



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

COUNCIL MEETING DATE: **January 20, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 1/14/15:

4% Reserve Fund	\$28,228,276*
Metro Self Insured Liability Claims	\$4,221,335
Judgments & Losses	\$3,463,803
Schools Self Insured Liability Claims	\$2,534,636
Self-Insured Property Loss Aggregate	\$6,895,577
Employee Blanket Bond Claims	\$656,583
Police Professional Liability Claims	\$2,717,339
Death Benefit	\$978,686

*Assumes unrealized estimated revenues in fiscal year 2015 of \$17,194,629

– RESOLUTIONS –

RESOLUTION NO. RS2015-1348 (PRIDMORE) – This resolution approves an application for an annual grant in the amount of \$100,000 from the state arts commission to the Metropolitan arts commission for general operational support. The arts commission typically receives an annual state grant to help cover its operating costs. If awarded, there will be a required local match of \$100,000.

RESOLUTION NOS. RS2015-1349 & RS2015-1350 – These two resolutions accept the donation of funds and approve a memorandum of understanding between the mayor’s office and Cities of Service, Inc. for the implementation of the Storm Busters program. This program will use volunteers to plant trees and rain gardens in areas with a high propensity for flooding. The mayor’s office has been awarded a total of \$35,000 for this program from Cities of Service. The award consists of a \$10,000 donation and an additional \$25,000 conditioned upon fulfilling the requirements of a memorandum of understanding regarding the use of the funds.

Resolution No. RS2015-1349 (Pridemore) accepts the \$10,000 donation for the program.

Resolution No. RS2015-1350 (Pridemore & Langster) approves the memorandum of understanding between the mayor’s office and Cities of Service in order to access the remaining \$25,000.

RESOLUTION NO. RS2015-1351 (PRIDEMORE) – This resolution approves a sixth amendment to a grant from the state emergency management agency to the Metropolitan Government for the reimbursement of expenses resulting from the May 2010 flood. This grant is for the receipt of federal and state funds to reimburse Metro for flood repairs and the replacement of equipment and facilities. This amendment increases the amount of funding by \$9,778,415.06 for a total grant award of \$63,822,329.89. The amendment also increases the amount of the match by \$514,653.43 for a total match of \$3,359,069.81.

As required by the Metro operating budget ordinance, the council receives monthly reports from the finance department detailing the flood-related revenues and expenditures.

RESOLUTION NO. RS2015-1352 (PRIDEMORE & BAKER) – This resolution approves an annual grant in the amount of \$188,350 from the Tennessee emergency management agency to the office of emergency management to subsidize Metro’s emergency management program. These federal pass-through funds are used to pay for training exercises, planning, and equipment purchases. There is a required local in-kind match of \$188,350. The term of the grant is through June 30, 2015.

RESOLUTION NO. RS2015-1353 (PRIDEMORE & BAKER) – This resolution approves an application for a grant in the amount of \$7,200 from the Tennessee emergency management agency to the Metropolitan Government to increase safety and efficient handling of hazardous materials in transportation incidents. The funds would be used to pay the transportation and training costs for fire department special operations personnel to attend advanced technician training in San Jose, CA. If awarded, there would be a required match of \$1,800 for this grant.

RESOLUTION NO. RS2015-1354 (GILMORE) – This resolution approves a contract between the Metro health department and Excellence Early Childhood Academy for the implementation of the Project Diabetes Golden Sneakers program. In September 2013, the health department received a grant from the state department of health for the Golden Sneakers program, which is a program to encourage child care providers to implement recommended amounts of physical activity each day, to address food portion control, and to limit the amount of high calorie and high fat foods. The grant funds are to be used to provide the program at 20 childcare centers in north and northeast Nashville. The program consists of a nutrition education course for the childcare employees and parents, as well as in-class instruction for children.

