



## METRO COUNCIL OFFICE

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MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel  
Mike Curl, Finance Manager  
Metropolitan Council Office

COUNCIL MEETING DATE: April 17, 2018

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 4/11/18:

4% Reserve Fund	\$5,253,804*
Metro Self Insured Liability Claims	\$5,790,925
Judgments & Losses	\$3,641,550
Schools Self Insured Liability Claims	\$4,597,197
Self-Insured Property Loss Aggregate	\$8,116,028
Employee Blanket Bond Claims	\$674,288
Police Professional Liability Claims	\$2,269,393
Death Benefit	\$1,298,888

\*This assumes unrealized estimated revenues in FY18 of \$6,659,699.

Note: No fiscal note is included for legislation that has no significant financial impact.

– ORDINANCES ON PUBLIC HEARING –

**BILL NO. BL2018-1139** (SYRACUSE, VERCHER, & BEDNE) – This ordinance would establish a “transit-oriented redevelopment plan” in Donelson and, if adopted, would be the first implementation of a transit-oriented development district as authorized under recent state legislation.

In May 2017, the Tennessee General Assembly enacted legislation (Tenn. Code Ann. § 13-20-701, *et seq.*) authorizing transit-oriented redevelopment plans in areas where the absence of facilities for high capacity transit options are detrimental to public welfare. Under the state legislation, the local housing authority – in this instance, the Metropolitan Development & Housing Agency or MDHA – is authorized to implement transit-oriented redevelopment projects. In so doing, MDHA would be authorized to:

- Acquire transit-deficient areas and other properties necessary to reduce blight or to allow proper development of the property pursuant to a redevelopment plan;
- Clear acquired areas acquired, including the relocation of utilities, demolition of existing structures, and removal of environmental contaminants;
- Install or construct utilities, public infrastructure, and site improvements, including parks, open spaces, and playgrounds;
- Install or construct privately-owned affordable and workforce housing;
- Pay expenses for relocation, administrative costs, planning and engineering costs, energy efficiency costs, and legal expenses associated with carrying out a plan;
- Pay costs associated with meeting requirements of Leadership in Energy and Environmental Design (LEED), Green Globes, or other similar programs;
- Sell or lease acquired land for uses in accordance with the plan; and
- Borrow money upon its bonds or notes to finance and to carry out a plan.

Historically, MDHA has served to (1) implement the development and operation of low-income housing and (2) implement economic redevelopment districts. The establishment of transit-oriented development districts would establish a third “hybrid” role for MDHA wherein it implements both economic development and housing within transit corridors.

The plan proposed under the current ordinance is expressly intended to implement the concepts from *Let’s Move Nashville: Metro’s Transportation Solution*, initially released in October of 2017 and now subject to a county-wide referendum election on May 1, 2018.

Under the new state enabling legislation, MDHA cannot initiate a transit-oriented redevelopment project until the governing body (Metro Council) or MDHA has approved a transit-oriented redevelopment plan. These proposed plans must provide a variety of details, including:

- local objectives regarding land use, improved traffic, public transportation, utilities, recreational facilities and other improvements;
- proposed land uses and building requirements; and

- proposed methods for temporarily relocating those living in such areas, and the means by which safe and sanitary dwellings will be provided to replace substandard dwellings to be cleared.

The ordinance under consideration proposes approval of the "Donelson Transit-Oriented Redevelopment Plan" (the "Plan") which encompasses an area located within 1,320 feet on either side of Lebanon Pike between Park Drive and Stewarts Ferry Pike. MDHA has examined the area and concluded that it lacks facilities for high capacity transit options to the detriment of public health, safety, morals, and welfare. Facilities for high capacity transit are necessary, according to MDHA, to address traffic hazards and congestion and to improve traffic facilities. In addition to approving the Plan, the ordinance would formally establish that the area is "transit-deficient" as defined under state law; that this condition is detrimental to public safety, health, morals and welfare; and that that the area, or portions thereof, should be acquired by MDHA. Additionally, the use of TIF financing would be approved for activities specified under the Plan.

The Plan, attached as an exhibit to the ordinance, provides a description of the area and its boundaries and describes the objectives of the Plan – namely: (a) to create a transit-oriented, mixed-use district surrounding the Donelson train station; (b) to enhance the pedestrian environment; and (c) to provide housing for a range of incomes, including affordable and workforce housing. The Plan adopts the development standards in the Downtown Donelson UDO first adopted in 2009. To achieve its objectives, the Plan describes the "main redevelopment actions" proposed for the project area which consist of a variety of goals addressing building design and orientation, construction materials, utility design, water quality techniques, multi-modal travel, pedestrian connections, and other design feature goals.

The state enabling legislation enables MDHA to extend tax increment financing (TIF) for properties within the boundaries of the proposed development plan each year. The proposed Plan specifically calls for use of TIF financing, backed by \$30,000,000 dollars of tax increment debt. Under state law, plans proposing use of TIF must disclose estimates of the cost of the project, sources of revenue to finance the project, the estimated tax increment, estimates of the amount and final maturity date of the bonded indebtedness, and an estimate of the impact of TIF financing on local taxing agencies. The proposed Plan includes the following measures:

- \$33,000,000 - The cumulative assessed value of all real estate within the Redevelopment District.
- \$300,000,000 - The projected future increase in the value of property developed under the Plan.
- \$30,000,000 - The tax increment backed debt provided for by the Plan. Thirty percent (30%) of the projected net new property tax revenues generated by the project area will be required to generate this amount of tax increment backed debt.
- \$10,000,000 – The portion of TIF financing committed by MDHA toward development of affordable and workforce housing units. (The remainder of the \$30,000,000 of tax increment backed debt would be used for infrastructure and economic development.)

The Plan states that the amount of bonds or other indebtedness backed by the tax increment will not exceed \$30,000,000; and the final maturity date on any bonded indebtedness backed by the tax increment would occur on or before December 31, 2048. Upon retirement of all bonds or other indebtedness, all property taxes resulting from the incremental development of the Project would be retained by the Metropolitan Government.

