

AN ORDINANCE AMENDING TITLE 6, BUSINESS LICENSES AND REGULATION, OF THE MEMPHIS, TENNESSEE, CODE OF ORDINANCES TO ADD CHAPTER 205 PROHIBITING WAGE THEFT, PROVIDING ADMINISTRATIVE PROCEDURES FOR WAGE THEFT, AND ALLOWING SHELBY COUNTY GOVERNMENT TO IMPOSE PENALTIES AGAINST THOSE EMPLOYERS FOUND GUILTY OF WAGE THEFT

WHEREAS, national and local studies report that wage theft is a pervasive problem that disproportionately affects low-wage workers; and

WHEREAS, a 2006 national study of day laborers, that included hundreds of interviews with day laborers in San Francisco, conducted by the University of California, Los Angeles, University of Illinois, and New School University, found that one out of every two day laborers experienced wage theft in the two months prior to be surveyed; and

WHEREAS, the National Employment Law Project (NELP) stated in their recent manual entitled *An Advocate's Guide to State and City Policies to Fight Wage Theft*, "Wage theft is not incidental, aberrant or rare, or committed by a few rogue employers at the periphery of the labor market. It takes place in industries that span the economy including retail, restaurants and grocery stores; caregiver industries such as home health care and domestic work; blue collar industries such as manufacturing, construction and wholesalers; building services such as janitorial and security; and personal services such as dry cleaning and laundry, car washes, and beauty and nail salons;" and

WHEREAS, recent incidents of wage theft in Memphis and Shelby County have highlighted the need for employee protection from employers with unscrupulous business practices; wage theft causes significant harm to our citizens; worker victims of wage theft cannot make ends meet individually or for their families, responsible businesses face unfair competition from employers paying below legal wages, and our government loses significant tax revenue during a time of large annual budget deficits, and

WHEREAS, the City Council and County Commission recognize the need for groundbreaking legislation to improve working standards for low-wage workers; local ordinances can further improve the welfare and treatment of employees in the community; and

WHEREAS, encouraging greater compliance with wage laws benefits all workers by ensuring a level playing field in the labor market and benefits the businesses that already comply with these laws; and

WHEREAS, individuals affected by wage theft are often among the most vulnerable in our community and without access to sufficient resources and time with which to appeal for their unpaid wages; and

WHEREAS, Memphis and Shelby County find it necessary and appropriate to create a stronger disincentive for employers to violate wage and hour laws.

NOW, THEREFORE, BE IT ORDAINED BY THE MEMPHIS CITY COUNCIL, that Title 6, Business Licenses and Regulations, of the Memphis, Tennessee, Code of Ordinances is hereby amended to add the following Chapter:

Chapter 6-105. Wage Theft

Sec. 6-105-1. Definitions

- (a) *Employee* shall mean a natural person who performs work within the geographic boundaries of Memphis and Shelby County, Tennessee while being employed by an employer, but shall not include any bona fide independent contractor.
- (b) *Employer* shall include any person who, acting either individually or as an officer, agent, or employee of another person, acts directly or indirectly in the interest of a person or entity within Memphis and Shelby County, Tennessee but does not include:
- (1) The United States or a corporation wholly owned by the government of the United States;
 - (2) The State of Tennessee;
 - (3) Shelby County; or
 - (4) The City of Memphis.
- (c) The meaning of *employ*, including as used in the term employment, shall include to suffer or permit to work.
- (d) *Independent contractor* shall have the same meaning as defined in the Internal Revenue Code and implementing federal law.
- (e) *Wage rate* shall mean any form of monetary compensation which the employee agreed to accept in exchange for performing work for the employer, whether daily or hourly but in all cases shall be equal to no less than the highest applicable rate established by operation of any federal, state or local law.
- (f) *Reasonable time* shall be presumed to be no later than 14 calendar days from the date on which the work is performed but may be modified for a period not to exceed 30 days by an express agreement between the employer and the employee which has been reduced to writing and signed by the employee.
- (g) *Threshold amount* shall mean one hundred dollars (\$100).

Sec. 6-105-2. Wage Theft Violations

- (a) **Wage Theft Defined.** Wage theft occurs when employers do not pay workers the wages to which the workers are legally entitled, either by agreement or under applicable law. It includes but is not limited to failing to timely pay a worker at all; failure to pay the agreed upon amount; failure to pay the minimum required by applicable law; requiring the worker to work "off the clock," or to pay back to the employer all or part of the wages provided; disallowing break times required by law; or failure to pay overtime as required by law.
- (b) **Actions Prohibited.** It shall be a violation of this ordinance to commit wage theft. It shall also be a violation of this ordinance to retaliate against an employee for reporting or complaining about wage theft by deliberately taking or threatening direct or indirect adverse employment action against such employee or immediate relative of such employee.

Sec. 6-105-3. Procedures For Wage Theft Complaint

(a) **Generally.** Any person or organization may file a written, signed complaint with the Administrator of the Shelby County Office of Equal Opportunity Compliance ("EOC Administrator"). Such complaint must allege a wage theft violation in excess of the threshold amount. The EOC Administrator may establish detailed procedures for filing and processing complaints, consistent with the terms of this ordinance.

