

**CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE
PAYMENT-IN-LIEU-OF TAX (PILOT)**

Section I. General Purpose And Objectives

The City of Memphis and County of Shelby, Tennessee, are committed to the promotion of high quality development in all parts of the City and County and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Memphis and County of Shelby will, on a case-by-case basis, give consideration to providing Payment-in-Lieu-of-Tax (PILOT) incentives as a stimulation for economic development.

It is the policy of the City of Memphis and County of Shelby that said consideration will be provided in accordance with the guidelines and criteria outlined in this Policy Manual. Nothing herein shall imply or suggest that the City of Memphis and County of Shelby is under any obligation to provide a PILOT to any applicant. All applicants shall be considered on a case-by-case basis, and the decision to approve or deny a PILOT shall be at the discretion of the Industrial Development Board of the City of Memphis and County of Shelby, Tennessee (IDB).

The Industrial Development Board of the City of Memphis and County of Shelby, Tennessee was established by City and County governments to assist in the financing of new business and industry and to promote local industrial expansion. The corporation was organized in accordance with the State of Tennessee Industrial Development Corporation Act. It is the intention of this Board to conduct its activities consistent with the provisions of the Act and the intent of the local legislative bodies in establishing the Corporation. To this end, the IDB will conduct its business within the following guidelines in the consideration of applications for PILOT incentives.

1. In accordance with the requirements of State law, the Board must find each project that is presented to the Board for action to be in the public interest and will increase employment within the State of Tennessee. The Board interprets this to mean that the project results in a "net" increase in the number of jobs within the Memphis area.

The Industrial Development Board will evaluate projects for PILOT eligibility based primarily on the following performance standards:

- a. Number and type of jobs created
- b. Annual base wage
- c. Capital investment in real and personal property
- d. Location of the project

All projects coming before the Industrial Development Board will be evaluated based on their merits and will be scored consistent with the PILOT Evaluation Matrix.

The specific types of projects that may apply for and be considered for PILOT incentives so long as the proposal otherwise meets the Boards criteria are:

- A. Industrial Projects constructed to manufacture, assemble, process, fabricate and distribute agricultural, mining, or manufactured products.
- B. Pollution Control projects have been found by the legislature to be in the public interest without regard to employment factors.
- C. Distribution Facilities constructed to receive and forward final goods to various locations.
- D. Office Buildings and Service Facilities constructed for a specific tenant who will occupy said building or facility for at least the term of the PILOT.
- E. Other Non-Retail Projects not defined above may be considered for PILOT on a case-by-case basis.

The following types of Projects shall not be considered by the Board:

- A. General Commercial Projects, Housing Projects, Retail Centers, and Entertainment and Recreation Facilities.
- B. Speculative development: This Policy shall not be construed to prevent Projects for single users, even though actual ownership of such Projects may reside in an entity or entities other than the user. Such cases shall be considered upon their individual merits, but in no event shall a Project owned by a party other than the primary user of the facility be considered unless: All of the Facility or a predefined percentage of the Facility will be used for the Project which is the subject to the PILOT

Application. No PILOT Application shall be approved if it would constitute an artifice or device to circumvent the Board's requirement that "speculative" rental projects not be approved.

2. Each applicant in its development, ownership and/or operations of a project will be required to comply with all laws, ordinances, orders, rules, regulations, and requirements of duly constituted public authorities, which are or shall become applicable to the Project, the repair and alteration thereof, and the use or manner of use of the Project.

3. It is the policy of the Memphis and Shelby County Industrial Development Board to support economic development within the region by using the goals of the Memphis 2005 Strategic Economic Development Plan. Two of the goals, i.e., Minority Business Development and Workforce Development are supported by the IDB by encouraging PILOT companies to contract with Minority/Small Business firms through the Jobs Plus optional program.

Section II. Conflict of Interest

To avoid conflicts of interests, no incentive will be approved if Board Counsel has a professional legal relationship with the Applicant or any Sponsor's source of the financing other than incidental representations in connection with proposed financing or similar financing, but the Board may waive this condition in appropriate circumstances. In the event of a conflict involving Board Counsel, special counsel shall be retained by the Board to represent it in connection with the particular Project being considered.