Under the terms of this contract, Excellence Early Childhood Academy will schedule monthly parent meetings for nutrition training, participate in staff surveys about exercise and nutrition, and promote the community center fitness classes offered. The health department will be responsible for conducting weekly preschool classroom nutrition education sessions, providing six parent nutrition training sessions, and provide an opportunity for teachers and families to participate in free exercise classes at community centers. The term of the contract expires on June 30, 2015. There is no monetary compensation associated with this contract.

The council has recently approved contracts with several other childcare providers for this program.

RESOLUTION NO. RS2015-1355 (PRIDEMORE & GILMORE) – This resolution approves a grant in the amount of \$107,416 from the U.S. environmental protection agency (EPA) to the Metropolitan board of health to fund Metro’s air quality protection program to achieve established ambient air quality standards. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This is what will be the first installment in an annual federal grant for the program. It is anticipated that the total amount of the grant will be \$1,400,000 with a required local match totaling \$588,119. The term of the grant is from October 1, 2014, through September 30, 2016.

RESOLUTION NO. RS2015-1356 (PRIDEMORE & GILMORE) – This resolution approves a grant in the amount of \$510,000 from the state department of mental health and substance abuse services to Metro social services to assist veterans and other individuals experiencing homelessness. These federal pass-through funds will be sub-granted by Metro social services to Park Center working with the Mental Health Cooperative. The grant is to provide services to homeless veterans or other chronically homeless persons who are mentally ill and/or have a substance abuse disorder. The services include permanent housing, treatment, and assistance with obtaining benefits for which the individuals are eligible. The grant is to serve at least 120 homeless persons. The term of this grant is from December 1, 2014, through September 30, 2015.

RESOLUTION NOS. RS2015-1357 & RS2015-1358 – These two resolutions approve amendments to a grant from the U.S. department of health and human services to the Metro board of health to enhance access to community-based care for low income individuals and families with HIV. This grant is to provide a number of medical and support services for HIV (continued on next page)

RESOLUTION NOS. RS2015-1357 & RS2015-1358, continued

patients under the Ryan White HIV/AIDS Treatment Extension Act of 2009. The grant is for a term of March 1, 2014, through February 28, 2015. These two amendments de-obligate \$138,908 from fiscal year 2013 and re-obligate the funds for use in 2015.

Resolution No. RS2015-1357 (Pridemore & Gilmore) approves amendment two re-obligating the funds.

Resolution No. RS2015-1358 (Pridemore, Gilmore & Langster) approves amendment three de-obligating the funds from the previous year.

RESOLUTION NO. RS2015-1359 (PRIDEMORE, GILMORE & LANGSTER) – This resolution approves three amendments (amendments 3, 4, and 5) to a grant in the amount of \$716,413 from the U.S. department of health and human services to the Metropolitan board of health for the Healthy Start home visiting program. The term of the grant period is technically over, but these amendments are necessary for accounting purposes. The third amendment extends the end date of the grant from May 31, 2014 to September 29, 2014. The fourth amendment eliminates the requirement that the health department develop a sustainability plan in the event federal funds are not available. The fifth amendment further extends the term of the grant through December 31, 2014.

RESOLUTION NO. RS2015-1360 (PRIDEMORE & A. DAVIS) – This resolution recognizes the termination of a state waste tire disposal grant to the department of public works and appropriates \$48,882.22 in state funds for the collection and disposal of waste tires. For many years, Metro public works has received a grant from the state department of environment and conservation for the disposal of waste tires. The Tennessee general assembly recently amended the funding mechanism for waste tire grants to provide counties with \$1.00 of the tire disposal fee for each tire sold in the county, which for Davidson County will be \$48,882.22. This change in state law necessitated the termination of the existing grant and the appropriation of the new funds to the department of public works.

