

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Metropolitan Council Office

DATE: **April 15, 2003**

RE: **Analysis Report**

Balances As Of:	<u>4/10/03</u>	<u>4/10/02</u>
<u>GSD 4% RESERVE FUND</u>	\$9,144,257	\$10,048,673
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$35,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$35,850,689	\$63,997,770
USD	\$13,909,890	\$16,682,399
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	\$53,181,288	\$10,404,340
<u>SOLID WASTE</u>		
<u>DISPOSAL FUND</u>		
Solid Waste Activities	\$2,328,358	\$2,293,382

- RESOLUTIONS -

RESOLUTION NO. RS2003-1416 (JENKINS & WALLACE) – This resolution amends the general pay plan for employees of the Metropolitan Government, the pay plan for employees of the police and fire departments, and the pay plan for the board of health to provide partial pay for employees called to active duty as a result of the events of September 11, 2001, for operations Enduring Freedom, Joint Endeavor, Noble Eagle, and any other subsequent operations ordered by the President. In November of 2001, the Council adopted a resolution providing for partial pay for employees called to active duty as a result of September 11th. This partial pay was to supplement the difference between an employee's full-time military salary and his/her Metro salary, up to \$1,000 a month. This resolution amends the various pay plans to remove the \$1,000 cap and to include employees called to active duty as a result of other military operations ordered by the President of the United States.

Pursuant to this amendment, Metro employees who are members of the Reserves or the National Guard who are called to active duty will be entitled to receive special military leave with partial pay while on military duty. As stated above, the amount to be paid to such employees is designed to pay the difference between the employee's regular salary and his/her military salary. Such employees, while on active duty, will continue to accrue sick leave, annual leave, and longevity/seniority benefits, and can continue to participate in the health and dental insurance programs if they so choose. Such employees will also be granted all re-employment rights as provided by law and will be returned to the same job they held prior to active duty.

A similar amendment was enacted during Desert Storm to cover those employees called to active duty as a result of that conflict.

This amendment to the pay plan has been recommended by the mayor, and has been approved by the civil service commission and the board of health.

RESOLUTION NO. RS2003-1417 (GREER, HAUSSER & WALLACE) – This resolution appropriates \$325,000 in community development block grant (CDBG) funds for community recreational improvements at Murrell School and streetscape improvements in the Edgehill neighborhood strategy area. CDBG funds are designated for affordable housing activities and for neighborhood community projects. These funds were allocated in the CDBG application to the Edgehill neighborhood strategy area and have been recommended for the above community improvements.

A housekeeping amendment will be offered for this resolution, as there is an incorrect reference to the Cameron neighborhood strategy area instead of the Edgehill neighborhood strategy area in a recital clause.

RESOLUTION NO. RS2003-1419 (BROWN & JENKINS) – This resolution approves an agreement between the state and the Metropolitan Government for the lease of up to thirty parking spaces adjacent to the William R. Snodgrass Tennessee Tower on Union Street across from the old Ben West Library. Pursuant to this agreement, these spaces will be available to Metro for parking after 5:00 p.m. on the first and third Monday and Tuesday of each month. This will provide additional parking for members of council across from the (continued on next page)

RESOLUTION NO. RS2003-1419 (continued)

old Ben West Library for use on committee and council meeting nights during the temporary relocation while the courthouse is renovated. The term of this agreement is from May 1, 2003 through April 30, 2005. Metro will provide security during the times that the parking area is being used by Metro. Metro agrees to indemnify the state to the extent legally permissible for claims arising from the use of the premises and agrees to maintain adequate public liability self-insurance. This agreement does not provide the amount of the required lease payments, if any, for use of the parking space.

RESOLUTION NO. RS2003-1420 (JENKINS) – This resolution approves a fourth amendment to an annual grant from the state department of health to the Metro board of health to provide multiple health services to children, adolescents, families, and for other health purposes. The original grant was in the amount of \$7,436,531, and was subsequently amended on three occasions to increase the amount of the grant by \$91,530, \$23,846, and \$107,000, respectively. This amendment increases the total grant award to \$7,726,247, which provides increased funding for Health Promotion services and West Nile Virus research, while decreasing funding for Children's Special Services-Parents Encouraging Parents and the Antibiotic Baseline Survey.

