

**RESOLUTION**

**WHEREAS**, the Council of the City of Memphis did include Fire Station #57, Project Number FS02014, as part of the FY2009 Capital Improvement Budget; and

**WHEREAS**, bids were taken on December 5, 2008 for Fire Station #57, with the best complying bid of six bids submitted being \$2,915,100.00 submitted by Wagner General Contractors, Inc., and

**WHEREAS**, it is necessary to amend the Fiscal Year 2009 Capital Improvement Budget by transferring an allocation of \$148,308.00 in Contract Construction, Fire Station Repair, Project Number FS02001 to Fire Station #57, Contract Construction, Project Number FS02014 funded by G.O. Bonds General; and

**WHEREAS**, it is necessary to appropriate \$3,148,308.00 funded by G.O. Bonds General in Fire Station #22, Project Number FS02010 for construction as follows:

Bid Amount	\$2,915,100.00
Contingency	<u>\$ 233,208.00</u>
Total	\$3,148,308.00

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Memphis that the Fiscal Year 2009 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$148,308.00 in Contract Construction from Fire Station Repair, Project Number FS02001 to Fire Station #57, Project Number FS02014, Contract Construction funded by G.O. Bonds General.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$3,148,308.00 funded by G.O. Bonds General chargeable to the Fiscal Year 2009 Capital Improvement Budget and credited as follows:

<b>Project Title</b>	<b>Fire Station #57</b>
<b>Project Number</b>	<b>FS02014</b>
<b>Amount</b>	<b>\$3,148,308.00</b>

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Major Drainage Rehab/Replace , project number ST03098, as part of the Public Works Fiscal Year 2009 Capital Improvement Budget; and

**WHEREAS**, bids were taken on November 21, 2008 for the rehabilitation of stormwater structures with the lowest complying bid of two bids being \$2,500,000.00 submitted by Moore Construction Company, Inc; and

**WHEREAS**, it is necessary to transfer an allocation of \$2,750,000.00 funded by GO Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Trenchless Rehab FY09, project number ST03114, for the rehabilitation of stormwater structures; and

**WHEREAS**, it is necessary to appropriate \$2,750,000.00 funded by GO Bonds – General (Storm Water) in Trenchless Rehab FY09, project number ST03114, for the rehabilitation of stormwater structures as follows:

Contract Amount	\$2,500,000.00
Project Contingencies	<u>250,000.00</u>
	\$2,750,000.00

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the Fiscal Year 2009 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$2,750,000.00 funded by GO Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Trenchless Rehab FY09, project number ST03114, for the rehabilitation of stormwater structures.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$2,750,000.00 funded by GO Bonds – General (Storm Water) chargeable to the FY 2009 Capital Improvement Budget and credited as follows:

<b>Project Title</b>	<b>Trenchless Rehab FY09</b>
<b>Project Number</b>	<b>ST03114</b>
<b>Amount</b>	<b>\$2,750,000.00</b>

## RESOLUTION

**WHEREAS**, the Council of the City of Memphis approved Major Drainage Rehab/Replace , project number ST03098, as part of the Public Works Fiscal Year 2009 Capital Improvement Budget; and

**WHEREAS**, bids were taken on November 21, 2008 for the rehabilitation of City-wide storm drainage infrastructure with the lowest complying bid of two bids being \$2,500,000.00 submitted by Ferrell Paving, Inc; and

**WHEREAS**, it is necessary to transfer an allocation of \$2,750,000.00 funded by GO Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Infrastructure Rehab FY09, project number ST03115, for the rehabilitation of City-wide storm drainage infrastructure; and

**WHEREAS**, it is necessary to appropriate \$2,750,000.00 funded by GO Bonds – General (Storm Water) in Infrastructure Rehab FY09, project number ST03115, for the rehabilitation of City-wide storm drainage infrastructure as follows:

Contract Amount	\$2,500,000.00
Project Contingencies	<u>250,000.00</u>
	\$2,750,000.00

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Memphis that the Fiscal Year 2009 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$2,750,000.00 funded by GO Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03098, to Infrastructure Rehab FY09, project number ST03115, for the rehabilitation of City-wide storm drainage infrastructure.

**BE IT FURTHER RESOLVED**, that there be and is hereby appropriated the sum of \$2,750,000.00 funded by GO Bonds – General (Storm Water) chargeable to the FY 2009 Capital Improvement Budget and credited as follows:

<b>Project Title</b>	<b>Infrastructure Rehab FY09</b>
<b>Project Number</b>	<b>ST03115</b>
<b>Amount</b>	<b>\$2,750,000.00</b>

## CITY COUNCIL RESOLUTION

WHEREAS, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT the following amendments to *ARTICLE X, ADMINISTRATION*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 10.1, PENSION BOARD: APPOINTMENT AND TERM OF OFFICE, (b) TERM*, shall be amended as follows:

10.1 (b) Term. The terms of the citizen member shall begin on July 1 and the term of each Employee member and the Retired Participant shall begin on January 1. All future terms shall begin at the expiration of the various terms of the existing members. Each member shall serve until his/her successor is duly elected or appointed, as the case may be, and qualified. The elections of the active Participant and Retired Participant shall be in accordance with procedures established by the Pension Department and approved by the Pension Board; and further,

The first paragraph of *SECTION 10.3, POWERS AND RESPONSIBILITIES OF THE PENSION BOARD*, shall be amended as follows:

10.3 Powers and Responsibilities of the Pension Board.

The Pension Board shall fulfill the duties of the fiduciary responsible for Plan administration as set forth in Code §414(g) and shall have overall control of the administration of the Plan hereunder, with all powers and discretion necessary to enable it properly to carry out its duties as set forth in the Plan; provided, the responsibility and authority to administer the Plan on a day to-day basis shall be delegated to the Pension Department as provided in §10.4. The Pension Board shall have the following duties and responsibilities:

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 18, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the following amendments to *ARTICLE X, ADMINISTRATION*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 10.1, PENSION BOARD: APPOINTMENT AND TERM OF OFFICE, (b) TERM*, shall be amended as follows:

10.1 (b) Term. The terms of the citizen member shall begin on July 1 and the term of each Employee member and the Retired Participant shall begin on January 1. All future terms shall begin at the expiration of the various terms of the existing members. Each member shall serve until his/her successor is duly elected or appointed, as the case may be, and qualified. The elections of the active Participant and Retired Participant shall be in accordance with procedures established by the Pension Department and approved by the Pension Board; and further,

The first paragraph of *SECTION 10.3, POWERS AND RESPONSIBILITIES OF THE PENSION BOARD*, shall be amended as follows:

10.3 Powers and Responsibilities of the Pension Board.

The Pension Board shall fulfill the duties of the fiduciary responsible for Plan administration as set forth in Code §414(g) and shall have overall control of the administration of the Plan hereunder, with all powers and discretion necessary to

enable it properly to carry out its duties as set forth in the Plan; provided, the responsibility and authority to administer the Plan on a day to-day basis shall be delegated to the Pension Department as provided in §10.4. The Pension Board shall have the following duties and responsibilities:

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a ~~regular~~ ~~special~~ meeting held on 18th day of December, 20 08, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** the following amendments to *ARTICLE VI, RETIREMENT AND TERMINATION BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 6.3, ORDINARY DISABILITY RETIREMENT BENEFIT, (a) GENERAL*, shall be amended as follows:

### 6.3 Ordinary Disability Retirement Benefit.

(a) General. A Participant who terminates employment with the Division on account of Ordinary Disability and who has completed five (5) Years of Service shall be entitled to receive an Ordinary Disability Retirement Benefit payable at any time on or after the date on which he/she terminates employment. Subject to §6.8 and the minimum benefit provided under subsection (b) hereof, the amount of the Participant's Ordinary Disability Retirement Benefit shall be equal to the Participant's Accrued Benefit calculated under Article IV; and further,

*SECTION 6.6, ADJUSTMENTS, (a) GENERAL and (b) AMOUNT OF ADJUSTMENT*, shall be amended as follows:

### 6.6 Adjustments.

(a) General. As of July 1 of each Plan Year, each Retired Participant who (i) has attained age fifty-six (56) on such date and (ii) has been terminated from the employment of the Division for at least twelve (12) months, shall be entitled to an increase in the amount of his/her monthly benefit under the Plan equal to the Cost of Living Adjustment provided in subsection (b) hereof. A Surviving Spouse or a Handicapped Child receiving Death Benefits under Article VIII shall be entitled to a Cost of Living Adjustment if (i) the Surviving Spouse or a Handicapped Child has attained age fifty-six (56) and (ii) the deceased Participant has separated from service at least twelve (12) months prior to the beginning of the Plan Year.

(b) Amount of Adjustment. The Cost of Living Adjustment shall be equal to the product of (i) the monthly benefit payable to the Participant, Surviving Spouse or Handicapped Child under the Plan for the immediately preceding Plan Year (taking into account any prior Cost of Living Adjustments) multiplied by the applicable percentage increase in the Consumer Price Index (also referred to herein as "CPI") for the immediately preceding calendar year. The applicable percentage increase shall be determined based on the age of the Participant, Surviving Spouse or Handicapped Child as of the first day of July of the Plan Year in which the adjustment is made, as follows:

<u>Age</u>	<u>Percentage of CPI Increase</u>
56-58	30%
59-61	60%
62 and older	75%

Participants receiving either an Ordinary Disability Retirement Benefit pursuant to §6.3 or a Disability in Line of Duty Retirement Benefit pursuant to §6.4 are entitled to seventy-five percent (75%) of the CPI increase regardless of age.

