

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **March 18, 2008**

RE: **Analysis Report**

Balances As Of:	<u>3/12/08</u>	<u>3/14/07</u>
<u>GSD 4% RESERVE FUND</u>	* \$21,891,153	\$980,000
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$23,492,103	\$31,120,793
USD	\$15,945,572	\$12,243,660
<u>GENERAL PURPOSE</u> <u>SCHOOL FUND</u>	\$61,509,540	\$37,753,270

* Assumes estimated revenues in fiscal year 2008 in the amount of \$8,211,866

-- BILL ON PUBLIC HEARING --

ORDINANCE NO. BL2008-154 (MURRAY) - This ordinance approves the Skyline Redevelopment Plan to be administered by the Metropolitan Development and Housing Agency (MDHA). The plan includes the area along Dickerson Pike from the I-24 overpass near Berry Street to the intersection of Dickerson Pike and Douglas Avenue, extending west to the interstate. The area includes 148 total parcels, approximately 40% of which are used for commercial purposes, with more than one-half of the commercial uses related to automobile services. 26% of the properties in the area are currently vacant, and 16% are used for industrial purposes. The purpose of the plan is to provide mechanisms for the redevelopment of the area, including the acquisition and/or demolition of blighted structures and the use of tax increment financing as an incentive for developers.

The plan governs the future redevelopment of property within the area through restrictions on permissible uses and design guidelines for the construction or rehabilitation of buildings. Permitted uses within the plan include multi-family dwellings, churches, schools, daycares, offices, retail establishments, restaurants, cultural facilities, and public facilities. The plan prohibits certain intensive commercial uses such as car washes, nightclubs, liquor stores, adult entertainment establishments, warehousing, and manufacturing. Any property owner wishing to construct a new building or rehabilitate an existing structure would be required to submit a site plan, landscape plan, and a detailed architectural design of the exterior of the structures to MDHA for review by a design review committee. Further, no demolition permit could be issued prior to approval of a plan for re-use by MDHA. Signs would be limited to on-premises signs. No future billboards would be permitted.

MDHA would be required to provide relocation assistance to any individuals or businesses displaced as a result of the implementation of the plan.

The property included within the proposed plan has a current assessed value of \$9 million, which generates property taxes in the amount of \$425,000. The future increase in the value of property to be developed in conjunction with this plan is estimated to exceed \$30 million. In order to encourage the redevelopment of the area, this ordinance authorizes MDHA to use tax increment financing in an amount not to exceed \$5 million. The final maturity date on any debt backed by the tax increment must be on or before December 31, 2037.

This ordinance has been approved by the planning commission.

– RESOLUTIONS –

RESOLUTION NO. RS2008-190 (RYMAN) – This annual resolution calls the Metropolitan board of equalization (MBE) into regular session convening June 2, 2008, and adjourning June 13, 2008, and calls the MBE into special session convening June 16, 2008, to complete any unfinished business regarding appeals on pro-rated assessments. The special session is not to extend beyond May 31, 2009. The MBE always meets during the month of June to hear assessments on real property. Historically, the MBE has been required to have special sessions to conclude their work due to the large number of appeals. State law authorizes county legislative bodies to fix the number of days the board of equalization shall sit in regular session and to call the board into special session to complete unfinished business.

RESOLUTION NOS. RS2008-191 & RS2008-192 – These two resolutions appropriate community development block grant (CDBG) funds for various streetscape improvements in the Salemtown and Booker Street neighborhood strategy areas. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community improvement projects. Plans for these projects are available for review at the offices of the Metropolitan development and housing agency.

Resolution No. RS2008-191 (Langster) appropriates \$500,000 of CDBG funds for streetscape improvements in the Booker Street neighborhood strategy area.

Resolution No. RS2008-192 (Gilmore) appropriates \$570,000 of CDBG funds for streetscape improvements in the Salemtown neighborhood strategy area.

RESOLUTION NO. RS2008-193 (JAMESON) – This resolution approves a tree bank schedule recommended by the tree ordinance task force and promulgated by the urban forester. The zoning code provides for the establishment of a tree bank to be used when, due to soil type, topography, or unusual nature of the site, the growth of trees could not be accomplished under the tree ordinance. Sites located in the CC, MUI or CF districts, or in any other district where there is not adequate required yard space to accommodate the total number of required replacement trees can also utilize the tree bank provision. Funds received in the tree bank are utilized to purchase and plant trees on public land.

A tree bank fee schedule was proposed twice in the last council term, but both resolutions were deferred indefinitely and ultimately withdrawn. In November 2007, the council adopted a resolution requesting the vice mayor to appoint a task force that was charged, in part, with the task of determining the appropriate tree bank fee schedule. After being appointed by the vice mayor, the task force, which consists of members from both the development community and environmental organizations, deliberated and recommended a fee schedule based on the average cost of actually providing and maintain trees for a cross-section of development types. The Metro Code provides for tree density units, which are based upon area and caliper of trees. One tree density unit consists of two 2-inch trees. The fee schedule recommended by the task force and promulgated by the urban forester is as follows:

Tree Density Units		Cost per Tree Density Unit
At least:	Up to and including	
1	99	\$725.00
100	199	\$670.00
200	299	\$620.00
300	399	\$570.00
400	More than 400	\$520.00

RESOLUTION NO. RS2008-194 (COLE) – This resolution approves a contract between the Metropolitan Government and B.I., Inc. for the lease of electronic monitoring equipment for the benefit of the probation division of the general sessions court. The Metropolitan Code of Laws provides that the lease of equipment in excess of \$5,000 per year must be approved by resolution of the Council. The general sessions court will be leasing the following equipment:

- 50 GPS monitoring devices at a cost of \$2.22 per day
- Home Guard 200 system at a daily rental rate of \$2.99
- Sobriotor at a daily rental rate of \$4.25
- Voice ID at \$1.96 per day plus \$0.49 per call
- Enhanced GPS monitoring service at \$2.00 per day
- Installation charges after the first five days per year of \$68.00 per installation

General sessions court will have the opportunity to purchase the equipment at the end of the lease for \$1.00 per unit. The lease comes with a one year warranty on the equipment and an extended maintenance plan. The lessor will also provide technical support for the equipment. The term of the lease will be from February 1, 2008 through January 31, 2013.