RESOLUTION NO. RS2003-1421 (JENKINS) – This resolution approves a grant agreement between the U.S. Environmental Protection Agency (EPA) and the Metropolitan health department for planning, developing, establishing, improving, and implementing national primary and secondary air quality standards. The term of this agreement is from October 1, 2002, through September 30, 2003. The total budgeted cost is \$329,431 with the EPA providing 55% of the cost (\$180,904) and Metro providing the remaining 45% (\$148,527). This, essentially, is the funding provided by the federal government for prevention and control of air pollution by the air pollution control division of the Metro health department. Metro's required match for this grant is generally provided through salaries of our

employees in the air pollution control division of the health department. Local governments in urban areas, such as Metro, enforce the Clean Air Act for the EPA.

RESOLUTION NO. RS2003-1422 (JENKINS) - This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center to provide space and administrative services for a career center facility in workforce investment area 9. The original grant award was in the amount of \$109,497. This amendment increases the amount of the grant by \$14,494.20, for a total grant award of \$123,991.20.

RESOLUTION NO. RS2003-1423 (JENKINS & HALL) - This resolution approves an amendment to an agreement between the department of water and sewerage services and Tritel Communications, Inc., d/b/a AT&T Wireless, relating to the installation of telecommunications equipment on water/sewer property. Pursuant to the original agreement approved in 1999, Tritel was to provide 50 cellular telephones to Metro with a monthly service plan including 500 free minutes per phone in exchange for the ability to locate essential telecommunications equipment on water/sewer property at existing towers. This amendment modifies the consideration of the agreement to provide that Tritel will pay (continued on next page)

RESOLUTION NO. RS2003-1423 (continued)

\$1,200 per month for the license agreement, which amount is to increase each year by the greater of 3% or the consumer price index increase, not to exceed 5%. Tritel must also obtain a specific license from Metro for each site prior to installing any equipment. This amendment also modifies the term of the agreement by decreasing the term from twenty-five years to ten years, with an automatic renewal of two additional five-year terms.

A similar amendment to a contract between Metro and Sprint Spectrum, L.P. was approved by the council on November 19, 2002.

RESOLUTION NO. RS2003-1424 (JENKINS & HALL) - This resolution authorizes the Metropolitan Government to enter into a contract with the state department of transportation for distribution and collection system relocations in connection with the state Brick Church Pike bridge project. Pursuant to this agreement, Metro will pay 100% of the relocation costs estimated at \$25,910.00 from the water and sewer extension and replacement fund. This resolution also approves a local government investment pool (LGIP) agreement, which authorizes the funds deposited by Metro into the LGIP account to be transferred to the state department of transportation as needed for this utility relocation project. The state allows local governments to deposit project funds into a LGIP account to earn interest on the funds prior to actually being used for the project.

Ordinance No. BL2000-286 authorized such utility relocation contracts regarding this project to be approved by resolution.

RESOLUTION NO. RS2003-1425 (JENKINS) - This resolution authorizes the department of law to compromise and settle the lawsuit of Lucretia S. Gardner against the Metropolitan Government in the amount of \$20,069.89 to be paid from the self-insured liability fund. On February 1, 2002, a Metro water services vehicle struck the rear of Ms. Gardner's vehicle while she was stopped on Old Lebanon Road waiting for traffic to pass in order to turn left. The Metro water services employee glanced away briefly and did not realize that Ms. Gardner had stopped with her turn signal on. Ms. Gardner sustained medical bills in the amount of \$4,100.50 and property damage to her vehicle in the amount of \$6,528.84. The department of law recommends settling this lawsuit in the amount of \$20,069.89 to compensate Ms. Gardner for her medical bills, property damage, and \$13,500 for her personal injury claim.

The Metro employee involved was issued a citation from the Metro police department for careless driving. The Metro employee was suspended, demoted, and placed on probation.

