

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Metropolitan Council Office

DATE: **April 1, 2003**

RE: **Analysis Report**

Balances As Of:  
3/27/02

3/26/03

<u>GSD 4% RESERVE FUND</u>	\$8,795,324	\$10,056,275
----------------------------	-------------	--------------

CONTINGENCY ACCOUNTS

GSD	\$50,000	\$35,000
USD	\$50,000	\$50,000

GENERAL FUND

GSD	\$35,850,689	\$63,997,770
USD	\$13,909,890	\$16,682,399

GENERAL PURPOSE  
SCHOOL FUND

	\$53,181,288	\$10,404,340
--	--------------	--------------

SOLID WASTE  
DISPOSAL FUND

Solid Waste Activities	\$2,328,358	\$2,293,382
------------------------	-------------	-------------

**- RESOLUTIONS -**

**RESOLUTION NOS. RS2003-1404, RS2003-1405, RS2003-1406 & RS2003-1407**

– These four resolutions approve contracts between the Tennessee department of transportation (TDOT) and the Metropolitan Government for road resurfacing. Pursuant to the agreements, TDOT will be responsible for paying 75% of the cost with Metro paying the remaining 25%. The projects are to be completed by July 31, 2005.

**Resolution No. RS2003-1404** (JENKINS, GREER & OTHERS) approves the contract for the resurfacing of a 2.4 mile section of 31<sup>st</sup>/Blakemore/Wedgewood Avenue from West End Avenue to the I-65 underpass. The total estimated cost for this project is \$634,800, with the state paying \$476,100 and Metro paying \$158,700.

**Resolution No. RS2003-1405** (JENKINS & TYGARD) approves the contract for the resurfacing of a 0.4 mile section of Vaughn Road from the Williamson County line to Old Hickory Boulevard in the Bellevue area. The total estimated project cost is \$49,700, with the state paying \$37,275 and Metro paying \$12,425.

**Resolution No. RS2003-1406** (JENKINS & TYGARD) approves the contract for the resurfacing of a 0.54 mile section of Temple Road from the Williamson County line to Highway 100 in the Bellevue area. The total estimated project cost is \$65,000, with the state paying \$48,750 and Metro paying \$16,250.

**Resolution No. RS2003-1407** (JENKINS & TYGARD) approves the contract for the resurfacing of Pasquo/Union Bridge Road from the Williamson County line to Highway 100. The total estimated project cost is \$65,400, with the state paying \$49,050 and Metro paying \$16,350.

**RESOLUTION NO. RS2003-1408** (JENKINS) – This resolution approves a grant from the state department of human services to the Nashville career advancement center (NCAC) to provide for reimbursement of expenses associated with the department of human services' occupancy of the career center. The state department of human services will occupy a portion of the NCAC to provide access to Family Assistance and Families First services. Pursuant to this grant, NCAC will be reimbursed in an amount not to exceed \$9,870 for use of the space by the state. The term of this grant is from July 1, 2002 through June 30, 2003, with a possible one year extension.

**RESOLUTION NO. RS2003-1409** (JENKINS) – This resolution approves an amendment to an annual grant from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care services. The original grant, approved by Resolution No. RS2002-1267, was in the amount of \$1,004,354 and was to provide nutrition, transportation, and personal care services to low income elderly and/or homebound individuals. This resolution provides that this amendment increases the amount of the grant by \$1,000 and adds the relative caregiver support component. The relative caregiver is to provide support to older relatives/grandparents that are the primary caregivers of children. The grant amendment provides that the relative caregiver is to be compensated at a rate of \$25.00 per hour, although the \$1,000 increased amount is not expressly provided in the amendment.

**RESOLUTION NO. RS2003-1410** (JENKINS) – This resolution approves a lease agreement between the Metropolitan Government and Pitney Bowes for the lease of a copier for the department of law. The Metropolitan Code of Laws requires that all lease agreements for equipment in excess of \$5,000 annually be approved by resolution of the Metropolitan Council. This lease agreement is for a Pitney Bowes DL650 digital copier at an annual cost of \$5,016, which includes the equipment, maintenance, and operating supplies excluding paper. This copier is being leased, as authorized by the Metro Code, using a state contract with Pitney Bowes.

**RESOLUTION NO. RS2003-1411** (JENKINS) – This resolution modifies the existing master list of architectural and engineering firms. The Metro Code of Laws provides that all contracts for professional services of architects and engineers must be with firms included on the master list. This resolution changes the name of “Trible & Richardson” to “Stantec Consulting Services Inc.”, changes the name of “Law Engineering” to “Mactec Engineering/Consulting of GA”, and adds the following three firms to the master list:

- Carol R. Johnson Associates Inc. of Boston, Massachusetts
- Walker Macy of Portland, Oregon
- Smith Management Group of Goodlettsville, Tennessee

**RESOLUTION NO. RS2003-1412** (JENKINS) – This resolution authorizes the department of law to compromise and settle the claim of the emergency medical services (EMS) division of the fire department against Tennessee Coordinated Care Network in Liquidation, formerly doing business as MedPlus or MedTrust, in the amount of \$31,656.32. The resolution provides that Courtney N. Pearre, the Special Deputy Liquidator for Tennessee Coordinated Care Network, has offered to pay an amount equal to 98.5% (\$31,656.32), or have Metro accept payment for claims under the terms of the liquidation, which would pay only a pro-rata share. The department of law is of the opinion that this is a fair and reasonable

settlement. These funds are to be deposited into the general fund of the Metropolitan Government.