Each Board member shall be responsible for disclosing any material interest which he or she may have in or with an Applicant, Sponsor or financing source. Any Board member having any material interest in a Project or a financial or family relationship with an Applicant or Sponsor or financing source shall submit to the Board Counsel a representation of that interest, and Board Counsel shall advise both the Board and Board member whether the member needs to recuse himself or herself from consideration of the Application. Such recommendation of Board Counsel shall be conclusive. If recusal is recommended, the Board will then consider the Application without participation from the member or members who recuse themselves.

Section III. Definitions

"A Memphis and Shelby County Company" is one which has a principal office within the city and county limits.

"Brownfields" means properties that have been vacant or abandoned for at least five (5) years, have a prior history of industrial use and potentially have some environmental contamination as indicated by a Phase I Environmental Assessment. Additionally, only those properties in excess of five (5) acres or structures with more than 20,000 square feet of gross floor area will be considered an eligible site for Brownfield matrix point credit.

"Community Reinvestment Credit" applies to currently assessed real properties, or portions of property (except for unutilized leased or owned floor area) within the corporate limits of the City of Memphis as of January 1, 2003, and as may be amended by annexation. Notwithstanding the above, any Project using real properties or a portion of property containing unutilized leased or owned floor area that creates 75 Net New Jobs in Shelby County, Tennessee that are created from the documented consolidation of operations, merger or new business growth with entities outside of Shelby County, Tennessee may be considered for the Community Reinvestment Credit.

"Community Reinvestment Credit Property" means real property located in Shelby County, Tennessee that meets the Community Reinvestment Credit criteria.

"Contract Employee" means a person employed by a party other than the primary user of a facility who will directly benefit from the PILOT incentive, but who is assigned to work for the primary user of the facility as a full-time equivalent and is considered a necessary member of the workforce responsible for duties and assignments required to meet production levels of the primary user. Contract Employees must be employed by an employer that has entered into a written contract with the Applicant to provide employees for the Project with a term in excess of one (1) year. Documentation is required from the employment vendor on an annual basis reflecting the number of jobs and net wages paid to contract employees. The primary user is required to report this information on an annual basis as part of the reporting process.

"Economic Development Areas" are those areas that have been the focus of a specific study and/or plan, the purpose of which is to promote the development or redevelopment of those areas with specific types of businesses or industries. Such studies or plans shall have been presented and approved by the Memphis City Council and/or the Shelby County Board of Commissioners or the State Legislative body.

"Expansion" means the addition of buildings, structures, machinery, or equipment for the purpose of expanding a Project. The Expansion will be evaluated independently from the original Project, and shall require a new application.

"Facility" (or Facilities) means property improvements completed or in the process of construction which together comprise an integral Project, including real property and tangible personal property.

"Greenfields" means any undeveloped land which has previously only been utilized for agricultural and/or residential uses.

"Identified Labor Source" means welfare recipients identified by the State of Tennessee Department of Human Services (DHS) and residents of Memphis Housing Authority.

"Jobs" means the total of the following whether employed by the Applicant or provided by a Contract Employer on an Average Annual Full-Time Equivalent (FTE) Basis:

- (a) Full-time (any employment position that has provided employment of 1,600 hours or more within a year).
- (b) Part-time (any employment position that has provided not less than 800 hours per year). (Two part-time employees equal one FTE.)
- (c) Seasonal jobs (any employment position that has provided not less than 400 hours per year). (Four seasonal jobs equal one FTE.)

"Jobs Plus" is an optional initiative designed to encourage PILOT Applicant firms to contract with local Minority/Small Business firms to help meet the Memphis 2005 goals of Minority Business Development, Workforce Development and/or hire people from the Identified Labor Source.

"Lease Agreement" means the formal contract between the lessee and the Industrial Development Board containing all the conditions which all parties of said contract must be in compliance.

Lease Term" means period of time in years the PILOT is in effect -- from commencement of the PILOT lease agreement (real and/or personal property) until the applicable annual

anniversary of the lease agreement occurs.

“Memphis Area” means Memphis and Shelby County, Tennessee.

