REFERENDUM ORDINANCE NO. 5460

AN ORDINANCE TO ALLOW THE MAXIMUM LOCAL OPTION SALES TAX BE LEVIED IN THE CITY OF MEMPHIS AND TO SUBMIT THIS PROPOSED REFERENDUM ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 6, 2012.

WHEREAS, It is the duty of Memphis city government to ensure we live in a clean and safe community and provide services to our citizens including public safety, elimination of blight, and a high quality infrastructure system; and

WHEREAS, the City of Memphis has the highest property tax burden in Tennessee and the Memphis Metropolitan Statistical Area; in order to provide for the needs of the citizens of the City of Memphis, it is recognized that we need both spending reforms and additional revenue; Memphians should have a role in deciding how we will generate the additional revenue necessary to avoid a severe cut in city services; and

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 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 a community improvement plan addressing areas of concern as expressed by the citizens of Memphis, specifically blight and city streets in disrepair.

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, if Shelby County determines not to levy an increase 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 the first general state election of November 6, 2012, 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 the first state general election, which shall be held in the City of Memphis on November 6, 2012, 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%) dedicated to a community improvement plan addressing areas of concern as expressed by the citizens of Memphis, specifically blight and city infrastructure (including streets) in disrepair?

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 event 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.

SECTION 6. PROPOSAL AND PREFERENCE

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 _____, 2012, 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 6th day of November, 2012:

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%) dedicated to a community improvement plan addressing areas of concern as expressed by the citizens of Memphis, specifically blight and city infrastructure (including streets) in disrepair?

I, Roland McElrath, 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. If during this forty (40) day period Shelby County adopts a Resolution to levy a tax equal to the rate provided in this Ordinance, the effectiveness thereof shall be further suspended until a referendum is held by Shelby County as provided in Tenn. Code Ann. §67-6-706. In the absence of such procedure, at the end of the forty (40) day period this Ordinance shall become effective.

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 if 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 by law.

SHEA FLINN
Memphis City Council

BILL MORRISON
Memphis City Council Chairman

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%) dedicated to a community improvement plan addressing areas of concern as expressed by the citizens of Memphis, specifically blight and city infrastructure (including streets) in disrepair?

I, Roland McElrath, 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) _____