MDHA would be further authorized under state law to borrow money or accept contributions from the federal government to assist in undertaking redevelopment projects.

Under the proposed Plan, land use restrictions and design requirements would be implemented through a Design Review Committee, designated by MDHA, that must approve all improvements affecting property exteriors that otherwise require building permits. Permitted uses would include residential, institutional, educational, office, medical, commercial, transportation, recreation and entertainment. Certain identified uses would be prohibited (e.g., adult entertainment, etc.) while several others would be made conditional uses subject to Design Review Committee approval.

The Plan further proposes a review process administered by MDHA for any new development, redevelopment, or improvement otherwise requiring a building permit. Applicants are likewise required to abide by the existing UDO Final Site Plan and building permit processes through the Metro Planning Department.

Although state law assigns broad powers to housing authorities, MDHA would be specifically prohibited under the state legislation from using eminent domain to eliminate transit-deficient areas (though it may use eminent domain to acquire land for public facilities and infrastructure.) The Plan provides for the acquisition of properties necessary to install infrastructure and improvements essential to the implementation of the redevelopment plan. However, under certain conditions, property designated for acquisition can be exempted – essentially if the exemption will not adversely affect implementation of the redevelopment project.

Under the state enabling legislation, once property is acquired, MDHA would be authorized to make land within the project available to private enterprise and public agencies at “use value” in furtherance of the underlying redevelopment plan. To assure appropriate property use, MDHA would be obliged – upon sale or lease of land – to require its use to be for purposes designated within the plan, or to impose other conditions necessary to effectuate the plan. The proposed Plan provides that MDHA contracts, deeds and other conveyances would include conditions to ensure redevelopment of the area in accordance with the Plan.

As required under state law, the Plan provides for relocation assistance for individuals and businesses displaced by project actions or land acquisition, although the Plan aspires generally to “minimize the need for displacement or relocation of businesses or residents.”

In the event changes in the approved Plan become necessary or desired, the proposed Plan specifies that it may be modified, changed or amended “by MDHA”, with subsequent approval of

the Metropolitan Council. In other words, the Metro Council could not *initiate* Plan amendments. Although this is typical of MDHA redevelopment districts, the state legislation enabling transit-oriented redevelopment plans does not prohibit the initiation of plan amendments by Council.

State law requires a public hearing on any redevelopment plan prior to final approval, preceded by a specific schedule for public notice. Resolution No. RS2018-1109, adopted by Council March 20, 2018, has scheduled the public hearing for April 17, 2018.

Council members, including the lead sponsor, have been in extensive discussions with MDHA, the Mayor's office, and other departments and agencies. As a result of those discussions, it is anticipated that amendments to the ordinance and/or underlying Plan may be forthcoming that address:

- Clarification that a minimum of \$10 million of TIF financing will be dedicated to affordable housing, defined as 0%-60% AMI;
- Projects with residential components that apply for TIF financing will be required to allocate 10% of residential units to affordable housing;
- The appropriate balance between affordable and workforce housing will be reassessed periodically (e.g., every 5 years) and submitted to Council for approval;
- The minimum period of affordability for residential units will co-extensive with the life of the TIF financing loan;
- Amendments to the Plan could be initiated by either MDHA or the Metro Council, subject to the other's approval;
- Recently revised requirements within Metro Code of Laws §§ 5.06.020, 5.06.050 and 5.06.060 regarding economic development districts will be incorporated into the ordinance;
- Prior to approval of the next transit-oriented district, a unified process providing for a one-stop design review and zoning approval process would be implemented by and between MDHA and the Metro Planning Department; and
- Explicit reference would be made to the state legislation's incentives for LEED design and similar programs, as well as its authorization for the installation of energy use capture and transmittal infrastructure, alternative power systems or alternate power projects that incorporate principles of urban sustainability, eco-efficiency, and global sustainable development.

It is anticipated that the sponsor will defer public hearing of this Ordinance. If so, compliance with notice requirements in the related state legislation will require the public hearing to occur no earlier than May 15, 2018. Planning Commission consideration has been deferred until April 26, 2018.

*Fiscal Note: "Tax Increment Financing" (TIF) is a financing mechanism authorized by state law for redevelopment districts whereby the increased property tax revenue generated by a development is used to pay the debt service on loans for the construction of improvements related to the project.*

*The cumulative assessed value of all real estate within the proposed Donelson Transit-Oriented Redevelopment District is approximately \$33,000,000 (thirty-three million dollars). If this plan is approved, the projected value of the property developed in conjunction with the plan is estimated to be approximately \$300,000,000 (three hundred million dollars).*

*It is considered to be necessary to induce investment through available economic development tools. The activities of MDHA would make the area conducive to new private development, resulting in increased tax revenues for Metro. The \$30,000,000 (thirty million dollars) provided for by the plan would require approximately 30% (thirty percent) of the projected net new property tax revenues generated by the project area if development can be induced.*

*MDHA now plans to commit \$10,000,000 (ten million dollars) of tax increment financing to the development of affordable and workforce housing units. The remainder of the \$30,000,000 (thirty million dollars) of tax increment backed debt provided by this plan would be used to support infrastructure and economic development activities.*

*The final maturity date on any bonded or other indebtedness backed by the tax increment from eligible properties shall be on or before December 31, 2048. Upon retirement of all bonds, loans, or other indebtedness incurred and payable from tax increment funds or at such time as moneys on deposit in the tax increment fund or funds are sufficient for this purpose, all property taxes resulting from the incremental development of the project shall be retained by Metro.*

**BILL NO. BL2018-1140** (DOWELL, VERCHER, & K. JOHNSON) – This ordinance would create a new South Nashville Central Business Improvement District (SONA CBID). Central business improvement districts (CBIDs) are permitted pursuant to Tenn. Code Ann. §7-84-501 *et seq.* and allow the imposition of an additional assessment on all property located within the area to provide enhanced services. Under state law, a majority of all real property owners must petition the government to create a CBID, representing two thirds of the assessed value within the area seeking designation. The Council has previously approved the creation of two CBIDs – one in downtown and a second in the Gulch area.