RESOLUTION NO. RS2003-1426 (JENKINS) - This resolution authorizes the department of law to compromise and settle the lawsuit of Michael Saunders, Julia Saunders, and Hunter Saunders against the Metropolitan Government in the amount of \$55,000. On April 30, 1999, Julia Saunders was driving westbound on Lake Park Drive toward the intersection of Port Anadarko, with her two children in the vehicle, when a car driven by co-defendant Gabriel Dryden proceeded through a yield sign controlling the intersection and struck the Saunders' vehicle causing substantial property damage and serious injury to Ms. Saunders' son, Hunter. Dryden stated that he was unable see the yield sign due to excessive vegetation and a curve in the road. Photographs taken by Dryden and his father (continued on next page)

RESOLUTION NO. RS2003-1426 (continued)

the day after the accident support the lack of visibility claim, but Metro police photos taken immediately after the accident show a clearer view. Police reports show two prior wrecks at this intersection, however foliage was not listed as a defective condition in either of the prior reports. Metro public works also reports no complaints about this intersection prior to this accident, though the traffic and parking commission subsequently approved a request for a four-way stop.

The plaintiffs sued Dryden and his parents, the owner of the property where the vegetation was growing, and the Metropolitan Government. The parties other than Metro settled their claims and the plaintiffs assigned their rights to relief to the co-defendant Drydens. Metro filed a motion for summary judgment arguing that Metro was immune from liability for its decision not to place a "yield ahead sign"

and that it did not have notice of the alleged foliage problem. The trial court ruled in Metro's favor and this decision was subsequently appealed by the Drydens. The court of appeals overturned the trial court's decision granting summary judgment, holding that Metro was not immune and that Metro had constructive notice of the defective condition because of the two prior wrecks at the intersection.

Hunter Saunders was four years old at the time of the accident and spent approximately one month in the intensive care unit of Vanderbilt Hospital requiring surgery to repair damage to his internal organs. His medical bills total \$91,055.24. The Saunders also allege a loss of consortium for the time Hunter was hospitalized and for lost wages. The Saunders have already been compensated for the property damaged sustained.

The department of law recommends settling this lawsuit in the amount of \$55,000, as Metro would be limited to arguing the amount of damages. The legal department is of the opinion that this argument at trial likely will not carry much weight due to the severity of the injuries sustained. This amount is to be paid from the self-insured liability fund.

RESOLUTION NO. RS2003-1427 (JENKINS) - This resolution authorizes the department of law to compromise and settle the lawsuit of Alvin and Ernestine Hawkins against the Metropolitan Government in the amount of \$22,500. On February 22, 2002, an air relief valve in a sewage force main that passes across the property at 1201 Swinging Bridge Road failed, causing a large volume of raw sewage to spill onto the property. The prior policy was to replace these valves in rural areas every two to three years. However, this procedure was abandoned in the late 1990s. The spill in question went unnoticed for several days causing the spilled sewage to accumulate in a pasture and pond located on the property. The house on the property is leased to tenants who have an agreement with a third party to cut hay on the property. Several hay cuttings were lost and the tenants were inconvenienced for several months as a result of the spill.

Metro water service's emergency clean-up contractor, First Response, spent several days each month for seven months working toward restoring the property costing Metro approximately \$100,000. The damages the Hawkins claim as a result of the spill consist of the following: \$3,500 in invoices from an environmental engineering firm, \$3,500 in lost hay, \$6,000 to restock the pond with fish, \$5,500 in topsoil and seeding, and \$2,000 in remaining environmental work.

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RESOLUTION NO. RS2003-1427 (continued)

The department of law recommends settling this claim in the amount of \$22,500 due to Metro's failure to maintain or replace the air relief valve and the apparent

reasonableness of the damages. This amount is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2003-1428 (JENKINS) – This resolution authorizes the department of law to compromise and settle the claim of Faye Wolford against the Metropolitan Government in the amount of \$15,606. On November 1, 2002, Ms. Wolford was exiting the Metro courthouse on the James Robertson Parkway side of the building when her heel got caught in a hole on the top stair and she fell to the bottom of the stairs. There is no handrail on these stairs and Metro general services acknowledged that they had notice of the existence of the hole, though it was not thought to be a hazard. Ms. Wolford fractured both wrists and suffered other bruises and cuts, incurring medical bills totaling \$5,606. Her right wrist was broken in six places and required surgery to repair. Ms. Wolford was unable to care for herself while her wrists were in the healing process and was required to rely on her husband for care. The department of law recommends settling this claim for the amount of the medical bills, plus \$8,500 for pain and suffering, and \$1,500 for loss of consortium.

