

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **May 15, 2012**

RE: **Analysis Report**

Balances As Of:	<u>5/9/12</u>	<u>5/11/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$12,359,151	\$11,853,490
 <u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$41,112,057	\$34,451,634
USD	\$8,556,677	\$24,263,010
 <u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$34,449,193	\$27,099,790

*** Assumes estimated revenues in fiscal year 2012 in the amount of \$24,098,500**

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2012-242 (TODD) – This resolution approves an exemption for US Border Cantina located at 7150 Highway 70 South in Bellevue from the minimum distance requirements for obtaining a beer permit. The Metro code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, the code was amended in September 2010 to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

– RESOLUTIONS –

RESOLUTION NO. RS2012-243 (MCGUIRE) – This resolution approves a contract for the continued employment of Donald W. Jones as part-time special counsel for the council. Mr. Jones retired as full-time director and special counsel in July 2006, but remained in the director position on a part-time basis until 2008. Since 2008, Mr. Jones has served as part-time special counsel. The current employment contract specifies that Mr. Jones is to work no more than eight hours per week for 50 weeks. The term of the contract is through May 31, 2013.

RESOLUTION NO. RS2012-244 (MCGUIRE) – This resolution appropriates \$3,537,600 in supplemental appropriations from the undesignated fund balance and other sources to various departments and programs to balance their fiscal year 2011-2012 operating budgets. The specific appropriations are as follows:

- \$3,000,000 for injury-on-duty medical expenses
- \$19,800 to the health department for equipment and supplies associated with the animal offender school. These funds are being appropriated from the animal education and welfare fees that have been collected. These fees are restricted by the Metro code to be used for animal offender school expenses.
- \$101,800 to the district attorney for the fraud and economic crime division and for mediation services.
- \$150,000 to the department of general services – office of fleet management for motor vehicle fuel cost overruns.
- \$66,000 to the farmers’ market for utility cost overruns.
- \$200,000 to the codes department to cover the cost of demolishing the old Adventist Bible Publishing building located at 2119 24th Avenue North.

The additional \$3 million allocation to the injury-on-duty (IOD) account is to partially cover the deficit in the IOD program. Employees that are injured in the line of duty have all of their medical expenses paid through the IOD account, even after they become pensioners. The current fiscal year budget appropriated \$15.6 million for IOD employee and pensioner medical expenses. The program is currently operating at a deficit of approximately \$7.5 million. The (continued on next page)

RESOLUTION NO. RS2012-244 (continued)

mayor's proposed fiscal year 2013 budget includes a \$6.2 million increase for IOD medical increases over and above the fiscal year 2012 appropriation. This means that more than eleven cents of the property tax levy is allocated to injury-on-duty medical expenses.

According to information provided by the finance department, IOD costs have increased roughly twenty percent annually over the past several years. Contributing to the high costs of the IOD program are the state law presumptions that certain health conditions affecting public safety employees are work-related. State law creates a presumption that hypertension or heart disease affecting police officers, correctional officers, firefighters, and EMTs was caused by the person's employment. Further, state law creates a presumption that health impairments of firefighters caused by lung disease are job-related. On top of these presumptions applicable statewide, there is separate state enabling legislation applicable only to the Metropolitan Government allowing the council to create a presumption for firefighters that all forms of cancer are work-related. The council enacted this cancer presumption for firefighters in 1991.

The IOD medical expense coverage extends after the employee retires and also applies to medical costs associated with diagnoses after retirement for certain diseases affecting emergency workers, as noted above. The pensioner IOD requirement disproportionately increases the amount the government has to pay since the majority of health-related expenses occur later in life. The department of law is in the process of exploring ways to help bring these costs in line in the future through possible modifications to the IOD program and an increased focus on employee safety.

RESOLUTION NO. RS2012-245 (MCGUIRE & BARRY) – This resolution provides additional compensation for the Davidson County criminal court clerk in an amount equal to ten percent of his base compensation pursuant to state law. State law sets the minimum salaries for county officials based upon the population of the county and a complicated escalator formula tied to the general increases in state employee compensation. The county officials include the sheriff, the property assessor, the county clerk, the court clerks, the trustee and the register of deeds. State law provides that county officials must all receive the same salary, but includes an exception for the sheriff, as well as for court clerks that serve more than one court. Upon approval of the local legislative body, such court clerks may receive additional compensation in the amount of ten percent of their base salary to compensate them for "the additional duties and time required to serve multiple courts."

