EXECUTIVE ORDER

BY THE MAYOR

No. 2-2009

AN ORDER ESTABLISHING HIGH ETHICAL STANDARDS FOR CITY EMPLOYEES REGARDING THE ACCEPTANCE OF GIFTS AND CONFLICTS OF INTEREST

WHEREAS, it is essential that the highest ethical standards be maintained by City employees to ensure the proper performance of government business and instill confidence in the citizenry regarding the operation of their government; and

WHEREAS, it is important to provide clear guidance to employees at every level of government about the standards to which they should adhere regarding the acceptance of gifts and conflicts of interest; and

WHEREAS, this Order is intended support and offer guidance to the provisions set forth within the City Ethics Ordinance, Section 2-42 of the City Code of Ordinances or any other governing state or federal laws.

NOW THEREFORE, I A C Wharton, Jr., Mayor of the City of Memphis, Tennessee by virtue of the executive and administrative authority vested in me by the Charter of the City of Memphis and statutes and law of Tennessee, do hereby direct and order as follows:

1. **Persons covered.** This Order shall apply to all City employees with the exception of the members of the Memphis City Council and their staff.

2. **Employee responsibilities.** Each employee shall avoid any action, whether or not specifically prohibited by statute, regulation or this Order, which might result in or create the appearance of:

   i. Using public office for private gain;
   ii. Giving preferential treatment to any person;
   iii. Impeding government efficiency or economy;
   iv. Losing complete independence or impartiality;
   v. Making a government decision outside of official channels;
   vi. Affecting adversely the confidence of the public in the integrity of the government.

3. **Gift.** No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value from any person or entity that:

   i. Has or is seeking to obtain contractual or other business or financial relations with the department, division or agency of the City in which the individual is employed; or

ii. Conducts operations or activities that are regulated by the department, division or agency of the City for which the individual is employed; or

iii. Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

4. **Exceptions.** The prohibition on accepting gifts in paragraph 3 does not apply to:

i. A gift given by a member of the employee's immediate family, or by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship;

ii. Informational materials, such as books, periodicals, audio or video, or sample merchandise helpful as a part of the employee's duties in determining the appropriateness of the product for use as a part of City business;

iii. Unsolicited tokens or awards of appreciation, honorary degrees or bona fide awards in recognition of public service, provided that any such item can not be readily converted to cash;

iv. Food, refreshments, foodstuffs, entertainment or beverages provided as a part of a meal or other event if the value of such items does not exceed $50.00 per occasion and is not given for the performance of an act, or refrain from performance of an act, that the employee would be expected to perform, or refrain from performing, in the regular course of his duties or that might reasonably be interpreted as an attempt to influence such employee's action, or reward him for past action, in executing business of the City;

v. Food, refreshments, foodstuffs, entertainment or beverages provided as a part of a meal or other event in which the employee is attending or is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization; and

vi. Loans from established financial institutions made in the ordinary course of business on usual and customary terms.

vii. Voluntary, legally disclosed political campaign contributions given in accordance with applicable federal and state statutes to an individual covered by the provisions of this Order who has announced his or her intention to seek elected office.

5. **Financial Interests.** No employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the City or its agencies. The normal employment compensation of a spouse whose regular, ongoing employer or business has a contractual arrangement with the City shall not be considered a benefit to the employee provided that the employee did not assist his or her spouse in securing the contract with the City.

6. **Use of Information or Property.** No employee shall directly or indirectly:

i. Use, disclose or allow the use of official information which was obtained through or in connection with his or her City employment and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the employee; or

ii. Engage in a financial transaction as a result of, or primarily relying upon information obtained through his or her government employment; or

iii. Make use of facilities, equipment, personnel or supplies of the City for private use or gain, except to the extent that the use is incidental or deminimus or is lawfully available to the general public.

7. **Disclosure of Financial Interests**. Certain positions of employment appointed by the Mayor shall be required to file a disclosure of financial interests annually. This disclosure requirement shall apply to the Mayor, Chief Administrative Officer, Deputy Chief Administrative Officer, Division Directors, Division Deputy Directors and any employee whose immediate superior is either the Mayor or the Chief Administrative Officer.

8. **Information Required for Disclosure.** Each employee listed in paragraph 7 shall annually disclose the following information:

i. The name and address of any business in which the employee or spouse or minor child of the employee has a financial interest exceeding 5% and the nature of the employee's interest in the business;

ii. The address and nature of interest in any real property which the employee or spouse or minor child of the employee has a financial interest exceeding 5% excepting the primary personal residence of those individuals;

iii. Any non-governmental position held, whether compensated or not, with any business entity, non-profit, labor group, educational institution or other similar entity, together with the nature and amount of any compensation;

iv. Any litigation involving the City or any entity with a relationship to the City, in which the person is a party or has a financial interest;

v. Any felony conviction within 20 years of the date of the disclosure;

vi. Any debts, guarantees or endorsement of debts aggregating over $5,000 owed to one creditor at any time during the year, excluding loans from established financial institutions made in the ordinary course of business on usual and customary terms;

vii. Any debts of the employee, spouse or minor child which are secured or guaranteed by any individual other than the employee, parent, spouse or minor child.

9. **Compliance.** The Chief Ethics Officer, and the City Attorney when serving as Chief Ethics Officer, shall take steps on an annual basis to ensure compliance with this Order include the following:

i. Creation and dissemination of annual disclosure forms;

ii. Maintenance of completed disclosure forms and ensuring that they are available for public inspection;

iii. Prepare and deliver training to all employees with regard to the standards set forth in this Order;

iv. Investigate any reported violations of this Order and report the findings to the Mayor.

10. **Ethics Training.** The ethics training program to be provided by the Chief Ethics Officer in accordance with the City's ethics ordinance shall be mandatory for personnel described in paragraph 7 and strongly encouraged for all employees as space allows. The

training should not simply be a review of this Order or any other ethics ordinance, policy or law. Instead, training should emphasize ethical decision making in complex and/or high pressure situations.

11. This Order shall be implemented consistent with applicable law and is not intended to, and does not create, any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity by any party against the City of Memphis, its divisions, departments, agencies or entities, its officers, employees, agents or any other person.

12. This Order shall be recorded by the Comptroller along with any subsequent orders issued by the Office of the Mayor in a hard bound volume to be maintained by the Office of Council Records. The Office of Council Records shall also maintain each executive order online for electronic access.

13. Upon signature, this Order shall become effective on January 1, 2010.

A C Wharton, Jr., Mayor

Executed this 7th day of December 2009