



**Memphis City Council
Summary Sheet
Ordinance to Amend Solid Waste Fees**

- This item is an ordinance amendment which provides a rate increase of \$4.50 per month for residential and commercial customers, adds a cart leasing option of \$5.00 per month and revises the description of commercial customers into one category.
- The Public Works Division is requesting this amendment
- This is a change to an existing ordinance (Chapter 15, Section 15-12)
- This amendment is not applicable to any new or existing contracts.
- This amendment does not require an expenditure of funds or require a budget amendment.

ORDINANCE NO: _____

ORDINANCE AMENDING CHAPTER 15, SECTION 15-12, CITY OF MEMPHIS CODE OF ORDINANCES, TO INCREASE SOLID WASTE FEES FOR COLLECTION AND DISPOSAL, ADD A CART LEASING OPTION AND REVISE THE DISCRPTION OF THE RESIDENTIAL AND COMMERCIAL BUSINESS CATEGORIES

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE:

SECTION 1.

Chapter 15, Section 12, Code of Ordinances, City of Memphis, is hereby amended so as to increase solid waste fees, add a cart leasing option and revise the description of residential and commercial business categories as follows:

Section 15-12. Solid Waste Fees for Collection and Disposal.

The following monthly fees are established for the collection, removal or disposal of solid waste:

*Residential units including single family dwellings, mobile homes, duplexes, triplexes, quadruplexes, apartment units with seven (7) units or less, with City issued cart collection, generating 0 – 180 gallons per week (1 City cart and no more than 3 – 30 gallon bags placed outside cart) for each unit thereof.....

Additional City cart(s) for residential units may be leased for.....

**Apartment houses provided with non-mechanized collection, for each unit thereof.....

**Apartment houses and mobile homes with centralized, mechanized collection for each unit thereof.....

Commercial businesses, churches, boarding houses with three (3) or more living quarters, and other institutions shall be charged the appropriate commercial rate based upon weekly containerized volume:

0-180	gallons	.....
181-360	gallons	.....
361-780	gallons	.....
780-1,200	gallons	.....
1,201-1,800	gallons	.....
1,801-3,600	gallons	.....
3,601-5,400	gallons	.....
5,401-7,200	gallons	.....

7,201-9,000	gallons	.....
9,001-10,800	gallons	.....
10,801-12,600	gallons	.....

Notes:

- * Residents included in this category will be eligible for a reduced fee in the amount of seven dollars and fifty cents (\$7.50) if they meet the following criteria: Head of household, have an active utility account in their name, are at least sixty-five (65) years of age or one hundred (100) percent disabled and have a gross household income of twenty-five thousand dollars (\$25,000.00) per year or less.
- ** This item may be adjusted as necessary by resolution with a recommendation of the director of public works and approval of the city council.

This section shall become effective from and after July 1, 2010 as to coincide with Memphis Light, Gas and Water Division's monthly billing cycles.

SECTION 2.

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

Harold B. Collins
 CHAIRMAN OF COUNCIL

Attest:
 Patrice Thomas, Comptroller



**Memphis City Council
Summary Sheet
Ordinance Revising Language Regarding City
Issued Carts and Use of Personal Containers**

- This item is an amendment revising ordinance language to specifically state that the City will collect solid waste from City issued carts only (no personal containers) and will provide residents the ability to lease additional City carts.
- The Public Works Division is requesting this amendment
- This is a change to an existing ordinance (Chapter 15, Section 15-7)
- This amendment is not applicable to any new or existing contracts.
- This amendment does not require an expenditure of funds or require a budget amendment.

ORDINANCE NO: _____

**ORDINANCE AMENDING CHAPTER 15, SECTION 15-7, CITY OF MEMPHIS
CODE OF ORDINANCES, TO REVISE LANGUAGE REGARDING CITY
ISSUED CARTS AND USE OF PERSONAL CONTAINERS**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
MEMPHIS,** that Chapter 15, Section 15-7, Code of Ordinances, City of Memphis, is
hereby amended to revise language regarding City issued carts and the use of personal
containers.

Section 15-7 Container provided

Revise language as follows:

A. Duty to Have Cart(s). It shall be the duty of every person in possession, charge or control of any premises where solid waste is created or accumulated and in the case of multiple dwellings or multiple occupancy, the owner of the premises, at all times to keep or cause to be kept a sufficient number of City issued carts for the deposit of garbage generated on the premises. It shall be incumbent upon every person in possession, charge or control of any premises to which a city-owned cart has been issued, to insure the security of such cart from the perils of theft and damage at times other than when the cart is curbside between six a.m. and seven-thirty p.m. on the regularly scheduled collection day, or at times otherwise established by the director. The cost of damage or loss occurring to a cart as the result of a failure to adequately secure it shall be borne by the person in possession, charge or control of the premises who shall also be responsible for reporting any damage or loss of the cart to the public works division as soon as the damage or loss is realized. The cost of damage to the cart caused by fire shall be borne by the person in possession, charge or control of the premises, without regard to the time or location of the cart when such damage occurs.

B. Cart Requirements. Lids or covers of city issued carts shall be kept tightly closed at all times other than when solid waste is being deposited therein or removed therefrom. Carts used for the deposit of solid waste for collection by the city shall be in good condition so that collection thereof shall not injure the person collecting the contents. Carts having ragged or sharp edges or other defects must be reported to Public Works for repair or replacement.

C. Except where exempt from cart participation by the director, Public Works will collect solid waste contained in City issued carts only. Solid waste placed in personally owned carts and containers will not be collected by the City of Memphis.

