September 2026 Finance & Audit Committee

Schedule	Wednesday, September 2, 2026 10:00 AM — 11:00 AM CDT
Organizer	Colton Cockrum

Agenda

1. Call to Order and Opening Remarks

Presented by David McKinney

2. Roll Call & Declaration of Quorum

Presented by David McKinney and Colton Cockrum

3. Approval of Finance & Audit Committee Meeting Minutes from June 3, 2026

For Approval

Presented by David McKinney and Colton Cockrum

University of Memphis Board of Trustees

Finance & Audit Committee

June 3, 2026

Meeting Minutes

Agenda Item 1: Call to Order and Opening Remarks

Trustee McKinney called the meeting to order and made opening remarks.

Agenda Item 2: Roll Call and Declaration of Quorum

Trustee McKinney recognized Board of Secretary, Colton Cockrum to call the roll. Secretary Cockrum called the roll. The following trustees were in attendance:

Chairman Carter
Trustee Keeney
Trustee Marchetta
Trustee McKinney
Trustee Springfield joined virtually noting that she was alone and could hear.

Secretary Cockrum announced the presence of a quorum.

Agenda Item 3: Approval of Finance & Audit Committee Meeting Minutes from March 4, 2026

Trustee McKinney called for a motion to approve the meeting minutes for the March 4, 2026, meeting. The motion was made and properly seconded. Secretary Cockrum took a roll call vote, and the meeting minutes were approved.

Agenda Item 4: Summary of Internal Audit Reports Issued Follow-up

Trustee McKinney recognized Chief Internal Auditor, Angela Ross who noted that this item is for information only. There were two follow-ups on the minor Grad School Action Plans since the last meeting. Issue Number Grad School 3.b was completed. Issue Number Grad School 5.b Management Action Plan date was extended to August 31, 2026 due to a platform change.

Agenda Item 5: Summary of Internal Audit Investigations Resolved

Ms. Ross explained that the summary of investigations closed primarily included faculty effort allocation, payroll practices, and policy and procedure compliance.

Agenda Item 6: Approval of Internal Audit Charter

Ms. Ross explained that the Internal Audit Charter establishes the purpose, authority, and responsibility of the internal audit activity; the internal audit activity's position within the University; the scope of internal audit activities; and ensure access to records, personnel, and properties to complete engagements is provided. The UofM Office of Internal Audit and Consulting Charter was last reviewed and approved at the June 4, 2025, Board meeting. Ms. Ross proposed updates to the charter to include updated language to ensure independence is safeguarded for the Chief Audit Executive (CAE).

Trustee McKinney noted that the charter updates would codify the practices that are already in place through written policy.

Trustee McKinney called for a motion to approve the Office of Internal Audit and Consulting Charter, as outlined in the meeting materials. The motion was made and properly seconded. There was no discussion. Secretary Cockrum called for a roll call vote. The motion carried.

Agenda Item 7: Approval of Internal Audit Business Plan FY2027

Ms. Ross explained that the Audit universe categorized by 3 functional areas comprised of 32 entities. She noted that other entities could view these areas as well. She provided a table describing the breakdown of budget allocation of Internal Audit resources explaining that the risk based portion (68%) of the FY2027 Proposed Audit Plan is derived from current higher education risk and audit guidance, consideration of the University's goals, vision, mission, and Internal Audit's risk evaluation.

Trustee McKinney called for a motion to approve the FY27 Internal Audit Plan, as reflected in the meeting materials. The motion was made and properly seconded. There was no discussion. Secretary Cockrum called for a roll call vote. The motion carried.

Agenda Item 8: FY27 Budget Update

Trustee McKinney recognized Rene Bustamante, Executive Vice President and Chief Operating and Financial Officer. Mr. Bustamante explained that there are two major sources of revenue: state appropriations and tuition and fee revenues representing about 55% of the University's revenue. Mr. Bustamante noted that University of Memphis is the only LGI that received positive increase in the outcome's formula adjustments in the last three years. Mr. Bustamante explained the FY27 State Appropriations to include $5.7M from recurring appropriations, $6.8M FY27 anticipated expenses, $5.7M capital maintenance, $30M capital projects for Fogelman College of Business and Economics phase 2. Mr. Bustamante explained that a 4.48% increase in tuition and fees is proposed. The FY27 Proposed Budget was prepared with the following assumptions: State Appropriation changes from the Governor's Budget ($5.7M); 0% tuition increase (any approved tuition increases will be incorporated in FY27 October Budget); expected enrollment fluctuations; 1.5% salary pool and benefit increases. Mr. Bustamante explained that the FY27 Proposed Budget reflects revenue increases of $33.6M from FY26 Proposed Budget.

Mr. Bustamante explained that the FY26 Estimated Budget is the final budget for FY26 with carryforwards and includes final adjustments for the current year. The FY2026 Estimated Budget totally reflects revenue increases of $7.1M from the FY26 Revised Budget. He also explained that the FY27 compensation strategy would include the governor's recommendation of 1.5% salary pool increase effective July 1, 2026, with 60% coming from state appropriations and 40% from the University of Memphis.

Trustee McKinney called for a motion to approve the FY25-26 Estimated Budget and the FY26-27 Proposed Budget and assumptions as presented in the meeting materials. The motion was made by Trustee Springfield and properly seconded. Trustee Marchetta commented on the salary pool increase and commended Mr. Bustamante for moving forward with the approved increase noting that the University is responsible for funding 40% of the increase. He also noted that the challenge of a 4 year graduation goal should be embraced to benefit from the Outcomes Based Formula. Trustee Edwards commented on the challenge of enrollment numbers and encouraged all to make the University more attractive to students. Secretary Cockrum called for a roll call vote. The motion carried.

Agenda Item 9: FY27 Tuition and Fees Recommendation

Trustee McKinney recognized Rene Bustamante, Executive Vice President and Chief Operating and Financial Officer. Mr. Bustamante explained that the proposed tuition and fees increase is 4.48% for Undergrad Instate, 4.35% Undergrad Out-of-state, and 4.05% for Undergrad International with Graduate and Law Tuitions also increasing between 2.62-3.39% to remain competitive with peer institutions. Trustee Marchetta noted that while the decision to raise tuition is difficult, it is necessary due to state appropriation limitations and the cost of inflation to ensure students receive a quality education.

Trustee McKinney called for a motion to approve the proposed tuition and mandatory fees increases as presented in the meeting materials. The motion was made and properly seconded. There was no discussion. Secretary Cockrum called for a roll call vote. The motion carried.

Agenda Item 10: President's Review and Evaluation

Trustee McKinney recognized Chairman Carter. Chairman Carter noted the unanimous level of support for President Hardgrave rating him the highest in the possible categories.

Trustee McKinney called for a motion to approve the Chairman's review and evaluation of the President. The motion was made and properly seconded. There was no discussion. Secretary Cockrum called for a roll call vote. The motion carried.

Trustee McKinney called for a motion to approve the recommendation of providing President Hardgrave with $100K in deferred compensation based on evaluation of job performance. The motion was made and properly seconded. There was no discussion. Secretary Cockrum called for a roll call vote. The motion carried.

Agenda Item 11: Additional Business

Trustee McKinney asked for additional business. There was none.

The next meeting is September 2, 2026.

Agenda Item 12: Adjournment

Trustee McKinney called for a motion and second to adjourn the meeting. The motion was made and properly seconded. Secretary Cockrum called for a voice vote, and the meeting was adjourned.

4. Internal Audit Update

Presentation

Presented by Angela Ross

THE UNIVERSITY OF MEMPHIS | Board of Trustees

Internal Audit Agenda Items

Finance and Audit Committee

Angela Ross
Chief Audit Executive

September 2, 2026
Maxine A. Smith
University Center

Presentation: Summary of Internal Audit Reports Issued

Name of Audit Report	Date of Audit Report	Audit Engagement Report Opinion	Observations	Minor Issues Addressed Verbally	Minor Issues	Moderate Issues	Major Issues	Matters for Consideration by University Management	Actions Completed	Issues Outstanding from Prior Audit	Recommendations for Management
Quality Assurance Improvement Plan Review	7/2/2026	Generally Conforms	0	0	1	0	0	0	0	0	0
Housing and Residence Life Audit	7/17/2026	Insufficient and Requires Improvement	0	3	7	3	1	0	0	0	11
Cash Balances Audit	7/17/2026	Effective	0	0	0	0	0	0	0	0	0

Presentation: Summary of Investigations Closed

Allegation Received by	Date Allegation Received	Description of Allegation	Date Assigned by Complaint Triage Team	Internal Audit Investigation Number	Investigation Status	Investigation Outcome	Date of Final Action
Anonymous Fraud, Waste, or Abuse Report	1/13/2026	Landscape Services Misuse of Resources	8/19/2025	INV 26-009 ANTS 26-13341	Investigation Complete, Internal Audit Memo, and Management Report Issued	No Evidence of Misuse of UofM Resources or Conflict of Interest	5/19/2026

