

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **March 16, 2010**

RE: **Analysis Report**

Balances As Of:	<u>3/10/10</u>	<u>3/11/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,232,956	\$28,317,051
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$25,160,041	\$19,996,217
USD	\$22,180,965	\$13,510,632
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$27,354,208	\$52,554,640

* Assumes estimated revenues in fiscal year 2010 in the amount of \$23,023,700

– RESOLUTIONS –

SUBSTITUTE RESOLUTION NO. RS2010-1109 (TYGARD & STEINE) – This resolution approves an intergovernmental agreement between the Metropolitan Government and the Metropolitan Nashville hospital authority to make changes to the hospital authority's employee benefits system. The Metropolitan Government entered into a contract with the hospital authority when the authority was created in 1999 to facilitate the transfer of duties from the board of hospitals. The intergovernmental agreement states that Metro is to provide the same services it provided to the board of hospitals, including benefits and civil service administration. Since the transfer in 1999, employees of the hospital authority have been a part of the Metropolitan Government's employee benefit system.

In an effort to reduce costs and to be more competitive with other hospitals, the hospital authority is proposing that all new employees hired after the effective date of this resolution receive only group dental and optional medical insurance benefits administered by Metro. All pension, disability, injury-on-duty (workers compensation), life insurance, and retiree medical benefits for new employees will be administered by the hospital authority under a new plan. Existing hospital authority employees will retain their current benefits administered by the Metropolitan Government.

RESOLUTION NO. RS2010-1121 (STEINE) – This resolution appropriates \$10,917,600 from the general fund reserve fund (4% fund) to nine departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The balance in the general fund reserve fund as of February 10, 2010, was \$24,150,556. This consists of unrealized revenue for fiscal year 2010 in the amount of \$12,194,218. The resolution provides that "the Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis. The following departments and agencies are to receive funding:

Bordeaux Long-Term Care – \$126,700 to purchase various medical equipment.

Fire Department – \$400,000 for mobile data terminals in ambulances, kitchen equipment and supplies, facility maintenance, safety equipment, a scanner, and smoke detectors for the fire prevention public education program.

General Hospital – \$270,400 for miscellaneous medical equipment and furniture.

General Services Department – \$7,730,000 for miscellaneous facility equipment, maintenance, and vehicle replacements. Information regarding the vehicles to be purchased is attached to this analysis.

Information Technology Services Department – \$390,000 for power failure protection and firewall upgrades.

Knowles Home – \$2,900 for a fryer and microwave.

Police Department – \$400,000 for computer equipment, modular furniture, computer desk chairs, and bulletproof vests.

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RESOLUTION NO. RS2010-1121 (continued)

Public Library – \$1,000,000 for an HVAC system for the computer server room, and new and replacement books and materials.

Public Works Department – \$597,600 for parking meters, recycling boxes, roll-off boxes, and a front-loader truck.

There is a proposed amendment to this resolution to substitute the software being purchased by the police department.

RESOLUTION NO. RS2010-1139 (STEINE) – This resolution determines to issue GSD general obligation bonds in an amount not to exceed \$17,000,000 to provide funding for Metro Nashville public schools (MNPS) construction and renovation projects. This bond issue will provide funding for the following projects:

- | | |
|--|-----------------|
| - District wide technology | \$10,000,000.00 |
| This includes network upgrades, servers,
new telephone systems, and desktop computers | |
| - ADA Compliance | \$1,000,000.00 |
| - Steam piping replacement (Maintenance emergencies) | \$1,500,000.00 |
| - McMurray HVAC replacement (Maintenance emergencies) | \$2,000,000.00 |
| - Design fees (Chadwell, Gateway, Hermitage) | \$849,000.00 |
| - Emergency and scheduled roof repairs | \$738,516.95 |

The 2009-2010 capital spending plan approved by the council in June 2009 included approximately \$47,800,000 for MNPS capital projects. After those bonds were authorized, MNPS received approximately \$21,000,000 in Federal stimulus funds through the Qualified School Construction Bond (QSCB) program. To meet QSCB spending requirements, approximately \$16,000,000 of those funds were used to fund a portion of the previously approved capital projects. This bond resolution is basically a reallocation of \$16,000,000 of the previously authorized \$47,000,000 so that design work and contracting can begin on the above projects. Completing the design work will make construction work at Chadwell, Gateway, and Hermitage eligible for stimulus funds in 2010, assuming the funds are available as planned.