D. Residential units may lease additional City owned carts at the monthly fee established in Section 9-56-11.

It shall be the duty of both the person in possession, charge or control of any premises as well as the owner of the premises to comply with the provisions of this subsection regarding the cleanliness of the premises and keeping carts properly closed. (Ord. 4048,

6-25-91; Code 1985 § 15-7; Ord. 723 § 1, 6-2-70; Ord. 495 § 1, 7-22-69; Ord. 187, 6-11-68; Code 1967 § 19-6)

SECTION 2

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

Harold B. Collins
CHAIRMAN OF COUNCIL



**Memphis City Council
Summary Sheet
Ordinance to Increase Sanitary Sewer Fee**

1. This is an ordinance to increase the Sanitary Sewer Volumetric Fee.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This ordinance replaces ordinance 5312 that was passed by the City Council in 2009.
4. This item does not require a contract nor does it amend an existing one.
5. This resolution will not take effect until 1 July 2010 (FY 2011) and, thus, does not require a 2010 budget amendment nor does it affect the current budgets of any city agency.

MEMPHIS CODE OF ORDINANCES NO _____

AN ORDINANCE TO AMEND CHAPTER 33, CODE OF ORDINANCES SO AS TO INCREASE THE SEWER FEE

WHEREAS, the sewer fee was increased from 95.8 cents to 105.3 cents per 1000 gallons on July 1, 2009, and

WHEREAS, in order to maintain the stability of Sewer Fund, the sewer fees need to be increased.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT SECTION 1: CHAPTER 33 ARTICLE III, DIVISION 2, SEWER FEES AND CHARGES, SECTION 33-131(b)(1) AND DIVISION 4 BILLING PROCEDURES SECTION 33-156(g) ARE HEREBY AMENDED AND RESTATED IN THEIR ENTIRETY TO READ AS FOLLOWS:

Sect. 33-131(b)

(1) Volumetric charges. All customers will be charged a volumetric charge based on the equivalent strength of domestic sewage (BOD5 of two hundred fifty (250) milligrams per liter, SS of three hundred (300) milligrams per liter). Since seven and forty-eight one hundredths (7.48) gallons equals one cubic foot, one thousand (1,000) gallons equals 133.689 cubic feet (cf) or one thousand (1,000) gallons equals 1.33689 hundred cubic feet (ccf). The volumetric charge per one thousand (1,000) gallons is to be based on the annual debt service, capital costs, treatment and operations and maintenance costs, and all other charges assigned to the sewer fund. The volumetric charge will be _____ cents per one thousand (1,000) gallons of flow until changed by amendment to this section. A residential maximum volume fee of _____ and a minimum of _____ per month per individual dwelling unit is herewith established.

Commencing and retroactive to July 1, 2010, the _____ flow charge fee shall be assessed against the name in which a meter has been installed; provided, further, however, in the case of multifamily dwellings a portion of this cost may be recovered through a monthly flat rate per customer charge. The charge, as determined by the Director of Public Works, shall not exceed _____ per monthly flat rate charge per customer. Amounts collected through any monthly flat rate charge shall be credited in accordance with section 33-156.

Commencing July 1, 2010 all industrial customers assigned an industrial discharge agreement will be charged a volumetric sewer fee of _____ per one thousand (1,000) gallons of flow for the first ten million gallons per month discharged by each industrial customer. For volumes in excess of ten million gallons per month, each industrial customer will be charged a volumetric sewer fee according to the attached schedule:

From 1 July 2010 through 30 June 2011: _____ per 1,000 gallons
Beginning 1 July 2011: _____ per 1,000 gallons

Effective 1 July 2010, all non-governmental industrial customers with valid City of Memphis issued Sewer Discharge Agreements having flows less than 10 million gallons per month will pay 100% of the latest adopted sewer rate for all wastewater discharged up to a fee amount of \$1,000 per month. All wastewater discharge costs in excess of \$1,000 per month will be charged a volumetric sewer fee according to the following schedule:

From 1 July 2010 through 30 June 2011: _____ per 1,000 gallons
Beginning 1 July 2011 _____ per 1,000 gallons

Sec. 33-156

(g). In accordance with the apartment credit program the approving authority has the right to charge each tenant _____ per month if so requested in writing by the apartment owner. The total amount collected will then be credited against the amount billed from the master water meter reading each month.

SECTION 2. BE IT FURTHER ORDAINED, That the various sections of this Ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions

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

Passed, approved and adopted this _____ day of _____, 2010.

Chairman, Memphis City Council

Rate17phased



Memphis City Council Summary Sheet ATC Increase Resolution

1. This is a resolution to increase the Additional Treatment Charge (ATC) for wastewater generated by industry and treated at City of Memphis facilities.
2. Public Works (Environmental Engineering) is the initiating party.
3. This item replaces a resolution passed by City Council in 2009 which took effect on 1 July 2009.
4. This item does not require a new or amended contract.
5. This resolution will not take effect until 1 July 2010 (FY 2011) and, thus, does not require a 2010 budget amendment nor does it affect the current budgets of any city agency.

RESOLUTION

WHEREAS, current Additional Treatment Cost (ATC) fees for the City of Memphis sewer fees were established July 1, 2009 and

WHEREAS, in accordance with Chapter 33, Article 3, Division 2, Section 33-131 (b)(2) and Section 33-133 of Sewer Use Ordinance it is necessary to increase Additional Treatment Cost (ATC) sewer fees to ensure stability of the Sewer Fund; and

WHEREAS, effective July 1, 2010 Biochemical Oxygen Demand (BOD) surcharges will increase from 3.88 cents per pound to 4.28 cents per pound and Total Suspended Solids (TSS) surcharges will increase from 6.61 cents per pound to 7.16 cents per pound.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Biochemical Oxygen Demand (BOD) surcharges will increase from 3.88 cents per pound to 4.28 cents per pound and Total Suspended Solids (TSS) surcharges will increase from 6.61 cents per pound to 7.16 cents per pound.