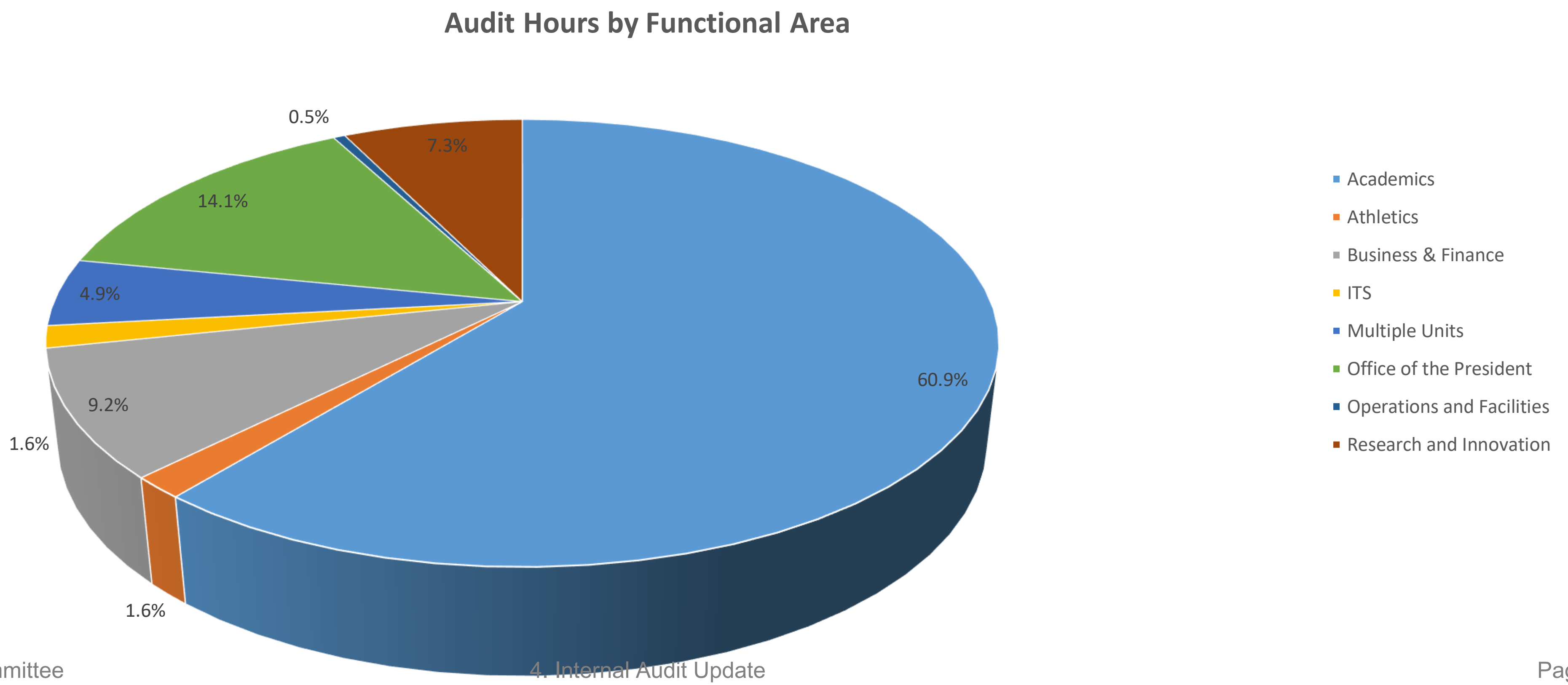
Presentation: Internal Audit & Consulting FY2026 Year End Report

According to the Finance and Audit Committee Charter, the Committee must "review the result of the year's work with the Chief Audit Executive." FY2026 Year End Report explains Internal Audit's purpose and the services provided and summarizes audit hours by functional area; audit issues and recommendations; fraud, waste, and abuse investigations; consulting and advisory work; and other projects completed during the year.

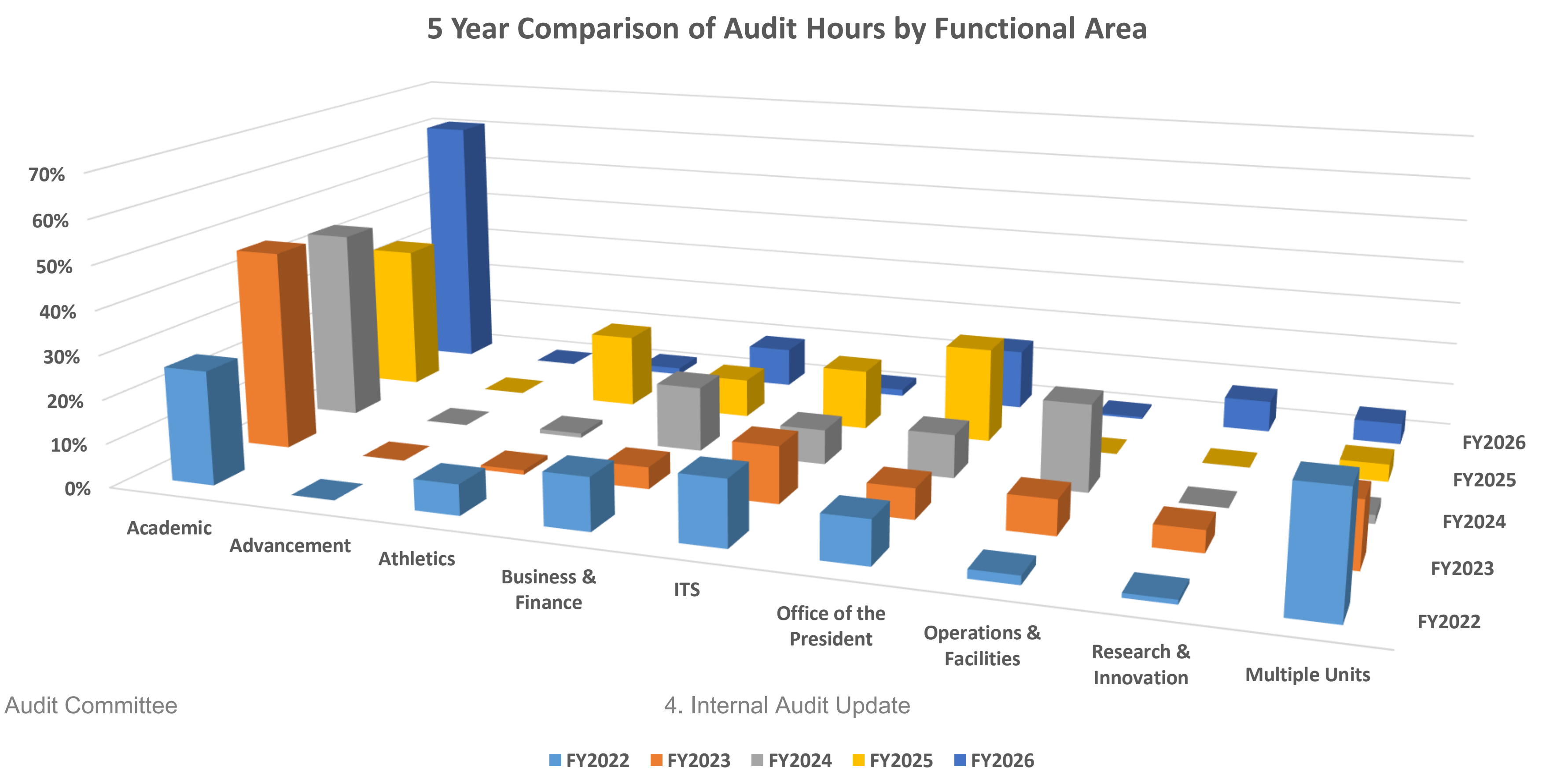
Internal Audit continues to participate on the following committees and boards:

- Complaint Triage Team
- Conflict of Interest Committee
- Information Security Advisory Committee
- Payment Card Industry Data Security Standards (PCI DSS) Compliance Committee
- Policy Review Board

Presentation: Internal Audit & Consulting FY2026 Year End Report



Presentation: Internal Audit & Consulting FY2026 Year End Report



Presentation: Internal Audit & Consulting FY2026 Year End Report

AUDIT RECOMMENDTION SUMMARY

Internal Audit Identified Issues & Recommendations	41
Externally Identified Issues	8
Total Issues Corrected by Management	48

Presentation: Internal Audit & Consulting FY2026 Year End Report

INVESTIGATION SUMMARY

Reports Received by Complaint Triage Team	16
Reports Assigned to Internal Audit	8
Internal Audit Memos Issued	7

Presentation: Internal Audit & Consulting FY2026 Year End Report

Challenges	Accomplishments
Accessing enterprise system data for analytics and decision-making	Increasing valuable communications with stakeholders and the Finance and Audit Committee
Balancing evolving risk priorities, technology adoption, and efficient delivery of the audit plan	Implemented the annual internal audit quality assurance improvement process (self assessment)
Hiring and maintaining qualified staff, including succession planning that supports continuity and reduces disruption	Promoting fraud awareness and investigating reported Fraud, Waste, or Abuse allegations
Identifying new risks associated with changes occurring each year and remaining relevant, flexible, and agile in the current environment	Supported TN Comptroller on Financial and Compliance Audit
Monitoring external audits and reviews of the University and affiliates	Supported the University's Enterprise Risk Assessment process

5. Summary of Audit Reports Issued

Report

Presented by Angela Ross

The University of Memphis Board of Trustees

Presentation
For Information

Date: September 2, 2026

Committee: Finance and Audit Committee

Presentation: Summary of Internal Audit Reports Issued

Presented by: Angela Ross, Associate Vice President and Chief Audit Executive

Background:

Four audit reports were issued since the June 2026 BOT meeting. Summarized information is included in the attached table.

Name of Audit Report	Date of Audit Report	Audit Engagement Report Opinion	Observations	Minor Issues Addressed Verbally	Minor Issues	Moderate Issues	Major Issues	Matters for Consideration by University Management	Actions Completed	Issues Outstanding from Prior Audit	Recommendations for Management
Quality Assurance Improvement Plan Review	7/2/2026	Generally Conforms	0	0	1	0	0	0	0	0	0
Housing and Residence Life Audit	7/17/2026	Insufficient and Requires Improvement	0	3	7	3	1	0	0	0	11
Cash Balances Audit	7/17/2026	Effective	0	0	0	0	0	0	0	0	0
Inventory Observation Audit	8/14/2026	Effective	0	0	0	0	0	0	0	0	0

6. Summary of Internal Investigations

Report

Presented by Angela Ross

The University of Memphis Board of Trustees

Presentation
For Information

Date: September 2, 2026

Committee: Finance and Audit Committee

Presentation: Summary of Investigations Closed

Presented by: Angela Ross, Associate Vice President and Chief Audit Executive

Background:
A report was issued for one closed investigations since the last meeting. Summarized information is included in the attached table.

