

**AN ORDINANCE TO CREATE A POLICE ADVISORY AND  
REVIEW COMMITTEE**

**WHEREAS**, the State of Tennessee has enacted Public Chapter 454, codifying changes to Tenn. Code Ann. §38-8-301, *et. seq.* and requiring modifications to City of Memphis Code of Ordinances Chapter 28, Article VII, pertaining to the Civilian Law Enforcement Review Board; and

**WHEREAS**, the City Council desires to provide transparency and promote interaction between the citizens and the Memphis Police Department in compliance with Public Chapter 454; and

**WHEREAS**, in accordance with Public Chapter 454, the City Council desires to repeal Chapter 28, Article VII, pertaining to the Civilian Law Enforcement Review Board and further desires to adopt Public Chapter 454, creating a Police Advisory and Review Committee, effective October 29, 2023;

**NOW, THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS**, that Chapter 28, Article VII, Civilian Law Enforcement Review Board is hereby repealed in its entirety and substituted to read as follows:

(a)

(1) The City Council hereby creates a Police Advisory and Review Committee for the City of Memphis.

(2) The purpose of the committee is to strengthen the relationship between citizens and the Memphis Police Department; to ensure the timely, fair, and objective review of citizen complaints while protecting the individual rights of police officers; and to make recommendations concerning citizen complaints to the Chief of Police.

(b)

(1) The committee will consist of seven (7) members, each of whom must:

(A) Possess a reputation for fairness, integrity, and responsibility,

and have demonstrated an active interest in public affairs and public service;

(B) Be a registered voter, as defined by Tenn. Code. Ann. § 2-1-104(a)(24), of the City of Memphis; and

(C) Not be a current employee of the City Council.

(2) The membership on the committee shall not be restricted or otherwise limited based upon demographics, economic status, or employment history.

(c)

(1) Committee members shall be appointed by the Mayor and confirmed by a majority vote of the City Council, with initial appointments to be made for the following terms:

(A) Two (2) members of the committee are appointed for one-year terms;

(B) Two (2) members of the committee are appointed for two-year terms; and

(C) Three (3) members of the committee are appointed for three-year terms.

(2) No more than two (2) persons may be appointed from one (1) City Council district.

(3) Following the initial appointments, all subsequent appointments, except to fill vacancies, are for three-year terms.

(4) Vacancies occurring other than through the expiration of terms are filled for the remainder of the term of the member being replaced.

(5) A committee member appointed pursuant to this subsection (c) shall not serve more than two (2) consecutive

terms.

(6)

(A) Upon making the initial appointments to the committee, the Mayor shall designate one (1) member of the committee to convene the first regular meeting of the committee.

(B) At its first regular meeting, the committee shall elect one (1) of its members to serve as chair, who serves a term of one (1) year or until a successor is elected. The chair may appoint other officers as the chair deems appropriate.

(d)

(1) Upon the recommendation of a majority of the committee members or by a finding of the Mayor, the Mayor, with a majority approval of the City Council, may remove a member of the committee for official misconduct or neglect of duty including neglect of any duty in subsection (g).

(2) Members who are absent from three (3) consecutive regular committee meetings are considered to have vacated their positions on the committee and may be replaced.

(3) Members who cease to possess the qualifications for membership on the committee under subdivision (b)(1) are deemed to have forfeited their position on the committee.

(e) A person shall not receive compensation for services performed as an appointed member of the committee.

(f) Each person appointed to the committee shall complete the citizen's police academy course offered by the Chief of Police to educate citizens on law enforcement operations, practice, and training. The course must be completed within six (6) months of the date of a person's appointment to the committee. Members who fail to

complete required courses are considered to have vacated their positions on the committee and may be replaced. Each member of the committee must also participate in an official ride along and become familiar with police policies and procedures within six (6) months of the date of the person's appointment.

(g) Members of the committee shall:

(1) Respect an individual's, including a police officer's, right to privacy, and maintain confidentiality of records;

(2) Maintain the confidentiality of Internal Affairs Unit files; personnel files; and other files, records, or recordings received pertaining to their membership on the committee;

(3) Excuse themselves from participating in the review of a complaint in which they have a personal, professional, or financial conflict of interest,

(4) Conduct themselves in a manner that ensures public confidence in the fairness, impartiality, and integrity of the committee, and refrain from making inappropriate or prejudicial comments regarding a matter being reviewed by the committee or which may be reasonably expected to be reviewed by the committee; and

(5) Qualify and take an oath to uphold the Constitution of the United States, the laws of the State of Tennessee, and the ordinances of the City of Memphis and to faithfully discharge the duties of such office.

(h) The City Attorney shall investigate any allegation of misconduct by a committee member or their staff and submit a written report of investigative findings to the Mayor and City Council.

(i)

(1) The Mayor may select an executive director of the committee whose appointment is subject to the approval of a majority of the members of the committee.

(2) The executive director must:

(A) Possess a reputation for fairness, integrity, and responsibility and have demonstrated an active interest in public affairs and service;

(B) Be a registered voter of the City of Memphis;

(C) Not be a former employee of a law enforcement agency for the preceding twelve (12) months;

(D) Possess prior investigative experience, such as would be possessed by an attorney or a local law enforcement officer;

(E) Respect an individual's, including police officer's, right to privacy, and maintain confidentiality of records;

(F) Maintain the confidentiality of all law enforcement records and files that the executive director or committee receives as a result of the committee's performance of its official duties;

(G) Not participate in the review of a complaint in which the executive director has a personal, professional, or financial conflict of interest;

(H) Conduct the duties of the office in a manner that maintains public confidence in the fairness, impartiality, and integrity of the committee, and refrain from making inappropriate or prejudicial comments regarding a matter being reviewed by the committee or which may be reasonably expected to be reviewed by the committee; and

(I) Comply with all rules applicable to other employees of the City of Memphis.

(3)

(A) A person shall not be approved as executive director under subdivision (i)(1) until the person has:

(i) Supplied a fingerprint sample for the purpose of a state criminal history background check to be conducted by the

Tennessee Bureau of Investigation, as well as a national criminal history background check to be conducted by the Federal Bureau of Investigation; and

(ii) Submitted to a lawfully administered test designed to detect the presence of a controlled substance or a controlled substance analogue.

(B) The City shall pay the costs incurred to conduct the criminal history background check and to administer the test under subdivision (i)(3)(A).

(C) The Tennessee Bureau of Investigation and the entity conducting the test shall report the results of the criminal history background check and test to the Mayor or the Mayor's designee within five (5) business days of the bureau's receipt of such results.

(D) The results of the criminal history background check and test are deemed to be confidential under Title 10, Chapter 7, Part 5 and are not required to be disclosed or made available under T.C.A. § 10-7-503(a).

(i)

(1) The executive director shall accept written, sworn complaints from members of the public regarding misconduct of City of Memphis police officers and shall forward the complaints to the head of the Internal Affairs Unit of the Memphis Police Department within three (3) business days of their receipt. Upon receipt of a complaint, the unit shall immediately cause an investigation to be conducted of the allegations pursuant to the standard operating procedures of the Memphis Police Department. The executive director may also accept unsworn or anonymous complaints and, if accepted, refer the complaints to the internal

affairs unit for investigation.

(2) Upon notification by the head of the Internal Affairs Unit that an investigation of an allegation of misconduct by a police officer is closed, whether the investigation was prompted by a complaint received by the executive director or otherwise, the executive director may review the unit file or the referral action form and determine if the investigation is complete.

(3)

(A) If the executive director determines that the investigation is complete in accordance with subdivision (j)(2), then the executive director shall file a report with the committee at its next regularly scheduled meeting that contains a copy of the Internal Affairs Unit case, summary, or referral action form, and any documentation of disciplinary action pertaining to the case.

(B) If the executive director determines that the investigation is not complete, then the executive director shall notify the committee, at its next regularly scheduled meeting, that, in the executive director's opinion, additional investigation or additional time may be required for the investigation to be complete.

(k) At each of the regularly scheduled committee meetings, the executive director shall file a report with the committee that details the resolution of unsworn or anonymous complaints the executive director has been able to resolve without an investigation by the internal affairs unit.

(l) The executive director may request legal services and advice from the City Attorney. If the City Attorney determines that the provision of legal services and advice would constitute a conflict of interest, then the City Attorney shall advise the executive director of the conflict and the executive director may request the City Attorney to provide other outside counsel for such legal services and advice.

(m) The executive director shall:

- (1) Ensure the proper recording of the minutes of the committee;
- (2) Maintain proper records and files pertaining to committee business;
- (3) Receive and record all exhibits, petitions, documents, or other materials presented to the committee in support of or in opposition to a question before the committee;
- (4) Comply with state law and local ordinances regarding notice of meetings;
- (5) Provide complainants with information about the complaint process;
- (6) Be a notary public;
- (7) Compile statistical information regarding complaints of misconduct by law enforcement officers as reported to the executive director from a member of the public, reported to the internal affairs unit where the investigation was reviewed by the executive director, or which were initiated by the executive director; and
- (8) Include the information compiled under subdivision (m)(7) in an annual report to the Chief of Police, the Mayor, and the City Council of the committee's activities.
- (9) Complaints will be placed into one of the following categories for administrative purposes:
  - (A) Force: The use or threatened use of improper, unnecessary or excessive force by a member of the Memphis Police Department.
  - (B) Arrest: The restraint of a person's liberty was improper or unjustified.
  - (C) Entry: Entry into a building or onto property was improper, including the use of excessive force against the property to gain entry.
  - (D) Search: The search of a person or their property was improper, in violation of established police procedures or unjustified.



(E) Harassment: The taking of police action which was predicated upon factors which are irrelevant, under the circumstances, to good law enforcement decision-making.

(F) Demeanor: Improper actions regarding an officer's bearing, gestures, language or other action which allegedly is offensive or of doubtful social propriety.

(G) Other Procedures: Allegation of other actions which are in violation of departmental rules, procedures, or policies.

(H) Service: The inadequacy or lack of police service.

(I) Property: Property lost or damaged while in police custody or confiscated through police action.

(n)

(1) The committee shall review all reports submitted by the executive director under subdivision (j)(3)(A).

(2) If the executive director finds that an investigation is not complete under subdivision (j)(3)(B), then the committee may, by a majority vote of its members:

(A) Request the Chief of Police to conduct a further investigation of the incident, specifying that additional information is needed; or

(B) Direct the executive director to return the investigation to the Internal Affairs Unit for additional investigation.

(3) The executive director shall report any additional investigative findings made to the committee, and upon completion of its inquiry, the committee shall report its written findings and conclusions to the Chief of Police and the Mayor.

(4)

(A) The committee shall have access to all public records it deems necessary to conduct its affairs in furtherance of its duties under

this section, including law enforcement agency records. Such records include:

(i) Complaints and supporting documents provided by complainants;

(ii) Offense, incident, and arrest reports; and

(iii) Incident-related documents such as schedules, dispatch notes, dispatch tapes and transcriptions, citations, videos, photographs, and records of interviews with complainants, employees, and witnesses.

(B) The committee shall not access nonpublic records, including employee medical records, or records that are otherwise exempt from disclosure under any state or federal law.

(5)

(A) Upon completion of the review of an Internal Affairs investigation, the committee may, subject to its own specific findings and conclusions, make recommendations to the Chief of Police for the improvement of law enforcement policies and activities and to benefit the community.

(B) All meetings must be open to the public and the Chief of Police, or his/her designee, may attend and provide information and advice to, or accept the recommendations, if any, of the committee.

(6)

(A) The committee shall compile a comprehensive report of its activities at least once a year, containing statistics and summaries of citizen complaints, including a comparison of the committee's findings and conclusions with those of the internal affairs unit, along with the actions taken by the Chief of Police.

(B) The report compiled in subdivision (n)(6)(A) must be

submitted to:

(i) The executive director for inclusion in the executive director's annual report to the Chief of Police;

(ii) The Mayor;

(iii) The City Council;

(iv) The chairs of the Civil Justice and Criminal Justice Committees of the Tennessee House of Representatives; and

(v) The chair of the Judiciary Committee of the Tennessee Senate.

(7)

(A) The committee may request legal services and advice from the City Attorney. If the City Attorney determines that the provision of legal services and advice would constitute a conflict of interest, then the City Attorney shall advise the committee of the conflict and the committee may request the City Attorney to provide other outside counsel for such legal services and advice.

(B) If the executive director is prohibited from participating in the review of a complaint pursuant to subdivision (i)(2)(G), then the committee may petition the Mayor to appoint a temporary assistant to perform the duties of the executive director.

(o)

(1) The committee shall adopt rules of procedure for the transaction of committee business not inconsistent with this section.

(2) Four (4) members of the committee constitute a quorum. A meeting of the committee must not commence or continue in the absence of a quorum, and a majority vote of those forming a quorum is required for action to be taken by the committee except where otherwise specified in this section.

(3) Regular meetings of the committee must be held no less than quarterly, on the first Wednesday of January, April, July, and October, or as the committee may otherwise elect. A scheduled meeting may be rescheduled at the preceding regular meeting. The chairman and three (3) members of the committee may call a special meeting of the committee upon at least five (5) days' notice.

(4) Committee meetings and records must be open to the public in accordance with Tennessee law, including Title 8, Chapter 44, Part 1, and Title 10, Chapter 7. The committee shall provide an opportunity for public comment about an investigation being reviewed by the committee pursuant to rules established by the committee.

(5)

(A) The police advisory and review committee does not have the power to issue subpoenas for documents or to compel witness testimony.

(B) This subdivision (o)(5) does not prohibit the issuance of a subpoena by the City Council as otherwise provided by law.

(C) A subpoena issued by the City Council, on behalf of the Police Advisory and Review Committee, must:

(i) Be issued pursuant to majority vote of the City Council;

(ii) Not be issued in the form of a blanket authorization, but must specify each document to be produced; and

(iii) Not be issued for documents that are confidential under state or federal law.

(D) Notwithstanding subdivision (o)(4), any document provided to a committee that is confidential under state or federal law must be treated as confidential and must not be released to the public.