APR 19 2011



Memphis City Council Summary Sheet

Resolution transferring a budget allocation to fund Elvis Presley Boulevard Improvements.

- This item is a resolution transferring \$200,000 in excess Construction funds from PW04073 Metal Museum to the A&E line in PW01064 Elvis Presley. These funds are required to do initial data collection and preliminary design related to the project.
- This transfer is initiated by Public Works at the request of the City Engineer.
- This resolution amends the Capital budget by transferring existing funds from one project to another.

RESOLUTION

WHEREAS, Metal Museum N. Bluff Repair, Project Number PW04073, was approved in the Public Works Fiscal Year 2010 Capital Improvement Budget; and

WHEREAS, Metal Museum N. Bluff Repair, PW04073 has excess construction funds which are needed for the required initial data collection and preliminary design for Elvis Presley Boulevard improvements; and

WHEREAS, it is necessary to transfer a construction allocation of \$200,000.00 funded by GO Bonds – General from Metal Museum N. Bluff Repair, project number PW04073 to an architecture/engineering allocation in Elvis Presley/Shelby/Winchester, project number PW01064; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2010 Capital Improvement Budget be and is hereby amended by transferring a construction allocation of \$200,000.00 funded by GO Bonds – General from Metal Museum N. Bluff Repair, project number PW04073 to an architecture/engineering allocation in Elvis Presley/Shelby/Winchester, project number PW01064.



Memphis City Council Summary Sheet

- This item is a Resolution to amend Chapter 25, Code of Ordinances, City of Memphis, so as to increase the City contribution allowable under Section 25-71 and Section 25-171
- Initiating Party: Finance Division
- This Resolution changes an existing Ordinance
- This Resolution does not require a new contract or amends an existing contract
- This Resolution does not require any expenditure of funds

ORDINANCE NO.: _____

**AN ORDINANCE TO AMEND CHAPTER 25, CODE OF
ORDINANCES, CITY OF MEMPHIS, SO AS TO INCREASE
THE CITY CONTRIBUTION ALLOWABLE UNDER SECTION
25-71 AND SECTION 25-171**

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

that Chapter 25, Code of Ordinances, City of Memphis, be and the same is hereby amended by adding Subsection (a) under Section 25-71 to read as follows:

Sec. 25-71. City contributions.

(a) Effective July 1, 2010, at the end of each month, the comptroller shall determine the aggregate amount of the compensation of all participants on which the employee contributions for such month are calculated. The City shall pay into the trust fund as its contribution the sum of (1) and (2), where:

(1) Is a certain percentage of the aggregate amount of compensation each month to be known as the "current service contribution," to provide the City's part of the disability retirement allowances, the death benefits, and those portions of the retirement benefits to be granted on account of current service; and

(2) Is a certain percentage of the aggregate amount of compensation each month to be known as the "accrued liability contribution."

The percentages under (1) and (2) above shall be no less than six and zero tenths (6.0) percent of the compensation of all participants of this 1948 plan, as set forth in this section.

SECTION 2. BE IT FURTHER ORDAINED, that Chapter 25 is further amended by adding

Subsection (a) under Section 25-171, to read as follows:

Sec. 25-171. City contributions.

(a) Effective July 1, 2010, at the end of each month, the comptroller shall determine the aggregate amount of the compensation of all participants on which the employee contributions for such month are calculated. The City shall pay into the trust fund as its contribution the sum of (1) and (2), where:

(1) Is a certain percentage of the aggregate amount of compensation each month to be known as the "current service contribution," to provide the City's part of the disability retirement allowances, the death benefits, and those portions of the retirement benefits to be granted on account of current service; and

(2) Is a certain percentage of the aggregate amount of compensation each month to be known as the "accrued liability contribution."

The percentages under (1) and (2) above shall be no less than six and zero tenths (6.0) percent of the

compensation of all participants of the 1978 plan, as set forth in this section 25-171(a).

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

Harold Collins
Chairman of Council

ATTEST:

Patrice Thomas
Comptroller



Memphis City Council Summary Sheet

- This item is an Ordinance to amend Chapter 25, Code of Ordinances, City of Memphis, so as to increase pension benefits allowable under Section 25-95 and Section 25-195
- Initiating Party: Finance Division
- This Ordinance changes an existing Ordinance
- This Ordinance does not require a new contract or amends an existing contract
- This Ordinance does not require any expenditure of General funds. However, the City's Pension Fund will be impacted as follows:
 - Increase In Pension Plan Liabilities: \$13,236,000
 - Increase in Pension Plan Annual Contribution: \$ 1,042,000

ORDINANCE NO.: _____

**AN ORDINANCE TO AMEND CHAPTER 25, CODE OF
ORDINANCES, CITY OF MEMPHIS, SO AS TO INCREASE
PENSION BENEFITS ALLOWABLE UNDER SECTION
25-95 AND SECTION 25-195**

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

that Chapter 25, Code of Ordinances, City of Memphis, be and the same is hereby amended by adding Subsection (w) under Section 25-95 to read as follows:

- (w) Effective July 1, 2010, the following additional increases shall take effect:
- (1) Members who retired prior to 1996 shall receive an increase in the amount of one and one half percent (1.5%) of their present allowance.
 - (2) Members who retired during the years 1996 through 2001 shall receive an increase in the amount of one percent (1%) of their present allowance.
 - (3) Members who retired during the years 2001 through 2008 shall receive an increase in the amount of one half percent (.5%) of their present allowance.

SECTION 2. BE IT FURTHER ORDAINED, that Chapter 25 is further amended by adding

Subsection (w) under Section 25-195, to read as follows:

- (w) Effective July 1, 2010 the following additional increases shall take effect:
- (1) Members who retired between the period of July 1, 1980 through December 31, 1995 shall receive an increase in the amount of one and one half percent (1.5%) of their present allowance.
 - (2) Members who retired during the years 1996 through 2001 shall receive an increase in the amount of one percent (1%) of their present allowance.
 - (3) Members who retired during the years 2001 through 2008 shall receive an increase in the amount of one half percent (.5%) of their present allowance.