Allegation Received by	Date Allegation Received	Description of Allegation	Date Assigned by Complaint Triage Team	Internal Audit Investigation Number	Investigation Status	Investigation Outcome	Date of Final Action
Anonymous Fraud, Waste, or Abuse Report	1/13/2026	Landscape Services Misuse of Resources	8/19/2025	INV 26-009 ANTS 26-13341	Investigation Complete, Internal Audit Memo, and Management Report Issued	No Evidence of Misuse of UofM Resources or Conflict of Interest	5/19/2026

7. FY2026 Office of Internal Audit and Consulting Year End Report

Report

Presented by Angela Ross

The University of Memphis Board of Trustees

Presentation
For Information

Date: September 2, 2026

Committee: Finance and Audit Committee

Presentation: FY2026 Office of Internal Audit and Consulting Year End Report

Presented by: Angela Ross, Associate Vice President and Chief Audit Executive

Background:

According to the Finance and Audit Committee Charter, the Finance and Audit Committee must "review the result of the year's work with the Chief Audit Executive."

The Office of Internal Audit and Consulting FY2026 Year End Report explains Internal Audit's purpose and the services provided and summarizes audit hours by functional area; audit issues and recommendations; fraud, waste, and abuse investigations; consulting and advisory work; and other projects completed during the year. Please see the attached University of Memphis Office of Internal Audit and Consulting Year End Report for the Fiscal Year Ended June 30, 2026.

UNIVERSITY OF MEMPHIS OFFICE OF INTERNAL AUDIT AND CONSULTING

Year End Report For the Fiscal Year Ended June 30, 2026

Office of Internal Audit & Consulting
271 Administration Building
Memphis, TN 38152

INTERNAL AUDIT PURPOSE AND SERVICES

Internal audit is an independent, objective assurance and advisory (consulting) activity designed to add value and improve the University of Memphis' (UofM) operations. Internal Audit (IA) helps the University accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

IA performs assurance services by assessing evidence to provide an independent opinion or conclusion regarding a University entity, operation, function, process, system, or other subject matter. The nature and scope of assurance engagements are determined by the approved internal audit plan and audit resources.

Consulting services are advisory in nature and are generally performed at the specific request of an engagement client. The nature and scope of the engagements are subject to agreement with the engagement client. When performing advisory services, IA strives to maintain objectivity and not assume management responsibilities.

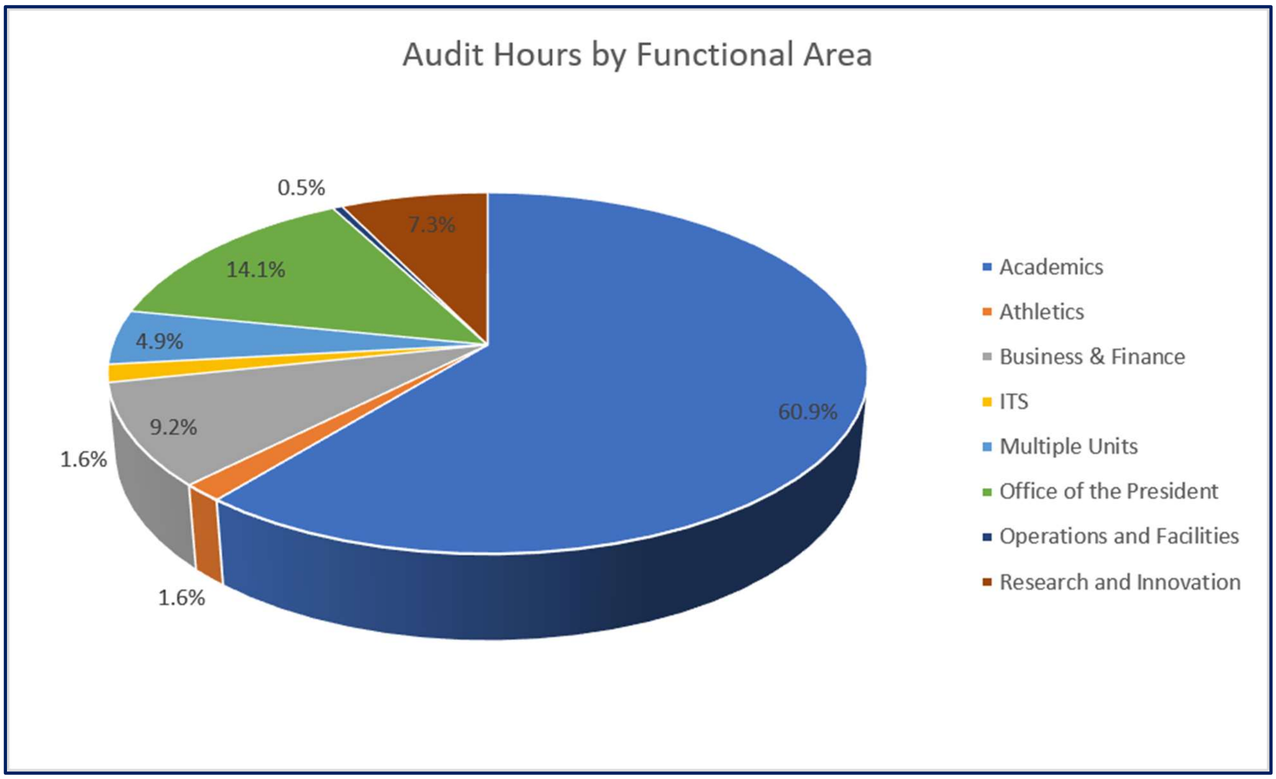
IA performs confidential investigations of allegation reports assigned by the Complaint Triage Team (CTT), a team created by the Finance and Audit Committee (FAC) and University management to evaluate allegation reports and complaints so that the appropriate office investigates and reviews allegations received.

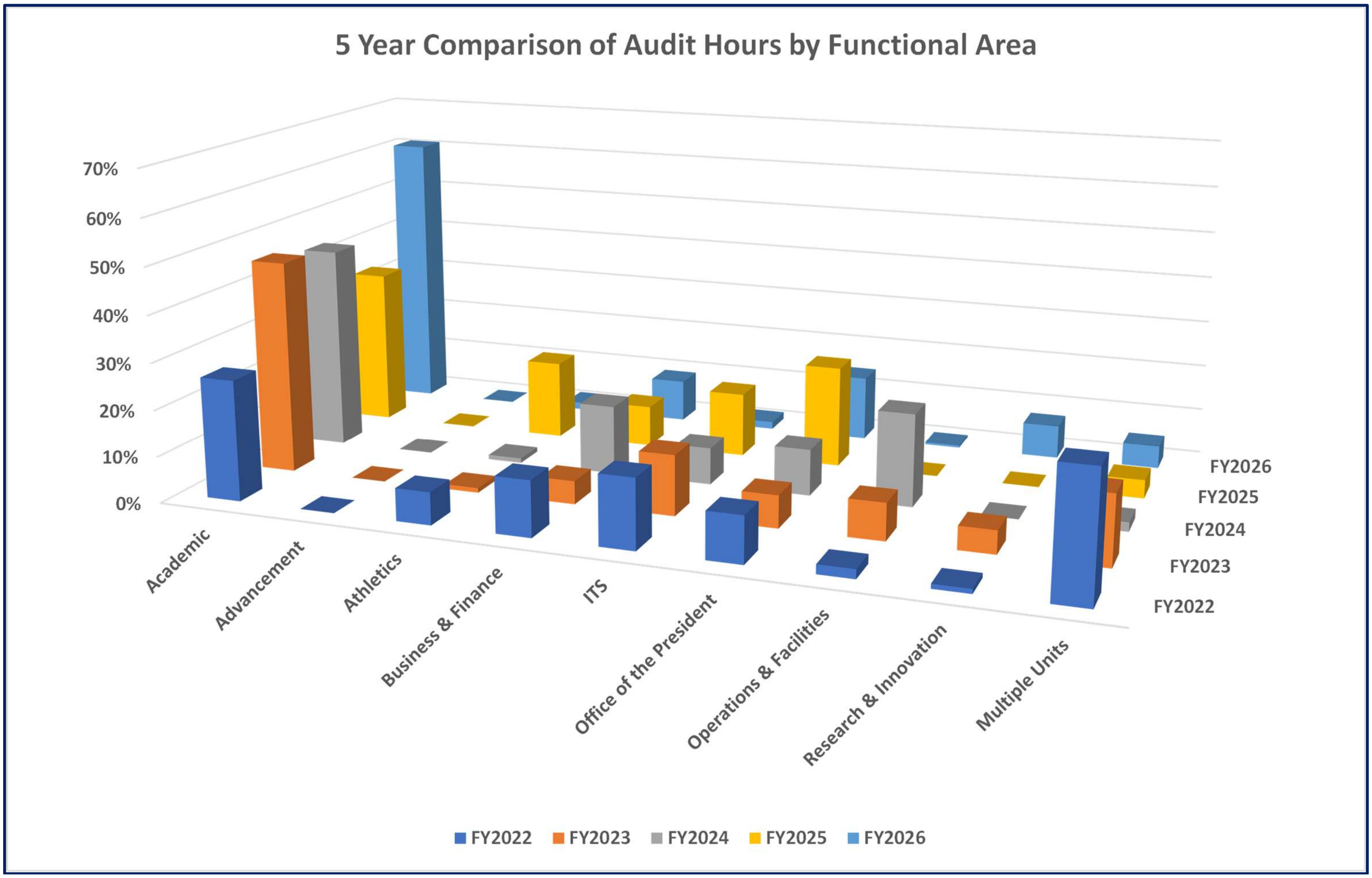
Results of all IA projects are communicated to the FAC, the Tennessee Comptroller of the Treasury, and UofM upper management.

DISTRIBUTION OF AUDIT HOURS

The Office of Internal Audit and Consulting classifies audits by functional area. This allows us to report to the Board of Trustees and University management the segments of the UofM community we are serving. Below is a chart showing the distribution of audit hours by functional area:

Audit Hours by Functional Area





AUDIT ISSUES TRACKED BY INTERNAL AUDIT

Audits and other projects performed by the Office of Internal Audit and Consulting often reveal opportunities for management to improve operations. Significant opportunities are generally included in the audit report as recommendations. Less significant opportunities may not be included in the audit report but discussed with the appropriate staff.