RESOLUTION NO. RS2008-195 (CRADDOCK & COLE) – This resolution approves a grant in the amount of \$208,386 from the Community Foundation of Middle Tennessee to the office of the district attorney general to provide personnel to review, coordinate, and prosecute gang-related cases. These funds will be used to pay the salary of an assistant district attorney designated for gang prosecutions. The term of the grant is from September 1, 2007 through August 31, 2010.

RESOLUTION NO. RS2008-196 (CRADDOCK & COLE) – This resolution approves a grant in the amount of \$1,000 from the Community Foundation of Middle Tennessee to the Davidson County sheriff's department, working with Metro animal control, to teach inmates how to build dog houses. This grant is to support the sheriff's office PAWS program, which teaches inmates

to train and care for animals. The grant funds will be used to teach basic tool handling, safety, and small scale fabrication of pet houses.

RESOLUTION NO. RS2008-197 (CRADDOCK & COLE) – This resolution approves a grant in the amount of \$201,890 from the state department of transportation to the sheriff's office for the Sheriff's Alcohol Awareness for Everyone (SAAFE) program. These federal pass-through funds will be used to help reduce drunk driving among young people through the following measures:

- Tours of the correctional facility and discussion with DUI offenders between the ages of 18 and 25.
- The establishment of an extended Sober Ride program that will provide information as to the effects of alcohol abuse and agencies that can help treat alcohol abuse problems.
- An educational curriculum for use in Metro public schools that are considered high risk for alcohol abuse.

The term of this grant is from October 1, 2007 through September 30, 2008.

RESOLUTION NO. RS2008-198 (COLE) – This resolution approves a grant in the amount of \$5,000 from the Community Foundation of Middle Tennessee to the Metropolitan arts commission to conduct a feasibility study on the cultural plan for Nashville. The term of the grant is through November 30, 2008.

Although the resolution and the contract provide that the purpose of the grant is to conduct the feasibility study, the council already approved a grant for this feasibility study from the state arts commission in 2005, and the study was completed in May 2006. Rather, it appears the arts commission intends to use the funds for implementation of the cultural plan, which was developed by the arts commission staff working with Marc Goldring of Wolf Keens Consulting. The goal of the plan is to present a comprehensive vision for the cultural development in Nashville over the next ten years.

RESOLUTION NO. RS2008-199 (FOSTER & COLE) – This resolution accepts a grant in the amount of \$198,000 from the Nashville Public Library Foundation to the public library to fund personnel costs, materials and programming for young adult services at the public libraries along the Gallatin Road corridor. These funds will be paid to the Nashville public library in two installments, with the first year's installment being \$133,000, and \$75,000 for the second year. The funds will be expended as follows:

- Physical space reconfiguration at the Madison branch library – \$30,000
- Furniture and computers for the Madison and East branch libraries – \$28,000
- Four part-time tutors to divide hours as needed between the Madison, East, and Inglewood branches – \$60,000 per year
- Books and materials – \$10,000 per year
- Programming – \$5,000 per year

RESOLUTION NO. RS2008-200 (FOSTER & COLE) – This resolution approves a grant in the amount of \$148,241 from the Friends of Warner Park to the Metropolitan parks department to

provide staffing for the Warner Parks Center. These funds will be used to continue the following staff positions at the center:

- Office support specialist \$38,556
- Parks police officer \$45,155
- Parks police officer overtime \$2,000
- Part-time seasonal waterer \$10,123
- 8 part-time maintenance \$28,587
- 2 part-time naturalists \$24,000

There will be a required match of \$24,668.32 to be provided through the parks department's budget to cover the benefit costs for the full-time employees.

RESOLUTION NOS. RS2008-201 & RS2008-202 (CRADDOCK & COLE) – These two resolutions approve agreements between the U.S. marshals service and the Metropolitan Government for the reimbursement of overtime expenses incurred by the police department.

Resolution No. RS2008-201 approves a contract for overtime reimbursement for the district fugitive task force. The task force is authorized under federal law to be directed and coordinated by the U.S. marshals service for the purpose of locating and apprehending fugitives. Metro will be reimbursed for overtime up to \$15,572 per officer. The term of this agreement is from September 26, 2007 through September 25, 2008.

Resolution No. RS2008-202 approves a contract for overtime reimbursement for the FALCON 2007 operation. The council office has requested a description of the FALCON 2007 operation, but this information has not been made available as of the printing of this analysis. The term of this agreement was from August 26, 2007 through September 1, 2007. The agreement provides that Metro may be reimbursed up to \$15,000.

RESOLUTION NO. RS2008-203 (CRADDOCK & COLE) – This resolution approves an agreement between the U.S. bureau of immigration and customs enforcement (ICE) and the Metropolitan Government for the reimbursement of overtime expenses incurred by the police department. These funds are available through the U.S. treasury forfeiture fund to pay overtime costs, fuel and equipment for local agencies participating with federal law enforcement officials in joint operations and investigations. The term of this agreement expires on September 30, 2009. The agreement provides that Metro may be reimbursed up to \$15,000 for each officer assigned to the joint operation.