SECTION 3. BE IT FURTHER ORDAINED, that this ordinance shall take effect from and

after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Harold Collins
Chairman of Council

ATTEST:

Patrice Thomas
Comptroller

April 9, 2010

Ms. Patrice Thomas
City Comptroller
City of Memphis
125 North Main St., Room 348
Memphis, Tennessee 38103-2080

Re: Retirement Plan COLA

Dear Patrice:

As requested, we have determined the effect of the cost-of-living adjustment (COLA) for current retirees on the City's retirement plan obligations under three different scenarios. The results of our analysis are shown in the attached exhibit. The increased contributions required to fund these liabilities are based on a 30 year amortization period.

	Increase in Plan Liabilities	Increase in Annual Contribution
1.0%, 2.0%, and 3.0% Benefit Increases	\$26,473,000	\$2,085,000
1.0%, 1.0%, and 1.0% Benefit Increases	\$12,944,000	\$1,020,000
0.5%, 1.0%, and 1.5% Benefit Increases	\$13,236,000	\$1,042,000

Our calculations are based upon generally accepted actuarial methods and the data and assumptions utilized in the most recent valuation of the plan. These calculations were performed at the City's request and do not represent a recommendation of PricewaterhouseCoopers LLP.

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

The undersigned are members of the Society of Actuaries and the American Academy of Actuaries and meet the "General Qualification Standards" for rendering an actuarial opinion relating to pension plans.

Ms. Patrice Thomas
April 9, 2010
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If you have any questions, or would like us to evaluate other alternatives, please let us know.

Sincerely,



Jerrold Dubner
Associate of the Society of Actuaries
Member, American Academy of Actuaries



Donald H. Burris
Associate of the Society of Actuaries
Member, American Academy of Actuaries

Attachments

cc: Roland McElrath (w/attachments)
James Stokes (w/attachments)



Memphis City Council Summary Sheet

Resolution for the Zoo Hippo Exhibit

- This Resolution is to amend FY2010 Capital Improvement Budget to appropriate construction funds.
- Initiating Party is the Division of Park Services.
- This Resolution does not change any existing Ordinance or Resolution..
- This Resolution does not require a new contract or modification to an existing contract.

RESOLUTION

WHEREAS, the Council of the City of Memphis did include Zoo Hippo Exhibit, CIP Project Number PK09004 as part of the Fiscal Year 2010 Capital Improvement Program; and

WHEREAS, the City of Memphis has entered into a Construction Agreement with the Memphis Zoological Society, with said agreement providing for the procedures for the use and payment of current and future Capital Appropriations; and

WHEREAS, it is necessary to appropriate \$2,500,000.00 in Construction funds, funded by G.O. Bonds General.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis, that there be and is hereby appropriated \$2,500,000.00 in Construction funds, funded by G.O. Bonds General, chargable to the Fiscal Year 2010 Capital Improvement Budget with said appropriation being credited as follows:

Zoo Hippo Exhibit	\$2,500,000.00
CIP Project Number: PK09004	G.O. Bonds



Memphis City Council Summary Sheet

Resolution for the Levitt Pavilion

- This Resolution is to amend the management agreement contract between the City of Memphis and the Friends of Levitt Pavilion.
- The initiating party is the Division of Park Services.
- This Resolution does not change any existing Ordinance nor Resolution.
- This Resolution amends contract no. 22649 by allowing the Friends of Levitt Pavilion to sell beer and wine by the cup or allow beer and wine to be brought to events.
- This Resolution does not require any expenditure of funds.

RESOLUTION

WHEREAS, the City of Memphis owns certain real properties located in Overton Park dedicated as the Roul Wallenburg Shell; and

WHEREAS, the Friends of Levitt Pavilion Memphis, Incorporated, a Tennessee 501(c)(3) was formed to repair, upgrade and manage the Shell for the benefit and enjoyment of the citizens of Memphis; and

WHEREAS, the City through its Park Services Division requests Council approval to revise the existing management contract number 22649 with the Friends of Levitt Pavilion to allow the sale of beer and wine by the cup and allow patrons to bring beer and wine to the events; and

WHEREAS, the sale of alcohol will only occur to adults or allow participants age 21 or over to bring alcohol to events; and

WHEREAS, additional revenue from the sale of alcohol by the cup will assist the Friends of Levitt Pavilion to continue to bring free concerts to the Memphis community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that Contract Number 22649 between the City of Memphis and Friends of Levitt Pavilion be amended to include the sale of alcohol by the cup at adult events and allow adult patrons to bring beer and wine.

**AMENDMENT TO CONTRACT NO. 22649
BETWEEN THE CITY OF MEMPHIS AND
THE FRIENDS OF THE LEVITT PAVILLION MEMPHIS, INC.**

THIS AMENDMENT is made and entered into this _____ day of _____, 2010, by and between the City of Memphis, a Tennessee municipal corporation (hereinafter referred to as "City"), and The Friends of the Levitt Pavillion Memphis, Inc., a Tennessee non-profit entity, (hereinafter referred to as "Friends").

