shall be scheduled until at least one hundred eighty (180) calendar days have elapsed from the date of the filing of the amendment.

(6) An interested entity, group, or individual shall be afforded an opportunity to offer public comments regarding a petition for waiver at any commission hearing on a petition. An interested entity, group, or individual may file a memorandum, report, study, letter, or other document related to the petition for consideration by the commission prior to the final hearing on the petition. Upon providing written notice at least three (3) business days prior to a final hearing, an interested entity, group, or individual shall be

allowed an opportunity to present relevant testimony or evidence at the final hearing on a petition.

(7) All hearings regarding a petition for waiver shall be recorded. Copies of the record and all exhibits shall be available to any interested entity, group, or individual at the cost of the public entity seeking the waiver.

(8)(A) In order for a waiver to be granted, the public entity seeking the waiver shall demonstrate by clear and convincing evidence that a material or substantial need for a waiver based on historical or other compelling public interest exists; provided, that if a memorial is designated as a national historic landmark or listed on the national register of historic places, there shall be a presumption in favor of preservation of the memorial.

(B) At the final hearing, the commission may grant a petition for waiver, in whole or in part, by a two-thirds ($2/3$) vote of the entire membership of the commission by roll call vote. The commission may include reasonable conditions and instructions to ensure that a memorial is preserved and remains publicly accessible to the greatest extent possible. Any petition for waiver that fails to receive a two-thirds ($2/3$) vote shall be denied. Within thirty (30) calendar days from the final hearing, the final determination of the commission shall be reduced to writing and shall state the commission's findings and the grounds on which the relief is granted or denied. The effective date of the determination shall be not less than one hundred twenty (120) calendar days after notice of the commission's determination is posted on the web site of the commission. Copies of the final determination shall be sent to the public entity seeking the waiver and to each interested entity, group, or individual who testified or submitted evidence at the final hearing.

(9) A public entity seeking a waiver or interested entity, group, or individual who testified or submitted evidence at the final hearing who is aggrieved by the final determination of the commission on the petition for a waiver may file a petition for review in the chancery court of Davidson County or, alternatively, in the county in which the memorial is located or, in the case of a memorial that is located in multiple counties, the county in which the memorial is predominantly located. A petition for review shall be filed within sixty (60) calendar days after notice of the commission's determination is posted on the web site of the commission. The court shall conduct a de novo review on the record of the issues. The review shall be conducted without a presumption that the determinations and findings of the commission are correct. Additional evidence may be introduced and considered by the court.

(d) Any person who can demonstrate a real interest in a memorial through aesthetic, architectural, cultural, economic, environmental, or historic injury, or through administrative involvement in the waiver process, has standing to seek injunctive relief in chancery court of Davidson County to enforce this section. To the extent necessary to preserve the status of any memorial prior to a final determination by the commission or the chancery court, the court may issue an injunction to preserve the memorial and any related public property pending a final ruling on any request for injunctive relief. No bond shall be required for any injunction issued.

(e)(1) This section shall apply to any memorial in existence prior to January 1, 1970, and those lawfully created, erected, named, or dedicated on or after January 1, 1970.

(2) This section shall not apply to any memorial located on public property under the control of, or acquired by, the department of transportation which may interfere with the construction, maintenance, or operation of the public transportation system. The department shall strive to ensure that any memorial is preserved to the greatest extent possible.

(3) This section shall not apply to a memorial that has reached the end of its useful life and is approved for demolition by the state building commission in accordance with 4-15-102; provided, that, prior to any decision to demolish a memorial designated as a national historic landmark or listed on the register of historic places, the historical commission shall make comments to the state building commission in accordance with 4-11-111.

2. The Forrest Statue, including the base and Equestrian Statue that was attached thereto for more than 110 years, serves and has served since 1905 as the headstone of the graves of Lt. General Nathan Bedford Forrest and Mrs. Mary Montgomery Forrest.

3. In addition to being part of a gravesite, the Forrest Statute is a memorial regarding a historical conflict, historic entity, historic event, historic figure or historic organization under the definition of Tenn. Code. Ann. § 4-1-412. For more than 110 years and until December 20, 2017 the Forrest Statute and the related base and graves were located on property owned, leased, rented, managed, or maintained by the City of Memphis.

4. The Forrest Statue, as both a historical gravesite and memorial, was and is protected by the Tennessee Historic Protection Act of 2016.

5. The statues of Jefferson Davis and Captain Mathes are likewise memorials protected by the Tennessee Heritage Protection Act of 2016, and were located on property under the control of, leased, rented, managed, or maintained by the City of Memphis, Tennessee, and by virtue of the same are protected by the Tennessee Heritage Protection Act of 2016.

6. The Heritage Protection Act of 2016 imposed an affirmative duty on the City of Memphis to ensure and to take steps to ensure that no real or personal property that is or may be

subject to the Act “may be removed, renamed, relocated, altered, rededicated, or otherwise disturbed or altered.”

7. On or about December 20, 2017, the City of Memphis illegally transferred the land referred to as Health Sciences Park in Memphis, Tennessee, by Warranty Deed and Bill of Sale recorded with the Register’s Office of Shelby County, Tennessee, together with restrictive covenants, option to purchase, and other documents associated with said Health Sciences Park denoted herein as Exhibit #1 cumulative.

8. The property(ies) transferred in the December 20, 2017, transaction is/are listed on the National Registry of Historic Places and as such is/are significant for its architectural, archaeological, artistic, cultural or historical associations or significant for its natural, scenic or open condition.

9. The City of Memphis devised and pursued a course of action relative to the gravesite, protected parks, and protected memorials that was intended to circumvent the City’s affirmative duty under the Tennessee Heritage Protection Act of 2016 to ensure that protected real or personal property would not “be removed, renamed, relocated, altered, rededicated, or otherwise disturbed or altered.”

10. Memphis Greenspace Inc., a non-profit corporation, was created in furtherance of a scheme involving the City of Memphis for evading the limitations of the Tennessee Heritage Protection Act of 2016.

11. On and after the conveyances that were devised by the City of Memphis in an effort to avoid its duties under the Act, Memphis Greenspace, Inc., acting in coordination with public officials from the City, including law enforcement officials, removed the statues from their respective parks during the night of December 20, 2017.

12. The purposes clause of the non-profit corporation, Memphis Greenspace, Inc., was

insufficient under Tenn. Code Ann. § 12-2-501 which requires that the purposes of the corporation must include the preservation and conservation of the real and personal property conveyed. Collective Exhibit #2.

13. Tenn. Code Ann. § 12-2-501 provides:

12-2-501. Disposal of real or personal property by private negotiation and sale.

Notwithstanding any rule, regulation or other law to the contrary, any county, metropolitan government, municipality or other political subdivision of this state, upon majority vote of the local legislative body, may dispose of real property or personal property by private negotiation and sale where:

(1) The real or personal property is significant for its architectural, archaeological, artistic, cultural or historical associations, or significant for its relationship to other property significant for architectural, archaeological, artistic, cultural or historical associations, or significant for its natural, scenic or open condition;

(2) The real or personal property is to be sold to a non-profit corporation or trust whose purposes include the preservation or conservation of real or personal properties of architectural, archaeological, artistic, cultural, historical, natural or scenic significance; and

(3) A preservation agreement or conservation agreement is placed in the deed conveying the property from the county, metropolitan government, municipality or other political subdivision of this state to the non-profit corporation or trust. The non-profit corporation or trust shall only dispose of or use such real or personal property subject to covenants or other legally binding restrictions that will promote the preservation or conservation of the property, and, where appropriate, secure rights of public access.

14. Tenn. Code Ann. § 12-2-501 expressly requires a preservation agreement or a conservation agreement as to the land and personal property and this agreement did not exist at the time of conveyance by the City of Memphis. Thus, the transfer by the City of Memphis was in violation of state law, was illegal, and is void because Memphis Greenspace Inc., did not have the proper parameters required by Tenn. Code Ann. § 12-2-501. This violation of law would have precluded any waiver from being available or granted by the Tennessee Historical Commission for this attempted transfer under the Tennessee Historic Protection Act of 2016 because this collateral requirement is not something that could have been waived as part of a waiver request under the Act.

15. On or about December 20, 2017, the City of Memphis also transferred the easement associated with the Memphis Park which contained therein a Bill of Sale to the said Jefferson Davis and Captain Mathes memorials, which were likewise protected by the Tennessee Heritage Protection Act of 2016. (See Deed of Conveyance, Bill of Sale, Restrictive Covenants, Option to Purchase, and other documents associated with the said transfer of Memphis Park denoted as cumulative Exhibit # 3).

16. The Bill of Sale and Deed of Conveyance regarding the real and personal property in Memphis Park is significant for its failure to contain the required statutory language in the corporation's purposes clause and its failure to have a preservation agreement or conservation agreement regarding the real property and statues conveyed herein as required. These violations of law would have precluded any waiver from being available or granted by the Tennessee Historical Commission for these attempted transfers under the Tennessee Historic Protection Act of 2016 because these collateral requirements are not something that could have been waived as part of a waiver request under the Act.

17. The transfers referenced hereinabove are a sham and were contrived by the City of Memphis acting independently and in concert with Memphis Greenspace, Inc., solely or primarily for the purpose of evading the City's duties under and the limitations imposed by the Tennessee Heritage Protection Act of 2016.

18. These transactions, devised as a scheme to circumvent the obligations and duties of the City of Memphis under the Tennessee Heritage Protection Act of 2016, are insufficient as a matter of law since the Act provides for the exclusive means by which protected properties and memorials must be held, administered, and protected.

19. These transactions also are a fraud upon the citizens of Tennessee, the City of Memphis and your Petitioners. Memphis Greenspace, Inc., not having the appropriate language

concerning preservation and conservation in its purposes clause and not having a preservation agreement or conservation agreement associated with the statues, is an improper grantee of said transfers and as such the transactions are illegal and void and are not subject to approval or waiver by the Tennessee Historical Commission under the parameters of the Tennessee Heritage Protection Act of 2016 or otherwise.

20. As to the transfers, Tenn. Code Ann. § 4-1-412 (b)(2) requires that the public entity having responsibility for maintaining a memorial, or a non-profit entity acting with the permission of a public entity, shall have the authority to take proper and appropriate measures, and exercise proper and appropriate means for the care, preservation, protection, repair, restoration, and renovation of the memorials.

21. On or about December 20, 2017, Memphis Greenspace, Inc., and the City of Memphis violated their responsibility of maintenance of the said memorials by selling and removing the monuments in question, causing substantial damage in the removal and transportation of the said memorials.

22. The City of Memphis by and through its various departments and agents knowingly and intentionally assisted Memphis Greenspace, Inc., in accomplishing the removal of the said statues in violation of the Tennessee Historic Preservation Act of 2016 and otherwise in violation of state law that was relevant to these historic assets and which would have been material and relevant to any waiver which otherwise was required to have been obtained pursuant to the Act.

23. The said statues were removed to other property owned by the City of Memphis and housed on City property for a substantial period of time.

24. Memphis Greenspace, Inc., and the City of Memphis are substantially one in the same, are acting in concert, are acting in as co-conspirators, and/or are acting in a joint venture and, as such, the Tennessee Heritage Act of 2016 still protects the said historic assets as fully as if the

foregoing conveyances had not occurred.

25. Memphis Greenspace, Inc. is a public entity that is created by the act of general assembly to perform public functions and as such is covered by the Tennessee Heritage Protection Act, Tenn. Code Ann. § 4-1-412 (a)(8).

26. The said memorials in question were in existence prior to January 1, 1970, and as such are protected by The Tennessee Heritage Protection Act as codified in Tenn. Code. Ann. § 4-1-412, which protection continues as to the said statues regardless of actions, whether ultimately determined to be legal or illegal, of the City of Memphis and Memphis Greenspace, Inc.

