



**Memphis City Council
Summary Sheet
Mary's Creek Interceptor Sewer Contract 1A**

1. This project is to construct a portion of a new 36 inch diameter interceptor sewer.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item requires an expenditure of funds.
6. The MWBE Goal for this project was 6%.

This Resolution provides funding for Loosahatchie & Marys Creek, project number SW04008 to construct a portion of a new 36 inch diameter interceptor sewer.

WHEREAS, the Council of the City of Memphis approved Loosahatchie & Marys Creek, SW04008 as part of the Fiscal Year 2013 Capital Improvement Budget; and

WHEREAS, bids were taken on January 11, 2013 to construct a portion of a new 36 inch diameter interceptor sewer with the lowest complying bid of six bids being \$1,539,126.00 submitted by Nelson Inc; and

WHEREAS, it is necessary to appropriate \$1,693,039.00 funded by State Revolving Loans in Loosahatchie & Marys Creek, project number SW04008 as follows:

Contract Amount	\$ 1,539,126.00
Project Contingencies	<u>153,913.00</u>
Total Amount	\$ 1,693,039.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that there be and is hereby appropriated the sum of \$1,693,039.00 in State Revolving Loans chargeable to the Fiscal Year 2013 Capital Improvement Budget and credited as follows:

Project Title:	Loosahatchie & Marys Creek
Project Name:	SW04008
Amounts:	\$1,693,039.00



**Memphis City Council
Summary Sheet
Sewer Rehabilitation of the City of Memphis
Sanitary Sewer Collection System**

1. This is to accept \$100,000,000 from the Tennessee Department of Environment and Conservation Clean Water State Revolving Loan for sewer rehabilitation of the City of Memphis sanitary sewer collection system.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item does not require an expenditure of funds.

AUTHORIZING RESOLUTION _____

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Memphis is a public and governmental body in Memphis, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a wastewater facilities project, Department of Environment and Conservation Number SRF 2013-311 (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 *et. seq.*, provide for the lending of moneys in the wastewater facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of ONE HUNDRED MILLION DOLLARS (\$100,000,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of ONE HUNDRED MILLION DOLLARS (\$100,000,000) for the purpose of funding all or a portion of the total estimated cost of the Project ONE HUNDRED MILLION DOLLARS (\$100,000,000), by A.C. Wharton, Jr., the Mayor of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the wastewater system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The Mayor of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2013.

A.C. Wharton, Jr., Mayor

WITNESS:

(Affix Seal As Appropriate)

(Name and Title)



**Memphis City Council
Summary Sheet
T.E. Maxson Lagoon 5 improvement and M.C.
Stiles outfall modification**

1. This is to accept \$22,000,000 from the Tennessee Department of Environment and Conservation Clean Water State Revolving Loan for improvements to sludge lagoon No. 5 at the T.E. Maxson WWTP and modifications to the outfall structure at the M.C. Stiles WWTP.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item does not require an expenditure of funds.

AUTHORIZING RESOLUTION _____

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Memphis is a public and governmental body in Memphis, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a wastewater facilities project, Department of Environment and Conservation Number **SRF 2013-309** (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 *et. seq.*, provide for the lending of moneys in the wastewater facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of TWENTY TWO MILLION DOLLARS (\$22,000,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of TWENTY TWO MILLION DOLLARS (\$22,000,000) for the purpose of funding all or a portion of the total estimated cost of the Project TWENTY TWO MILLION DOLLARS (\$22,000,000), by A.C. Wharton, Jr. the Mayor of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the wastewater system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The Mayor of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2013.

A.C. Wharton, Jr., Mayor

WITNESS:

(Affix Seal As Appropriate)

(Name and Title)



**Memphis City Council
Summary Sheet
Mary's Creek Interceptor Sewer Phase 2**

1. This is to accept \$3,000,000 from the Tennessee Department of Environment and Conservation Clean Water State Revolving Loan for the construction of the Mary's Creek Interceptor Sewer Phase 2.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item does not require an expenditure of funds.

AUTHORIZING RESOLUTION _____

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WASTEWATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the City of Memphis is a public and governmental body in Memphis, Tennessee (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a wastewater facilities project, Department of Environment and Conservation Number **SRF 2013-310** (the "Project"), in and for the Local Government; and

WHEREAS, Tennessee Code Annotated, Section 68-221-1001 et. seq., provide for the lending of moneys in the wastewater facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

Section 1. Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of THREE MILLION DOLLARS (\$3,000,000) by the obtaining of a Project Loan.