“Net New Jobs in Shelby County, Tennessee” means the number of new jobs in Shelby County, Tennessee created for a Project which are located at the site(s) that is the subject of the Lease Agreement. Net New Jobs in Shelby County, Tennessee shall not include any jobs or duties shifted from any other site(s) in Shelby County, Tennessee that is not the subject of the same Lease Agreement. All applicants shall provide a statement as to current employment by the applicant and its subsidiaries by location within Shelby County, Tennessee which will be updated on an annual basis.

“Minority/Small Business” firms are defined and certified for the Jobs Plus initiative through the Mid-South Minority Business Council which certifies minority businesses through the Uniform Certification Agency (UCA) at 901-678-2897. Small Businesses are certified through Shelby County Equal Opportunity Compliance (EOC) Department at (901-545-4336).

"Modernization" means the replacement and/or upgrading of existing facilities which increases production, updates technology, or substantially lowers the cost of operation and extends the economic life of the facility.

"Payment -in-Lieu-of Taxes " (PILOT) means payments established by the Board to be made in lieu of ad valorem taxes on the property involved in the Project. Generally, for real property, such amounts are to be based on the taxes being generated at the time the Board takes title to the property considering only the value of the unimproved property (except in the case of a relocation). Generally, for tangible personal property, such amounts are to be based on the taxes being generated at the time the Board takes title to the property. The PILOT freeze is at 100% (City of Memphis) and 75% (Shelby County) of the current assessed value of the Real Estate and 100% (City of Memphis) and 75% (Shelby County) of the personal property as provided in the PILOT Lease Agreement.

“Primary User” means corporation or other business entity, or a group of individual entities that jointly operate a project, and who in total contribute to the total number of jobs and the capital investment of project.

“Project” means buildings, structures, machinery, equipment, land, new employees and applicable wages defined in the Application. This may include the addition of buildings, structures, machinery, or equipment that is committed by the applicant to be started within

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two (2) years of the lease date of the Project defined in the Application. Any phase or expansion planned beyond two (2) years of the initial project will require a new application to be filed at the time said expansion is planned.

“Relocation” means the movement of an Applicant’s operation within Shelby County, Tennessee resulting from an expansion. Such movement results in the cessation of operations at the applicant’s existing facility and the establishment of operations at another site in Shelby County, Tennessee. In such case, the benefits of the PILOT incentive shall apply only to the incremental investment or property associated with the PILOT project. The PILOT payments shall be calculated to reflect, at the minimum, the taxes paid on the existing facility of the PILOT applicant.

“Sponsor” Any entity with legal or economic responsibility for any Project proposed to be financed by the Board or any entity with legal or economic responsibility for any Project proposed to be conveyed to the Board in order for it to grant PILOTs. A Sponsor may be the Applicant or the proposed Project lessee.

In a three-party PILOT transaction, the Sponsor is the fee owner of the real property upon which the Project will be located. The Sponsor will convey the real property to the Board, the Board will lease the real property to the Sponsor and the Sponsor will sublease the real property to the Applicant. The Applicant will also be a party to the lease with the Board. The basic operating lease term between the Lessee (Sponsor) and the Sub-lessee (Applicant) for the real property must be equal to (or with option to renew or extend sub-lease) or greater than the approved PILOT Real Property Lease term to ensure continuous Applicant accountability during the approved PILOT term.

“Staff” The Industrial Development Board is supported by the Office of Economic Development which is a department of the Memphis and Shelby County Division of Planning and Development.

“Wages” means the annual gross compensation, excluding benefits, received by an employee or Contract Employee.

Section IV. PILOT Incentive Criteria

Non-commercial business investment creates new jobs, new income and can provide positive economic growth and inner-city economic stabilization that benefits the City and County as a whole. This PILOT Policy provides the general guidelines for all PILOT projects. This policy will be considered, in accordance with state law, and applied on a case-by-case basis in evaluating projects for PILOT incentives. But nothing herein shall obligate the Board or Memphis or Shelby County to approve a PILOT incentive.

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Review of an application on a case by case basis, still requires the Board to demonstrate to the citizens of Memphis and Shelby County, that the PILOT incentives granted to a project are in the public interest. The Board has therefore established the criteria listed below for the review of applications. These criteria are based upon the economic and physical development policies of the City of Memphis and Shelby County Tennessee, and may be changed by the Board without notice when economic conditions warrant.