27. The City of Memphis passed the original ordinance authorizing the sale of city property at a reduced rate on two separate readings, but the final reading of the ordinance was amended to include terms of sale to a particular purchaser, Memphis Greenspace, Inc. Hence, the ordinance upon which the City of Memphis operated in selling the statues was illegally passed and void. A valid ordinance would have been a material and necessary element of seeking and obtaining the required waiver under the Tennessee Historic Protection Act of 2016.

CAUSES OF ACTION:

1. Petitioners seek a declaratory order finding that the statues and properties addressed in this Petition were and continue to be subject to the protections of the Tennessee Heritage Protection Act of 2016; that the Act prohibits any sale or conveyance of any protected properties or memorials, which sales or conveyances are designed for the purpose of circumventing the Acts protections; and that the language contained in Tenn. Code Ann. § 4-1-412(b)(1) that states “except as otherwise provided in this section, no memorial regarding a historic conflict, historic entity, historic event, historic figure, or historic organization that is or is located on public property may be removed, renamed, relocated, altered, rededicated or otherwise disturbed or altered” prohibited any course of action by the City of Memphis to circumvent or defeat its obligations to protect,

preserve, and maintain these protected assets.

2. Petitioners seek a declaratory order that a mere change in the name of a public park or memorial that existed prior to 1970 is ineffective to defeat the protections of the Tennessee Heritage Protection Act of 2016 either as to the public real property itself and/or as to memorials contained or existing therein.

3. Petitioners seek a declaratory order that the conveyances by the City of Memphis on or about December 20, 2017 did not remove the public real property and/or the memorials located therein from the protections of the Tennessee Heritage Protections Act of 2016.

4. Petitioners seek a declaratory order that the restrictive covenants placed in the Deed regarding Health Sciences Park and the easement associated with Memphis Park continue to vest equitable title and control to these historic properties in the City of Memphis and render them “public property” within the meaning of Tenn. Code Ann. § 4-1-412(a)(8).

5. Petitioners seek a declaratory order that the transfers by the City of Memphis violated the duty of the public entity to maintain the statues codified in Tenn. Code Ann. § 4-1-412.

6. Petitioners seek a declaratory order that the transfers and subsequent actions by the City of Memphis and Memphis Greenspace, Inc., violated the Tennessee Heritage Protection Act by removing the statues, including Tenn. Code Ann. § 4-1-412 (b)(1) by removing, relocating, altering, or disturbing the said memorials.

7. Petitioners seek a declaratory order that the City of Memphis has breached its affirmative duties under the Tennessee Historic Preservation Act of 2016 in that it attempted to convey protected properties not only in violation of the Act, but also in violation of Tenn. Code Ann. § 12-2-501 and that full compliance with Tenn. Code Ann. § 12-2-501 would have been a material and necessary element of seeking and obtaining a waiver under the Tennessee Historic Preservation Act of 2016.

8. Petitioners seek a declaratory order that the transfer and subsequent actions regarding the removal of the Forrest Statue (or parts thereof) from the graves without a Court Order violates the Family Burial Grounds Protection Act codified in Tenn. Code Ann. § 46-8-102 and § 39-16-402 and constitutes a further violation of the Tennessee Historic Preservation Act of 2016 and also that full compliance with the Family Burial Grounds Protection Act codified in Tenn. Code Ann. § 46-8-102 and § 39-16-402 would have been a material and necessary element of seeking and obtaining a waiver under the Tennessee Historic Preservation Act of 2016.

9. Petitioners seek a declaratory order that Memphis Greenspace, Inc. is, at least with respect to the transfers identified herein, subject to the duties, protections and prohibitions of the Tennessee Heritage Protection Act of 2016.

10. Petitioners seek a declaratory order that the actions of city officials with the City of Memphis constitute Official Misconduct Codified in Tenn. Code Ann. § 39-16-402 and consequently are further a violation of the duty to preserve and protect set forth in the Tennessee Historic Preservation Act of 2016.

11. Petitioners seek a declaratory order that the concerted actions, agreements and Communications of City Officials, Representatives of Memphis Greenspace Inc., and Unnamed Officials with the State of Tennessee constitute a Criminal Conspiracy and a pattern of criminal conduct as codified in Tenn. Code Ann. § 39-12-103 to violate Tennessee law, including the Tennessee Historic Preservation Act of 2016, as set out hereinabove.

Wherefore, the Petitioners pray that the Tennessee Historical Commission convene a contested hearing as to the above mentioned averments and determine the following:

1. Pursuant to the Tennessee Heritage Act of 2016, did the prohibition regarding moving and/or disturbing the statues in question become affixed to the properties and memorials subject to this Petition, whereby a transfer of the properties and/or memorials, if otherwise legal, remained

subject to the prohibitions, duties and obligations imposed by the Tennessee Historic Preservation Act of 2016 or its predecessor.

2. Whether the restrictive covenants as to the respected properties conveyed qualify said tracts as “public property” under the Tennessee Heritage Protection Act.

3. Whether the prohibitions and duties imposed by the Tennessee Historic Preservation Act of 2016 prohibit the City of Memphis from transferring the said statues to Memphis Greenspace, Inc. even if such conveyance may have been otherwise within the City’s discretion.

4. Whether the prohibitions and duties imposed by the Tennessee Historic Preservation Act of 2016 survive the transfer and operate as prohibitions and duties against Memphis Greenspace Inc.

5. Whether the Equestrian Statue that was the top and focal point of the Forrest monument protected by the Family Burial Grounds Protection Act above herein mentioned as a grave monument and as such require a court order prior to moving the same in addition to compliance with the additional restrictions imposed by the Tennessee Historic Preservation Act of 2016.

6. Are the transfers alluded to hereinabove in violation of Tenn. Code Ann. § 12-2-501 and as such prohibited by law, including the prohibitions and protections imposed by the Tennessee Historic Preservation Act of 2016 and if so whether compliance with Tenn. Code Ann. § 12-2-501 is a necessary and material element of seeking and obtaining a waiver under the Tennessee Historic Preservation Act of 2016 to the extent that such statute imposes additional requirements on a contemplated transaction or conveyance.

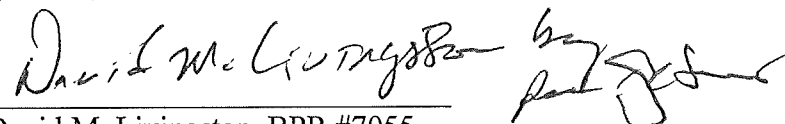
7. Have the representatives of the City of Memphis and representatives of Memphis Greenspace, Inc., violated the laws concerning desecration of the grave and/or conspiracy to desecrate a grave as such laws may apply to properties and/or memorials that are protected by the

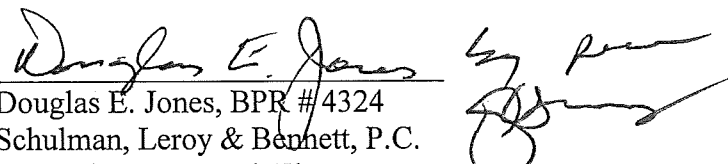
Tennessee Historic Preservation Act of 2016 and, if so, whether compliance with the Family Burial Grounds Protection Act codified in Tenn. Code Ann. § 46-8-102 and § 39-16-402 is a necessary and material element of seeking and obtaining a waiver under the Tennessee Historic Preservation Act of 2016 to the extent that such statutes impose additional requirements on a contemplated transaction or conveyance.

8. Is the appropriate remedy to set aside the illegal transfer and/or order either the City of Memphis and/or Memphis Greenspace, Inc. to return the statues unharmed to their original locations with the cost to the Respondents.

9. Determine that the city ordinance upon which the conveyance was conducted was improperly passed to the extent that it approves, ratifies or authorizes conveyances and government actions that were intended specifically to violate the Tennessee Historic Preservation Act of 2016.

Respectfully Submitted,

By: 
David M. Livingston, BPR #7055
Attorney for Forrest Next of Kin
P. O. Box 447
Brownsville, Tennessee 38012
731-772-2851

By: 
Douglas E. Jones, BPR #4324
Schulman, Leroy & Bennett, P.C.
501 Union Street, 7th Floor
Post Office Box 190676
Nashville, Tennessee 37219-0676

Cumulative Exhibit #1

Warranty Deed
Forrest Park

1 (a)

This Instrument Prepared By And Please Return To:
Glankler Brown, PLLC
6000 Poplar Avenue, Suite 400
Memphis, TN 38119
Attn: R. Hunter Humphreys

WARRANTY DEED

THIS WARRANTY DEED is made and entered into as of the 20th day of December, 2017, by and between the City of Memphis, a municipal corporation ("**Grantor**") and Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation ("**Grantee**").

WITNESSETH:

That, for and in consideration of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, Grantor has bargained and sold and does hereby bargain, sell, convey and confirm unto Grantee the real property and improvements thereon, situated and being in Shelby County, Tennessee, being more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property").

The Property described herein and conveyed hereby is the same property conveyed to Grantor, as evidenced by Plat of record at Book O, Page 327 in the Register's Office of Shelby County, Tennessee.

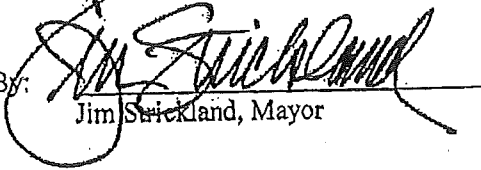
TO HAVE AND TO HOLD, the Property, together with all the appurtenances and hereditaments thereunto belonging or in any wise appertaining unto Grantee, its successors and assigns in fee simple forever.

Grantor does hereby covenant with Grantee that it is lawfully seized in fee of the Property; that it has a good right to sell and convey the same; that the same is unencumbered, except as described in Exhibit "B" attached hereto, and that it will warrant and forever defend the title and quiet possession against the lawful claims of all persons.


By acceptance of this Warranty Deed, Grantee acknowledges that the Property conveyed hereby contains a gravesite, and that Grantee is assuming all responsibility for the maintenance of such gravesite, pursuant to T.C.A. § 46-8-103(a)-(b) and any other applicable laws.


IN WITNESS WHEREOF, Grantor has caused this Warranty Deed to be executed by and through its duly authorized officers the day and year first above written.

City of Memphis,
a municipal corporation

By: 
Jim Strickland, Mayor

APPROVED AS TO FORM:


Doug McGowen, Chief Operating Officer


Bruce McMullen, City Attorney

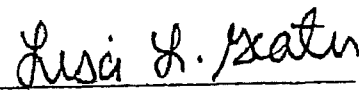
STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public of the state and county aforesaid, personally appeared Jim Strickland, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged self to be the Mayor of the City of Memphis, a municipal corporation, the herewithin named bargainor, and that he as such Mayor executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Mayor.

Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021


Notary Public



STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public of the state and county aforesaid, personally appeared Doug McGowen, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged self to be the Chief Operating Officer of the City of Memphis, a municipal corporation, the herewithin named bargainor, and that he as such Chief Operating Officer executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Chief Operating Officer.

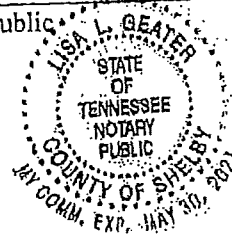
Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021

Lisa L. Geater

Notary Public



STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public of the state and county aforesaid, personally appeared Bruce McMullen, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged self to be the City Attorney of the City of Memphis, a municipal corporation, the herewithin named bargainor, and that he as such City Attorney executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as City Attorney.