(b) **Timing.** Such complaint must be filed no later than 1 year after the last date upon which the employee performed the relevant work for the employer.

(c) **Sufficiency of Complaint.** The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent or respondents and for the EOC Administrator to determine both that an allegation of wage theft has been made and that the threshold amount has been met.

(d) **Jurisdictional Screening.** Upon the filing of any complaint, the EOC Administrator shall promptly determine whether the wage theft complaint alleges wage theft, names a proper respondent, and meets the threshold amount criterion. If the complaint fails to meet these jurisdictional criteria, the EOC Administrator may dismiss the complaint. If the complaint meets these jurisdictional criteria, the EOC Administrator shall serve written notice on the complainant and respondent, setting forth the allegations, rights and obligations of the parties. The EOC Administrator shall either dismiss or serve notice pursuant to this paragraph within 15 days of receipt of the complaint.

(e) **Conciliation.** The EOC Administrator shall wherever practicable attempt conciliation of the matter by contacting the respondent and offering to mediate the dispute. Absent extraordinary circumstances, the conciliation process shall take place and conclude either successfully or unsuccessfully within 60 days of the filing of the complaint. A successful mediation should result in a written agreement between the parties which would be enforceable in court. Failure to abide by a settlement agreement shall be an independent violation of this Ordinance.

(f) **Citation.** If mediation is unsuccessful, the EOC Administrator shall investigate the complaint and make a determination of cause. If the EOC Administrator determines the complaint is without cause, he shall so notify the parties. If the EOC Administrator determines the complaint is with cause, he shall issue a citation to the respondent citing the respondent to appear in Division XIV of the General Sessions Court of Shelby County ("Court"). The EOC Administrator shall make such a determination within 90 days of the filing of the complaint. If the parties thereafter notify the EOC Administrator that they have reached a successful settlement of the dispute, the EOC Administrator may in his discretion so notify the court and request dismissal. No statement made in the course of mediation may be used by the parties thereafter in court against the party making the statement.

(g) **Remedies.** The Court shall make necessary findings regarding the ordinance violation. Violations of any provisions of this article shall constitute an offense punishable by a fine of \$50.00 for each violation. Each day for which work was performed but full payment not timely rendered shall constitute a separate violation. Fines shall be capped at an amount equal to three times the amount of wages owed. The Court may further order appropriate remedies at its discretion. Remedies may

include an order of restitution for the amount owed; reasonable interest accrued on said amount; appropriate injunctive relief; and reasonable costs and fees.

Sec. 106-5-4. Termination of Administrative Review

(a) if during the pendency of a wage theft violation complaint a claimant employee, or the State of federal Department of Labor on behalf of the claimant employee, brings a private action, whether under state law, federal law, or both, in any state or federal court to seek unpaid wages based upon the same facts and allegations as the claimant employee's complaint to the County, or the claimant employee affirmatively or by consent opts to participate in any such litigation, that claimant employee's complaint of wage theft shall be deemed withdrawn with respect to any respondent employer named as a defendant in such court action. This section shall be interpreted narrowly so as to leave unaffected any cumulative rights which were not the subject of a claimant employee's complaint. The County shall so notify the parties.

(b) **Cumulative Rights Preserved.** Nothing in this article shall be construed to limit, preclude or in any way abrogate the cumulative rights or remedies available to employees at common law or by other statute which were not the subject of a claimant employee's complaint or the County's enforcement actions.

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 BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of after it is 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.

MYRON LOWERY
Council Member

BILL MORRISON
Council Chairman

Attest:
Patrice Thomas, Comptroller



Memphis City Council Summary Sheet

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

The item presents the Memphis and Shelby County joint legislative agenda for Council approval.

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

Executive Division.

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

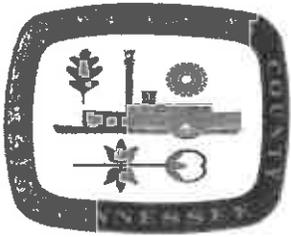
This is a new ordinance adopting a new legislative agenda for 2013.

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

N/A

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

This requires the expenditure of previously appropriated lobbying fees.