(p)

(1) The committee or its staff shall not review an investigation:

(A) Concerning an incident that occurred prior to January 1, 2023;

(B) Prior to the closure of an investigation by the Internal Affairs Unit or of a criminal investigation;

(C) While the complainant, the officer complained about, or a witness is actively engaged in pursuing a remedy provided by the rules and regulations of the Civil Service Commission or grievance process, including arbitration, as set forth in the memorandum of understanding between law enforcement officers and the City; or

(D) If the complainant has initiated, threatened, or given notice of the intent to initiate litigation against the City or its employees.

(2) The committee shall not direct the Chief of Police to alter or impose disciplinary action against an employee of the Memphis Police Department.

(q) Public meetings will follow a routine agenda which includes the following components:

(1) Call to order, roll call;

(2) Acceptance of agenda;

(3) Approval of previous meeting minutes;

(4) Approval of administrative matters;

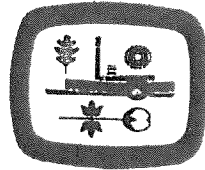
(5) Opportunity for public comment on pending individual cases; and

(6) Deliberation of individual cases.

(r) The committee and the executive director shall be jointly responsible for the creation and maintenance of a mobile-friendly website. The website shall be independent from the main web portal of the City of Memphis. The executive director shall have a budget for the establishment of the website and an annual budget to maintain the website. The website shall be updated

at least monthly and shall include the following:

- (1) An "About Us" page describing the committee's mission. This page shall also contain a link to this ordinance and any other applicable law.
- (2) A "Process" page describing, in detail, the options for filing a complaint with the committee, the process by which complaints are reviewed, all relevant timing requirements and deadlines, and a description of all possible outcomes.
- (3) A "Committee Members and Staff" page listing office location, hours, and phone number as well as the names, photos, and contact information for all committee members and staff.
- (4) A "File a Complaint" page containing an online form which can be used to file a formal complaint.
- (5) A "Complaints Reviewed" page that lists all complaints received, and posts the following information for each complaint:
  - (A) the current stage in proceedings of each complaint and the time and place of any meetings concerning the investigation;
  - (B) no more than 45 days after the complaint is filed, the completed investigation, finding, and recommendation of the committee; and
  - (C) no more than 30 days after receiving a response from the Memphis Police Department as to the committee's recommendation, the finding and explanation of action taken by the Chief of Police.
  - (D) A "Committee Meetings" page that posts all approved minutes from meetings of the committee and lists the time and location of future committee meetings.
  - (E) Any other pages or information the committee deems necessary in carrying out its mission.



## Memphis City Council Summary Sheet

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

An Ordinance to amend City of Memphis, Code of Ordinances, Chapter 33, Article II, Division IV, to codify the existing 2017 Sewer Policy.

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

Public Works

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

This is an amendment to an existing ordinance, Chapter 33.

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

This amendment will impact all council districts

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

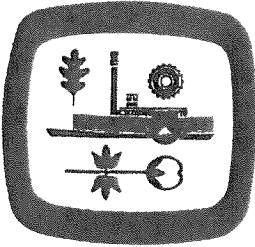
Not Applicable

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

This does not require a budget amendment.

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

Not Applicable



**ORDINANCE No.** \_\_\_\_\_

**AN ORDINANCE TO AMEND CITY OF MEMPHIS, CODE OF ORDINANCES, CHAPTER 33, ARTICLE II, DIVISION IV, TO CODIFY THE EXISTING 2017 SEWER POLICY THAT PRECLUDES THE EXTENSION OF SANITARY SEWER INFRASTRUCTURE AND ACCEPTANCE OF ADDITIONAL FLOW TO THE MEMPHIS SEWER SYSTEM FROM RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DEVELOPMENTS IN UNINCORPORATED SHELBY COUNTY.**

**WHEREAS**, the City of Memphis currently owns, operates and maintains a wastewater collection and transmission system ("WCTS") made up of approximately 2,800 miles of sanitary sewers within the corporate limits of Memphis and an additional 400 miles located in unincorporated Shelby County in the areas designated as the "Memphis Reserve" annexation areas; and

**WHEREAS**, the City also owns and operates two wastewater treatment plants, T.E. Maxson Wastewater Treatment Facility and M.C. Stiles Wastewater Treatment Facility, both of which are used to treat the wastewater transported by the City's WCTS from residences, businesses and industries in an effort to protect public health and the environment; and

**WHEREAS**, in accordance with Tenn. Code Ann. § 7-51-401, the City may authorize the extension of its sewer services beyond its municipal boundaries, but it is not required to extend its sewer services in such manner; and

**WHEREAS**, consistent with state law, Chapter 33, Section 33-64 of the City's Sewer Use Ordinance, currently authorizes the City of Memphis, through its Division of Public Works, to extend its sanitary sewer system, subject to its comprehensive growth plan and applicable sewer policies; and

**WHEREAS**, in an effort to better manage, monitor and provide sewer services throughout its current and future growth boundaries, the City of Memphis, as of August 18, 2017, adopted a sewer policy precluding the extension of sanitary sewer infrastructure and acceptance of additional flow to its sewer system from residential, commercial and industrial developments in unincorporated Shelby County; and

**WHEREAS**, the 2017 sewer policy does not apply to developments located in unincorporated Shelby County to which sewer must be extended or connected pursuant to an existing legal obligation between the City and developer or land owner; and

**WHEREAS**, the City desires to formally incorporate the terms of the 2017 sewer policy into its Sewer Use Ordinance.



**NOW THEREFORE,**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,** that Chapter 33, Section 33-64 (a) of the City of Memphis, Code of Ordinances is hereby amended to read as follows with corresponding changes to be made to Section 13-16-4(a) included in Municode:

- (a) The City may permit the orderly extension of its sanitary sewer system to provide gravity sewer service of adequate capacity to unsewered properties and to properties not served by sewers of adequate capacity following the comprehensive plan and policies of the City for gravity sewer system expansion, except as otherwise stated below:
  - (1) The extension of sanitary sewer services and new connections to the City's sanitary sewer system from residential, commercial and industrial developments located in unincorporated Shelby County shall not be permitted except as legally required based on an existing contractual obligation of the City or equitable considerations determined in the City's sole discretion. The burden of proof shall be upon the developer or owner of the property to support the City's approval of such extension or new connection.

**SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,** that this Ordinance Amendment shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

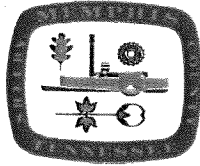
APPROVED: \_\_\_\_\_  
Martavius Jones, Chairman of Council

Date Signed: \_\_\_\_\_

ATTEST: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
Jim Strickland, City of Memphis Mayor

Date Signed: \_\_\_\_\_



## Memphis City Council Summary Sheet

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

This resolution is additive change order (additional funds request) to existing construction contract to transfer and appropriate additional construction funds in the amount of \$308,110.00 due to a change in the scope work.

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

Public Works at the recommendation of the Engineering Department.

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

N/A

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

This project is in Council District 7 and Super District 8.

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

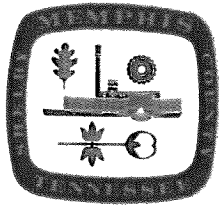
This request amends an existing contract (Ferrell Paving, Inc. #40246). Council approved contract via CIP Project ST03225 on January 10, 2023.

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

This requires an expenditure of funds and budget amendment.

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

38% MBE & 4% WBE



# RESOLUTION

This resolution is an additive change order (*additional funds request*) to an existing construction contract to transfer and appropriate additional construction funds in the amount of \$308,110.00 due to a change in the scope of work; Mill Avenue Drainage Replment, Project Number ST03225. This project is in Council District 7 and Super District 8. Request for same night minutes.

**WHEREAS**, the Council of the City of Memphis approved Drainage – ST Coverline, Project Number ST03205 and Mill Avenue Drainage Replment, Project Number ST03225, as part of the Public Works Fiscal Year 2024 Capital Improvement Budget; and

**WHEREAS**, there currently exists a contract (*contract amount \$624,305.10*). Council approved an appropriation via resolution (*CIP #ST03225*) awarding a construction contract to Ferrell Paving, Inc. (*Contract #40246*) on January 10, 2023, for drainage repairs on Mill Avenue between Main Street and Front Street; and

**WHEREAS**, it is necessary to extend said contract for additional funds in the amount of \$308,110.00 due to a change in the scope of work for drainage repairs on Mill Avenue between Front Street and Main Street; and

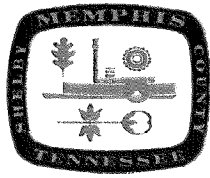
**WHEREAS**, it is necessary to transfer a construction allocation of \$308,110.00 funded by Storm Water Revenue Bonds from Drainage -ST Coverline, Project Number ST03205 to Mill Avenue Drainage Replment, Project Number ST03225 for the purpose as stated above; and

**WHEREAS**, it is necessary to appropriate the construction amount of \$308,110.00 funded by Storm Water Revenue Bonds in Mill Avenue Drainage Replment, Project Number ST03225 for the purpose as stated above.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the Fiscal Year 2024 Capital Improvement Budget be and is hereby amended by transferring a construction allocation amount of \$308,110.00 funded by Storm Water Revenue in Drainage -ST Coverline, Project Number ST03205 to Mill Avenue Drainage Replment, Project Number ST03225 for the purpose as stated above.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$308,110.00 funded by Storm Water Revenue chargeable to the FY2024 Capital Improvement Budget and credited as follows:

<b>Project Title:</b>	<b>Mill Avenue Drainage Replment</b>
<b>Project Number:</b>	<b>ST03225</b>
<b>Amount:</b>	<b>\$308,110.00</b>



## Memphis City Council Summary Sheet

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

A resolution to transfer and appropriate \$2,348,276.45 from existing projects to GA01004 Cobblestone Landing. *request same night minutes.*

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

Divisions of Public Works and Engineering

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

Not a change to an existing ordinance or resolution

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

Council District 7. Super District 8.

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

N/A

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

The will amend the City of Memphis Capital Improvement Budget.

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

N/A



## **A resolution to transfer and appropriate \$2,348,276.45 from existing projects to GA01004 Cobblestone Landing.**

**WHEREAS**, The Cobblestone Landing project GA01004 has leveraged both federal and local funding.

**WHEREAS**, During construction additional historic cobblestones were uncovered and revisions made at the South Revetment Terrace.

**WHEREAS**, TDOT and FHWA have approved the revised construction documents for the South Revetment Terrace.

**WHEREAS**, City needs to repair damage to the new revetment caused by a harbor bank failure resulting from extended low harbor water elevations in September and October of 2022.

**WHEREAS**, Additional cost due to higher labor and material cost.

**WHEREAS**, The Cobblestone Landing project requires additional funding to reach substantial completion.

**WHEREAS**, Project PW01290 for Channel Avenue Repaving has \$1,440,000 in General Obligation Bond funding that was carried forward into Fiscal Year 2024.

**WHEREAS**, Project PW01278 for Poplar-Yates to I-240 has \$58,276.44 in General Obligation Bond funding and \$850,000.01 in Operating Transfers In funding that has been appropriated.

**NOW, THEREFORE, BE IT RESOLVED** *A total of \$2,348,276.45 be transferred and appropriated to project GA01004: Cobblestone Landing for the Contract Construction resource (\$1,848,276.45) and the Architecture and Engineering resource (\$500,000). The funding is to include the following: \$1,440,000 from PW01290: Channel Avenue Repaving General Obligation Bonds, \$58,276.44 from PW01278: Poplar-Yates to I-240 General Obligation Bonds, and \$850,000.01 from PW01278: Poplar-Yates to I-240 Operating Transfers In.*

**Project Title: Cobblestone Landing**

**Project Number: GA01004**

**A/E: \$500,000**

**Construction: \$1,848,276.45**

**Total: \$2,348,276.45**



City Of Memphis

FY24 – Q1  
Capital  
Improvement  
Program  
Council Report

October 24, 2023

# Table of Contents

	<u>Page</u>
CIP Budget Overview	3-4
FY24 Q1 CIP Summary Graphs	5-7
FY24 Q1 Status of CIP Projects by Division	8-19
FY24 Q1 Status of CIP Projects for Enterprise Funds	20-21
FY23 into FY24 CIP Carryforward	22-23

## City of Memphis Capital Improvement Plan Overview

The Capital Improvement Budget is the annual allocation to the CIP that is set aside to fund major construction projects, acquire property, purchase equipment and fund ongoing capital programs for the City. The CIP Budget is a one-year allocation. Adoption of the CIP Budget by the City Council allows for the allocation of funds for the first year of the program, or in the case of carried-forward projects, a reallocation of unappropriated funding. The City attempts to budget annual General Obligation (G.O.) Bonds specifically at an average rate of retirement of older bonds. This is currently approximately \$95.9 million.

Ordinance No. 5872 adopts the annual operating and capital budgets and tax rate for the fiscal year beginning July 1, 2023 and ending June 30, 2024.