PILOT Criteria:

The Board establishes the following categories for evaluating a Project for PILOT incentives. These categories address the basic responsibility of the Board to create jobs with good wages, and to promote overall economic growth in the community as well as provided for growth in all areas of Shelby County. The PILOT freeze is at 100% (City of Memphis) and 75% (Shelby County) of the current assessed value of the Real Estate and 100% (City of Memphis) and 75% (Shelby County) of the personal property as provided in the PILOT Lease Agreement. See Appendix A (PILOT Matrix).

A. Jobs - Projects that create permanent full-time, full-time equivalent, seasonal, and contract jobs will be considered.

B. Wages paid by Applicants will be considered by the Board as a factor relevant to the existing per capita income published for Shelby County, Tennessee.

C. Capital Investment made by an Applicant in the land, building, site preparation equipment and any other tax producing improvements will be considered by the Board. It may also include investments in equipment necessary for the successful operation of the facility.

Investment capital cannot be transferred between real and personal property categories once the Board has approved the Applicant's application. Subsequent investment capital reassignment by the Applicant will require resubmittal of another application for Board approval.

Monthly or annual rental payments during the PILOT Lease term are not to be construed as part of the leasehold property improvement or increasing the value of the Applicant's capital investment.

D. The Location of a project within the jurisdiction of the Board will be considered. The Board has provided further incentives to encourage locating projects within the City of Memphis and Shelby County and/or special Economic Development Areas as identified

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below:

- The Defense Depot
- Urban Economic Revitalization Areas
- State Enterprise Zones
- State and Federal Designated Brownfield Areas
- Frank Pidgeon Industrial Park
- Foreign Trade Zones
- Other Economic Development areas as designated by the City and County
- Renewal Community expires in Year 2009 unless it is reauthorized by the United States Department of Housing and Urban Development (HUD).
- New Markets Tax Credit Areas as designated by the United States Department of Treasury.

5. **Community Reinvestment Credit (CRC) Criteria**

Capital Investment (Minimum Net New Investment):

A project earns points in the capital investment category based on new investment, but the Community Reinvestment Credit will be applied based on the then current appraised value of the CRC related real estate. The total points earned in this category cannot exceed the maximum points allowed under the current IDB PILOT Maxtrix nor can it be higher than the points earned by a non-CRC project with a comparable investment.

Jobs:

A minimum requirement of 15 Net New Jobs or Net New Jobs equal to 25% of the current workforce, whichever is less (the 25% applies only to properties that already have been occupied), is required for a CRC related PILOT.

Wages:

The wage requirements are the same as the basic IDB PILOT Wage criteria.

PILOT Term:

No property, or portions of property under the PILOT program shall receive PILOT

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benefits beyond a total of 15 years. The 15-year maximum is per the Memphis City Council's Resolution dated February 20, 1996, and the Shelby County Board of Commissioner's Resolution dated February 27, 1996.

Location:

CRC and PILOT projects are scored according to the current IDB PILOT location criteria. However, additional points will be given to CRC projects in the following target areas:

- Renewal Community (48 census tracts) as defined by HUD – (20 points)
- New Markets Tax Credit (54 census tracts) as defined by the U. S. Department of the Treasury – (10 points)

Note: Both the City of Memphis and Shelby County Mayors will have the authority to grant an exception for a project if a location meets the criteria set forth by the Renewal Community or New Markets Tax Credit Guidelines.

CRC ANNUAL REAL PROPERTY CAP:

A calendar year limitation of \$2.1M in actual property tax payments otherwise due at current approved tax values and rates, and adjusted based upon reappraisals and tax increases, (City of Memphis \$.9M and Shelby County \$1.2M less the 25% PILOT payment) will be set and monitored through quarterly reporting by the Office of Economic Development. The City of Memphis and Shelby County Mayors have the authority to grant exceptions to the annual cap when warranted.

The CRC annual cap calculation will exclude the following:

- The Renewal Community and the New Markets Tax Credit areas, and other economic development areas as indicated in the location criteria.
- Properties containing space with improvements that have never been leased or occupied.