A Resolution Adopting the 2013 Joint Memphis and Shelby County State Legislative Agenda

WHEREAS, Memphis and Shelby County rely heavily on the support of state government to provide essential services to our citizens, and

WHEREAS, Both City and County governments have limited powers granted the state Constitution and must seek the concurrence of the legislature to enact new laws; and

WHEREAS, History has shown that when the City and the County work jointly to request the support of the Governor and the legislature that requests are more often granted; and

WHEREAS, A joint agenda has been vetted through a rigorous process of the Memphis Fast Forward steering committee and ultimately agreed on by both the Memphis Mayor and the Shelby County Mayor;

NOW, THEREFORE, BE IT RESOLVED *that the Memphis City Council adopts the Memphis and Shelby County joint legislative agenda.*

2013 Memphis & Shelby County Joint Legislative Agenda

Joint Legislation

Educate and Employ Act increases college attainment levels with employer-paid college tuition program incentives. The specific incentives have yet to be determined. Increasing the percentage of people with a college degree is critical for individuals and businesses in Shelby County and across Tennessee. Memphis/Shelby County ranks 48 out of 51 in college attainment when compared to other major metropolitan areas, a significant limitation when trying to attract new industry. **[Originator: PeopleFirst]**

DNA Exception to Statute of Limitations establishes a 1-year statute of limitations (SOL) for certain felony sexual offenses that begins to run on the date the accused is identified through DNA analysis -- Research shows that 71% of rapists are repeat offenders. The SOL is 15 years for aggravated rape, 8 years for rape, and 25 years from the time a minor turns 18 for rape of a child and aggravated rape of a child. The ability of a stranger-rapist to avoid discovery during the SOL should not shield him/her from prosecution. *The Tennessee Supreme Court has stated that only the Legislature can create an exception to the SOL where the defendant is identified only by a DNA profile, most recently in the 2011 decision against Robert Burdick (a/k/a the Wooded Rapist).* **[Originator: Shelby County]**

Illegal Dumping creates a felony classification for illegal dumping of waste based on weight/volume -- Aggravated criminal dumping is a Class A misdemeanor and the monetary penalty is based on the decrease in property value, but should be changed to actual cost of cleanup, which is much higher. **[Originator: State Attorney General]**

Joint Budget Requests

Pre-K Expansion would incrementally increase pre-K funding. High quality pre-K is a proven investment for increasing school readiness because significant cognitive development occurs before age three. Every \$1 invested in quality pre-K generates at least \$7 in return in the form of increased individual earnings and tax revenue, decreased need for social services, and decreased costs for criminal justice services. This item was ranked the community's top priority by the Memphis Fast Forward Steering Committee. **[Originator: PeopleFirst]**

Infant Mortality Reduction Programs establishes \$800K recurring funding for infant mortality reduction programs -- Shelby County's infant mortality rate is the highest in Tennessee and one of the highest in the U.S. The community's focused efforts are beginning to take effect. In 2006, the overall rate was 13.8 deaths per thousand babies, 19.0 among African-Americans. The State began funding in 2007 and, in 2010, the rates were significantly lowered, 10.3 overall population and 13.4 among African-Americans. Among participants, 76% of enrolled women delivered babies at full term and 93% delivered children at or above established birth weight norms. **[Originator: Healthy Shelby]**

Joint Items of Support

Healthy Start Programs would maintain funding of \$3.6M to Healthy Start Programs across Tennessee that provide home visits to high-risk families to improve parenting skills, ensure up-to-date immunization of children, support healthy birth outcomes, and provide screenings to identify children with potential developmental problems. **[Originator: PeopleFirst]**

Minority Business Bond Fund establishes a \$5M bond fund for minority contractors. Minority business development must be a priority in Shelby County. Up to 10 contractors could receive up to \$500K towards bonding insurance for a single project and, thereby, create 100 new jobs, if each contractor hires 10 employees, and increase skills within minority populations. **[Originator: Growth Alliance]**

Drug Court Funding maintains funding of \$550K -- The Drug Court provides non-violent offenders with the option of supervised drug treatment, which reduces repeat offenses and saves incarceration costs. Less than 27% of program graduates were rearrested in 2010 and less than 20% in 2011. Efforts have increased to provide treatment to non-violent felons with serious addiction issues (92 of 170 total clients served from January through August 2012). **[Originator: Operation: Safe Community]**

Family Safety Center Funding would maintain funding of \$78.5K -- The Family Safety Center provides one location for victims to receive civil, criminal, health, and social services. In Memphis, 1 in 4 women has been the victim of domestic violence and 56% of all violent crime in Memphis is a domestic crime. Domestic violence-related injuries result in Tennessee companies losing at least \$10M a year in paid lost work time and more than \$15M in annual healthcare costs. **[Originator: Operation: Safe Community]**

Recidivism Reduction (Re-Entry) Funding maintains funding of \$110K. The Office of Offender Re-Entry provides offenders with intensive, centralized planning and a structured release process that will enable them to address employment, education, transportation, benefits, healthcare, family reunification, and housing. The program can serve 200 offenders per year; 160 males and 40 females. **[Originator: Operation: Safe Community]**

Nuisance Law Strengthened for Gang Activity prohibits gang members from congregating in gang zones -- [copy of bill pending]. **[Originator: Operation: Safe Community]**

Fresh Food Financing Initiative creates \$10M statewide initiative to encourage grocery store development in underserved areas -- Memphis is ranked No. 4 in the U.S. for urban food deserts; districts with little or no access to affordable, nutritious fruits and vegetables. People living in food deserts tend to have high rates of obesity, high blood pressure, diabetes, high cholesterol, and heart disease. A Pennsylvania fresh food markets initiative created jobs, increased local tax revenues, improved local economies, and revitalized housing markets. **[Originator: Healthy Shelby]**