## Fiscal Year 2024 Capital Improvement Plan Adopted Budget

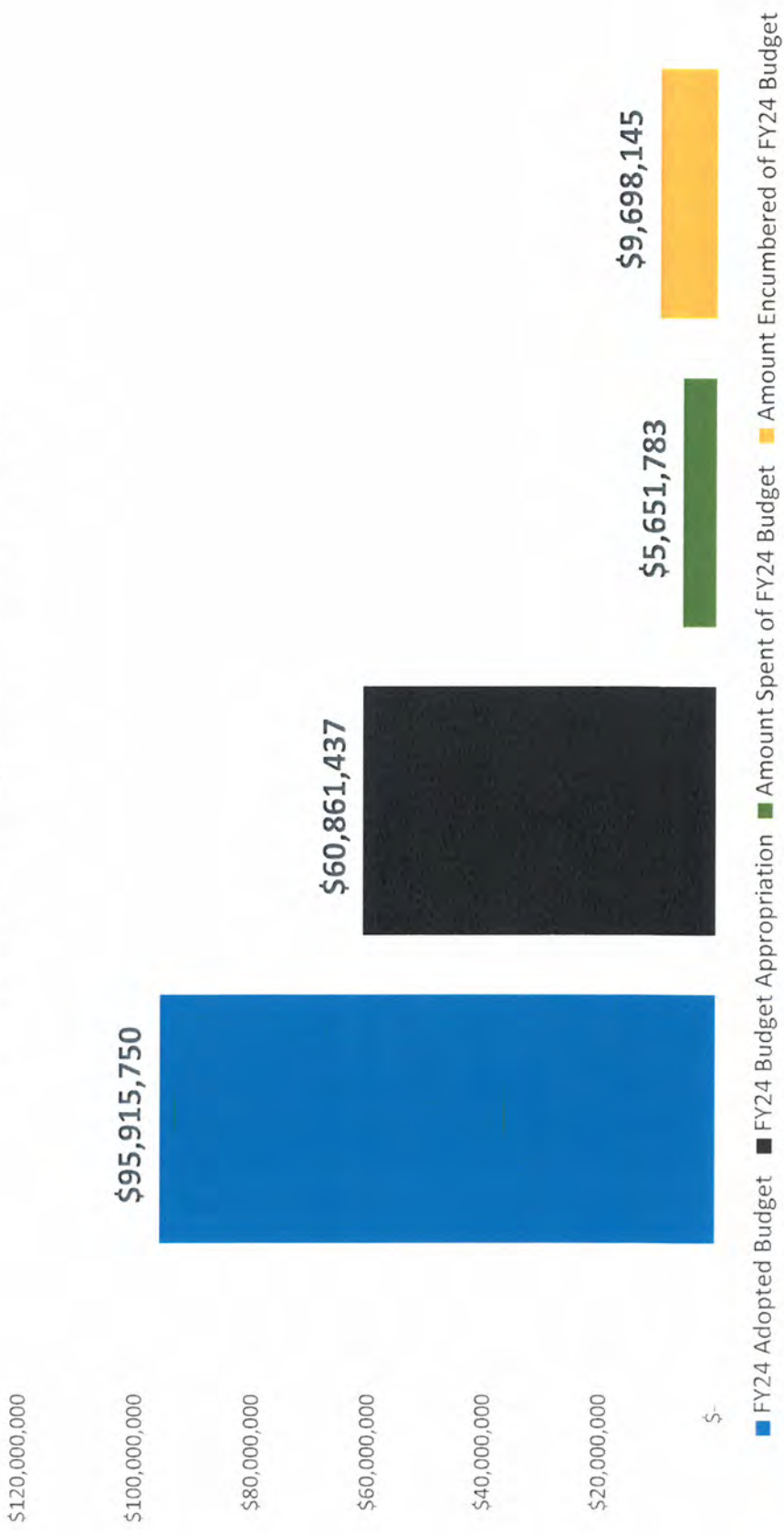
### **The FY24 CIP Adopted Budget by funding source is outlined below:**

- \$95,915,750 for General Obligation (G.O.) Bond
- \$500,000 for Operating Transfer In
- \$40,612,000 for Public Works Storm Water Fund
- \$108,500,000 for Public Works Environmental Maintenance Sewer Fund

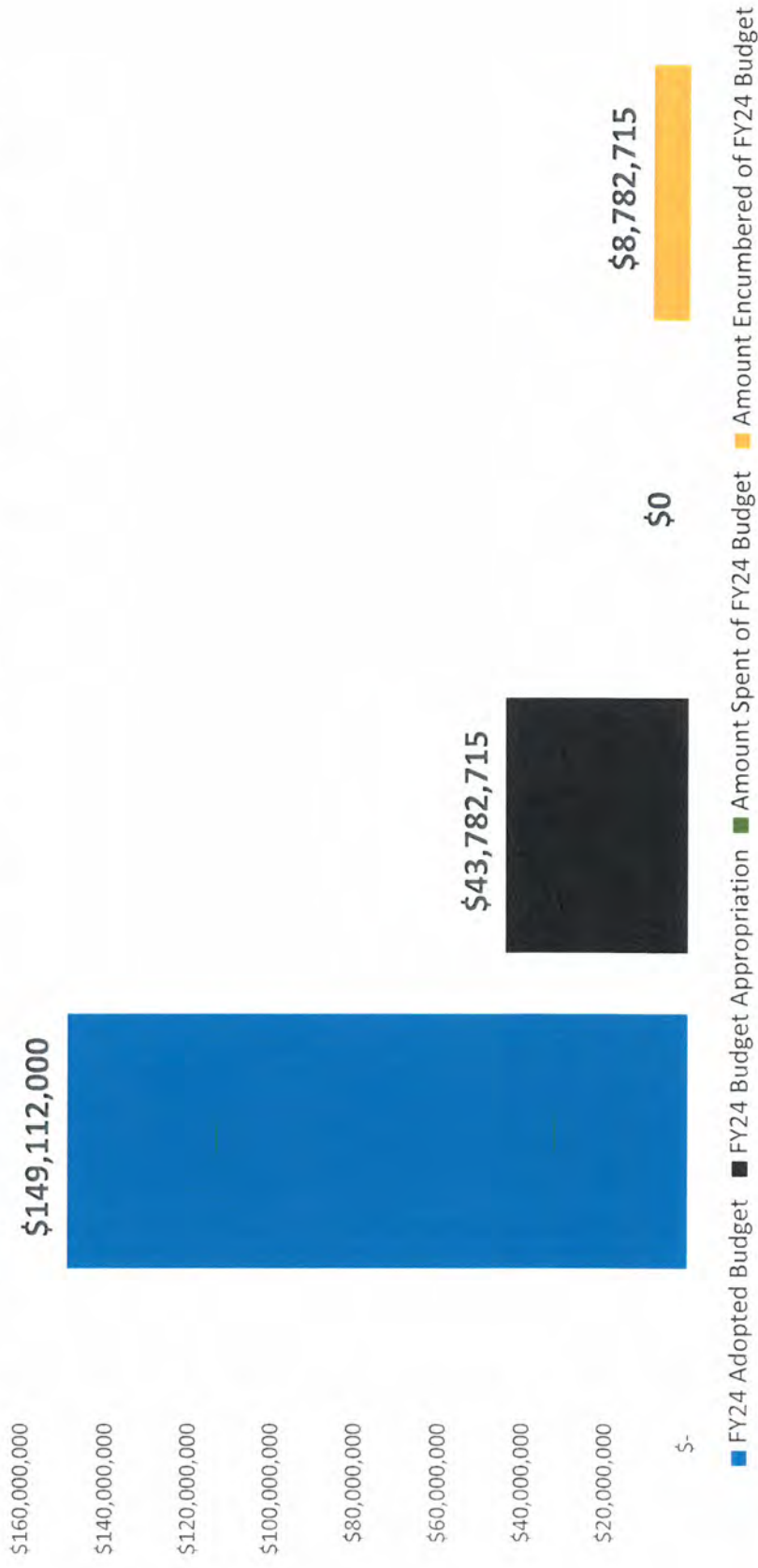
### **The FY24 CIP Approved Carry Forward by funding source is outlined below:**

- \$8,461,014 for General Obligation (G.O.) Bond
- \$3,650,000 for Operating Transfer In
- \$172,000 for Federal Grants CIP
- \$16,316,521 for Public Works Storm Water Fund
- \$183,094,716 for Public Works Environmental Maintenance Sewer Fund

# FY24 Q1 Capital Improvement Budget General Obligation Bonds Only



## FY24 Q1 Capital Improvement Budget Enterprise Fund CIP Only: Sewer (0601) & Storm Water (0671)



# FY24 Q1 Capital Improvement Budget All Funds Chart



Includes GO Bonds, Enterprise, and Operating Transfer In

# FY24 CIP Status Report: City Engineering as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
EN01067	HSIP Coverline	General Obligation Bonds	150,000	150,000	-	-	-	-	281,014	-	131,014
EN24200	FY24 Traf Calm Dev Coverline	General Obligation Bonds	1,700,000	350,000	-	-	-	-	350,000	-	150,000
EN01113	Speed Hump Install Group 13	General Obligation Bonds	-	-	-	-	0%	1,350,000	3,550,000	3,550,000	-
EN24400	FY24 Traf Sfty DVLPT Coverline	General Obligation Bonds	250,000	-	1,350,000	-	-	-	-	-	-
EN24401	Traffic Safety Dev Grp 2	General Obligation Bonds	-	250,000	250,000	-	0%	-	250,000	250,000	-
EN24100	Traffic Signals Coverline	General Obligation Bonds	1,250,000	660,000	-	-	-	-	660,000	-	-
EN24101	Traffic Signals FF&E (FY24)	General Obligation Bonds	-	590,000	590,000	-	-	-	590,000	590,000	-
EN24300	Urban Arts Installation Coverline	General Obligation Bonds	400,000	400,000	-	-	-	-	400,000	-	-
<b>TOTALS</b>			<b>\$3,750,000</b>	<b>\$3,750,000</b>	<b>\$2,190,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$1,350,000</b>	<b>\$6,081,014</b>	<b>\$4,390,000</b>	<b>\$281,014</b>



# FY24 CIP Status Report: Convention Center as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
GS24300	Convention Center Coverline	General Obligation Bonds	250,000	250,000					250,000		
<b>TOTALS</b>			<b>\$250,000</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$0</b>

# FY24 CIP Status Report: Fire Services as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
<b>FS02033</b>	Drill Tower Improvements	General Obligation Bonds	2,000,000	502,563	-	-	0%	-	1,259,137	756,574	
FS23101	Fire Station Renovs #34 & #46	General Obligation Bonds		1,175,000	1,175,000	-	0%	-	2,307,000	2,307,000	
FS23102	FS Porch and Canopy Project	General Obligation Bonds		322,437	322,437	-	0%	-	2,233,863	2,233,863	
<b>FS02032</b>	EMA Sirens	General Obligation Bonds	153,000	153,000	-	-	0%	-	499,663	346,663	
<b>FS24100</b>	Fire Station Improvement Coverline	General Obligation Bonds	1,000,000								40,000
FS23101	Fire Station Renovs #34 & #46	General Obligation Bonds		1,000,000	1,000,000	-	0%	-			
<b>FS04012</b>	Personal Protective Equipment	General Obligation Bonds	1,274,000	1,274,000	1,274,000	-	0%	-	11,596,649	11,596,649	
<b>TOTALS</b>			<b>\$4,427,000</b>	<b>\$4,427,000</b>	<b>\$3,771,437</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$17,896,312</b>	<b>\$17,240,749</b>	<b>\$40,000</b>



# FY24 CIP Status Report: General Services as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
GS22202	City Hall Improvements 2	General Obligation Bonds	2,000,000	2,000,000	-	-	0%	-	2,000,000	-	-
GS01049	Coke Facility- Adaptive Reuse	General Obligation Bonds	2,000,000	2,000,000	-	-	0%	-	21,764,152	19,764,152	-
GS0224B	FY24 CAQ-Fire	General Obligation Bonds	5,000,000	5,000,000	5,000,000	-	0%	-	5,000,000	5,000,000	-
GS0224A	FY24 CAQ-Police	General Obligation Bonds	5,000,000	5,000,000	5,000,000	-	0%	-	5,000,000	5,000,000	-
GS24100	FY24 Major Mod Coverline	General Obligation Bonds	10,000,000	-	-	-	0%	-	-	-	-
GS24107	FY24 Major Mod Contingency	General Obligation Bonds	-	1,187,700	1,187,700	-	0%	-	1,187,000	1,187,000	-
GS20105	FY24 Major Mod Carpentry	General Obligation Bonds	-	236,250	236,250	-	0%	-	236,250	236,250	-
GS20104	FY24 Major Mod HVAC	General Obligation Bonds	-	4,667,500	4,667,500	-	0%	-	4,667,500	4,667,500	-
GS24102	FY24 Major Mod Electric	General Obligation Bonds	-	2,896,550	2,896,550	-	0%	-	2,896,550	2,896,550	-
GS24101	FY24 Major Mod Roofing	General Obligation Bonds	-	1,012,000	1,012,000	-	0%	-	1,012,000	1,012,000	-
GS24001	Whitehaven STEM Infrastructure	General Obligation Bonds	500,000	500,000	-	-	0%	-	500,000	-	-
	Operating Transfer In		500,000	500,000	-	-	0%	-	500,000	-	-
<b>TOTALS</b>			<b>\$25,000,000</b>	<b>\$25,000,000</b>	<b>\$20,000,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$44,763,452</b>	<b>\$39,763,452</b>	<b>\$0</b>



# FY24 CIP Status Report: HCD as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
CD001102	Historic Melrose Rehabilitation	General Obligation Bonds	1,800,000	1,800,000	-	-	0%	-	2,300,000	500,000	
CD18102	Pinch Infrastructure	General Obligation Bonds	250,000	250,000	250,000	-	0%	-	1,698,000	1,698,000	
CD-TBD	The Hospitality Hub North	General Obligation Bonds	1,500,000				0%				
<b>TOTALS</b>			<b>\$3,550,000</b>	<b>\$2,050,000</b>	<b>\$250,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$3,998,000</b>	<b>\$2,198,000</b>	<b>\$0</b>

# FY24 CIP Status Report: Information Technology as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
IT01002	Cyber Security Infrastruc Upg	General Obligation Bonds	250,000	250,000	250,000	57,619	23%	-	2,250,000	2,250,000	
IT01004	Implementation Modernization	General Obligation Bonds	200,000	200,000	200,000	-	0%	-	2,499,467	2,499,467	
IT01003	Operational Infra General Enhancements	Obligation Bonds	750,000	750,000	750,000	-	0%	-	3,236,314	3,236,314	
<b>TOTALS</b>			<b>\$1,200,000</b>	<b>\$1,200,000</b>	<b>\$1,200,000</b>	<b>\$57,619</b>	<b>5%</b>	<b>\$0</b>	<b>\$7,985,781</b>	<b>\$7,985,781</b>	<b>\$0</b>