In June 2006, the council approved a ten percent salary increase for the Davidson County circuit court clerk and criminal court clerk. The circuit court clerk serves the eight circuit courts (including the probate court), the civil division of the general sessions court, and the traffic court. The criminal court clerk serves the criminal division of both the general sessions court and the state trial court. As a result of the documented work habits of former clerk David Torrence, the council revoked this additional compensation for the criminal court clerk in June 2011. Subsequently, Mr. Torrence resigned and Howard Gentry was appointed by the council and elected by the voters as criminal court clerk.

If approved, this resolution will restore an approximate \$11,500 increase in the criminal court clerk's salary.

RESOLUTION NO. 2012-246 (MCGUIRE) - This resolution approves a third amended final agreement to compromise and settle the claim of the U.S. department of justice (DOJ) against the Metropolitan Government regarding compliance with the Americans with Disabilities Act (ADA). The council initially approved an interim agreement with the department of justice pursuant to Resolution No. RS2000-280, whereby Metro agreed to review its policies and procedures under the ADA, to survey existing facilities, and to make modifications to certain physical structures by December 21, 2003. The council then approved a final agreement with the justice department in June 2003 requiring Metro to comply with applicable ADA laws regarding structural changes in existing facilities, new construction, and public rights-of-way.

The final agreement was set to terminate once the plan has been implemented, or on June 1, 2006, whichever came first. The final agreement was extended through June 1, 2009, upon the adoption of Resolution No. RS2006-1353, and extended again through June 1, 2012 by Resolution No. RS2009-913.

This resolution approves another extension of the agreement until June 1, 2015. This would eliminate any possibility that the DOJ could take action against Metro for being in violation of the ADA regarding our existing facilities for the term of the agreement.

RESOLUTION NO. RS2012-247 (TODD) – This resolution approves an intergovernmental agreement between The City of Oak Hill, the Metropolitan police department, and the general sessions court to allow the police department to enforce Oak Hill’s ordinances in environmental court. Oak Hill is a “satellite city” wholly within the boundaries of the Metropolitan Government. The Metro Charter at the time of its adoption recognized the status of the satellite cities and allowed them to continue to exist and function in the same manner as they had prior to adoption of the Charter. The Charter further provides that the satellite cities may contract with Metro for the administration and handling of any of their governmental functions. State law also allows a municipality to contract with the county in which it is located to provide for the enforcement of its ordinances through the county general sessions court and chief law enforcement agency.

The City of Oak Hill has adopted its own code of laws under its authority as an incorporated city. However, since Oak Hill did not have a police department or municipal court at the time the Charter was adopted, it is limited in its ability to enforce such laws.

This agreement will provide a mechanism for Metro to enforce Oak Hill’s ordinances. Oak Hill is to provide a complete copy of its ordinances to the general sessions court, the Metropolitan clerk, and the chief of police. Oak Hill is also responsible for providing an electronic version of its ordinances to be posted on the Metro website.

The Metro police department will be responsible for issuing citations for violations of Oak Hill’s ordinances. Oak Hill is not prohibited from authorizing its own officials to issue citations, as well. Oak Hill is responsible for providing an attorney to prosecute its citations in Division IV of Metro’s general sessions courts (the environmental court) similar to the procedure that Metro uses to prosecute violations of its own ordinances. In accordance with state law, the fines collected from violations will be paid over to Oak Hill. However, court costs will be retained by the general sessions court.

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RESOLUTION NO. RS2012-247 (continued)

The term of the agreement is twenty years, with each party having the ability to terminate the agreement with 180 days written notice.

In 2011, the City of Forest Hills, which is another satellite city within Metro-Davidson County, took action to create its own court system and appoint a city judge. The Metro department of law has challenged that action in chancery court since Forest Hills did not have a court system prior to the creation of the Metropolitan Government in 1963. That lawsuit is still pending.

RESOLUTION NOS. RS2012-248, RS2012-249 & RS2012-250 (MCGUIRE) – These three resolutions approve intergovernmental agreements to distribute funds from a grant from the state department of finance and administration, office of criminal justice programs, to the Metropolitan police department for the Internet Crimes Against Children (ICAC) unit. These funds are to be used solely for equipment, training, and travel related to ICAC investigations. The terms of these agreements are from May 1, 2012 through June 30, 2012.

Resolution No. RS2012-248 approves an agreement with the Cookeville police department for the distribution of \$25,000 of the grant funds.

Resolution No. RS2012-249 approves an agreement with the Tennessee Association of Chiefs of Police for the distribution of \$10,000 of the grant funds.

Resolution No. RS2012-250 approves an agreement with the Tennessee Bureau of Investigation for the distribution of \$25,000 of the grant funds.

