

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **October 4, 2011**

RE: **Analysis Report**

Balances As Of:	<u>9/29/11</u>	<u>9/29/10</u>
<u>GSD 4% RESERVE FUND</u>	Unavailable	\$29,959,991
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	Unavailable	Unavailable

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2011-1 (MCGUIRE & MITCHELL) – This resolution authorizes special assessments to be levied for infrastructure improvements associated with the proposed Biltmore Ridges development in Bellevue, and approves the forms of various agreements related to the special assessments. Biltmore Ridges, LP (“the developer”) is a Texas limited partnership that owns 1,140 acres in Bellevue near the Interstate 40 – McCrory Lane interchange on which it proposed to build a mixed-use development known as Biltmore Ridges. The development is to consist of 441 single-family homes, 576 townhomes, 380 multi-family units, 236,500 square feet of office space, 521,000 square feet of retail space, 10,500 square feet of restaurant space, and 275 hotel rooms. The developer estimates that the total costs for the development will exceed \$300 million. However, in order to facilitate this development, certain infrastructure improvements are needed on the front end.

In December 2010, the council approved an agreement with the developer for the widening and relocation of three ramps at the Interstate 40 interchange, as well as the realignment and widening of McCrory Lane. The total cost of the project was estimated to be \$8,311,514. The council also approved an agreement with the state department of transportation whereby the state was to provide \$4 million of the project cost in state and federal funds. The developer is responsible for providing the remainder of the project funding and for maintaining a revolving account with a total deposit over the life of the project of \$8,311,514.

Certain additional infrastructure improvements are needed in order for this development to be constructed. The specific additional improvements include relocation and undergrounding of electrical lines, rough grading of the collector road system serving the property south of McCrory Lane, a 20” connector water line, and the construction of a two million gallon water storage tank. State law allows the costs of such public infrastructure improvements to be paid by a special assessment levied on the properties benefitting from the improvements. State law further allows the Metropolitan Government to enter into an agreement with the industrial development board (IDB) for the issuance of revenue bonds to cover the costs of the improvements, which are to be repaid using the funds from the special assessment.

This resolution authorizes the special assessment, approves the assessment methodology, and approves the form of several agreements necessary for the financing of the infrastructure project. The resolution places the council on record as determining that the acquisition of the public facilities will benefit the general public, and will directly and specially benefit the properties subject to the assessment. The total amount needed to fund the improvements is estimated to be \$18,166,987. In order to pay for the improvements, a special assessment will be levied upon all of the properties within the development. The special assessment will be collected by Metro and paid to the IDB to cover the debt service on the bonds.

The principal amount of the bonds is estimated to be \$28,165,000, which will include the costs of the infrastructure improvements, bond issuance cost, a reserve fund, capitalized interest and financing costs, and administration costs. The assessment roll included as an attachment to the resolution includes an interest rate for the bonds of 10.5%, which is the maximum allowed (continued on next page)

RESOLUTION NO. RS2011-1 (continued)

under law. The actual interest rate, should the IDB have a buyer for the bonds, would likely be less than 10.5%, though it will be significantly higher than debt backed by the taxing authority of the Metropolitan Government. Using a 10.5% interest rate over 30 years would result in a total of \$99,317,653.89 being paid to cover the debt service on the bonds to construct \$18 million in improvements.

This special assessment is essentially an additional tax that will be levied on the property, which Metro will be responsible for collecting and paying to the IDB to cover the debt service on the bonds. The assessment is to be proportioned using a "benefits-received-basis", meaning that the amount of the assessment each property owner pays is based upon the benefit the property is to receive from the infrastructure improvements. The developer is currently the owner of all ten parcels that make up the 1,140 acres. However, the properties would obviously be subdivided once the development is built. The new owners would purchase the property subject to this special assessment. The amount each owner would pay is set forth in a methodology report prepared by a consultant. The assessment methodology takes into consideration the type of use and the specific location of the property. The assessments will be paid in annual installments at the time property taxes are due.

The resolution also authorizes the Metropolitan clerk to publish a notice of the initial assessment roll and to send written notice to the property owners for the purpose of considering objections. The final assessment roll will be subject to subsequent approval of the council by resolution.