Section 2. The execution and delivery of the Application for a Project Loan in the principal amount of THREE MILLION DOLLARS (\$3,000,000) for the purpose of funding all or a portion of the total estimated cost of the Project THREE MILLION DOLLARS (\$3,000,000), by A.C. Wharton, Jr., the Mayor of the Local Government, is hereby ratified and approved in all respects.

Section 3. The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

Section 4. The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

Section 5. The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

Section 6. The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the wastewater system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

Section 7. The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

Section 8. The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

Section 9. The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

Section 10. The Mayor of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

Section 11. All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this _____ day of _____, 2013.

A.C. Wharton, Jr., Mayor

WITNESS:

(Affix Seal As Appropriate)

(Name and Title)

Memphis City Council Resolution

WHEREAS, according to research done by the Urban Child Institute in Memphis, Pre-Kindergarten programs in other states have resulted in significant improvements in cognitive and language skills, test scores, and motor skills in children as compared to children who do not attend Pre-K. Pre-K children also have better attendance, fewer behavior problems, and increased chances of reading at grade level in 4th grade; and

WHEREAS, the Urban Child Institute has also found that children in Pre-K programs in Tennessee develop literacy, language and math skills faster than non-participating children; these gains are 37-176% greater than those non-Pre-K children and continue into the elementary grades; and

WHEREAS, considering the number of children who receive care at home or in private centers, if Pre-K were offered to every 4-year-old child in Memphis, there would be approximately 4,500 additional children who need to be served at a cost of \$27 million; and

WHEREAS, the combined property tax rate for Memphis and Shelby County results in Memphians paying the highest tax rate in Tennessee, by far, and the local rate clearly puts Memphis at a competitive disadvantage in the recruitment and retention of people and job producing businesses.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMPHIS CITY COUNCIL that the Council adheres to the following:

1. Instructs the Council Chair to send a letter to the Shelby County Election Commission to activate the referendum approved in Ordinance Number 5460 no later than September 30, 2013;
2. Commits to the allocation of the \$47 million to be collected by the ½ percent sales tax increase as follows: \$27 million for Pre-Kindergarten and \$20 million for a property tax decrease; and
3. Provides that all funds collected for Pre-K will be placed in a trust account for Pre-K programs. A Pre-K commission will be created to have authority over the Pre-K program. The nine member commission will be appointed by the Mayor and approved by the Council. Only one member of the Council (the Council's Education liaison) shall serve on the commission.

Jim Strickland
Shea Flinn

SUBSTITUTE REFERENDUM ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 5460 TO ALLOW THE MAXIMUM LOCAL OPTION SALES TAX BE LEVIED IN THE CITY OF MEMPHIS AND TO SUBMIT THIS PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT A SPECIAL ELECTION TO BE HELD BY SEPTEMBER 30, 2013

WHEREAS, the Council adopted Referendum Ordinance 5460 to allow the maximum local option sales tax be levied in the City of Memphis on July 17, 2012, which ordinance was suspended by a subsequent referendum by Shelby County for a county wide local option sales tax;

WHEREAS, Shelby County's Referendum failed thereby reinstating the City's referendum ordinance;

WHEREAS, the Council desires to present its referendum ordinance on the question to the qualified voters of the City, with the modifications set forth below in this substitute ordinance;

WHEREAS, according to research done by the Urban Child Institute in Memphis, Pre-Kindergarten programs in other states have resulted in significant improvements in cognitive and language skills, test scores, and motor skills in children as compared to children who do not attend Pre-K. Pre-K children also have better attendance, fewer behavior problems, and increased chances of reading at grade level in 4th grade; and

WHEREAS, the Urban Child Institute has also found that children in Pre-K programs in Tennessee develop literacy, language and math skills faster than non-participating children; these gains are 37-176% greater than those non-Pre-K children and continue into the elementary grades; and

WHEREAS, considering the number of children who receive care at home or in private centers, if Pre-K were offered to every 4-year-old child in Memphis, there would be approximately 4,500 additional children who need to be served at a cost of \$27 million; and

WHEREAS, the combined property tax rate for Memphis and Shelby County results in Memphians paying the highest tax rate in Tennessee, by far, and the local rate clearly puts Memphis at a competitive disadvantage in the recruitment and retention of people and job producing businesses.