A petition has been filed with the Metropolitan Clerk signed by the requisite percentage of owners petitioning the Metropolitan Government for the creation of the SONA CBID. The SONA CBID area would consist of approximately 266 acres with boundaries extending from Cane Ridge Road to the West, I-24 to the East, Target Drive to the North, and Old Franklin Road to the South.

A District Management Corporation (DMC) would act as an advisory board to carry out recommendations for use of the special assessment revenues. The DMC would be governed by a board of directors, as provided under state legislation. The ordinance proposes a board consisting of at least seven (7) members. Under state law, a member of the state senate and a state representative whose districts include the majority of the area contained within the SONA

CBID would be appointed by the speaker of the Senate and the speaker of the House of Representatives, respectively, as *ex officio* members during the time for which they are elected to office. The ordinance further proposes that the member(s) of Council in whose district(s) the CBID is located would also be members of the board; and that the mayor would appoint two members who would serve a four-year term, subject to renewal by the mayor. Property owners within the district would appoint the remaining two members to serve five-year terms, who must be principles of property owners or companies owning property within the CBID boundaries. At the end of the initial terms, these seats would be filled at an annual meeting upon nomination by the outgoing board members.

The DMC would have the authority to acquire, construct, and maintain parking facilities, to acquire, construct, and maintain public improvements, and to acquire interests in real property. The corporation also will provide supplemental services such as promotion and marketing, advertising, health and sanitation, public safety, security services, recreation, cultural enhancements, and business recruitment and retention in the district. The district could employ persons and retain professional services to fulfill these purposes. The DMC would also, to the extent permitted by law, be authorized to borrow money and issue bonds, notes, or other obligations for the purpose of paying the costs of public improvements, or the funding or refinancing of any such bonds, notes, or other obligations issued pursuant to the authority of Tenn. Code Ann. §7-84-518.

The ordinance would authorize an assessment equal to \$0.55 per \$100 of assessed value to be collected by the district. This special assessment would essentially be an additional property tax levy that would be collected by Metro beginning in 2018 at the same time other property taxes are collected. After collection, the funds would be returned to the district board, which is required to submit an annual report on how funds are expended. The Metropolitan Government cannot reduce the level of services within the district as a result of the district having its own revenue and providing some of its own services. It is estimated that in the first year, the costs of the initially proposed improvements, services, and projects will be \$10,948,000, and \$28,500,000 over the 20 year term.

The Council must approve this district before it becomes effective, and must conduct a public hearing that occurs after first and second readings. Since this ordinance is a “tax measure”, the ordinance is amendable on third reading. Pursuant to this ordinance, the SONA CBID would be dissolved on December 31, 2037, unless further action is taken by the Council to extend it.

*Fiscal Note: The estimated costs of the initially proposed improvements, services, and projects are approximately \$10.948 million during the first year and \$28.5 million over the 20-year term.*

*The additional rate of levy of the special assessment for the SONA CBID would be 55 cents per \$100 of assessed value of real property for 2018. This rate would continue unless and until changed by the Council. For the levy rate to be changed, the District Management Corporation (DMC) must request such change by resolution. The new rate must be approved in an election held by the DMC by not less than a majority in number of owners of real property in the District*

*voting in said election. Also, the assessed value of the property in the District owned by all of the persons voting affirmatively must equal or exceed two-thirds of the assessed value owned by all of the persons voting.*

*Upon receipt of this approved resolution from the DMC, the Council must hold a public hearing on whether there should be a change in the rate of levy for the special assessment.*

*Beginning in 2018, special assessments would be levied against all taxable real property within the SONA CBID. Notice of the special assessment would be issued with the tax notices for regular real property taxes within Metro. All revenues from this special assessment would be segregated into a special revenue fund subject to the direction of the Council and the DMC.*

– RESOLUTIONS –

**RESOLUTION NO. RS2018-1138** (VERCHER & BEDNE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1139** (S. DAVIS, VERCHER, & MENDES) – This resolution would authorize the Metropolitan Development and Housing Agency (MDHA) to enter an agreement to accept payments in lieu of taxes (PILOT) with respect to a multi-family housing project known as Oakwood Flats, located at 2034 Pittway Drive. This would be the seventh such PILOT program overall and the fourth for MDHA since 2016 when Ordinance Nos. BL2015-1281, BL2016-334 and BL2016-435 were enacted authorizing MDHA to negotiate and accept PILOT payments from operators of low income housing tax credit (LIHTC) properties, capped at \$2,500,000 annually.

PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTs have previously been utilized by Metro to provide incentives through the Industrial Development Board (IDB) to large employers to create job opportunities. Under Tenn. Code Ann. §13-20-104, MDHA now has the authority to enter PILOTs to create affordable rental housing.

MDHA developed their PILOT program to provide additional financial incentives to developers considering construction or rehabilitation of affordable housing units through a federally funded LIHTC program. Subsidized low income housing tax credit developments serve those at or below 60% of the average median income (AMI) for the Nashville area, which translates to an income cap of \$31,500 for individuals and \$44,940 for families of four in 2018. Once negotiated by MDHA, each PILOT agreement must be approved by the Council by resolution.

The maximum term for a PILOT lease under this program is 10 years. The PILOT would only be available for additional tax liability over and above the pre-development assessed value of the property. The program is available for both existing and new developments, based on financial need. The PILOT lease is to be terminated if the property sits vacant for two years.

MDHA is required to file an annual report with the Council, Assessor of Property, and State Board of Equalization identifying the values of the properties subject to PILOTs, the date and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

ECG Oakwood, L.P. owns land located at 2034 Pittway Drive. The owner has proposed that an apartment project consisting of approximately 280 units restricted to individuals and families earning no more than 60% of the AMI be constructed on this site and operated as a LIHTC property. The application for this project, as well as the associated PILOT agreement, have been approved by the MDHA Board of Commissioners.