Finally, the resolution approves the form of several agreements, as follows:

- Acquisition Agreement: This is an agreement between the developer and the Metropolitan Government providing for the special assessment financing to be paid through revenue bonds issued by the IDB. The agreement provides that the developer will be responsible for constructing the public infrastructure improvements, with the exception of the electrical line relocation to be performed by Nashville Electric Service (NES). A portion of the bond proceeds will be set aside to pay NES for the cost of installing the underground electrical lines. Once completed, the infrastructure will be turned over to the Metropolitan Government, the State of Tennessee, and the Harpeth Valley Utility District, as applicable.
- Installment Agreement: This is an agreement between the developer and Metro to provide for the levying and collection of the special assessments. The assessments are to be paid over a thirty year period.
- Assessment Collection and Pledge Agreement: This is an agreement between Metro and the IDB in which Metro agrees to collect the Biltmore special assessments and pay the amounts collected to the IDB. This agreement provides that Metro will not be responsible for any delinquent assessments, but will pursue the collection of delinquent assessments in the same manner as we pursue delinquent property taxes.

There are several factors concerning this proposal the council should be aware of. First, this is the first time such a special assessment for the benefit of a private developer has been considered in Davidson County, if not the state. Given today's economy, it may be difficult for the IDB to find buyers for the bonds. Second, state law provides that the special assessment is to be a lien on all properties subject to the assessment, which lien is superior to everything but (continued on next page)

RESOLUTION NO. RS2011-1 (continued)

tax liens. This could impact a future property owner's ability to market and sell the property. Finally, state law provides that if a property owner defaults in payment of any installment of the special assessment, all of the installments, with interest, over the thirty year term become immediately due and payable, plus an additional sum equal to one-half of the annual interest. This means that the failure of a property owner to timely pay one single installment will result in all of the installments with interest being owed at once. This is a state law requirement, and Metro will have no discretion to waive it.

State law requires that a public hearing be held on this resolution. There may be a substitute for this resolution making several technical changes to the agreement(s).

– RESOLUTIONS –

RESOLUTION NO. RS2011-2 (BAKER & STEINE) – This resolution ratifies the Metropolitan Government's continued membership in the Regional Transportation Authority of Middle Tennessee (RTA). The RTA was created by state law to "improve mobility and expand multimodal transportation options for residents and visitors in Tennessee's large urban areas." The mission of the existing RTA is to "offer the citizens of Middle Tennessee choices and alternatives on how they commute to work each day and to coordinate local regional transportation services."

The Tennessee general assembly amended the RTA enabling legislation in 2009 to give additional powers, duties, and functions to the RTA if it chooses to assume such authority under the provisions of the new law. The additional powers include establishing local assessments for the purposes of paying expenses related to the administration of the authority's activities, imposing fees for the services provided by the authority, accepting grant funds from the state or federal government, and issuing debt. The local assessment for the RTA under state law, should the RTA board vote to implement such, could not be used for the construction or operation of transportation facilities or services. The assessment would be levied on participating member municipalities based on a per capita and flat rate. The per capita rate cannot be less than ten cents. The assessment would be paid by the municipalities on an annual basis. Failure of a participating city, town, metropolitan or county government to pay the assessment would result in the loss of that government's participation in the governance and benefits of the authority.

The continued participation of the municipalities in the RTA must be ratified by a vote of the local legislative bodies by the deadline set by the RTA board, which is December 31, 2011.

RESOLUTION NO. RS2011-3 (MOORE) – This resolution approves an amendment to a grant in the amount of \$1,132,242 from the state housing development agency to the Metropolitan development and housing agency (MDHA) to fund the Homeless Prevention and Rapid Re-Housing Program for fiscal years 2010 and 2011. The services provided through this grant include direct financial assistance and case management activities. This resolution approves an extension of the term of the grant through June 30, 2012.

RESOLUTION NO. RS2011-4 (MCGUIRE) – This resolution accepts an annual grant in the amount of \$79,600 from the Tennessee Arts Commission to the Metropolitan arts commission. These funds will be used to make grants to well-established Tennessee nonprofit arts organizations. This grant consists of \$55,100 in state funds and \$24,500 in federal funds. There is a required local match in the amount of \$79,600 to be provided from the Metro arts commission budget. The term of the grant is from July 1, 2011 to June 30, 2012.