By University policy, the Office of Internal Audit and Consulting is also tasked with collecting audits, reviews, examinations, assessments, or investigations performed by an agency, company, consultant, or other organization or individual outside of the University for the purpose of assessing operational or financial effectiveness, legal or regulatory compliance, and/or conformance with contractual obligations. IA is then responsible for reporting this information to the FAC, Division of State Audit and others as the circumstances may dictate.

Audit Recommendation Summary for FY2026

Internal Audit Identified Issues & Recommendations	**41**
Externally Identified Issues	**8**
Total Issues Corrected by Management to Date	**48**

INVESTIGATION INFORMATION

By Charter, the FAC has the authority to conduct or authorize investigations into any matter within its scope of responsibility. The FAC employs the Chief Audit Executive (CAE) to report directly to the Committee and to ensure there is a confidential process for receiving and investigating reports of illegal, improper, wasteful, or fraudulent activity at the University.

The FAC and UofM management created the CTT, which consist of the University Counsel, CAE, Director, Office of Civil Rights Compliance and Title IX, and Chief Human Resources Officer, to evaluate allegation reports and complaints received by IA and others so that the appropriate University office investigates and reviews allegations received. IA does not conduct criminal investigations, get involved in personnel complaints, personnel actions, matters related to tenure, or investigate reports of discrimination or sexual assault.

During FY2026, IA investigation reports were provided to the FAC, the Tennessee Comptroller of the Treasury, and UofM upper management. When useful, management letters related to the investigations were also distributed to provide recommendations and other matters for management's consideration.

Investigation Summary for FY2026

Reports Received by Complaint Triage Team	**16**
Reports Assigned to Internal Audit	**8**
Internal Audit Memos Issued	**7**

One of the responsibilities of the CTT is to educate the campus community about fraud, waste, and abuse; illegal activities; conflicts of interest; noncompliance with policies, laws, or regulations; and how to report suspected cases of each. The education initiative also includes informing employees of their protections when reporting these types of activities.

Annually, the CTT sends a University wide email to all faculty and staff stressing the responsibility of all University employees to ensure our resources are properly managed and safeguarded against inappropriate use by reporting activities that could be fraud, waste, or abuse. The email is normally distributed at the beginning of each fall semester.

Additionally, a *Reporting Fraud, Waste and Abuse* brochure is posted on the IA website, which contains a page devoted to reporting fraud, waste, and abuse of University resources. A link to submit a report online is provided, as well as other reporting options. Also, Tennessee Comptroller of the Treasury fraud, waste, or abuse hotline posters are displayed in multiple locations across campus.

OTHER SIGNIFICANT ACCOMPLISHMENTS

Since the formation of the UofM Board of Trustees and the oversight and guidance of a local FAC, IA has worked to become more relevant and valuable to the University community. Some of our accomplishments are listed below.

- ✓ Implementation of the annual audit quality assurance improvement process
- ✓ Identification of opportunities for management to improve operations
- ✓ Increasing valuable communications with stakeholders and FAC
- ✓ Promoting fraud awareness and investigating reported Fraud, Waste, or Abuse allegations
- ✓ Supported the TN Comptroller's Financial and Compliance Year End Audit
- ✓ Supported the University's Enterprise Risk Assessment process

Additionally, Internal Audit staff has performed consulting services by participating on the following committees and advisory boards.

- ✓ Complaint Triage Team
- ✓ Conflict of Interest Committee
- ✓ Information Security Advisory Committee
- ✓ Payment Card Industry Data Security Standards Compliance Committee
- ✓ Policy Review Board

OTHER CHALLENGES

Internal Audit faces the following challenges during FY2027:

- Balancing evolving risk priorities, technology adoption, and efficient delivery of the audit plan
- Continuing to provide not only required but useful communications to the FAC Committee
- Hiring and maintaining qualified staff, including succession planning that supports continuity and reduces disruption
- Identifying new risks associated with changes occurring each year and remaining relevant, flexible, and agile in the current environment
- Monitoring external audits and reviews of the University and affiliates

8. Financial Update

Presentation

Presented by Rene Bustamante

THE UNIVERSITY OF MEMPHIS | Board of Trustees

Fiscal Year 2026 Financial Performance Report

Finance and Audit Committee

Shirley Ford
AVP Accounting & Financial Reporting

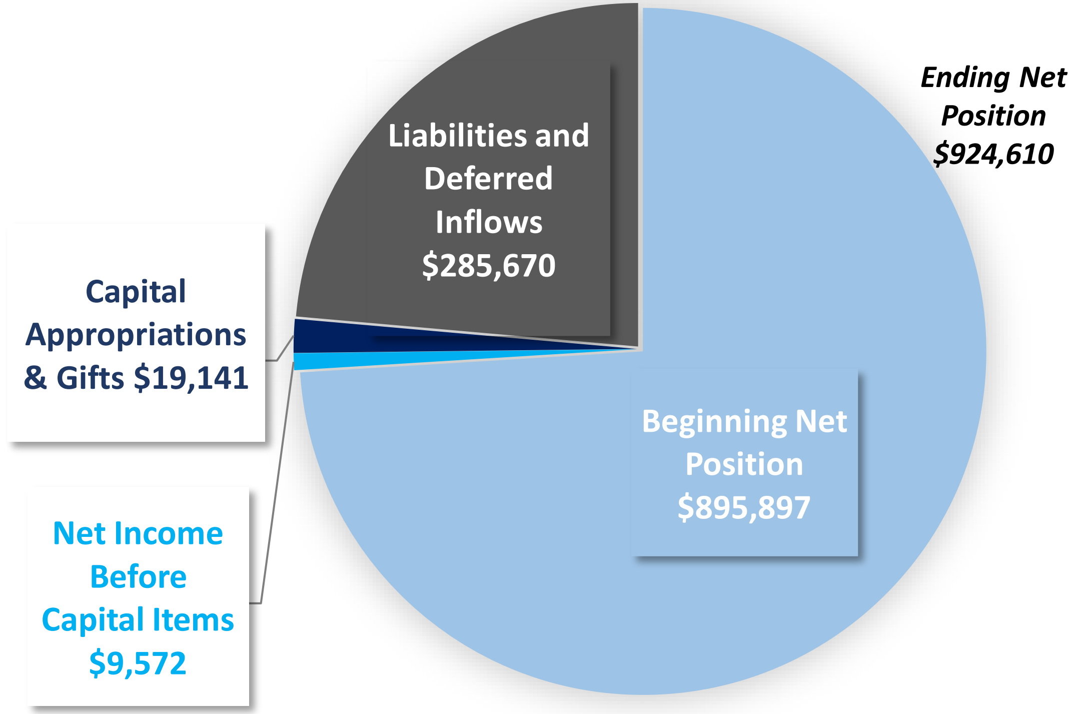
September 2, 2026
University Center – Bluff Room

University of Memphis
Comparative Financial Statement Summaries
FYE June 30 2026 and 2025

THE UNIVERSITY OF MEMPHIS | Board of Trustees

Preliminary - Unaudited FY26

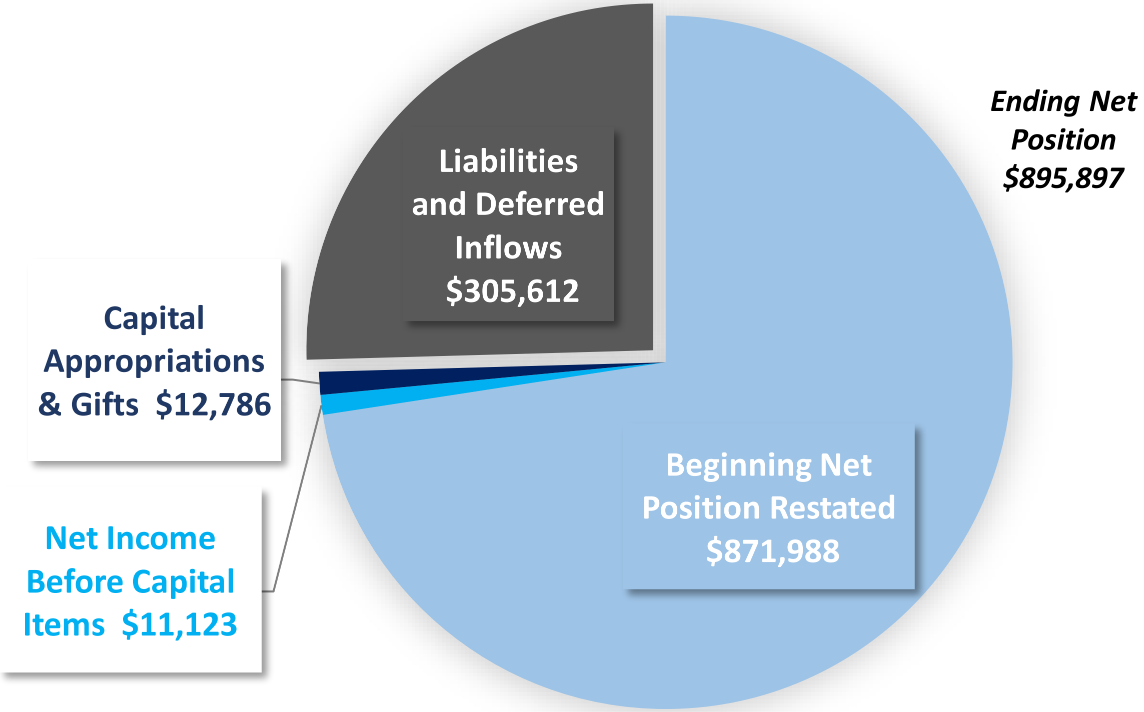
(in thousands)



Total Assets - $1,210,280

Audited FY25

(in thousands)