# FY24 CIP Status Report: Library Services as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
LI01033	New Levi Library	General Obligation Bonds	750,000	750,000	750,000	-	0%	-	750,000	750,000	
<b>TOTALS</b>			<b>\$750,000</b>	<b>\$750,000</b>	<b>\$750,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$750,000</b>	<b>\$750,000</b>	



## FY24 CIP Status Report: MATA as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
GA03028	Innovation Corridor BRT	General Obligation Bonds	5,005,750	5,005,750	-	-	0%	-	17,090,590	12,084,840	
GA03029	Transit Amenities	General Obligation Bonds	750,000	750,000	-	-	0%	-	2,750,000	2,000,000	
<b>TOTALS</b>			<b>\$5,755,750</b>	<b>\$5,755,750</b>	<b>\$0</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$19,840,590</b>	<b>\$14,084,840</b>	

# FY24 CIP Status Report: Memphis Parks as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
PK06018	Audubon Golf Course Redesign	General Obligation Bonds	5,000,000	5,000,000	5,000,000	2,425,200	49%	1,631,673	9,000,000	9,000,000	
PK03007	Bellevue Tennis Center	General Obligation Bonds	1,500,000	1,500,000	-	-	0%	-	1,500,000	-	
PK08039	Botanic Garden Infrastructure	General Obligation Bonds	500,000	500,000	500,000	-	0%	-	500,000	500,000	
PK08037	Lichterman Major Maintenance	General Obligation Bonds	250,000	250,000	250,000	-	0%	-	999,757	999,757	
PK01036	New Lester Community Center	General Obligation Bonds	5,000,000	5,000,000	5,000,000	-	0%	-	12,000,000	12,000,000	
PK24100	Park Improvements Coverline	General Obligation Bonds	2,500,000								
PK24101	FY 24 A&E	General Obligation Bonds		300,000	300,000	-	0%	-	300,000	300,000	
PK24102	Park Coverline FF&E	General Obligation Bonds		300,000	300,000	-	0%	-	300,000	300,000	
PK24103	Park Misc. Improvements	General Obligation Bonds		1,900,000	1,900,000	-	0%	-	1,900,000	1,900,000	
PK08038	RedZone Opportunity Zone	General Obligation Bonds	1,100,000	1,100,000	1,100,000	1,100,000	100%	-	1,100,000	1,100,000	
PK03004	Tennis Major Maintenance	General Obligation Bonds	600,000	600,000	600,000	-	0%	-	4,839,547	4,839,547	
PK07127	Wolf River Greenway - Phase 6	General Obligation Bonds	1,500,000	1,500,000	1,500,000	-	0%	-	2,500,000	2,500,000	
PK09002	Zoo Major Maintenance	General Obligation Bonds	250,000	250,000	250,000	-	0%	-	7,626,000	7,326,000	300,000
<b>TOTALS</b>			<b>\$18,200,000</b>	<b>\$18,200,000</b>	<b>\$16,700,000</b>	<b>\$3,525,200</b>	<b>19%</b>	<b>\$1,631,673</b>	<b>\$42,565,304</b>	<b>\$40,765,304</b>	<b>\$300,000</b>

# FY24 CIP Status Report: MRPP as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
GA07002	MRPP Coverline	General Obligation Bonds	250,000	250,000					250,000		
GA07007	Mud Island Coverline	Operating Transfer In							3,000,000		3,000,000
<b>TOTALS</b>			<b>\$250,000</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$3,250,000</b>	<b>\$0</b>	<b>\$3,000,000</b>



# FY24 CIP Status Report: Police Services as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
PD004031	Axon Enterprise Solution	General Obligation Bonds ARPA Technology Grant	8,000,000	8,000,000	-	-	0%	-	8,000,000	-	-
PD004022	In-Car Video/GPS/BWC	General Obligation Bonds							3,000,000	3,000,000	
PD002016	New Mount Moriah Station	General Obligation Bonds	4,000,000	4,000,000	-	-	0%	-	13,047,100	12,047,100	1,000,000
PD002010	Raines Station	General Obligation Bonds	1,000,000	1,000,000	1,000,000		0%		1,000,000	1,000,000	4,000,000
PD002013	FY18 Police Academy Renov	General Obligation Bonds	750,000	750,000	-	-	0%	-	5,527,916	4,027,916	750,000
PD004029	Radio Maintenance Bldg Rehab	General Obligation Bonds	733,000	733,000	-	-	0%	-	2,763,000	1,860,000	300,000
PD003010	Take-Home Car Program	General Obligation Bonds	1,500,000	1,500,000	-	-	0%	-	2,500,000	1,000,000	
<b>TOTALS</b>			<b>\$15,983,000</b>	<b>\$15,983,000</b>	<b>\$1,000,000</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$45,100,016</b>	<b>\$24,197,016</b>	<b>\$6,050,000</b>

# FY24 CIP Status Report: Public Works as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
PW24300	ADA Curb Ramp Cover	General Obligation Bonds	1,000,000	1,000,000					1,000,000		
PW24100	Asphalt Paving Cover	General Obligation Bonds	15,000,000						-		
PW24101	CIP Resurfacing FY24 Group 1	General Obligation Bonds		4,250,000	4,250,000	-	0%	3,332,597	4,250,000	4,250,000	
PW24102	CIP Resurfacing FY24 Group 2	General Obligation Bonds		4,250,000	4,250,000	-	0%	3,383,874	4,250,000	4,250,000	
PW24103	CIP Asphalt Paving Inhouse FY24	General Obligation Bonds		6,500,000	6,500,000	2,068,964	32%	-	6,500,000	6,500,000	
PW24400	Bridge Repair Coverline FY24	General Obligation Bonds	800,000	800,000					800,000		
PW24200	Sidewalks Coverline	General Obligation Bonds	500,000	500,000					500,000		500,000
PW01290	Channel Avenue Repaving	Operating Transfer In GO Bonds/Federal Grant							1,612,000		1,612,000
<b>TOTALS</b>			<b>\$17,300,000</b>	<b>\$17,300,000</b>	<b>\$15,000,000</b>	<b>\$2,068,964</b>	<b>12%</b>	<b>\$6,716,472</b>	<b>\$18,912,000</b>	<b>\$15,000,000</b>	<b>\$2,612,000</b>



# FY24 CIP Status Report: Sewer CIP as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
SW24100	Misc Subdivisions Outfalls Coverline	Various	2,500,000	2,500,000					2,500,000		
SW24200	Rehab Existing System Coverline	Various	17,000,000	8,217,285					8,217,285		12,750,000
SW24201	CIPP 18,36,60-2 areas	Various		8,782,715	8,782,715	-	0%	8,782,715	8,782,715	8,782,715	
SW24300	Service Unsewered Coverline	Various	2,000,000	2,000,000					2,000,000		
SW02011	Covered Anaerobic Lagoon	Various	1,000,000	1,000,000					63,515,670	17,715,670	44,800,000
SW02033	South Plant Expansion	Various	25,000,000	25,000,000	25,000,000	-	0%		368,080,038	295,176,400	72,903,638
SW04009	Stiles Plant Modification	Various	10,000,000	10,000,000					48,832,917	24,832,917	4,000,000
SW04011	Stiles WWTF Biosolids Upgrades	Various	31,000,000	31,000,000	10,000,000	-	0%		32,000,000	11,000,000	
SW05001	Sewer Assessment and Rehab	Various	20,000,000	20,000,000					413,000,000	366,666,849	46,333,151
SW02006	Sludge Disp/Earth Complex	Various							22,930,978	20,873,051	2,057,927
SW04007	Environmental Maint Relocation	Various							16,809,489	16,559,489	250,000
<b>TOTALS</b>			<b>\$108,500,000</b>	<b>\$108,500,000</b>	<b>\$43,782,715</b>	<b>\$0</b>	<b>0%</b>	<b>\$8,782,715</b>	<b>\$986,669,092</b>	<b>\$761,607,091</b>	<b>\$183,094,716</b>

## FY24 CIP Status Report: Storm Water CIP as of 9/30/23

Project Number	Project Name	Funding Source	FY24 Adopted Budget	FY24 Budget Allocation	FY24 Budget Appropriation	Amount Spent of FY24 Budget	Percentage Spent of FY24 Allocation	Amount Encumbered of FY24 Budget	Cumulative Project Allocation	Cumulative Project Appropriation	FY23 Carryforward
ST02001	Design Coverline	Various	7,225,000	7,225,000					7,256,080		96,080
ST03205	Drainage Coverline	Various	32,037,000	32,037,000					33,577,581		15,370,441
ST03211	Curb & Gutter Misc Locations	Various	500,000	500,000					1,500,000	500,000	500,000
ST03214	Flood Mitigation Coverline	Various	350,000	350,000					700,000		350,000
ST03216	Bridge Repair Coverline	Various	500,000	500,000					500,000		
<b>TOTALS</b>			<b>\$40,612,000</b>	<b>\$40,612,000</b>	<b>\$0</b>	<b>\$0</b>	<b>0%</b>	<b>\$0</b>	<b>\$43,533,661</b>	<b>\$500,000</b>	<b>\$16,316,521</b>



# FY24 CIP Carryforward Summary Fund 0400 Capital Improvement Fund

Division	Project Number	Project Name	Amount Carried Forward into FY24
City Engineering	EN24200	Traffic Calming Devices Coverline	\$150,000
City Engineering	EN01067	HSIP Coverline	\$131,014
Fire Services	FS24100	Fire Station Improvement Coverline	\$40,000
Memphis Parks	PK09002	Zoo Major Maint	\$300,000
Memphis River Partnership	Parks GA07007	Mud Island Renovations Coverline	\$3,000,000
Police Services	PD02013	Police Academy Reno	\$750,000
Police Services	PD02016	Mount Moriah Station	\$4,000,000
Police Services	PD04029	Radio Maint	\$300,000
Police Services	PD04022	In-Car Video	\$1,000,000
Public Works	PW24200	Sidewalks Coverline	\$1,000,000
Public Works	PW01290	Channel Ave Repaving	\$1,612,000
<b>TOTALS</b>			<b>\$12,283,014</b>

# FY24 CIP Carryforward Summary Funds 0601 & 0671

## Sewer and Storm Water

Division	Project Number	Project Name	Amount Carried Forward into FY24
Storm Water	ST02001	Design Coverline	\$96,080
Storm Water	ST03205	Drainage Coverline	\$15,370,441
Storm Water	ST03211	Curb & Gutter Misc Locations	\$500,000
Storm Water	ST03214	Flood Mitigation Coverline	\$350,000
Sewer	SW24200	Rehab Existing System Coverline	\$12,750,000
Sewer	SW02011	Covered Anaerobic Lagoon	\$44,800,000
Sewer	SW02033	South Plant Expansion	\$72,903,638
Sewer	SW04009	Stiles Plant Modification	\$4,000,000
Sewer	SW05001	Sewer Assessment and Rehab	\$46,333,151
Sewer	SW02006	Sludge Disp/Earth Complex	\$2,057,927
Sewer	SW04007	Environmental Maint Relocation	\$250,000
<b>TOTALS</b>			<b>\$199,411,237</b>

# The City of Memphis Capital Improvement Program Adopted Digital Budget Book for Fiscal Years 2024-2028

<https://city-memphis-tn-budget-book.cleargov.com/12120>

City Of Memphis

FY24 – Q1

Capital  
Improvement  
Program  
Council Report

October 24, 2023

Jim Strickland

Chandell Ryan

Shirley Ford

Walter Person

Tristan Gately-Sweatt

Mayor

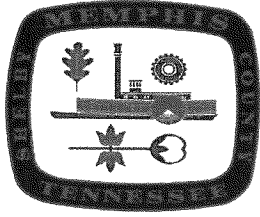
COO

CFO

Deputy CFO

Senior Financial

Analyst - CIP



## **A Resolution to Amend the American Rescue Plan Act (ARPA) Allocation.**

**WHEREAS**, on September 14, 2021, the Memphis City Council allocated \$5,035,980.00 of the City's tranche of American Rescue Plan Act (ARPA) funds to Youth Services Support Initiatives; and

**WHEREAS**, this funding was allocated over three (3) fiscal years for the MPLOY, I Am Included, and MAP programs through the Office of Youth Services; and

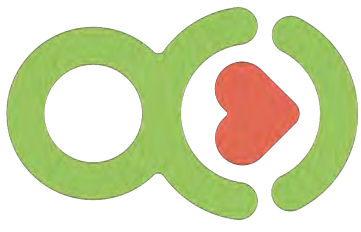
**WHEREAS**, on June 27, 2023, the Memphis City Council reallocated \$2,432,144.00 of these funds to the Memphis Library and Memphis Aging Commission; and

**WHEREAS**, a portion of these previously allocated ARPA funds had been committed by the Office of Youth Services for costs related to the fiscal year 2024 summer and fall sessions for:

- **\$345,000** (MPLOY Summer Staff) to 100804-051402- Summer 2023 MPLOY staff payroll-part-time salaries
- **\$310,000** (Community Partners) to 100804-066104- Ambassador's Fellowship Pay
- **\$90,000** (MPLOY Plus) to 100804-066104-Ambassador's Fellowship Stipend Pay
- **\$15,000** (Security for Schools) to 100804-066104- Ambassador's Fellowship Pay

**NOW, THEREFORE, BE IT RESOLVED** that the Memphis City Council hereby amends ARPA allocations by reallocating and reappropriating \$760,000.00 from the Memphis Library to Youth Services Support Initiatives for the costs of summer programming, internships, and apprenticeships as detailed above.





**FIRST  
EIGHT  
MEMPHIS**

Success in the **first 8** years.  
Success for a lifetime.

# Pre-Kindergarten Quarter 4, 2022-23 Outcomes Summary



October 25, 2023





# About Us

First 8 Memphis (F8M) was established to implement key strategies of Shelby County's Early Childhood Education Plan including home visitation, child care, universal needs-based Pre-K, and K-3 supports.

## **Our Mission**

First 8 Memphis leads and convenes our community in advocating for investments that nurture and educate our youngest learners.