Notwithstanding the foregoing, the Cost of Living Adjustment for any Retired Participant or Surviving Spouse or Handicapped Child in any Plan Year shall not exceed five percent (5%) of the Retired Participant's, Surviving Spouse's or Handicapped Child's benefit under the Plan for the immediately preceding Plan Year. In no circumstances shall the Cost of Living Adjustment result in a decrease in the benefit of a Retired Participant, Surviving Spouse or Handicapped Child; and further,

*SECTION 6.8, SPECIAL PROVISIONS CONCERNING DISABILITY, (c) REHABILITATION* shall be amended as follows:

6.8 (c) Rehabilitation Supplement. If a Participant is unable, due to a physical or mental incapacity arising out of and in the course of the Participant's employment with the Division (an "In Line of Duty Incapacity"), to perform the regular duties of his/her employment with the Division, or if a Participant with five (5) or more Years of Service is unable, due to a physical or mental incapacity arising out of any cause other than an In Line of Duty Incapacity), to perform the regular duties of his/her employment with the Division (each a "Qualifying Incapacity"), the Division may employ the Participant in a different capacity pending his/her rehabilitation. If the Division employs such a Participant in a different capacity and if the Benefit Compensation of such Participant from his/her employment with the Division in this different capacity is less than the Benefit Compensation of the Participant from his/her employment with the Division prior to the Qualifying Incapacity, the Pension Board may, in its sole discretion, pay to the Participant from the Fund a rehabilitation supplement in an amount which together with the Benefit Compensation of the Participant from his/her employment with the Division in such different capacity and any disability benefit payable to the Participant, including without limitation any disability benefit payable to the Participant under the terms of this Plan, shall result in the

Participant receiving an aggregate Benefit Compensation during said period of employment with the Division equal to, but not in excess of, the arithmetic average of the Participant's Compensation for the highest three (3) consecutive years of the Participant's Years of Service prior to such Qualifying Incapacity. In no event shall such rehabilitation supplement exceed such Participant's Accrued Benefit as of the date of his/her Qualifying Incapacity. Such rehabilitation supplement shall cease upon the earlier of (i) the date such Participant's compensation from employment with the Division equals or exceeds the arithmetic average of the Participant's Compensation for the highest three (3) consecutive years of the Participant's Years of Service prior to such Qualifying Incapacity, (ii) the date of such Participant's termination of employment with the Division for any reason, or (ii) the date of such Participant's termination of employment with the Division on account of Disability in accordance with the terms of this Plan.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 18, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the following amendments to *ARTICLE VI, RETIREMENT AND TERMINATION BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 6.3, ORDINARY DISABILITY RETIREMENT BENEFIT, (a) GENERAL*, shall be amended as follows:

6.3 Ordinary Disability Retirement Benefit.

(a) General. A Participant who terminates employment with the Division on account of Ordinary Disability and who has completed five (5) Years of Service shall be entitled to receive an Ordinary Disability Retirement Benefit payable at any time on or after the date on which he/she terminates employment. Subject to §6.8 and the minimum benefit provided under subsection (b) hereof, the amount of the Participant's Ordinary Disability Retirement Benefit shall be equal to the Participant's Accrued Benefit calculated under Article IV; and further,

*SECTION 6.6, ADJUSTMENTS, (a) GENERAL and (b) AMOUNT OF ADJUSTMENT*, shall be amended as follows:

6.6 Adjustments.

(a) General. As of July 1 of each Plan Year, each Retired Participant who (i) has attained age fifty-six (56) on such date and (ii) has been terminated from the employment of the Division for at least twelve (12) months, shall be entitled to an increase in the amount of his/her monthly benefit under the Plan equal to the Cost of Living Adjustment provided in subsection (b) hereof. A Surviving Spouse or a Handicapped Child receiving Death Benefits under Article VIII shall be entitled to a Cost of Living Adjustment if (i) the Surviving Spouse or a Handicapped Child has attained age fifty-six (56) and (ii) the deceased Participant has separated from service at least twelve (12) months prior to the beginning of the Plan Year.

(b) Amount of Adjustment. The Cost of Living Adjustment shall be equal to the product of (i) the monthly benefit payable to the Participant, Surviving Spouse or Handicapped Child under the Plan for the immediately preceding Plan Year (taking into account any prior Cost of Living Adjustments) multiplied by the applicable percentage increase in the Consumer Price Index (also referred to herein as "CPI") for the immediately preceding calendar year. The applicable percentage increase shall be determined based on the age of the Participant, Surviving Spouse or Handicapped Child as of the first day of July of the Plan Year in which the adjustment is made, as follows:

<u>Age</u>	<u>Percentage of CPI Increase</u>
56-58	30%
59-61	60%
62 and older	75%

Participants receiving either an Ordinary Disability Retirement Benefit pursuant to §6.3 or a Disability in Line of Duty Retirement Benefit pursuant to §6.4 are entitled to seventy-five percent (75%) of the CPI increase regardless of age.