WHEREAS, the 1963 Local Option Sales Tax Act under Tennessee Code Annotated §67-6-701 et seq., permits counties, cities, and towns to levy a tax not to exceed two and three fourths percent (2.75%) on all privileges exercised therein, subject to approval by a majority vote of those citizens voting

in an election on all privileges exercised therein, subject to approval by a majority vote of those citizens voting in an election on the question pursuant to Tenn. Code Ann. §2-3-204; and

WHEREAS, there presently exists in Shelby County local sales tax of two and one fourth percent (2.25%), leaving a margin of one half percent (0.5%) for additional tax to be levied either by the municipality or the county which the City of Memphis can levy and dedicate to pre-kindergarten education and to reduce the property tax rate.

NOW, THEREFORE,

SECTION 1. LEVY OF TAX BY CITY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that there is hereby levied, subject to the approval of the legally qualified voters of the City of Memphis, an increase of one half percent (0.5%) in the local sales tax in the same privileges as are subject to the 1963 Local Option Sales Tax Act under Tennessee Code Annotated §67-6-701 et.seq., which are exercised within the City of Memphis, which tax is hereby levied and shall be collected in the same manner as all such privileges.

SECTION 2. DELIVERY TO ELECTION COMMISSION

BE IT FURTHER ORDAINED, That, upon passage of this Ordinance as authorized by the 1963 Local Option Sales Tax Act, the Comptroller of the City of Memphis shall certify the adoption of this Ordinance to the Shelby County Election Commission in charge of the holding of a special election by May 31, 2013, and request that this proposal be placed on the ballot.

SECTION 3. PUBLICATION OF HOME RULE AMENDMENT

BE IT FURTHER ORDAINED, That the Comptroller be and is hereby directed to cause this Proposal (Ordinance) to be published pursuant to the provisions of Article XI, Section 9 of the Constitution of the State of Tennessee and submitted by the City of Memphis to its qualified voters at a special election , which shall be held in the City of Memphis by September 30, 2013, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Local Option Sales Tax

Shall there be levied a City of Memphis local option sales tax in the amount of one half percent (0.5%) with the proceeds of such levy being dedicated only to the establishment of a Pre-Kindergarten program and a reduction in property taxes?

SECTION 4. OPERATIVE DATE

BE IT FURTHER ORDAINED, That, if the majority vote is for the Ordinance, it shall be deemed to be operative on the date the Shelby County Election Commission makes its official canvass of the election returns and no tax shall be collected under this Ordinance until the first day of a month occurring at least thirty (30) days after the operative date.

SECTION 5. COLLECTION OF TAX BY STATE

BE IT FURTHER ORDAINED, That, in the vent the electorate votes to impose the increased local sales tax, then the tax shall be collected by the Tennessee Department of Revenue concurrent with the collection of the State Tax, in the same manner the State Tax is collected, provided that no tax shall be collected under such authorization until the first day of a month occurring at least thirty (30) days after the operative date. The Department of Revenue shall remit the proceeds of the tax to the City of Memphis, less a reasonable amount of percentage as determined by the Department of Revenue, to cover the expense of administration and collection.

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis is hereby directed to deliver a copy of this Ordinance, adopted by the Memphis City Council on _____, 2013, to the Shelby County Election Commission, together with a suggest proposal and the following form of preference to be placed on the ballot in an election to be held by September 30, 2013:

AN ORDINANCE TO ALLOW THE MAXIMUM LOCAL OPTION SALES TAX TO BE LEVIED IN THE CITY OF MEMPHIS

Local Option Sales Tax

Shall there be levied a City of Memphis local option sales tax in the amount of one half percent (0.5%) with the proceeds of such levy being dedicated only to the establishment of a Pre-Kindergarten program and a reduction in property taxes?

I, Brian Collins, Director of Finance for the City of Memphis do hereby certify that the net revenue increase to the City if this Amendment is adopted is estimated to be \$47,000,000 annually.