RESOLUTION NO. RS2008-204 (CRADDOCK & COLE) – This resolution approves a grant in the amount of \$12,382 from Fireman's Fund Insurance Company to the Metropolitan fire department for firefighter training. The fire department was chosen to receive this grant by the BB&T Cooper, Love, Jackson, Thornton and Harwell, Inc. These funds will be used to train firefighters about the OSHA and NFPA technical rescue standards.

RESOLUTION NO. RS2008-205 (CRADDOCK & COLE) – This resolution approves an amendment to a grant in the amount of \$669,076.13 from the state emergency management agency to the mayor’s office of emergency management to support homeland security capabilities. These federal pass-through funds are being used to complete an initial strategy implementation plan (ISIP) based upon the state’s homeland security strategy to detect, prevent and protect citizens from the threat of terrorism and to respond to terrorist attacks.

This resolution simply extends the term of the grant for an additional year, with a new expiration date of April 30, 2009.

RESOLUTION NO. RS2008-206 (COLE & MAYNARD) – This resolution approves an amendment to a grant from the state department of human services to the Metro action commission (MAC) to provide assistance to low income and/or homeless individuals in Davidson County. These funds are used to assist residents of Nashville and Davidson County with rent payments, mortgage payments, home repairs, property taxes, medications, and other necessary living expenses. This amendment increases the grant amount by \$97,585.15 for a total grant award of \$5,704,810.08.

This resolution should be amended to clarify that the grant agreement itself is with the state department of human services, not the U.S. department of health and human services. Although the grant consists of federal pass-through funds, the contract is actually with the state.

RESOLUTION NO. RS2008-207 (MAYNARD) – This resolution approves a contract between the health department and Nashville General Hospital at Meharry to provide information to outpatient prenatal or postpartum individuals about the federal women, infants and children (WIC) assistance program. Pursuant to this contract, General Hospital agrees to make information about the WIC program available to eligible women receiving prenatal and postpartum services. The hospital will provide access to medical records, with patient consent, to WIC staff to allow them to make a determination as to the patient’s eligibility for the program. The hospital will also coordinate patient services with WIC staff. There is no cost to the Metropolitan Government associated with the performance of this contract. The contract is for a term commencing March 2, 2008, and extending through March 1, 2010.

This contract is similar to the contract with Baptist Hospital, which is the subject matter of Resolution No. RS2008-211.

RESOLUTION NO. RS2008-208 (MAYNARD & COLE) – This resolution approves an extension and renewal of a contract between the Metropolitan health department and the United Way of Metropolitan Nashville to arrange for assistance in the planning, development and delivery of services for individuals infected with or affected by HIV/AIDS. Under the terms of this contract, the United Way will provide a number of planning, administrative, and direct HIV/AIDS services under the provisions of the Ryan White Treatment Modernization Act of 2006. The contract provides that the term is from April 1, 2008 through February 29, 2009. Since there is no February 29, 2009, the contract would presumably terminate on March 1st. United Way will be paid \$2,328,143 to perform the services under this contract, which is a pass-through of federal funds provided for the program.

United Way was selected as the service provider since they have the contract to provide these services for the state and are likely the only qualified provider in Davidson County. Since this is basically an extension of the existing contract, it was determined that the issuance of an RFP was not needed.

RESOLUTION NO. RS2008-209 (MAYNARD & COLE) – This resolution approves an amendment to a contract between the Metropolitan health department and the United Way of Metropolitan Nashville to arrange for assistance in the planning, development and delivery of services for minority individuals infected with or affected by HIV/AIDS. The services to be coordinated include case management, medical, nursing, dental, diagnostic, rehabilitation, and home health services for persons eligible under the Ryan White Treatment Modernization Act of 2006.

This amendment increases the amount the United Way is to be paid to perform the services under this contract from \$186,698 to \$207,441. These are pass-through funds from the federal government that must be used for direct HIV services.

Unlike the other HIV/AIDS service contracts that are the subject matter of Resolution Nos. RS2008-208 and RS2008-210, this particular program is to provide services solely to minorities.

RESOLUTION NO. RS2008-210 (MAYNARD & COLE) – This resolution approves an amendment to the existing contract between the Metropolitan health department and the United Way of Metropolitan Nashville to arrange for assistance in the planning, development and delivery of services for individuals infected with or affected by HIV/AIDS. Under the terms of this contract, which was approved by the council in June 2007 and amended in August 2007, the United Way coordinates case management, medical, nursing, dental, diagnostic, rehabilitation, and home health services for persons eligible under the Ryan White Treatment Modernization Act of 2006. In addition, the United Way provides support services such as transportation services, attendant care, homemaker services, day care, nutrition services, and housing referral services for these persons.

This resolution increases the amount United Way is to be paid by \$72,214 for a new contract amount of \$3,188,251. The funding for this contract is through the federal government, which funds must be used for direct HIV services.

RESOLUTION NO. RS2008-211 (MAYNARD) - This resolution approves an extension of a contract between the Metropolitan board of health and Baptist Hospital for assistance in providing services to women eligible for the federal women, infants and children (WIC) assistance program. Pursuant to this contract, Baptist Hospital agrees to make information about the WIC program available to eligible women receiving prenatal and postpartum services. The hospital will provide access to medical records, with patient consent, to WIC staff to allow them to make a determination as to the patient's eligibility for the program. Baptist Hospital will not be compensated for providing these services. The resolution extends the term of the contract through April 15, 2010.