Notwithstanding the foregoing, the Cost of Living Adjustment for any Retired Participant or Surviving Spouse or Handicapped Child in any Plan Year shall not exceed five percent (5%) of the Retired Participant's, Surviving Spouse's or Handicapped Child's benefit under the Plan for the immediately preceding Plan Year. In no circumstances shall the Cost of Living Adjustment result in a decrease in the benefit of a Retired Participant, Surviving Spouse or Handicapped Child; and further,

*SECTION 6.8, SPECIAL PROVISIONS CONCERNING DISABILITY, (c) REHABILITATION* shall be amended as follows:

6.8 (c) Rehabilitation Supplement. If a Participant is unable, due to a physical or mental incapacity arising out of and in the course of the Participant's employment with the Division (an "In Line of Duty Incapacity"), to perform the regular duties of his/her employment with the Division, or if a Participant with five (5) or more Years of Service is unable, due to a physical or mental incapacity arising out of

any cause other than an In Line of Duty Incapacity), to perform the regular duties of his/her employment with the Division (each a "Qualifying Incapacity"), the Division may employ the Participant in a different capacity pending his/her rehabilitation. If the Division employs such a Participant in a different capacity and if the Benefit Compensation of such Participant from his/her employment with the Division in this different capacity is less than the Benefit Compensation of the Participant from his/her employment with the Division prior to the Qualifying Incapacity, the Pension Board may, in its sole discretion, pay to the Participant from the Fund a rehabilitation supplement in an amount which together with the Benefit Compensation of the Participant from his/her employment with the Division in such different capacity and any disability benefit payable to the Participant, including without limitation any disability benefit payable to the Participant under the terms of this Plan, shall result in the Participant receiving an aggregate Benefit Compensation during said period of employment with the Division equal to, but not in excess of, the arithmetic average of the Participant's Compensation for the highest three (3) consecutive years of the Participant's Years of Service prior to such Qualifying Incapacity. In no event shall such rehabilitation supplement exceed such Participant's Accrued Benefit as of the date of his/her Qualifying Incapacity. Such rehabilitation supplement shall cease upon the earlier of (i) the date such Participant's compensation from employment with the Division equals or exceeds the arithmetic average of the Participant's Compensation for the highest three (3) consecutive years of the Participant's Years of Service prior to such Qualifying Incapacity, (ii) the date of such Participant's termination of employment with the Division for any reason, or (ii) the date of such Participant's termination of employment with the Division on account of Disability in accordance with the terms of this Plan.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a ~~regular~~ ~~special~~ meeting held on 18th day of December, 2008, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved a policy to manage the price volatility of commodities consumed in the normal course of operating the Memphis Light Gas & Water Division (MLGW) systems; and further,

**WHEREAS**, as a result of its obligation to provide energy and water service to Shelby County, MLGW encounters financial price risk in the purchase of commodities used in the operation of the systems. Reasonable and prudent business methods are available through price risk management methods to address the price risk inherent in these commodity markets; and further,

**WHEREAS**, the purpose of this policy is to provide for the general guidelines to enable staff to apply these prudent risk management methods; and further,

**WHEREAS**, the terms of the policy are as follows:

### Definitions

Authorized Counterparty – An entity approved by the Hedge Committee to trade Derivative, Futures Contracts, and Hedges with MLGW.

Authorized Traders – Employees of MLGW designated by the Hedge Committee.

Clearing Exchange – An exchange which clears any over-the-counter transactions for example, NYMEX Clearport.

CQG – Data information service used to monitor markets in real-time, analyze market trends and trade derivatives.

Derivatives - Contracts or securities that derive their value from that of an underlying asset.

Futures Contract - An exchange traded standardized agreement to buy or sell a specified quantity and grade of commodity for delivery at an agreed upon place and time in the future.

Hedge – The purchase or sale of an offsetting position using financial instruments, exchange traded futures contracts, exchange traded options on futures contracts, Over-the-Counter Transactions (swaps) or various combinations of such products, as a protection against price risk.

Intercontinental Exchange (ICE) – Intercontinental Exchange is an electronic exchange on which commodities are traded.

International Swap Dealers Association (ISDA) – Commonly used name for the industry standard swap contract created by ISDA for bilateral Over-the-Counter Transactions that includes credit terms and conditions.

NYMEX – New York Mercantile Exchange is an exchange on which commodity futures contracts are traded.

Option on Futures Contract - The right, but not the obligation, to purchase or sell an exchange traded standardized agreement for a specified quantity and grade of commodity for delivery at an agreed upon place and time in the future.

Over-the-Counter Transaction – A bilateral agreement negotiated between two parties, such as a swap to exchange cash flows at specified intervals during the term of the agreement.

Target volume - The quantity needed to hedge for any particular month, as determined in advance by examination of historical usage patterns; and further,

### Policy

MLGW is authorized to enter into reasonable and prudent financial transactions with exchanges, including NYMEX and ICE, and with over-the-counter (OTC) counterparties for both financial and/or physical transactions that are consistent with prudent risk management practices related to the commodity purchases associated with the operation of the MLGW systems.

The maximum number of positions, representing a specific volume, to purchase with financial instruments shall be limited to the Target Volume for a particular delivery month for foreseeable future consumption.

Any transfer of funds related to MLGW's hedging activity will require the approval of any two of the following: President, any Vice President or any MLGW Hedge Committee member with the exception of the designated administrator.

