

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **January 8, 2013**

RE: **Analysis Report**

Balances As Of:	<u>1/2/13</u>	<u>12/14/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$24,914,746	\$25,836,951
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$61,358,778	\$44,578,057
USD	\$8,478,089	\$8,556,677
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$54,933,590	\$34,449,193

*** Assumes estimated revenues in fiscal year 2013 in the amount of \$25,514,400**

– BILLS ON PUBLIC HEARING –

ORDINANCE NO. BL2012-264 (STITES) – This ordinance amends the Metro zoning code provisions pertaining to planned unit development (PUD) districts approved under a previous zoning code. PUDs that were adopted prior to 1998 were grandfathered in when the current zoning code was adopted, though amendments to these older PUDs (other than minor changes) must be approved by the council. The code provides that all of the other provisions of the zoning code become applicable when these older PUDs are amended by council. This text change amends this provision to clarify that language specifically included in an amendment to an older PUD would prevail over conflicting zoning code provisions.

The planning commission recommended approval of this ordinance with an amendment clarifying that current building and fire code requirements would still apply when the PUD is amended.

– RESOLUTIONS –

RESOLUTION NO. RS2012-536 (MATTHEWS) – This resolution approves a grant in the amount of \$25,000 from the Fund for Cities of Services, Inc. to the mayor’s office for home energy retrofits. The grant agreement is in the form of a memorandum of understanding between the two parties. This grant helps fund a partnership with several private organizations to retrofit 26 homes in the Chestnut Hill community and 25 homes in North and East Nashville. The agreement provides that the mayor’s office has the potential to receive an additional \$5,000 bonus at the end of the one year grant period if certain energy savings benchmarks are met.

RESOLUTION NO. RS2012-537 (MATTHEWS) - This resolution approves a third amendment to a grant from the state emergency management agency to the Metropolitan Government for the reimbursement of flood-related expenses. This grant is for the receipt of federal funds to reimburse Metro for flood repairs and the replacement of equipment and facilities. This amendment increases the amount of the grant award by \$1,434,210.83, for a new total of \$52,673,688.57. The amendment also increases the amount of the local match by \$75,484.77 to \$2,772,299.23.

RESOLUTION NO. RS2012-538 (WEINER, MATTHEWS & LANGSTER) – This resolution approves an annual grant in the amount of \$42,500 from the state department of health to the Metropolitan health department for tobacco use prevention services. These federal pass-through funds are used to pay part of the salary of a program coordinator to help prevent initiation of tobacco use among young people, promote quitting among adult and youth tobacco users, and partner with community organizations to implement counter-marketing campaigns. The term of the grant is from March 30, 2013 through March 29, 2014. There is a required local match in the amount of \$7,300 to be provided through the health department’s operating budget.

RESOLUTION NO. RS2012-539 (WEINER & MATTHEWS) – This resolution approves the renewal of a grant in the amount of \$1,589,107 from the U.S. department of health and human services to the Metropolitan board of health to create a comprehensive strategy to address issues and barriers to responsible fatherhood. This grant has been awarded under the federal Pathways to Responsible Fatherhood grant program. The grant will fund the health department positions providing the services, including a program manager and case managers. The health department will also subcontract with several community health providers and resource centers to implement the program. The term of the grant is from September 30, 2012 through September 29, 2013.

RESOLUTION NO. RS2012-540 (WEINER, MATTHEWS & LANGSTER) – This resolution approves a contract between the Metropolitan board of health and Matthew Walker Comprehensive Health Center for a mobile clinic to provide early periodic screening diagnosis and treatment exams to middle school children. This is a continuation of a contract that was approved by the council in 2009. The health department will provide the services of a coordinator, make contact with school principals, and schedule the mobile clinic at elementary and middle schools. Matthew Walker agrees to provide the salary and benefits for the coordinator, to provide the nursing and clerical staff for the mobile unit, and to provide all necessary medical equipment. Matthew Walker agrees to pay \$70,173 to Metro for the provision of the health department's services. The term of the contract is from July 1, 2012 through June 30, 2013, but may be extended on a year-to-year basis.

