SUBSTITUTE REFERENDUM ORDINANCE NO. 5495

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE,

SECTION 1. LEVY OF TAX BY CITY

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

SECTION 2. DELIVERY TO ELECTION COMMISSION

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

SECTION 3. PUBLICATION OF HOME RULE AMENDMENT

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

QUESTION:

Local Option Sales Tax

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

SECTION 4. OPERATIVE DATE

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

SECTION 5. COLLECTION OF TAX BY STATE

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

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

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

Local Option Sales Tax

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

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

FOR (YES) _____

AGAINST (no) _____

SECTION 7. CERTIFICATION OF RESULTS

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

SECTION 8. NOTIFICATION TO STATE

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

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

SECTION 9. EFFECTIVE DATE OF AMENDMENT

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

SECTION 10. LITIGATION, IF ANY

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

SECTION 11. SEVERABILITY

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

SECTION 12. PUBLICATION

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

SECTION 13. ENACTMENT OF CITY ORDINANCE

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

THE FOREGOING ORDINANCE
#5495 PASSED
1st Reading 2-5-2013
2nd Reading 2-19-2013
3rd Reading _____

Approved _____
Chairman of Council

Date Signed: _____

Approved: _____
Mayor, City of Memphis

Date Signed: _____

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

_____
Comptroller

SHEA FLINN
Memphis City Council

JIM STRICKLAND
Memphis City Council