This is the first step in the process toward the ultimate sale of the bonds by public bid. The resolution pledges the full faith and credit of the Metropolitan Government for payment of the bonds. The interest rate on the bonds is not to exceed 7.25%.

RESOLUTION NO. RS2010-1140 (STEINE) – This annual resolution calls the Metropolitan board of equalization (MBE) into regular session convening June 1, 2010, and adjourning June 18, 2010, and calls the MBE into special session convening June 21, 2010, to complete any unfinished business regarding appeals on pro-rated assessments. The special session is not to extend beyond May 31, 2011. The MBE always meets during the month of June to hear appeals of assessments on real property. Historically, the MBE has been required to have special sessions to conclude its work due to the large number of appeals.

State law authorizes county legislative bodies to fix the number of days the board of equalization is to sit in regular session and to call the board into special session to complete unfinished business.

RESOLUTION NO. RS2010-1141 (STEINE) – This resolution approves a grant in the amount of \$70,225 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to coordinate resources to ensure the effective and efficient delivery of workforce services in workforce development area 9. Workforce development area 9 consists of the counties of Davidson, Rutherford, Trousdale and Wilson. These federal pass-through funds are used to provide space and access to employment and training programs administered through NCAC. The term of this grant is from July 1, 2009, through June 30, 2010.

RESOLUTION NO. RS2010-1142 (STEINE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide skills shortage program funds. NCAC administers the skills shortage program for the state in workforce investment area 9. This amendment extends the term of the grant from June 30, 2010, to September 30, 2010.

RESOLUTION NO. RS2010-1143 (STEINE & TYGARD) – This resolution appropriates \$77,712.68 to the Metropolitan action commission (MAC) as a result of an amendment to a community services block grant from the Tennessee department of human services. The original grant in the amount of \$2,295,164 was anticipated in MAC's budget to assist low income individuals in meeting basic needs, including employment services, primary health services, housing, nutrition, and emergency services. These additional grant funds will be used for improvements to the GED program.

RESOLUTION NO. RS2010-1144 (TYGARD & STEINE) – This resolution approves a renewal of the 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. Pursuant to this contract, the Metro health department will pay \$217,541 for the services to be provided, with a contract term of March 1, 2010 through February 28, 2011. The funding for this contract consists of federal pass-through funds that must be used for direct HIV services.

RESOLUTION NO. RS2010-1145 (STEINE & TYGARD) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan board of health for breast and cervical cancer screening. These federal pass-through funds are used to pay the salary of a regional coordinator to continue implementation of a screening service for breast and cervical cancer by reaching out to targeted populations, monitoring women with abnormal test results, and providing community education about the importance of early screening. This resolution approves a \$10,000 increase in the amount of the grant for a new total of \$292,600.

RESOLUTION NO. RS2010-1146 (STEINE) – This resolution approves an application for a renewal of a grant from the state board of probation and parole to the state trial courts to fund the Davidson County community corrections program. This program provides alternative punishments for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. The previous grant, approved in 2005, is set to expire on June 30, 2010. The trial courts are seeking \$4,097,460 from the state to fund the community corrections program through fiscal year 2013.

RESOLUTION NO. RS2010-1147 (STEINE) – This resolution approves two Highway Safety Grants from the state department of transportation for the sheriff's Alcohol Awareness for Everyone program. These funds are used to help reduce drunk driving among young people by providing information to released offenders about community-based programs that offer alcohol abuse counseling, tours of the correctional facility, and the establishment of an extended Sober Ride program to provide information about the effects of alcohol abuse and agencies that can help treat alcohol abuse problems.

This resolution actually ratifies a grant received in 2008 in the amount of \$196,160 that apparently was never submitted for council approval. The resolution also approves a new grant in the amount of \$197,520.15 for a term commencing October 1, 2009, and ending September 30, 2010.

RESOLUTION NO. RS2010-1148 (STEINE) – This resolution approves an application for a grant in the amount of \$1,141,806 from the U.S. department of health and human services to the Davidson County sheriff's office and the state trial courts to assist non-violent felony offenders with a successful re-entry into the community. These funds would be used for a collaborative program that includes alternatives to traditional incarceration for non-violent felony offenders with drug abuse disorders. These alternatives include in-custody treatment, non-custodial community corrections options, community treatment options, and individualized treatment services.