Memphis City Council Resolution

WHEREAS, the Memphis City Council has the authority to sell city-owned property for one dollar to non-profit when they deem appropriate; and

WHEREAS, there are many blighted properties across the city that are privately-owned or city-owned that have become a burden on the budget of the City of Memphis; and

WHEREAS, one such property is located at 4122 Barton which is the former Whitehaven Library which has fallen into significant disrepair and is an eyesore within the heart of the Whitehaven community; and

WHEREAS, The Alpha Memphis Education Foundation Inc. desires to purchase the building for a dollar (\$1) and renovate for community outreach; and

WHEREAS, the City of Memphis and the State of Tennessee is investing millions of dollars in the Elvis Presley Boulevard Improvement Project and this property is a block away from the intersection of Elvis Presley and Raines and its renovation and repurposing will help in the revitalization of this area; and

Whereas, the Alpha Memphis Education Foundation, Inc. has demonstrated the financial ability to proceed with the renovation and begin the much needed work to bring the property up to code.

NOW, THEREFORE, BE IT RESOLVED THAT THE MEMPHIS CITY COUNCIL authorizes the sale of city-owned property located at 4122 Barton to Alpha Memphis Education Foundation, Inc. for the amount of one dollar (\$1).

BE IT FURTHER RESOLVED THAT THE MEMPHIS CITY COUNCIL requests an update from the Alpha Memphis Education Foundation on the progress of the renovation six months after the sale is final.

Edmund H. Ford, Jr. Ed.D



Memphis City Council Summary Sheet

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

The Resolution authorizes the Mayor to enter into an Interlocal Agreement with the Shelby County Trustee for the collection of current and delinquent ad valorem taxes owed to the City of Memphis.

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

Finance Division and City Attorney

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

This resolutions does not change or alter any other ordinance or resolution.

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

Approval of the Resolution will require execution of a new contract.

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

The approval and execution of this contract will require an expenditure of funds in the amount of \$1.25 million which shall be paid for out of funds from the general operating budget.



Resolution authorizing the execution of an Interlocal Agreement between the City of Memphis and Shelby County Office of Trustee for the collection of current and delinquent ad valorem taxes.

WHEREAS, the City Treasurer is authorized by the Memphis Charter and City Code of Ordinances to function as the collector of current and delinquent ad valorem taxes for the City; and

WHEREAS, the City Attorney is authorized in accordance with applicable state law and pursuant to the Memphis Charter and Code of Ordinances to perform the duties of delinquent tax attorney; and

WHEREAS, the Shelby County Trustee ("County Trustee") is authorized by state law to perform ad valorem tax collection activities for Shelby County and for any municipalities in Shelby County which do not pursue the collection of their own taxes or who enter into any agreement with the County Trustee to collect their ad valorem taxes ; and

WHEREAS, pursuant to the provisions of Tenn. Code Ann. §12-9-101 et seq. and, more specifically, §12-9-104, any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action; and

WHEREAS, the City administration has determined it to be in the best interest of the City that the Parties enter into an Interlocal Agreement for the purpose of authorizing the County Trustee to assist the City Treasurer and City Attorney with the collection of current and delinquent ad valorem taxes; and

WHEREAS, the County Trustee has expressed a willingness and desire to engage in such cooperative action and the Parties desire to enter into an Interlocal Agreement which shall govern the provision of services to be rendered by the Trustee.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Memphis that the Mayor is authorized to enter into an Interlocal Agreement with the County Trustee for the purpose of collecting current and delinquent property taxes on behalf of the City of Memphis. .

BE IT FURTHER RESOLVED, That a final draft of such Interlocal Agreement shall be submitted for the review and approval of the Council prior to the Mayor's execution thereof.



Memphis City Council Summary Sheet

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

This is a resolution to accept grant funds from the State of Tennessee in the amount of \$15,000.00 to include training for law enforcement activities aimed to reduce speeding, aggressive driving, driving under the influence and non-seat belt usage for children and passengers, as well as, activities to promote high visibility highway safety campaigns; provide training to increase skills and knowledge including but not limited to: At-Scene Traffic Crash Investigation, SFST, Traffic Stops, Radar Training, Officer Spanish Communication; education and networking opportunities for law enforcement officials and other community stakeholders.

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

The City of Memphis Division of Police Services is awarded this grant from the State of Tennessee and serves as the fiscal agent for the award.

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

This item does not change an existing ordinance or resolution.

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

This is a new sub-grant award pending Council approval.

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

Acceptance will require an amendment to the FY 2013 Operating Budget to appropriate the funds.



A resolution to accept and appropriate Governor's Highway Safety Office (GHSO) – Network Coordinator grant funds from the Tennessee Department of Transportation for overtime, travel and equipment.