RESOLUTION NO. RS2012-251 (MCGUIRE) - This resolution approves an application for a grant in the amount of \$399,888.58 from the state department of transportation to the Metro police department for the continuation of an enhanced DUI enforcement initiative. The purpose of this grant program is to reduce traffic related crash fatalities by focusing on alcohol or drug impaired drivers on weekends and major holidays. This grant would pay the overtime costs for the DUI enhanced enforcement team working Thursday through Sunday nights and on the six holidays associated with heavy alcohol consumption: St. Patrick's Day, Cinco de Mayo, Memorial Day, Independence Day, Labor Day, and New Year's Eve.

RESOLUTION NO. RS2012-252 (MCGUIRE) – This resolution approves an application for the Edward Byrne Memorial Justice Assistance Grant in the amount of \$522,006 from the U.S. department of justice to the Metropolitan police department for equipment and supplies for direct support for basic police, in-service, or specialized training. These funds would be used to cover the non-salary costs for 76 sworn officer positions. Specifically, \$20,000 of the grant would fund travel and training costs related to specialized training seminars, and \$449,058.16 of the grant would pay for the standard issue equipment and uniforms for each of the 76 new hires.

RESOLUTION NO. RS2012-253 (MCGUIRE) – This resolution approves an application for a grant in the amount of \$163,578 from the state department of finance and administration to the Metropolitan police department for the continuation of funding for a crisis counselor for fiscal years 2013, 2014, and 2015. The crisis counselor provides crisis intervention to victims of sexual assault, therapy services to crime victims, and follow-up services. If awarded, there will be a required local match of \$40,895.

RESOLUTION NO. RS2012-254 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$854,300 from the state department of health to the Metropolitan board of health for bioterrorism preparedness services. These federal pass-through funds are primarily used to pay the salaries of the health department personnel responsible for the public health emergency preparedness program for Metro, as well as for program supplies. There is a required local cash match in the amount of \$85,400 to be provided by the department of health.

The term of the grant is from August 1, 2012 through June 30, 2013.

RESOLUTION NO. RS2012-255 (LANGSTER & MCGUIRE) – This resolution approves a grant in the amount of \$767,100 from the state department of health to the Metropolitan board of health to provide care coordination services for the children’s special services program. This grant funds the salaries of health department personnel in the children’s special services program whose duties include providing care coordination services, comprehensive pediatric and developmental assessments, audiology services, and speech pathology services. The grant consists of \$334,200 in state funds and \$432,900 in federal funds. The term of the grant is from July 1, 2012 through June 30, 2013.

There should be a housekeeping amendment offered for this resolution to reflect that the amount of the grant is \$767,100, rather than \$767,000, as provided in Section 1 of the resolution.

RESOLUTION NO. RS2012-256 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$725,200 from the state department of health to the Metro board of health to provide various local health services. The term of the grant is from July 1, 2012, through June 30, 2013. These grant funds are typically used to pay the salaries and work expenses of health department administration employees.

RESOLUTION NO. RS2012-257 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$102,700 from the state department of health to the Metropolitan board of health for food safety services. These federal pass-through funds are to be used to pay the salary of an environmental specialist in the food safety division of the health department, plus \$20,000 for temporary services for surveys and \$2,400 for travel expenses. The term of the grant is from July 1, 2012, through June 30, 2013.

RESOLUTION NO. RS2012-258 (MCGUIRE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to cover administrative costs for NCAC associated with providing programs and services to assist dislocated workers, adults, and youth facing barriers to employment. The amendment would reduce the grant amount by \$2,000 for a new total of \$8,000.

RESOLUTION NO. RS2012-259 (MCGUIRE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center for the incumbent worker training program. These federal funds, under the Workforce Investment Act of 1998, are used to train employees of businesses that apply for and receive the training assistance. The amendment reduces the grant amount by \$25,000 for a new total of \$100,000.

RESOLUTION NO. RS2012-260 (MCGUIRE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults and dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. The grant provides part of the operating funding for the NCAC. The amendment increases the amount of the grant by \$24,967.00 for a new total of \$1,896,460.00.

RESOLUTION NO. RS2012-261 (MCGUIRE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. This grant provides part of the operating funding for the NCAC. The amendment would increase the amount of the grant by \$32,367 for a new total of \$2,458,611.

The resolution provides this is the second amendment to the grant, but the council office has been unable to locate the previous amendment.

RESOLUTION NO. RS2012-262 (MCGUIRE) – This resolution approves an amendment to an agreement between the Metropolitan Government and the U.S. Department of the Army for a flood preparedness study. The original contract was for interim flood inundation mapping of the Cumberland River and the development of flood preparedness information for the Mill Creek, Richland Creek, Whites Creek, Browns Creek, and the Harpeth River watersheds. The study is to result in the development of products that will assist in defining flooded areas and to relate flood forecasts to other points within a particular watershed.