RECITALS:

1. Whereas, the City and Friends have entered into Contract No. 22649 ("Contract"), for the management, renovation, and operation of the Raoul Wallenburg Shell ("Shell"), an outdoor amphitheater owned by the City of Memphis; and

2. Whereas, the parties desire to amend the Contract to authorize the sale of alcohol at the Shell during the Free Concert Series hosted at the facility and to permit patrons attending such events to bring their own beer or wine, subject to certain conditions; and

3. Whereas, the parties hereby acknowledge that this document constitutes an Amendment to the Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The language set forth in Section 5B.(e) Alcohol and Tobacco is hereby deleted in its entirety and replaced with the following:

City hereby authorizes Friends and its vendors to sell beer and wine by the cup and to permit patrons to bring their own beer and wine to performances during its season Free Concert Series and fund raising events subject to satisfaction of the insurance requirements set forth in Section 6 included herein and, provided that Friends shall ensure that patrons not be permitted to leave the premises of the facility with alcohol in open containers. Proof of Liquor Liability coverage with limits of not less than \$1,000,000 and the City named as an additional insured must be produced prior to commencement of each Free Concert Series annually. Failure to provide such coverage shall immediately result in the revocation of the authority granted herein. Friends expressly agrees to indemnify City in accordance with Section

7(a) included herein, from any all claims or damages related to the use or sale of alcohol at the facility. Notwithstanding the foregoing, the sale and use of tobacco at the facility is expressly prohibited throughout the term of this Agreement.

2. The parties agree and affirm that all terms of the Contract, not in conflict with this Amendment, remain in full force and effect, and that nothing in this Amendment relieves either party of their respective obligations under the Contract.
3. This Amendment, together with the Contract, constitutes the entire agreement between the parties, and supercedes all other prior or contemporaneous communication between the parties (whether written or oral) relating to the subject matter of this Amendment. Each party to this Amendment hereby agrees to execute any documents or instruments reasonably required by the other party to evidence the foregoing.

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, have executed this **AMENDMENT TO CONTRACT NO. 22649 BETWEEN THE CITY OF MEMPHIS AND THE FRIENDS OF THE LEVITT PAVILLION MEMPHIS, INC.** as of the date above written.

CITY OF MEMPHIS

**THE FRIENDS OF THE LEVITT
PAVILLION MEMPHIS, INC.**

BY: _____
A C Wharton, Jr., Mayor

BY: _____

TITLE: _____

DATE: _____

DIVISION OF PARK SERVICES

BY: _____
Cindy Buchanan, Director

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Comptroller



Memphis City Council Summary Sheet

Resolution for the Skate Park PK07098

- This item is a Resolution seeking approval to appropriate \$440,000 for construction of the Skate Park, from the Parks 2010 CIP Budget.
- The initiating party is the Division of Park Services.
- This Resolution does not change any existing Ordinance nor Resolution.
- This Resolution appropriates construction funds for the Skate Park to ensure funds are not lost at year end due to site selection process. Once a site is selected, construction documents will be prepared and bids taken.
- This Resolution does require an expenditure of funds, \$440,000 for construction.

RESOLUTION

WHEREAS, the Council of the City of Memphis did approve Skate Park, CIP Project Number PK07098 as part of the Fiscal Year 2010 Capital Improvement Budget; and

WHEREAS, the Council of the City of Memphis did allocate \$440,000 in PK07098 in Fiscal Year 2010 for construction of the Skate Park; and

WHEREAS, plans and specifications will be prepared for bidding and construction purposes; and

WHEREAS, the Division of Park Services desires to appropriate funds within the Fiscal Year 2010 budget year prior to public bidding; and

WHEREAS, the Division of Park Services will bring the best bid to City Council for review and approval prior to contract award.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Memphis that there be and is hereby appropriated \$440,000 funded by G.O. Bonds – General and chargeable to the Fiscal Year 2010 Capital Improvement Budget, with said appropriation being credited as follows:

Project Title:	Skate Park
Project Number:	PK07098
Amount:	\$440,000.00



Memphis City Council Summary Sheet

Resolution for the Golf Course Green Rehab PK06009

- This item is a Resolution seeking approval to appropriate \$100,000 for rehab of the golf greens at Audubon Golf Course for the Parks 2010 CIP Budget.
- The initiating party is the Division of Park Services.
- This Resolution does not change any existing Ordinance nor Resolution.
- This Resolution appropriates construction funds for the Golf Course Green Rehab project that will be used to purchase sprigs and soil additive material with golf labor to prep greens and coordinate grow-in.
- This Resolution does allow an expenditure for funds up to \$100,000 for construction.

RESOLUTION

WHEREAS, the Council of the City of Memphis did approve Golf Course Green Rehab CIP Project Number PK06009 with funds of \$100,000 for construction as part of the Fiscal Year 2010 Capital Improvement Budget; and

WHEREAS, sprigs and soil additive materials will be purchased through the City's competitive bidding process handled by the Purchasing Department; and

WHEREAS, golf staff will prepare greens for new sprigs and be responsible for turf grow-in; and

WHEREAS, the Division of Park Services desires to appropriate funds within the Fiscal Year 2010 budget year; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Memphis that there be and is hereby appropriated \$100,000 funded by G.O. Bonds – General and chargeable to the Fiscal Year 2010 Capital Improvement Budget, with said appropriation being credited as follows:

Project Title:	Golf Course Green Rehab
Project Number:	PK06009
Amount:	\$100,000.00



Memphis City Council Summary Sheet FY2011

- This Resolution is to approve the Capital Acquisition Budget and the Capital Improvement Program for Fiscal Years 2011-2015.
- Initiating Party: Finance Division
- This Resolution does not make any changes to an existing ordinance or resolution.
- This Resolution does not require a new contract or modification to an existing contract.
- This Resolution establishes the City's FY2011 CIP Budget for the upcoming fiscal year.