RESOLUTION NO. RS2015-1361 (GILMORE) – This resolution authorizes Palm Management Corporation to install and maintain aerial sign encroachments for the 5th Avenue South entrance of The Palm restaurant. The encroachment will consist of a 9’11” x 18” double-faced illuminated sign and a 2’ x 20’ set of channel letters. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the signs, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2015-1362 (PRIDEMORE) – This resolution authorizes the department of law to settle the personal injury and property damage claims of Elizabeth Moss and her insurance company (State Farm) against the Metropolitan Government for the amount of (continued on next page)

RESOLUTION NO. RS2015-1362, continued

\$11,038.06. On July 19, 2013, a Metro police officer rear-ended Ms. Moss's vehicle after she slowed for traffic on Murfreesboro Road near the Hamilton Church Road intersection. At the time of the accident, Ms. Moss complained of neck, back, and stomach pain. She was later treated for a back strain and blunt abdominal trauma incurring \$10,000 in medical expenses. Ms. Moss's vehicle sustained \$1,038.06 in damage to the rear bumper, quarter panel, and taillights.

The department of law recommends settling this claim for the amount of the medical bills and property damage since Metro's liability is not in question. The police officer that caused the accident received disciplinary action consisting of a one day suspension.

This settlement is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2015-1363 (PRIDEMORE) – This resolution authorizes the department of law to settle the personal injury claim of Berlinda Bedeley against the Metropolitan Government for the amount of \$7,321.06. On September 6, 2013, a Metro public works trash truck attempted to change lanes on Interstate 40 and struck Ms. Bedeley's vehicle causing her to run into the guardrail. Ms. Bedeley sustained temporary injuries resulting in medical bills in the amount of \$4,880.71.

The department of law recommends settling this claim for the amount of the medical bills plus \$2,440.35 for pain and suffering since the public works employee was clearly at fault. The employee that caused the accident received disciplinary action consisting of a four day suspension.

The settlement amount is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2015-1364 (PRIDEMORE) – This resolution authorizes the department of law to settle the personal injury claim of Juanita Cantrell against the Metropolitan Government for the amount of \$32,600. On February 19, 2014, a Metro public works trash truck struck the rear of Ms. Cantrell's vehicle while she was stopped at the intersection of Nolensville Pike and Harding Place. Ms. Cantrell sustained injuries to her head and neck resulting in medical bills in the amount of \$24,228.75.

The department of law recommends settling this claim for the amount of the medical bills plus \$8,371.25 for pain and suffering since Metro's liability is not in question. The employee that caused the accident received disciplinary action consisting of a three day suspension.

The settlement amount is to be paid out of the self-insured liability fund. The \$4,800 property damage claim for Ms. Cantrell's truck has already been settled.

RESOLUTION NO. RS2015-1365 (HARMON) – This resolution approves the election of notaries public in accordance with Tennessee law.

– **BILLS ON SECOND READING** –

ORDINANCE NO. BL2014-998 (HOLLEMAN) – This ordinance abandons portions of Park Avenue, Elkins Avenue, and Alley Nos. 1198 and 1199 from 40th Avenue North westward to their terminus. This right-of-way abandonment has been requested by Barge Cauthen & Associates to allow for the consolidation of property for the Hill Center Sylvan Heights project. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2014-999 (BAKER, A. DAVIS & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. BL2014-912 when a portion of Alley No. 1517 was abandoned for property located at 525 Stevenson Street. Metro water services no longer has a need for this easement.

– **BILLS ON THIRD READING** –

ORDINANCE NO. BL2014-990 (MAYNARD, ALLEN & OTHERS) – This ordinance amends the Metro code to modify the eligibility requirements for the small business economic development incentive grant program. In June 2013, the Council enacted Ordinance No. BL2013-420 to provide a mechanism for small businesses to obtain economic development incentives. The fiscal year 2014 operating budget included \$1 million to fund the program, which was carried forward in the fiscal year 2015 budget. Under the program as it exists today, companies having fewer than 100 total employees who create at least 20 new full-time jobs in Davidson County within a one year period paying a salary that is at least as much as the average annual salary for all occupations within Nashville’s metropolitan statistical area can receive incentive grants in the amount of \$500 per new job created (or \$750 per job if the new position is filled by a veteran of the Armed-Forces). There is a maximum annual payment of \$50,000 for a single company under this grant program.