## **Our Vision**

First 8 Memphis envisions a community where every child has the resources to thrive.

# The Role of First 8 Memphis

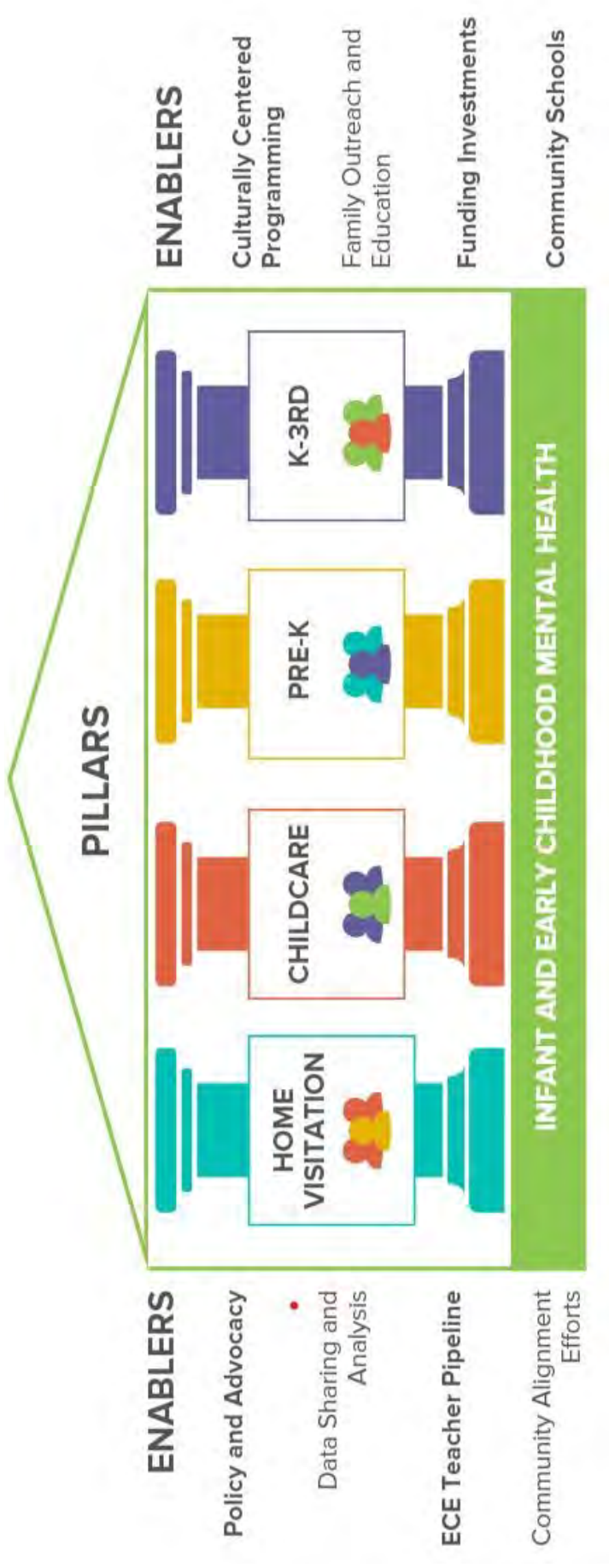
First 8 Memphis (F8M) was established to implement key strategies of Shelby County's Early Childhood Education Plan.



- We partner with the City of Memphis and Shelby County government to **support, coordinate, and administer funding** for a comprehensive, universal needs-based Pre-K program.
- We are **leaders, conveners, and advocates** working to improve the early care and education system in Shelby County, TN.
- We **work directly with operators and partners** across Shelby County to support quality programs and services for young children and their families.

# First 8 Memphis Strategic Goal

Support and continue to build the **early care and education system**



by focusing on

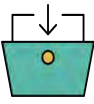
**Quality**



**Alignment**



**Access**



**Advocacy & Awareness**



# Role of First 8 Memphis in Pre-K



**4 Year Old Children**  
receive high-quality, full-day Pre-K  
(priority for families below 200% of the FPL)



**Pre-K Operators**  
**15 public, private, and charter Pre-K providers**  
offer high-quality programming to students in Shelby County.



**Wraparound Support**  
**4 providers**  
offer 2 generational support to families



**Instructional Coaching**  
**4 providers**  
support high-quality instruction

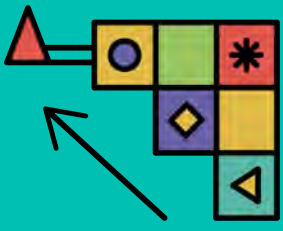


**Fiscal Agent**  
**First 8 Memphis**  
provides fiscal management, oversight, and continuous improvement to Pre-K partners



**Funders**  
Historic partnership between the **City of Memphis and Shelby County**  
to support Pre-K per Joint Ordinance

# AGENDA



- 1. Investment Impact: Funding High-Quality Pre-K**
- 2. Quarter 4 Outcomes**





Investment Impact:  
Funding High Quality Pre-K

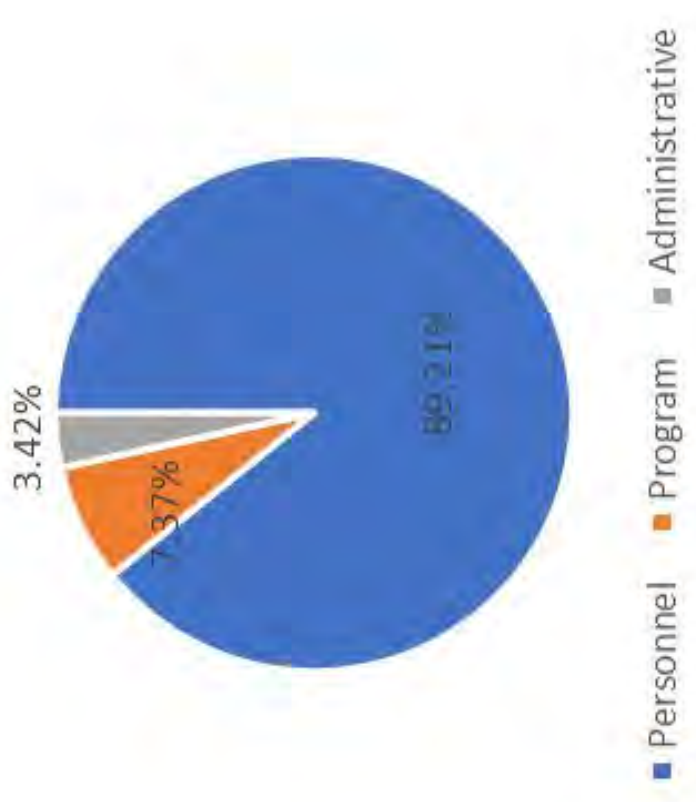
# Your investment supports over 160 Pre-K educator salaries, whole family engagement and support, teacher coaching, and other quality program supports for 80 classrooms.

First 8 Memphis paid a total of \$3,343,745 to Pre-K Operators in Quarter 4.

The total for Fiscal Year 2023 was \$12,130,400. This amount includes \$2,199,621 for wraparound services.

The majority of the funds spent by Operators in FY23 were for **personnel** (89%); the rest was spent on programs (7%) (which includes supplies, equipment, staff professional development, field trips, etc.), and administrative expenses (3%).

Pre-K Operator Expenses  
7/1/22 thru 6/30/23



# F8M Actual & Projected Budget FY23-FY25



	Actual FY23 School Year 2022-23	Projected FY24 School Year 2023-24	Projected FY25 School Year 2024-25
<b>Revenue: Public Funding</b>			
<b>City of Memphis</b>	\$6,400,000	\$7,000,000*	\$7,000,000*
<b>Shelby County</b>	\$8,400,000	\$9,000,000*	\$9,500,000*
<b>Rollover Funds</b>	\$611,200		
<b>Total Public Funding</b>	<b>\$15,411,200</b>	<b>\$16,500,000</b>	<b>\$16,500,000</b>
<b>Expenses: Program Expenses</b>	\$8,150 per pupil/\$163,000 per class**	\$8,700 per pupil/\$174,000 per class**	\$9,250 per pupil/\$181,250 per class**
<b>Classroom Expenses</b> (includes classroom, wraparound, and coaching)	\$ 12,130,400	\$ 13,990,000	\$ 14,950,000
<b>Other Pre-K Program Expenses</b> (Operator setup, data reporting & validation, & other Pre-K operations)	\$1,261,973	\$ 890,000	\$ 767,000
<b>Total Classroom Subtotal</b>	<b>\$13,392,373</b>	<b>\$15,717,000</b>	<b>\$15,717,000</b>
<b>F8M Admin Fee (7%)</b>	\$1,036,000	\$1,120,000	\$1,183,000
<b>Total Classroom and Administrative Fee</b>	<b>\$14,428,373</b>	<b>\$16,000,000</b>	<b>\$16,900,000</b>

\*Subject to budget increases in line with providing high-quality Pre-K. \*\*Includes classroom, wraparound, and coaching.





2022-2023 SY  
Quarter 4 Outcomes  
March 14 - May 26, 2023

# Four Elements of Quality in Pre-K



**Holistic Family Engagement**  
of families through two-generational  
wraparound services

**Instructional Coaching**  
ensures developmentally appropriate  
practice

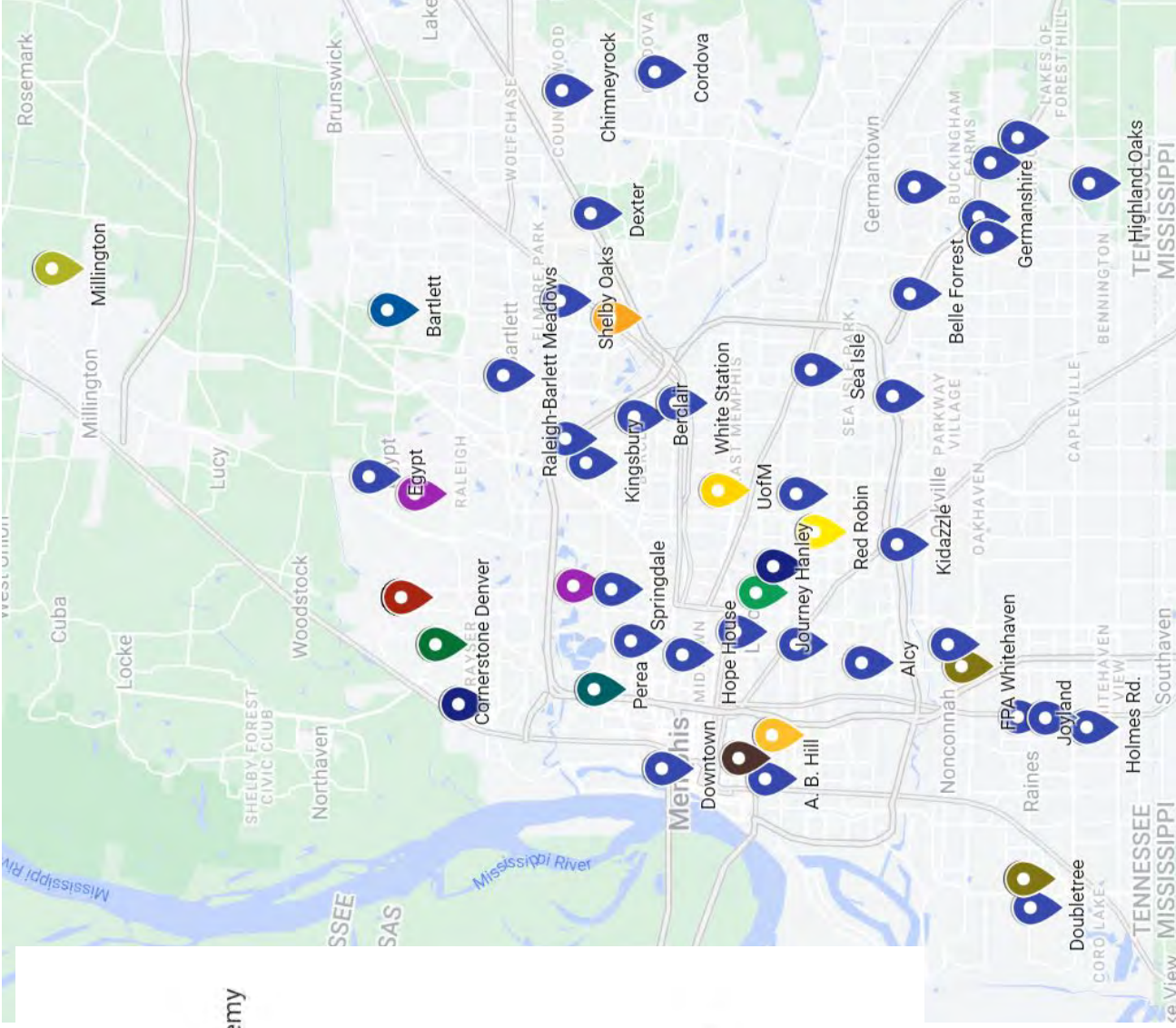
**Collaborative Data Collection**  
ensures student data informs  
continuous improvement

**Operator Alignment**  
promoted during quarterly Pre-K  
Consortium and Workgroup convenings

# F8M is in almost every community across Memphis.



-  MSCS
-  Libertas
-  Freedom Prep
-  Porter Leath Academy
-  COSCS
-  Capstone
-  Millington
-  Perea
-  Promise
-  Bartlett
-  Journey
-  Knowledge Quest
-  Red Robin
-  SWTCC
-  UofM