FOR (YES) _____

AGAINST (no) _____

SECTION 7. CERTIFICATION OF RESULTS

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

SECTION 8. NOTIFICATION TO STATE

BE IT FURTHER ORDAINED, That a certified copy of the Ordinance be transmitted to the Tennessee Department of Revenue immediately upon adoption by the Council of the City of Memphis in order that the State may begin preparation and subsequent promulgation of rules and regulations governing such collections; and in addition to the foregoing, a certified copy of the receipt of the official canvass of the Shelby County Election Commission following such election held, in order that the State may implement

the rules and regulations so prescribed by the Department of Revenue for collections, which rules and regulations are hereby adopted by reference into this Ordinance.

SECTION 9. EFFECTIVE DATE OF AMENDMENT

BE IT FURTHER ORDAINED, That the effectiveness of this Ordinance shall be suspended for forty (40) days.

SECTION 10. LITIGATION, IF ANY

BE IT FURTHER ORDAINED, That in the event the tax collected by the Tennessee Department of Revenue is challenged, suits for recovery of any tax illegally assessed or collected shall be brought against the City Treasurer of the City of Memphis.

SECTION 11. SEVERABILITY

BE IT FURTHER ORDAINED, That is any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not effect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding the parts so held to be invalid, if any.

SECTION 12. PUBLICATION

BE IT FURTHER ORDAINED, That this Ordinance shall be published immediately after the adoption hereof.

SECTION 13. ENACTMENT OF CITY ORDINANCE

BE IT FURTHER ORDAINED, That this Ordinance shall take effect from and after the date it shall have passed by the Council, signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the Comptroller, and become effective as otherwise provided bylaw.

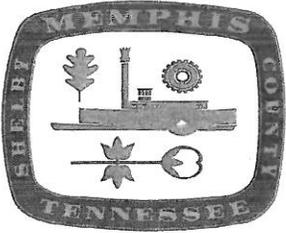
SHEA FLINN
Memphis City Council

JIM STRICKLAND
Memphis City Council



Memphis City Council Summary Sheet

1. This item is a resolution seeking the acceptance and appropriation of grant funds in the amount of \$590,349.00 from the Tennessee Department of Transportation (TDOT) in CIP Project Number PK07113. This grant is for the continued construction of the Wolf River Greenway - Phase IV. This resolution also seeks to appropriate \$1,350,000 in Contract Construction for CIP Project Number PK07012 – Greenway Improvements.
2. The initiating party is the Division of Parks and Neighborhoods.
3. This Resolution does not change any existing Ordinance or Resolution.
4. This Resolution does require a new contract between the City of Memphis and the Tennessee Department of Transportation.
5. This Resolution does require an expenditure of funds in the amount of \$1,350,000.00 in Contract Construction for CIP Project Number PK07012 – Greenway Improvements.



A Resolution to accept \$590,349.00 in grant funds from the Tennessee Department of Transportation and to also appropriate \$1,350,000.00 for the continued construction of the Wolf River Greenway – McLean to Hollywood segment.

WHEREAS, the City of Memphis Division of Parks and Neighborhoods has received grant funds in the amount of Five Hundred Ninety Thousand, Three Hundred Forty-Nine Dollars (\$590,349.00) from the Tennessee Department of Transportation; and

WHEREAS, these funds will be used for the continued construction of the Wolf River Greenway CIP Project Number, PK07113; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Capital Improvement Budget to establish funds for the Wolf River Greenway – Phase IV grant; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of Five Hundred Ninety Thousand, Three Hundred Forty-Nine Dollars (\$590,349.00) for CIP Project Number PK07113, Greenway Improvements Phase IV; and

WHEREAS, it is necessary to appropriate FY2013 funding in the amount of \$1,350,000.00 in Contract Construction in order to provide the matching funds required for the Tennessee Department of Transportation grant; and

WHEREAS, the Division of Parks and Neighborhoods will return to City Council to receive approval on project bids.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis Wolf River Greenway Grant funds in the amount of Five Hundred Ninety Thousand, Three Hundred Forty-Nine Dollars (\$590,349.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by appropriating the Expenditures and Revenue for the Wolf River Greenway in the amount of Five Hundred Ninety Thousand, Three Hundred Forty-Nine Dollars (\$590,349.00) in TDOT Grant funds in PK07113, Greenway Improvements Phase IV and \$1,350,000.00 funded by G.O. Bonds General in CIP Project Number PK07012, Greenway Improvements as follows:

Revenue

TDOT	\$ 590,349.00
G.O. Bonds	\$1,350,000.00

Expense

PK07113, Greenway Improvements Phase IV	Contract Construction	\$ 590,349.00
PK07012, Greenway Improvements	Contract Construction	\$1,940,349.00



A Resolution to accept WIA Title One Incentive funds for the State of Tennessee Department of Labor and Workforce Development.