This incentive program has not been well utilized since most small businesses are unable to meet either the 20 new job requirement or the minimum salary requirement, or both. In an effort to spur use of the incentive grant program, this ordinance would reduce the required minimum number of new jobs created from 20 to 10, and would reduce the average salary requirement for the new jobs to 80% of the average annual wage for all occupations in Davidson County.

ORDINANCE NO. BL2014-991 (BANKS, MATTHEWS & OTHERS) – This ordinance, as amended, amends the Metro code provisions pertaining to the minimum wage contractors on Metro projects must pay their employees and the payroll information that must be retained by such contractors. The code currently requires Metropolitan Government contractors on construction projects to pay their workers not less than the prevailing wage rates established by the federal Davis-Bacon Act. However, the Tennessee General Assembly enacted a state law in 2013 prohibiting local governments from requiring contractors or subcontractors to pay wages in excess of those provided in the Tennessee Occupational Wages Report published by the Tennessee department of labor and workforce development. The Davis-Bacon Act wages referenced in the current Metro prevailing wage law exceed those provided in the Tennessee Occupational Wages Report, which basically nullifies the enforcement of the existing Metro ordinance.

This ordinance amends the Metro prevailing wage provisions to conform to state law, which will enable the purchasing agent to ensure the requirements are included as part of the contracts. This ordinance also removes the reference to contracting with the Metropolitan development and housing agency (MDHA) to perform the payroll review to determine compliance with the Metro prevailing wage ordinance since MDHA no longer performs this function. Rather, the ordinance allows the purchasing agent to contract with an independent firm to perform the payroll review. Further, the ordinance modifies the payroll information requirements to give contractors employing fewer than 100 people 30 days to comply with an information request from the purchasing agent instead of 5 days.

ORDINANCE NO. BL2014-993 (A. DAVIS) – This ordinance amends the Metro code to adopt regulations for low speed vehicles (LSVs). These are vehicles resembling golf carts that are currently being used to transport passengers in the downtown area without any regulation. State law allows the operation of LSVs on roads with a posted speed limit of 35 miles per hour or less, but gives local governments the authority to prohibit their operation in the interest of public safety. This ordinance, which is similar to the regulations enacted by the council last month regarding pedal carriages and pedicabs, would require LSV companies to be licensed by the Metro transportation licensing commission (MTLC) and require drivers to obtain a permit from the MTLC.

LSV operators would be required to obtain an annual certificate of public convenience and necessity from the MTLC. The MTLC would determine the number of certificates to be issued taking into consideration the number in operation and whether that number is adequate to meet public demand. An applicant for a certificate of public convenience and necessity must be at least 21 years old and have a clean criminal record.

Certificate holders would be required to maintain comprehensive general liability insurance with a minimum limit of \$1 million, as well as comprehensive automobile liability insurance. Operating a LSV without the required insurance would provide grounds for revocation of the license.

All drivers would be required to obtain a driver permit from the MTLC in order to operate a LSV. Drivers must undergo a criminal background check and have a clean criminal and driving record in order to be eligible to obtain a drivers permit. Drivers would also be required to have a valid driver's license issued by one of the 50 states in the U.S.

LSV drivers and operators would be prohibited from providing alcoholic beverages to passengers. The MTLC would have the authority to adopt rules governing the attire drivers can wear and how the driver permit is to be displayed. The number of passengers that could be carried would be limited to the number of seatbelts in the LSV up to a maximum of seven. No LSV would be permitted to travel at speeds in excess of 25 miles per hour. Passengers 12 years of age or younger would be prohibited in the LSV without being accompanied by an adult.

The ordinance includes various equipment and safety requirements for LSVs that are similar to the requirements for all other regulated passenger vehicles for hire. All vehicles must undergo an annual mechanical inspection by an approved mechanic and periodic mechanical inspections must be performed by the certificate holders. All vehicles must be made available to the MTLC for physical inspection upon request.