RESOLUTION NO. RS2011-5 (JERNIGAN & MCGUIRE) – This resolution disclaims the Metropolitan Government's interest in unpaid traffic fines and court costs assessed by the former City of Lakewood. The residents of Lakewood voted on March 15, 2011 to surrender the city's charter effective May 28, 2011. While in existence, Lakewood was enforcing its own traffic ordinances and imposing fines and costs that differed from those of the Metropolitan Government and, in some cases, were likely not consistent with state law. The Tennessee Constitution limits the fines local governments may impose for violations of ordinances to fifty dollars unless the defendant is provided a jury trial. An amendment to the Constitution to change this provision was considered about nine years ago but failed to receive the necessary support of the voters. State law also restricts the type and amount of court costs that can be assessed.

There is currently approximately \$450,000 in outstanding Lakewood fines and court costs. These delinquent fines and costs were reported to the state, which resulted in a number of drivers having their license suspended. Typically, the only way for a driver to have his/her license reinstated under such circumstances is to pay the amount owed in full and receive proof of payment from the court clerk.

As a result of the City of Lakewood's dissolution, the Metropolitan Government assumed the city's assets and liabilities. Thus, the Metropolitan Government is entitled to collect funds that were legitimately owed to Lakewood at the time it surrendered its charter. However, the Metropolitan Government is unable to distinguish between those fines that were properly assessed and those that may not have been. The Metropolitan Government has also determined that the administrative costs associated with attempting to collect these outstanding traffic fines would likely exceed the amount of revenue that could be collected.

The state has informed the Metropolitan Government that it will reinstate the driver licenses in question if the drivers submit proof that the Metropolitan Government has waived collection of the fines and costs by adoption of a resolution of the Council. This resolution expressly waives, releases, and disclaims any interest the Metropolitan Government may have in unpaid fines and other costs assessed by the Lakewood city court for violations of Lakewood traffic ordinances prior to the surrender of Lakewood's charter.

RESOLUTION NO. RS2011-6 (MCGUIRE & LANGSTER) – This resolution approves a grant in the amount of \$1,009,992 from the Greater Nashville Regional Council to the Metropolitan social services commission for congregate meal sites, meal delivery services, and transportation for eligible seniors and disabled residents. The funding will be used as follows:

- \$450,700 with a required match of \$50,078 to provide meals to eligible senior citizens.
- \$137,900 to provide congregate meal sites.
- \$351.392 with a required local match of \$39,043.56 to provide home delivered meals.
- \$70,000 with a required match of \$7,777.78 to provide transportation services to seniors and disabled residents.

The term of the grant is from July 1, 2011 through June 30, 2012.

RESOLUTION NO. RS2011-7 (LANGSTER & MCGUIRE) – This resolution approves a grant in the amount of \$114,410 from the Greater Nashville Regional Council to the Metropolitan social services commission for meal delivery services to eligible senior citizens. These federal pass-through funds will be used to provide home delivered meals to homebound persons at a cost of \$6.30 per meal. The term of the grant is from July 1, 2011 through June 30, 2012.

RESOLUTION NO. RS2011-8 (LANGSTER & MCGUIRE) – This resolution appropriates \$10,965,585 from the U.S. department of health and human services to the Metropolitan action commission for continuing support of the head start program. The Nashville head start program provides early childhood education services to approximately 1,500 three and four-year-olds from economically disadvantaged families. The term of the grant is from July 1, 2011 through June 30, 2012. There is a required local cash match of \$1,804,400 to be provided by the Metro action commission.

RESOLUTION NO. RS2011-9 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$854,300 from the state department of health to the Metropolitan board of health for bioterrorism preparedness services. These federal pass-through funds are primarily used to pay the salaries of the health department personnel responsible for the public health emergency preparedness program for Metro, as well as for program supplies. There is a required local cash match in the amount of \$85,400 to be provided by the department of health.

The term of the grant is from August 1, 2011 through July 31, 2012.

RESOLUTION NO. RS2011-10 (LANGSTER & MCGUIRE) – This resolution approves a contract between the Metropolitan board of health and the African American Cultural Alliance to promote the discussion and building of a healthier culture. The services to be provided by the contractor include artistic activities, construction of garden beds, a farm camp at the TSU community garden, outdoor athletic activities, and two food festivals. The contractor is to be paid \$25,000 for providing these services, which will be from the federal stimulus funds awarded to the health department for healthy living programs. The term of the grant is from the date of approval through March 18, 2012.