Further information from the department of law regarding the circumstances surrounding this proposed settlement has yet to be provided to the Council Office as of the time this analysis was prepared and mailed to members of council.

**- BILLS ON SECOND READING -**

**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. This ordinance would 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. 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. This ordinance also provides that any continuance permitted after the posting of the bond during the appeal process shall terminate upon the issuance of a stay by the court.

**ORDINANCE NO. BL2003-1353** (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to exempt restaurants that have 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.

(continued on next page)

**ORDINANCE NO. BL2003-1353** (continued)

There will likely be an amendment to this ordinance offered to limit its application to restaurants located within the urban zoning overlay (UZO) and urban design overlay (UDO) districts that have already obtained a state on-premises liquor license. In addition, this amendment clarifies exactly which provisions of the state law definition of restaurant apply to this ordinance, including a place where meals are regularly served with seating capacity for at least seventy-five (75) people at tables, a bowling center that was licensed as of 1983, and a gourmet restaurant with seating capacity for forty (40) people that generates two-thirds of its gross sales from food and two-thirds of its liquor sales from wine.

**ORDINANCE NO. BL2003-1354** (BEEHAN, FERRELL & HAUSSER) – This ordinance amends the Metropolitan Code of Laws to make it unlawful for the Metropolitan Government to discriminate on the basis of sexual orientation in employment practices. Pursuant to this ordinance, sexual orientation is defined as “homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.” This ordinance is limited in its application to employees of the Metropolitan Government only, and would prohibit the Metropolitan Government from basing decisions as to whether to hire, fire, or promote an employee because of the person’s sexual orientation. In addition, the Metropolitan Government would be prohibited from discriminating against an employee regarding compensation, terms, or conditions of employment because of the employee’s sexual orientation.

**ORDINANCE NO. BL2003-1355** (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 (continued on next page)

**ORDINANCE NO. BL2003-1361** (continued)

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 foot 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. BL2003-1363** (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) – 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. The Jackson Law requires that public notice be given to inform interested persons in the area of a proposed (continued on next page)

**ORDINANCE NO. BL2003-1364** (continued)

landfill, and that interested persons be given the opportunity to request that the local legislative body hold a public hearing on the matter. 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.

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 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.

**- BILLS ON THIRD READING -**

**ORDINANCE NO. BL2003-1337** (DERRYBERRY) – This ordinance renames portions of McCrory Creek Road as “Pulley Road” and “Faircloth Lane”. This section of road to be renamed runs parallel to Donelson Pike between Couchville Pike and Murfreesboro Pike. This ordinance has been approved by the ECD board and the planning commission.

**ORDINANCE NOS. BL2003-1339 & BL2003-1340** (JENKINS) – These two ordinances approve and authorize licensing agreements with SESAC, Inc. and Broadcast Music, Inc. (BMI) regarding the public performance and use of music at Metro facilities. Music publishing societies such as SESAC and BMI require that businesses, governments, and other organizations pay a license fee in order to play recorded music or allow live performance of music written or published by their composers and publishers. Metro has inadvertently neglected to be in compliance with these licensing requirements until recently. A similar agreement with ASCAP was approved by the council in August of 2002 regarding the public performance of musical compositions at Metro facilities. Amendments, renewals, or extensions of these agreements may be approved by resolution of the Metropolitan Council.

**Ordinance No. BL2003-1339** approves a licensing agreement with SESAC. Pursuant to this agreement, Metro will be required to pay a base annual license fee of \$2,150 for a population of 500,000, plus \$200 for each additional 100,000 population. This base amount may increase incrementally each year based upon a consumer price index. This license agreement is for a term of one year that automatically is deemed renewed on a year-by-year basis unless terminated. This agreement excludes concerts and sporting events.

**Ordinance No. BL2003-1340** approves a licensing agreement with BMI. Pursuant to this agreement, Metro will pay a base license fee of \$3,877 for a population of 500,000, plus \$500 for each additional 100,000 population. This base amount may increase incrementally each year based on a consumer price index. Additionally, Metro is required to pay 1% of gross revenues generated in excess of \$25,000 from special events where BMI music is played. There should be very few events to which this provision applies since Metro rarely acts as its own promoter of events. This agreement does not cover the music played at any professional sporting events. This license agreement is for a term of one year that may be renewed on an annual basis.

**ORDINANCE NO. BL2003-1341** (BALTHROP) – This ordinance authorizes the Metro police department to accept the donation of a Tennessee walking horse from Shelia Hale and George Craig for use by the mounted patrol unit. The horse, Solo Time, has been certified by a veterinarian as being fit for duty.