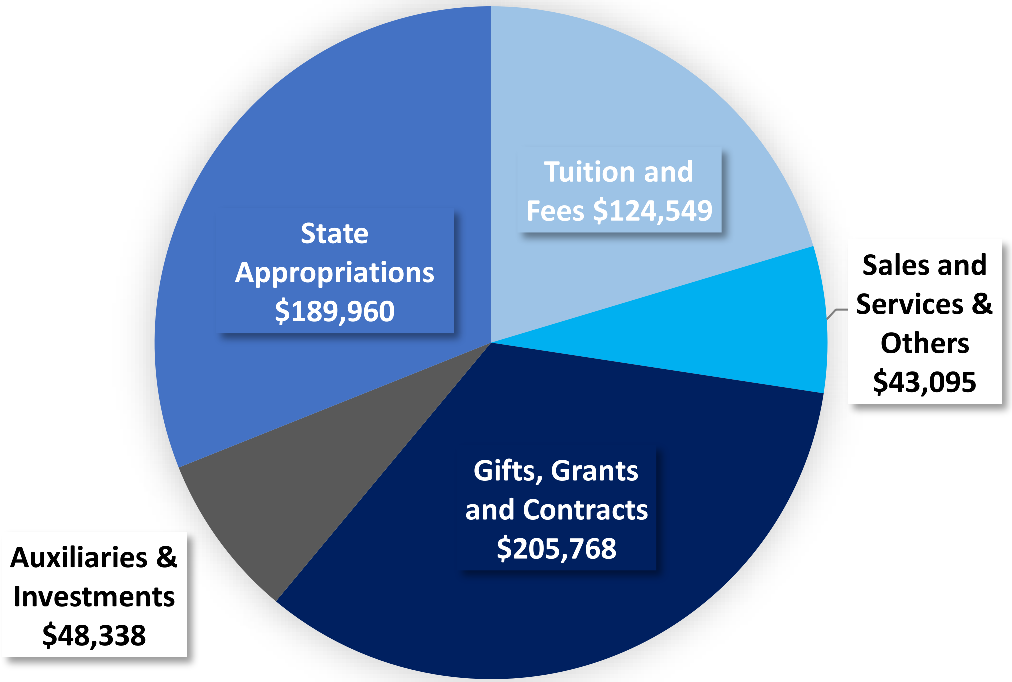
Total Assets - $1,201,509

Sources of Revenue*

*Does not include Capital Gifts and Appropriations

Preliminary - Unaudited FY26

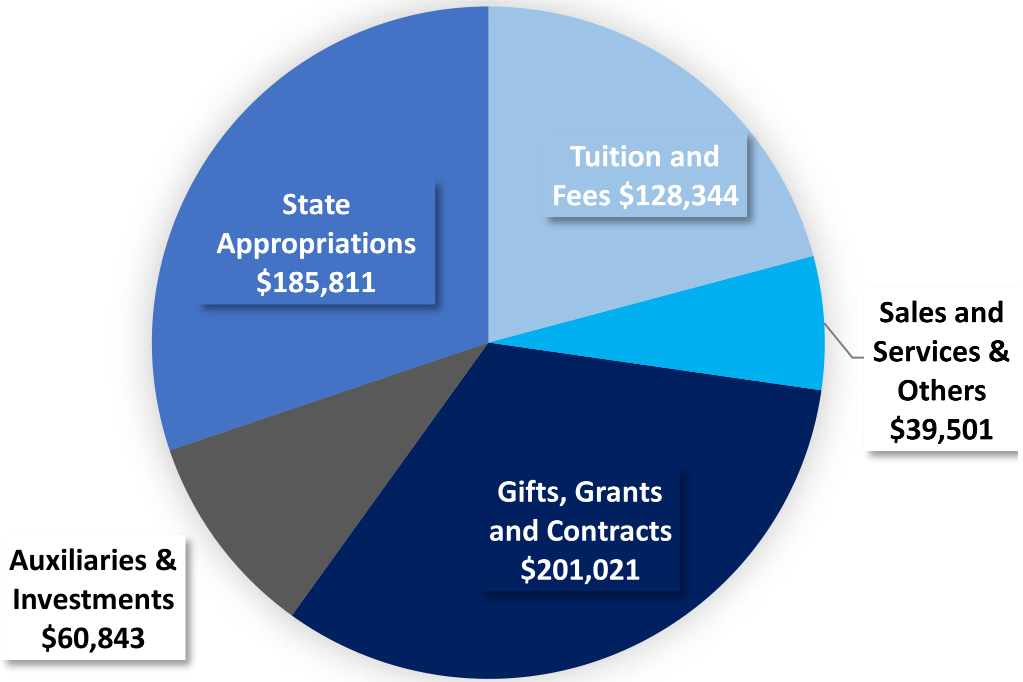
(in thousands)



Total Revenues – $611,710

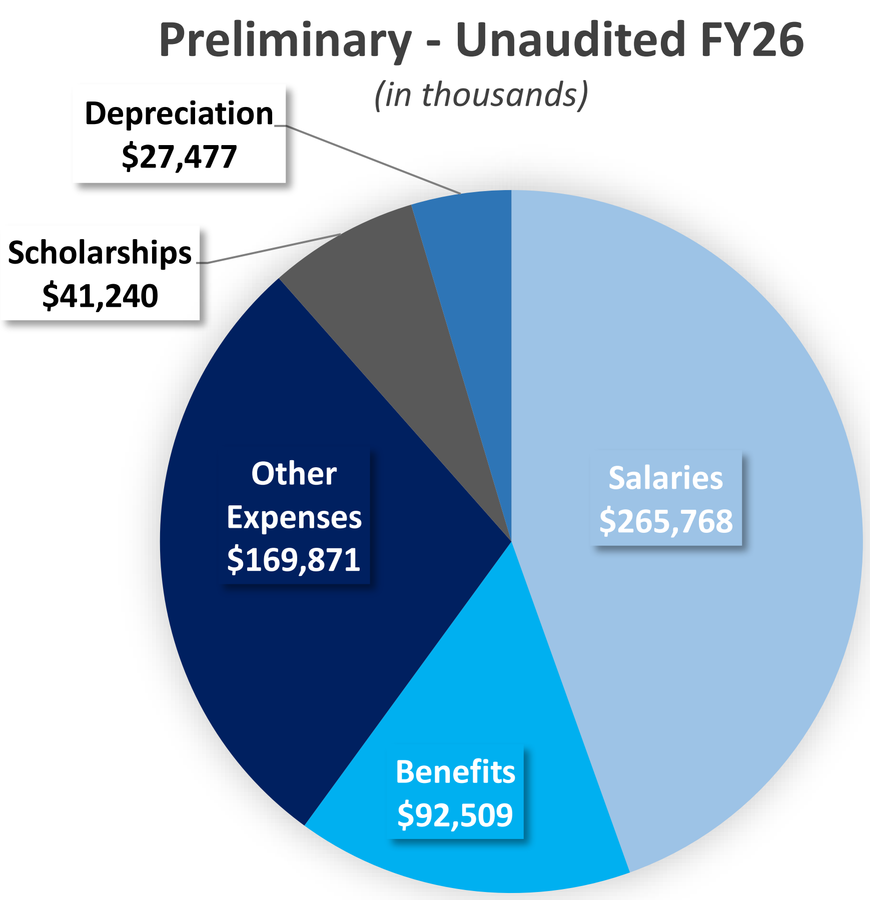
Audited FY25

(in thousands)