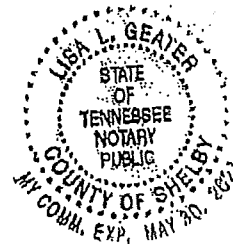
Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021

Lisa L. Geater

Notary Public



Property Owner and Party Responsible For Payment Of Real Property Taxes:

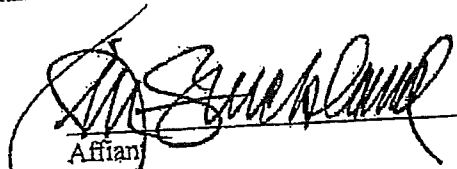
Memphis Greenspace, Inc.
J. Martin Regan
Lewis Thomason
40 South Main Street, 29th Floor
Memphis, TN 38103

Tax Parcel Identification Number:

007038 00001
Vacant land

AFFIDAVIT

I, or we, hereby swear or affirm that to the best of affiant's knowledge, information and belief, the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$950,000, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

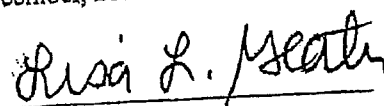

Affiant

Subscribed and sworn to before me this 15 day of December, 2017.

My Commission Expires:

5-30-2021





Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION

The following described Land in Shelby County, Tennessee:

Lot 9 – Memphis Hospital Lot, as shown on that certain plat of recorded at Book O, Page 325, in the records of the Register's Office of Shelby County, Tennessee.

The above property is commonly known as Health Sciences Park and municipally known as 0 S. Manassas Street, Memphis, Tennessee.

EXHIBIT "B"

PERMITTED ENCUMBRANCES

All matters of record in the Register's Office of Shelby County, Tennessee and all existing utilities, sanitary sewers and drainage facilities recorded and unrecorded located in the Property.



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
Office of the Shelby County Register.

12/21/2017 17129757 08:19 AM

8 PGS	
TAMMY 1884279-17129767	
VALUE	550000.00
MORTGAGE TAX	8.00
TRANSFER TAX	3515.00
RECORDING FEE	30.00
DP FEE	2.00
REGISTER'S FEE	1.00
WALK THRU FEE	0.00
TOTAL AMOUNT	3548.00

TOM LEATHERWOOD
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

FORREST Statue

1(B)

Equestrian Statue

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of One Thousand And No/100 Dollars (\$1,000.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Memphis, a municipal corporation ("Seller") does now hereby grant, bargain, sell, assign, transfer and convey unto Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation ("Purchaser"), its successors and assigns, good and merchantable title in and to all personal property (the "Assets") of every kind and description owned by Seller and situated in, on, over and under the real property and improvements thereon (the "Real Property") commonly known as Health Sciences Park and described in Exhibit "A" attached hereto and incorporated herein by reference;

TO HAVE AND TO HOLD the Assets unto Purchaser, its successors and assigns, forever.

Seller hereby covenants and warrants to Purchaser that Seller has good title to the Assets, free and clear of all security interests, liens and encumbrances of whatever kind or nature and that Seller has good right to sell the same as aforesaid.

SELLER IS SELLING AND DELIVERING THE ASSETS IN "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY MATTER WITH RESPECT TO THE CONDITION OF THE ASSETS.

This Bill of Sale shall be construed under and enforced in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, Seller has caused this Bill Of Sale to be executed as of the 20th day of December, 2017.

SELLER:

City of Memphis,
a municipal corporation

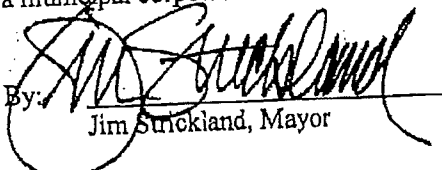
By: 
Jim Stuckland, Mayor

EXHIBIT "A"

TO BILL OF SALE

Real Property Description

The following described Land in Shelby County, Tennessee:

Lot 9 – Memphis Hospital Lot, as shown on that certain plat of recorded at Book O, Page 325, in the records of the Register's Office of Shelby County, Tennessee

The above property is commonly known as Health Sciences Park and municipally known as O S. Manassas Street, Memphis, Tennessee.

Tax Parcel Identification Number: 007038 00001

Restrictive
Covenants
(Forest Park)
Health Science

1(c)

THIS INSTRUMENT PREPARED
BY AND RETURN TO:
Glankler Brown, PLLC
6000 Poplar Avenue, Suite 400
Memphis, Tennessee 38119
Attn: R. Hunter Humphreys

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT (the "Agreement"), is made this 20th day of December, 2017, by and between the City of Memphis, a municipal corporation (the "City") and Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation ("Greenspace").

WITNESSETH:

WHEREAS, by Special Warranty Deed of even date herewith and recorded in the Register's Office of Shelby County, Tennessee (the "Register's Office"), the City has conveyed to Greenspace fee simple title to certain real property in Memphis, Tennessee, such property being more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Burdened Property");

WHEREAS, the City, for the general welfare of its citizens, desires to preserve the scenic, natural, physical, ecological, hydrological, biological and environmental features of the Burdened Property; and

WHEREAS, as a condition to the conveyance of the Burdened Property, the City has required Greenspace to enter into this Agreement, and Greenspace has agreed to join herein.

NOW, THEREFORE, for good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Purposes. The purposes of this Agreement are to conserve and restrict the development of the Burdened Property; to preserve, maintain and enhance the present condition, use and beauty of the Burdened Property, to preserve and enhance the open space value and scenic value of the Burdened Property, and to reserve, maintain and enhance the biological, hydrological, ecological, cultural and scenic resources of the Burdened Property.

Section 2. Covenants, Conditions and Restrictions. The Burdened Property shall be held, transferred, sold, conveyed, encumbered, rented, used, occupied and improved subject to the following covenants, conditions and restrictions (collectively, the "Restrictions"):

- A. The Burdened Property, including the landscaping and improvements which are a part thereof, shall be maintained in good, safe and scenic condition. Except as otherwise provided herein, there shall be no removal, destruction or cutting of trees, shrubs or other vegetation except as may be necessary for the maintenance of walkways, utility lines, or as may be necessary for restoring, protecting, managing, maintaining and enhancing the Burdened Property for scenic open space, aesthetics and environmental purposes.
- B. No activities, actions or uses of the Burdened Property shall be permitted that would be detrimental or adverse to erosion control, soil conservation or wildlife habitat preservation.
- C. No industrial, office, retail, residential or commercial activities shall be permitted or carried-on, on the Burdened Property.
- D. Without the prior written approval of the City, which approval will not be unreasonably withheld, or as otherwise provided herein, there shall be no excavation, dredging or removal of dirt, gravel, soil, rock, sand or any other material nor any building of roads or other topographical changes, except as may be necessary for reasonable preservation, management or restoration purposes or to maintain presently existing walkways or service entrances.
- E. No storage, dumping, burial, burning or injection of trash, garbage, rubbish or any other waste materials or any unsightly or offensive materials shall be permitted.
- F. There shall be no commercial advertising of any description permitted on the Burdened Property. No signs, billboards, or advertisements shall be displayed or placed on the Burdened Property except (a) such signs, plaques or other markers as are appropriate for commemorating or identifying the historic, natural or scenic importance or significance of the Burdened Property; (b) such interpretive signs, plaques or markers that serve an educational or informational purpose; (c) such signs, plaques or markers as are necessary to direct and restrict the passage of persons or the parking of vehicles upon the Burdened Property or to notify persons of any restricted activities; (d) a sign or signs stating solely the title or address of the Burdened Property; (e) memorial or commemorative signs, plaques, markers or monuments; or (f) recognition, appreciation, or donor signs, plaques, markers or monuments. No signs, plaques, markers or monuments shall be placed on the Burdened Property without the written approval of the City, which approval may be granted or withheld in the City's sole discretion.
- G. Except where necessary to facilitate the preservation, maintenance or restoration of the Burdened Property, or an emergency, no motorized vehicles shall be operated on the Burdened Property.
- H. Except as otherwise provided herein, there shall be no erection of buildings, or other structures or improvements on the Burdened Property without the written approval of the City, which approval may be granted or withheld in the City's sole discretion.

- I. There shall be no erection of utilities on the Burdened Property except for replacement of existing utilities without the written approval of the City which approval may be granted or withheld in the City's sole discretion.
- J. The Burdened Property shall be available for public recreational use from dawn to dusk, and no fees shall be charged for such public use.
- K. The Burdened Property shall be maintained in a good, clean, attractive and secure condition, which shall include, but not be limited to, the following actions by Greenspace:
 - i. Mowing, aerating, reseeding, edging and weed control with respect to the grassy areas of the Burdened Property;
 - ii. Fertilization of turf, trees, and shrubs and routine maintenance of the same (i.e. pruning);
 - iii. Insect Control - Monitoring, preventing, correcting and managing insects or disease in turf, trees, shrubs either by cultural or chemical methods;
 - iv. Hardscape Surfaces - Sweeping, blowing and power washing of walkways, parking lots and other hardscape surfaces in the Burdened Property;
 - v. Repair of the facilities and Burdened Property amenities;
 - vi. Inspection - Visual and physical examination of the facility, equipment and amenities to ensure compliance, safety and proper operation;
 - vii. Removal of graffiti or other vandalism in the Burdened Property;
 - viii. Cleaning, sweeping, sanitizing the restrooms and other Burdened Property facilities;
 - ix. Litter pick-up and emptying of trashcans throughout the Burdened Property;
 - x. Maintaining all electrical and plumbing systems; and
 - xi. Providing adequate premises security on the Burdened Property.

Section 3. Binding Effect/Term: The Restrictions shall be deemed a covenant running with the land and shall be binding upon Greenspace, its successors and assigns, and upon all parties having or acquiring any right, title or interest whatsoever in or to any part of the Burdened Property, and shall inure to the benefit of the City for a term of ninety nine (99) years from the date on which this Agreement is initially recorded in the Register's Office of Shelby County, Tennessee.

Section 4. Enforcement. In the event of a violation or breach of any of the Restrictions by Greenspace which is not cured within thirty (30) days of receipt by Greenspace of written notice thereof from the City, the City shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of the Restrictions, to sue for and recover damages, or to take all such courses of action at the same time, or such other legal remedy such party may deem appropriate.

No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrence or continuation of the violation or the occurrence of a difference violation.

Although this Agreement is intended to provide for and enhance the general welfare of all citizens of the City, the parties agree that this Agreement may only be enforced by action of the City.

Section 5. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective while this Agreement is in effect, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a provision that is legal, valid and enforceable and as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 6. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to principles of conflict of laws.

Section 7. Amendment. The Restrictions may be extended, amended or terminated only by the execution of an instrument signed by Greenspace and the City. Such instrument shall be filed for recording in the Register's Office of Shelby County, Tennessee or in such other place of recording as may be required at the time of the execution of such instrument. Each party whose signature is required on an instrument which proposes an extension, amendment or termination of the Restrictions shall make a prompt determination on whether or not to approve and execute such instrument.

Section 8. Successors And Assigns. References herein to the City shall include any successor. References to Greenspace shall include any successors in title to all or any portions of Burdened Property.

Section 9. Captions. The captions preceding the various sections of this Agreement are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Agreement. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

Memphis Greenspace, Inc.
a Tennessee not for profit public benefit corporation

By: [Signature]
Name: Van Turner
Title: President

City of Memphis
a municipal corporation

By: [Signature]
Jim Strickland, Mayor

STATE OF TENNESSEE,
COUNTY OF SHELBY:

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Jim Strickland, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, Tennessee, the within named bargainer, a municipal corporation, and that he as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Memphis by himself as such Mayor.

Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021

[Signature]
Notary Public
STATE OF TENNESSEE
COUNTY OF SHELBY
MY COMM. EXP. 16th MAY 2021

STATE OF Tennessee
COUNTY OF Shelby

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Van Turner, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be the President of Memphis Greenspace, Inc., the within named bargainer, a not for profit public benefit corporation, and that s/he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the not-for-profit corporation by himself/herself as such President.

Witness my hand and Notarial Seal at office this 15th day of December, 2017.