Brokerage and data information services, such as CQG, are necessary for the successful execution of a hedging strategy. As such, these information services are approved for use.

### Hedge Committee

The MLGW Hedge Committee will oversee the activities of the MLGW Hedge Program. The Hedge Committee shall consist of the Vice President to whom the authorized traders report, the Vice President-CFO & Secretary Treasurer, Vice President and General Counsel, an MLGW Board Commissioner and a designated administrator from the Energy Resources area. The Hedge Committee will meet as needed. The role of the administrator will be to facilitate the review and performance of the hedging activity.

### Counterparty Authorization

Authorization is granted for Over-the-Counter Transactions cleared through NYMEX ClearPort Clearing, Intercontinental Exchange (ICE) or other yet unnamed multilateral electronic platforms. It is understood that once a transaction is cleared via an exchange, such exchange acts as MLGW's ultimate credit counterparty for financial performance, thus superceding the need for ISDA contracting between MLGW and its OTC trade partner.

### Trader Authorization

The Hedge Committee will maintain a list of Authorized Traders that have been granted approval to execute hedge transactions on behalf of MLGW, which shall include at least one member of the Hedge Committee.

Only employees designated by the Hedge Committee as an Authorized Trader have the authority to execute a commodity related hedge transaction on behalf of MLGW.

Authorized traders of MLGW shall not directly own or trade any commodity derivatives (including but not limited to NYMEX futures) for their own account.

An Authorized Trader document shall be furnished to and retained on file with all MLGW financial trade counterparties including brokers, futures clearing firms and OTC principals.

A copy of the Authorized Trader forms are attached to and made a part of this Policy.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** MLGW is authorized to enter into reasonable and prudent financial transactions with exchanges, including NYMEX and ICE, and with over-the-counter (OTC) counterparties for both financial and/or physical transactions that are consistent with prudent risk management practices related to the commodity purchases associated with the operation of the MLGW systems as set forth in the foregoing preamble; and

**NOW THEREFORE BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** the President of MLGW or other designated official be authorized to execute said risk management contracts.

**E X C E R P T**  
**from**  
**MINUTES OF MEETING**  
**of**  
**BOARD OF LIGHT, GAS, AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
**held**  
**December 18, 2008**

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The Vice President, Customer Care presented for consideration of the Board approval of a policy to manage the price volatility of commodities consumed in the normal course of operating the Memphis Light Gas & Water Division (MLGW) systems.

General

As a result of its obligation to provide energy and water service to Shelby County, MLGW encounters financial price risk in the purchase of commodities used in the operation of the systems. Reasonable and prudent business methods are available through price risk management methods to address the price risk inherent in these commodity markets.

The purpose of this policy is to provide for the general guidelines to enable staff to apply these prudent risk management methods.

Definitions

Authorized Counterparty – An entity approved by the Hedge Committee to trade Derivative, Futures Contracts, and Hedges with MLGW.

Authorized Traders – Employees of MLGW designated by the Hedge Committee.

Clearing Exchange – An exchange which clears any over-the-counter transactions for example, NYMEX Clearport.

CQG – Data information service used to monitor markets in real-time, analyze market trends and trade derivatives.

Derivatives - Contracts or securities that derive their value from that of an underlying asset.

Futures Contract - An exchange traded standardized agreement to buy or sell a specified quantity and grade of commodity for delivery at an agreed upon place and time in the future.

Hedge – The purchase or sale of an offsetting position using financial instruments, exchange traded futures contracts, exchange traded options on futures contracts, Over-the-Counter Transactions (swaps) or various combinations of such products, as a protection against price risk.

Intercontinental Exchange (ICE) – Intercontinental Exchange is an electronic exchange on which commodities are traded.

International Swap Dealers Association (ISDA) – Commonly used name for the industry standard swap contract created by ISDA for bilateral Over-the-Counter Transactions that includes credit terms and conditions.

NYMEX – New York Mercantile Exchange is an exchange on which commodity futures contracts are traded.

Option on Futures Contract - The right, but not the obligation, to purchase or sell an exchange traded standardized agreement for a specified quantity and grade of commodity for delivery at an agreed upon place and time in the future.

Over-the-Counter Transaction – A bilateral agreement negotiated between two parties, such as a swap to exchange cash flows at specified intervals during the term of the agreement.

Target volume - The quantity needed to hedge for any particular month, as determined in advance by examination of historical usage patterns.

### Policy

MLGW is authorized to enter into reasonable and prudent financial transactions with exchanges, including NYMEX and ICE, and with over-the-counter (OTC) counterparties for both financial and/or physical transactions that are consistent with prudent risk management practices related to the commodity purchases associated with the operation of the MLGW systems.

The maximum number of positions, representing a specific volume, to purchase with financial instruments shall be limited to the Target Volume for a particular delivery month for foreseeable future consumption.

Any transfer of funds related to MLGW's hedging activity will require the approval of any two of the following: President, any Vice President or any MLGW Hedge Committee member with the exception of the designated administrator.