# Q4 Enrollment Averaged 88% Across the County



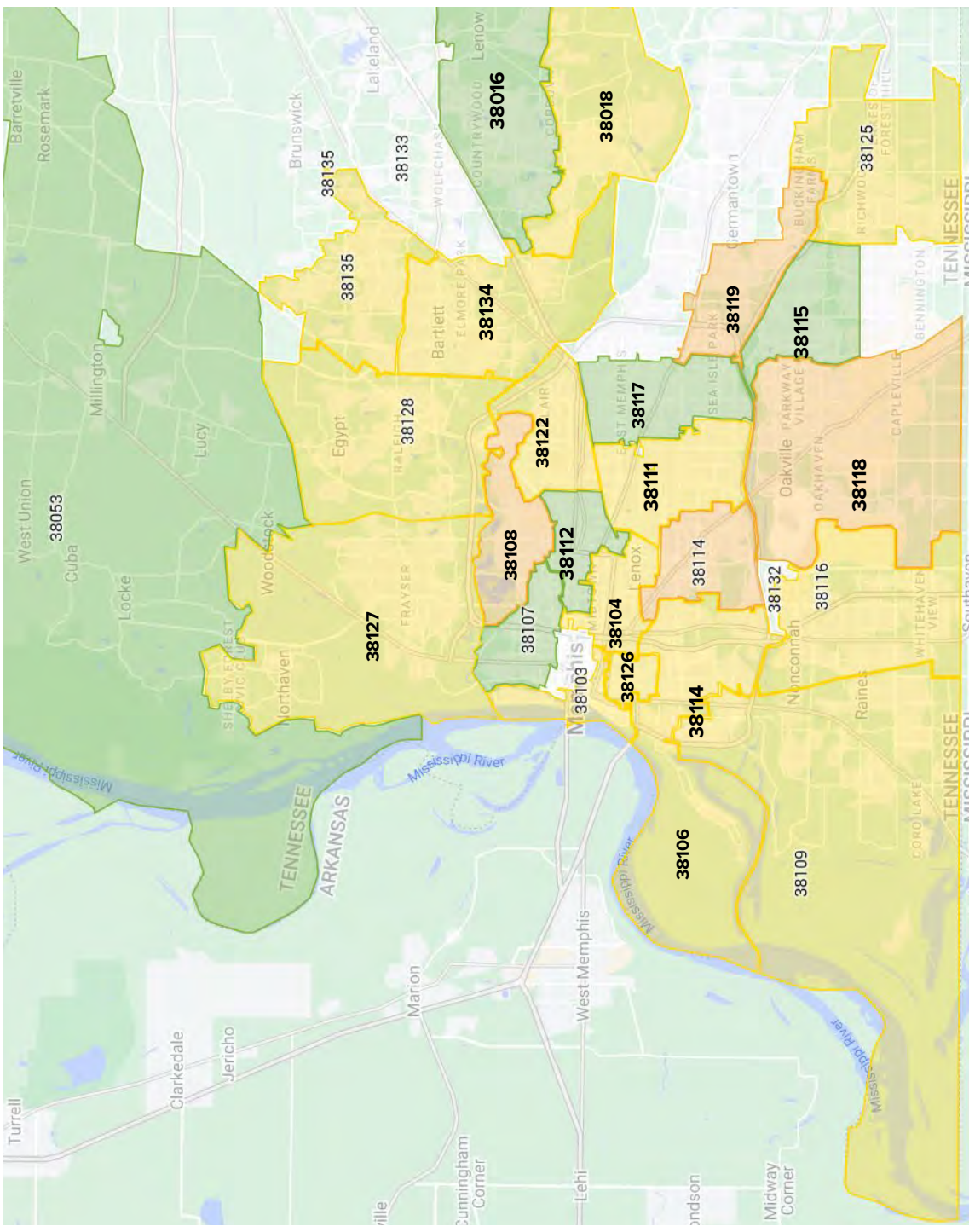
## F8M Pre-K Enrollment Q4 2022-23:

- 95%+ Capacity
- 76-94% Capacity
- Below 75% Capacity

In Quarter 4, 5 of 24 zip codes experienced an increase in enrollment compared to Quarter 3 and/or were at 100% capacity.

The neighborhoods/zip codes below had the highest enrollment increase from Q3 to Q4:

- 38053 | Millington
- 38104 | Midtown
- 38114 | Orange Mound



# 23-24 Current Enrollment - 85% Capacity Filled!

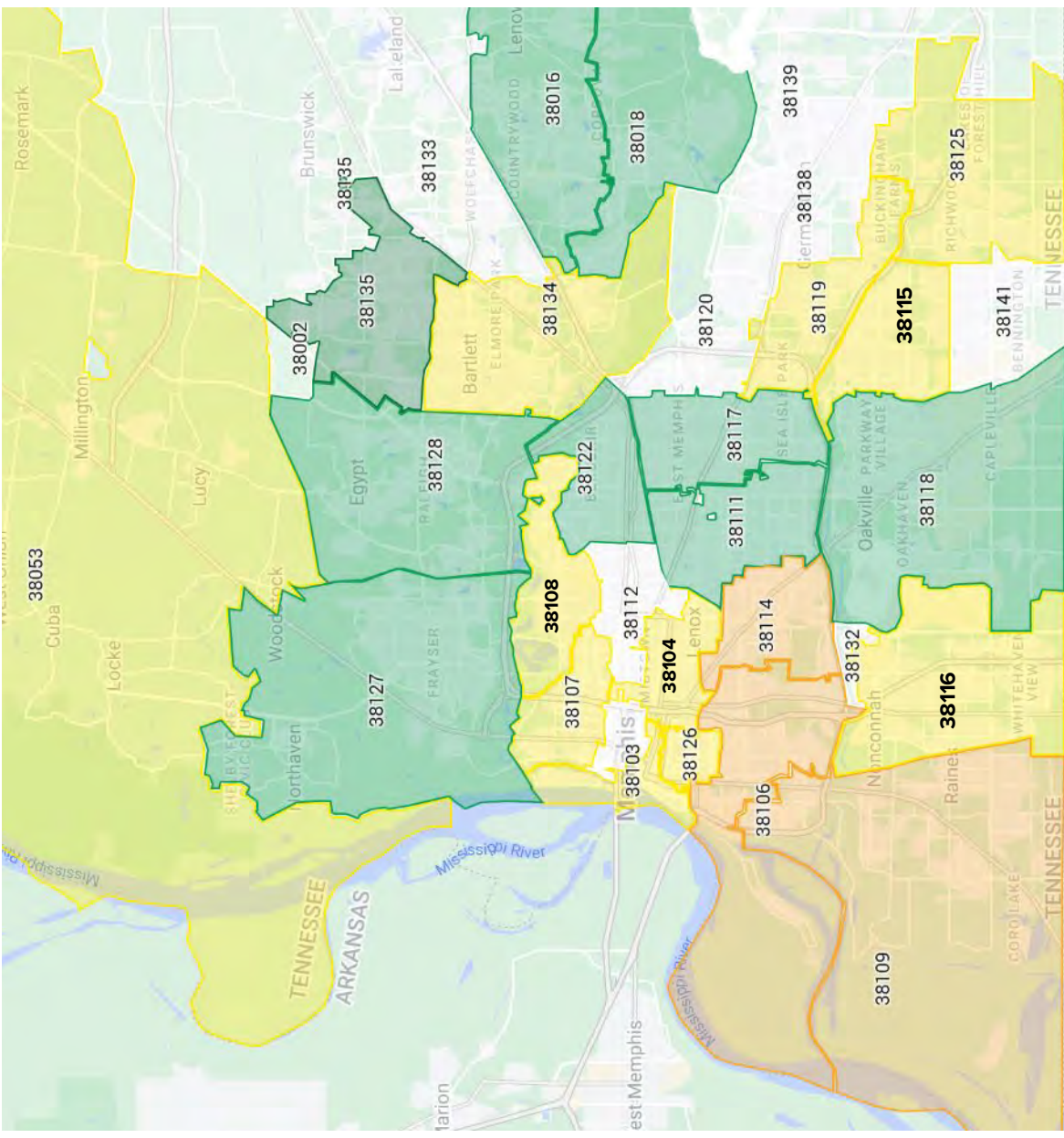
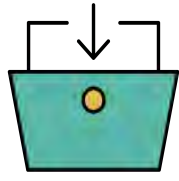


**F8M Pre-K Enrollment September 1, 2023:**

- **95%+ Capacity**
- **76-94% Capacity**
- **Below 75% Capacity**

**F8M Pre-K Operators prioritized enrollment of income eligible families below 185% of the Federal Poverty Line (FPL).**

**After September 15, 2023, Operators increased income eligibility to 300% of the FPL to increase access to high-quality Pre-K for 4-year-old children in Shelby County.**

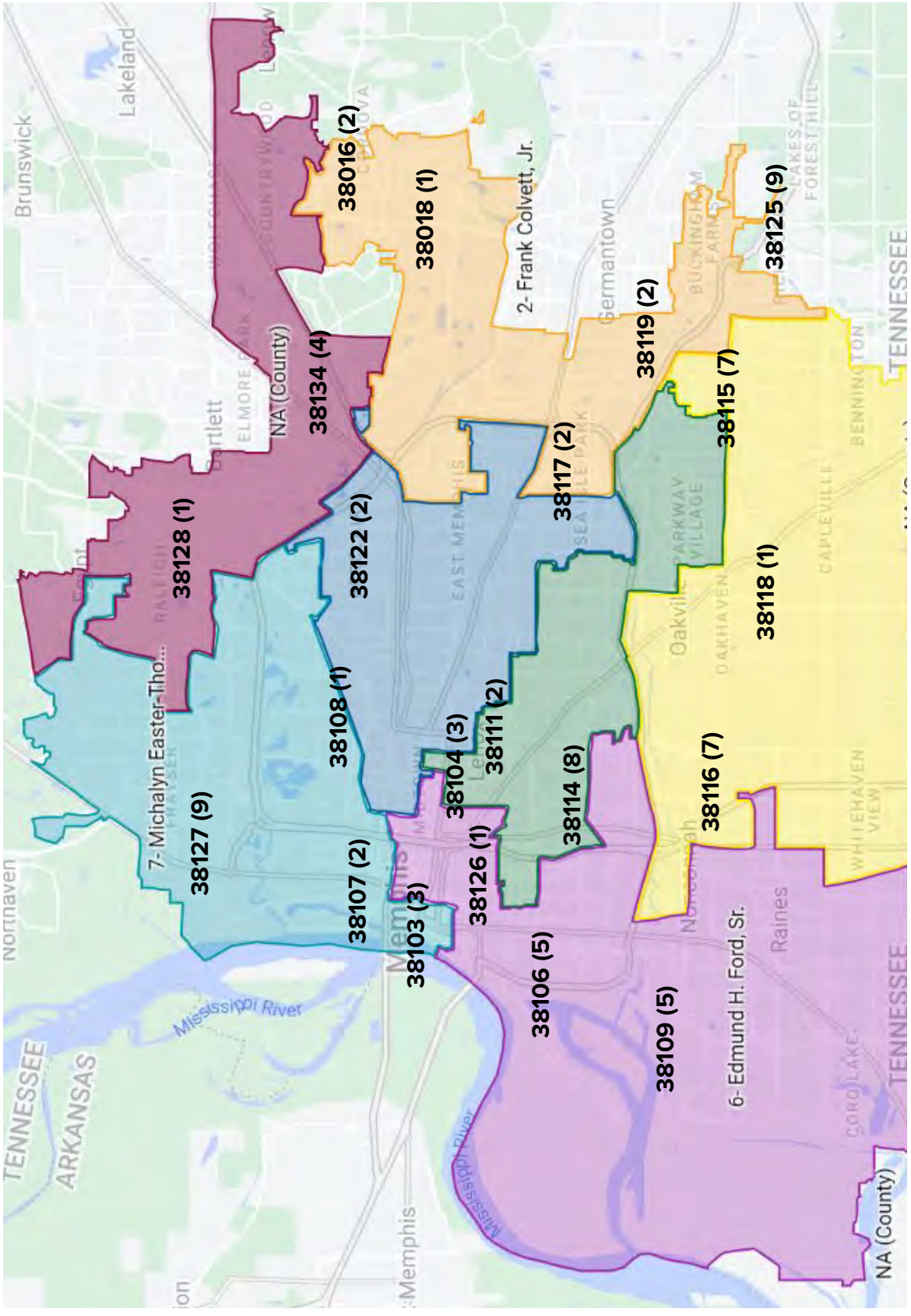




# F8M Classrooms in Each City Council District



- 1- Rhonda Logan
- 2- Frank Colvett, Jr.
- 3- Patrice Robinson
- 4- Jana Swearengen-Washington
- 5- Worth Morgan
- 6- Edmund H. Ford, Sr.
- 7- Michalyn Easter-Thomas