My Commission Expires:

[Signature]
Notary Public
STATE OF TENNESSEE
COUNTY OF SHELBY
MY COMM. EXP. 02/21/2018

[Signature]
Notary Public

EXHIBIT "A"

BURDENED PROPERTY

The following described Land in Shelby County, Tennessee:


Lot 9 – Memphis Hospital Lot, as shown on that certain plat of recorded at Book O, Page 325, in the records of the Register's Office of Shelby County, Tennessee

The above property is commonly known as Health Sciences Park and municipally known as 0 S. Manassas Street, Memphis, Tennessee.



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.


		
12/21/2017	17129758	08:19 AM
8 PGS		
TAMMY	1884279-17129758	0.00
VALUE		0.00
MORTGAGE TAX		0.00
TRANSFER TAX		30.00
RECORDING FEE		2.00
DP FEE		0.00
REGISTER'S FEE		0.00
WALK THRU FEE		32.00
TOTAL AMOUNT		32.00
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE		

Refinancing Option (Forest Park) 1 D



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

	
12/21/2017	17129758 08:19 AM
6 PGS	
TAXMY 1884279-17129758	0.00
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TRANSFER TAX	30.00
RECORDING FEE	2.00
DP FEE	0.00
REGISTER'S FEE	0.00
WALK THRU FEE	32.00
TOTAL AMOUNT	
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 (901) 222-8100
Website: <http://register.shelby.tn.us> Email: Tom.L Leatherwood@shelbycountyn.gov

This Instrument Prepared By And Please Return To:
Glankler Brown, PLLC
6000 Poplar Avenue, Ste. 400
Memphis, TN 38119
Attn: R. Hunter Humphreys

OPTION AGREEMENT

THIS OPTION AGREEMENT (the "Agreement") is made and entered into as of the 20th day of December, 2017 (the "Effective Date"), by and between **Memphis Greenspace, Inc.**, a Tennessee not for profit public benefit corporation ("Greenspace"), and the **City of Memphis**, a municipal corporation (the "City").

WITNESSETH:

WHEREAS, by Special Warranty Deed of even date herewith, the City conveyed to Greenspace certain real property commonly known as Health Science Park, located in Shelby County, Tennessee and more particularly described on **Exhibit "A"** hereto (the "Property");

WHEREAS, as a condition to the conveyance of the Property from the City to Greenspace, Greenspace agreed to grant to the City an option to re-acquire the Property upon the terms and conditions contained herein; and

WHEREAS, Greenspace and the City desire to enter into this Agreement to evidence the grant of the option described herein.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Option To Purchase.** Greenspace hereby grants to the City the following option to purchase the Property upon the terms and conditions hereinafter provided:

A. In the event that Greenspace or its successors in title desires to voluntarily sell and convey all or any portion of the Property to a third party, then Greenspace shall provide to the City a copy of the proposed purchase agreement containing all terms and provisions in connection with such proposed conveyance (the "Offer"), and the City shall have an option to purchase the Property prior to a transfer to a third party, such option to be on the terms hereinafter provided in Paragraph 1.C. below.

B. In the event that Greenspace desires to transfer the Property by gift, or is required to transfer the Property upon dissolution, bankruptcy or any other involuntary transfer, the City shall have an option to purchase the Property prior to a transfer to a third party arising out of any of the aforementioned events, such option to be on the terms hereinafter provided in Paragraph 1.C. below.

In the event that the City exercises the option in Paragraphs 1.A. or 1.B. above, the purchase price for the Property shall be the lesser of (i) One Thousand Dollars (\$1,000.00) plus the actual and documented cost incurred by Greenspace for ordinary and necessary maintenance costs related to the Property during the two year period immediately prior to closing of the conveyance from Greenspace to the City pursuant to the City's exercise of the option, and (ii) the then current appraised value of the

Property (the "Appraised Value"). The Appraised Value shall be determined by the average of three licensed and qualified appraisers, all of which shall take into consideration in determining the fair market value of the Property, the recorded use restrictions and other restrictions which encumber the Property. One of the appraisers shall be selected by Greenspace, and one of the appraisers shall be selected by the City. The two appraisers shall then select a third appraiser, and the three appraisers shall then prepare independent appraisals of the fair market value of the Property as of the then current date. When the three appraisals are completed and a copy of each of them has been delivered to Greenspace and the City, the City shall have thirty (30) days from receipt of the three appraisals to notify Greenspace in writing that the City has elected to purchase the Property for the purchase price as determined above. The City shall then have thirty (30) days from the date of its written notice to Greenspace that the City has elected to exercise its option to close the purchase of the Property. If the City does not provide written notification that it has elected to purchase the Property within thirty (30) days of receipt of the three appraisals or if the City exercises its option, but fails to close within thirty (30) days of notice of its exercise of the option, the option shall terminate and be of no further force and effect, and Greenspace may proceed with conveyance of the Property pursuant to paragraphs 1.A. or 1.B. above. In the event the City elects to exercise its option, Greenspace shall convey to the City by Special Warranty Deed marketable and unencumbered (except for matters existing on the date Greenspace acquired the title from the City). If the City elects not to exercise its option and Greenspace fails to convey title to a third party in any transaction in which the City has received notice pursuant to paragraphs 1.A. or 1.B., this Agreement shall remain in full force and effect with respect to any subsequent proposed transfers and conveyances of the Property by Greenspace.

2. **Registration of Agreement.** Greenspace and the City agree that this Agreement shall be recorded in the Register's Office of Shelby County, Tennessee.

3. **Attorneys' Fees.** In any proceeding or controversy associated with or arising out of this Agreement or a claimed or actual breach hereof, the prevailing party shall be entitled to recover from the other party as a part of the prevailing party's cost, such party's actual attorneys', appraisers' and other professionals' fees and court costs.

4. **Captions.** Captions used in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

5. **Severability.** If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, such invalidity, illegality and unenforceability shall not affect the validity, legality and enforceability of the other provisions hereof, and this Agreement shall be construed as though such invalid, illegal or unenforceable provision had never been contained herein.

6. **Governing Law.** This Agreement shall be governed by the laws of the State of Tennessee.

[Signatures on following page]

IN WITNESS WHEREOF, Greenspace and the City have hereunto executed and delivered this Agreement as of the date first above written.

GREENSPACE:

Memphis Greenspace, Inc.
a Tennessee not for profit public benefit corporation

By: [Signature]
Name: Van Turner
Title: President

CITY:

City of Memphis,
a municipal corporation

By: [Signature]
Jim Strickland, Mayor

STATE OF TENNESSEE,
COUNTY OF SHELBY:

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Jim Strickland, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, Tennessee, the within named bargainer, a municipal corporation, and that he as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Memphis by himself as such Mayor.

Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021

[Signature]
Notary Public
LISA L. GEATER
STATE OF TENNESSEE
COUNTY OF SHELBY
MY COMM. EXP. MAY 30, 2021

STATE OF Tennessee
COUNTY OF Shelby

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Van Turner, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be the President of Memphis Greenspace, Inc., the within named bargainer, a Tennessee not for profit corporation, and that s/he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the not-for-profit corporation by himself/herself as such President.

Witness my hand and Notarial Seal at office this 15th day of December, 2017.

My commission expires:

[Signature]
Notary Public
STATE OF TENNESSEE
COUNTY OF SHELBY
MY COMM. EXP. MAY 30, 2018
4819-4814-9073
Health Science

[Signature]
Notary Public

EXHIBIT "A"
TO
OPTION AGREEMENT

Property Description

The following described Land in Shelby County, Tennessee:

Lot 9 – Memphis Hospital Lot, as shown on that certain plat of recorded at Book O, Page 325, in the records of the Register's Office of Shelby County, Tennessee.

The above property is commonly known as Health Sciences Park and municipally known as 0 S. Manassas Street, Memphis, Tennessee.

Cumulative Exhibit #2

3CA

Memphis Greenpeace Inc


Tom Leatherwood, Shelby County Register of Deeds: Instr. # 17107182

Charter



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

	
17107182	
10/18/2017 - 08:16 AM	
5 PCS	
CHRISTIAN 1660983-17107182	0.00
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	5.00
RECORDING FEE	2.00
OF FEE	0.00
REGISTER'S FEE	0.00
WALK THRU FEE	7.00
TOTAL AMOUNT	
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

October 5, 2017

Memphis Greenspace, Inc
MEMPHIS GREENSPACE, INC.
STE 2900
40 S MAIN ST
MEMPHIS, TN 38103-5529

Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

SOS Control # :	000926348	Formation Locale:	TENNESSEE
Filing Type:	Nonprofit Corporation - Domestic	Date Formed:	10/05/2017
Filing Date:	10/05/2017 2:01 PM	Fiscal Year Close:	12
Status:	Active	Annual Report Due:	04/01/2018
Duration Term:	Perpetual	Image # :	B0446-1259
Public/Mutual Benefit:	Public		
Business County:	SHELBY COUNTY.		

Document Receipt

Receipt # : 003606609

Filing Fee: \$100.00
\$100.00

Payment-Check/MO - J. MARTIN REGAN, JR., MEMPHIS, TN

Registered Agent Address:
J. MARTIN REGAN, JR.
STE 2900
40 S MAIN ST
MEMPHIS, TN 38103-5529

Principal Address:
MEMPHIS GREENSPACE, INC.
STE 2900
40 S MAIN ST
MEMPHIS, TN 38103-5529

Congratulations on the successful filing of your **Charter for Memphis Greenspace, Inc** in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee. Please visit the Tennessee Department of Revenue website (apps.tn.gov/bizreg) to determine your online tax registration requirements. If you need to obtain a Certificate of Existence for this entity, you can request, pay for, and receive it from our website.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

Tre Hargett
Tre Hargett
Secretary of State

Processed By: Stephanie Booker

CHARTER
OF
MEMPHIS GREENSPACE, INC.
EIN: 82-2980233

FILED

The undersigned natural person, having capacity to contract and acting as Incorporator of a corporation under the Tennessee Nonprofit Corporation Act, T.C.A. § 48-51-101, *et seq.*, adopts the following Charter for such corporation:

1. The Name of the Corporation is: Memphis Greenspace, Inc.
2. A. The duration of the Corporation is perpetual.
B. The fiscal year end of the Corporation is: June 30.
C. The Federal EIN is: 82-2980233.
3. A. The address and principal office of the Corporation in the State of Tennessee shall be:
Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103
B. The registered agent of the Corporation shall be:
J. Martin Regan, Jr.
Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103
C. The name and address of the Incorporator shall be:
J. Martin Regan, Jr.
Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103

4. The Corporation is nonsectarian, and is a not for profit public benefit corporation. The Corporation is irrevocably dedicated to and operated exclusively for nonprofit purposes; and no part of the income or assets of the Corporation shall be for the benefit of any individual, except that the Corporation shall be for services rendered and to

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make payments and distributions in furtherance of the purposes set forth herein to the extent allowed by IRS for a public charity exempt under the Code.

5. In the event of dissolution the residual assets of the organization will be turned over to one or more organizations which themselves are exempt as organizations described in Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986, as amended, or corresponding sections of any prior or future Internal Revenue Code, exclusively meeting all public charity code requirements; or, to the City of Memphis. Further, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual for less than fair market value of such property, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed only to an organization or organizations created and operated for non-profit purposes similar to those of the Corporation, or the City of Memphis.

6. No part of the activities of the Corporation shall be for the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of this Charter, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation, contributions to which are deductible under the Code.