RESOLUTION

WHEREAS, the Mayor submitted to the Council of the City of Memphis on April 27, 2010, a recommended Capital Acquisition Budget and a Capital Improvement Program for fiscal years 2011 through 2015; and

WHEREAS, said Capital Acquisition Budget projects needed acquisitions of vehicles and equipment and the Capital Improvement Program does project on a priority basis the anticipated Capital expenditures required to construct needed public improvements for the said period; and

WHEREAS, the Budget Committee of the Council will hold meetings and review thoroughly the recommended Capital Acquisition Budget and Capital Improvement Program and will make approved revisions thereto; and

WHEREAS, it is the intent of the Council that funds for replacement vehicles and equipment as set forth in the Capital Acquisition Budget should be appropriated herein; and

WHEREAS, it is the intent of the Council that funds for construction require appropriation by Council; and

WHEREAS, the Comptroller is authorized to bring forward into the fiscal year 2011 all appropriations from the fiscal year 2010 Capital Budget; and

WHEREAS, it is the intent of the Council and the Administration to effect a material reduction in future capital expenditures; and

WHEREAS, in order to achieve this goal all prior year allocations that have not been reprogrammed in the fiscal year 2011 Capital Improvement Budget shall be unallocated and removed from the Capital Improvement Plan; and

WHEREAS, provisions have been made that upon completion or deletion of any authorized project any unencumbered appropriation will be returned to its source of funding by the Comptroller, subject to further appropriation and allocation of said funds by the Council.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Memphis that the fiscal years 2011-2015 Capital Improvement Program be and the same is hereby approved and adopted as the City's Official Statement of Intent to construct needed public improvements subject to annual review and modification, and the Capital Acquisition Budget is hereby adopted as needed replacements of vehicles and equipment. Appendix "A", which is the FY2011-FY2015 CIP Budget Book attached hereto, details the construction projects and capital acquisitions and is made a part of this resolution.

BE IT FURTHER RESOLVED, that the fiscal year 2011 allocations in the Capital Improvement Program be and are hereby adopted as the fiscal year 2011 Capital Construction Budget and funds are appropriated for architectural/engineering services and for

land options, if necessary. The Administration shall use the following procedures in moving forward with Capital Construction projects:

The Administration shall present to the appropriate Council Committee the schematic design of the project(s) as defined by the standard Architectural and Engineering Agreement used by the City of Memphis, at an architectural or engineering expense not to exceed 20% of the contracted professional fee amount. Projects designed "in house" or gratuitously must also go through the process. Council approval in the next following regular session of the Council is then required before the continuation of any such project.

After such Council approval, Administration will proceed with final plan preparation, final land acquisition and take bids for the project. Council shall be informed as to the time limitation designated in the professional contract.

The Administration will return to the Council for approval of funds for construction expenditures.

BE IT FURTHER RESOLVED, that projects with prior years allocation in any stage of design on the date of the 2011 budget adoption, that have not followed the procedure outlined above, must be returned to the Council for approval prior to going to bid.

BE IT FURTHER RESOLVED, that projects with prior years allocation which are not yet in the design process on the date of the adoption of the 2010 Budget must follow the same procedure outlined above for all 2011 projects.

BE IT FURTHER RESOLVED, that after construction funds have been appropriated by the Council, the Comptroller is no longer authorized to approve the transfer of unencumbered funds between categories within each project but must return to the Council for approval of such action.

BE IT FURTHER RESOLVED, that projects which subsequently require appropriations in excess of the total project amount approved in the fiscal year 2011 Capital Construction Budget and the Capital Acquisition Budget be subject to further Council approval.

BE IT FURTHER RESOLVED, that upon the completion/bond release of any authorized project, any unencumbered balance will be returned to its source of funding, subject to further allocation and appropriation of said funds by the Council.

BE IT FURTHER RESOLVED, that any land, building or facility under the jurisdiction of the City of Memphis or which has ever been funded or partially funded by the City of Memphis cannot be demolished, sold, given to, or leased to any non-municipal entity without authorization of the City Council. The authorization does not apply to routine short-term rental. Without authorization of the City Council, no assets may be received by the City.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated \$ _____ for the acquisition of vehicles and equipment as set forth in the fiscal year 2011 allocation of the Capital Acquisition Budget.

BE IT FURTHER RESOLVED, that the Comptroller be and is hereby authorized to bring forward into the fiscal year 2011 Capital Construction Budget all appropriations and only those allocations that have been reprogrammed from the fiscal year 2010 Capital Construction Budget.

BE IT FURTHER RESOLVED, that the Comptroller be and is hereby authorized to unallocate and eliminate all prior year allocations that have not been reprogrammed in the fiscal year 2011 Capital Construction Budget.

BE IT FURTHER RESOLVED, that the Council expressly declares that each section, sub-section, paragraph and provision of this resolution is severable, and that should any portion of this resolution be declared unconstitutional or invalid by a Court of Law, the same shall not affect the remainder of this resolution, but such unconstitutional or invalid portion shall be elided, and the City Council declares that it would have passed this resolution with such unconstitutional or invalid portions elided.

BE IT FURTHER RESOLVED, that this resolution take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by the law.

UrbanArt Commission Proposal to Allocate CIP Funding for Project Management

24 March 2010

Formatted by: Mary Jane Fuller, Board Chair
Robert F. Fogelman II, Board Vice-Chair
John Weeden, Executive Director

Executive Summary

Proposal

The UrbanArt Commission (UAC) proposes that the project management costs of each project funded through the Percent-for-Art program henceforth be included in the overall budget for each project allowing the UAC to increase or downsize project management staff as the program's annual caseload requires. The UAC formally requests the ability to allocate up to 18% of each individual project's budget to project management costs. Under this scenario the UAC's annual Operating and Maintenance compensation would not increase in the current year.

Rationale

The UAC's O&M allocation does not cover the **project management** costs of the City's public art program. Further, the O&M funds only cover the **program administration** function of the program. The project management aspects of the various projects have been underfunded. It is this shortfall that the UAC is seeking to recoup via this alteration to the Percent-for-Art funding structure.