Brokerage and data information services, such as CQG, are necessary for the successful execution of a hedging strategy. As such, these information services are approved for use.

### Hedge Committee

The MLGW Hedge Committee will oversee the activities of the MLGW Hedge Program. The Hedge Committee shall consist of the Vice President to whom the authorized traders report, the Vice President-CFO & Secretary Treasurer, Vice President and General Counsel, an MLGW Board Commissioner and a designated administrator from the Energy Resources area. The Hedge Committee will meet as needed. The role of the administrator will be to facilitate the review and performance of the hedging activity.

Counterparty Authorization

Authorization is granted for Over-the-Counter Transactions cleared through NYMEX ClearPort Clearing, Intercontinental Exchange (ICE) or other yet unnamed multilateral electronic platforms. It is understood that once a transaction is cleared via an exchange, such exchange acts as MLGW's ultimate credit counterparty for financial performance, thus superceding the need for ISDA contracting between MLGW and its OTC trade partner.

Trader Authorization

The Hedge Committee will maintain a list of Authorized Traders that have been granted approval to execute hedge transactions on behalf of MLGW, which shall include at least one member of the Hedge Committee.

Only employees designated by the Hedge Committee as an Authorized Trader have the authority to execute a commodity related hedge transaction on behalf of MLGW.

Authorized traders of MLGW shall not directly own or trade any commodity derivatives (including but not limited to NYMEX futures) for their own account.

An Authorized Trader document shall be furnished to and retained on file with all MLGW financial trade counterparties including brokers, futures clearing firms and OTC principals.

A copy of the Authorized Trader forms are attached to and made a part of this Policy.

It was moved by **Vice Chairman Cobbins**, seconded by **Commissioner Wishnia**, and unanimously carried:

THAT, subject to the consent and approval of the Council of the City of Memphis, MLGW is authorized to enter into reasonable and prudent financial transactions with exchanges, including NYMEX and ICE, and with over-the-counter (OTC) counterparties for both financial and/or physical transactions that are consistent with prudent risk management practices related to the commodity purchases associated with the operation of the MLGW systems; and

THAT, the President or other designated official be authorized to execute said risk management contracts.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a ~~regular~~ ~~special~~ meeting held on 18th day of December, 2008 at which a quorum was present.

  
Secretary-Treasurer

## Authorized Trader

I acknowledge that the Memphis Light Gas & Water Division (Division) Hedge Committee has authorized me to execute hedge transactions on behalf of the Division. I have received a copy of the Hedge Policy and agree to abide by the policies set forth therein.

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Trader

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Vice President of Customer Care

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** the following amendments to *ARTICLE VIII, DEATH BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 8.2, IN-SERVICE DEATH, (a) UNVESTED PARTICIPANT*, shall be amended as follows:

8.2 In-Service Death.

(a) Unvested Participant. If a Participant who has completed five (5) Years of Service but who has not yet become vested in his/her Accrued Benefit dies while employed by the Division (other than as a result of Death in Line of Duty), the amount of the Death Benefit shall be equal to 75% of the Participant's Accrued Benefit calculated under Article IV.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 18, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

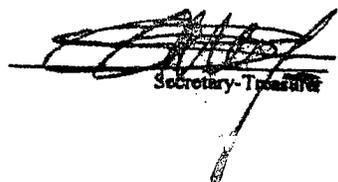
THAT, Subject to the consent and approval of the Council of the City of Memphis, the following amendments to *ARTICLE VIII, DEATH BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 8.2, IN-SERVICE DEATH, (a) UNVESTED PARTICIPANT*, shall be amended as follows:

8.2 In-Service Death.

(a) Unvested Participant. If a Participant who has completed five (5) Years of Service but who has not yet become vested in his/her Accrued Benefit dies while employed by the Division (other than as a result of Death in Line of Duty), the amount of the Death Benefit shall be equal to 75% of the Participant's Accrued Benefit calculated under Article IV.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a ~~regular~~ special meeting held on 18th day of December, 20 08, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL RESOLUTION

**WHEREAS**, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT** the following amendments to *ARTICLE I, DEFINITIONS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 1.32, ELIGIBLE ROLLOVER DISTRIBUTION*, shall be amended as follows:

1.32 Eligible Rollover Distribution shall mean any distribution to a Participant or his/her Surviving Spouse of all or any portion of the balance to the Participant's credit in the Plan; provided "Eligible Rollover Distribution" shall not include (i) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually, for the life of the Participant or his/her Beneficiary or for a specified period of ten (10) years or more, (ii) any distribution to the extent such distribution is required under Code §401(a)(9), and (iii) distributions which total less than \$200 during the Plan Year; and further,

*SECTION 1.37, HANDICAPPED CHILD*, shall be amended as follows:

1.37 Handicapped Child shall mean an unmarried Child who is severely disabled upon attaining age eighteen (18) and continues to be so disabled and who is not in the custodial care of a governmental institution. A Child is "severely disabled" if he/she is unable to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment where such impairment results from anatomical, physiological, psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. The Pension Board in its discretion may require continuing satisfactory proof of disability. Such proof shall be required no more frequently than once each year, unless such information, in the determination of the Pension Board is deemed necessary more frequently. Failure to provide adequate proof of disability shall result in the immediate cancellation of any benefits otherwise payable under the Plan; and further,