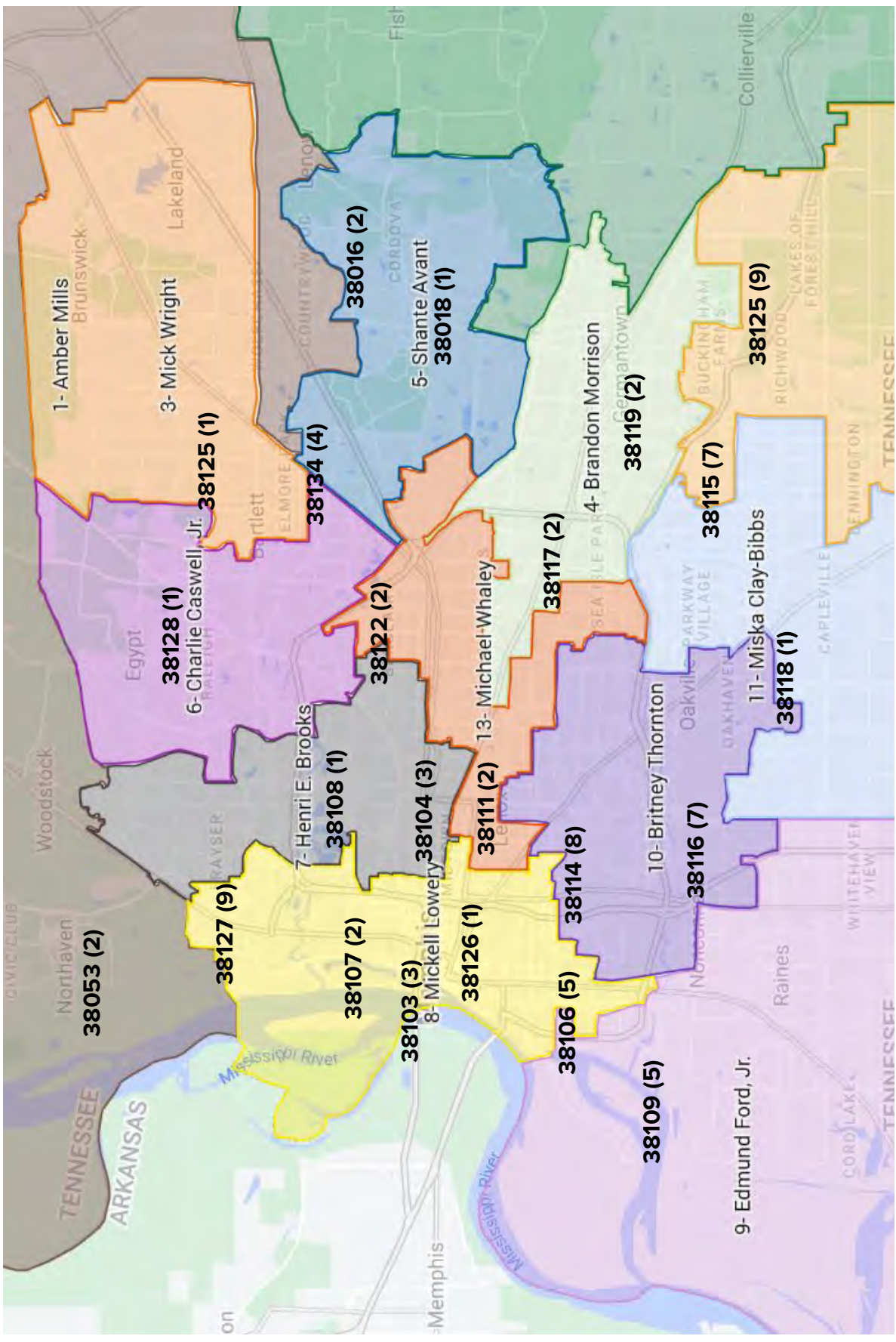




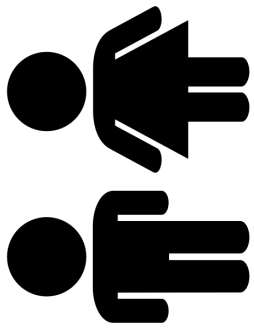
# F8M Classrooms in Each County Commission District



- 1 - Amber Mills
- 2 - David C. Bradford, Jr
- 3 - Mick Wright
- 4 - Brandon Morrison
- 5 - Shante Avant
- 6 - Charlie Caswell, Jr.
- 7 - Henri E. Brooks
- 8 - Mickell Lowery
- 9 - Edmund Ford, Jr.
- 10 - Britney Thornton
- 11 - Miska Clay-Bibbs
- 12 - Erika Sugarmon
- 13 - Michael Whaley



# Enrollment has steadily increased, post-pandemic.



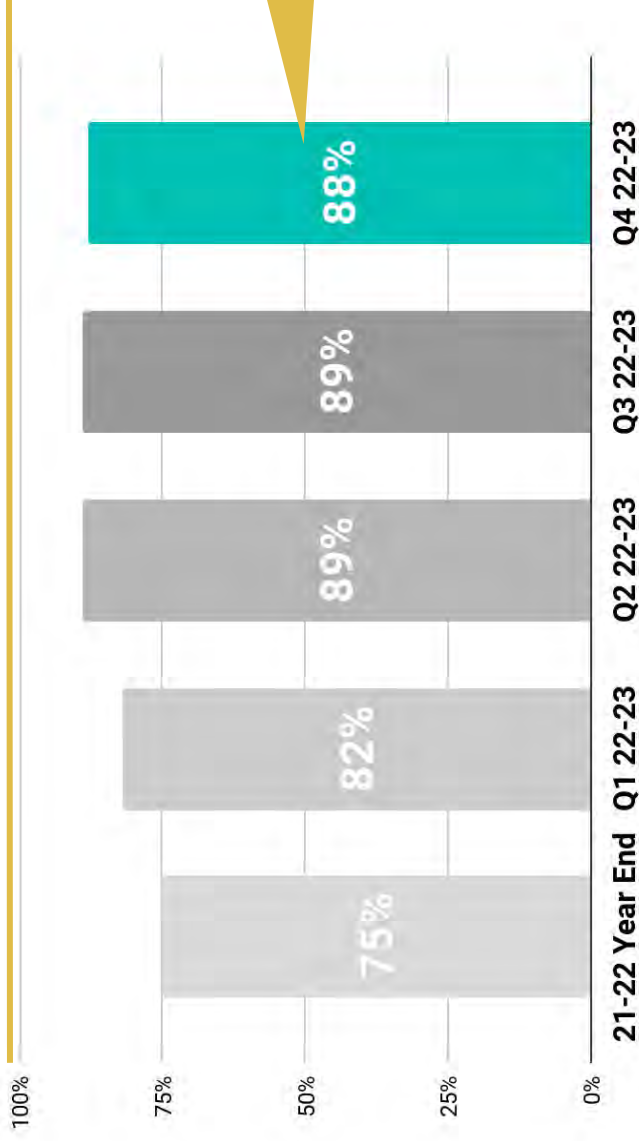
## ENROLLMENT

# 88%

capacity filled  
(End of Quarter)

**1,412** of **1,600** capacity filled  
2022-23 Q4 End of Quarter Enrollment **decreased** compared  
to Q3 EOQ Enrollment (89% - 1,419).

### Ultimate Goal



Operators continued to enroll new students throughout Q4.

A small decrease (less than 5%) is typical in Q4 enrollment compared to Q3, as families transition from the school year to summer.

**85% of F8M Pre-K students are attending 80% or more of the days they are enrolled.**



**91% Overall Daily Attendance Rate\*\***

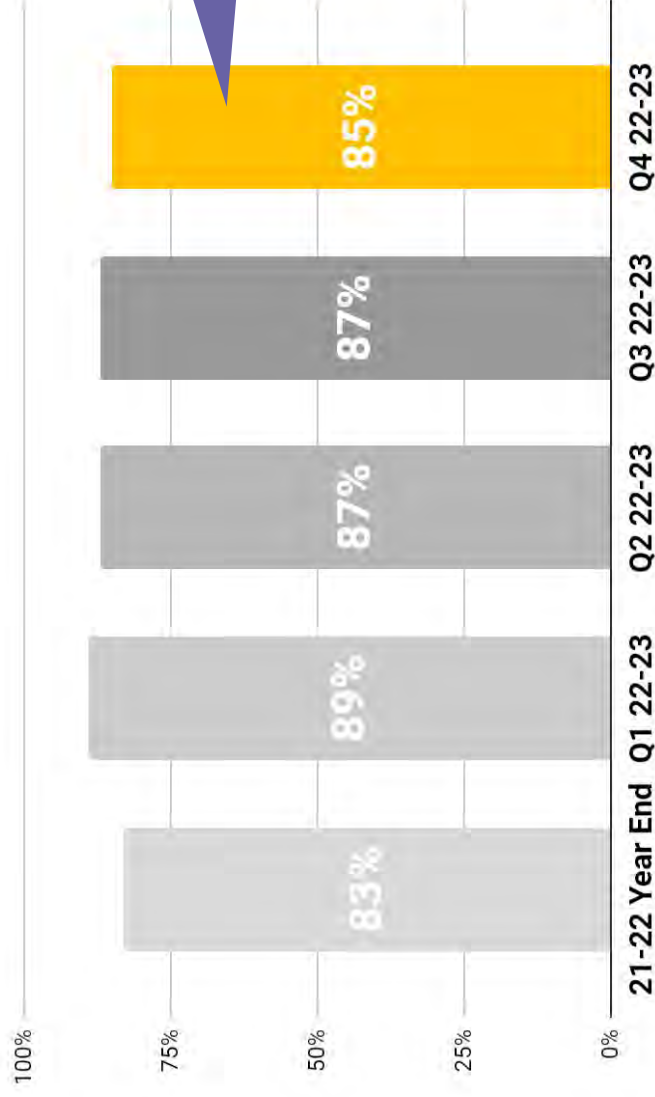
## ATTENDANCE

**85%**

of students met 80% attendance goal

**1,260 of 1,484** cumulatively enrolled students\*

2022-23 Q4 Attendance decreased compared to Q3 attendance metric (87%).

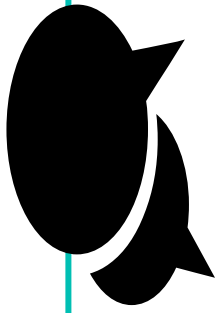
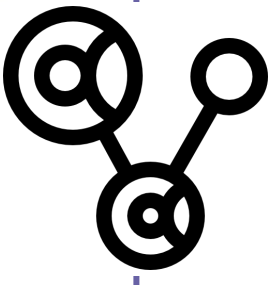


Operators and Family Engagement Personnel continued to support student attendance throughout Q4.

A small decrease (less than 3%) is typical in Q4 attendance compared to Q3, as families transition from the school year to summer.



# Family Engagement Personnel supported families in connecting with financial planning and summer programs.



## Monthly Contact

by Family Engagement Personnel

**87% (1,295) of families completed an end-of-year**

### Family Outcomes Assessment

- an increase of 20% from the number that completed the mid-year assessment.

**81% (1,201) of families set a**

**long-term goal** through the optional Family Partnership Agreement.

Of these, 79% met their goal by the end of Q4.

(*Example Goals:* home ownership, financial health, positive parent-child relationship)



**Support and Referrals**  
to reach goals and meet family needs

In Q4, there were **654 total referrals.**

The most common referrals were for:

- 1. Kindergarten and summer program registration (27%)**
- 2. Financial planning and income support services (14%)**

**Connection to Services**  
within the Shelby County community

**Families connected with financial support partners:**



**Seedco**



**Greater Memphis  
Financial  
Empowerment  
Center**  
*Free One-on-One  
Financial Counseling*

**RISE**  
MEMPHIS

**Students enrolled in Kindergarten and summer programs:**



# The majority of instructional coaching support to teachers in Q4 was observations and data collection.

**100% of teachers received coaching support** from a dedicated instructional coach in Q4.

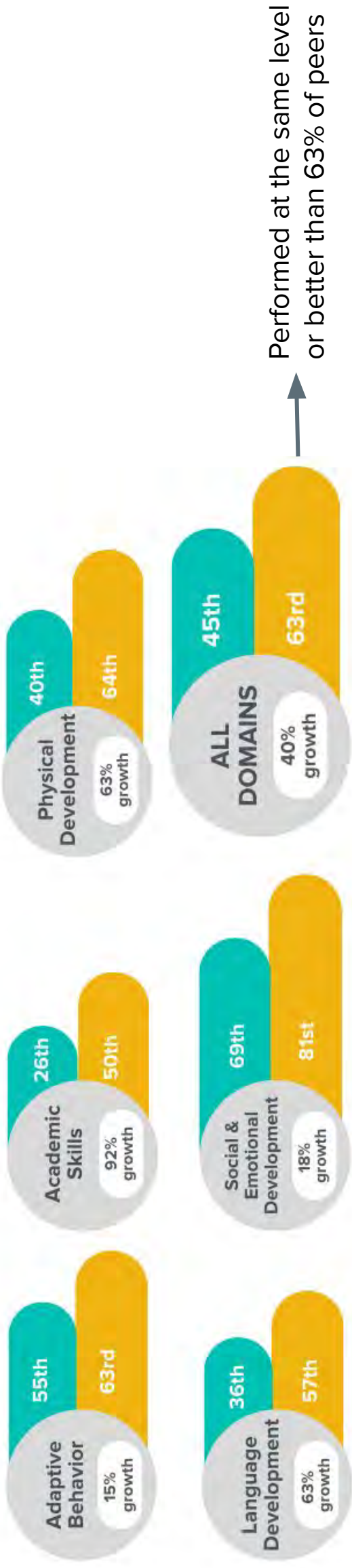


# First 8 Students Outperformed 63% of Peers. ●●●●●

Across all domains, **F8M Pre-K students\* performed in the 63rd percentile for 2022-23 post assessment** compared to the 45th percentile on the pre-assessment. **Students grew 40% across all 5 Brigrance domains.** Students performed 3 percentile points higher overall than 2021-2022 students on the post assessment.

## Brigrance IED III Assessment Yearly Comparison

- 2022-23 Pre-assessment percentile
- 2022-23 Post assessment percentile





Thank you!



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Success for a lifetime.