7. The purposes for which the Corporation is organized are exclusively charitable and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any future United States Internal Revenue Code. The specific purposes of the Corporation are:

- a. To serve as an independent, nonprofit organization that provides park-based recreation within the City of Memphis to start, strengthen, and support neighborhood and community involvement with parks and greenspace; and
- b. To promote parks in general, so people will join in efforts to enjoy livable neighborhoods, and work in collaboration to start, strengthen and support revitalization of the City's neighborhoods by helping communities share spaces where people of diverse backgrounds and different ages can come together for recreation, enrichment and community activities; and
- c. To use park and greenspace to combine education programs, arts, sports and enrichment activity so as to encourage and support thriving, healthy communities within the City of Memphis; and

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B0446-1261 10/05/2017 2:01 PM Received by Tennessee Secretary

d. To provide spaces for social and civic engagement while striving to further strengthen the social fabric of the community neighborhoods of the City of Memphis.

8. Notwithstanding any other provision of these articles, this Corporation shall not carry on any other activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provision of any future United States Internal Revenue Law.

9. The powers of the Corporation are:

a. To accept, hold, invest, reinvest and administer any gifts, bequests, devises, benefits of trust and property of any sort, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable purposes in connection with promoting and advancing the charitable activities of the Corporation.

b. To do and perform all acts reasonably necessary for or incidental to the accomplishment of the purposes of the Corporation, and to do any and all things and exercise any and all powers, rights and privileges which a corporation may now or hereafter be authorized to do or exercise under the Tennessee Nonprofit Corporation Act, Tennessee Code Annotated, Section 48-51-101, *et seq.*, and the corresponding provision of any future Tennessee Nonprofit Corporation Act, and as may be permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provision of any future United States Internal Revenue Code.

c. To do and perform all charitable and educational actions as are appropriate to accomplish the corporate purposes of this Corporation so long as all such activity is allowed for a public charity under the Internal Revenue Service and Tennessee Codes.

10. This Corporation shall have no Membership, but shall be governed by a Board of Directors which shall be vested with all of the powers granted under the Tennessee Nonprofit Corporation Act. The number of Directors and terms shall be set forth in the Bylaws of this Corporation.

11. No Director shall have the right to exercise veto power over the actions of the Board of Directors or the Corporation.

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 17107182

12. The Corporation shall indemnify and hold harmless its Directors, Officers, and Agents to the fullest extent permissible under the Tennessee Nonprofit Corporation Act and any amendment thereto.

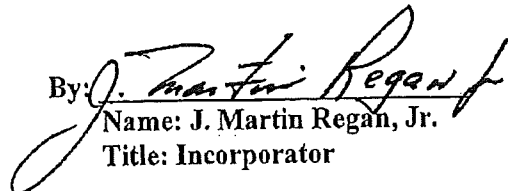
13. This Charter may be amended at any regular or special meeting subject to compliance with the provisions of the Bylaws.

14. This Charter shall be effective immediately upon filing with the Tennessee Secretary of State.

Dated this 4th day of October, 2017.

MEMPHIS GREENSPACE, INC.

By:



Name: J. Martin Regan, Jr.

Title: Incorporator

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Memphis GreenSpace

3(B)


Tom Leatherwood, Shelby County Register of Deeds: Instr. # 18011653

Amended Charter



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
Office of the Shelby County Register.

	
18011653	
02/06/2018 - 10:16 AM	
5 PGS	
BRANDON 1698960-18011653	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	5.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	7.00
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 18011653



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

January 30, 2018

Memphis Greenspace, Inc
MEMPHIS GREENSPACE, INC.
STE 2900
40 S MAIN ST
MEMPHIS, TN 38103-5529

Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

Control # : 926348 Status: Active
Filing Type: Nonprofit Corporation - Domestic

Document Receipt

Receipt # : 003774428	Filing Fee:	\$20.00
Payment-Check/MO - J. MARTIN REGAN, JR. ATTORNEY AT LAW, MEMPHIS, TN		\$20.00

Amendment Type: Amended and Restated Formation Documents Image # : B0473-5496
Filed Date: 01/25/2018 2:15 PM

This will acknowledge the filing of the attached amended and restated formation document with an effective date as indicated above. When corresponding with this office or submitting documents for filing, please refer to the control number given above.

Tre Hargett
Secretary of State

Processed By: Carol Dickerson

FILED

AMENDED AND RESTATED CHARTER

OF

MEMPHIS GREENSPACE, INC.

EIN: 82-2980233

Pursuant to unanimous approval of the Directors of Memphis Greenspace, Inc., at a meeting of the Board of Directors duly convened on January 24, 2018, and in compliance with the Charter, Bylaws, and T.C.A. § 48-60-101, *et seq.* of the Tennessee Nonprofit Corporation Act, the following Amended and Restated Charter of the Corporation is adopted:

1. The Name of the Corporation is: Memphis Greenspace, Inc.
2.
 - A. The duration of the Corporation is perpetual.
 - B. The fiscal year end of the Corporation is: June 30.
 - C. The Federal EIN is: 82-2980233.
 - D. The Tennessee Secretary of State's Control Number is: 926348.
3.
 - A. The address and principal office of the Corporation in the State of Tennessee shall be:

Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103

- B. The registered agent of the Corporation shall be:

J. Martin Regan, Jr.
Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103

- C. The name and address of the Incorporator shall be:

J. Martin Regan, Jr.
Memphis Greenspace, Inc.
40 S Main Street, Suite 2900
Memphis, Shelby County, Tennessee 38103

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4. The Corporation is nonsectarian, and is a not for profit public benefit corporation. The Corporation is irrevocably dedicated to and operated exclusively for nonprofit purposes; and no part of the income or assets of the Corporation shall be distributed to, or inure to the benefit of any individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein to the extent allowed by IRS for a public charity exempt under the Code.

5. In the event of dissolution the residual assets of the organization will be turned over to one or more organizations which themselves are exempt as organizations described in Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986, as amended, or corresponding sections of any prior or future Internal Revenue Code, exclusively meeting all public charity code requirements; or, to the City of Memphis. Further, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual for less than fair market value of such property, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed only to an organization or organizations created and operated for non-profit purposes similar to those of the Corporation, or the City of Memphis.

6. No part of the activities of the Corporation shall be for the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of this Charter, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation, contributions to which are deductible under the Code.

7. The purposes for which the Corporation is organized are exclusively charitable and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provisions of any future United States Internal Revenue Code. The specific purposes of the Corporation are:

- a. To serve as an independent, nonprofit organization that provides park-based recreation within the City of Memphis to start, strengthen, and support neighborhood and community involvement with parks and greenspace; and
- b. To promote parks in general, so people will join in efforts to enjoy livable neighborhoods, and work in collaboration to start, strengthen and support revitalization of the City's neighborhoods by helping communities share spaces where people of diverse backgrounds and different ages can come together for recreation, enrichment and community activities; and

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- c. To use park and greenspace to combine education programs, arts, sports and enrichment activity so as to encourage and support thriving, healthy communities within the City of Memphis; and
- d. To provide spaces for social and civic engagement while striving to further strengthen the social fabric of the community neighborhoods of the City of Memphis.
- e. To provide for the preservation or conservation of real or personal properties of architectural, archaeological, artistic, cultural, historical, natural or scenic significance, all in compliance with the provisions of T.C.A. § 12-2-501(2), which provision shall be controlling in the event of conflict with any other provisions of this document.

8. Notwithstanding any other provision of these articles, this Corporation shall not carry on any other activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provision of any future United States Internal Revenue Law.

9. The powers of the Corporation are:

a. To accept, hold, invest, reinvest and administer any gifts, bequests, devises, benefits of trust and property of any sort, without limitation as to amount or value, and to use, disburse or donate the income or principal thereof for exclusively charitable purposes in connection with promoting and advancing the charitable activities of the Corporation.

b. To do and perform all acts reasonably necessary for or incidental to the accomplishment of the purposes of the Corporation, and to do any and all things and exercise any and all powers, rights and privileges which a corporation may now or hereafter be authorized to do or exercise under the Tennessee Nonprofit Corporation Act, T.C.A., § 48-51-101, *et seq.*, and the corresponding provision of any future Tennessee Nonprofit Corporation Act, and as may be permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the corresponding provision of any future United States Internal Revenue Code.

c. To do and perform all charitable and educational actions as are appropriate to accomplish the corporate purposes of this Corporation so long as all such activity is allowed for a public charity under the Internal Revenue Service and Tennessee Codes.

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10. This Corporation shall have no Membership, but shall be governed by a Board of Directors which shall be vested with all of the powers granted under the Tennessee Nonprofit Corporation Act. The number of Directors and terms shall be set forth in the Bylaws of this Corporation.

11. No Director shall have the right to exercise veto power over the actions of the Board of Directors or the Corporation.

12. The Corporation shall indemnify and hold harmless its Directors, Officers, and Agents to the fullest extent permissible under the Tennessee Nonprofit Corporation Act and any amendment thereto. The Corporation may purchase and maintain insurance to the extent permissible under T.C.A. § 48-58-508, as may be amended or supplemented.

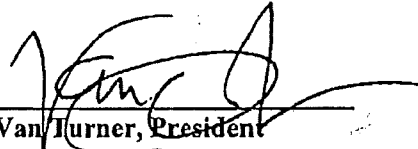
13. This Amended and Restated Charter may be further amended and/or restated at any regular or special meeting subject to compliance with the provisions of the Bylaws.

14. This Amended and Restated Charter has been approved unanimously by the Board of the Directors of the Corporation at a special meeting duly convened in accordance with the Charter, Bylaws and Tennessee Nonprofit Corporation Act, where a quorum was present, on January 24, 2018. The purposes for which this Corporation is organized at Item 7 above were expanded to specifically to incorporate language from T.C.A. § 12-2-501. There are no requirements for approval by any third party.

15. This Amended and Restated Charter shall be effective immediately upon filing with the Tennessee Secretary of State.

Dated this 24th day of January, 2018.

MEMPHIS GREENSPACE, INC.

By: 
Van Turner, President

Cumulative Exhibit #3

*Easement Agreement
Promenade*

JA

Source of Grantor's interest in real property herein described; Plat of record in Plat 3, Page 113 in the Office of Register of Deeds for Shelby County, Tennessee

This Instrument Prepared By:
Glankler Brown, PLLC
6000 Poplar Ave., Suite 400
Memphis, TN 38119
Attn: R. Hunter Humphreys, Sr.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (hereinafter the "Agreement") is made and entered into effective the 20th day of December, 2017, by and between the City of Memphis, a municipal corporation (hereinafter "Grantor"), and Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation (hereinafter "Grantee").

WITNESSETH

WHEREAS, Grantor has an easement for a public purpose in certain real property located along the Mississippi River that was dedicated by the original proprietors of Grantor, a portion of which is the subject of this Agreement ("Easement Public Purpose Property"), which Easement Public Purpose Property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference; the history of Grantor's property interest is more particularly described on Exhibit "B" attached hereto and incorporated herein by reference;

WHEREAS, Grantor has rights and interests in the Easement Public Purpose Property pursuant to its original common law dedication resulting from the recording in 1820 of Plat 3, Page 113 in the Office of Register of Deeds for Shelby County, Tennessee (the "1820 Plat"); and

WHEREAS, pursuant to Ordinance No. 5665, as adopted by the Council of the City of Memphis and signed by its Chair and approved and signed by the City's Mayor, dated December 20, 2017, a true copy of which is attached as Exhibit "C", Grantor has agreed to grant and Grantee has agreed to accept an easement for possession and use of Easement Public Purpose Property for the benefit of Grantee, said easement being for a public purpose as set forth

in the Restrictive Covenant Agreement between Grantor and Grantee executed and recorded simultaneously with this Easement Agreement (the "Restrictive Covenant Agreement").

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the premises and covenants herein contained, the parties agree as follows:

1. Grantor hereby grants, assigns, bargains, sells and conveys to Grantee, the following interests of possession and use and easement (collectively, the "Easement") which shall apply to and affect the Easement Public Purpose Property described in Exhibit "A":

A permanent and exclusive easement for rights of possession and use of the Easement Public Purpose Property, including the existing fixtures and site improvements for a public purpose, which public purpose is more particularly set forth in the Restrictive Covenant Agreement; provided, however, that Grantor hereby retains easements for all existing utilities, sanitary sewers and drainage facilities recorded and unrecorded located in the Easement Public Purpose Property.