The Real Property Lease Agreement will reflect a PILOT assessment basis equal to the assessed value of

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the land.

COMMUNITY REINVESTMENT CREDIT - CLOSING

Closing must be done within 90 days after the Industrial Development Board's approval or the Company could lose its Community Reinvestment Credits.

- F. Special Circumstances or conditions may be present that the Board shall have at its discretion to consider in granting a specific PILOT incentive term. This information may be taken into consideration by the Board in granting a specific PILOT incentive, or may require a commitment by the Applicant subject to an annual review by the Board. This other pertinent information must clearly demonstrate a significant impact upon the economic and physical plans and policies of Memphis and Shelby County.

These guidelines are in addition to the normal rules and procedures of the Board and do not represent an exclusive list. From time to time and without notice, other guidelines may be adopted, amended or deleted. These guidelines do, however, express the concern of the Board for:

- ?? The creation and preservation of permanent jobs
- ?? The preservation and expansion of the tax base
- ?? The improvement of the environment
- ?? The progress of the local economy

G. National Corporate Headquarters Criteria for the Rollback of Assessment

Companies seeking roll back of the current property assessment of real property to be used as the Primary North American Corporate Headquarters must satisfy the following performance standards:

1. The company must be a corporation of national significance;
2. A significant percentage of the decision making officers or employees of the corporation must work and maintain their primary offices at the proposed specific corporate headquarters in Shelby County;
3. The proposed headquarters should be the office location of a majority of the management employees of the corporation; and

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4. The corporation must make a significant financial commitment to the property which is the headquarters location.

5. Meet the normal requirements for an approved PILOT

8. Real Property PILOT Applicants

1. Application for a Real Property PILOT incentive must be site specific or on contiguous parcels of land. Non-contiguous sites must have separate PILOT Applications.

2. A real property under a current IDB PILOT that has been abandoned or vacated, may be the subject of a new PILOT application within twelve (12) months of notification. Granting of the new PILOT and the term of the new PILOT is at the sole discretion of the Board. However, each real property is limited to a total of fifteen (15) years of PILOT term.

I. Jobs Plus Initiative Criteria for Additional Incentive (Optional)

The purpose of the Jobs Plus Initiative is to promote the long-term inclusion of local minority/small businesses and the hiring from the Shelby County Identified Labor Source with firms applying for a PILOT incentive through the IDB. The PILOT Applicant must notify the IDB of its intent to participate in Jobs Plus at the time of PILOT Application and must have contract(s) in place prior to the Lease Agreement(s) closing or within twelve (12) months of the PILOT Application approval date whichever is longer (see Appendix D).

Section V. Evaluation

The Board will demonstrate that its actions in granting PILOT incentives to specified projects do in fact promote the public good. Pursuant to that responsibility the Board requires the project applicant to certify annually that the number of jobs, initial wages, capital investment and optional Jobs Plus program initial commitments are met. The Industrial Development Board will annually (or at such other times deemed appropriate) evaluate each Project receiving a PILOT to ensure compliance with the Lease.

Each year any individual or entity receiving a PILOT from Memphis and Shelby County shall provide information in the manner described in the PILOT Lease Agreement and complete an Annual Performance Report Form (see Appendix B), including, but not limited to, the following:

A. Capital Investment - Real Property/Tangible Personal Property

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B. Employee Report - The total number of employees of the company (multiple locations head count), their total salaries for the employees at the Project, the number of employees for the Project who reside in Memphis and Shelby County and their gross annual salaries without benefits. These jobs shall be reported in job classifications as required by the Industrial Development Board.

C. Minority/Small Businesses - The dollar amount of contracts awarded to Minority/Small Businesses as committed through the Jobs Plus Initiative.

D. Identified Labor Source - The employee retention level (turnover and new hires) of employees emanating from the Department of Human Services (DHS).

E. Comparison Criteria Report - If the investment, employment, wages and other commitments do not equal the IDB approval projections, the party receiving the PILOT shall be subject to default as specified in the Lease Agreement. Companies have two (2) years to reach compliance levels as illustrated in the PILOT Application for investment, employment and wages.