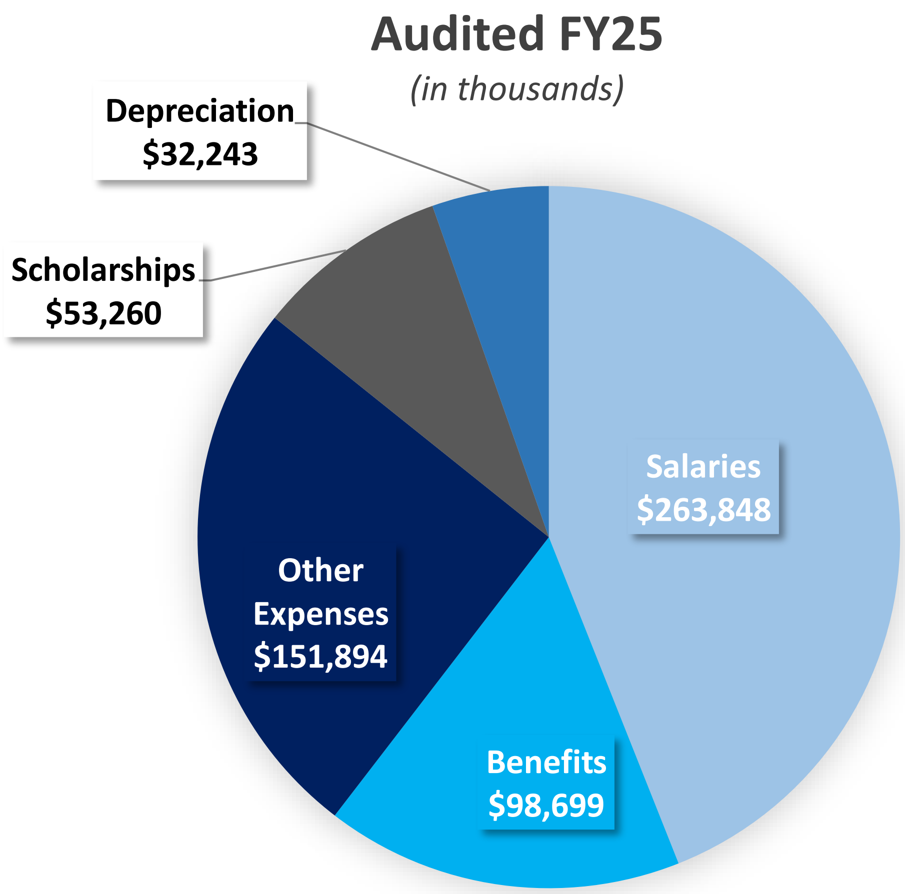


Total Revenues – $615,520

Details of Expenses

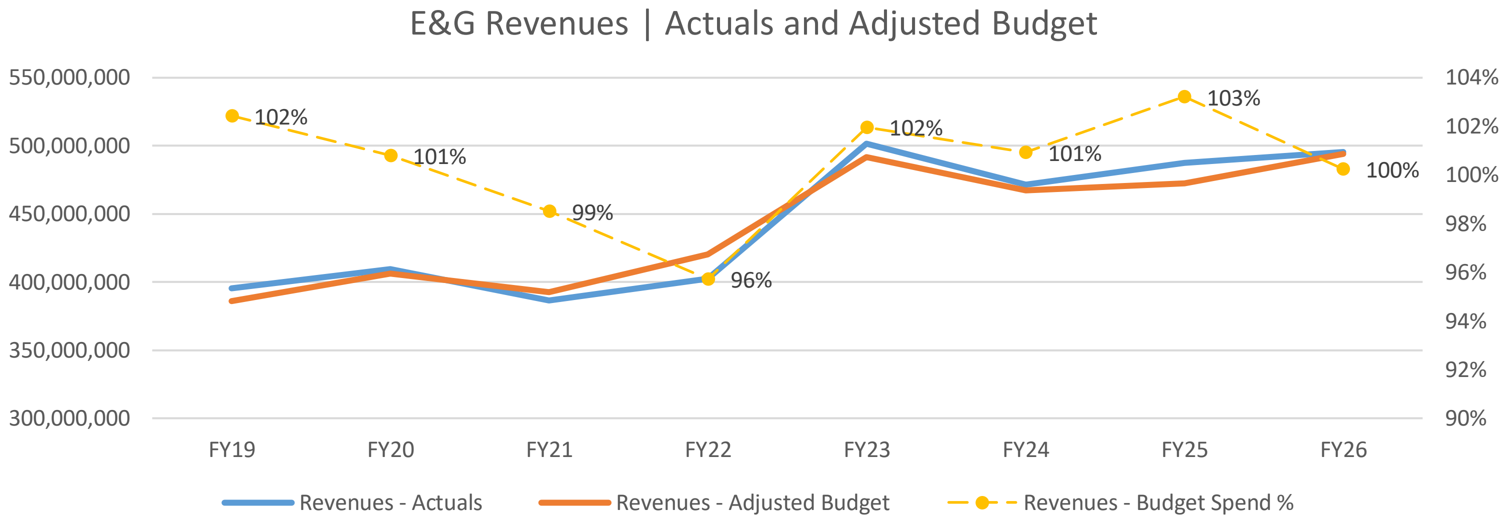


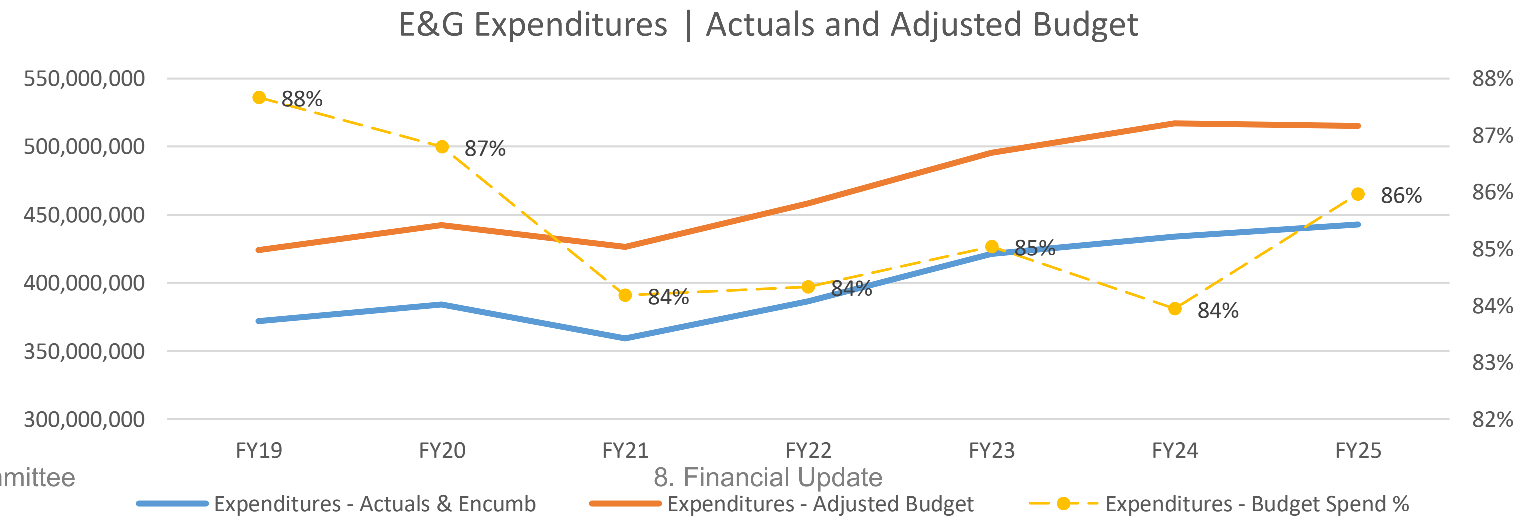
Total Expenses $596,865



Total Expenses $599,944

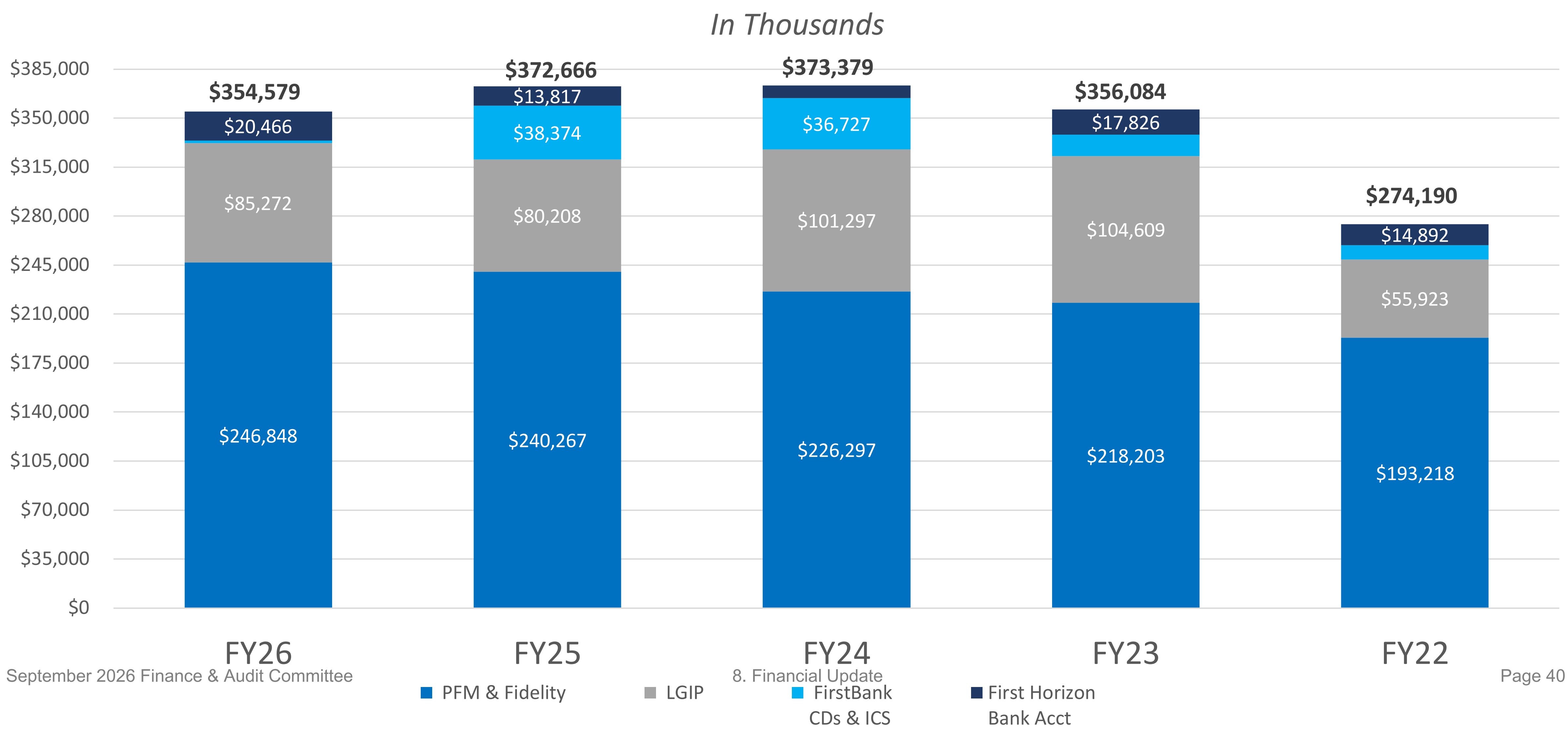
E&G Rev. & Exp. Vs. Budget





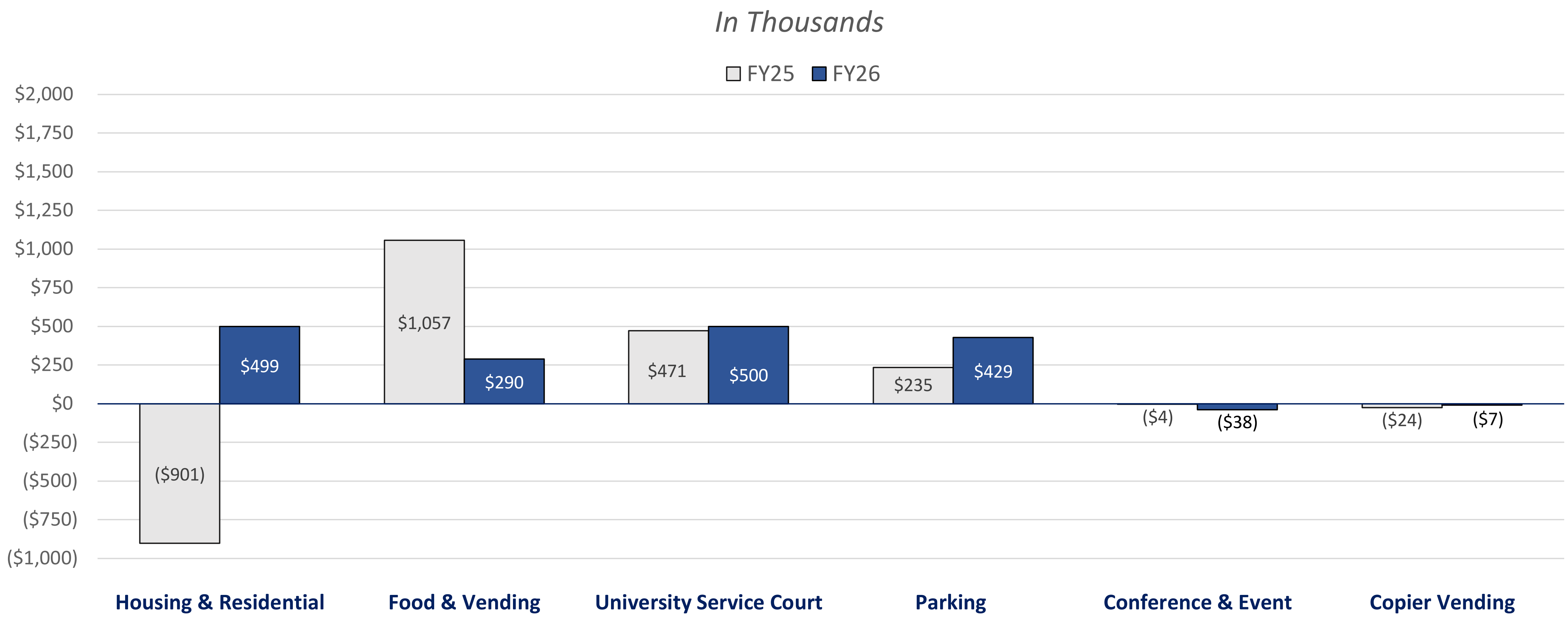
FY26 Total Investments & Cash

THE UNIVERSITY OF MEMPHIS | Board of Trustees



The University of Memphis
Comparative Auxiliary Services Operating Results

THE UNIVERSITY OF MEMPHIS | Board of Trustees



Questions / Comments

Thank you.

9. University of Memphis Real Estate Foundation Affiliation Agreement

For Approval

Presented by Rene Bustamante

The University of Memphis Board of Trustees

Recommendation

For Approval

Date: September 2, 2026

Committee: Finance & Audit Committee

Presentation: University of Memphis Real Estate Foundation Affiliation Agreement

Presented by: Rene Bustamante

Background:

The purpose of this motion is to approve, pursuant to The University of Memphis Board of Trustees Policy on Affiliated Foundations, an affiliation agreement between The University of Memphis and University of Memphis Real Estate Foundation, and to authorize the President to finalize the agreement with any necessary non-material changes prior to execution.

The Board of Trustees authorized the creation of the University of Memphis Real Estate Foundation, to be governed by a Board of Directors comprised of community members and senior administration of The University of Memphis, on March 13, 2024.

Motion to be Made:

Motion to approve the affiliation agreement between The University of Memphis and University of Memphis Real Estate Foundation as contained in the meeting materials, and authorization for the President to make necessary non-material changes for execution.

Affiliation Agreement by
and between
The University of Memphis and
The University of Memphis Real Estate Foundation

This Affiliation Agreement (hereinafter referred to as "Agreement"), entered into as of the 1st day of July, 2026, by and between The University of Memphis (hereinafter referred to as "University") and The University of Memphis Real Estate Foundation (hereinafter referred to as "Foundation").

WITNESSETH:

WHEREAS, the University is a public institution of higher education chartered in 1912 by the General Assembly of the State of Tennessee as a body politic and corporate with enumerated powers and all rights, privileges and powers usually conferred upon universities; and

WHEREAS, the General Assembly of the State of Tennessee has expressly authorized and empowered the Board of Trustees of the University to take such steps, to enter into such agreements, and to do whatever it may deem necessary for the establishment of foundations in support of the University as set forth in Tennessee Code Annotated § 49-7-107; and

WHEREAS, the Foundation was organized and incorporated in the State of Tennessee in 2026, as a nonprofit public benefit corporation formed exclusively for charitable, scientific, literary, and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Board of Trustees of the University and the Board of Directors of the Foundation agree that the Foundation provides an invaluable service to the University by maximizing private gifts to the University, by sharpening the focus on the University's fundraising efforts, and by enhancing outreach and services available to alumni and the community, providing a mechanism to increase the advancement operations (staffing, activities, and other initiatives); and

WHEREAS, the Board of Trustees of the University and the Board of Directors of the Foundation agree that it is appropriate to enter into this Agreement to establish the relationship between the University and the Foundation on the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the premises, mutual covenants, and agreements contained herein, the parties, intending to be legally bound, agree as follows:

ARTICLE I
RELATIONSHIP BETWEEN THE UNIVERSITY AND THE FOUNDATION

1. **Purpose and Mission of the Foundation.** The Foundation is a separately incorporated nonprofit organization that exists to receive, hold, invest, and administer private gifts and other private resources, including real estate assets of any kind, solely for the benefit of the University and its affiliated foundations in order to support programs beyond the scope of the University's

Education and General budget. The Foundation shall not make or influence University policy, procedures, or management/operational decisions or take actions that are detrimental to the University.

2. **Foundation Designated to Receive Private Gifts.** The Board of Trustees of the University designates the Foundation to receive all private gifts of real estate and interests in real property for support of the University except any gift for which the donor has specifically directed in writing that the gift be received and held by the University or by another foundation established to support the University. The University may enter similar affiliation and related agreements with other foundations in existence or subsequently formed to support the University, including, but not limited to the Memphis Athletic Foundation, the University of Memphis Foundation, and the University of Memphis Research Foundation. The Foundation will provide additional support services pursuant to separate services agreements as may be requested by the University or any foundation deemed affiliated by the Board of Trustees.