To clarify, **program administration** entails the development of the annual Public Art Plan, preparing and conducting monthly Public Art Oversight Committee meetings, assembling and presenting all City Council materials, administration of educational workshops for youth, community groups, and artists' professional development, composing and distributing project 'Request for Qualifications' (RFQ's), managing the City's direct purchase art program, and overseeing the ongoing maintenance of existing City projects. Program administration may be thought of as everything that must be done in order for project site and type to be determined as well as other ancillary duties as requested by the City.

In contrast, **project management** involves supervising the progress of the selected artist from their selection through to the project's completion. This entails:

- Determining project directive;
- Determining artist selection process, including coordinating from 7 and up to 11 separate selection committee meetings;
- Negotiating artist contracts and vendor bids
- Processing artist invoices and payments

- Determining schematic design process, including performing numerous site visits, conducting discussions with contractors, architects, and facility managers
- Supervising fabrication processes;
- Overseeing installation and post-installation documentation,
- Arranging dedication ceremonies.

Each year since 2002, the UAC has contributed privately sourced funds to supplement the City of Memphis funding shortfall. With the downturn in the economy over the past two years, the UAC's private reserves have been depleted, and it can no longer continue to bridge the funding gap. In order for the Percent-for-Art program to be coordinated at the level of service the City of Memphis demands, project management must be self-funded within the budget of each project. While Percent-for-Art program administration falls within the O&M budget, the project management costs are clearly a part of the CIP Percent-for-Art requirements.

Nationwide, other Percent-for-Art programs dedicate an average of 15-20% from each project's total budget for its management. Precedent for this proposed funding model clearly exists. In practice, the altered funding structure would work as follows. If a single project's budget is \$50,000, UrbanArt would be compensated at the \$9,000 level, with the remaining \$41,000 going to artist's fees and production expenses. This model would require no additional CIP funding from the City.

Conclusion

The UrbanArt Commission respectfully requests that the City of Memphis alter the Percent-for-Art structure to allow for up to 18% of project budgets be allocated to the UAC's project management duties. Assuming UAC O&M funding is maintained at prior-year levels, the proposed alteration to the Percent-for-Art funding structure will ensure and solidify the UAC's existence and further enable its efficacy in administering the City of Memphis public art program.

The attached addenda provide further background, data, and support for this proposal.

Addendum #1 – Operation, Job Creation, History

UrbanArt Commission Operation

The UrbanArt Commission functions as a third-party project consulting and management provider for art projects funded by both public and private sources. Currently, the UAC staff consists of one full-time position, the Executive Director. The Executive Director is currently supported by part-time staff. The organization is governed by a volunteer Board of Directors.

All City Percent-for-Art projects are developed in collaboration with community groups in the areas in which the artworks are located. Selection committees formed from neighborhood representatives, facilities managers, City division representatives, and art experts are assembled to develop the project directive, select the artist, and approve all City project artwork. The decisions of each selection committee are then brought to the Public Art Oversight Committee (PAOC) for review and final confirmation. Members of the seven-person PAOC are appointed by the Mayor and approved by the City Council.

Each individual Percent-for-Art project currently requires approximately 105 hours of management time. Nationwide, best practices of public art coordination indicate the recommended caseload should be in the range of 6-8 projects per manager. Due to funding shortfalls, the UAC is currently able to fund only one full-time employee (its Executive Director) and a part-time project coordinator. At present, there are a total of 30 Percent-for-Art projects in progress.

UrbanArt Commission Job Creation

Public artworks produced by local artists help keep the local economy solvent, and further enables Memphis to blossom as a creative center of world renown. Typically, artists retain 10-15% of project funds for design fees and labor with the remainder going to local businesses supplying materials, design and fabrication services, and to the hiring of production assistants. This means Memphis artists are able to continue to pay their mortgages, meet their city and county tax obligations, and feed and clothe their families. While the City's Percent-for-Art program only requires 60% of its projects be produced by local artists in any 5 year period, the UAC has surpassed this mark by coordinating local artists to create 84% of its public art projects, and counting!

UrbanArt Commission History

Since 1997, the UrbanArt Commission, a 501c3 organization, has been working locally to create a dynamic, vibrant, nurturing community through art and design. The organization began with funds from the Memphis Arts Council (now ArtsMemphis) and Shelby County Government along with private grants and donations.

Since 2002, the UAC has been working with the City of Memphis to produce permanent art enhancements as part of CIP projects improving the built environment. On March 5 of that year, the City Council passed Ordinance 4934,

which mandates that 1% of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year be set aside for the development of artwork under the City's Percent-for-Art program. The only project type to be officially excluded from the ordinance is PW01040, Asphalt/Paving.

Each year, UAC staff works with the Public Art Oversight Committee, the Mayor-appointed and Council-approved entity that oversees the Percent-for-Art program, to create a plan for the specific use of allocated funds. Annual budgets have ranged from \$125,000 to \$750,000, depending on the number of CIP projects determined to be suitable each year. There are currently 30 projects in various stages of production, from initial meetings with division directors and community members, to wrapping up fabrication and scheduling installations, including the 7 gateway projects recently approved by the City Council. To date, 17 Percent-for-Art projects have been completed.

Furthermore, the UAC has hosted in excess of 160 public art education events, including guest artist lectures, studio visits with local artists, professional practice and community art program workshops, and urban design workshops open to the general public. It has fostered the development of both the Memphis Regional Design Center and the local chapter of the Urban Land Institute.

Addendum #2 – Financial Data

Charts A and B below are intended to illustrate how the proposed alteration to the CIP funding model will remunerate the UAC for its project management duties. Chart A covers the current 'Percent-for-Art' projects that are approved by the City and under contract. The yellow box in Chart A represents the estimated shortfall the UAC will face for the projects currently under contract. Chart B covers those projects in the pipeline that are approved by the City but not yet under contract.

NOTE: In Chart B, an average budget per project of \$88,000 is assumed.