RESOLUTION NO. RS2003-1429 (MCCLENDON) – This resolution authorizes D&S Mechanical & Sheet Metal Contractors, Inc., to install communication cable on existing Nashville Electric Service poles between 2311 and 2312 Kline Avenue. D&S Mechanical & Sheet Metal Contractors, Inc., agrees to indemnify the Metropolitan Government from any claims arising from the installation and maintenance of the cable, and will be required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured.

The Metropolitan Code permits the council to grant encroachments, permits, or privileges to construct, maintain, and/or operate aerial cables, canopies, awnings, etc., over and/or across sidewalks and public rights-of-way by resolution of the council adopted by 21 affirmative votes.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2003-1353 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit. The Code currently prevents a beer permit from being issued to an establishment located within 100 feet from a church, school, park, daycare, or one or two family residence. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant’s location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law.

This ordinance also provides that in the event a restaurant permit holder that is exempted under this exception to the distance requirements ceases to hold a valid

state liquor license for on-premises consumption for any reason, the beer permit is automatically deemed revoked and the applicant would have to reapply for a new beer permit without being exempted from any distance requirements.

An ordinance consisting of similar subject matter was defeated by the council in April of 2002.

An amendment or substitute to this ordinance will likely be offered to provide further limits to the application of the ordinance.

ORDINANCE NO. BL2003-1363 (WATERS) – This ordinance amends the Metro Code of Laws to prohibit the sale of single container beers by off-sale beer permit holders within an urban zoning overlay district and to provide that certain other acts by beer permit holders are prohibited. The Code of Laws currently provides that certain acts by beer permit holders are prohibited, such as the sale of beer to minors, the sale to intoxicated persons, and allowing intoxicated persons to loiter on the premises. This ordinance would add certain other prohibited acts including allowing gambling on the premises, allowing solicitation of prostitution, and allowing criminal activity on the premises. This ordinance would also prohibit off-sale permit holders from displaying or selling beer from an ice tub within an urban zoning overlay district. Further, off-sale permit holders within an urban zoning overlay district would be prohibited from selling single beers in containers less than 70 ounces in size or smaller than a factory-packaged six pack. The prohibitions regarding the sale of beer in ice tubs or single containers less than 70 ounces in size would not apply to holders of on-sale permits (restaurants) or to holders of special events permits.

ORDINANCE NO. BL2003-1364 (GILMORE & MCCLENDON) – This ordinance makes applicable to the Metropolitan Government the provisions of Part 7 of Chapter 211 of Title 68 of Tennessee Code Annotated (commonly referred to as the “Jackson Law”) to require local approval of landfills, solid waste disposal facilities, and solid waste processing facilities prior to construction of such facilities and prior to an issuance of a permit by the state department of environment and conservation. The Jackson Law was enacted principally to enable smaller local government legislative bodies with limited zoning requirements to have some control over the siting of proposed landfills and solid waste facilities. If this ordinance is adopted it would require that public notice be given to inform interested persons in the area of a proposed landfill, waste processing facility, or waste disposal facility, and that interested persons be given the opportunity to request that the local legislative body hold a public hearing prior taking action on the matter. The Jackson (continued on next page)

ORDINANCE NO. BL2003-1364 (continued)

Law does not expressly define the terms “waste processing facility” and “waste disposal facility”, though the terms are defined in the Tennessee Solid Waste Act.

“Solid waste disposal” is defined under the Act as “the process of permanently or indefinitely placing, confining, compacting, or covering solid waste.” “Solid waste processing” is defined as “any process that modifies the characteristics or properties of solid waste, including but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.” According to a decision by the Tennessee Court of Appeals in *Profill Development, Inc. v. Dills*, a recycling facility that falls within the definition of “solid waste processing facility” is covered by the provisions of the Jackson Law and requires local government approval. The *Profill* case also clarified that both public and private permit applicants must obtain local legislative approval if the municipality has opted into the provisions of the Jackson Law.

The Metropolitan Code of Laws already requires that all requests for special exceptions, including sanitary landfills and waste transfer facilities, be approved by resolution of the Metropolitan Council prior to consideration by the board of zoning appeals. The Council Office contacted the state department of environment and conservation to obtain some clarification as to the types of facilities to which the Jackson Law would apply. The department indicated that the Jackson Law would be applicable to a recycling center that fell within the definition of “waste processing facility” would be included, but a collection center would not. The Metro Zoning Code defines “collection center” as “a facility which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable material.”