The Planning Commission recommended approval of this project on June 26, 2017, advising that the project is consistent with the approved Specific Plan zoning of the property and is also consistent with the policy for the area.

The approval by the Planning Commission applied two conditions:

1. Provide a sidewalk along Oakwood Avenue from the project entrance to the intersection of Oakwood Avenue and Slaydon Drive;
2. A final site plan complying with all standards of the approved preliminary Specific Plan must be submitted for review and approval prior to the issuance of any permits. Final determinations on building height and needed traffic improvements will be made at that time.

*Fiscal Note: This PILOT request would require the developer to make a first-year payment of \$15,653 in lieu of property taxes, which would increase annually by 3% in year 2 and each subsequent year for the remainder of the 10-year period.*

*In addition to the PILOT payments, the developer would be required to pay a monitoring and reporting fee to MDHA. This fee will be set by MDHA, not to exceed five percent (5%) of the amount of the PILOT payment due each year.*

*The final assessed value of this project would not be known until completion. However, the value of the project when completed is expected to be approximately \$32,842,985. For purposes of this analysis, this number can be used as a reasonable estimate of the final project value.*

*Over the 10-year life of this PILOT agreement, a total of \$3,965,340 would be abated, although Metro would still receive \$179,445 in new property taxes from this project. The following table shows the details of this PILOT:*

<b>Real Property Tax (New)</b>						
	<b>Year</b>	<b>Total Value</b>	<b>Standard Tax</b>	<b>Still Pay</b>	<b>Abatement</b>	<b>Abatement %</b>
	1	\$32,842,985	\$414,478	\$15,653	\$398,825	96.2%
	2	\$32,842,985	\$414,478	\$16,123	\$398,355	96.1%
	3	\$32,842,985	\$414,478	\$16,606	\$397,872	96.0%
	4	\$32,842,985	\$414,478	\$17,104	\$397,374	95.9%
	5	\$32,842,985	\$414,478	\$17,618	\$396,860	95.7%
	6	\$32,842,985	\$414,478	\$18,146	\$396,332	95.6%
	7	\$32,842,985	\$414,478	\$18,691	\$395,787	95.5%
	8	\$32,842,985	\$414,478	\$19,251	\$395,227	95.4%
	9	\$32,842,985	\$414,478	\$19,829	\$394,649	95.2%
	10	\$32,842,985	\$414,478	\$20,424	\$394,054	95.1%
	<b>Totals</b>		<b>\$4,144,785</b>	<b>\$179,445</b>	<b>\$3,965,340</b>	<b>95.7%</b>

**RESOLUTION NO. RS2018-1140** (VERCHER, MENDES, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1141** (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claims of Tamyra Nash and Timothy Nash against the Metropolitan Government in the amount of \$50,000.

On November 23, 2014, Ms. Nash and her two adult daughters were walking to the Bridgestone Arena to attend an event. While traversing the crosswalk on Fifth Avenue at the intersection with Broadway, Ms. Nash's foot was caught in a pothole and she fell, injuring her left arm and shoulder. Metro Public Works had temporarily patched the pothole on three prior occasions in August and September 2014. In 2015, after Ms. Nash's fall, Public Works excavated and repaved this area.

Ms. Nash sought treatment for a fracture of her upper arm bone, which ultimately required surgical repair. Ms. Nash and Dr. Timothy Nash have agreed to accept a total of \$50,000 in full settlement of this case, based upon \$21,832.01 for reimbursement of her medical expenses plus \$28,167.99 for pain and suffering and Dr. Nash's loss of consortium.

It is possible that, if this case were to go to trial, the trial court could find that Metro had notice of the crosswalk condition due to the recurring nature of the problem. Under Tenn. Code Ann. § 29-20-203, Metro's governmental immunity could be removed, and Metro could be found liable for Ms. Nash's injuries.

The Department of Law recommends settlement of this claim for \$50,000.

*Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$50,000.*

**RESOLUTION NO. RS2018-1142** (O'CONNELL & VERCHER) – This resolution would accept a donation of \$10,000, from the Friends of the Nashville Farmers' Market to the Nashville Farmers' Market. Pursuant to Metropolitan Code of Laws Sec. 5.04.120(B), donations exceeding \$5,000 may be accepted and appropriation by resolution.

*Fiscal Note: The \$10,000 donation would be posted directly to the Farmers' Market Fund for their use instead of to the GSD General Fund.*

**RESOLUTION NO. RS2018-1143** (VERCHER & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1144** (VERCHER & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1145** (VERCHER & GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1146** (VERCHER, GILMORE, & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1147** (VERCHER, GILMORE, & ALLEN) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1148** (VERCHER, ELROD, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1149** (S. DAVIS, WITHERS, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2018-1150** (DOWELL, VERCHER, & OTHERS) –

**RESOLUTION NO. RS2018-1151** (DOWELL, VERCHER, & OTHERS) – Resolution No. RS2017-776 approved an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Government wherein Metro agreed to cover 100 percent of the cost of the Preliminary Engineering phases of NEPA (environmental assessment) and Design, at \$65,000 and \$1,940,000 respectively, as well as right-of-way cost at \$1,000. TDOT agreed to cover 100 percent of the estimated cost of construction of an Interchange Modification on I-24 East of Hickory Hollow totaling \$20,880,000. Ordinance No. BL2017-746 approved a participation agreement wherein Metro and Century Farms, LLC agreed to evenly share costs of design and construction of local roads that will connect to the interchange project totaling \$24,000,000. Century Farms will pay \$12,000,000 and Metro will pay \$12,000,000.

