AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) SO AS TO PROVIDE FOR THE APPROVAL OF CONTRACTS BY THE CITY COUNCIL AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 4, 2008

WHEREAS, the Council has the authority to appropriate funds, set the budget, and approve projects to implement the budget and its policies; and

WHEREAS, the Charter of the City of Memphis provides that the Mayor shall be responsible to the Council for carrying out policies adopted by the Council; and

WHEREAS, the Council has approved certain programs and projects requiring large expenditures and appropriated the funds, but has not approved the contracts to expend said fund; and

WHEREAS, the Council believes the enactment of a provision for approval of contracts similar to the approval procedure by the Shelby County Government is appropriate; and

WHEREAS, the Council desires to clarify the procedures to award contracts by the City of Memphis in that it is provided in the Home Rule Amendment establishing the Mayor-Council form of government that the power to contract shall remain with the Mayor. However, all contracts requiring disbursement of funds shall be limited to that provided in the appropriate budget enacted by the Council. In the event an expenditure of extraordinary nature and not provided for shall appear to be reasonable, a request may be submitted to the Mayor and thereby approved or rejected by the Council.

Section 1.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that the present Charter of said City consisting of the provisions of the Act of the State of Tennessee for the year 1879, Chapter 11, as amended, and pursuant to Article 11, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment) the following proposal shall be published and submitted by the City of Memphis to its qualified voters at the first general state election, which shall be held in the City of Memphis on November 4, 2008, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall the Home Rule Charter of the City of Memphis, Tennessee, be amended by adding the following provisions to read as follows:

Section 1. The Mayor shall have the power and authority to enter into contracts on behalf of the City of Memphis. All contracts requiring the disbursement of funds shall be limited in an amount not in excess of that provided in the appropriate budget, either operations or capital fund. No contract on behalf of the City of Memphis shall be entered into in an amount over $100,000 (or such higher or lower amount as determined by the City Council by ordinance) or extends beyond 24 months without the consent and approval of the City Council. In the event an expenditure of extraordinary nature and not provided for shall appear to be reasonable and in the public interest, a request may be submitted by the Mayor and thereafter approved or rejected by the Council.

Section 2. The City Council by ordinance may establish a higher or lower monetary limit and provide all contracts up to said monetary limit may be entered into by the Mayor or Purchasing Agent without any necessity of approval by the City Council, subject to budgetary limitations.

Section 3. No sale or lease of real property of the City or any interest therein shall be valid unless approved by the City Council.

Section 4. Contracts for professional services such as engineers, architects, auditors, attorneys, consultants or similar professional services to the City of Memphis need not be based upon competitive bids, but may be awarded on the basis of a recognized competency and integrity at customary rates of compensation. The contracts shall be executed by the Mayor with the consent and approval of the City Council.

Section 5. If the City Council resolution directs the execution of a contract to carry out its policies and the Mayor refuses to enter into a contract, the contract shall be valid if signed by the Chairman of the Council and approved by the City Council.

Section 6. Nothing herein shall prohibit within the monetary limits set forth herein the execution of purchase orders and contracts as provided in Charter Section 51.

Section 2. Publication of Home Rule Amendment.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause the proposal (Ordinance) to be published pursuant to provisions of Article 11, Section 9 of the Constitution of the State of Tennessee.

Section 3. Delivery to Election Commission.

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis, shall certify the adoption of this Ordinance to the Shelby County Election Commission in charge of holding the general state election on November 4, 2008, and request that this proposed amendment to the Home Rule Charter of the City of Memphis be placed on the ballot.

Section 4. Proposal and preference.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to deliver a copy of this ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 4th day of November, 2008.

REFERENDUM ON HOME RULE AMENDMENT TO THE CHARTER OF THE CITY OF MEPHIS TO PROVIDE FOR THE APPROVAL OF CONTRACTS BY THE CITY COUNCIL

Said ordinance of the City of Memphis was adopted on the 19th day of August, 2008, to provide for referendum vote on a Home Rule Amendment to the Charter of the City of Memphis, to read as follows:

Section 1. The Mayor shall have the power and authority to enter into contracts on behalf of the City of Memphis. All contracts requiring the disbursement of funds shall be limited in an amount not in excess of that provided in the appropriate budget, either operations or capital fund. No contract on behalf of the City of Memphis shall be entered into in an amount over $100,000 (or such higher or lower amount as determined by the City Council by ordinance) or extends beyond 24 months without the consent and approval of the City Council. In the event an expenditure of extraordinary nature and not provided for shall appear to be reasonable and in the public interest, a request may be submitted by the Mayor and thereafter approved or rejected by the Council.

Section 2. The City Council by ordinance my establish a higher or lower monetary limit and provide that all contracts up to said monetary limit may be entered into by the Mayor or Purchasing Agent without any necessity of approval by the City Council, subject to budgetary limitations.

Section 3. No sale or lease of real property of the City or any interest therein shall be valid unless approved by the City Council.

Section 4. Contracts for professional services such as engineers, architects, auditors, attorneys, consultants or similar professional services to the City of Memphis need not be based upon competitive bids, but may be awarded on the basis of a recognized competency and integrity at customary rates of compensation. The contracts shall be executed by the Mayor with the consent and approval of the City Council.

Section 5. If the City Council by resolution directs the execution of a contract to carry out its policies and the Mayor refuses to enter into a contract, the contract shall be valid if signed by the Chairman of the Council and approved by the City Council.

Section 6. Nothing herein shall prohibit within the monetary limits set forth herein the execution of purchase orders and contracts as provided in Charter Section 51.

FOR (YES) _____

AGAINST (NO) _____

Section 5. Effective date of amendment.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 4th day of November, 2008, the public welfare requiring it.

Section 6. Certification of results.

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

Section 7. Nonconflicting – Conflicting laws.

BE IT FURTHER ORDAINED, That all laws constituting the present Charter of the City of Memphis, not in conflict with the amendatory Home Rule Ordinance, be and the same are here continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 8. Severability.

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

Section 9. Enactment of city ordinance.

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.

SCOTT McCORMICK
Council Chairman

Attest:

_____
Comptroller

lg/contractapproval/version1