WHEREAS, the City of Memphis Workforce Investment Network has received grant funds in the amount of Twenty Seven Thousand, Eighty Three Dollars, (\$27,083.00) from the State of Tennessee Department of Labor and Workforce Development; and

WHEREAS, these funds will be used to provide a contingency fund for WIA Title One Incentive Program; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Operating Budget to establish funds for the WIA Title One Incentive Program; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of Twenty Seven Thousand, Eighty Three Dollars, (\$27,083.00) for WIA Title One Incumbent Worker Program;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the WIA Title One Incentive Program in the amount of Twenty Seven Thousand, Eighty Three Dollars (\$27,083.00) be accepted by the City of Memphis

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating Budget be and is hereby amended by appropriation the Expenditures and Revenues for the WIA Title One Incentive Program in the amount of Twenty Seven Thousand, Eighty Three Dollars, (\$23,083.00).



Memphis City Council Summary Sheet

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

This item is a resolution to accept grant funds from the State of Tennessee Department of Labor and Workforce Development in the amount of \$27,083.00. These funds will be used for the WIA Title One Incentive Program.

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

The State of Tennessee Department of Labor and Workforce Development which acts as a pass-through for the U.S. Department of Labor, allocated these grant funds to the Workforce Investment Network.

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

This is a new grant award, pending council acceptance.

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

Acceptance of these funds will require a new contract between the State of Tennessee and the City of Memphis, which acts as the administrative entity for the Workforce Investment Network.

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

Acceptance of these will require an amendment to the FY2013 operating budget to appropriate the funds.

**AN ORDINANCE TO CREATE WORK APPRENTICESHIP PREFERENCE OR
“BIDDING BONUS”, INCENTIVIZE PRIVATE COMPANIES TO CREATE WORKFORCE
TRAINING PROGRAMS, AND AMEND SECTION 6-96-1 OF THE MEMPHIS CODE OF
ORDINANCES**

*****Summary of Proposed Ordinance**

The city of Memphis should incent private companies to take a strong role in workforce development. As such, the Ordinance proposes a “bidding bonus” to local companies who undertake workforce training and host a certified apprenticeship program. The Proposed Ordinance amends the local preference ordinance by adding an additional bonus for local companies that host certified training and apprenticeship programs. For background, in 2005 the city of Memphis established a local preference ordinance (Ordinance 5114) to increase the number of contracts awarded to businesses which maintain a presence in the city of Memphis. This preference gives local companies a five percent bidding bonus with respect to city contracts. Put another way, if the lowest bid for any competitive bid is from a non-local entity, all local bids are reduced by 5%. Consider this example of the city’s current local preference ordinance. If a non-local company bids \$95 for a city contract and local company bids \$98 for the same contract, under the current local preference ordinance, the local company’s bid is automatically lowered 5 percent. If the local company’s bid becomes the lowest bid after the 5% reduction is applied (or if the local company’s bid is tied with the non-local bid), then the contract is awarded to the local company. In the example, the 5% reduction would be applied and the local company’s bid would be lowered to approximately \$93 and the local company would be awarded the contract. The same approach can be used to create a workforce training preference. In short, the proposed Ordinance would add an additional bonus for local companies with an eligible apprenticeship or workforce training program. If approved by the full Council, the proposed Ordinance would add an additional 5% reduction in cost, effectively making the bonus for a local company with an apprenticeship program 10% over non-local companies and 5% over local, non-apprenticed companies. This change is currently supported by MORE (the Memphis Office of Resources and Enterprises) and the United States Department of Labor Office of Apprenticeships West Tennessee Representative. Proposed Ordinance and associated changes are underlined. See attached pages.

*****Current Ordinance**

Sec. 6-96-1. - Local preference for award of city contracts.

A. *Definitions.* As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

B. *Purpose and intent.* The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

1. *Local preference.*

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is

not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

3. Exceptions.

a. The local business preference or presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 5114, § 1, 2005; Ord. No. 5389, § 1, 1-18-2011)

*****Proposed Ordinance to Create Workforce Training Preference for Award of City Contracts**

Sec. 6-96-1. - Local preference and workforce training preference for award of city contracts.