WHEREAS, The City of Memphis Division of Police Services has been awarded grant funds in the amount of Fifteen Thousand Dollars and No Cents (\$15,000.00) from the GHSO of the State of Tennessee Department of Transportation; and

WHEREAS, these funds will be used for overtime, conference travel and equipment; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2013 Operating Budget to establish funds for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Network Coordinator Grant; and

WHEREAS, it is necessary to appropriate Fifteen Thousand Dollars and No Cents (\$15,000.00) for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Network Coordinator Grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Network Coordinator Grant funds in the amount of Fifteen Thousand Dollars and No Cents (\$15,000.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the FY 2013 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Network Coordinator Grant as follows:

REVENUE

State of Tennessee – Governor's Highway Safety Office	<u>\$15,000.00</u>
Total	\$15,000.00

EXPENDITURES

Full-Time Salaries	\$ 9,860.98
Seminars/Training/Education	\$ 1,939.02
Equipment	<u>\$ 3,200.00</u>
Total	\$15,000.00



Memphis City Council Summary Sheet

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

This is a resolution to accept grant funds from the State of Tennessee in the amount of \$107,029.42 to include training for prosecutors and law enforcement officials in driving under the influence (DUI) prosecution techniques and reporting; law enforcement activities to decrease the number of DUI crashes; DUI toxicology testing and training to reduce the backload of pending DUI cases, youth alcohol programs designed to prevent the purchase and use of alcohol and DUI related crashes; programs to reduce DUI repeat offender behavior; designated driver programs; and programs to improve prosecution and reduce the backload of DUI cases pending in courts.

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

The City of Memphis Division of Police Services is awarded this grant from the State of Tennessee and serves as the fiscal agent for the award.

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

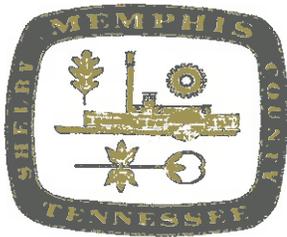
This item does not change an existing ordinance or resolution.

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

This is a new sub-grant award pending Council approval.

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

Acceptance will require an amendment to the FY 2013 Operating Budget to appropriate the funds.



A resolution to accept and appropriate Governor's Highway Safety Office (GHSO) – Comprehensive Alcohol Risk Reduction (C.A.R.D.) funds from the Tennessee Department of Transportation for overtime.

WHEREAS, The City of Memphis Division of Police Services has been awarded grant funds in the amount of One Hundred Seven Thousand and Twenty Nine Dollars and Forty Two Cents (\$107,029.42) from the GHSO of the State of Tennessee Department of Transportation; and

WHEREAS, these funds will be used for the purpose of providing overtime funding for full-time salaries; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2013 Operating Budget to establish funds for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Comprehensive Alcohol Risk Reduction (C.A.R.D.); and

WHEREAS, it is necessary to appropriate One Hundred Seven Thousand and Twenty Nine Dollars and Forty Two Cents (\$107,029.42) for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Comprehensive Alcohol Risk Reduction (C.A.R.D.).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Comprehensive Alcohol Risk Reduction (C.A.R.D.) funds in the amount of One Hundred Seven Thousand and Twenty Nine Dollars and Forty Two Cents (\$107,029.42) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the FY 2013 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Comprehensive Alcohol Risk Reduction (C.A.R.D.) as follows:

REVENUE

State of Tennessee – Governor's Highway Safety Office	<u>\$107,029.42</u>
Total	\$107,029.42

EXPENDITURE

Full-Time Salaries	<u>\$107,029.42</u>
Total	\$107,029.42



Memphis City Council Summary Sheet

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

This is a resolution to accept grant funds from the State of Tennessee in the amount of \$398,472.98 to include training for prosecutors and law enforcement officials in driving under the influence (DUI) prosecution techniques and reporting; law enforcement activities to decrease the number of DUI crashes; DUI toxicology testing and training to reduce the backload of pending DUI cases, youth alcohol programs designed to prevent the purchase and use of alcohol and DUI related crashes; programs to reduce DUI repeat offender behavior; designated driver programs; and programs to improve prosecution and reduce the backload of DUI cases pending in courts.

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

The City of Memphis Division of Police Services is awarded this grant from the State of Tennessee and serves as the fiscal agent for the award.

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

This item does not change an existing ordinance or resolution.

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

This is a new sub-grant award pending Council approval.

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

Acceptance will require an amendment to the FY 2013 Operating Budget to appropriate the funds.



A resolution to accept and appropriate Governor's Highway Safety Office (GHSO) – Alcohol Saturation Patrols funds from the Tennessee Department of Transportation for overtime, supplies, training and equipment.