3. **Foundation Charter and Bylaws.** The Foundation reserves all rights and powers granted to it under the charter and bylaws, under the Tennessee law of non-profit entities and under the federal law of tax-exempt entities that are not specifically limited or abridged by this Agreement.

4. **No Liability for Acts of Other; Independent Contractors.** The Foundation and the University acknowledge that each is an independent entity and agree that neither will be liable, nor held out by the other as liable, for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members, staff or activity participants. The parties are independent contractors. Nothing in this Agreement is intended, or shall be construed, to create any association, joint venture, agency relationship or partnership between the parties or to impose any such obligation or liability upon either party. Nothing in this Agreement shall be construed to give either party any right, power or authority to enter into any agreement, or act as an agent or representative of, or otherwise bind, the other party.

5. **Debts of Foundation.** Debts, liabilities, and other obligations of the Foundation shall not constitute debts, liabilities or obligations of the State of Tennessee (the "State") or the University and shall be payable only from unrestricted assets of the Foundation. Neither the University nor the State shall have any legal or other obligation to finance the deficits of the Foundation. Effective on the date of this Agreement, neither the State nor the University shall have any legal, financial or other responsibility or liability for the operation of the Foundation except as expressly agreed to by the University in this Agreement or in other written agreements between the respective parties.

6. **Debts of University.** Debts, liabilities, and other obligations of the University shall not constitute debts, liabilities or obligations of the Foundation and shall be payable only from assets of the University. The Foundation shall have no legal or other obligation to finance the deficits of the University.

7. **Indemnification by the Foundation.** The Foundation shall indemnify, hold harmless, and, at the University's request, defend the University, the State, and their agents, trustees, officers, employees, and successors against any claims, damages, losses, or costs to third parties in any

way arising out of, attributable to, or in connection with any act or omission of the Foundation and its agents, directors, officers, leased University employees, if any, and successors. The Foundation shall maintain the insurance coverage specified in Appendix A at all times, and the University shall be named as an additional insured. The Foundation shall provide the University's Chief Financial Officer with a Certificate of Insurance evidencing compliance with the insurance requirements.

8. **Sovereign Immunity of the University.** Nothing contained in this Agreement shall be deemed or construed to waive or abrogate in any way the sovereign immunity of the State or the University, or any official, officer, or employee of the State or University or to deprive any official, officer, or employee of the State or University of any other immunity to which the official, officer, or employee is otherwise entitled under State law. The University's liability for any claims, damages, losses, or costs to the Foundation and to third parties shall be subject to the terms, limits, and conditions of the Tennessee Claims Commissions Act, Tenn. Code Ann. §§ 9-8-301 et seq.

ARTICLE II
FOUNDATION GOVERNANCE

1. **Foundation Board and Leadership.**

The Foundation Board of Directors shall include the following University members:

a. one appointed member of the University Board of Trustees, who shall be designated by the Chair of the Board of Trustees and serve as a voting member of the Foundation Board of Directors;

b. President of the University, or his or her designee, who shall serve ex officio as a voting member of the Foundation Board of Directors.

c. Chief Financial Officer of the University, or his or her designee, who shall serve ex officio as a voting member of the Foundation Board of Directors.

ARTICLE III
MANAGEMENT OF FOUNDATION ASSETS

1. **Fiduciary Responsibility of the Foundation Board.** The Foundation is responsible for the oversight, control and management of all assets of the Foundation and performance and oversight of all aspects of its operations based on a comprehensive set of bylaws and policies that clearly address the Board of Directors' fiduciary responsibilities.

2. **Prudent Investment and Management of Funds; Transfer of Funds to the University.** The Foundation shall comply with all applicable laws and regulations and policies and procedures of the Foundation regarding investment and prudent management of endowed and non-endowed funds. The Foundation and University shall work together to promote operational efficiency and shall agree, from time to time, on the timing, methods, and procedures for transferring funds to the University.

3. **Legal Compliance.** The Foundation shall establish or cause to be established asset allocation, disbursement, and spending policies that adhere to applicable federal and state laws, including the Tennessee Uniform Trust Code and the Uniform Prudent Management of Institutional Funds Act, as applicable.

4. **Fees.** The Foundation shall have the authority to assess normal fees associated with the collection and disbursement of gifts and gift income. The Foundation shall disclose any assessment of fees or taxes to donors.