RESOLUTION NO. RS2008-212 (MAYNARD) – This resolution approves a second amendment to a grant in the amount of \$3,480,602 from the U.S. department of health and human services to the Metro board of health to enhance access to a comprehensive continuum of community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients. The original grant was for a term commencing April 1, 2007, and ending February 29, 2008. This amendment extends the grant term by one month with a new expiration date of March 31, 2008.

RESOLUTION NO. RS2008-213 (MAYNARD & COLE) – This resolution approves a grant in the amount of \$69,800 from the state department of health to the Metropolitan board of health to provide rapid HIV testing services. These federal pass-through funds will be used to pay the salaries of two disease intervention specialists to provide HIV testing to 3,500 at-risk persons in a clinical setting. The health department will be required to report positive HIV test results to the state within 24 hours, and provide counseling and referral services to those clients receiving a positive result. The term of the grant is from January 1, 2008 through September 29, 2008.

RESOLUTION NOS. RS2008-214 & RS2008-215 – These two resolutions approve a grant and an application for a grant from the state emergency management agency to the Metropolitan Government to fund the purchase and demolition of six homes located in a repetitively flooded area.

Resolution No. RS2008-214 (Evans & Cole) approves a grant in the amount of \$362,285 to acquire and demolish four homes located in the Seven Mile Creek floodplain. The total estimated cost for this acquisition project is \$853,669, with \$491,384 of the cost provided by the stormwater division of Metro water services. The term of the grant is from November 14, 2007 through November 14, 2010. The homes to be acquired and the estimated cost for each home are as follows:

- 4802 Milner Drive \$203,710
- 4806 Milner Drive \$191,100
- 4810 Milner Drive \$241,670
- 373 Wimpole Drive \$138,970

Resolution No. RS2008-215 (Toler, Foster & Others) approves an application for a grant in the amount of \$547,635 to acquire and demolish homes located at 5405 and 5409 San Marcos Drive. These homes are located on a tributary to Seven Mile Creek known as Brentwood Branch. These grant funds would be used for the acquisition and demolition of the homes, plus the cost of appraisal, legal fees and disconnection of water and sewer, for a total cost of \$730,180. Metro will be responsible for a 25% match of \$182,545 to be provided through the stormwater division.

The council office would point out that the home at 5409 San Marcos Drive was purchased by the current property owner in 2002 at a sale price of \$215,200. The 5405 property was purchased in 1984 for \$101,000. The grant application provides that the estimated acquisition price for 5405 San Marcos Drive is to be \$366,255, and the price to acquire 5409 San Marcos is \$344,925.

A housekeeping amendment should be offered for this ordinance to correct a typographical error in one of the property addresses.

RESOLUTION NO. RS2008-216 (BENNETT, EVANS & COLE) – This resolution authorizes the director of public property administration to exercise an option to purchase a flood prone parcel of property located at 102 Gordon Terrace. This purchase is part of the department of water services' on-going program to purchase flood prone properties using federal grant funds. Metro has received approximately \$2 million in federal funds for this program. Metro has an option to purchase this property for \$82,000.

RESOLUTION NO. RS2008-217 (MITCHELL, TYGARD & COLE) – This resolution approves an application for a Local Interstate Connector Program grant from the state department of transportation for development of a connector route to provide access for McCrory Lane at Interstate 40. This grant application is being submitted by Metro public works in conjunction with JMJ, the owner of Nashville Biltmore, LP. This project will consist of the widening of approximately 7,000 feet of McCrory Lane from two lanes to four lanes, as well as a median-divided urban cross-section with sidewalks and underground utilities. The total cost of the project is estimated to be \$9,890,400, with JMJ providing \$7,890,400.

RESOLUTION NO. RS2008-218 (EVANS) – This resolution modifies the existing master list of architectural and engineering firms to add five firms. The Metro Code provides that all government contracts for architect and engineering services be with firms included on the master list. This resolution simply adds the firms to the master list so that they will be eligible to bid on Metro projects. It does not mean that contracts will be awarded to the firms.

The architect/engineering firms to be added to the list are as follows:

- Barge, Cauthen & Associates, Inc. of Nashville, TN
- K2 Environmental, LLC of Nashville, TN
- Engineering & Information Technology Professional Services, LLC of Chattanooga, TN
- Sasaki Associates, Inc. of Watertown, MA
- Dale and Associates, Inc. of Nashville, TN

RESOLUTION NO. RS2008-219 (EVANS) – This resolution is an annual, routine housekeeping matter required by state law that classifies all public roads in Davidson County. By adoption of this resolution, those roads and alleys listed on the street and alley acceptance and maintenance map under Ordinance No. BL2007-77, including any changes since the adoption of the map, will be officially classified as public roads.

RESOLUTION NO. RS2008-220 (CRADDOCK & COLE) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Tammy Howalt against the Metropolitan Government for the amount of \$35,000. On July 5, 2005, a Metro police

officer entered I-65 North from Old Hickory Boulevard in response to an accident. After passing the scene of the accident, the officer attempted to back diagonally across I-65 to return to the accident when his car was struck by Ms. Howalt after she came around a bend in the highway. Ms. Howalt incurred medical bills totaling \$9,310.12 and lost wages of between \$4,075 and \$7,125.92.