The council approved amendment one to the agreement in June 2011 to provide for a second phase of the study. The second phase increased the scope of work to develop simulation modeling for six streams, updating hydrologic analyses, and evaluating potential flood damage reduction alternatives for Richland Creek, Whites Creek, and Browns Creek.

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RESOLUTION NO. RS2012-262 (continued)

This resolution approves a second amendment adding Phase 2A. This additional phase will make the study more detailed and includes further model development and documentation, as well as new field work such as additional stream cross sections and elevation verification. As before, the agreement equally divides the costs of the study between Metro and the U.S. Department of the Army. The total additional cost is estimated to be \$200,000, with each party paying \$100,000.

RESOLUTION NO. RS2012-263 (MCGUIRE) – This resolution approves a utility relocation contract between the department of water and sewerage services and the state department of transportation (TDOT) to relocate certain water/sewer facilities necessary for TDOT’s project along I-65 between Trinity Lane and Dickerson Road. The total cost of the utility relocation project is estimated to be \$132,064.57. Under the contract, Metro will be responsible for the engineering and inspection work, and TDOT will reimburse the costs of that work – estimated at \$6,789.57. The remaining work is to be performed by TDOT or its contractor.

RESOLUTION NO. RS2012-264 (MCGUIRE) – This resolution approves an annual fee for additional garbage and rubbish carts for residents of the urban services district. The revision to the solid waste code approved by the council in 2010 authorized the imposition of a fee to be determined by public works and approved by resolution of the council for the removal of excess garbage and rubbish. The department of public works has determined the cost for providing and servicing a third trash cart to residents is \$66.65 per year, which is the basis for the fee amount. The amount of the fee cannot exceed the cost of providing the service. The nonrefundable fee will be billed in one amount beginning in June 2012 to cover the July 1, 2012 to June 30, 2013 fiscal year. Payment of the fee will allow the household to use the third cart for the entire year. Each additional cart above the third cart would be billed at the same rate. Recycling carts will be provided at no cost to replace the third cart at the request of the resident.

The department of public works intends to charge such a fee for the second trash cart beginning in July 2014, which will require a subsequent resolution approving the fee.

RESOLUTION NO. RS2012-265 (MCGUIRE & CLAIBORNE) – This resolution accepts certain incomplete infrastructure and property interests located within the Edison Park subdivision. This subdivision, located near the intersection of Hamilton Church Road and Mt. View Road in the Antioch area, is one of the subdivisions that was abandoned mid-construction as a result of the downturn in the housing market prior to the completion of the necessary infrastructure intended for dedication to public use. Unfortunately, the planning department failed to adequately administer and monitor the infrastructure bond for the subdivision, which resulted in a lapse of the security.

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RESOLUTION NO. RS2012-265 (continued)

In order to address the health and safety concerns associated with such unfinished subdivisions, the council enacted Ordinance No. BL2011-82 in February 2012 to create a mechanism for the acceptance of incomplete infrastructure. The ordinance allows Metro, upon the adoption of a resolution by the council, to accept incomplete roads, streets, sidewalks, water/sewer lines, storm water lines, and other similar infrastructure, along with the related property interests, in limited circumstances if the following conditions are satisfied:

1. An application to have the public infrastructure and/or property rights accepted is filed with the planning department by a member of council or by the department of public works, department of Metro water services, health department, fire department, police department, planning department, or codes administration.
2. The department of public works, Metro water services, and the department of finance review the application and make recommendations to the planning department for inclusion as part of the recommendation to the council.
3. The planning commission makes a recommendation to the council stating the reasons why the incomplete infrastructure presents a public health or safety concern in its present condition, identifying the infrastructure that must be completed in order to abate the health or safety concern, and describing characteristics that make it unlikely the infrastructure will be completed within a reasonable time by any private entity.
4. The incomplete infrastructure to be accepted must be shown on a subdivision plat approved by the planning commission between November 23, 1999 and January 17, 2008.

This resolution accepts certain incomplete water, sewer, and storm water infrastructure in the Edison Park subdivision. The plat for this subdivision was approved by the planning commission in 2006. The cost for Metro to complete the storm water infrastructure is approximately \$78,000. Habitat for Humanity has agreed to provide \$150,000 to complete the installation of castings and the final surface course of asphalt. The costs associated with the completion of sidewalks are to be borne by the builders of residences on the individual lots.

The planning, public works, water, and finance departments have all reviewed the application for the acceptance of this incomplete infrastructure and recommended its approval.