F. Jobs Plus recipients and minority/small business companies must document compliance of annual contracting. PILOT recipients must document the employment (turnover and new hires) from the Shelby County Identified Labor Source through the duration of the PILOT Lease Agreement through the required annual PILOT reporting. Non-compliance with Jobs Plus commitments would be subject to default of the PILOT extension as specified in the Lease Agreement.

Staff shall provide the Board on an annual basis a compilation of the past years activities, and the ongoing activities of the projects operating under current leases to the Industrial Development Board.

The Board retains the right to visit and inspect the projects during the term of the PILOT to ensure conformance with statements and representations made in the PILOT Lease Agreement and the PILOT Application.

Section VI. Application

Any person desiring that the Memphis and Shelby County Industrial Development Board consider providing a PILOT to encourage location, expansion and/or modernization of operations within the City of Memphis and/or the unincorporated areas of Shelby County

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shall be required to comply with the following application guidelines. Nothing within these guidelines shall imply or suggest that Memphis and Shelby County is under any obligation to provide a PILOT in any amount or value to any applicant.

The Board meets to consider applications for PILOT incentives on the Third Wednesday of each month, with the exception of December when it meets on the Second Wednesday. The IDB considers applications at duly called meetings conducted in compliance with the Sunshine Laws of the State of Tennessee. Monthly meetings may be waived or held at a different location or date at the discretion of the Board.

Pre Application:

Potential Applicants or their representative(s) shall submit to the Industrial Development Board its estimates on the number of jobs, wages, capital investment, potential location, Jobs Plus (optional) initiative commitment and any other informative company data. These estimates will be evaluated and presented to a committee of the Board for recommendation of a PILOT incentive term. This preliminary information must be received in writing no later than 10 working days prior to the next committee meeting (generally held the last Thursday of each month).

The Applicant is also encouraged to hold a pre-application conference with Staff prior to the submission of a formal application. It would be beneficial to the Staff, the Board's Committee and applicant if the meeting were held prior to the submission of the preliminary information.

Application:

An application for a PILOT incentive shall be made on the PILOT Application form, (Appendix C) or in conformance with said form. An application fee in accord with Section VII below must accompany any application. The application fee is non-refundable. An application shall be filed with the Industrial Development Board no later than the close of business 14 calendar days prior to the next scheduled Board meeting. (Note: The December meeting of the Board is the Second Wednesday, and 14 days may not be the Wednesday 2 weeks prior to the December meeting).

Application Amendment:

The Applicant has twelve (12) months from the initial date of the Board's approval to amend its PILOT Application.

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Section VII. Fees

Application Fees

The "Application for PILOT" form must be completed and submitted with an application fee calculated as follows:

| <u>Estimated Project Investment at the Time of Application</u> | <u>Application Fee</u> |
|--|------------------------|
| \$ 0 - \$ 750,000 | \$1,000 |
| \$ 750,001 - \$1,000,000 | \$1,500 |
| \$1,000,001 - \$2,500,000 | \$2,000 |
| \$2,500,001 - \$5,000,000 | \$3,000 |
| \$5,000,001 - and greater | \$4,000 |

Application Amendment Fee:

Amendment to an existing PILOT Application shall require a fee of \$1,000.

Closing Fees

A closing fee computed as follows will be paid to the Board prior to or at the closing of the PILOT Lease:

PILOT closing fees are based on the benefits that a company will receive (i.e., value of the

All Applicants are required to submit drafts of all closing documentation (including

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Deeds, Bills of Sale and Leases) to the Board Counsel within 30 days of the Board's approval of the PILOT Application. An additional copy of the documentation should be sent to the Board's staff. If Board Counsel has not received the required documentation prior to the 30 days of the Board's approval of the PILOT Application, the Applicant will forfeit one-fourth (¼) percentage per month of the PILOT Application fee for every month the documentation is late.

For example, if the Application fee is \$4,000 and an Applicant is two months late getting its documentation to Board Counsel and/or staff, the Applicant forfeits \$2,000 of the application fee. The remaining \$2,000 will be credited against the PILOT Lease closing fee. However, if the Applicant is five (5) months late getting the documentation to Board Counsel and/or staff, the Applicant relinquishes the \$4,000 application fee, and none of the fee will be credited against the PILOT closing fee.