The department of law recommends settling this claim for \$35,000 to be paid from the self-insured liability fund. The liability on the part of the police officer is undisputed, so the only issue at trial would be damages. The settlement is basically three times the medical expenses plus the lost wages, which is customary for a personal injury settlement. The officer involved in the accident received disciplinary action consisting of a three day suspension, which was taken from vacation days.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2008-117 (WILHOITE) – This ordinance amends the wrecker equipment provisions in the Metro Code to require wrecker operators to keep the wrecker boom in an upright position when not in use. The code currently authorizes the transportation licensing commission to enact rules and regulations pertaining to equipment on wreckers, but the code does not provide any express restrictions on the use of the boom while the wrecker is not transporting a vehicle. This ordinance would require all wrecker operators to keep the wrecker boom in its full, upright position except while the wrecker is actually in the process of towing a vehicle.

There is a proposed amendment to clarify that wreckers with undercarriage wheel lifts can operate on the roadway if the wheel lift is completely retracted. This amendment was suggested by the director of the transportation licensing commission with the input of towing professionals.

ORDINANCE NO. BL2008-118 (STANLEY) – This ordinance, as amended, amends the health regulations in the Metro Code to prohibit the excessive accumulation of mulch on residential property. The Metro Code currently prohibits the accumulation of trash and debris on residential property, but does not specifically address the dumping of large amounts of mulch for use as fill material.

This ordinance would prohibit owners and occupants of residentially-zoned property of one-half acre in size or greater from covering more than five percent of the total lot area with mulch. Such property owners could continue to use mulch for landscaping purposes as long as they do not exceed the five percent maximum lot coverage. Since mulch is biodegradable, it is questionable why anyone would attempt to use it as fill material. In any event, at least one residential property owner has been dumping large quantities of mulch on their property to fill in the yard. This ordinance further provides that the excessive accumulation of mulch as fill material is declared to be a danger to the public health, safety and welfare.

There is a proposed amendment that would limit the application of this ordinance to “wood chips”, as opposed to all types of mulch.

ORDINANCE NO. BL2008-120 (HARRISON & COLE) – This ordinance approves a lease agreement between the Metropolitan Government and Firstcal Industrial 2 Acquisition, LLC for approximately 15,946 square feet of space on property located at 621 Mainstream Drive, known as Corners II, to be used as office space for the Nashville career advancement center (NCAC). Metro first leased 22,181 square feet of office space for NCAC at this location in 2002, and the prior lease has now expired.

The lease is for a term to begin upon approval by the council and extending through September 7, 2010, with an optional one year extension. The rent to be paid by Metro will be \$232,511 for the first year, with 3% annual increases thereafter. The base rent for the premises and annual increases will be paid according to the following schedule:

<u>Year</u>	<u>Per Month</u>	<u>Per Year</u>
2008	\$19,376	\$232,511
2009	\$19,515	\$234,182
2010	\$19,957	\$239,486

Firstcal Industrial will be responsible for maintaining all building systems, the exterior and interior of the building, the electrical and air conditioning systems, and for insuring that the premises comply with the requirements of the ADA. Firstcal will also be responsible for paying all utilities for the premises and for paying the casualty insurance for the premises. Metro will be responsible for insuring the contents of the office. Metro will also be required to supply its own janitorial services.

This lease agreement may be amended by resolution of the council receiving 21 affirmative votes.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-155 (RYMAN & JAMESON) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before October 16, 2007. 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 NOS. BL2008-156 & BL2008-157 – These two ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. The ordinances provide that future amendments may be approved by resolution of the council. These ordinances have been approved by the planning commission.

Ordinance No. BL2008-156 (Evans & Duvall) abandons an 8” water line and easement at 1120 Glendale Lane and 1118 Granny White Court for the Harding Heights water relocation project. The existing water line will be replaced by a new 8” line at the property.

Although the administration assigned the 33rd district councilman as a sponsor of this ordinance, the property is actually in the 25th council district.

Ordinance No. BL2008-157 (Moore & Evans) abandons an 8” sanitary sewer line and easement at the 8th Avenue Lofts project located at 2201 8th Avenue South. The existing sewer line will be replaced by a new 8” sewer line at the property.

ORDINANCE NO. BL2008-161 (COLEMAN, BARRY & OTHERS) – This ordinance amends the Metro Code to establish a procurement nondiscrimination program for the Metropolitan Government. This ordinance was developed by Metro 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 this 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." This objective is to be accomplished through the creation of the Office of Minority and Women Business Assistance (BAO) within the finance department. The duties of the BAO will include assuming the primary responsibility for administration and enforcement of the procurement nondiscrimination ordinance. This will include:

1. Verifying certification of minority and women owned business enterprises (MWBEs).
2. Maintaining a current database of certified and available MWBEs.
3. Recommending annual "benchmarks", which are percentage ranges based upon the MWBE availability compared with past participation. The ordinance authorizes the purchasing agent to hire consultants to help determine MWBE availability.
4. Recommending "goals" to the director of finance and director of law if benchmarks are not met for two consecutive years.
5. Investigating complaints.
6. Preparing written rules, regulations and procedures to be submitted to the procurement standards board.

The ordinance also requires bidders on Metro projects to submit several documents along with their bids. First, bidders would be required to submit a covenant of nondiscrimination stating that they (1) promise to adopt Metro's equal opportunity in contracting policies; (2) will attempt certain good faith efforts to solicit MWBE participation; and (3) will not engage in discriminatory conduct. Failure of a contractor to fulfill these promises will constitute a material breach of contract, which may result in suspension or debarment. Second, contractors would be required to submit a statement that written notice has been delivered to at least three available MWBE subcontractors. Third, the bidder must submit a statement of successful subcontractors and a statement of interested subcontractors/vendors. Fourth, the bidder would be required to submit a statement of bid proposals/price quotations giving the potential subcontractor's name race, gender, national origin, business size and price quotation.