*SECTION 1.39, DEFINITION OF LIMITATION YEAR*, shall be added as follows and renumber subsequent numerical paragraphs in Article I:

1.39 Limitation Year shall mean the Plan Year.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 18, 2008**

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The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by Vice Chairman Cobbins, seconded by Commissioner Wishnia and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the following amendments to *ARTICLE I, DEFINITIONS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 1.32, ELIGIBLE ROLLOVER DISTRIBUTION*, shall be amended as follows:

1.32 Eligible Rollover Distribution shall mean any distribution to a Participant or his/her Surviving Spouse of all or any portion of the balance to the Participant's credit in the Plan; provided "Eligible Rollover Distribution" shall not include (i) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually, for the life of the Participant or his/her Beneficiary or for a specified period of ten (10) years or more, (ii) any distribution to the extent such distribution is required under Code §401(a)(9), and (iii) distributions which total less than \$200 during the Plan Year; and further,

*SECTION 1.37, HANDICAPPED CHILD*, shall be amended as follows:

1.37 Handicapped Child shall mean an unmarried Child who is severely disabled upon attaining age eighteen (18) and continues to be so disabled and who is not in the custodial care of a governmental institution. A Child is "severely disabled" if he/she is unable to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment where such

impairment results from anatomical, physiological, psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. The Pension Board in its discretion may require continuing satisfactory proof of disability. Such proof shall be required no more frequently than once each year, unless such information, in the determination of the Pension Board is deemed necessary more frequently. Failure to provide adequate proof of disability shall result in the immediate cancellation of any benefits otherwise payable under the Plan; and further,

*SECTION 1.39, DEFINITION OF LIMITATION YEAR*, shall be added as follows and renumber subsequent numerical paragraphs in Article I:

1.39 Limitation Year shall mean the Plan Year.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a ~~regular~~ <sup>special</sup> meeting held on 18th day of December 2008, at which a quorum was present.

  
Secretary-Treasurer

## CITY COUNCIL APPROVAL

WHEREAS, the Board of Light, Gas and Water Commissioners at their meeting held December 18, 2008, approved the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS THAT the following amendments to *ARTICLE VII, PAYMENT OF BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 7.2, LUMP-SUM PAYMENT OF BENEFIT* shall be amended as follows:

7.2 Lump-sum Payment of Benefit.

(a) General. Any Participant eligible for a Normal Retirement Benefit pursuant to §6.1, an Ordinary Disability Retirement Benefit pursuant to §6.3 or a Disability in Line of Duty Retirement Benefit pursuant to §6.4 (but not a Participant entitled to a Deferred Vested Benefit pursuant to §6.2) may irrevocably elect to receive between five percent (5%) and twenty-five percent (25%) [in increments of five percent (5%)] of his/her Accrued Benefit in the form of an Actuarial Equivalent single lump-sum distribution. Such election shall be made prior to the Participant's Benefit Commencement Date in accordance with uniform procedures established by the Pension Board.

(b) Effect of Election. If a Participant elects to receive any part of his/her Accrued Benefit in the form of a lump-sum distribution, the monthly retirement benefit payable to such Participant shall be reduced by an equal percentage; provided, such an election shall not reduce the amount of any benefit payable to a Surviving Spouse or Child, which shall be calculated without regard to such election. Any Cost of Living Adjustment to the Participant's monthly benefit pursuant to §6.6 shall be calculated based on the reduced monthly benefit resulting from the lump-sum distribution election.

In determining any minimum monthly annuity under Article VI, amount of the applicable minimum set forth in Article VI shall be reduced by the percentage lump sum elected by the Participant; and further,

*SECTION 7.3, DIRECT ROLLOVER DISTRIBUTIONS*, shall be amended as follows:

### 7.3 Direct Rollover Distributions.

If a Participant or his Surviving Spouse elects to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan and specifies (in such form and at such time as the Pension Department may prescribe) the Eligible Retirement Plan to which such distribution is to be paid, such distribution shall be made in the form of a direct transfer to the specified Eligible Retirement Plan; and further,

*SECTION 7.5, CLAIMS, (a) PROCEDURE and (b) REVIEW PROCEDURE*, shall be amended as follows:

### 7.5 Claims.

(a) Procedure. Claims for benefits under the Plan may be filed with, and on forms supplied by, the Pension Department. The Pension Department shall submit all claims to the Pension Board, other than any claim which the Pension Department determines, based on satisfactory evidence available to it, including without limitation any evidence submitted to it by the claimant, is invalid. If the Pension Department determines a claim is invalid, the Pension Department shall provide the claimant with a written notification that the claim is denied stating the specific reasons for the denial and, where appropriate, an explanation as to how the claimant can perfect the claim and/or submit the claim for review.