# Contact First 8 Memphis

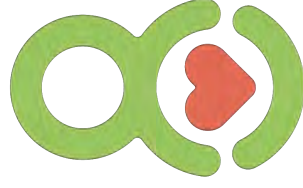


**Kandace Thomas, MPP, PhD**

Executive Director

[kandace@first8memphis.org](mailto:kandace@first8memphis.org)

Cell: 901-500-7871



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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE 5551 AND ORDINANCE 5734 RELATIVE TO SMART CITY FIBER ACCESS SYSTEMS, ESTABLISHING CRITERIA FOR QUALIFICATION AS SMART CITY FIBER ACCESS SYSTEMS, DEFINING SMART CITY FIBER ACCESS SYSTEMS, AND AUTHORIZING FOR QUALIFYING SMART CITY FIBER ACCESS SYSTEMS ALTERNATIVE REQUIREMENTS, TERMS, CONDITIONS, LIMITATIONS, AND PROVISIONS FOR RECOVERY OF THE CITY'S COSTS INCURRED FOR THE CONSTRUCTION, MAINTENANCE, POLICING, MANAGEMENT OR REPAIR OF THE STREETS, ALLEYS, THOROUGHFARES AND RIGHTS-OF-WAY OF THE CITY

WHEREAS, the Council adopted Ordinance No. 5551 that addresses and complies with federal decisions construing the Telecommunication Act of 1996 and Tennessee statutes pertaining to the use and occupation of the City's streets and public rights of way by public and private utilities and telecommunications providers;

WHEREAS, the Council adopted Ordinance No. 5734 that establishes standard compensation rates for recovery of the City's costs incurred for the construction, maintenance, policing, management or repair of the City's streets, alleys, thoroughfares and rights-of-way from persons and entities using and occupying the streets, alleys, thoroughfares and rights-of-way of the City for economic gain or benefit;

WHEREAS, the Council recognizes the importance to the City of broad access by the City to fiber optics communications facilities to support the delivery of efficient, high-quality City services, including existing and emerging Smart City applications;

WHEREAS, the Council recognizes the importance to the City that its residents in all neighborhoods have access to high-speed broadband services;

WHEREAS, the Council recognizes the importance to the City that its low-income residents have access to affordable high-speed broadband services;

WHEREAS, the Council finds that it is necessary and appropriate to establish a new Telecommunication Company classification that makes available different permitting and fee

requirements for Telecommunication Companies that enter into binding commitments with the City to develop Smart City Fiber Access Systems that will provide the City with dedicated fiber communications resources, will ensure availability of high-speed broadband services in all of the City's neighborhoods, and will ensure that low-income residents have access to affordable high-speed broadband services;

WHEREAS, the Council desires to define the minimum requirements for Smart City Fiber Access Systems; and

WHEREAS, the Council desires to specify the permitting and fee requirements for qualifying Smart City Fiber Access Systems.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, AS FOLLOWS:

**SECTION 1. FINDINGS.**

The City finds as follows:

A. High-speed, reliable communications facilities are essential to permit the use of digital technology and data to improve how the City functions and serves the residents, businesses, and institutions of the City.

B. High-speed, reliable communications facilities are also essential to make available broadband services in all neighborhoods of the City, including low-income and other underserved areas.

C. It is necessary and appropriate to define the minimum requirements for a Smart City Fiber Access System that will provide these facilities and services to the City and its residents, businesses, and institutions.

D. It is necessary and appropriate to specify the permitting and fee requirements that will apply to Telecommunications Companies that commit to the establishment of Smart City Fiber Access Systems.

## **SECTION 2. DEFINITIONS.**

“Commencement Date” means the date specified in the Development Commitment by which the Telecommunications Company will begin construction of the fiber optics system.

“Development Commitment” means a binding written agreement between the City and a Telecommunications Company approved by the Chief Administrative Officer pursuant to authority granted by this Ordinance. In addition to other requirements, the Development Commitment will contain a Commencement Date, a date for completion, and requirements to submit periodic status reports to the City.

“Physical Connection Point” means a physical connection point that is located on the Telecommunications Company network reserved and made available by the Telecommunications Company to enable the City or a related agency or entity to implement a private network which exclusively supports the delivery of City-related uses by connecting a City-provided optical network terminal (ONT) to the Telecommunications Company’s network. The Telecommunications Company will be responsible for managing the ONT.

“Low-Income Premises” means all premises within the Census Tracts in the City of Memphis with median household income less than the City of Memphis median household income.

“Minimum Service” means one (1) gigabit per second (Gbps) symmetrical broadband service through June 30, 2028.

“Premises” means any parcel of land with one or more permanent structures used for residential or business purposes that is accessible from the City’s public right-of-way.

“Revised Minimum Service” means the revised broadband speed that is established by resolution of the Council on or after July 1, 2028, applicable to Smart City Fiber Access Systems. The Revised Minimum Service shall not exceed the greater of (i) One Hundred Fifty Percent (150%) of the then-effective Minimum Service or, if available, (ii) the average of the highest tier of broadband download speeds offered by fixed broadband providers as reported in the most recently published report of the Federal Communications Commission. The Revised Minimum Service shall become applicable to Smart City Access Systems following one (1) year’s written notice. Thereafter, the City may establish a new Revised Minimum Service standard for Smart City Fiber Access Systems every four (4) years after July 1, 2028, to be effective for Smart City Fiber Access Systems in each case upon one (1) year’s written notice to the Smart City Fiber Access Systems.

**SECTION 3. MINIMUM REQUIREMENTS FOR SMART CITY FIBER ACCESS SYSTEM.**

**A. APPLICATION FOR DESIGNATION AS A SMART CITY FIBER ACCESS SYSTEM.**

A Telecommunications Company that desires that its fiber optics system be designated as a Smart City Fiber Access System shall complete an application provided by the City that will include at least the following information:

1. High-level design showing:
  - (a) Overall network footprint;



- (b) Number and locations of all Premises passed by the fiber optics system;
  - (c) Number and locations of all Low-Income Premises passed by the fiber optics system;
- 2. Construction schedule showing, at a minimum, Commencement Date and date for completion;
- 3. Commitment to meet each of the requirements for qualification as a Smart City Fiber Access System as set forth in Section 3.B.;
- 4. Signed Development Commitment in form and substance approved by the Chief Administrative Officer.

**B. INITIAL QUALIFICATION AS SMART CITY FIBER ACCESS SYSTEM.**

In order to initially qualify for the designation as a Smart City Fiber Access System, a Telecommunications Company must include in the Development Commitment a commitment to complete, within a specified period of time approved by the Chief Administrative Officer and specified in the Development Commitment, a fiber optics system in the City of Memphis with the following characteristics and service opportunities:

- 1. During the period until June 30, 2028, the fiber optics system must initially support the Minimum Service to all residences served and must support any Revised Minimum Service standard adopted thereafter; and

2. The fiber optics system must be available to provide the Minimum Service to the following percentages of the total business and residential Premises within the City:
  - (a) The fiber optics system must be available to at least sixty percent (60%) of the residential and business Premises within the City; and
  - (b) The fiber optics system must be available to at least sixty percent (60%) of the Low-Income Premises within the City; and
3. The Development Commitment must include a commitment approved by the Chief Administrative Officer to improve the opportunities for broadband access by low-income residents; and
4. The fiber optics system must provide to the City an indefeasible right to use at least twelve (12) dark fiber strands in every fiber cable comprising a part of the fiber optics system for a minimum period of forty (40) years; and
5. The fiber optics system must construct at least six thousand (6,000) Physical Connection Points at locations throughout the City, of which at least one-third (1/3) shall be located within Census Tracts with median household income less than the City of Memphis median household income; and
6. The fiber optics system must provide to the City Internet access at at least one hundred (100) locations as approved by the Chief Administrative Officer and specified in the Development Commitment.

7. Upon finding that the Telecommunications Company has demonstrated that its fiber optics system has satisfactorily met the requirements for qualification as a Smart City Fiber Access System, the Chief Administrative Officer will provide the Telecommunications Company written notice that the fiber optics system is qualified as a Smart City Fiber Access System, and is eligible to enter into a Smart City Fiber Access Right-of-Way Agreement. The effective date of the Smart City Fiber Access Right-of-Way Agreement will be the date of notice of qualification as a Smart City Fiber Access Agreement or such later date agreed to by the City and the Telecommunications Company.

C. CONTINUED QUALIFICATION AS SMART CITY FIBER ACCESS SYSTEM

A fiber optics system that has initially qualified as a Smart City Fiber Access System pursuant to Section 3.B. must meet the following requirements by the dates specified to continue its designation as a Smart City Fiber Access System:

1. By the date two (2) years after the Commencement Date, the fiber optics system must be available to at least twenty percent (20%) of the residential and business Premises within the City and at least ten percent (10%) of the Low-Income Premises within the City; and
2. By the date three (3) years after the Commencement Date, the fiber optics system must be available to at least forty percent (40%) of the residential and business Premises within the City and at least thirty percent (30%) of the Low-Income Premises within the City; and
3. By the date four (4) years after the Commencement Date, the fiber optics system must be available to at least sixty percent (60%) of the residential and business Premises within the City and at least sixty percent (60%) of the Low-Income Premises within the City; and

4. By the date four (4) years after the Commencement Date, the fiber optics system must provide to the City Internet access at no fewer than one hundred (100) Internet Access Points designated by the City; and

5. By the date four (4) years after the Commencement Date, the fiber optics system must have delivered to the City at least twelve (12) strands of fiber within each cable along every construction route; and

6. By the date four (4) years after the Commencement Date, the fiber optics system must have delivered to the City at least six thousand (6,000) Physical Connection Points, of which at least one-third (1/3) shall be located within Census Tracts with median household income less than the City of Memphis median household income.

7. The fiber optics system must meet Revised Minimum Service standards one (1) year after receipt of written notice of the City's adoption of each Revised Minimum Service standard.

D. EFFECT OF FAILURE TO CONTINUE TO QUALIFY AS A SMART CITY FIBER ACCESS SYSTEM

1. If a fiber optics system that has previously qualified as a Smart City Fiber Access System does not meet one or more of the requirements to continue its designation as a Smart City Fiber Access System, the City may, by written notice to the Telecommunications Company withdraw the designation as a Smart City Fiber Access System. The City's notice will specify the basis for the City's action and the date, no earlier than thirty (30) days after the notice, when the designation will be withdrawn. The City's notice will notify the Telecommunications

Company of its right to a hearing if the Telecommunications Company disputes the City's conclusion and action, and will specify the procedure to be used to request a hearing, including the deadline for requesting a hearing. The hearing will be held before an official designated by the Chief Administrative Officer. If dissatisfied with the results of the hearing, the Telecommunications Company may appeal the decision to the Chief Administrative Officer, whose decision will be final.

2. As of the date specified in the City's notice, or at such later date upon which the hearing procedure has been completed, if requested, the fiber optic system's Smart Fiber Access Right-of-Way Agreement will terminate and the fiber optics system will be subject to all requirements of Ordinance 5551, including, without limitation, the fees and charges specified in Ordinance 5734 or any later-enacted ordinance establishing fees and charges applicable to fiber optic systems utilizing the City's public rights-of-way.

#### E. RE-APPLICATION AFTER WITHDRAWAL OF DESIGNATION AS SMART CITY FIBER ACCESS SYSTEM

1. Should the designation of a fiber optics system as a Smart City Fiber Access System be lost as specified in Section 3.D., the Telecommunications Company may re-apply one (1) time for re-designation of its fiber optic system as a Smart City Fiber Access System. The Telecommunications Company submitting such a re-application will have the burden of demonstrating that its fiber optics system meets all of the requirements for designation as a Smart City Fiber Access System in effect on the date that the re-application is submitted.

2. Upon finding that the Telecommunications Company has carried its burden of demonstrating that its fiber optics system has satisfactorily met the requirements for re-

qualification as a Smart City Fiber Access System, the Chief Administrative Officer will provide the Telecommunications Company written notice that the fiber optics system is qualified as a Smart City Fiber Access System, and is eligible to enter into a Smart City Fiber Access Right-of-Way Agreement. Provided, however, that the Chief Administrative Office may condition the re-designation of the fiber optics system as a Smart City Fiber Access System upon inclusion in the Smart City Fiber Access Right-of-Way Agreement of reasonable reporting requirements and other reasonable conditions that the Chief Administrative Officer deems appropriate to ensure continued compliance with the requirements for a Smart City Fiber Access System. The effective date of the Smart City Fiber Access Right-of-Way Agreement will be the date of notice of re-qualification as a Smart City Fiber Access Right-of-Way Agreement or such later date agreed to by the City and the Telecommunications Company. If the Chief Administrative Officer finds that the Telecommunication Company has not met its burden, the fiber optic system will be denied re-designation as a Smart City Fiber Access System.

#### **SECTION 4. FEE AND OTHER REQUIREMENTS APPLICABLE TO SMART CITY FIBER ACCESS SYSTEM**

##### **A. SMART CITY FIBER ACCESS RIGHT-OF-WAY AGREEMENTS**

The Smart Fiber Access Right-of-Way Agreements shall include such standard and other terms as the Chief Administrative Officer deems appropriate, including the following provisions applicable only to Smart City Fiber Access Systems:

1. Exemption from paying annual right-of-way access fees during the initial and any renewal term of the Smart Fiber Access Right-of-Way Agreement.



2. A reduction in permitting and inspection fees normally charged pursuant to applicable ordinances, the amount of which shall be determined by the Director of Engineering and subject to a written agreement.

3. A term of up to twenty (20) years, subject to earlier termination for reasons described in the Smart City Fiber Access Right-of-Way Agreement, including the failure of the fiber optics system to continue to qualify as a Smart City Fiber Access System.

4. The opportunity to renew the Smart City Fiber Access Right-of-Way Agreement for an additional term of up to twenty (20) years, upon a determination by the Chief Administrative Officer that the fiber optics system continues to qualify as a Smart City Fiber Access System, and subject to approval by resolution adopted by Council.

5. Reporting requirements to enable the City to monitor the Smart City Fiber Access System's compliance with the requirements of Section 3.

**B. APPLICATION OF STANDARD RIGHT-OF-WAY AGREEMENT TERMS FOLLOWING TERMINATION OR EXPIRATION OF SMART CITY FIBER ACCESS AGREEMENT**

If a Telecommunication Company's fiber optics system continues to occupy any of the rights-of-way of the City following the termination or expiration of a Smart City Fiber Access Agreement, the Telecommunications Company will be required to enter into a standard City right-of-way agreement and will be subject to the fees and other requirements applicable to those using the City right-of-way, including those contained in Ordinance 5551 and Ordinance 5734, as those ordinances may be amended in the future.

## **SECTION 5. MISCELLANEOUS PROVISIONS**

### **A. TENNESSEE LAW GOVERNS**

In any controversy or dispute under this ordinance, Ordinance 5551, or Ordinance 5734, the law of the State of Tennessee, including its choice of law provisions, shall apply to the extent such law has not been superseded or preempted.

### **B. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Authorization ordinance is for any reason held invalid or unenforceable by any court of competent jurisdiction, the remainder of this Authorization ordinance shall not be affected thereby, but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, term, provision, condition, covenant and portion of this Authorization ordinance shall be valid and enforceable to the fullest extent permitted by law.

### **C. ENACTMENT CLAUSE**

Be it further ordained, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the chairman of the council, certified and delivered to the office of the Mayor in writing by the comptroller, and become effective as otherwise provided by law.