




Tom Leatherwood
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17129754	
12/21/2017	08:19 AM
19 PGS	
TAMMY 1684278-17129754	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	95.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	97.00
TOM LEATHERWOOD REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	



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]

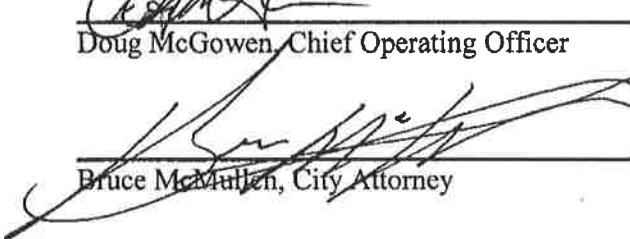
Signature and Approval of the City of Memphis

CITY OF MEMPHIS

By: 
Jim Strickland, Mayor

APPROVED AS TO FORM:

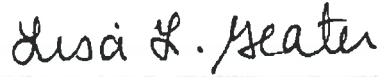

Doug McGowen, Chief Operating Officer


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 bargainor, 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.



Notary Public

My commission expires:

5-30-2021



GRANTEE:

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

By:

[Handwritten Signature]

Its:

President

VAN TURNER

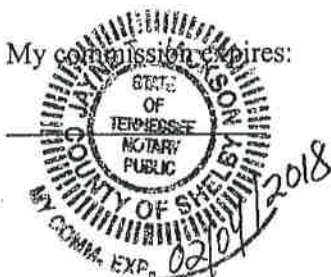
STATE OF TENNESSEE:
COUNTY OF SHELBY:

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 bargainor, 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.

Jayne J. Jackson
Notary Public

My commission expires:



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

[Signature]
APPROVED:
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.

4 2 1 2
5 4 2

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.