Each LSV would be required to display a rate card and the LSV must display the company name and phone number. The rate charged by a LSV company could be based on a flat rate for each passenger, an hourly rate, or a contract rate. The MTLC would have the authority to designate specific streets, routes, and/or zones in which LSVs could operate.

Certificate holders would be required to notify the MTLC of accidents involving injury or property damage in excess of \$1,000 within the timeframe set by the MTLC. Drivers involved in accidents involving bodily injury would be required to undergo a drug test within 24 hours.

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ORDINANCE NO. BL2014-993, continued

The ordinance also includes various requirements and restrictions regarding the solicitation of passengers and the loading/unloading of passengers. LSVs would not be permitted to occupy an area designated by the MTLC as a taxicab stand. This ordinance has been recommended by the MTLC.

ORDINANCE NO. BL2014-994 (GILMORE, PRIDEMORE & A. DAVIS) – This ordinance authorizes the acquisition and acceptance of additional right-of-way, slope easements, and temporary construction easements necessary for the planned extension of Division Street to connect the Music Row/Vanderbilt/Belmont/Midtown/Gulch areas with the Sobro area, Fulton Campus, and Rolling Mill Hill. In December 2013, the council authorized the acquisition of easements for 32 parcels between 4th Avenue South and 8th Avenue South necessary for the planned extension of Division Street. It has been determined that easements are needed for additional properties located along the Division Street corridor including properties on Fogg Street and 7th Avenue South.

The estimated cost for the Division Street extension is \$22 million, with \$11 million for right-of-way acquisition and another \$11 million for construction. It is anticipated that the additional easements authorized by this ordinance will not add to the estimated \$11 million right-of-way costs. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-995 (STANLEY) – This ordinance authorizes the acquisition of temporary and permanent utility easements relating to the installation of a new eight inch water main along Brandau Road and Hoggett Ford Road, approves the form of a financing agreement for property owners to connect to the new main, and amends the Metro code to authorize the financing arrangement contemplated in the ordinance. Residents on Hoggett Ford Road and businesses on Brandau Road have very limited fire protection due to the lack of adequate water lines in the area. Further, some Hoggett Ford Road residents have limited access to public drinking water because of the lack of water lines. These residents rely on wells for water consumption and usage, which have been determined by the Metro health department to be of poor quality.

While Hoggett Ford Road and Brandau Road are not the only roads in Davidson County that do not have direct fire protection by means of nearby hydrants, Metro water services has determined that these roads are unique in that the area immediately surrounding the roads is developing rapidly. Since Hoggett Ford Road and Brandau Road are close to heavily populated areas, a new water main can be connected to other water mains that are already in place with high water turnover, which will enable the water to stay fresh without having to be wasted.

First, this ordinance authorizes the acquisition of easements for 34 properties to allow construction of the project. Second, this ordinance would create a financing mechanism whereby property owners along these two roads could connect to a new water main without having to pay all of the costs on the front end. If the lines are constructed in the area, property owners would be able to pay a surcharge each month to repay their share of the cost of the water main installation.

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ORDINANCE NO. BL2014-995, continued

Additional easements for this project could be acquired upon approval of the council by resolution receiving 21 affirmative votes.

ORDINANCE NO. BL2014-996 (A. DAVIS & HUNT) – This ordinance adopts the geographic information systems street and alley centerline layer as the official street and alley acceptance and maintenance record for Metro. The street and alley centerline layer takes the place of the previous official street and alley acceptance and maintenance map. The layer shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro since the last map adoption.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-997 (GILMORE) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. BL2007-104 when a portion of Alley No. 236 was abandoned for properties located at 1701 and 1707 Broadway, and 115 17th Avenue South. There is no longer a government need for these easements. This ordinance is needed to allow for the construction of the Skyhouse Nashville project. This ordinance has been approved by the planning commission.