The PILOT Lease closing fee will be calculated at 5% of the tax savings with a minimum of \$1,500 not to exceed a maximum of \$300,000. The Company receiving the PILOT will also be responsible for paying any additional, unusual expenses (i.e., attorney fees caused by project compilation, copies, postage, long distance telephone, calls, etc).

In the event that a property is annexed into the City of Memphis, an additional closing fee shall be assessed to the PILOT grantee based upon the estimated City of Memphis tax savings that would accrue to the PILOT grantee as a result of the annexation.

Applicants must close on their real property within a one year limitation and close on their tangible personal property within a two-year limitation. Otherwise, the Applicant would have to apply to the Board for an extension or make a new application.

Lease Amendments

Amendments to existing leases shall require a fee of \$1,000.

Assignment of PILOT Benefits

PILOT benefits are not assignable without the prior consent of the Board. Parties seeking a transfer of an existing PILOT or determining whether a new PILOT should be sought shall confer with the staff of the IDB to determine the proper procedure in the specific

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transaction. The PILOT Evaluation Committee shall make a recommendation to the Board after conferring with the staff, concerning the proper procedure with regard to the specific transaction as to whether an assignment or a new application is recommended.

In the event an assignment is approved, the fees for such assignment will be as follows:

Transfer Fees shall be charged on the following basis and must accompany the Application for the assignment of PILOT benefits:

- 1% of the tax savings up to \$1,000,000 with a minimum fee of \$4,000.
- 1/2% of such savings over \$1,000,000 with a maximum fee of \$25,000.

The Applicant shall also be responsible for all attorney fees incurred by the Board in processing the application for transfer of PILOT benefits.

Purpose of Fees

The above quoted fees are for reimbursement of the cost and expenses of the Board, and other economic development programs as approved by Memphis and Shelby County Administrations. The Applicant is responsible for payment of its counsel's fees and other expenses attendant to the application.

Section VIII. PILOT Closing Requirements

A. Environmental Report Requirements:

The Phase I Environmental Site Assessment Report for developed property should be dated no more than three (3) months prior to the conveyance to the Board for improved property and no more than six (6) months prior to the conveyance to the Board for undeveloped property. The standards accepted within the environmental community for conducting a Phase I Environmental Site Assessment or a Phase II Environmental Site Assessment have been designed by the American Society for Testing and Materials ("ASTM"). The standards propounded by ASTM are as follows:

1. Standard Practice for Environmental Site Assessments: Transaction Screen Process - E1528-96;
2. Standard Practice for Site Assessments: Phase I Environmental Site

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Assessment Process, E1527-97; and

3. Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process, E1903-97.

4. All environmental reports must grant to the IDB the right to rely on such reports.

All Phase I and Phase II Environmental Site Assessments submitted as part of the PILOT standards.

B. Deadlines:

Real Property

Projects that will have real property improvements to the site by December 31 of the year of the IDB.

Leases should be submitted to the IDB's Counsel as early as possible, but no later than December 1 for review.

Personal Property

Personal Property - Projects that will have personal property on site by January 1 following the year of PILOT Application should close on the Personal Property Lease Agreement on December 31 of the application year.

Leases should be submitted to the IDB's Counsel as early as possible, but no later than December 1 for review.

Additions and Replacements to Personal Property subject to the PILOT incentive beyond those represented in the application may be allowed upon approval by the IDB.

Section IX. Effect of Sale, Assignment or Lease of Property

No PILOT rights as approved by the Board may be sold, assigned, or leased unless otherwise specified in the PILOT Lease Agreement. Any sale, assignment or lease of the property which is not permitted in the PILOT Lease Agreement results in a forfeiture of all

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PILOT rights on the property. If a PILOT recipient vacates, abandons or ceases operations in Property which is the subject of a Real Property PILOT Lease Agreement, the property owner has twelve (12) months to obtain a new PILOT Applicant. All PILOT Real Property renewals are limited to fifteen (15) years on each real property and renewals are granted at the sole discretion of the Board.

Revised 7-1-03

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