Bidders on Metro business will be required to undertake certain "good faith efforts" to solicit MWBE participation in the procurement process. Bidders would be required to maintain detailed records for three years of all correspondence and responses, telephone logs, and other relevant documents pertaining to contact with potential subcontractors. In addition to the required good faith efforts, bidders may also demonstrate good faith by dividing the contract into economically feasible segments that could be performed by a MWBE, by advertising in trade publications, and providing assistance to MWBEs in the form of equipment, supplies, bonding, letters of credit and/or insurance.

All first-ranked bids on projects will be submitted to the BAO to determine if the bid complies with the procurement nondiscrimination ordinance. If the BAO approves the bid, the purchasing agent is to award the contract. If, after a conference with the bidder, the BAO determines that the bidder is not in compliance, the purchasing agent is to move on to the second-ranked bidder.

As stated above, the ordinance provides for the establishment of benchmarks to track the inclusion of MWBEs in the procurement process. If review of Metro's procurement practices continue to show a pattern of underutilization or discrimination after using benchmarks and good faith efforts for two years, the government can implement race-conscious "goals" upon approval of the Council by resolution. The establishment of goals would allow the inclusion of MWBEs as an additional factor in the evaluation of a bid. If goals are established, then all contractors would be required to use good faith efforts to achieve the goals through subcontractor work. Progress toward the goals would be based on the percentage of the dollar amount of the work performed by the MWBE subcontractors. These goals would expire when the goals are met or after two years, whichever is less. In order to protect against a constitutional challenge, the implementation of any race-conscious measures would need to be supported by evidence identifying discrimination on the basis of race.

The BAO is to submit an annual report to the Council regarding the effectiveness of the program. The BAO will also be responsible for recommending appropriate enforcement mechanisms for the program. Failure to comply with the requirements of the procurement nondiscrimination ordinance can result in suspension or disbarment of a contractor.

This ordinance does not repeal the existing chapter in the procurement code pertaining to assistance to small and disadvantaged businesses. Rather, this program would be in addition to the existing program.

There is an amendment for this ordinance that would require any resolution implementing the race-conscious goals to be approved by twenty-one affirmative votes of the council. The amendment would also revise the effective clause to make the ordinance effective upon its enactment, but to make the new procurement nondiscrimination program applicable to procurements initiated 120 days after the enactment of the ordinance (or earlier upon certification by the director of finance that the BAO has been established).

ORDINANCE NOS. BL2008-162 through BL2008-164 – These three ordinances authorize the Metropolitan Government to enter into participation agreements with private developers to provide public sewer service to properties in Williamson County. Back in 1998, the department of water and sewer services expanded two trunk sewer lines in anticipation of private developments tying on to the system. Pursuant to these agreements, the developers will contribute \$2,000 per single-family connection to the sewer system in aid of construction. These funds are to be deposited into the water and sewer extension and replacement fund. These are typical participation agreements 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 properties benefiting from the sewer connections become regular customers of Metro water services and pay the same sewer rates as customers in Davidson County.

Ordinance No. BL2008-162 (EVANS) approves a participation agreement with John Ring (Tennessee Contractors, Inc.) to provide public sewer service to phase 11 of the Fountainbrooke subdivision. Tennessee Contractors, Inc., has agreed to contribute \$46,000 toward the cost of the project in aid of construction for a total of 23 single-family home connections.

Ordinance No. BL2008-163 (EVANS) approves a participation agreement with B&Y Properties to provide public sewer service to phase 1 of the Britain Downs subdivision. B&Y Properties has agreed to contribute \$84,000 toward the cost of the project in aid of construction for a total of 42 single-family home connections.

Ordinance No. BL2008-164 (COLE & EVANS) approves a participation agreement with Sunset Properties to provide public sewer service to the Sunset Park subdivision. Sunset Properties has agreed to contribute \$186,000 toward the cost of the project in aid of construction for a total of 93 single-family home connections.

ORDINANCE NO. BL2008-165 (COLEMAN, RYMAN & OTHERS) – This ordinance authorizes the acceptance of 24 easements for various stormwater projects in Davidson County. Easements are to be accepted for the following properties:

- 2834 Brick Church Pike – Council District 2
- 534 Thompson Lane – Council District 16
- 4022 Sells Drive – Council District 12
- 6420 Centennial Boulevard – Council District 20
- 4017 Wallace Lane – Council District 34
- 1101 18th Avenue South – Council District 19
- 1033 18th Avenue South – Council District 19
- Pettus Road, unnumbered – Council District 31
- Highway 70, unnumbered – Council District 35
- 2202 A Hobbs Road – Council District 34
- 1900 Belmont Boulevard – Council District 18
- Carothers Road, unnumbered – Council District 31
- 3510 Central Pike – Council District 14
- 300 11th Avenue South – Council District 19
- Bell Road, unnumbered – Council District 13
- 705 Murfreesboro Pike – Council District 16
- 1525 J P Hennessy Drive – Council District 32
- Cotton Lane, unnumbered – Council District 27
- 3901 Granny White Pike – Council District 25
- 1915 Gallatin Pike – Council District 10
- Old Hickory Boulevard, unnumbered – Council District 35
- 535 Shute Lane – Council District 11
- 5444 Edmondson Pike – Council District 27
- 335 Arena Avenue – Council District 21
- 326 Harding Place – Council District 28
- 2110 Rosa L Parks Boulevard – Council District 2

BILLS ON THIRD READING –

ORDINANCE NO. BL2007-40 (WILHOITE) – This ordinance, as amended, amends the Metro building code to impose regulations on the boarding of vacant homes and buildings. Currently, if a dwelling or structure is determined by the codes department to be unfit for human habitation and the owner fails to repair the property, the department can close the building and require that the doors and windows be boarded-up. There are no current regulations regarding the type of boards that can be used or the aesthetic appearance of the boards.