Chart A – CURRENT PROJECTS (APPROVED AND UNDER CONTRACT)

Project Under Contract	Phase	Budget	Hours to Complete	Proposed 18% Commission	% Complete	Proposed Remaining Commission
Court Ave Ped Bridge	Artist selection	\$140,000	90	\$25,200	86%	\$21,600
Chickasaw Heritage Park	Proj Directive	\$85,000	70	\$15,300	67%	\$10,200
Legends Park	Proj Directive	\$75,000	70	\$13,500	67%	\$9,000
BSL - Braaksma	Schematic	\$100,000	50	\$18,000	48%	\$8,571
Fletcher Creek Park	Schematic	\$50,000	50	\$9,000	48%	\$4,286
University Place	Schematic	\$100,000	50	\$18,000	48%	\$8,571
Walnut Grove	Schematic	\$200,000	50	\$36,000	48%	\$17,143
Animal Shelter	Fabrication	\$75,000	35	\$13,500	33%	\$4,500
Bert Ferguson/Library	Fabrication	\$50,000	35	\$9,000	33%	\$3,000
BSL - Lewis	Fabrication	\$175,000	35	\$31,500	33%	\$10,500
Inspection Station	Fabrication	\$75,000	35	\$13,500	33%	\$4,500
Overton Park Shell	Fabrication	\$75,000	35	\$13,500	33%	\$4,500
Pierotti Park	Fabrication	\$50,000	35	\$9,000	33%	\$3,000
			640	\$225,000		\$109,371

Chart B – CURRENT PROJECTS (APPROVED NOT UNDER CONTRACT)

Approved Projects	Phase	Estimated Budget	Hours to Complete	Proposed 18% Commission	% Complete	Proposed Future Commission
Gateways	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Greenway Improvements	Artist selection	\$88,000	105	\$15,840	0%	\$15,840
Hollywood Library	Proj Directive	\$88,000	105	\$15,840	0%	\$15,840
James Road	ON HOLD	\$88,000	105	\$15,840	0%	\$15,840
Lester Cmty Ctr	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
North Frayser Cmty Ctr	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Parkways Renovations	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Safe Routes-Frayser	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Safe Routes-Rozelle	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Skate Park	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
Traffic/West Precinct	ON HOLD	\$88,000	105	\$15,840	0%	\$15,840
Uptown	Prelim Mtgs	\$88,000	105	\$15,840	0%	\$15,840
			1,260	\$190,080		\$190,080

CITY COUNCIL RESOLUTION

WHEREAS, City of Memphis Ordinance No. 4934 provides that one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year shall be allocated to the public art fund for use in the development of artwork hereunder, *including, but not limited to* (emphasis added), artist design services, the development of design concepts and models, an artist in residency program, the selection, acquisition, purchase, commissioning, placement, installation, exhibition and display of artwork, and architectural and engineering design associated with artwork; and

WHEREAS, the UrbanArt Commission (UAC) requires up to 18% of each individual project's budget for the project management costs of each project funded through the Percent-for-Art program; and

WHEREAS, since 2002 the UAC has contributed privately sourced funds to cover costs of project management, however with the downturn in the economy over the past two years, the UAC's private reserves have been depleted, and it can no longer continue to bridge the funding gap; and

WHEREAS, project management costs are eligible to be considered a part of the CIP Percent-for-Art requirements under Ordinance No. 4934 and nationwide, other Percent-for-Art programs dedicate an average of 15-20% from each project's total budget for its management.

NOW, THEREFORE BE IT RESOLVED, that the City of Memphis allow up to 18% of project budgets be allocated for the UAC's project management duties under the Percent-for-Art program, which will henceforth be included in the overall budget for each, thus allowing the UAC to increase or downsize project management staff as the program's annual caseload requires.

SHEA FLINN
MEMPHIS CITY COUNCIL



**Memphis City Council
Summary Sheet
FY2011**

- This Resolution is to establish the Memphis Light Gas and Water Division in-lieu-of-tax payment to the City of Memphis for Fiscal Year 2011.
- Initiating Party: Finance Division
- This Resolution does not make any changes to an existing ordinance or resolution.
- This Resolution does not require a new contract or modification to an existing contract.
- No expenditure of funds is required under this Resolution.

RESOLUTION

WHEREAS, the Legislature of the State of Tennessee has passed the Municipal Electric System Tax Equivalent Act and the Municipal Gas System Tax Equivalent Act, which acts provide a uniform formula throughout the state establishing the maximum in-lieu-of tax payments by a municipal electrical distributor and municipal gas distributor respectively; and

WHEREAS, the formula consists of two parts:

- (1) The equalized tax rates multiplied by the net plant value and book value of material and equipment, multiplied by the assessment ratio in effect at the beginning of the fiscal year, plus,
- (2) Four percent (4%) of the average of revenue less power cost for the preceding three (3) years, and

WHEREAS, estimates of net plant value of the gas and electric divisions and of the average power costs for the preceding three (3) years have been made and the formula has been applied thereto; and

WHEREAS, in keeping with the policy established by the City Council by resolution adopted in May 1978 the in-lieu-of tax payments have been made in two installments to the City Treasurer, an advance payment in April and the balance in November. The advance payment for calendar year 2010 has already been made in compliance with prior resolutions.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Memphis, that the payments by the Memphis Light Gas and Water Division of in-lieu-of tax payments to the City for fiscal year 2011 shall be the amount calculated by the Memphis Light Gas & Water Division under the formula for the Electric Division and for the Gas Division.

BE IT FURTHER RESOLVED, that as soon after June 30, 2010, and at the end of each fiscal year thereafter, the Memphis Light Gas and Water Division shall compute the amount due under the formula established in the above two laws. Payment will be made in two installments to the City Treasurer, an advance payment in April and the balance in November.