RESOLUTION NO. RS2012-541 (WEINER, MATTHEWS & LANGSTER) – This resolution approves a clinical affiliation agreement between the Metropolitan board of health and Meharry Medical College to provide clinical experience to students. This is a standard agreement the health department has with a number of colleges and universities to provide clinical experience to students in various medical professions. The term of this agreement is for one year, but may be extended for four additional one year periods. Meharry is required to maintain malpractice insurance for its students with a single limit of not less than \$1 million per occurrence and \$3 million aggregate.

RESOLUTION NO. RS2012-542 (WEINER & MATTHEWS) – This resolution approves an amendment to a contract between the Metropolitan board of health and Vanderbilt University Medical Center to provide medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) in the event of a public health emergency. Under this contract, the health department agrees to be responsible for obtaining the mass prophylaxis from the state and delivering it to Vanderbilt during a public health emergency. Vanderbilt will be responsible for distributing the prophylaxis, and will not receive any form of compensation for providing these services.

This contract amendment extends the term of the agreement through June 30, 2013.

RESOLUTION NOS. RS2012-543 THROUGH RS2012-545 – These three resolutions approve grant applications to fund the Metro homelessness commission’s fifth annual Project Homeless Connect event. Project Homeless Connect is a one day event scheduled for February 13, 2013 at the fairgrounds to provide individuals and families that are homeless or are on the brink of homelessness with access to a wide range of services, including medical checkups, legal services, employment and housing assistance, food, and personal supplies. The homelessness commission partners with more than 70 other agencies in Nashville for Project Homeless Connect. These grant funds would be used to help cover the operating expenses for the event.

Resolution No. RS2012-543 (Weiner, Matthews & Langster) approves five individual applications for a total possible grant of \$25,000 from the Walmart Foundation.

Resolution No. RS2012-544 (Weiner, Matthews & Langster) approves an application for a \$5,000 grant from the Cal Turner Family Foundation.

Resolution No. RS2012-545 (Weiner & Matthews) approves an application for a \$5,000 grant from the James Stephen Turner Family Foundation.

RESOLUTION NO. RS2012-546 (MATTHEWS) – This resolution approves a grant in the amount of \$220,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide resources for 55 dislocated workers. NCAC provides workforce training and development services in the counties of Davidson, Rutherford, Trousdale and Wilson. The term of the grant is from November 15, 2012 through June 30, 2013. No Metro funds are obligated as part of this grant.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-293 (DOMINY, STANLEY & OTHERS) – This ordinance amends the Metropolitan Code to require the board of fair commissioners (“fair board”) to issue a request for information (RFI) to gauge interest from the private sector regarding the future operation of the fairgrounds property. In 1909 the Tennessee general assembly enacted a private act to create a state fair board to manage property that had been conveyed to Davidson County. This property was leased to the state in 1911 for a 99 year term. However, in 1923, the general assembly enacted another private act to authorize the termination of the lease and to authorize the board of fair commissioners to use the property for a “fair or exposition for the benefit of the people”. In addition to the annual state fair, which is the primary purpose for the existence of the fair board, the fairgrounds property has long been used for expo center functions and auto racing.

When the city and county governments were consolidated in 1963, the Metropolitan Charter essentially re-established the board of fair commissioners and vested it with the power to perform all duties imposed on the board in the 1909 and 1923 state acts. The Charter further provides that the council can “assign duties” to the fair board by ordinance. This is the same language that is used throughout the Charter for various departments and agencies, including the auditorium commission, farmer’s market, and the agricultural extension board.

In February 2011, the council approved an ordinance requiring the fair board, working with the planning department and the parks department, to develop a master plan that would include construction of a public park and restoration of Brown’s Creek, recommended modifications to and/or removal of the existing facilities, planned development of the site for mixed-use purposes, recommended zoning changes, and infrastructure improvements for the site and the surrounding area. The master plan process is nearing completion. Subsequently, in August 2011, the voters at a referendum election amended the Charter to provide that all activities currently being conducted on the fairgrounds premises must continue in perpetuity, and to prohibit the demolition of the existing structures without approval by ordinance receiving 27 votes by the council.