RESOLUTION NO. RS2012-266 (MCGUIRE & CLAIBORNE) - This resolution approves a new fee schedule associated with cancelling a planned unit development (PUD) obtained primarily for exempting a restaurant from the minimum distance requirements to sell beer. When the council adopted BL2010-714, it eliminated the need for an establishment to obtain a PUD in order to be exempt from the distance requirements to sell beer since the exemption can now be approved by resolution. Currently, there are eleven such PUDs in existence. The planning department anticipates the business owners applying to cancel these PUDs as they are no longer needed.

The Metropolitan zoning code provides that standardized fee schedules may be established to partially defray the processing and administration costs for zoning applications. Such a fee schedule must be approved by resolution of the council in order to be effective. The planning (continued on next page)

RESOLUTION NO. RS2012-266 (continued)

department has determined that the staff time to review a request under these circumstances is minimal. This resolution will reduce the fee for canceling a PUD from \$1,975 to \$200 when the primary stated purpose of the PUD was to obtain a restaurant's exemption to the beer distance requirements.

RESOLUTION NO. RS2012-267 (GILMORE) – This resolution authorizes Nashville Trail, Inc. and Boots & More, Inc. to install and maintain an aerial sign encroachment over the public right-of-way at 410 Broadway. This sign, measuring 4' x 7', will extend 18" into to the right-of-way. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this wall-mounted double-faced sign, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2012-268 (GILMORE) – This resolution authorizes H&L Food Concepts, LLC, d/b/a The Pita Pit, to install and maintain an aerial sign encroachment over the public right-of-way at 121 2nd Avenue North. This sign, measuring 10' x 18", will extend 22" into the right-of-way at a height of 9' above the sidewalk. H&L must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this sign, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2012-269 (GILMORE) – This resolution authorizes J. Daron Clark, DMD, PC, d/b/a Downtown Dental Services, to install and maintain an aerial sign encroachment over the public right-of-way at 101 Union Street. The main panel of this hanging sign is to be 32" x 24", with the secondary panel measuring 46" x 7". The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this sign, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2012-270 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the personal injury claims of Margarete Keeling and Lakesha Watson against the Metropolitan Government for the total amount of \$25,500. On September 15, 2010, a Metro police officer was responding to an emergency call for backup involving the pursuit of home invasion suspects with his lights and siren activated when he attempted a right-hand turn too quickly at the intersection of East Trinity Lane and Gallatin Road. The officer side-swiped a car in the turn lane driven by Margarete Keeling with Lakesha Watson as a passenger.

Ms. Keeling suffered soft tissue injuries to her neck, shoulder, and knee resulting in \$4,207.40 of medical expenses. Ms. Keeling also incurred \$1,312.71 in lost wages. Ms. Watson suffered soft tissue injuries to her neck, back, and arm resulting in \$4,528.00 in medical expenses and lost wages in the amount of \$528.62.

The department of law recommends settling these claims for a total of \$25,500. Each plaintiff has agreed to accept, pending Council approval, \$12,750 to settle their claim. The Metro police officer involved received a one day suspension.

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

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-144 (BAKER & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O92-290 when a portion of the 45th Avenue North right-of-way was abandoned at 4414 and 4502 Illinois Avenue. The easements are no longer being used by the department of water and sewerage services, or any other public utility, and there is no reason for them to be retained. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-145 (MCGUIRE) – This ordinance approves a lease agreement between the Metropolitan Government and GS Youth Services, LLC for 56,200 square feet of space on property located at 5131 Harding Place to be used as a secure facility to house female youth currently housed at New Visions Youth Development Center in Nashville. This property was formerly used by the sheriff's office as the offender re-entry center for the purpose of housing work-release inmates. The facility is no longer being used by the sheriff's office.

The lease is for a five year term to begin upon the date of occupancy and extending through June 6, 2017, with an optional three year extension. The rent to be paid to Metro for the first year will be "based on the fair market rental value to be determined by appraisal and agreed upon by the parties." The annual rental rate is to increase four percent every year thereafter, including throughout the renewal option period. GS Youth Services is accepting the property in its present condition "as is". GS will have the right to make additions and improvements to the property at its own expense with the prior written consent of Metro. All such work must be inspected and approved by Metro after its completion. GS agrees to comply with Metro's signage standards and will not put up any signs without Metro's consent.