WHEREAS, The City of Memphis Division of Police Services has been awarded grant funds in the amount of Three Hundred Ninety Eight Thousand and Four Hundred Seventy Two Dollars and Ninety Eight Cents (\$398,472.98) from the GHSO of the State of Tennessee Department of Transportation; and

WHEREAS, these funds will be used for overtime, supplies, conference training and equipment; and

WHEREAS, it is necessary to accept the grant funding and amend the FY 2013 Operating Budget to establish funds for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Alcohol Saturation Patrols; and

WHEREAS, it is necessary to appropriate Three Hundred Ninety Eight Thousand and Four Hundred Seventy Two Dollars and Ninety Eight Cents (\$398,472.98) for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Alcohol Saturation Patrols.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Alcohol Saturation Patrols funds in the amount of Three Hundred Ninety Eight Thousand and Four Hundred Seventy Two Dollars and Ninety Eight Cents (\$398,472.98) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the FY 2013 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the FY 2013 Governor's Highway Safety Office (GHSO) Grant Project – Alcohol Saturation Patrols as follows:

REVENUE

State of Tennessee – Governor's Highway Safety Office	<u>\$398,472.98</u>
Total	\$398,472.98

EXPENDITURE

Full-Time Salaries	\$344,924.15
Supplies	\$ 5,267.50
Seminars/Training/Education	\$ 5,000.00
Equipment	<u>\$ 43,281.33</u>
Total	\$398,472.98

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 7 – ALCOHOLIC BEVERAGES, CHAPTER 7-8. – BEER AND LIGHT ALCOHOLIC BEVERAGES, ARTICLE 2. – LICENSE TO STORE, SELL, DISTRIBUTE OR MANUFACTURE, OF THE CODE OF ORDINANCES, CITY OF MEMPHIS SO AS TO CREATE A CATERER’S PERMIT

WHEREAS, the City of Memphis strives to be a city of choice in which to live and operate a business; the City attempts to implement laws and policies that encourage commerce and allow businesses the flexibility to provide excellent goods and services to their customers without impediment; and

WHEREAS, the current Code of Ordinances requires licensed caterers to obtain a special event beer permit for each function it caters; and

WHEREAS, the Tennessee Code Annotated permits and other cities in Tennessee allow issuance of a beer permit to licensed caterers which allows them to sell beer at all of their catered functions; and

WHEREAS, Memphis catering companies should enjoy the same privilege of applying and paying permit fees only once each year; which cuts down on bureaucracy and allows these local, usually small businesses to focus on providing great service to their customers.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That the current Title 7 – Alcoholic Beverages, Chapter 7-8. – Beer And Light Alcoholic Beverages, Article 2. – License to Store, Sell, Distribute or Manufacture, of the Code of Ordinances, City of Memphis, is hereby amended to add Sec. 7-8-25. – Caterer’s permit, which read as follows:

Sec. 7-8-25. – Caterer’s permit.

In addition to the other requirements of this chapter:

A. No caterer's permit shall be issued to a person who does not hold a valid caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4 of Title 57 of the Tennessee Code Annotated (T.C.A. § 57-4-101 et seq.). Should the holder of a caterer's permit cease to hold a valid caterer license from the state alcoholic beverage commission, such caterer's permit shall be automatically deemed revoked by the board.

B. No caterer's permit shall be issued to a person who does not hold a valid retailer's license to sell for consumption on the premises for its permanent catering hall issued pursuant to the provisions and requirements of this chapter, including the location restrictions specified in Section 7-8-11. – General restrictions on issuance.

C. All caterer’s permit holders shall be required to give advanced written notice to the beer board office via email, facsimile, or U.S. mail, not later than one business day prior to each event for which

beer will be sold and consumed. Such notice shall include, but not be limited to, the date, time, and location of the event.

D. No caterer's permit shall be valid for the sale and consumption of beer on any premises for which a permit has been revoked within the past twelve-month period, nor shall a caterer's permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent ownership interest in the establishment that has had a permit revoked within the past twelve-month period.

E. No caterer's permit shall be valid for the sale and consumption of beer on any premises within two hundred and fifty (250) feet from a church or a school or its playground, unless the catered event is sponsored and held by the church or private school for the benefit of said church or school.

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.

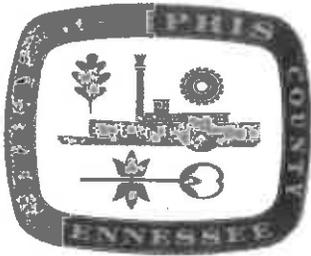
SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

SHEA FLINN
Council Member

BILL MORRISON
Council Chairman

Attest:

Patrice Thomas, Comptroller



Memphis City Council Summary Sheet

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

This item is a Resolution approving an amendment of an agricultural lease agreement with Ensley Bottoms Farm, LLC for approximately 57 acres of land adjacent to the Pidgeon Industrial, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on October 17, 2012.

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

Memphis and Shelby County Port Commission

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

This is not a change to an existing ordinance or resolution.

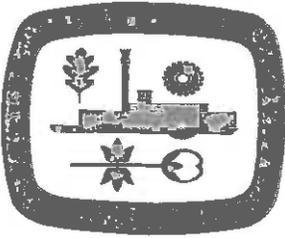
4. State whether this requires a new contract, or amends an existing contract, if applicable.

This amends the lease agreement dated January 28, 2003 by converting the option to renew for five (5) additional years on the same terms to a series of five (5) one (1) year options on the same terms.