2. Grantor covenants that it has rights and interests in Easement Public Purpose Property by common law dedication resulting from the recording of the 1820 Plat; that it has full power, authority and right to grant the Easement; that the Easement is free from any lien, deed of trust or mortgage, and unencumbered except for matters set forth in Exhibit "D" hereto ("Permitted Encumbrances").

3. Grantor makes no claim or warranty relative to the environmental condition of the Easement Public Purpose Property.

4. Grantee is responsible for any and all costs and expenses associated with the Easement for possession and use of Easement Public Purpose Property including, but not limited

to, repair, maintenance, renovations, capital costs, construction, demolition, insurance, utilities, security and any other related costs of possession and use of the fixtures, site improvements and real property to be used by Grantee for a public purpose as further set forth in the Restrictive Covenant Agreement.

5. In order to assure that the Easement Public Purpose Property shall always be used and maintained for a public purpose in accordance with its designation as a portion of the public promenade in the plat of 1820 and for such other reasons as are set forth therein, Grantor and Grantee have executed an Option Agreement whereby, upon satisfaction of the terms and conditions set forth therein, Grantor may repurchase the Easement Public Purpose Property which Option Agreement has been executed and recorded simultaneously herewith.

6. The Easement shall run with the land, and shall be for the benefit and use of the Grantee herein, its successors and assigns.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed as of the day, month and year first above written.

[Signatures follow on separate pages]

Signature and Approval of the City of Memphis

CITY OF MEMPHIS

By: [Signature]
Jim Strickland, Mayor

APPROVED AS TO FORM:

[Signature]
Doug McGowen, Chief Operating Officer

[Signature]
Bruce McMullen, City Attorney

STATE OF TENNESSEE:
COUNTY OF SHELBY:

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Jim Strickland, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, a municipal corporation, the within named bargainer, and that he as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such authorized officer.

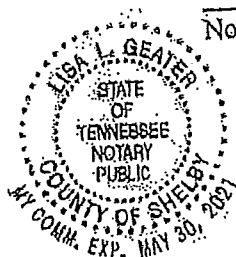
WITNESS my hand and Notarial Seal at office this 15th day of December, 2017.

[Signature]

Notary Public

My commission expires:

5-30-2021



GRANTEE:

MEMPHIS GREENSPACE, INC.,
a Tennessee not for profit public benefit corporation

By:

[Signature]
President

Its:

VAN TURNER

STATE OF TENNESSEE:
COUNTY OF SHELBY:

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Van Turner, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged himself/herself to be the President of Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation, the within named bargainer, and that he/she as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such authorized officer.

WITNESS my hand and Notarial Seal at office this 15th day of December, 2017.

[Signature]
Notary Public



STATE OF TENNESSEE:
COUNTY OF SHELBY:

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Doug McGowen, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged himself to be the Chief Operating Officer of the City of Memphis, a municipal corporation, the within named bargainer, and that he as such Chief Operating Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such authorized officer.

WITNESS my hand and Notarial Seal at office this 15th day of December, 2017.

Lisa L. Geater
Notary Public

My commission expires:

5-30-2021



STATE OF TENNESSEE:
COUNTY OF SHELBY:

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Bruce McMullen, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged himself to be the City Attorney of the City of Memphis, a municipal corporation, the within named bargainer, and that he as such City Attorney, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such authorized officer.

WITNESS my hand and Notarial Seal at office this 15th day of December, 2017.

Lisa L. Geater
Notary Public

My commission expires:

5-30-2021



EXHIBIT "A"

Easement Public Purpose Property

Legal Description

Real property located at 0 North Front Street, Memphis, Shelby County, Tennessee and bounded on the north by Jefferson Avenue (225 feet right of way), on the east by Front Street (457 feet right of way), on the South by Court Avenue (300 feet right of way) and on the west by Riverside Drive (465 feet right of way) containing 2.75 acres, more or less.

Tax Parcel 002-004-00001

EXHIBIT "B"

History

1. The proprietors of Grantor were John Overton, William Winchester, James Winchester and John McLemore ("Proprietors") at the time the City of Memphis was founded in 1819 on the western part of what is known as the Rice Grant of 5,000 acres. (Andrew Jackson had been one of the proprietors, but his interest in the land had been acquired by William Winchester and John C. McLemore.)
2. In 1820, the Proprietors of Grantor filed and recorded a plat drawn by William Lawrence, of record in the Register of Deeds Office of Shelby County, Tennessee, at Plat 3, Page 113, on which were shown numerous lots, streets, alleys, squares, a Public Landing and the Public Promenade.
3. The City of Memphis was incorporated in 1826, but prior thereto the Proprietors had sold lots by reference to the recorded plat.
4. By deed dated September 18, 1828 and registered March 4, 1829, the Proprietors undertook to clarify and resolve doubts about the 1820 recorded plat and to assert certain claims retained by them.
5. The Tennessee Supreme Court in *Hardy v. Mayor and Alderman of City of Memphis*, 57 Tenn. 127 (Tenn. 1872), held the rights between the City of Memphis and the Proprietors or their successors must be determined by the recorded plat of 1820.
6. The foregoing is set forth in *City of Memphis v. Overton*, 392 S.W.2d 86 (Tenn. Ct. App. 1963) (upheld on appeal in *Memphis v. Overton*, 392 S.W.2d 98 (Tenn. 1965)); wherein the Court held that under the common law dedication resulting from the recording of the 1820 plat and sale of the lots with reference thereto, the City of Memphis did not acquire a fee simple title but an easement in the Public Landing and Public Promenade, which easement it held as representative of the public.

EXHIBIT "C"

Ordinance No. 5665

SUBSTITUTE ORDINANCE NO. 5665

ORDINANCE RELATIVE TO THE IMMEDIATE REMOVAL OF THE FORREST
EQUESTRIAN STATUE AND THE JEFFERSON DAVIS STATUE AND OTHER
SIMILAR PROPERTY FROM CITY OWNED PROPERTY

WHEREAS, the Council adopted Ordinance No. 5661 on October
17, 2017;

WHEREAS, Ordinance No. 5661 directed its attorney to work
cooperatively with the City administration, consistent with the
intent of Ordinance 5661, to develop and submit to the Council
not later than November 21, 2017 a plan for the removal and/or
relocation of all Confederate statues and artifacts, like the
Forrest equestrian statue and the Jefferson Davis statue, from
City owned property for review and approval by the Council;

WHEREAS, the Mayor and his designees have presented the
Council with a plan as requested by the Council and the Council
desires to adopt one or more aspects of said plan for immediate
implementation.

NOW THEREFORE BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL AS
FOLLOWS:

Section 1. Adoption of Plan for Removal of Statues of Nathan
Bedford Forrest and/or Jefferson Davis and Other Similar
Monuments. That the Council does hereby adopt the Plan presented
to the Council, a copy of which is attached to this Ordinance,

for the removal and/or relocation of all Confederate statues and artifacts, like the Forrest equestrian statue and the Jefferson Davis statue, from any property that the City currently has a real property interest ("Implementation Plan"); the Council does also expressly find that the future use of the referenced City property in accordance with the Implementation Plan will be for the benefit of the community.

Section 2. Authority and Direction To Implement City Policy in Ordinance 5661.

The Council does hereby authorize and direct the City administration to execute and perform it's designated responsibilities under the Implementation Plan, attached hereto and incorporated herein by reference as if set out verbatim, in the furtherance of the City Policy adopted in Ordinance 5661 with all deliberate speed as the public's interest requires it. Specifically, the Council does hereby authorize and approve pursuant to City Code § 2-291 as follows:

- 1) the sale and/or conveyance, at reduced or no cost, of Health Sciences Park and the Forrest Monument to Memphis Greenspace, Inc., a 501(c)(3) non-profit corporation, in fee simple absolute;
- 2) the sale and/or conveyance, at reduced or no cost, of such portions of the City's easement in Memphis Park on which

the Jefferson Davis statue and other confederate artifacts are located to Memphis Greenspace, Inc., a 501(c)(3) non-profit corporation;

3) the application in the name of the City or jointly with Memphis Greenspace, Inc., for Health Sciences and Memphis Parks to be rezoned parkland or open spaces to insure their use by the general public for recreational purposes;

4) the execution of deeds, bills of sale and other documents necessary to effectuate the City's designated responsibilities under the Implementation Plan adopted by this ordinance without the need for any further authorizations or approvals by this Council. To this end the Council does hereby ratify, confirm and approval the actions of the administration in negotiating or in anyway preparing for the implementation of the Policies adopted in Ordinance 5692.

Section 3. Severability. The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 4. 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:
PER CURIAM

BERLIN BOYD
CHAIRMAN

THE FOREGOING ORDINANCE
5665 PASSED

1st Reading _____

2nd Reading _____

3rd Reading _____

Approved: [Signature]
Chairman of Council

Date Signed: 12/20/2017

APPROVED:
[Signature]
Mayor, City of Memphis

Date Signed: 12/20/17

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie Cook Sripes
Comptroller

EXHIBIT "A"

IMPLEMENTATION PLAN FOR REMOVAL OF FORREST MONUMENT IN
HEALTH SCIENCES PARK AND JEFFERSON DAVIS MONUMENT IN
MEMPHIS PARK AND RELATED ARTIFACTS AND THINGS

With the advent of MLK 50 Commemoration on April 4, 2018, the eyes of the world will be focused on the City. The Council adopted Ordinance No. 5592, which provided, *inter alia*, for the immediate removal of the equestrian statue from Health Sciences Park, subject only to the requirements of state law, if any. However, the Mayor and his designees have been stymied from implementing the mandates of Ordinance 5592 by the Tennessee Historical Commission, which delayed any action on the City's Waiver request under the Tennessee Heritage Protection Act for more than a year. The City's application before the Tennessee Historical Commission (the "Commission") for a waiver under the 2013 Tennessee Heritage Protection Act to relocate the Forest Monument was denied on October 13, 2017, thereby clearing the way for judicial review.

Administrative Review of the Commission's October 13, 2017 denial has been stalled by dilatory tactics of the Sons of Confederate Veterans and descendants of Nathan B. Forrest. The Secretary of State's Administrative Procedures Division has allowed Sons of Confederate Veterans and descendants of Nathan B. Forrest to hijack the administrative review proceedings such that preliminary procedural decisions of the ALJ have effectively denied the City a prompt administrative review. At the request of the State of Tennessee, the City agreed to mediate with the Sons of Confederate Veterans and descendants of Nathan B.

Forrest the issue of an appropriate location for relocation of the statues. Consistent with past practices, the Sons of Confederate Veterans and descendants of Nathan B. Forrest have not been willing to mediate the controversy.

Despite the City's reasonable and diligent efforts to exhaust all legal processes, it has been effectively denied any relief. The City is informed that Sons of Confederate Veterans and descendants of Nathan B. Forrest have been actively seeking a permanent solution for the General Assembly that would tie the City's hands in perpetuity.

On August 28, 2017, Governor Haslam requested the Commission to grant the City of Memphis' request for the Commission to make a final determination on the Waiver Petition at the October 13, 2017 meeting. Governor Haslam noted that a "refusal to act on the petition in October will only prolong the issue and result in criticism of both the established process and the Commission itself, as this process can work effectively only if the responsible entities act in a timely manner."