RESOLUTION NO. RS2010-1149 (STEINE) – This resolution accepts a donation of \$272 from Fred's Corporation to the Metropolitan fire department for public fire safety education.

RESOLUTION NO. RS2010-1150 (COLE & STEINE) – This resolution approves an application for a grant in the amount of \$72,160 from the state department of environment and conservation (TDEC) to the Metro board of parks and recreation for the Riverside Drive connector trail. This 550-foot trail section would connect the Shelby Bottoms greenway with neighborhoods to the north. If awarded, there will be a required local match of \$17,637 to be provided through bond funds allocated for the construction of greenways.

RESOLUTION NO. RS2010-1151 (STEINE) – This resolution accepts a grant in the amount of \$3,000 from the state department of state to the public library for archives management. These funds will be used to purchase a computer and scanner to scan government materials dating from the early to mid-20th Century.

RESOLUTION NO. RS2010-1152 (STEINE) – This resolution approves a grant in the amount of \$3,000 from Transtria, LLC, to the Metropolitan planning department to train planning commissioners and staff in sustainable development and design. Specifically, these funds were used to review Metro’s experience with the Robert Wood Johnson Foundation’s “Active Living By Design” grant. This resolution essentially ratifies a grant that was accepted by the planning department in 2008, but council approval was never sought.

RESOLUTION NOS. RS2010-1153 & RS2010-1154 (STEINE & HUNT) – These two resolutions approve contracts between the state department of transportation and the Metropolitan Government for the resurfacing of Fessler’s Lane and Tulip Grove Road. These are typical contracts with the state for road resurfacing authorized under the state-aid highway system program.

Resolution No. RS2010-1153 approves a contract for the resurfacing of a one-half mile portion of Fessler’s Lane from Murfreesboro Road to Polk Avenue. The estimated cost for the project is \$182,300, with the state providing \$136,725 and Metro providing the remaining \$45,575. The paving work is to be completed not later than November 30, 2011.

Resolution No. RS2010-1154 approves a contract for the resurfacing of a three mile portion of Tulip Grove Road from Lebanon Pike to Central Pike. The estimated cost for the project is \$501,200, with the state providing \$375,900 and Metro providing matching funds in the amount of \$125,300. The paving work is to be completed not later than November 30, 2012.

RESOLUTION NO. RS2010-1155 (STANLEY) – This resolution approves property located at 3518 Central Pike to be used as a waste transfer station. Mr. Odell Binkley has filed a request for a special exception with the Metro board of zoning appeals to use this property for a waste transfer station. The Metropolitan Zoning Code requires the council to approve the location by adoption of a resolution before the board of zoning appeals can act on the request. The council has sixty days from the date the request was submitted to act on this resolution or it is deemed approved.

RESOLUTION NO. RS2010-1156 (STEINE) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Anthony T. McCoy against the Metropolitan Government for the amount of \$95,000. This settlement is a result of a sheriff’s department lieutenant forcibly removing an affixed gold “grill” from Mr. McCoy’s mouth on November 24, 2009, as well as the subsequent response to the incident. Mr. McCoy had been incarcerated on November 23, 2009, for failure to pay child support. While being processed at the Correctional Development Center operated by the sheriff’s office, Mr. McCoy was told to remove the grill from his mouth. Mr. McCoy apparently told the correctional officer that the grill had been permanently cemented to his teeth some years ago. A sheriff’s department lieutenant, Tanya Mayhew, reached into Mr. McCoy’s mouth to forcibly remove the grill. Since the grill had been cemented into his mouth, the grill broke off causing an estimated \$10,000 in damage to Mr. McCoy’s teeth. Lt. Mayhew’s actions were in violation of an established departmental policy.

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RESOLUTION NO. RS2010-1156 (continued)

Mr. McCoy apparently complained of pain on several occasions following the incident, and requested to see a dentist. Mr. McCoy was given Tylenol for the pain, but was not given the opportunity to see a dentist until approximately ten days after the incident. Mr. McCoy subsequently retained an attorney who is pursuing the claim on his behalf.

The department of law recommends settling this claim for \$95,000, which will compensate Mr. McCoy for the damage to his teeth, as well as for pain and suffering. A lawsuit regarding this matter would likely be filed in federal court since assault by a correctional officer is actionable under federal law as a civil rights violation. Further, since Lt. Mayhew violated a departmental policy by reaching into Mr. McCoy's mouth, and since the plaintiff may be able to present evidence that the sheriff's department has violated these policies on prior occasions, the Metropolitan Government could be found liable for her actions. Federal law allows a prevailing plaintiff in these type cases to recover attorney fees and costs, which, together with the applicable damages, would likely exceed the \$95,000 settlement.