5. **Real Property Investments.** The President of the University shall have the power to veto a real estate development, entrepreneurial venture or other revenue producing activity proposed by the Foundation that is not in the best interest of the University.

ARTICLE IV
FOUNDATION ADMINISTRATION

1. **Budget.** The Executive Director of the Foundation, in collaboration with the University President, will prepare an annual budget that shall include but not be limited to Foundation programs, initiatives, and staffing growth and changes that will be presented to the Foundation Board of Directors for approval.

2. **Funding Sources.** Additional funding to enable a growth in private gift support for the University will be accomplished using any or all of the following revenue sources: annual unrestricted funds given to the Foundation, endowment administration fees, investment earning fees from the Foundation's daily cash management program, accruing and using interest earnings on cash gifts to the Foundation prior to transfer to the University, marketing programs, assessing fees for service, and/or imposing gift administrative fees to support its operations. All revenue sources will be approved by the Foundation Board of Directors.

3. **Independent Legal Counsel.** The Foundation shall have its own legal counsel and shall be responsible for all costs for Foundation legal services.

4. **Office.** The Foundation shall maintain an office that will serve as the legal address of the Foundation and the place where Foundation records will be held. The Foundation shall be responsible for costs associated with this office and shall keep the University informed of any changes to the office address.

5. **Foundation Policies.** The Foundation shall establish record retention, procurement, operating, and finance policies, and maintain copies of plans, budgets, and other records developed in connection with the performance of its obligations according to those policies. The Foundation shall also establish gift management and acceptance policies to ensure compliance with law and prudent asset management.

6. **Access to Foundation Information.** The Foundation and the University shall enter into an agreement for data and information technology services that shall address, in addition to the services, the University's access to data and records in accordance with applicable laws, Foundation policies and guidelines, and University policies and guidelines. The Foundation shall provide the University with its annual report and other information that may be publicly released. The Foundation will strive for transparency and strong internal controls.

7. **Real Property Assets.** The Foundation will abide by the statutory provisions over real property provided in Tennessee Code Annotated § 4-15-102 and all applicable State law and policy. The University is responsible for coordinating any real property activity approvals by the State Building Commission.

8. **Confidential Information.** The Foundation shall establish and enforce policies to protect the confidentiality of donors and alumni and their records to the fullest extent allowable under the laws of the State.

9. **No Private Benefit.** Under no circumstance shall any of the net earnings or assets of the Foundation inure to or be distributed to the benefit of its Board of Directors, officers, or other private persons except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and make payments and distributions in furtherance of the overall purpose of the Foundation.

ARTICLE V
ENSURING UNIVERSITY COORDINATION AND TRANSPARENCY

1. **Reports.** The Foundation will operate in a transparent manner to ensure there is public trust.

   a. The Foundation will file an IRS 990 report and meet all applicable requirements to maintain 501(c)(3) status under Internal Revenue Service regulations.

   b. The Foundation shall provide the University the following reports annually:

      (i) An annual report (electronic or written), that highlights the accomplishments for the prior fiscal year, including a summary of the annual financial results for each of the last two years (as applicable) and compared to the budget for the most recent fiscal year, and set forth strategic goals and key objectives for the upcoming fiscal year. The annual report shall include a list of the board members and officers;

      (ii) A copy of the Foundation's IRS 990 report; and

      (iii) Audited financial statements (including management letters) and such other reports, schedules, and records as may be reasonably requested by the University.

   c. The Foundation shall provide the University with copies of any revisions to the Foundation's organizational and governance documents (e.g., charter and bylaws), which shall be filed with the University's Office of General Counsel.

2. **Audit.** The Foundation shall engage an independent certified public accounting firm annually to conduct an audit of the Foundation's financial and operational records. The Foundation shall coordinate its annual audit to allow for the results to be included in the University's annual financial report. The Foundation's financial statements will be treated as a component unit of the University's audited financial statements in accordance with Generally Accepted Accounting Principles (GAAP) as an affiliated entity and thereby subject to all GAAP reporting requirements. All annual reports and all books of accounts and financial records (including revenues and expenditures) of the Foundation shall be subject to audit by the State Comptroller of the Treasury or his designee.

3. **Internal Risk Controls.** The management of the Foundation will perform regular, documented assessments of the Foundation's risk of fraud, waste, and abuse. The management of the Foundation will establish and implement a system of internal controls that adequately mitigates those risks and ensures compliance with all applicable laws and regulations. Management of the Foundation will submit the risk assessment and the documented mitigating controls to the Foundation's Board of Directors for review and approval.

4. **Code of Ethics.** Pursuant to Tennessee Code Annotated § 49-7-107(c), the Foundation has adopted a code of ethics and shall maintain such a code at all times. Notwithstanding any other provision of law to the contrary, the Foundation Board of Directors may remove any appointed member for a material violation of the code of ethics in accordance with the provisions of Tennessee Code Annotated § 49-7-107(d).

5. **Disbursements.** All Foundation disbursements on behalf of the University will be reasonable business expenses that support the University, are consistent with donor intent, and do not conflict with applicable law, regulations and policies. Foundation disbursements shall be subject to University review and audit by the State Comptroller of the Treasury or internal auditor of the University in accordance with Tennessee Code Annotated § 49-7-107(b).

ARTICLE VI
TERM, TERMINATION, AND AMENDMENT OF THE AGREEMENT

1. **Term.** The term of this Agreement shall begin on the date hereof and continue thereafter until terminated according to the provisions of this Agreement.

2. **Termination.** As required by State law, the University may terminate this Agreement at the end of any fiscal year if sufficient funds are not available to carry out the University's obligations under this Agreement. Either party may terminate this Agreement at any time for any reason upon one hundred eighty (180) days prior written notice to the other party. Notwithstanding the foregoing notice provision, either party may terminate this Agreement in the event the other party defaults in the performance of its obligations and fails to cure the default within sixty (60) days after receiving written notice of the default.

3. **Amendment Process; Approval of Amendments.**

   a. Either party may in writing request an amendment of this Agreement. The parties will, in good faith, negotiate the requested amendment.

   b. The amendment will be submitted to the University Board of Trustees and the Foundation Board of Directors for approval. After approval by the two boards, the amendment will be executed by duly authorized representatives of the parties.

ARTICLE VII
DISSOLUTION OF FOUNDATION

In the event of permanent dissolution and liquidation of the Foundation, the Foundation Board of Directors shall cause the assets of the Foundation to be applied and distributed in accordance with its non-profit Charter, including distributions to the University or its successor. The University will honor to the extent possible any donor restrictions on assets held by the Foundation, including, but not limited to, retaining endowment funds as permanent endowments for the purposes specified by the donor. If a donor agreement limits or precludes any portion of the Foundation's assets from transferring to the University, the Foundation Board of Directors shall make all available efforts to effectuate the transfer of such assets to the University. Prior to the permanent dissolution or liquidation of the Foundation, a complete accounting of the Foundation will be attested to by the Foundation's independent accounting firm.

ARTICLE VIII
EFFECT OF AGREEMENT

1. **Required Approvals.** This Agreement shall not be effective until approved by the University Board of Trustees and the Foundation Board of Directors and thereafter executed by their respective authorized officers.

2. **Supersedes Prior Agreements.** This Agreement shall supersede all previous affiliation agreements between the University and the Foundation.

3. **Waiver.** A waiver by either party of any of the terms and conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or any subsequent breach thereof, or of any other term and condition of this Agreement. Any waiver of terms or conditions must be in writing and must be approved: (1) if deemed not material by both parties' counsel, by the President of the University and Foundation or their designee, or (2) if deemed material by either party's counsel, by the respective boards.

4. **Enforceability of Provisions.** If any provisions of this Agreement shall, for any reasons, be held in violation of any applicable law, and so much of said Agreement is held to be unenforceable, then the invalidity of such specific provision shall not be held to invalidate any other provision, which shall remain in full force and effect.

5. **Headings.** The headings of the several Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

ARTICLE IX
MISCELLANEOUS TERMS

1. **Notices.** Any notice, request, demand, or other communication required to be given hereunder shall be in writing and shall be deemed to be duly given: (1) when personally delivered to an officer of the Foundation or the University, as the case may be; (2) on the fifth (5th) day after the date mailed, when deposited in the United States Postal Service, by certified or registered mail, return receipt requested, postage prepaid; or (3) on the second (2nd) business day after the date mailed, when deposited prepaid with a national overnight package delivery service for overnight delivery. Notice must be given at the respective addressees of the Foundation and the University as shown below, or to such other address as either party shall designate by written notice to the other:

As to the University:	President The University of Memphis 341 Administration Building Memphis, TN 38152
With a copy to:	General Counsel The University of Memphis 341 Administration Building Memphis, TN 38152
As to the Foundation:	Executive Director The University of Memphis Real Estate Foundation 367 Administration Building 3720 Alumni Avenue Memphis, TN 38152
With a copy to:	Mr. John A. Bobango Phelps Dunbar LLP 999 S. Shady Grove Road, Suite 500 Memphis, TN 38120

2. **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred, or conveyed in whole or in part.

3. **Applicable Law.** This Agreement shall be construed, interpreted, and the rights and duties of the parties determined in accordance with the laws of the State of Tennessee.

[Signatures Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and date first above written.

Chair, Board of Trustees The University of Memphis	Chair of Board of Directors The University of Memphis Real Estate Foundation
President The University of Memphis	Executive Director The University of Memphis Real Estate Foundation

Appendix A

Insurance Requirements

As provided in Article I, Section 7, the Foundation shall, at a minimum, maintain the following insurance coverage at all times and shall provide a Certificate of Insurance evidencing compliance with these requirements to the University's Chief Financial Officer:

Commercial General Liability Insurance	Each Occurrence	$1,000,000
	Damage to Rented Premises	100,000
	Med Exp (any one person)	5,000
	Personal & Adv Injury	1,000,000
	General Aggregate	2,000,000
	Products - Comp/Op Agg	2,000,000
Excess/Umbrella Liability	Aggregate	$10,000,000
Directors & Officers		$1,000,000

10. Additional Business

Presented by David McKinney

11. Adjournment

Presented by David McKinney