As the April 4, 2018 Commemoration of MLK 50 nears, the City cannot delay implementation of the policies adopted by the Council in Ordinance 5692 any longer. The Forrest statue at issue in the City's Waiver Petition has been the subject of multiple public protests and vandalism. The Forrest statue is located in the City's medical district and is surrounded by multiple state educational institutions including the University of Tennessee Health Sciences Campus and the Southwest Tennessee Community College. It is also located near Sun Studios, a popular

tourist attraction as well as the Regional One Medical Center. Various activists groups have publicly criticized the City's refusal to simply remove the statue and have called for "radical" action by citizen groups. During a recent protest, seven (7) people were arrested. The City has been required to expend considerable public funds to police and protect the Forrest monument from damage and destruction and to police violent protests at the public park at which the monument is situated. The City has been informed that the protestors intend to increase the frequency and severity of their protests. As a result of actual and threatened violent protests, the City's legislative body has declared the site a public nuisance, because it can no longer be used by the general public.

The National Civil Rights Museum and many civic groups have planned a major commemoration of the 50th anniversary of the assassination of Martin Luther King, to be held in Memphis on April 4, 2018. Petitioners anticipate that the planned events will be covered by national and international media. The City also believes the continued presence of the Forrest statue will attract protestors for and against removal of the statue with the potential for violent conflict similar to what occurred recently in Charlottesville, Virginia.

The City has determined that it is in the public's interest that a private entity should be allowed to repurpose Health Sciences Park and Memphis Park using private resources free from the unreasonable restrictions imposed by the Tennessee General Assembly on public entities, like the City, on the uses of public property.

The City administration does hereby recommend that Health Sciences Park be sold and/or conveyed by the City to Memphis Greenspace, Inc., a 501(c)(3) non-profit corporation ("Greenspace") for a reduced or no cost pursuant to existing ordinances and that a portion of the City's easement in Memphis Park be also sold and/or conveyed to Memphis Greenspace for a reduced or no cost. Greenspace has provided the City Administration with its vision for repurposing both Health Sciences Park and Memphis Park and has already raised substantial private donations for partial implementation of its plan. Moreover, Greenspace's plans are compatible with privately funded efforts to repurpose Memphis Park as the Fourth Bluff.

The City Administration concurs in the Findings of the City Council that the Forrest and Jefferson Davis statues are public nuisances and are unfit for service or use by the City since their continued presence is inconsistent with the purpose, intent and future land uses of the Medical Overlay District and with the Riverfront Development Plans, which is to support the development and investment efforts of the State and other institutions in the medical district and surrounding neighborhoods and the efforts of the University of Memphis Law School's efforts to be recognized nationally as a first tier institution of legal training and scholarship open to all races, creeds and persons irrespective of national origins.

Also, all statues and artifacts honoring Confederate protagonists, like the Forrest equestrian statue and the Jefferson Davis statue located on City owned property,

constitute a public nuisance under Tennessee law and also potentially infringe upon the civil rights of the significant majority of the population of the City. For these reasons, all statues and artifacts honoring Confederate protagonists, like the Forrest equestrian statue and the Jefferson Davis statue, should be removed from City owned property. The City's continued ownership of these assets is an impediment to their immediate removal and/or relocation. This recommendation is also consistent with the City's arrangements with other private non-profit organizations to manage and/or control public parkland using private funds.

This Implementation Report has been developed jointly in consultation with the Council's attorney. It is the considered option of the authors of this report and recommendation that the recommendations in this report are the only reasonable options that are immediately available to the City to abate public nuisances and to end the expenditure of precious the public funds to protect the Forrest and Jefferson Davis statues and related monuments/memorials. The recommendations will accomplish several goals of the City, namely:

- 1) Facilitate the removal and relocation of Forrest and Jefferson Davis statues before the April 4, 2018 Commemoration of MLK 50;
- 2) Avoid violent demonstrations and protests during MLK 50 and the resulting stain on the City's image to the world;
- 3) Permit repurposing of Health Sciences and Memphis Parks as inviting destinations for all Memphians without using City resources;
- 4) Insure that Health Sciences and Memphis Parks will remain open spaces for use and enjoyment of citizens and visitors of the City.

EXHIBIT "D"

Permitted Encumbrances


All matters of record in the Register's Office of Shelby County, Tennessee and all existing utilities, sanitary sewers and drainage facilities recorded and unrecorded located in the Easement Public Purpose Property.

Bill of Sale
(Promenade) 2 (B)



Tom Leatherwood
Shelby County Register / Archives

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

		
12/21/2017	17129756	08:19 AM
4 PGS		
TAMMY 1884278-17129756		0.00
VALUE		0.00
MORTGAGE TAX		0.00
TRANSFER TAX		20.00
RECORDING FEE		2.00
DP FEE		0.00
REGISTER'S FEE		0.00
WALK THRU FEE		22.00
TOTAL AMOUNT		
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE		

Memphis Park - Front

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of One Thousand And No/100 Dollars (\$1,000.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Memphis, a municipal corporation ("**Seller**") does now hereby grant, bargain, sell, assign, transfer and convey unto Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation ("**Purchaser**"), its successors and assigns, good and merchantable title in and to all personal property (the "**Assets**") of every kind and description owned by Seller and situated in, on, over and under the real property and improvements thereon (the "**Real Property**") commonly known as Memphis Park - Front, described in Exhibit "A" attached hereto and incorporated herein by reference; provided.

TO HAVE AND TO HOLD the Assets unto Purchaser, its successors and assigns, forever.

Seller hereby covenants and warrants to Purchaser that Seller has good title to the Assets, free and clear of all security interests, liens and encumbrances of whatever kind or nature and that Seller has good right to sell the same as aforesaid.

SELLER IS SELLING AND DELIVERING THE ASSETS IN "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY MATTER WITH RESPECT TO THE CONDITION OF THE ASSETS.

This Bill of Sale shall be construed under and enforced in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, Seller has caused this Bill Of Sale to be executed as of the 20th day of December, 2017.

SELLER:

City of Memphis,
a municipal corporation

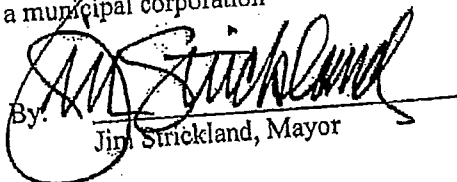
By: 
Jim Strickland, Mayor

EXHIBIT "A"

TO BILL OF SALE

Real Property Description

The following described Land in Shelby County, Tennessee:

Real property located at 0 North Front Street, Memphis, Shelby County, Tennessee and bounded on the north by Jefferson Avenue (225 feet right of way), on the east by Front Street (457 feet right of way), on the South by Court Avenue (300 feet right of way) and on the west by Riverside Drive (465 feet right of way) containing 2.75 acres, more or less.

Tax Parcel 002-004-00001

2(C)


*Restrictive
Covenants
Premenade*

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 17129755



Tom Leatherwood
Shelby County Register / Archives

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12/21/2017	17129755 08:19 AM
8 PGS	
TAMMY 1684279-17129755	0.00
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	30.00
RECORDING FEE	2.00
DP FEE	0.00
REGISTER'S FEE	0.00
WALK THRU FEE	32.00
TOTAL AMOUNT	
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

Memphis Park – Front

THIS INSTRUMENT PREPARED
BY AND RETURN TO:
Glankler Brown, PLLC
6000 Poplar Avenue, Suite 400
Memphis, Tennessee 38119
Attn: R. Hunter Humphreys

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT (the "Agreement"), is made this 20th day of December, 2017, by and between the City of Memphis, a municipal corporation (the "City") and Memphis Greenspace, Inc., a Tennessee not for profit public benefit corporation ("Greenspace").

WITNESSETH:

WHEREAS, by Easement Agreement of even date herewith and recorded in the Register's Office of Shelby County, Tennessee (the "Register's Office"), the City has assigned and conveyed to Greenspace interests of possession and use and easement to certain real property in Memphis, Tennessee, such property being more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Easement Public Purpose Property");

WHEREAS, the City, for the general welfare of its citizens, desires to preserve the scenic, natural, physical, ecological, hydrological, biological and environmental features of the Easement Public Purpose Property; and

WHEREAS, as a condition to the assignment and conveyance of the Easement Public Purpose Property, pursuant to the Easement Agreement, the City has required Greenspace to enter into this Agreement, and Greenspace has agreed to join herein.

NOW, THEREFORE, for good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Purposes. The purposes of this Agreement are to conserve and restrict the development of the Easement Public Purpose Property for public purposes; to preserve, maintain and enhance the present condition, use and beauty of the Easement Public Purpose Property, to preserve and enhance the open space value and scenic value of the Easement Public Purpose Property, and to reserve, maintain and enhance the biological, hydrological, ecological, cultural and scenic resources of the Easement Public Purpose Property.

Section 2. Covenants, Conditions and Restrictions. The Easement Public Purpose Property shall be held, transferred, sold, assigned, conveyed, encumbered, rented, used, occupied and

improved subject to the following covenants, conditions and restrictions (collectively, the "Restrictions"):

- A. The Easement Public Purpose Property, including the landscaping and improvements which are a part thereof, shall be maintained in good, safe and scenic condition. Except as otherwise provided herein, there shall be no removal, destruction or cutting of trees, shrubs or other vegetation except as may be necessary for the maintenance of walkways, utility lines, or as may be necessary for restoring, protecting, managing, maintaining and enhancing the Easement Public Purpose Property for scenic open space, aesthetics and environmental purposes.
- B. No activities, actions or uses of the Easement Public Purpose Property shall be permitted that would be detrimental or adverse to erosion control, soil conservation or wildlife habitat preservation.
- C. No industrial, office, retail, residential or other commercial activities shall be permitted or carried-on, on the Easement Public Purpose Property.
- D. Without the prior written approval of the City, which approval will not be unreasonably withheld, or as otherwise provided herein, there shall be no excavation, dredging or removal of dirt, gravel, soil, rock, sand or any other material nor any building of roads or other topographical changes, except as may be necessary for reasonable preservation, management or restoration purposes or to maintain presently existing walkways or service entrances.
- E. No storage, dumping, burial, burning or injection of trash, garbage, rubbish or any other waste materials or any unsightly or offensive materials shall be permitted.
- F. There shall be no commercial advertising of any description permitted on the Easement Public Purpose Property. No signs, billboards, or advertisements shall be displayed or placed on the Easement Public Purpose Property except (a) such signs, plaques or other markers as are appropriate for commemorating or identifying the historic, natural or scenic importance or significance of the Easement Public Purpose Property; (b) such interpretive signs, plaques or markers that serve an educational or informational purpose; (c) such signs, plaques or markers as are necessary to direct and restrict the passage of persons or the parking of vehicles upon the Easement Public Purpose Property or to notify persons of any restricted activities; (d) a sign or signs stating solely the title or address of the Easement Public Purpose Property; (e) memorial or commemorative signs, plaques, markers or monuments; or (f) recognition, appreciation, or donor signs, plaques, markers or monuments. No signs, plaques, markers or monuments shall be placed on the Easement Public Purpose Property without the written approval of the City, which approval may be granted or withheld in the City's sole discretion.
- G. Except where necessary to facilitate the preservation, maintenance or restoration of the Easement Public Purpose Property, or an emergency, no motorized vehicles shall be operated on the Easement Public Purpose Property.