State law requires that this ordinance be adopted by a two-thirds majority vote of the council (27 votes) prior to its adoption on third reading.

ORDINANCE NOS. BL2003-1387 & BL2003-1388 (WALLACE & HAUSSER) – These two ordinances amend the permit parking program sections of the Metropolitan Code to enable single-family residential lots located within 1,500 feet of a college, university, or other post-secondary school to be eligible for residential permit parking. The Metro Code currently provides for a residential permit parking program. In order for an area to be designated for residential permit parking, a petition requesting the permit parking area must be filed with the councilmember representing the district in which the proposed area is located. The petition must be signed by seventy-five percent (75%) of the residents within the geographic limits requested to be included in the residential permit parking area. The petition must include each petitioner’s name and driver’s license number, the time of day the permit is to be required, a description of the geographic boundaries of the area, and the maximum time limit that a non-permit holder should be allowed to park. The councilmember then submits the petition, with a written recommendation, to the chief traffic engineer. The chief traffic engineer in turn makes a recommendation to the traffic and parking commission,

who then either approves or disapproves. If approved, the area is designated as a residential permit parking area and residents are required to apply for a parking permit and pay a fee set by the traffic and parking commission and approved by the council to cover the administrative costs.

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ORDINANCE NOS. BL2003-1387 & BL2003-1388 (continued)

The Metro Code also provides for a downtown area residential permit parking program whereby residents of the downtown area may apply for a permit that enables them to park on downtown streets without payment of the required parking meter charges. Applicants for the downtown area are required to pay an annual fee set by the traffic and parking commission and approved by the council.

These two ordinances essentially accomplish the same result in that they both would allow permit parking at single-family residences located within 1,500 feet of a college or university. However, the first ordinance amends the current code section regarding residential permit parking, whereas the second creates a new residential permit parking program specifically for university area lots. Only one of these two ordinances should be adopted on third and final reading since the ordinances are related to the same subject matter. These two ordinances have been referred to the traffic and parking commission. A more detailed analysis of the two ordinances is as follows:

Ordinance No. BL2003-1387 amends the Metro Code to provide that university area residential lots are eligible for residential permit parking on an individual lot basis without first having the geographic area designated as a residential permit parking area and without having to obtain signatures of seventy-five percent of the residents in the area. Pursuant to this ordinance, a “university area individual residential lot” means any lot within the area of the Metropolitan Government that has an erected and occupied single-family residence within 1,500 feet of a university, college, junior college, or other post-secondary school. This ordinance also provides that in addition to the regular residential permit parking fee, the applicant would be required to pay the reasonable costs incurred in the installation of the parking signs.

Ordinance No. BL2003-1388 amends the Metro Code by creating a separate university area individual residential lot permit parking program. The definition of university area individual residential lot is the same as provided in Ordinance No. BL2003-1387. This ordinance is essentially modeled after the existing residential permit parking program ordinance. Pursuant to this ordinance, the chief traffic engineer is authorized to restrict parking on streets in front of a university area individual lot to vehicles bearing a valid permit, subject to approval by the traffic and parking commission. An application would have to be submitted to the chief traffic engineer for review by staff of the traffic and parking commission. The application is to include the following information: (1) the applicant’s name and address; (2) the make, model, color, registration and license

plate numbers of the vehicle; (3) driver's license number; (4) time of day that permits will be required; and (5) the maximum amount of time that nonpermit holders may legally park. The applicant's vehicle registration must show the applicant's present address, and the applicant must have a valid Tennessee license plate unless the applicant is a full-time college student. The chief traffic engineer would then recommend to the traffic and parking commission whether to designate the lot for a university area individual residential lot permit. The traffic and parking commission would be required to either approve or disapprove the recommendation of the chief traffic engineer.

If the lot is designated for university area individual residential permit parking, then a permit would be issued to the applicant on an annual basis. The fee for the permit must be set by the traffic and parking commission and approved by the council. This ordinance provides that a fee of \$25.00 is approved. The applicant would also be required to pay the reasonable costs associated with the installation of the parking signs. The holder of such (continued on next page)

ORDINANCE NOS. BL2003-1387 & BL2003-1388 (continued)

permit would be the only vehicle allowed to park on the street in front of the university area individual lot with the exception of service vehicles and vehicles for which a visitor's permit is obtained.