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

This does not require expenditure of funds nor a budget amendment.

City Council Resolution Template – 8-28-12



A Resolution to Approve Amendment to Agricultural Lease Agreement with Ensley Bottoms Farm, LLC, as Approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on October 17, 2012.

WHEREAS, Ensley Bottoms Farm, LLC (“Lessee”) leases from the Memphis and Shelby County Port Commission certain agricultural property located in Pidgeon Industrial Park, by virtue of a lease dated January 28, 2003. Such Lease expires on October 31, 2012 and provides that Lessee has an option to renew for five (5) additional years on the same terms; and

WHEREAS, Lessee has requested that such five (5) year renewal option be converted to a series of five (5), one (1) year options; and

WHEREAS, such proposed amendment is in the best interest of the Memphis and Shelby County Port Commission as well as the City of Memphis and County of Shelby as it promotes the continued leasing of such property by Lessee and the payment of rental therefor.

NOW, THEREFORE, BE IT RESOLVED by the City of Memphis, on recommendation of the Memphis and Shelby County Port Commission, that the proposed Amendment to Agricultural Lease Agreement with Ensley Bottoms Farm, LLC be approved.

BE IT FURTHER RESOLVED, By the Council of the City of Memphis that the appropriate officials of the City of Memphis be hereby authorized to execute same.

BE IT FURTHER RESOLVED, That this action is subject to concurrence by Shelby County.

PORT COMMISSION RESOLUTION

WHEREAS, Ensley Bottoms Farm, LLC (“Lessee”) leases from the Memphis and Shelby County Port Commission certain agricultural property located in Pidgeon Industrial Park, by virtue of a lease dated January 28, 2003. Such Lease expires on October 31, 2012 and provides that Lessee has an option to renew for five (5) additional years on the same terms; and

WHEREAS, Lessee has requested that such five (5) year renewal option be converted to a series of five (5), one (1) year options; and

WHEREAS, such proposed amendment is in the best interest of the Memphis and Shelby County Port Commission as well as the City of Memphis and County of Shelby as it promotes the continued leasing of such property by Lessee and the payment of rental therefor.

NOW, THEREFORE, BE IT RESOLVED by the Memphis and Shelby County Port Commission that the proposed Amendment to Agricultural Lease Agreement with Ensley Bottoms Farm, LLC be approved. The appropriate officials are authorized to execute same.

BE IT FURTHER RESOLVED that the City of Memphis and County of Shelby are respectfully requested to approve said Contract.

I hereby certify that the foregoing is a true copy and said document was adopted/granted by the Memphis and Shelby County Port Commission on the 17th day of October, 2012.


Secretary/Treasurer

Memphis City Council Summary Sheet Template 8-28-12**Memphis City Council Summary Sheet**

- 1. Description of the Item (Resolution, Ordinance, etc.)**
Resolution to appropriate \$70,000 in GO Bond funds for the purchase of two video edit systems for the Memphis Public Library and Information Center's Television Station, WYPL TV-18.

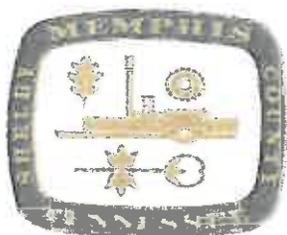
- 2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**
Division of Parks and Neighborhoods: Memphis Public Library and Information Center

- 3. State whether this is a change to an existing ordinance or resolution, if applicable.**
N/A

- 4. State whether this requires a new contract, or amends an existing contract, if applicable.**
N/A.

- 5. State whether this requires an expenditure of funds/requires a budget amendment.**
Resolution requests appropriation of \$70,000 in GO bond funding for the purchase of two video edit systems as were included the FY13 capital budget process.

City Council Resolution Template – 8-28-12



**Resolution to appropriate GO Bond funds for
the purchase of two video edit systems for the Memphis
Public Library and Information Center's Television Station
WYPL**

WHEREAS, the Memphis Public Library and Information Center provides a wide range of services to its nearly 3 million customers at 18 branches throughout Memphis and Shelby County; and

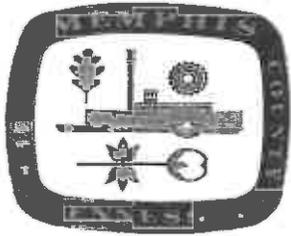
WHEREAS, the Memphis Public Library also provides a public education channel on television 24 hours/day, 7 days a week called WYPL (W Your Public Library) TV-18; and

WHEREAS, WYPL and the Memphis Public Library produce 40 unique shows per month highlighting civic and community services, programs hosted by elected officials such as the Memphis City Council, Mayor, and others;

WHEREAS, WYPL's current video edit equipment is broken, unable to be fixed, and/or inefficient thus severely hindering its ability to produce and edit information for the viewing public in a timely manner; and

WHEREAS, the Memphis City Council allocated \$70,000 in GO Bond funding for replacement of two video edit systems in the FY13 Capital Budget, Project PK12009; and

NOW, THEREFORE, BE IT RESOLVED by this Council that the City of Memphis hereby appropriates \$70,000 from GO Bond funding for the replacement of two video edit systems for WYPL TV-18 at the Memphis Public Library.