This ordinance would require the fair board to issue a RFI for the future private operation of the fairgrounds for the purpose of assisting the board in the identification of potential options to partner with the private sector. This would include making significant capital improvements to the property in exchange for a lease of at least 25 years with a portion of the revenue generated to be shared with Metro. The ordinance would not obligate the fair board to actually award a contract for the future operation. Nor would it prohibit the council from taking further action regarding the functions at the fairgrounds.

The council office would point out that legislative action is not legally required in order for the fair board to take the actions provided for in this ordinance. However, enacting this ordinance would obligate the board to go ahead and issue the RFI as specified in the ordinance.

ORDINANCE NO. BL2012-332 (MATTHEWS) – This ordinance increases the rates wrecker companies may charge for providing emergency/nonconsent towing services. These increases have been requested by the Davidson County Towing Association and recommended by the transportation licensing commission. Under the Metropolitan code, “emergency towing” occurs in one of three situations: (1) When a vehicle is parked or stopped in violation of any Metro ordinance; (2) When a vehicle is obstructing traffic flow; or (3) When a vehicle is disabled by an accident and is obstructing traffic such that its removal or storage for safekeeping is necessary in the interest of public safety and protection of property. Wrecker companies are specifically licensed by the transportation licensing commission to provide emergency towing services. The commission has divided Davidson County into various emergency towing zones, which are serviced by certain companies.

According to information presented to the transportation licensing commission by the Davidson County Towing Association, the fee adjustments in this ordinance will bring these fees closer in line with the rates charged in other municipalities. Since these fees were last adjusted in 2008, the cost of diesel fuel has increased significantly and insurance costs have increased by 20 percent. A document showing the specific changes in the various fees is attached to this analysis.

ORDINANCE NO. BL2012-333 (POTTS & MATTHEWS) – This ordinance amends various sections in the Metropolitan Code pertaining to Metro water services (MWS) relative to work performed in the right-of-way, private service line insurance, charges for disconnection and reconnection of service, returned checks, billing procedures, and charitable discounts. This ordinance has been submitted at the request of MWS to bring the code provisions in line with current practices. A summary of the various changes is as follows:

Responsibility for work performed in the right-of-way

This ordinance would clarify that Metro is not responsible for the repair of any privately-owned infrastructure within the right-of-way or within a Metro utility easement that is damaged by MWS when working on water or sewer lines as long as the damage was not caused by Metro’s negligence. Private utilities such as Piedmont Gas and AT&T have lines within Metro’s right-of-way. This ordinance makes it clear that Metro will not repair these private lines if they are damaged unless Metro failed to exercise reasonable care when doing the work.

Maintenance of service connection

This ordinance further clarifies the ownership and responsibility of water meters. The code section in question was last amended in 2006 to specify that the department owns and is responsible for maintaining the meter and the portion of the water line extending from the water main to the meter. The customer owns and is responsible for the portion of the water line from the meter box to the structure, as well as all required backflow prevention and pressure reducing devices on the customer side of the meter.

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ORDINANCE NO. BL2012-333, continued

This ordinance provides that Metro owns the portion of the water service line from the water main to the domestic meter box so long as the meter is within the public right-of-way. If outside of the public right-of-way, the customer is responsible for the maintenance of the meter. This ordinance also would require all new domestic meter boxes to be installed within the public right-of-way, and would require existing meters located on private property to be relocated to the public right-of-way unless the director authorizes the meter on private property and the property owner grants an easement to Metro to allow MWS to access the meter.

Private service line insurance

This ordinance will allow Metro water services to offer private service line insurance to customers through one or more insurance providers. The customers electing to purchase the insurance would be responsible for paying the costs of the premiums. Customers would be under no obligation to purchase such insurance. If purchased, the insurance would cover repair costs for service lines on private property.

Discounts for charitable organizations

For many years, the code has purported to offer a discount to charitable organizations on their water and sewer bills. However, this discount has not been offered since 1997 when the Tennessee attorney general opined that it is illegal to offer such a discount. This ordinance repeals the charitable discount provisions from the code to prevent confusion.