TDOT has since identified certain construction items consisting of landscaping features to the interchange (e.g., pedestrian walkway lighting and various types of trees and shrubbery) that they will not cover in their construction costs. Metro, per agreement with TDOT, would pay approximately \$161,000 for these features prior to construction. Century Farms has agreed to share the cost of these features with Metro and to reimburse Metro for the cost of the trees and shrubbery.

Resolution No. RS2018-1150 would approve amendment no. 1 to the participation agreement between Metro and Century Farms. Metro would pay TDOT a total of \$161,000 for these improvements. Century Farms would agree to reimburse Metro approximately \$23,495 for trees and shrubbery. After the reimbursement, Metro's share of the cost would be \$137,505 for pedestrian lighting items.

Resolution No. RS2018-1151 would approve amendment no. 1 to the intergovernmental agreement between TDOT and Metro. Pursuant to this amendment, Metro would be responsible for \$161,000 for landscaping features during construction. This resolution would also authorize the Director of Public Works, or his designee, to make a payment of approximately \$161,000 in the form of a deposit to TDOT prior to construction.

*Fiscal Note: Under the amendments to the participation agreement with Century Farms and the intergovernmental agreement with TDOT, Metro would deposit \$161,000 to TDOT prior to construction. This would cover the costs of the additional pedestrian walkway lighting and various types of trees and shrubbery that were not included in the initial agreements.*

*Century Farms has agreed to share this additional cost, reimbursing Metro \$23,495 for the landscape items. The remaining \$137,505 for the pedestrian lighting items would remain the responsibility of Metro.*

**RESOLUTION NO. RS2018-1152** (HAYWOOD & ROSENBERG) – This resolution would confirm the appointment of Jad Duncan to serve on the Board of Directors for the Sports Authority for a term expiring on February 20, 2024.

Under Tennessee Code Annotated §7-67-108, the Sports Authority is to be governed by a board of no more than thirteen directors, serving staggered terms. The directors are to serve without compensation and cannot be an elected official or employee of the municipality. Such directors are to be appointed by the Mayor and confirmed by a resolution adopted by the Council.

Nine of the directors are to be selected based on residency, with at least one residing in each of the metropolitan public school districts. Mr. Duncan is a resident of the ninth metropolitan school district. The remaining four are to be selected with one residing in each of the four state senatorial districts. At least one of the directors must be female and at least one must be a minority.

**RESOLUTION NO. RS2018-1153** (HAYWOOD) – Section 1.08 of the Metro Charter requires the Mayor to personally address the Council in a metropolitan facility at a specially called meeting regarding the state of the Metropolitan Government no later than May 25th of each calendar year. The date and time of such meetings are to be set by the Council by resolution.

This resolution sets the date and time for the 2018 “State of Metro” Address. If adopted, the address will take place May 4, 2018 at 10:00 a.m. at the Downtown Public Library in the Grand Reading Room.

**RESOLUTION NO. RS2018-1154** (ALLEN, SWOPE, & OTHERS) – Resolution No. RS2018-1039 established a Special Committee to investigate the circumstances involving travel and other expenses, including overtime expenses, potentially related to then-Mayor Megan Barry’s admitted improprieties involving an employee of the Metropolitan Government, to determine if there was any improper use of public money. That resolution provided that the Special Committee could engage the services of outside legal professionals and directed the Special Committee to prepare a Report and Recommendations to the Council about its findings and any recommendations for further action. Resolution No. RS2018-1110 amended the scope of RS2018-1039 after then-Mayor Barry entered a guilty plea and resigned on March 6, 2018, effectively resolving the question of whether improper use of public money had occurred.

At its April 5, 2018 meeting, the Special Committee examined the revised scope of work submitted by the Metropolitan Office of Internal Audit and determined that, under the current circumstances, the work of the Special Committee would only be duplicative of that of the Internal Audit Committee.

The resolution under consideration would therefore dissolve the Special Committee established by RS2018-1039. This resolution would further request the Report and Recommendations developed by the Office of Internal Audit, with oversight by the Audit Committee, be presented to the full Council. The Council’s Executive Committee may then determine if further action is required in response to any particular findings or recommendations therein.

– ORDINANCES ON SECOND READING –

**BILL NO. BL2018-1111** (GLOVER) – This ordinance would amend the Metropolitan Code of Laws (MCL) to authorize the Board of Ethical Conduct to evaluate whether actions of government employees violated executive orders that regulate the standards of conduct of Metro employees.

The Code currently authorizes the Board of Ethical Conduct to evaluate alleged violations of the standards of conduct set forth in Section 2.222.020 of the MCL. The ordinance under consideration would expand that jurisdiction to include executive orders from the mayor.

Generally, executive orders are regarded as directives issued by the mayor that manage operations of the Metropolitan Government.

An amendment is anticipated clarifying that only those executive orders that are “currently in effect” would apply. Additionally, at the request of the Metro Legal Department, an additional amendment is anticipated that would restrict inclusion of executive orders to those addressing “ethical” standards of conduct. If adopted, these amendments would implicate only one (1) current executive order -- Mayor Barry’s Executive Order No. 5, which has been extended pursuant to Mayor Briley’s Executive Order No. 1. That order, in part, provides that each employee shall avoid actions that might result in, or create the appearance of:

- a. using a public office for private gain;
- b. giving preferential treatment to any person;
- c. impeding government efficiency or economy;
- d. losing complete independence or impartiality;
- e. making a Metropolitan Government decision outside of official channels; or
- f. affecting adversely the confidence of the public in the integrity of the Metropolitan Government.

Executive orders apply to Metro Government employees but do *not* apply to elected officials and certain quasi-governmental agencies (e.g., NES, Airport Authority, MTA, MDHA, etc.). Mayor Barry’s Executive Order no. 5 (as extended) expressly applies to the mayor and mayor’s staff, but does not otherwise apply to elected officials.

The Board of Ethical Conduct has authority to hear complaints against elected officials as well as members of boards and commissions, but not Metro employees. The Board already has the authority to hear complaints against a mayor for violating the standards of conduct within the Code. As a result, the ordinance as amended would merely grant authority to the Board to hear complaints against a mayor for violation of a mayor’s own current executive order regarding ethics.