**ORDINANCE NO. BL2003-1342** (HALL) – This ordinance approves a corrected deed conveying Metro’s interest in two parcels of property to the Nashville & Eastern Railroad Authority in connection with the Gateway Boulevard project. Metro will convey the first parcel of property subject to retention of a two-year temporary construction easement and a permanent easement for use of the air space. Metro will also convey a permanent easement (continued on next page)

**ORDINANCE NO. BL2003-1342** (continued)

in a second parcel of property for use by the railroad in its business activities. The first deed conveying the interests was approved by Council’s enactment of Ordinance No. BL2002-1332. However, the first deed listed the first parcel of property to be conveyed as consisting of 220 square feet, when in reality it consists of approximately 26,000. This ordinance nullifies the prior deed and corrects the inaccuracies. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-1344** (MCCLENDON) – This ordinance closes Willow Brook Drive from Thompson Lane southward to its terminus. This ordinance also closes a 940-foot portion of the Thompson Lane right-of-way off of the eastbound lane. Metro has determined that there is no future governmental need for the portions of this street and right-of-way. This closure is requested by Jay West of Bone, McAllester, Norton PLLC, on behalf of JDN Development Company, Inc., the contracted purchaser of all abutting properties. All easements are to be retained by the Metropolitan Government. 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. BL2003-1345** (BALTHROP) – This ordinance renames “Spring Brach Drive”, from Twin Hills Drive to its terminus at the Harbor Village development, to “Harbor Village

Drive". The letter sent to affected residents in the area is on file with the planning commission.

This ordinance has been approved by the planning commission and the emergency communications district board.

**ORDINANCE NO. BL2003-1347** (WALLACE, JENKINS & WATERS) – This ordinance amends the Metropolitan code of laws to include sheriff's department correctional officers and parks special police in the fire and police pension plan. Certain public safety employees in the fire and police departments receive more favorable retirement benefits than other Metro employees due to the physical and mental demands of the job. This ordinance would enable correctional officers and parks special police (park rangers) to receive the favorable retirement benefits as well. An actuarial determination of the cost of adding these two employee classes in the police and fire pension plan has been made and it has been approved by the employee benefit board.

The actuarial information on this pension change is on file with the council office. This pension change will result in an increase in the Metro contribution rate of approximately \$600,000 for the current fiscal year, which amount was appropriated in the 2002-2003 operating budget.

**ORDINANCE NO. BL2003-1348** (BALTHROP, HALL & JENKINS) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Thomas L. Cunningham for the extension of a 12-inch water main to a proposed development. This is a typical participation agreement whereby the developer pays a share of the expansion cost to extend service to a new development. Pursuant to this agreement, Mr. Cunningham will pay \$2,500 for each individual lot, not to exceed \$172,500, as a contribution in aid of construction. The development to be serviced, preliminarily referred to as Hidden Acres, consists of 69 lots located in the area of Old Dickerson Road. The extension of the 12-inch water main in Campbell Road from Brick Church Pike is included in the capital improvements budget and will require the construction of approximately 14,000 lineal feet of water main.

**ORDINANCE NO. BL2003-1349** (BALTHROP) – This ordinance approves an affiliation agreement between Volunteer State Community College and the emergency medical services (EMS) division of the Metro fire department permitting students from the college to participate in a clinical experience with EMS. Pursuant to this agreement, allied health education program students will receive clinical training by working with EMS personnel. The clinical experience is to be divided into two types of assignments: unprecepted and precepted. Students in the unprecepted assignment will be assigned to select Metro ambulances for at least 40 hours per semester for the first two semesters. Students in the third semester, under the precepted assignment, will receive up to 96 hours of training with certain Metro paramedics. Metro will be paid up to \$10,800 for providing this preceptorship service. The

college is also required to provide necessary liability insurance for the students. This agreement is for a term of one year, which may be extended for four additional annual terms.

**ORDINANCE NO. BL2003-1350** (JENKINS & BRILEY) - This ordinance approves a lease agreement between Metro social services and the Salvation Army for housing of a childcare center. Pursuant to the agreement, social services will lease the property located at 617 Stockell Street to be used only for child day care services Monday through Friday between the hours of 6:00 a.m. and 7:00 p.m. Included in the premises to be leased is a playground and designated parking spaces, as well as the shared use of common areas such as a conference room, kitchen, gym, athletic field, and non-designated parking spaces. The rental fee will be based upon a pro-rata portion of the previous year's utilities cost, including telephone and custodial service, plus actual maintenance costs for the childcare center portion of the facilities. The fee is to be derived from the United Way collaboration grant to social services and the Salvation Army.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2003-1351** (MCCLENDON & BRILEY) - This ordinance authorizes a participation agreement between the Metropolitan Government and Woodbine Community Organization for construction of a 6-inch sewer main to improve sewer services to Timmons Street and Simmons Avenue. Pursuant to this agreement, Woodbine Community Organization agrees to pay the lesser of 50% of the survey, design and construction costs, or \$5,000 as a contribution-in-aid of construction. Woodbine Community Organization also agrees to dedicate to Metro a 20-foot wide water and sewer easement along the proposed sewer main.