- H. Except as otherwise provided herein, there shall be no erection of buildings, or other structures or improvements on the Easement Public Purpose Property without the written approval of the City, which approval may be granted or withheld in the City's sole discretion.
- I. There shall be no erection of utilities on the Easement Public Purpose Property except for replacement of existing utilities without the written approval of the City which approval may be granted or withheld in the City's sole discretion.
- J. The Easement Public Purpose Property shall be available for public recreational use from dawn to dusk, and no fees shall be charged for such public use.
- K. The Easement Public Purpose Property shall be maintained in a good, clean, attractive and secure condition, which shall include, but not be limited to, the following actions by Greenspace:
 - a. Mowing, aerating, reseeding, edging and weed control with respect to the grassy areas of the Easement Public Purpose Property;
 - b. Fertilization of turf, trees, and shrubs and routine maintenance of the same (i.e. pruning);
 - c. Insect Control - Monitoring, preventing, correcting and managing insects or disease in turf, trees, shrubs either by cultural or chemical methods;
 - d. Hardscape Surfaces - Sweeping, blowing and power washing of walkways, parking lots and other hardscape surfaces in the Easement Public Purpose Property;
 - e. Repair of the facilities and Easement Public Purpose Property amenities;
 - f. Inspection - Visual and physical examination of the facility, equipment and amenities to ensure compliance, safety and proper operation;
 - g. Removal of graffiti or other vandalism in the Easement Public Purpose Property;
 - h. Cleaning, sweeping, sanitizing the restrooms and other Easement Public Purpose Property facilities;
 - i. Litter pick-up and emptying of trashcans throughout the Easement Public Purpose Property;
 - j. Maintaining all electrical and plumbing systems; and
 - k. Providing adequate premises security on the Easement Public Purpose Property.

Section 3. Binding Effect/Term: The Restrictions shall be deemed a covenant running with the land and shall be binding upon Greenspace, its successors and assigns, and upon all parties having or acquiring any right, title or interest whatsoever in or to any part of the Easement Public Purpose Property, and shall inure to the benefit of the City for a term of ninety nine (99) years from the date on which this Agreement is initially recorded in the Register's Office of Shelby County, Tennessee.

Section 4. Enforcement. In the event of a violation or breach of any of the Restrictions by Greenspace which is not cured within thirty (30) days of receipt by Greenspace of written notice

thereof from the City, the City shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of the Restrictions, to sue for and recover damages, or to take all such courses of action at the same time, or such other legal remedy such party may deem appropriate.

No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrence or continuation of the violation or the occurrence of a difference violation.

Although this Agreement is intended to provide for and enhance the general welfare of all citizens of the City, the parties agree that this Agreement may only be enforced by action of the City.

Section 5. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective while this Agreement is in effect, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a provision that is legal, valid and enforceable and as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 6. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to principles of conflict of laws.

Section 7. Amendment. The Restrictions may be extended, amended or terminated only by the execution of an instrument signed by Greenspace and the City. Such instrument shall be filed for recording in the Register's Office of Shelby County, Tennessee or in such other place of recording as may be required at the time of the execution of such instrument. Each party whose signature is required on an instrument which proposes an extension, amendment or termination of the Restrictions shall make a prompt determination on whether or not to approve and execute such instrument.

Section 8. Successors And Assigns. References herein to the City shall include any successor. References to Greenspace shall include any successors in title to all or any portions of Easement Public Purpose Property.

Section 9. Captions. The captions preceding the various sections of this Agreement are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Agreement. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, Greenspace and the City have hereunto executed and delivered this Agreement as of the date first above written.

GREENSPACE:

CITY:

Memphis Greenspace, Inc.
a Tennessee not for profit public benefit corporation

City of Memphis,
a municipal corporation

By: [Signature]
Name: Van Turner
Title: President

By: [Signature]
Jim Strickland, Mayor

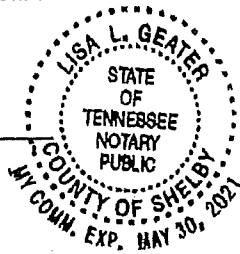
STATE OF TENNESSEE,
COUNTY OF SHELBY:

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Jim Strickland, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, Tennessee, the within named bargainer, a municipal corporation, and that he as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Memphis by himself as such Mayor.

Witness my hand and Notarial Seal at office this 15 day of December, 2017.

My Commission Expires:

5-30-2021



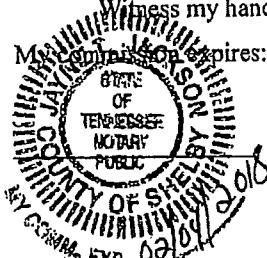
[Signature]
Notary Public

STATE OF Tennessee
COUNTY OF Shelby

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Van Turner, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be the President of Memphis Greenspace, Inc, the within named bargainer, a Tennessee not for profit public benefit corporation, and that s/he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the not-for-profit corporation by himself/herself as such President.

Witness my hand and Notarial Seal at office this 15th day of December, 2017.

My Commission Expires:



[Signature]
Notary Public

Tom Leatherwood, Shelby County Register of Deeds: Instr. # 17129755

EXHIBIT "A"

EASEMENT PUBLIC PURPOSE PROPERTY

The following described Land in Shelby County, Tennessee:

Real property located at 0 North Front Street, Memphis, Shelby County, Tennessee and bounded on the north by Jefferson Avenue (225 feet right of way), on the east by Front Street (457 feet right of way), on the South by Court Avenue (300 feet right of way) and on the west by Riverside Drive (465 feet right of way) containing 2.75 acres, more or less.

Tax Parcel 002-004-00001

Option to Repurchase
Promenade

2 (D)

Memphis Park - Front

This Instrument Prepared By And Please Return To:
Glankler Brown, PLLC
6000 Poplar Avenue, Ste. 400
Memphis, TN 38119
Attn: R. Hunter Humphreys

OPTION AGREEMENT

THIS OPTION AGREEMENT (the "Agreement") is made and entered into as of the 20th day of December, 2017 (the "Effective Date"), by and between **Memphis Greenspace, Inc.**, a Tennessee not for profit public benefit corporation ("Greenspace"), and the **City of Memphis**, a municipal corporation (the "City").

WITNESSETH:

WHEREAS, by Easement Agreement of even date herewith, the City assigned and conveyed to Greenspace interest of possession and use and easement to certain real property and improvements commonly known as Memphis Park - Front, located in Shelby County, Tennessee and more particularly described on **Exhibit "A"** hereto (the "Easement Public Purpose Property");

WHEREAS, as a condition to the assignment and conveyance of the Easement Public Purpose Property from the City to Greenspace pursuant to the Easement Agreement, the City agreed to grant to Greenspace an option to re-acquire the Easement Public Purpose Property upon the occurrence of certain events and pursuant to the terms and conditions contained herein; and

WHEREAS, the City and Greenspace desire to enter into this Agreement to evidence the grant of the option described herein.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Option To Purchase. Greenspace hereby grants to the City the following option to purchase the Easement Public Purpose Property upon the terms and conditions hereinafter provided:

- A. In the event that Greenspace or its successors in title desires to voluntarily sell, assign and convey all or any portion of the Easement Public Purpose Property to a third party, then Greenspace shall provide to the City a copy of the proposed purchase agreement containing all terms and provisions in connection with such proposed assignment and conveyance (the "Offer"), and the City shall have an option to purchase the Easement Public Purpose Property prior to a transfer to a third party, such option to be on the terms hereinafter provided in Paragraph 1.C. below.
- B. In the event that Greenspace desires to transfer and assign the Easement Public Purpose Property by gift, or is required to transfer the Easement Public Purpose Property upon dissolution, bankruptcy or any other involuntary transfer, the City shall have an option to purchase the Easement Public Purpose Property prior to a transfer to a third party arising out of any of the aforementioned events, such option to be on the terms hereinafter provided in Paragraph 1.C. below.
- C. In the event that the City exercises the option in Paragraphs 1.A. or 1.B. above, the purchase price for the Easement Public Purpose Property shall be the lesser of (i) One Thousand Dollars (\$1,000.00) plus the actual and documented cost incurred by Greenspace for ordinary and necessary maintenance costs related to the Easement Public Purpose Property.

Purpose Property during the two year period immediately prior to closing of the conveyance from Greenspace to the City pursuant to the City's exercise of the option, and (ii) the then current appraised value of the Easement Public Purpose Property (the "Appraised Value"). The Appraised Value shall be determined by the average of three licensed and qualified appraisers, all of which shall take into consideration in determining the fair market value of the Easement Public Purpose Property, the recorded use restrictions and other restrictions which encumber the Easement Public Purpose Property. One of the appraisers shall be selected by Greenspace, and one of the appraisers shall be selected by the City. The two appraisers shall then select a third appraiser, and the three appraisers shall then prepare independent appraisals of the fair market value of the Easement Public Purpose Property as of the then current date. When the three appraisals are completed and a copy of each of them has been delivered to Greenspace and the City, the City shall have thirty (30) days from receipt of the three appraisals to notify Greenspace in writing that the City has elected to purchase the Easement Public Purpose Property for the purchase price as determined above. The City shall then have thirty (30) days from the date of its written notice to Greenspace that the City has elected to exercise its option to close the purchase of the Easement Public Purpose Property. If the City does not provide written notification that it has elected to purchase the Easement Public Purpose Property within thirty (30) days of receipt of the three appraisals or if the City exercises its option, but fails to close within thirty (30) days of notice of its exercise of the option, the option shall terminate and be of no further force and effect, and Greenspace may proceed with conveyance of the Easement Public Purpose Property pursuant to paragraphs 1.A. or 1.B. above. In the event the City elects to exercise its option, Greenspace shall assign and convey to the City marketable and unencumbered (except for matters existing on the date Greenspace acquired the Easement Public Purpose Property pursuant to the Easement Agreement from the City). If the City elects not to exercise its option and Greenspace fails to convey title to a third party in any transaction in which the City has received notice pursuant to paragraphs 1.A. or 1.B., this Agreement shall remain in full force and effect with respect to any subsequent proposed transfers, assignments and conveyances of the Easement Public Purpose Property by Greenspace.

2. **Registration of Agreement.** Greenspace and the City agree that this Agreement shall be recorded in the records Register's Office of Shelby County, Tennessee.

3. **Attorneys' Fees.** In any proceeding or controversy associated with or arising out of this Agreement or a claimed or actual breach hereof, the prevailing party shall be entitled to recover from the other party as a part of the prevailing party's cost, such party's actual attorneys', appraisers' and other professionals' fees and court costs.

4. **Captions.** Captions used in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

5. **Severability.** If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, such invalidity, illegality and unenforceability shall not affect the validity, legality and enforceability of the other provisions hereof, and this Agreement shall be construed as though such invalid, illegal or unenforceable provision had never been contained herein.

6. **Governing Law.** This Agreement shall be governed by the laws of the State of Tennessee.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

Memphis Greenspace, Inc.
a Tennessee not for profit public benefit corporation

By: [Signature]
Name: Van Turner
Title: President

City of Memphis
a municipal corporation

By: [Signature]
Jim Strickland, Mayor

STATE OF TENNESSEE,
COUNTY OF SHELBY:

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Jim Strickland, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, Tennessee, the within named bargainer, a municipal corporation, and that he as such Mayor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Memphis by himself as such Mayor.

Witness my hand and Notarial Seal at office this 15 day of December, 2017.
My Commission Expires:

5-30-2021



Lisa L. Peater
Notary Public

STATE OF Tennessee
COUNTY OF Shelby

Before me, the undersigned Notary Public, of the State and County aforesaid, duly commissioned and qualified, personally appeared Van Turner, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be the President of Memphis Greenspace, Inc., the within named bargainer, a not for profit public benefit corporation, and that s/he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the not-for-profit corporation by himself/herself as such President.

Witness my hand and Notarial Seal at office this 15th day of December, 2017.
My commission expires:



Gayne J. Jackson
Notary Public

EXHIBIT "A"
TO
OPTION AGREEMENT

Easement Public Purpose Property Description

The following described Land in Shelby County, Tennessee:


Real property located at 0 North Front Street, Memphis, Shelby County, Tennessee and bounded on the north by Jefferson Avenue (225 feet right of way), on the east by Front Street (457 feet right of way), on the South by Court Avenue (300 feet right of way) and on the west by Riverside Drive (465 feet right of way) containing 2.75 acres, more or less.

Tax Parcel 002-004-00001



Tom Leatherwood
Shelby County Register / Archives

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has been recorded as a permanent record in the archives of the
Office of the Shelby County Register.

	
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TRANSFER TAX	0.00
RECORDING FEE	30.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	32.00
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	