Metro's only maintenance responsibilities will be for the roof, foundation, electrical wiring, and major repairs and replacement of the HVAC system. GS will be responsible for all other maintenance and repairs. GS is required to maintain commercial general liability insurance in the amount of \$1,000,000 plus \$750,000 in property insurance and a \$5,000,000 excess insurance policy. GS agrees to indemnify Metro from all damages or theft on the property, as well as all claims arising from the negligence of GS's employees or contractors. This lease agreement may be terminated by either party upon 120 days written notice.

This ordinance has been approved by the planning commission.

The council office recommends the lease be amended to include the rental amount prior to being approved by the council.

ORDINANCE NO. BL2012-146 (MCGUIRE & HUNT) – This ordinance approves a new contract between the Metro traffic and parking commission and the Nashville Downtown Partnership for management of Metro's parking facilities. Metro has had a contract with the Downtown Partnership for operation of the parking garages since 2002. The last agreement was approved in August 2007 for a five year term.

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ORDINANCE NO. BL2012-146 (continued)

The terms of this contract are basically the same as the previous contract. The Downtown Partnership will operate the Church Street garage located behind the downtown public library and the Public Square garage located next to the courthouse. The Downtown Partnership will be paid a fixed monthly management fee in the amount of \$5,250 for the Church Street garage and \$3,750 for the public square garage, which is the same amount paid under the 2007 contract. Metro will receive 16% of all the revenues generated from the Church Street garage. The Downtown Partnership guarantees that the minimum payment to Metro generated by the Church Street garage will not be less than the 2006 payment of \$301,200. Metro will receive all of the net operating revenue for the Public Square garage since these funds are pledged toward debt service for the garage.

Any surplus revenue generated will be equally divided between the Metropolitan Government and the Downtown Partnership. The surplus revenue is defined as the gross profit of the Church Street garage less the payment to Metro, the Partnership management fee, and the expenses incurred by the Partnership for operating the shuttle program transporting workers from the parking lots surrounding LP Field, including the lots used by Metro employees.

Payments and financial reports must be submitted to Metro on a monthly basis. In addition, an annual financial audit must be delivered to the traffic and parking commission within 60 days of the end of the reporting year. The rates to be charged and hours of operation for the parking facilities will be set by the traffic and parking commission. The Downtown Partnership will annually review parking rates in the downtown area and make recommendations to the commission regarding adjustments. Ordinary expenses for the operation and maintenance of the garages will be paid by the Downtown Partnership from the parking facility revenues. The Partnership agrees to indemnify Metro from any claims arising out of their performance of the contract and will be required to maintain workers' compensation, garage public liability and property damage, and garage keeper's legal liability insurance. The Downtown Partnership would also be responsible for Metro's attorney fees in the event Metro prevails in any litigation concerning the performance of the contract.

Over the past five years, this arrangement with the Downtown Partnership has generated approximately \$1.7 million for the general fund plus \$950,000 for repairs and capital improvements to the library garage. The \$950,000 in surplus revenue retained by the Downtown Partnership has been used for various downtown projects such as flower boxes, shuttle repairs, and sidewalk cleaning equipment.

The term of this lease is from July 1, 2012 through June 30, 2017, although Metro and the Downtown Partnership each have the right to terminate the agreement for any reason with 30 days written notice.

ORDINANCE NO. BL2012-147 (MCGUIRE & HUNT) – This ordinance authorizes the Metropolitan Government to enter into an agreement with Wilson Bank and Trust to provide public sewer service to the Grove at Cane Ridge subdivision on Cane Ridge Road in Antioch. Pursuant to this agreement, Wilson Bank and Trust will contribute \$150,000 toward the cost of constructing 991 linear feet of a sewer force main and pump station. These funds are to be (continued on next page)

ORDINANCE NO. BL2012-147 (continued)

deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

The operation and maintenance agreement attached to the ordinance includes a provision stating that "future amendments to this ordinance may be approved by resolution". However, such language is not actually included in the ordinance. Including this language in the operation and maintenance agreement has no operative effect. If the council desires to allow amendments to the agreement to be approved by resolution, the ordinance should be amended to expressly include this language.

ORDINANCE NOS. BL2012-148, BL2012-149 AND BL2012-150 – These three ordinances abandon water and sewer facilities and/or easements no longer needed by the department of water and sewerage services. These ordinances have been approved by the planning commission.

Ordinance No. BL2012-148 (Allen & Hunt) abandons 250 feet of a six inch water main and accepts 28 feet of an eight inch water main and one public fire hydrant located at 2014 Bernard Circle.

Ordinance No. BL2012-149 (Gilmore & Hunt) abandons 166 feet of a 40-foot-wide utility and drainage easement on properties located at 311 Demonbreun Street, 210 Fourth Avenue South, Fourth Avenue South, unnumbered, and Almond Street, unnumbered.