**BILL NO. BL2018-1142** (MURPHY) – This ordinance would require that Four Percent (4%) Fund Request resolutions affecting only a single Council district must be preceded by written notice to the Council member representing that district at least one (1) week before the

resolution is filed with the Metropolitan Clerk. Information equivalent to that in the information sheet for the expenditure would be required to be included in the written notice.

**BILL NO. BL2018-1143** (M. JOHNSON, MURPHY, & OTHERS) – This ordinance would approve an agreement between the Tennessee Department of Transportation (TDOT), City of Belle Meade, CSX Transportation, Inc. (CSXT), and the Metropolitan Department of Public Works.

This agreement would be for costs incurred by CSXT during the construction phase of the bridge rehabilitation project at the Hillwood Boulevard Bridge over CSX Transportation railroad crossing and Richland Creek.

*Fiscal Note: The estimated cost of \$285,847 would be paid by the state of Tennessee.*

**BILL NO. BL2018-1144** (VERCHER, BEDNE, & ELROD) – This ordinance would grant temporary and permanent easements to the Tennessee Department of Transportation (TDOT) on certain properties along Clarksville Highway owned by the Metropolitan Government. The easements are necessary for the successful completion of a widening project along Clarksville Highway. The easement locations and compensation to be paid by TDOT are attached to the Ordinance as exhibits and are as follows:

- Exhibit A — slope easement — \$45,000
  - 3500 John Mallette Drive
- Exhibit B — slope easement — \$1,600
  - 3851 Clarksville Pike
- Exhibit C — slope easements, temporary construction easements, permanent drainage easements — \$160,300
  - 3603 W. Hamilton Road
- Exhibit D — slope easement, temporary construction easement, permanent drainage easements — \$34,300
  - 4000 Clarksville Pike
- Exhibit E — slope easements, temporary construction easements — \$27,300
  - 3701 W. Hamilton Road
  - 3615 W. Hamilton Road
  - 3611 W. Hamilton Road
  - 3607 W. Hamilton Road

*Fiscal Note: The total amount that would be paid by TDOT for these easements is \$268,500.*

**BILL NO. BL2018-1145** (SLEDGE, BEDNE, & ELROD) – This ordinance would abandon existing utility easement rights on property located at 700 Hamilton Avenue, formerly known as Trabue Street. It has been determined that these easement rights are no longer needed. This abandonment has been requested by Thompson Burton PLLC, on behalf of the owner.

Future amendments to this legislation may be approved by resolution.

This has been approved by the Planning Commission.

**– ORDINANCES ON THIRD READING –**

**BILL NO. BL2018-1122** (PRIDEMORE) - This ordinance would amend Title 17 of the Metropolitan Code of Laws pertaining to special exception uses.

This ordinance would reinstate a requirement that the specific location of waste transfer facilities to be approved by resolution of the Council prior to the public hearing conducted by the Metro Board of Zoning Appeals (BZA) to consider such special exception requests.

Prior to August 2017, section 17.40.280 of the Metro Code required applicants seeking special exceptions for certain intensive uses (e.g., sanitary landfills, asphalt plants, waste transfer facilities, airport runways, hazardous operation, and wastewater treatment facilities) to first obtain Council approval for the location of such uses prior to BZA consideration. But in May 2017, the Council adopted the Jackson Law (BL2016-484) which required local approval of landfills, solid waste disposal facilities and processing facilities. With enactment of that legislation, Section 17.40.280 was amended to remove ostensibly unnecessary references to landfill and solid waste facilities. Specifically, BL2017-799 redacted sanitary landfills and waste transfer facilities. However, legal counsel for the Tennessee Department of Environment and Conservation has opined that transfer stations are exempt from the Jackson Law. Accordingly, the reference to waste transfer facilities in Section 17.40.280 should be reinstated.

**BILL NO. BL2018-1123** (GLOVER & SWOPE) – This ordinance would require that any department, board, commission or agency of the Metropolitan Government that allocates funds, services, property or equipment in excess of \$500,000 to another Metro department, board, commission or agency enter into a formal memorandum of understanding (MOU). The MOU would be required to be submitted to the Department of Finance and would be subject to approval by a resolution of Council receiving 21 votes.

This requirement would not apply to any funds, services, property or equipment specifically addressed and itemized in the current annual operating budget. It would also not apply to agreements exclusively between the Metro Nashville Airport Authority, the Nashville Electric Service, the Metropolitan Transit Authority, and/or the Metro Development and Housing Authority.

**BILL NO. BL2018-1124** (HURT) – This ordinance would amend Sections 16.08.015.M and 16.12.130.N of the Metropolitan Code of Laws to add a requirement that public toilet facilities include at least one (1) dispenser for toilet seat covers. No other changes would be made to either section.

According to the Department of General Services, flushable seat covers may cause plumbing issues in older Metro facilities.

*Fiscal Note: Covers of this type are not currently provided in the restrooms of buildings managed by the Department of General Services. Because they manage only a portion of all Metro buildings, General Services was not able to provide an estimate of the number of public toilets potentially impacted by this ordinance as of the publication deadline for this analysis.*

*Nevertheless, General Services estimates the incremental cost of equipping a toilet facility with a dispenser for toilet seat covers to be as follows:*

- *\$20 per dispenser*
- *\$40 per hour for labor for installation*
- *\$58 per 3,000 paper covers*

**BILL NO. BL2018-1125** (VERCHER) – This ordinance would authorize the Metropolitan Department of Law to compromise and settle its claims against Teleport Communications America, LLC (Teleport) for unpaid right-of-way franchise fees and all expenses related to litigation of such claims; and authorizing the establishment of a franchise arrangement with Teleport.

