

SUBSTITUTE ORDINANCE NO. 5897

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MEMPHIS PERTAINING TO CONTRACTS AND SALARIES OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION TO DECREASE THE PRESENT LIMITS OF CONTRACTS AND SALARIES OR COMPENSATION FOR EMPLOYEES OR OTHERS REQUIRING CITY COUNCIL APPROVAL.

WHEREAS, Section 681 of the City's Charter, adopted by Private Act of the Tennessee Legislature in 1939 (the "Memphis City Charter"), reserved to the City Council authority to approve, in advance of execution, contracts entailing an obligation or expenditure in excess of Five Thousand Dollars to be executed by the Board of Light, Gas & Water Commissioners of the City of Memphis ("MLGW Board"); and

WHEREAS, Section 675 of the Memphis City Charter, as amended by Ordinance 3509, adopted on November 5, 1985, also reserved to the City Council authority to approve the setting of salaries or other compensation of any officers, executive management employees, or other employees for MLGW in excess of Ninety Thousand Dollars (\$90,000.00) in advance of employment; and

WHEREAS, Ordinance 5046, adopted April 13, 2004, stated that all contracts (other than emergency purchases and spot market purchases of natural gas) entailing an obligation or expenditure, including fees or other compensation of any engineers, auditors, attorneys, consultants, and others employed to render extraordinary services to MLG&W, in excess of Twenty-five Thousand Dollars (\$25,000) shall require Council approval in advance of execution; and

WHEREAS, by adoption of Ordinance 5819 on March 22, 2022, the Council amended their authority to approve the setting of salaries or other compensation of any officers, executive management employees or other employees for MLGW in excess of \$180,000.00 in advance of employment and to approve all contracts (other than emergency purchases and spot market purchases of natural gas) entailing an obligation or expenditure, including fees or other compensation of any engineers, auditors, attorneys, consultants and others employed to render extraordinary services to MLGW in excess of Five Hundred Thousand Dollars (\$500,000.00) prior to execution; and

WHEREAS, under the provisions of Ordinance No. 3054, dated September 2, 1980, to the City's Charter (the "Home Rule Amendment"), the City Council is authorized to increase by Ordinance the amount of contracts and salaries or compensation for employees or others requiring City Council approval; and

WHEREAS, from time to time, the City Council has amended its Code of Ordinances to adjust the limits of authority granted to the MLGW Board for the execution of contracts and the setting of salaries for employees hired as deemed appropriate; and

WHEREAS, in recognition of the requests for increased transparency requests from citizens regarding MLGW contracts and salaries, the City Council desires to amend the limits requiring approval by the Council prior to execution.

NOW THEREFORE BE IT ORDAINED THAT,

SECTION 1. Section 1 of Ordinance No. 5819 is amended and restated as follows:

Notwithstanding Ordinance No. 5819 to the contrary, all contracts (other than emergency purchases, purchases of natural gas and other derivative products, and settlements between MLGW and its employees pursuant to the workers' compensation laws of the State of Tennessee, which shall not require City Council approval in advance of execution) entailing an obligation or expenditure, including fees or other compensation of any engineers, auditors, attorneys, consultants and others employed to render extraordinary services to MLGW, in excess of (One Hundred and Fifty Thousand Dollars) \$150,000.00 shall require City Council approval in advance of execution. Furthermore, all interlocal agreements or contracts between MLGW and any municipality or division of government (other than the City of Memphis and its divisions) that involve the collection of any municipal, county or other government fee, tax or other charge not directly related to utility service (such as electricity, gas, or water utility service) shall require Council approval in advance of execution. In emergencies, MLGW may enter into emergency purchases as defined herein, for which emergency purchases shall be later ratified by the Council. MLGW may also purchase natural gas and other derivative instruments daily as long as the aggregate annual amount of these purchases are approved by the Council in the annual budget of MLGW.

For the purposes of this Ordinance, the term "emergency purchases" shall include, but shall not necessarily be limited to, any purchase orders and contracts in excess of (One Hundred and Fifty Thousand Dollars) \$150,000.00 needed to: (i) remedy any hazardous, unsafe or environmentally harmful event or condition that has created or may create a harmful situation for the public or MLGW employees, whether or not ordered, directed or requested by a federal or state agency; (ii) ensure continuous and reliable utility service to MLGW customers, or (iii) take whatever steps are reasonably necessary to address problems caused by a catastrophic event.

SECTION 2.

Section 2 of Ordinance No. 5819 is amended and restated as follows:

Notwithstanding Ordinance No. 5819 to the contrary, any salaries or other compensation of any officers, executive management employees or other employees for MLGW in excess of One Hundred and Twenty Thousand Dollars (\$120,000.00) shall require approval in advance of employment.

SECTION 3. Except to the extent inconsistent with the provisions hereof, the provisions of Ordinances Nos. 3509 5046, 5256, 5291, 5383, 5574, and 5819 are hereby ratified and shall remain in full force and effect.

SECTION 4. The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 5. This Ordinance shall take effect from and after the date it shall have been passed by the City 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 and shall continue in full force and effect for six months and be reviewed by the Council on the second meeting in October 2024 during the Regular Agenda.

Sponsors:

JB Smiley, Jr.

Jerri Green

Rhonda Logan

Jana Swarengen-Washington

Pearl Walker

JB Smiley, Jr.,
Chairman