Clarification regarding fees and charges

- Extends the payment due date from 15 to 20 days. An additional amount of \$2.50 or 5% (whichever is greater) of the net bill is owed if the bill is not paid within 20 days of billing.
- Sets a flat \$50 fee for reconnection of service if the water was disconnected for failure to pay the bill. This has been MWS's practice and budgeted as revenue since 2008, but the code provides that the fee is to be \$15. The \$50 charge covers the cost of sending crews out twice: once to disconnect and again to reconnect. The code also currently provides that the customer must pay one-half of the arrears plus the service charge to be reconnected, with the balance to be paid over time. This ordinance brings the code in line with the practice since 2008, which is to require the customer to pay \$50 plus the full amount of arrears.
- Increases the reinstatement charge after a temporary disconnection at the customer's request from \$15 to \$35 for same day service and \$25 for any subsequent day. Once again, this brings the code provision in line with the practice since 2008.
- Increases the fee in the code for returned checks from \$10 to \$30. The \$30 fee has been in place since 2008, and is consistent with the general code provision regarding returned checks applicable to all Metro agencies.

ORDINANCE NO. BL2012-334 (POTTS) – This ordinance amends the Metro code to prohibit street vendors from selling their wares on streets and sidewalks that have been temporarily closed for a special event without the permission of the special event permit holder. The code currently requires street vendors to obtain a permit from the county clerk. The code also includes a permitting process for special events, which often includes the closure of streets and sidewalks. Licensed street vendors are permitted to sell their products in specific locations within the public right-of-way in the downtown area, including those times when streets and sidewalks are closed for a special event. There have been incidents in the past where licensed street vendors have been competing with the special event vendors who have a contract or agreement with the holder of the special event permit within the designated special event area.

This ordinance would expressly prohibit street vendors from vending within the area covered by a special event for which Metro has given permission to close a street and/or sidewalk unless he/she has the permission of the special event permit holder. This ordinance has been brought at the recommendation of the department of public works.

ORDINANCE NO. BL2012-335 (MATTHEWS & BENNETT) – This ordinance approves an agreement among the Metropolitan Government, Nashville Electric Service (NES), and Vanderbilt University for access to the 800-MHZ emergency radio dispatch and response system. The Metropolitan Government and NES jointly own and operate the emergency radio dispatch and radio response system utilizing 800-MHZ radio frequencies licensed by the Federal Communications Commission (FCC). This system was jointly funded by Metro and NES, with Metro general services now maintaining the system and NES contributing funds to help pay for its maintenance.

This agreement will allow Vanderbilt University's LifeFlight and police department to interface directly with Metro's system. Vanderbilt agrees to pay a monthly usage and access fee as determined annually by the department of general services and the finance department. The term of this agreement begins upon approval by the council and extends through June 30, 2022, but may be terminated by either party with 90 days written notice.

ORDINANCE NO. BL2012-336 (A. DAVIS & WESTERHOLM) – This ordinance designates Riverside Drive in East Nashville as "Riverside Memorial Boulevard". The purpose of this ordinance is to recognize Riverside Drive's previous designation as a memorial to the fallen soldiers of World War I, World War II, the Korean War, and the Vietnam War. On November 13, 2012, the council enacted Ordinance No. BL2012-262 to establish a procedure for the use of honorary street signs. That ordinance allows the council, by ordinance, to authorize and direct the department of public works to install honorary street signs beneath the official street name sign for any street identified on the official street and alley acceptance and maintenance map.

This ordinance does not officially rename Riverside Drive, and residents will not be required to change their address. The designation as "Riverside Memorial Boulevard" is only honorary.

– BILLS ON THIRD READING –

SUBSTITUTE ORDINANCE NO. BL2012-283 (CLAIBORNE) – This ordinance amends the Metro code provisions pertaining to commercial solicitations. The code currently requires commercial solicitors to obtain a permit from the police department, but the requirements are minimal and do not include a mechanism for oversight and appeal. The current provisions were last amended in 1996. This ordinance is being filed in response to constituent complaints regarding recent aggressive sales techniques engaged in by certain commercial solicitors.