These two ordinances should be deferred in keeping with the Metro Charter requirement allowing thirty days for the traffic and parking commission to consider the ordinances prior to passage on second reading.

ORDINANCE NO. BL2003-1389 (WALLACE & WATERS) – This ordinance approves the release of an access restriction limiting access to and from Demonbreun Street to a portion of property located at 1610 Division Street, near the intersection of Demonbreun Street, Division Street and 17th Avenue South. This property consisting of approximately 3,020 square feet was conveyed by the Metropolitan Government to Mary S. Buckner in 1976. The deed contained an access restriction that provided that there could be no entrance or exit ramps from or onto Demonbreun Street. As a result of the construction of the Music Row roundabout, this access restriction is no longer necessary and the Metropolitan Government now desires to release the restriction.

ORDINANCE NO. BL2003-1390 (TUCKER, JENKINS & MCCLENDON) – This ordinance approves a lease agreement between the state and the Metropolitan Government for use of a portion of the Tennessee Preparatory School (TPS) campus at 1200 Foster Avenue for relocation of the Nashville School of the Arts magnet. The term of the lease is from April 1, 2003 through July 31, 2004, with a possible extension of four additional one-year terms. Metro will not be required to pay any "rent" for the premises, but will be responsible for providing the "fair market value for use" of the premises. This includes the payment of all utilities, routine operating and maintenance expenses, and taxes. Metro will be permitted to make

alterations and renovations to the premises, including the construction of additional parking, at Metro's expense. Metro will also be entitled to use the existing furnishings at TPS such as desks, tables, and chairs and will be responsible for damage to any furnishings or to the facility. Metro agrees to maintain general liability self-insurance in accordance with the Governmental Tort Liability Act.

This lease may be terminated by either party upon 120 days written notice. This lease shall be automatically terminated if the portion of the TPS premises to be leased ever ceases to be used for operation of a magnet school program for a continuous six month period. Any amendments or renewals to this lease must be approved by resolution of the Metropolitan Council. This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2003-1391 (JENKINS & BRILEY) – This ordinance approves a lease agreement between J.D. Eatherly Properties and the Metropolitan Government for 2,800 square feet of office space located at 1121 12th Avenue South for continued use by the police department as the police alert center. This facility is used to provide community policing services. The term of this lease is from February 1, 2003 through January 31, 2008, with a possible five year extension. Metro will be required to pay rent for the first three years in the amount of \$28,000 annually (\$2,333.33 monthly), and \$28,840 annually (\$2403.33 monthly) in years four and five. Metro is also required to pay a pro rata share of property taxes and insurance premiums paid by J.D. Eatherly Properties. The rent is to be paid out of the police department's budget.

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ORDINANCE NO. BL2003-1391 (continued)

J.D. Eatherly Properties will be responsible for maintaining the exterior of the premises and Metro will be responsible for maintaining the interior and fixtures. Metro agrees to maintain self-insured liability coverage in accordance with the Governmental Tort Liability Act. Any amendments to this lease must be approved by resolution of the Metropolitan Council receiving twenty-one affirmative votes.

The caption of this ordinance should be amended, as this lease agreement has no application to the Nashville career advancement center.

This ordinance has been referred to the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2002-1287 (HALL & BEEHAN) – This ordinance closes a portion of alley #258 from South 4th Street to South 5th Street. Metro has determined that there is no future need for this alley. This closure is requested by St. Ann’s Episcopal Church for the Nashville Baptist Association, the abutting property owner. Easements are to be retained by the Metropolitan Government. Documentation showing affected property owner consent is on file with the planning commission. This alley closure has been approved by the planning commission, but was again deferred by the traffic and parking commission at the request of the applicant.