Resolution to approve the Rules and Regulations of the Memphis Transportation Commission

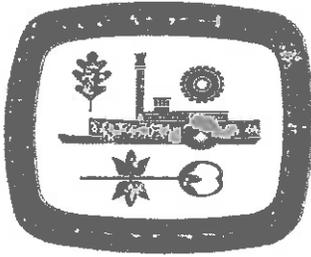
WHEREAS, Section 39-244 of the City of Memphis, Code of Ordinances authorizes the Memphis Transportation Commission (hereinafter "Commission") to make such rules and regulations as may be necessary and proper for the performance of its duties, subject to the approval of the Memphis City Council; and

WHEREAS, the Commission has devised the proposed rules and regulations attached hereto and dated October 4, 2012 for the review and approval of the Council;

BE IT FURTHER RESOLVED, that the rules and regulations promulgated by the Memphis Transportation Commission are hereby adopted.

BE IT FURTHER RESOLVED, that the Commission may administratively modify such rules and regulations as are deemed necessary without further Council approval.

Memphis City Council Summary Sheet Template 8-28-12



Memphis City Council Summary Sheet

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

The resolution approves the rules and regulations of the Memphis Transportation Commission.

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

Both the adoption of rules and regulations by the Memphis Transportation Commission and subsequent approval by the City Council are required by Ordinance Sec. 39-244.

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

This resolutions does not change or alter any other ordinance or resolution.

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

Not applicable.

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

All expenses of the Transportation Commission shall be paid from the general fund and included in the expenses of the Permits Office. This resolution does not require a budget amendment.

ORDINANCE NO. 5473

**AN ORDINANCE TO AMEND CABLE FRANCHISE
ORDINANCE NO. 5331 TO BE CONSISTENT WITH COUNCIL'S AUTHORITY AND
INTENT**

WHEREAS, City Ordinance No. 5331, extended the franchise of Comcast of Arkansas / Florida / Louisiana / Minnesota / Mississippi / Tennessee, Inc., a wholly-owned subsidiary of Comcast Corporation and authorized the execution of a franchise agreement consistent with the Ordinance; and

WHEREAS, the Council, unequivocally provided in Section 15 of the Ordinance and informed the Grantee that it did not have the power under the City's Charter to dictate the terms upon which Grantee could use the property of any of its affiliated entities, particularly MLGW and MATA;

WHEREAS, the Council does not have the authority under its charter to contract for and on behalf of MLGW;

WHEREAS, Sections 666 and 677 of the City's Charter gives Board of Commissioners of MLGW the power and authority to construct, purchase, improve, operate and maintain transmission lines, distribution lines, wires and poles;

WHEREAS, MLGW has constructed, purchased, improved, operated and maintained transmission lines, distribution lines, wires and poles with its revenues and with proceeds of revenue bonds issued by the City and secured by the revenues of MLGW's system and the City has agreed with the holders of its bonds that such properties would be under the management and control of MLGW;

WHEREAS, the Council expressly provided in the Comcast franchise ordinance that the ordinance was limited solely to allowing Grantee the use of the City's easement, streets and rights of way and did not entitle Grantee to any other rights, privileges or property rights of the City or City affiliated governmental entities, including MLGW and MATA and that Grantee must enter into separate agreements with such entities to use the facilities of such affiliated entities;

WHEREAS, notwithstanding the clear expression of intent in Section 15 of the ordinance, the ordinance contained language in which the Council extended the term of the Grantee's expired contract with MLGW and mandated other terms and conditions for Grantees' use of MLGW poles;

WHEREAS, it was not the intent of the Council to either extend the contracts with , or mandate any terms for Grantee's use of the facilities of affiliated entities, such as MLGW and MATA, since the Council had no authority to extend contracts between Grantee and MLGW or MATA or to prescribe contract terms for those entities;

WHEREAS, Grantee and MLGW have not reached any agreement regarding Grantee's use of MLGW's poles and to the extent that the City has directed MLGW to contract with Grantee in any particular manner regarding its poles in the Ordinance, the Council desires to rescind and eliminate such direction and obligation from the Ordinance *nunc pro tunc* to August 10, 2010 or at a minimum from the date of this Ordinance whichever first occurs.

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

SECTION 1. That Ordinance 5331 is hereby amended as follows:

The last sentence in Section 8. A. is deleted in its entirety.

Appendix A is hereby deleted in its entirety.

SECTION 2. Any direction by the Council for MLGW to contract with Grantee in any particular manner regarding its poles in the Ordinance or otherwise, is hereby rescinded and MLGW is under no further obligation or requirement to license the use of its poles to Grantee or any other private entity *nunc pro tunc* to August 10, 2010 or from the date of this Ordinance, whichever first occurs.

BILL MORRISON
Chairman of Council

Attest:
Patrice Thomas, Comptroller