This ordinance is modeled after the commercial solicitation ordinance in Fort Collins, CO implemented in 2011. The ordinance was prepared with the input of the Metropolitan clerk, the police department, and the department of law. Under this ordinance, commercial solicitation permits would be issued by the Metropolitan clerk as opposed to the police department. Along with the permit application, the company would be required to provide a list of all persons who will be authorized to engage in commercial solicitation under the permit. The clerk would be responsible for issuing photo ID cards to the commercial solicitors, which must be worn at all times while soliciting. A background check would be conducted for all commercial solicitors, the cost of which would be borne by the applicant. Persons convicted of certain criminal offenses would be prohibited from obtaining a permit or ID badge.

The clerk would be responsible for maintaining a list of all persons allowed to solicit under a company's permit. The permit fees would be determined by the clerk in an amount necessary to offset the costs of preparing and issuing the permits and associated ID badges. These fees must be ratified by council resolution. Once issued, commercial solicitation permits would be valid for two years. Denials, suspensions, and revocations of a license or ID badge could be appealed to the board of alarm appeals.

In addition to the revised permitting procedures and requirements, this ordinance would create a "No Solicitation List" to be maintained on the clerk's website similar to the "Do Not Call List" that would allow residents to electronically add their address to the list. Commercial solicitors would be responsible for periodically obtaining an updated copy of the no solicitation list, and would be prohibited from soliciting at any residence included on the list. Once added, a residence would remain on the list unless the resident requests to have his/her address removed. This ordinance would have no impact on charitable and political solicitations, which have greater First Amendment protection.

The ordinance also prohibits commercial solicitation if a "no soliciting" or "no trespassing" sign is posted at the entrance to residential property. Commercial solicitors would further be prohibited from using any deceptive practices to obtain a visit at a private residence for the purpose of selling goods or services.

The clerk would be authorized to promulgate rules and regulations to implement the ordinance. The provisions of the ordinance are to be implemented not later than April 1, 2013.

ORDINANCE NO. BL2012-315 (MATTHEWS) – This ordinance amends the procurement nondiscrimination provisions in the Metro Code to change the frequency of benchmarking. The procurement nondiscrimination program was implemented in 2008 with the assistance of Griffin & Strong, P.C., which is an Atlanta-based law firm that conducted the previous two disparity studies for the Metropolitan Government. The most recent disparity study completed in 2005 concluded that Metro had become a passive participant in discrimination based upon race, gender or ethnicity. The objective of the procurement nondiscrimination program is to promote open competition in Metro’s procurement process and to protect Metro from becoming a passive participant in any unlawful discrimination.

The 2008 procurement nondiscrimination ordinance created the Office of Minority and Women Business Assistance (BAO) within the finance department. One of the responsibilities of this office is to recommend annual “benchmarks”, which are percentage ranges based upon minority and women owned business enterprises (MWBE) availability compared with past participation. The ordinance authorized the purchasing agent to hire consultants to help determine MWBE availability.

Metro recently hired Griffin & Strong to provide a comprehensive review of statistical MWBE availability benchmarks and an analysis of the benchmarks compared to actual MWBE vendor utilization. Griffin & Strong has recommended that the benchmarking be done every two years instead of annually. This ordinance simply implements the consultant’s recommendation.

ORDINANCE NO. BL2012-320 (CLAIBORNE) – This ordinance amends the Metro code to eliminate the subsidized health insurance benefits for future members of council after they leave office. The code currently allows all elected officials participating in the comprehensive health care plan to continue participation in the plan after they leave office. If the elected official has served eight years, he/she may continue to participate in the plan by paying the Metro subsidized rate paid by employees, which is 25% of the premium. However, if the elected official has served less than eight years, he/she must pay 100% of the premium in order to continue participation in the plan.