Metro brought a lawsuit against Teleport, formerly TCG Midsouth, Inc. (TCG), in 2002, which is currently pending in Davidson County Chancery Court. The lawsuit relates to disputes between Metro and Teleport concerning the telecommunications franchise (the “Franchise”) issued by Metro to TCG by Ordinance No. O97-913 in September 1997. The Franchise was later assigned to Teleport. The Franchise incorporates Ordinance No. O94-913, codified at Metro Code of Laws Sec. 6.26.010 *et seq.* This Franchise expired on its own terms on September 29, 2012. In the lawsuit, Metro brought claims seeking to enforce certain terms of the Franchise or to otherwise collect compensation from Teleport for use of the public rights-of-way. Teleport brought counterclaims and/or defenses asserting that the monetary and in-kind compensation provisions of the Franchise are unenforceable.

The resolution under consideration would authorize the Department of Law to settle Metro’s claims against Teleport for unpaid right-of-way franchise fees and for all expenses incurred in the litigation concerning those claims. The Settlement Agreement is attached to the Resolution as Exhibit A. Pursuant to the Settlement Agreement, Teleport would agree to pay \$1,750,000 to Metro in one lump sum within ten (10) days after the Settlement Agreement is executed and approved by the Council. Teleport would agree to pay an additional \$10,000 annual franchise fee effective January 1, 2018, and each year for so long as Teleport, its assigns, or successors-in-interest operate as a telecommunications provider in Davidson County. If a new franchise fee is adopted by Metro by general ordinance, Teleport would be subject to the payment terms of that ordinance. An additional provision provides that, for seven years from the effective date of the Settlement Agreement, if both a new franchise fee is adopted by general ordinance, and any telecommunications provider operating within the public rights-of-way within Metro is subject to a different fee structure than Teleport, Teleport can pay the least of (1) the current general

ordinance, (2) \$10,000, or (3) Teleport's annual fees, calculated under the methodology applicable to the other telecommunications provider.

*Fiscal Note: Teleport would make a lump-sum payment of \$1,750,000 (one million seven hundred fifty thousand dollars) to Metro. Effective January 1, 2018, Teleport would begin paying an annual franchise fee of \$10,000 (ten thousand dollars).*

**BILL NO. BL2018-1126** (SLEDGE, VERCHER, & ELROD) – This ordinance would approve a construction agreement between the Metropolitan Department of Public Works and CSX Transportation, Inc. (CSXT) for costs incurred due to the existing bridge removal and construction of the new bridge at the Foster Avenue and CSX Transportation railroad crossing.

Pursuant to the agreement, Metro would reimburse CSXT for construction engineering and inspection services, flagging service, and signal and communications work. The cost of this work is estimated to be \$341,240. It is intended that all work by CSXT or on CSXT property would conclude no later than December 31, 2019.

*Fiscal Note: Metro would be responsible to reimburse CSXT for all costs and expenses incurred by CSXT in connection with this project. The total reimbursable expenses are estimated to be \$341,240. This amount would be paid from Public Works' GSD FY17 Capital Projects Fund.*

**BILL NO. BL2018-1127** (M. JOHNSON, VERCHER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for use in public projects, initially for Davidson Road Phase 2 Sidewalk Improvements, between HG Hill Middle School and Harding Pike.

This has been approved by the Planning Commission.

*Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY18 Capital Projects Fund.*

**BILL NO. BL2018-1128** (VERCHER, BEDNE, & ELROD) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for use in public projects, initially for Forest Park Sidewalk Improvements, between Neelys Bend Road and Lexington Garden Apartments.

This has been approved by the Planning Commission.

*Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY18 Capital Projects Fund.*

**BILL NO. BL2018-1129** (SYRACUSE, VERCHER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for use in public projects, initially for Lebanon Pike Sidewalk Improvements.

This has been approved by the Planning Commission.

*Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY15 Capital Projects Fund.*

**BILL NO. BL2018-1130** (A. DAVIS, BEDNE, & ELROD) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the Chester Avenue Stormwater Improvement Project for fourteen (14) properties located on Chester Avenue and Chapel Avenue.

This has been approved by the Planning Commission.

Future amendments to this ordinance may be approved by resolution.

*Fiscal Note: The final price for these easements has not yet been determined.*

**BILL NO. BL2018-1131** (A. DAVIS, BEDNE, & ELROD) – This ordinance would authorize the Director of Public Property Administration to accept a donation of real property located at 0 Harvard Avenue.

This property is owned by Deborah W. Craig and Pamela W. Rowan. This property is potentially flood-prone and would be used by the Metropolitan Government as part of its storm water and stream buffer system.

This has been approved by the Planning Commission.

*Fiscal Note: Metro's property map shows the last appraised value of this parcel was \$1,600.*

**BILL NO. BL2018-1132** (BEDNE, ELROD, & ALLEN) – This ordinance would abandon sewer main and easements and accept a new sanitary sewer manhole and associated easements for properties located at 3081-B and 3803 Abbott Martin Road.

Future amendments to this ordinance may be approved by resolution.

This has been approved by the Planning Commission.

**BILL NO. BL2018-1133** (BEDNE & ELROD) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the Cheryl Avenue Stormwater Improvement Project for six (6) properties located on Cheryl Avenue, Blackstone Avenue and Lanier Drive.

Future amendments to this ordinance may be approved by resolution.

This has been approved by the Planning Commission.

*Fiscal Note: The final price for these easements has not yet been determined.*

**BILL NO. BL2018-1134** (O'CONNELL, BEDNE, & ELROD) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the 2nd Avenue North Stormwater Improvement Project for properties located at 1401 and 1403 2nd Avenue North.

Future amendments to this ordinance may be approved by resolution.

This has been approved by the Planning Commission.

*Fiscal Note: The final price for these easements has not yet been determined.*

**BILL NO. BL2018-1135** (O'CONNELL, BEDNE, & ELROD) – This ordinance would abandon existing storm water pipe easement rights on property located between 150 2nd Avenue South and 151 1st Avenue South, formerly known as Alley No. 12. It has been determined that this easement is no longer needed. This abandonment has been requested by Barge Design Solutions, on behalf of the owners.