Metro's subcontractor for inmate healthcare, Correct Care Solutions, LLC, has agreed to contribute \$20,000 toward the settlement of this claim as a result of the unwarranted delay in receiving appropriate medical care. The remaining \$75,000 would be paid from the judgment and losses fund. There is a substitute for this resolution accepting the \$20,000 contribution from CCS.

Lt. Mayhew received disciplinary action consisting of a demotion and a five day suspension.

RESOLUTION NO. RS2010-1157 (STEINE) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Dave Quartey against the Metropolitan Government for the amount of \$16,000. On May 18, 2009, a Metro police officer turned left in front of Mr. Quartey's 1993 Saturn at the intersection of Blue Hole Road and Bell Road striking the passenger side of Mr. Quartey's vehicle. The cause of the accident was the police officer's failure to yield the right-of-way. Mr. Quartey sustained a lumbar injury in the accident, and incurred medical expenses totaling \$9,080.96 for physical therapy. This resolution settles the personal injury claim for \$16,000 to be paid from the self-insured liability fund.

The Metro police officer involved received disciplinary action consisting of a written reprimand.

– BILLS ON SECOND READING –

SUBSTITUTE ORDINANCE NO. BL2009-568 (TYGARD & DUVALL) – This ordinance amends the public art financing provisions in the Metro Code to require that a portion of the bond proceeds set aside for public art be spent throughout Nashville and Davidson County. In 2000, the council enacted BL2000-250 to establish the “one percent for public art” program, which requires that one percent of all general obligation bonds issued by the Metropolitan Government for construction projects be set aside to fund public art. The definition of “construction project” in the ordinance includes the erection of new public buildings or structures, as well as the reconstruction or repairs to existing buildings and facilities where the value of the improvement exceeds fifty percent of the value. The 2000 ordinance required the arts commission to develop public art guidelines that include criteria for accepting donations or gifts (both of money and art), a procedure for the selection of artists or public art projects, and for placement of public art projects. The arts commission was also required to develop rules and regulations for the expenditure of the public art funds to be approved by a resolution of the council. The resolution approving the rules and regulations was adopted by the council in September 2001.

The one percent for public art program adopted in 2000 envisioned the incorporation of public art into new Metro buildings or facilities at the time they are constructed. The code specifically requires the arts commission to consult with the department responsible for a particular construction project regarding the design and placement of a public art project in connection with such construction project. However, some Metro facilities are not appropriate for public art, such as the new Metro water services biosolids facility. And individual construction projects may not generate sufficient funds for stand-alone public art projects. For these reasons, the code allows the percent for public art proceeds to accumulate until they are sufficient to fund a public art project.

In addition to the one percent for public art program, the council has appropriated a total of approximately \$21,300,000 to the arts commission since 2000 as part of the annual operating budgets, which is used to make grants to various arts organizations throughout Nashville and Davidson County.

Since 2000, the only public art project to be completed using the one percent for public art funds is the *Ghost Ballet for the East Bank Machineworks* located next to LP Field on the East Bank of the Cumberland River in downtown Nashville. The arts commission has commissioned two artists for two public art projects at the Courthouse Public Square, but these projects have yet to be completed and installed at the public square. The budget for these two projects is estimated to be \$515,000. Further, the arts commission, working with the department of public works, is working on a project for the design and installation of bicycle racks in the downtown area and adjacent neighborhoods. The current unencumbered balance in the one percent for public art fund, after deducting the contracted amount for the two public square pieces, is \$2,042,931. This amount does not take into account the estimated cost of the bike rack project or the site preparation for the courthouse pieces.

This ordinance would require that seventy-five percent of the general obligation bond proceeds set aside for public art be allocated equally among the nine school districts for public art projects within those districts. The public art projects to be completed using this portion of the (continued on next page)

SUBSTITUTE ORDINANCE NO. BL2009-568 (continued)

fund would be distributed among various types of Metro property, such as parks, community centers, schools, libraries, police precincts, fire halls, and public rights-of-way. The metropolitan arts commission would be required to amend its public art regulations to include a method for choosing public art projects within the nine school districts.