A. *Definitions.* As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

Apprenticeship means any registered program certified by the Tennessee Department of Labor Office of Apprenticeship that meets their standards for certification and operates primarily in the City of Memphis. Qualifying apprenticeship programs shall include, but not be limited to on-the-job training and a formal schooling component, an reasonable ratio of journeypersons to apprentices, and the ability to offer apprentices long-term positions once they complete the program. Furthermore, no program shall qualify as an apprenticeship unless at least 75% of program participants reside in the City of Memphis at the time of contract.

B. *Purpose and intent.* The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures. In addition, the city shall give an apprenticeship preference to local businesses in the city limits who provide workforce development through a certified apprenticeship.

1. *Local preference.*

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county

personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Apprenticeship preference

a. In order to be eligible for the apprenticeship preference, the vendor or contractor must provide proof of apprenticeship certification and must meet all eligibility requirements for local preference.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, apprenticeship preference shall mean that if the lowest responsive bidder is a non-apprenticeship business, then all bids received from responsive local apprenticeship businesses are decreased by five percent. This decrease shall be applied after, and on top of, any decrease earned through local preference. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the apprenticeship preference. The apprenticeship preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, apprenticeship businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between an apprenticeship business and one or more non-apprenticeship business meeting specifications, the ties shall be broken in favor of the apprenticeship business.

3. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

4. Exceptions.

a. The local business preference, apprenticeship preference, or local presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference or apprenticeship preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference, apprenticeship preference, or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 5114, § 1, 2005; Ord. No. 5389, § 1, 1-18-2011)

*****Proposed Ordinance to Create Workforce Training Preference for Award of City Contracts (as Submitted to Memphis City Council)**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 6 – BUSINESS LICENSES AND REGULATIONS – , CHAPTER 6-96, SECTION 1, OF THE CODE OF ORDINANCES

WHEREAS, the Tennessee Department of Labor recognized in it's 2010 Annual Workforce Report that strong long term growth requires short-term training to ensure job openings for "every level of training and education;" and

WHEREAS, the May 2012 unemployment rate for the City of Memphis was 10%; and

WHEREAS, apprenticeship programs offer a cost-effective work development opportunity for companies to train future workers with real skills; and

WHEREAS, the City of Memphis should want private companies to take a strong role in workforce development; and

WHEREAS, one of the critical factors for sustaining growth over the next decade is to invest in workforce development; and

WHEREAS, a highly-skilled workforce makes Memphis more attractive to outside employers and provides upward mobility to Memphis residents who could both contribute more to the city tax base and invest in the local economy.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,

That Title 6 – Business Licenses and Regulations, Chapter 6 – 96, Section 6-96-1 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 6-96-1. - Local preference and workforce training preference for award of city contracts.

A. *Definitions.* As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by

federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

Apprenticeship means any registered program certified by the Tennessee Department of Labor Office of Apprenticeship that meets their standards for certification, operates primarily in the City of Memphis, includes: on the job training and a formal schooling component, an acceptable ratio of journeypersons to apprentices, and the ability to offer apprentices long-term positions once they complete the program.

B. Purpose and intent. The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

The city shall also give an additional apprenticeship preference to local businesses in the city limits who provide workforce development through a certified apprenticeship in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

1. Local preference.

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Apprenticeship preference

a. In order to be eligible for the apprenticeship preference, the vendor must provide proof of apprenticeship certification and must meet all eligibility requirements for local preference. Furthermore, at least 75% of the participants in the program must reside in the city of Memphis for the program to be considered an Apprenticeship for the purposes of this preference.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, apprenticeship preference shall mean that if the lowest responsive bidder is a non-apprenticeship business, then all bids received from responsive local apprenticeship businesses are decreased by five percent. This decrease shall be applied after any decrease earned through local preference. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the apprenticeship preference. The apprenticeship preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, apprenticeship businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between an apprenticeship business and one or more non-apprenticeship business meeting specifications, the ties shall be broken in favor of the apprenticeship business.

3. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For

request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

4. Exceptions.

a. The local business preference, apprenticeship preference, or local presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference or apprenticeship preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference, apprenticeship preference, or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

SECTION 2. BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Lee Harris
Council Member

Attest:
Patrice Thomas, Comptroller