Ordinance No. BL2012-150 (Todd and Hunt) abandons 142 feet of an easement retained when the former Cross Hill Road right-of-way was abandoned by the council in 1993. The easement to be abandoned is located on a portion of the properties located at 124A and 128 Alton Road and at 127 and 131 Brookfield Avenue.

– **BILLS ON THIRD READING** –

SUBSTITUTE ORDINANCE NO. BL2012-107 (JOHNSON) – This ordinance amends the Metropolitan zoning code to require replacement panels in multi-tenant developments to be consistent with the other signage on the property. The zoning code currently provides that on-premises signs on a lot with more than one business (i.e., a strip mall) must be in accordance with the overall signage plan for the development. All signs must be consistent with at least four of the following: material; location on the building; sign proportions; color scheme; lighting; and letter/graphic style. The signage plan is supposed to be approved by the zoning administrator before permits are issued. The sign plan may be amended from time to time, but all signs must be brought into compliance with the amended plan within six months. The council office has been advised by the codes department that this requirement has historically not been enforced.

This ordinance would specify that all modifications to building signs located within developments where more than one use or business is located on a lot, including the replacement of individual building sign panels for new tenants, must be consistent with the other existing sign panels within the development as to materials, lighting, and size. This would prohibit the insertion of a sign panel made out of plywood or some other material that is not consistent with the rest of the panels.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-117 (TYGARD & GARRETT) – This zoning text change amends the zoning code to allow microbreweries to be located in the industrial warehousing/distribution (IWD) zoning district. Prior to 2008, the zoning code considered the manufacturing of alcoholic beverages as a “medium manufacturing” use, which is only permitted in the industrial zoning districts. In September 2008, the zoning code was amended to create a new use called “microbrewery” to be permitted by right in the downtown, IR (industrial restrictive) and IG (industrial general) zoning districts. The code defines “microbrewery” as the production of beer in quantities not to exceed 5,000 barrels per month. This definition does not extend to the production of other alcoholic beverages such as wine and whiskey. To address this issue, the council amended the zoning code to create “artisan distillery” as a new use to be permitted in the downtown and industrial zoning districts. The purpose of the artisan distillery ordinance was to allow smaller-scale distilleries in the downtown area to serve as tourist attractions.

This ordinance further amends the zoning code to allow microbreweries by right in the IWD zoning district. The zoning code provides that the IWD district is intended to implement those industrial policies of the general plan that provide opportunities for wholesaling, warehousing and bulk distribution uses.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-127 (HUNT) – The ordinance amends the Metro Code to change the composition of the Metropolitan stormwater management committee to remove the distinction between regular members and alternate members. The committee currently consists of seven persons: five regular members and two alternates. The code provides that only the regular members may be elected to the offices of chair and vice-chair, and that alternate members can only vote on committee matters when he/she is replacing a regular member who has a conflict of interest on a matter or is unable to attend the meeting.

This ordinance provides that the committee will consist of seven members: four engineers plus three lay persons. All seven members will have equal voting rights, and four members will constitute a quorum as opposed to the current three member quorum requirement. All current regular members will remain in office and the alternate members will be converted to full members.

ORDINANCE NO. BL2012-128 (HARRISON, PRIDEMORE & OTHERS) – This ordinance names the Metropolitan Police gun range in honor of Major Tom Dozier. Thomas Alvine Dozier, Sr. served the citizens of Nashville as a police officer for 50 years. He began his law enforcement career in 1953 as a patrolman in the Nashville Police Department, and was ultimately promoted to the rank of Major in 1990. Major Dozier was instrumental in the construction of the outdoor gun range and served as the supervisor of the range for many years. Major Dozier passed away on August 2, 2011, at the age of 81.

The Metropolitan Code provides that no building or structure owned by the Metropolitan Government may be named except pursuant to an ordinance duly adopted by the Metropolitan Council.

ORDINANCE NO. BL2012-129 (MCGUIRE) – The ordinance, as amended, approves a license agreement between the Metropolitan Government and Electric Transportation Engineering Corporation, d/b/a Ecotality North America, for the installation and maintenance of electric vehicle charging stations on Metro property. Ecotality received a federal stimulus grant from the department of energy to install electric vehicle supply equipment (EVSE) stations in several U.S. cities and to collect data regarding the public use of the stations. Nashville has been chosen as one of these cities. The EVSE stations will be installed and maintained by Ecotality at no cost to the Metropolitan Government. The specific locations of the charging stations will be as follows:

- Centennial Park – 2565 Park Plaza
- Centennial Sportsplex – 222 25th Avenue North
- Coleman Community Center – 384 Thompson Lane
- Hadley Community Center – 2901 John A Merritt Boulevard
- Courthouse parking garage – One Public Square
- Metro Southeast – 1417 Murfreesboro Road
- East Community Center – 700 Woodland Street
- Shelby Nature Park – 1900 Davidson Street

Ecotality will be responsible for maintaining the stations in a safe and operable condition at all times. The company will be authorized to charge customers for use of the stations. Metro will be entitled to the lesser of fifty percent of the access fee revenue or fifty cents per hour of time (continued on next page)

ORDINANCE NO. BL2012-129 (continued)

spent charging at a specific charger. The ordinance authorizes the director of finance to adjust the charger access fee if a cost analysis performed after the program is implemented indicates that Metro's costs related to the charging stations exceed the revenue received from Ecotality. In no event can the adjusted fee exceed Metro's actual costs associated with hosting the charging stations. The revenues received through this agreement are to be used to reimburse Metro departments on a pro rata basis for their costs arising out the location of specific charging stations.

The term of this agreement is through December 31, 2013. Metro will have the option at the end of the agreement to retain any or all of the EVSE stations at no additional cost. If Metro elects not to retain a station, Ecotality will be responsible for removing the station at its own expense and restoring the Metro property to a safe condition. Ecotality is required to maintain commercial liability insurance in the amount of \$1 million per occurrence (\$2 million aggregate) naming the Metropolitan Government as additional insured. The company also agrees to indemnify the Metropolitan Government for any claims arising from the company's installation or operation of the EVSE stations.

Future amendments to this agreement may be approved by resolution.

ORDINANCE NO. BL2012-130 (STEINE & HARMON) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before January 17, 2012. Municipal Code Corporation has the contract with Metro to codify all ordinances enacted by the council, as well as to update and maintain the on-line version of the code. The council periodically readopts the code to make sure the printed and online versions are kept up to date.

ORDINANCE NO. BL2012-131 (MATTHEWS & HUNT) – This ordinance authorizes the director of public property to accept an easement for a school bus turnaround off Riley Adcock Road. The property owner has agreed to donate this easement at no cost to Metro. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-132 (HUNT & BAKER) – This ordinance abandons the water and sewer easement that was retained by Metro when a portion of the right-of-way for Alley No. 1218 located on property at 4502 Indiana Avenue was abandoned in 1981. This easement is no longer being used by the department of water and sewerage services or any other public utility. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-133 (LANGSTER & MCGUIRE) – This ordinance approves an agreement between the Metropolitan department of social services and the Key Alliance for support for the Metropolitan homelessness commission. The homelessness commission was formerly housed at the Metropolitan development and housing agency (MDHA) before being transferred back to the department of social services last year. While at MDHA, the Key Alliance was created as a nonprofit entity in order to solicit private funds for the homelessness commission. Now that the commission is once again officially a part of the Metropolitan Government, it is in Metro’s best interest from a legal standpoint that a formal agreement be established with the Key Alliance setting forth the parties’ duties and responsibilities.

Pursuant to this agreement, the Key Alliance will support the homelessness commission through financial, in-kind, and volunteer donations. All work or activities performed by the Key Alliance on Metro property must be approved by the social services director or her designee. The homelessness commission will provide staffing support to implement the strategies developed by the Key Alliance, as well as office space and computer support, though the contract provides “there shall be no cost to Metro of the performance of the services under this contract.”

The term of this agreement is through May 19, 2015. The Key Alliance is required to maintain liability insurance in the amount of \$1 million per occurrence, and agrees to indemnify the Metropolitan Government for any claims arising from its performance of the contract.

Future amendments to this agreement may be approved by resolution.

ORDINANCE NO. BL2012-142 (CLAIBORNE) – This ordinance amends the Metro zoning code to extend the date for compliance with the signage provisions within the downtown code (DTC) district until June 30, 2013. The ordinance creating the DTC district, which was approved with amendments by the council in February 2010, provided that downtown properties would not have to comply with the new signage standards until July 1, 2011. The idea behind the delayed compliance date was to allow for a study of signage within the downtown area and to recommend new standards. The planning commission hired a consultant to conduct a study of the downtown sign regulations and to recommend a new downtown sign code. The consultant’s work was not completed by June 30, 2011, so the council approved an extension of the compliance date to June 30, 2012.

The draft sign code was completed by the consultant in 2011 and was circulated to the downtown business and property owners for comment. The downtown community stakeholders have requested additional time to work with the Metro planning department to revise the draft. The planning commission has approved an additional extension through June 30, 2013 to give the community time to come to a consensus on the new sign regulations, which will be submitted to the council for approval.