The remaining twenty-five percent of the public art proceeds would be used for public art projects anywhere within the area of the Metropolitan Government in conformance with the public art guidelines already in place, provided that these funds could be combined with funds set aside for the nine school districts at the discretion of the arts commission.

The director of finance has declined to sign this ordinance as to availability of funds on the grounds that this is a policy decision rather than a financial one.

ORDINANCE NO. BL2010-617 (JAMESON, GARRETT & STEINE) – This ordinance amends the Metro Code provisions pertaining to the location restrictions for liquor stores. Pursuant to the Metro Charter, liquor stores may only be located within the urban services district (USD). The Metro Code imposes further restrictions on the physical location of liquor stores. No liquor store can be located within 50 yards of a private residence or library on the same side of the street, within 100 yards of a church, or within 200 yards of a school or another liquor store. This ordinance would allow liquor stores to be located within 50 yards of a church within the boundaries of 5th Avenue North, Church Street, Broadway, and the Cumberland River in downtown Nashville.

ORDINANCE NO. BL2010-622 (JERNIGAN) – This ordinance amends the Metro building code to require that notice be sent to the district councilmember prior to the issuance of a permit for the erection of a temporary structure. The building codes require that a permit be obtained from the department of codes administration prior to erecting a tent or other temporary structure greater than 120 square feet in size that is intended for use by ten or more persons.

This ordinance would require the codes department to notify the district councilmember upon the filing of a temporary structure permit and allow the councilmember three business days to submit written comments about possible community concerns associated with the permit.

ORDINANCE NO. BL2010-623 (HOLLEMAN) – This ordinance abandons a portion of Brighton Road between Montgomery Bell Avenue and Wilson Boulevard. This closure has been requested by Montgomery Bell Academy for the expansion of its campus. Montgomery Bell Academy is the owner of all adjacent property along this right-of-way. Metro public works has determined that this section of right-of-way is no longer needed for government purposes. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2010-638 (HUNT) – This ordinance amends the Metropolitan Code pertaining to industrial waste discharges. The department of water and sewerage services (MWS) is required by state and federal regulations to provide limitations on industrial waste discharges and to adjust the limits periodically to meet state and federal pretreatment standards. In 2005, the U.S. environmental protection agency approved a “pretreatment streamlining rule” in further implementation of the Clean Water Act. The purpose of these regulations is to prevent the discharge of harmful pollutants by industrial establishments in the sewer system. This ordinance will make our Code provisions consistent with the latest regulations.

This ordinance includes expanded definitions pertaining to industrial waste discharges and updated pretreatment requirements. The ordinance also includes a mechanism for MWS to file its wastewater plant limits with the county clerk’s office as opposed to codifying these limits in the Metro Code. The purpose of this change is to facilitate future changes of the plant limits as the state requirements change. MWS does not expect these changes to have a major impact on industrial customers. This ordinance has been approved by the wastewater hearing authority and the Tennessee department of environment and conservation.

There is a proposed housekeeping amendment for this ordinance.

ORDINANCE NO. BL2010-639 (HUNT) – This is a housekeeping ordinance to amend the penalty provisions in the storm water management Code chapter to be consistent with the state statute. This ordinance essentially copies the penalty provisions in the statute verbatim. The applicable penalties for violations of the storm water regulations under state law include: (1) a civil penalty of between \$50 and \$5,000, with each day being considered a separate violation; (2) damages Metro incurred as a result of the violation; and (3) the costs of determining the damages proximately caused by the violation. This ordinance also retains the existing Code provision allowing for injunctive relief.

ORDINANCE NO. BL2010-640 (JAMESON, HUNT & GOTTO) – This ordinance abandons a portion of Shelby Avenue between South 1st Street and Victory Avenue across from LP Field. This closure has been requested by the Metropolitan development and housing agency for stadium replacement parking that is needed as a result of the capital improvements to Riverfront Park that have been approved by the council. Metro public works has determined that this section of right-of-way is no longer needed for government purposes. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2010-641 (DUVALL & MITCHELL) – This ordinance repeals the existing Metro Code section that makes it a Metro offense to leave a vehicle unattended without first turning off the engine and removing the key from the ignition. This ordinance was amended by the council last month to allow vehicles to be left running on private residential property as long as the doors remain locked, no key is in the ignition, and the vehicle is incapable of being driven without the key in the ignition.

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ORDINANCE NO. BL2010-641 (continued)

The council office would point out that state law also prohibits leaving vehicles running while unattended. Thus, the police department could choose to cite someone under the state statute who is leaving his/her car unattended while running.