This ordinance would require property owners to “lock, board or otherwise secure” all openings on the first floor of a vacant building whenever the director of the department of codes administration determines the structure is unsafe. If the property owner chooses to board up the property, it must be done using three-eighths inch thick plywood, OSB, or composite board (or other material of equivalent strength) which must be painted a color that is consistent with the building. Further, all boards would have to be cut to fit into the windows and doors, not over them. The codes director would have the authority to waive the aesthetic requirements of this ordinance in the event of a natural disaster or in the event of public safety.

ORDINANCE NO. BL2008-115 (TYGARD) – This zoning text change amends the definition of “two-family structure” to allow two-family dwelling units to be separate structures. The zoning code currently defines a two-family structure as two attached dwelling units forming a single structure connected by not less than eight feet of continuous floor, roof and walls. A common practice in recent years has been for developers to build two separate single-family structures, but construct a connecting wall between the two to allow both structures to be on a single lot. This ordinance would essentially remove the requirement that a connector wall be constructed between the units. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-116 (PAGE) – This ordinance amends the Metropolitan Code provisions pertaining to after hours clubs to basically make some technical corrections and clarifications to the existing ordinance. In August 2007, the council enacted Ordinance No. BL2007-1546 to require after hours establishments to obtain a permit from the department of codes administration. The ordinance defined “after hours establishments” as commercial establishments open to the public after 3:00 a.m. that allow customers to bring alcoholic beverages onto the premises, or nightclubs marketed to teenagers and open to persons under the age of 18 without the presence of a parent or legal guardian. Applicants are required by the ordinance to pay a one-time permit application fee of \$250 plus the cost for providing background checks. There is a \$100 renewal fee for the permit.

Pursuant to Ordinance No. BL2007-1546, no permit can be issued for any after hours establishment if any person having at least a five percent ownership interest in the establishment has been convicted during the past ten years of a crime of moral turpitude or if the establishment has had a beer permit revoked within the past five years. In addition, it is unlawful for an after hours establishment to allow any indecent or violent act to occur on the premises, to allow persons under the age of eighteen to loiter about the premises when alcoholic beverages are being consumed, or to allow anyone under the age of 21 to consume alcohol on the premises. Failure by a permit holder to abide by this provision would make the

permit holder strictly liable for property damage or injury caused by anyone under the age of twenty-one that was consuming alcohol on the premises.

After hours establishments are also responsible for providing an adequate number of security guards to patrol the premises, including parking facilities used by the establishment. In addition, the establishment is required to submit a security plan to the police department at the time the application is filed, which plan is to be monitored by the police department on an ongoing basis. If the police department determines that the security plan is no longer sufficient, a new plan must be submitted within seven days or the permit is to be revoked. Further, the code provides that the police department is to regularly enter these establishments to ensure they are complying with the requirements of the ordinance.

This ordinance makes a number of technical corrections to the previous ordinance. The original version of the after hours establishment ordinance would have placed the licensing and enforcement responsibility with the beer board. It was determined that the beer board does not have adequate staff to handle these responsibilities, so the ordinance was modified to place the responsibilities with the department of codes administration. When the ordinance was modified, several references to the beer board did not get changed. This ordinance simply corrects the error. The ordinance also reduces the time period in which the owner of an after hours establishment that has been convicted of a crime of moral turpitude would be prohibited from obtaining a permit from ten years to five years. The ordinance further adds a definition of "moral turpitude" to include all sex-related crimes, premeditated murder, the illegal sale of class 1 and class 2 controlled substances, embezzlement and crimes involving dishonesty.

ORDINANCE NO. BL2008-119 (JAMESON & GILMORE) – This ordinance authorizes Dolphini Networks to install and maintain fiber optic cable along Demonbreun Street and 6th Avenue South. Dolphini Networks plans to run cable from Cummins Station to the Sommet Center on 6th Avenue. The fiber optic cable will be solely to serve the Sommet Center, using both aerial and underground facilities. Dolphini Networks is to pay all costs related to the construction and maintenance of the cable.

Dolphini Networks must maintain a \$1 million certificate of liability insurance naming Metro as an insured party. The provisions of this ordinance will be effective as long as Dolphini Networks does not offer local telecommunications service to retail customers in Davidson County. Communications companies are prohibited from offering local telecommunications service without first obtaining a telecommunications franchise from Metro.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-121 (CRADDOCK & COLE) – This ordinance approves the annual contract between the Metropolitan Government and the emergency communications district (ECD) relative to operation of the enhanced-911 service for fiscal year 2006-2007. The contract specifies certain services to be provided by the emergency communications center, the department of public works and the department of general services. The department of public works will maintain an updated Master Street Address Guide, and the department of general services will provide day-to-day staff and support services for operation of the enhanced-911

emergency communications systems. In the past, such support services were provided by the emergency communications center staff. Metro will also train its employees who will operate the system. ECD is to reimburse the Metropolitan Government in the amount of \$42,711 for the services provided in the 2007-2008 fiscal year, plus the reimbursement of training costs.

ORDINANCE NOS. BL2008-122 & BL2008-123 (BAKER & EVANS) – These two ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. The ordinances provide that future amendments may be approved by resolution of the council. These ordinances have been approved by the planning commission.

Ordinance No. BL2008-122 abandons an 8” water line and easement at 5934 Obrien Avenue for the Haven West Town Homes water relocation project. The existing water line will be replaced by a new 8” line at the property.