Future amendments to this legislation may be approved by resolution.

This has been approved by the Planning Commission.

**BILL NO. BL2018-1136** (PULLEY, VERCHER, & BEDNE) – Pursuant to Ordinance No. BL2017-590, the Metropolitan Council authorized the acquisition of certain parcels at the intersection of Hillsboro Pike and Crestmoor Road. It has been determined that a portion of that parcel approximately 0.15-acres in size (the “remnant parcel”) at the southwest corner of the intersection is unsuitable for public use because of its size and shape.

This ordinance would declare surplus a remnant parcel of real property located at the intersection of Hillsboro Pike and Crestmoor Road and authorize the Director of Public Property Administration to convey this remnant parcel to Tennessee CVS Pharmacy, LLC (CVS) for

\$100,000. In the event CVS does not obtain all of the necessary permits and approvals for the construction of a new CVS store within one year of the effective date of the agreement, or if Metro's intended relocation of Crestmoor Road and related improvements are not completed within three years of the effective date, CVS would be able to terminate the agreement by written notice to Metro. The effective date of the agreement is the date of approval of this ordinance.

*Fiscal Note: According to the agreement, Metro would agree to sell the remnant parcel to CVS for \$100,000.*

**BILL NO. BL2018-1137** (PULLEY, BEDNE, & OTHERS) – This ordinance would authorize the abandonment and closure of a portion of the existing Crestmoor Road at the intersection of Hillsboro Pike and Crestmoor Road.

This is part of the proposed realignment of intersection of Hillsboro Pike and Crestmoor Road. Once that project is completed, the former Crestmoor Road will no longer be necessary for public use. This ordinance would amend the Geographic Information Systems Street and Alley Centerline Layer, as enacted by Ordinance No. BL2018-1060, to abandon the right of way and all utility easements within 30 days after the completion date of the realignment.

**BILL NO. BL2018-1138** (KINDALL, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning portions of Alley Number 1189 and Alley Number 1205 right-of-way.

The abandonment has been requested by Jonathan Kingham, applicant.

This has been approved by the Traffic and Parking Commission and the Planning Commission.

**GRANTS LEGISLATION – APRIL 17, 2018**

<b>Legislative Number</b>	<b>Parties</b>	<b>Amount</b>	<b>Local Cash Match</b>	<b>Term</b>	<b>Purpose</b>
<b>RS2018-1138</b>	<p><b>From:</b> Tennessee Department of Finance and Administration</p> <p><b>To:</b> Office of the District Attorney General (DA)</p>	Increased by \$494,473.00	Increased by \$123,618.00	Extended to June 30, 2020	This is the first amendment to the grant approved by RS2015-1546. The grant would be increased from \$474,948.00 to \$969,421.00 and extend the end date to June 30, 2020. The funds from this grant are used by the DA to work with Hispanic victims of crime who may experience language and cultural barriers.
<b>RS2018-1140</b>	<p><b>From:</b> Metropolitan Development and Housing Agency</p> <p><b>To:</b> Metropolitan Department of Social Services</p>	\$85,000.00	\$0	January 1, 2018 to June 30, 2018	The grant funds would be used to provide services for homelessness, including funding for emergency payments for persons housed through the 100,000 Homes Campaign and needs assessment (\$70,000) and planning efforts (\$15,000).
<b>RS2018-1143</b>	<p><b>From:</b> U.S. Department of Homeland Security</p> <p><b>To:</b> Nashville Fire Department</p>	\$421,896.00	\$21,094.00	N/A	This is an application for a Fire Prevent and Safety grant. If approved, funds would be used to develop and implement a department wide training program for arson investigation and to develop a comprehensive public education program for non-English speaking residents.

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1144	<b>From:</b> Tennessee Department of Finance and Administration  <b>To:</b> Metropolitan Nashville Police Department (MNPD)	Increased by \$409,985.00	Increased by \$102,497.00	N/A	This is the third amendment to the grant approved by RS2015-1543. It would increase the grant amount from \$1,206,917.00 to \$1,616,902.00. The local cash match would be increased from \$301,729 to \$404,226. The funds from this grant are used by the MNPD to work with Hispanic victims of crime who may experience language and cultural barriers.
RS2018-1145	<b>From:</b> Tennessee Department of Health  <b>To:</b> Metropolitan Board of Health	Not to exceed \$54,700.00	\$0	April 1, 2018 to March 31, 2019	The grant proceeds would be used to provide core medical services and early intervention services to facilitate and support HIV/AIDS medical care.
RS2018-1146	<b>From:</b> Best Friends Animal Society  <b>To:</b> Metropolitan Board of Health	Not to exceed \$10,000	\$0	March 30, 2018 to March 31, 2019	The proceeds of this grant would be used to provide funds for the Have a Heart Heartworm Treatment Program.

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1147	<b>From:</b> Tennessee Department of Human Services  <b>To:</b> Metropolitan Action Committee	Not to exceed \$1,295,900.00	\$0	May 1, 2018 to September 30, 2018	The grant proceeds are from a Community Services Block Grant and would be used to provide a range of services designed to assist low-income and homeless individuals achieve self-sufficiency.
RS2018-1148	<b>From:</b> Greater Nashville Regional Council  <b>To:</b> Metropolitan Public Works Department	\$1,350,00.00	\$300,000.00	N/A	This is an application for a Pedestrian Signal Priorities grant. If approved, proceeds would be used to install pedestrian facilities and signalization at the most dangerous intersections throughout Davidson County.
RS2018-1149	<b>From:</b> Greater Nashville Regional Council  <b>To:</b> Metropolitan Public Works Department	\$1,291,500.00	\$287,000.00	N/A	This is an application for an East Nashville Backbones grant. If approved, proceeds would be used to design, construct, and evaluate a spine of three major separated bikeways and one minor separated bikeway in East Nashville.