ORDINANCE NO. BL2003-1343 (NOLLNER) – This ordinance closes a portion of the East Campbell Road right-of-way abutting the CSX railroad tracks. Metro has determined that there is no future governmental need for this portion of the road. All easements are to be retained by the Metropolitan Government. This closure is requested by Councilman Ron Nollner, the abutting property owner. Documentation showing consent of the affected property owners is on file with the planning commission. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2003-1352 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to enable a beer permit holder whose permit has been revoked for the unlawful sale of beer to a minor, and who has filed an appeal of that decision, to continue to sell beer upon posting a \$25,000 bond with the Metropolitan clerk. The Code provides that the beer board has the authority to revoke or suspend a permit if the permit holder sells beer or allows beer to be sold to a minor. The Code also provides, in accordance with state law, that a decision of the beer board to revoke a permit may be appealed to the chancery or circuit court. The intent of this ordinance is to allow for a permit holder that has appealed the beer board’s decision to be allowed to continue selling beer during the appeal process only upon posting the \$25,000 bond, unless the court issues a stay providing otherwise. The ordinance provides that any subsequent finding by the beer board that the permit holder has sold beer to a minor will result in a forfeiture of the bond.

ORDINANCE NO. BL2003-1355 (NOLLNER & BRILEY) – This ordinance closes a portion of Old Amqui Road abutting the CSX railroad tracks. Metro has determined that there is no future governmental need for this portion of the road. All easements are to be retained by the Metropolitan Government. This closure is requested by Councilman Ron Nollner on behalf of the abutting property owners. Documentation showing consent of the affected property owners is on file with the planning commission. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2003-1360 (WALLACE) – This ordinance authorizes John Combs and Cliff’s Cabinet Company to maintain an existing building encroachment 1.2 feet into alley #187, and to maintain an existing concrete pad encroachment 1.4 feet into alley #187. John Combs and Cliff’s Cabinet Company agree to indemnify the Metropolitan Government from any claims arising from the maintenance of the encroachments, and are required to maintain a \$300,000 certificate of public liability insurance naming the Metropolitan Government as

additional insured. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1361 (HALL) - This ordinance authorizes the director of the department of water and sewerage services (MWS) to enter into a computer aided design (CAD) limitation of liability agreement with the Tennessee department of transportation (TDOT) and to allow MWS to enter into such agreements with other agencies. TDOT's CAD files are computer files that store surveying diagrams and information. MWS desires to access the electronic files for its own use instead of having to resurvey for every project. In order to access the files, TDOT requires that all potential users of the files sign a disclaimer and limitation of liability agreement. Pursuant to this agreement, MWS acknowledges that TDOT makes no warranty of any kind regarding the use of the electronic files, and agrees that it will not hold TDOT liable for any incorrect or outdated design files. In addition, MWS agrees to indemnify TDOT to the extent legally permissible from any claims arising from the use of outdated design files.

This ordinance also authorizes MWS to accept requests from outside agencies for access to MWS's electronic files, and to enter into similar CAD disclaimer and limitation of liability agreements with the outside agencies as needed. Any future changes to the CAD disclaimer and limitation of liability agreements may be approved by resolution.

ORDINANCE NO. BL2003-1362 (WHITMORE) - This ordinance closes a 300 square feet section of Lena Street at the intersection of Booker Street. This closure has been requested by Leslie Shechter, attorney for Magdalene, Inc., the abutting property owners. Metro will retain all easements. Documentation showing affected property owner consent is on file with the planning commission.

This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2003-1365 (LORING, DERRYBERRY & OTHERS) - This ordinance approves an agreement between the U.S. Army and Metro water and sewerage services (MWS) for the Mill Creek Watershed Feasibility Study in Davidson County. MWS currently provides water, sewer, and stormwater services in the Mill Creek watershed. The U.S. House of Representatives committee on transportation and infrastructure has requested the Secretary of the Army to review the reports for the Chief of Engineering on the Cumberland River and tributaries, including the Mill Creek basin, in the interest of environmental restoration, streambank protection, and greenways for Davidson County. The U.S. Army Corps of Engineers has determined that a feasibility phase study is required and desires to enter this agreement with Metro. This study is to take approximately three years. Pursuant to this agreement, Metro agrees to contribute cash and in-kind services equal to fifty percent (50%) of the study costs. The total cost for the three-year study is estimated to be \$1,600,000, with Metro being responsible for \$800,000 of that amount consisting of an estimated cash contribution of \$645,000 and the remainder furnished through in-kind services. This agreement is for the first year of the study with Metro providing \$215,000 from the stormwater division of MWS. Any amendments, renewals, or extensions of the term of this agreement may be approved by resolution of the Metropolitan Council.