Ordinance No. BL2008-123 abandons a 36” sanitary sewer line and easement at 711 and 703 Basswood Avenue, 6614 Robertson Avenue, and Spencer Avenue, unnumbered. The existing sewer line will be replaced by a new 42” line on the properties.

ORDINANCE NO. BL2008-124 (MOORE & EVANS) – This ordinance abandons the water and sewer easement that was retained by Metro when a portion of the Trabue Street right-of-way was abandoned at 700 Hamilton Avenue. This easement is no longer being used by the department of water and sewerage services, or any other public utility, and there is no reason it should be retained. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2008-125 through BL2008-127 and BL2008-130 through BL2008-132 – These six ordinances abandon water and sewer lines, drainage pipes and easements that are no longer being used by the department of water and sewerage services. These ordinances have been approved by the planning commission.

Ordinance No. BL2008-125 (Gilmore & Evans), as amended, abandons a 10” sanitary sewer line and easement at the Downtown YMCA, located at 213 and 211 McLemore Street, and 1000 Church Street. The existing sewer line will be replaced by a new 8” line on the properties.

Ordinance No. BL2008-126 (Holleman & Evans) abandons a 20’ public utility drainage easement located within the Alley No. 1701 right-of-way. This ordinance does not abandon the 20’ drainage easement located along the property line of two parcels on Wilson Boulevard.

Ordinance No. BL2008-127 (Matthews & Evans), as amended, abandons a public utility drainage easement and drainage pipe at 4349 Shady Dale Road. The existing sewer line will be replaced by a new drainage pipe and easement on the property.

Ordinance No. BL2008-130 (Durbin & Evans), as amended, abandons an 8” sanitary sewer line and accompanying easement for the Belmont United Methodist Church expansion project located at 1906 – 21st Avenue South, 1908 – 21st Avenue South, 1905 – 20th Avenue South, and

1901 – 20th Avenue South. The existing sewer line will be replaced by a new 8" line at the properties.

Ordinance No. BL2008-131 (Duvall & Evans), as amended, abandons an 8" sanitary sewer line and accompanying easement in conjunction with the Rural Hill Church of Christ project located at 558 Bell Road. The existing sewer line will be replaced by a new 8" line at the property.

Ordinance No. BL2008-132 (Evans), as amended, abandons an 8" sanitary sewer line and easement for the Heritage Hills project on Lebanon Pike. The existing sanitary sewer line will be replaced by a new 8" sanitary sewer line, a 6" water line, a 3" water line, and 10 fire hydrants.

ORDINANCE NO. BL2008-128 (GILMORE) – This ordinance abandons the right-of-way for Alley No. 437, from 17th Avenue South to Alley No. 442, between Edgehill Avenue and Grand Avenue. This closure has been requested by H. Ray Ragsdale, the owner of the adjoining tracts. This portion of the right-of-way is no longer needed for government purposes. This ordinance has been approved by the traffic and parking commission, but has been disapproved by the planning commission.

ORDINANCE NO. BL2008-129 (GILMORE) – This ordinance, as amended, renames 8th Avenue North, between Charlotte Avenue and Church Street, as "Rosa L. Parks Avenue". The majority of 8th Avenue (including Metrocenter Boulevard and Clarksville Highway) was renamed "Rosa L. Parks Boulevard" by the Tennessee General Assembly last year, as this is a state route. There is a portion of 8th Avenue North from Charlotte Avenue to Church Street that is Metro roadway, which can be renamed by the council.

Pursuant to the Metro Code, the planning department is required to mail out notices to all property owners that would be affected by the renaming of a street and give them the opportunity to provide written comments about the name change. The planning department is also required to forward all comments received to the council. A letter from The American Legion, Department of Tennessee, raising concerns regarding this name change has been provided to the council.

This ordinance has been approved by the planning commission, but disapproved by the ECD board.

ORDINANCE NO. BL2008-150 (TOLER) – This zoning text change, as amended, would designate "vehicular rental/leasing" as a use permitted with conditions in the shopping center regional (SCR) district, rather than requiring vehicle rental facilities to be a part of a specific plan (SP) district. In March 2006, the council enacted Ordinance No. BL2006-972 making most automotive uses no longer permitted in the commercial zoning districts. Rather, such uses have to be approved individually by the council as part of an SP district. The SP district was created by the council in September 2005 to give the council more control over how the property is developed than a straight zone change to another zoning district. The SP district is designed to

be an alternative zoning process to address the unique characteristics of an individual property through a site specific plan. A detailed plan is to be created for each property, which must be followed by the developer.

Vehicular rental and leasing is defined in the zoning code as the rental of cars, motorcycles, recreational vehicles, boats, recreational equipment, and light trucks and vans. This ordinance would allow certain limited vehicular rental/leasing in the SCR district, as well as an adopted SP district. The SCR district is intended for high intensity retail, office and consumer service uses, and includes areas around the major malls and shopping centers in Davidson County, such as Rivergate, Hickory Hollow, Green Hills, and Nashville West. Pursuant to this ordinance, vehicular rental/leasing would be limited in the SCR district to the rental or leasing of passenger automobiles, sport utility vehicles, pick-up trucks, small cargo vans and passenger vans less than 10,000 pounds in gross weight. The leasing or rental of motorcycles, recreational vehicles, boats, and moving vans would still be prohibited in the SCR district.

Although vehicular rental facilities would be permitted with conditions in the SCR district under this ordinance, any SCR property subject to a planned unit development (PUD) overlay that does not allow this type of use may require the individual PUD to be amended by the council before the facility could obtain a use and occupancy permit.

This ordinance has been approved the planning commission.