ORDINANCE NO. BL2010-642 (RYMAN & STEINE) – This ordinance amends the Metropolitan Code provisions relating to the fee schedule for codes and fire marshal permits, inspections, and appeals. The fee schedules used by the department of codes administration have been in place since 2004. The codes department retained Maximus to determine whether increases in the fees charged by the codes department and the fire marshal are necessary to achieve “full cost recovery”. Maximus released its report in September 2009 showing that the fees needed to be increased in order to recover the costs to the codes department. The recession has had a major impact on the codes department’s revenues the past two years since construction essentially slowed to a crawl.

This ordinance sets new fee schedules for building permits, gas/mechanical permits, plumbing permits, electrical permits, inspection and re-inspection fees, fees for the examination of plans, and administrative fees in accordance with the Maximus recommendation. This new fee schedule will result in an overall net fee increase of approximately thirty percent. Attached to this analysis are four documents showing Metro’s existing fees compared to peer cities, as well as the proposed new fees. The Maximus report and a red-lined version of the ordinance showing the changes have been emailed to councilmembers. Copies of these documents are on file in the council office. The Maximus report estimates that the codes department could recover an additional \$2.4 million in revenue by increasing the fees.

The council office would point out that state law prohibits charging fees for services that exceed the actual costs of the services provided. The cost basis for these proposed increases is tied to the current levels of revenue. Thus, these increases would enable the codes department to recover its costs in today’s economy. If the codes department maintains its current staff level once the economy turns around, it would likely generate too much revenue under these increased fees and would need to propose a fee decrease to the council.

ORDINANCE NO. BL2010-643 (LANGSTER, MOORE & STEINE) – This ordinance declares three parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. This ordinance approves the disposition of the following properties:

<u>Address – Location</u>	<u>Council District</u>
923 – 42 nd Avenue North	21
Creek Street, unnumbered	17
Poplar Creek Road, unnumbered	35

ORDINANCE NO. BL2010-644 (GILMORE) – This ordinance authorizes Ace Hospitality, Inc., d/b/a Spring Hill Suites and Residence Inn, to install and maintain aerial and underground encroachments at 1800 and 1806 West End Avenue, and at 1801 and 1807 Hayes Street. These encroachments are for the benefit of two adjacent proposed hotels in this block. The encroachments will include an aerial building connector over the alley between West End Avenue and Hayes Street connecting the two hotels, as well as building signs, canopies, street trees, and irrigation lines. Ace Hospitality has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2009-575 (MITCHELL) – This ordinance renames Old River Road Pike, extending between two sections of River Road Pike, as “Horton Hollow Lane”. The realignment of River Road Pike caused several sections of Old River Road Pike to remain. This name change was requested by a resident in the area because visitors and delivery vehicles often have difficulty locating property on Old River Road Pike, and the residents are concerned that this could cause a delay in emergency services.

This name change has been approved by the traffic and parking commission.

ORDINANCE NO. BL2010-621 (RYMAN) – This ordinance amends the Metro Code to prohibit holders of revoked towing licenses from performing towing services in Davidson County even on an occasional basis, and to require approval by the transportation licensing commission prior to performing nonconsent tows. The Code exempts out-of-county wrecker services from having to obtain a license to operate from the transportation licensing commission if they perform five or less tows a month within Davidson County. Within the past several years, two towing firms that have had their licenses revoked by the transportation licensing commission have relocated to adjacent counties and continue to perform tows in Davidson County. This ordinance would prohibit any such firm that has had their license revoked from performing any tows in Davidson County, regardless of the frequency.

This ordinance also modifies the nonconsent towing provisions in the Code to require express approval by the transportation licensing commission. The Code currently only requires firms to provide 72 hours written notice to the commission prior to engaging in nonconsent towing. The Code requirements for nonconsent towing are much more stringent than those for general towing services. This ordinance would eliminate the simple notice requirement and substitute it with a requirement that the commission take action to authorize nonconsent towing. This will help ensure that towing firms meet the additional safety requirements prior to engaging in nonconsent towing.

This ordinance has been brought at the recommendation of the transportation licensing commission.