This ordinance would modify the percentage of premium payments members of council serving two terms would pay for the subsidized health insurance after they leave office. The purpose of this ordinance is to align the premium contribution rates paid by future councilmembers after they leave office with the contribution rates that will be paid by retired Metropolitan Government employees who are hired after January 1, 2013, as provided in Ordinance No. BL2012-237 approved in October 2012. The premium payment responsibility would be as follows:

<u>Time of Service</u>	<u>Former Council Member Responsibility</u>	<u>Metro Responsibility</u>
8-15 years	75%	25%
15-16 years	50%	50%
16-17 years	45%	55%
17-18 years	40%	60%
18-19 years	35%	65%
19-20 years	30%	70%
20 or more years	25%	75%

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ORDINANCE NO. BL2012-320, continued

The ordinance grandfathers in all current members of council and those former members of council that already participate in the health insurance plan. However, the ordinance provides grandfathered members of council with the option to participate in the health plan after they leave office at the higher contribution rates set forth above, instead of the 25% premium payment, if they so choose.

According to information provided by the department of human resources, the subsidized health insurance for former members of council costs Metro approximately \$300,000 per year. There are currently 33 former members of council receiving the subsidized Metro health insurance. Metro's actuary has determined that the present day value of this benefit is approximately \$9 million.

ORDINANCE NO. BL2012-321 (EVANS, TODD & OTHERS) – This ordinance approves an agreement between the Metropolitan Government and CSX Transportation, Inc., for the engineering, installation, and maintenance of an interconnection device at the intersection of Vaughn's Gap Road and State Route 100. CSX will furnish one or more interconnection circuits designed to open when a train approaches, which will be used for the interconnection of the roadway traffic signals with the crossing warning signals. CSX will also provide the necessary engineering and flagging services. Metro agrees to reimburse CSX for all of its expenses associated with the project, which are estimated to be \$35,956. This agreement may be terminated by either party with 15 days written notice.

ORDINANCE NO. BL2012-322 (CLAIBORNE, GILMORE & MATTHEWS) – This ordinance grants a permanent easement for property located at 3005 Fernbank Lane to Piedmont Natural Gas Company for the purpose of maintaining a gas line. This property is located at Heartland Park. Piedmont will be paying Metro \$2,278 for the easement.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2012-323 (CLAIBORNE, POTTS & OTHERS) – This ordinance approves the annual adoption of the additions, deletions, and/or other amendments to the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government made during the previous year. These amendments are submitted annually by the department of public works. The map shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro since the last map adoption.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-324 (GILMORE) – This ordinance designates Gay Street between James Robertson Parkway and Fifth Avenue North as “Musicians Way”. This section of roadway is next to the Municipal Auditorium, which now houses the Musicians Hall of Fame and Museum. On November 13, 2012, the council enacted Ordinance No. BL2012-262 to establish a procedure for the use of honorary street signs. That ordinance allows the council, by ordinance, to authorize and direct the department of public works to install honorary street signs beneath the official street name sign for any street identified on the official street and alley acceptance and maintenance map. Such honorary street signs are to be brown in color with white lettering. No honorary street sign can be installed honoring a living person, and signs for no more than five honorary street names may be publicly funded in each calendar year. After the fifth honorary street, the honorary signs must be privately funded. A member of council is not permitted to sponsor more than one ordinance in each calendar year naming an honorary street for which the costs of the signs are to be borne by the department of public works.

This ordinance does not officially rename this portion of Fifth Avenue North. The designation as “Musicians Way” is only honorary.

ORDINANCE NO. BL2012-325 (CLAIBORNE, POTTS & MATTHEWS) – This ordinance grants a telecommunications franchise to Nashville Data Link, Inc., in accordance with the Metro Code. Nashville Data Link will have a fifteen year franchise and will be required to pay \$4,500 per year as a reasonable estimate of Metro’s costs associated with owning, maintaining, and managing the public right-of-way being used by the company. The franchise agreement recognizes that Metro intends to enact a new franchise ordinance to replace the existing code provisions. The company agrees that the compensation component of a new ordinance would take the place of the \$4,500 per year.

The company has posted the required bond in the amount of \$500,000 guaranteeing the company’s performance of its obligations under the franchise, as well as a certificate of liability insurance naming the Metropolitan Government as additional insured in the amount of \$1,000,000 per occurrence and \$15,000,000 in the aggregate.

The application for this franchise has been approved by the planning commission.