(b) Review Procedure. Any Participant or Beneficiary who has been denied a benefit, or his/her duly authorized representative, shall be entitled, upon request to the Pension Board, to appeal the denial of his/her claim to the Pension Board. The request for review, together with a written statement of the claimant's position, and any evidence the claimant desires to submit, must be filed with the Pension Board no later than sixty (60) days after receipt of the written notification of denial of a claim. The Pension Board's decision based on satisfactory evidence available to it, including without limitation any evidence submitted by the claimant as provided hereinabove, shall be made within ninety (90) days following the filing of the request for review and shall be communicated in writing to the claimant. If unfavorable, the notice of decision shall explain the reason or reasons for denial and indicate the provisions of the Plan or other documents used to arrive at the decision. The decision of the Pension Board shall be final and conclusive on all parties.

**EXCERPT**  
from  
**MINUTES OF MEETING**  
of  
**BOARD OF LIGHT, GAS AND WATER COMMISSIONERS**  
**CITY OF MEMPHIS**  
held  
**December 18, 2008**

\*\*\*\*\*

The Secretary-Treasurer stated that the Pension Board had approved and was recommending to the Board of Commissioners the following amendments to the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan").

It was moved by **Vice Chairman Cobbins**, seconded by **Commissioner Wishnia** and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the following amendments to *ARTICLE VII, PAYMENT OF BENEFITS*, of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated Effective January 1, 2001 (the "Plan") are approved:

*SECTION 7.2, LUMP-SUM PAYMENT OF BENEFIT* shall be amended as follows:

**7.2 Lump-sum Payment of Benefit.**

(a) General. Any Participant eligible for a Normal Retirement Benefit pursuant to §6.1, an Ordinary Disability Retirement Benefit pursuant to §6.3 or a Disability in Line of Duty Retirement Benefit pursuant to §6.4 (but not a Participant entitled to a Deferred Vested Benefit pursuant to §6.2) may irrevocably elect to receive between five percent (5%) and twenty-five percent (25%) [in increments of five percent (5%)] of his/her Accrued Benefit in the form of an Actuarial Equivalent single lump-sum distribution. Such election shall be made prior to the Participant's Benefit Commencement Date in accordance with uniform procedures established by the Pension Board.

(b) Effect of Election. If a Participant elects to receive any part of his/her Accrued Benefit in the form of a lump-sum distribution, the monthly retirement benefit payable to such Participant shall be reduced by an equal percentage; provided,

such an election shall not reduce the amount of any benefit payable to a Surviving Spouse or Child, which shall be calculated without regard to such election. Any Cost of Living Adjustment to the Participant's monthly benefit pursuant to §6.6 shall be calculated based on the reduced monthly benefit resulting from the lump-sum distribution election.

In determining any minimum monthly annuity under Article VI, amount of the applicable minimum set forth in Article VI shall be reduced by the percentage lump sum elected by the Participant; and further,

*SECTION 7.3, DIRECT ROLLOVER DISTRIBUTIONS*, shall be amended as follows:

7.3 Direct Rollover Distributions.

If a Participant or his Surviving Spouse elects to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan and specifies (in such form and at such time as the Pension Department may prescribe) the Eligible Retirement Plan to which such distribution is to be paid, such distribution shall be made in the form of a direct transfer to the specified Eligible Retirement Plan; and further,

*SECTION 7.5, CLAIMS, (a) PROCEDURE and (b) REVIEW PROCEDURE*, shall be amended as follows:

7.5 Claims.

(a) Procedure. Claims for benefits under the Plan may be filed with, and on forms supplied by, the Pension Department. The Pension Department shall submit all claims to the Pension Board, other than any claim which the Pension Department determines, based on satisfactory evidence available to it, including without limitation any evidence submitted to it by the claimant, is invalid. If the Pension Department determines a claim is invalid, the Pension Department shall provide the claimant with a written notification that the claim is denied stating the specific reasons for the denial and, where appropriate, an explanation as to how the claimant can perfect the claim and/or submit the claim for review.

(b) Review Procedure. Any Participant or Beneficiary who has been denied a benefit, or his/her duly authorized representative, shall be entitled, upon request to the Pension Board, to appeal the denial of his/her claim to the Pension Board. The request for review, together with a written statement of the claimant's position, and any evidence the claimant desires to submit, must be filed with the Pension Board no later than sixty (60) days after receipt of the written notification of denial of a claim. The Pension Board's decision based on satisfactory evidence available to it, including without limitation any evidence submitted by the claimant as provided hereinabove, shall be made within ninety (90) days

following the filing of the request for review and shall be communicated in writing to the claimant. If unfavorable, the notice of decision shall explain the reason or reasons for denial and indicate the provisions of the Plan or other documents used to arrive at the decision. The decision of the Pension Board shall be final and conclusive on all parties.

I hereby certify that the foregoing is a true copy of a resolution adopted by the Board of Light, Gas and Water Commissioners at a regular ~~session~~ meeting held on 18th day of December, 20 08, at which a quorum was present.

  
Secretary-Treasurer