ORDINANCE NO. BL2010-624 (TOLER & HUNT) – This ordinance abandons a 10-foot drainage easement at 450 Kinhawk Drive. This utility easement is no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2010-625 (LANGSTER, GILMORE & OTHERS) – This ordinance authorizes the acceptance of 28 easements for various stormwater projects in Davidson County. These easements are being acquired at no cost to the Metropolitan Government. This ordinance has been approved by the planning commission.

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ORDINANCE NO. BL2010-625 (continued)

Easements are being accepted by the property owners for the following properties:

Property Address / Council District

2855 Logan Street – 16
2050 Lucas Lane – 5
Lucas Lane, unnumbered – 5
1st Avenue, North, unnumbered – 19
2nd Avenue, North, unnumbered – 19
1512 – 2nd Avenue, North – 19
234-B Davenport Drive – 29
3183 Hamilton Church Road – 33
Century Boulevard, unnumbered – 15
1318 World Baptist Center Drive – 2
1715 Broadway – 19
4200 Kenilwood Drive – 16
7102 Highway 70 South – 22
1007 Murfreesboro Pike – 13
331 Great Circle Road – 2
714 Ramsey Street – 6
201 North 8th Street – 6
2300 Patterson Street – 21
3822 Cleghorn Avenue – 25
2126 Abbott Martin Road – 25
5144 Hickory Hollow Parkway – 32
19 Hart Street – 17
6604 Charlotte Pike – 20
100 Airpark Center East – 29

ORDINANCE NO. BL2010-635 (HUNT & TOLER) – This zoning text change creates a new land use for construction/demolition waste processing (project-specific) as a use permitted with conditions (PC) in all zoning districts. The goal of this ordinance is to make it easier to recycle construction and demolition debris to avoid sending this material to the landfill.

The Zoning Code currently allows recycling facilities as a PC use only in the industrial districts. A recycling facility is defined in the Zoning Code as any facility that separates, processes, converts, treats, or otherwise prepares non-putrescible waste for recycling. Non-putrescible waste consists of material that is not capable of decomposing. Such facilities are required to meet certain conditions in order to operate as a recycling facility. These conditions include the following:

1. A minimum lot size of one acre;
2. A building setback of at least 150 feet from a residential zoning district or legally occupied residential structure;
3. Driveway access can be from a local street as long as the street is not bounded by any residential zoning district from the driveway to an intersection with a collector or major street;

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ORDINANCE NO. BL2010-635 (continued)

4. Opaque fencing at least eight feet in height is required along all zoning districts permitting residential uses. For facilities not adjacent to zoning districts permitting residential uses, the entire facility must be enclosed by an eight-foot tall chain link fence;
5. All sorting and separation activity must take place within an enclosed structure;
6. The enclosed areas of recycling facilities must have concrete floors, and high traffic areas around the facilities must be paved;
7. The hours of operation are limited from 7:00 a.m. to 6:00 p.m. for any facility adjacent to a zoning district permitting residential uses; and
8. Light and glare must be directed on-site for facilities adjacent to a zoning district permitting residential uses.

This ordinance adds construction/demolition waste processing (project specific) as a use permitted with conditions in all zoning districts. This will allow property owners who are constructing or demolishing a structure to engage in recycling on-site, or off-site as long as the off-site location is within ¼ mile of the project site.

Project specific C&D waste processing sites could only recycle waste generated from the project property. No other waste could be brought in from other properties. C&D waste would include discarded materials resulting from construction, remodeling, or demolition that are generally considered to be water soluble and non-hazardous in nature, such as steel, glass, brick, sheetrock, tile, carpeting, concrete, lumber, etc., as well as vegetation cleared from the property. There would be no minimum lot size for this activity in non-residential zoning districts, but lots located within residentially-zoned districts would have to be at least one acre in size or ten times the minimum lot size permitted by the zoning district, whichever is less. All applicants for a project specific C&D waste processing use would be required to submit a very detailed "waste reduction and recycling plan" to the director of public works and the director of codes administration. The plan must identify a waste manager with round-the-clock contact information, the type and quantity of materials to be recycled, the frequency of collection, and the method of storage. Applicants would also be required to provide a letter of credit to ensure performance and compliance.

The zoning administrator would be required to notify the district councilmember upon the filing of an application for a project specific recycling facility if the proposed use is within 1,000 feet of an agricultural or residential zoning district. A property would be considered inactive if no construction/demolition activity has taken place on the property within six months. No waste processing activities could continue to occur if a site is declared inactive until a new application is approved.

This ordinance should be amended to correct several typographical and minor grammatical errors.