The council office would point out that the contract incorrectly identifies the contractor as "Healthy Communities Network".

RESOLUTION NO. RS2011-11 (LANGSTER & MCGUIRE) – This resolution approves three amendments to a grant from the U.S. department of health and human services to the Metro board of health to enhance access to 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 under the Ryan White HIV/AIDS Treatment Extension Act of 2009. The amendments collectively increase the amount of the grant by \$3,041,993 for a new grant total of \$4,765,213.

RESOLUTION NO. RS2011-12 (MCGUIRE & LANGSTER) – This resolution approves an annual grant in the amount of \$250,000 from the state department of health to the Metro health department to reduce the risk of adolescent diabetes by focusing on obesity prevention through physical activity and exercise. The health department will once again coordinate the implementation of a “stepping” program at various community centers geared toward preventing Type 2 diabetes through physical activity and exercise for approximately 300 at-risk youth. The term of the grant is from August 1, 2011 through June 30, 2012.

RESOLUTION NO. RS2011-13 (LANGSTER) – This resolution approves a contract between the Metropolitan board of health and Tennessee State University (TSU) to provide a worksite POD for medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) in the event of a public health emergency. The health department will be responsible for obtaining the mass prophylaxis from the state and delivering them to TSU during a public health emergency. TSU will be responsible for distributing the prophylaxis, and will not receive any form of compensation for providing these services. This contract is for a term of two years, but may be extended for two additional one-year terms.

RESOLUTION NO. RS2011-14 (LANGSTER) – This resolution approves a business associate agreement between the Metro board of health and Meharry Medical College to prevent the disclosure of protected health information. This is the standard business associate agreement that all health department contractors enter in order to comply with HIPPA.

RESOLUTION NO. RS2011-15 (MCGUIRE) – This resolution approves an extension of a lease agreement between the Metropolitan Government and Firstcal Industrial 2 Acquisition, LLC for property located at 621 Mainstream Drive, known as Corners II, used as office space for the Nashville career advancement center (NCAC). Metro first leased office space for NCAC at this location in 2002. A new lease was approved in 2008 for 15,946 square feet of space. The lease is set to expire on September 30, 2011.

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RESOLUTION NO. RS2011-15 (continued)

NCAC desires to extend the lease for a three year period to expire September 30, 2014, with an option for an additional three-year extension. 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>
2011-2012	\$19,779.62	\$237,595.40
2012-2013	\$20,195.61	\$242,347.31
2013-2014	\$20,599.52	\$247,194.25

The amount of rent to be paid if the option is exercised would be based upon the fair market rental value for comparable property.

The 2008 ordinance approving the original lease agreement allowed amendments to the lease to be approved by resolution of the council receiving 21 affirmative votes. This lease extension has been approved by the planning commission.

The council office would point out that this lease amendment includes a limitation of liability not typically found in Metro contracts. The agreement provides that the liability of the landlord will be limited solely to the landlord's interest in the building, and neither the landlord nor any of its partners would have any personal liability. The council office recommends that the contract be amended to modify this liability limitation before the contract is approved by the council.

RESOLUTION NO. RS2011-16 (MCGUIRE) – This resolution approves an application for a grant in the amount of \$8,400 from the state historical commission to the Metro historical commission to provide continuing education for staff and commissioners. If awarded, these grant funds will be used for registration and travel expenses for eight persons to attend a conference.

There will be a required local in-kind match of \$5,600.

RESOLUTION NO. RS2011-17 (MITCHELL & MCGUIRE) – This resolution approves a grant in the amount of \$240,900 from the U.S. department of homeland security to the Metropolitan Nashville fire department to purchase computer equipment and software for fire inspectors to conduct inspections and generate violation reports in the field. There is a required local match of \$60,225 to be provided by the fire department. The grant technically includes the original grant award and a grant amendment as a result of an error in the original grant agreement.

RESOLUTION NOS. RS2011-18 and RS2011-20 (MITCHELL & MCGUIRE) – These two resolutions approve applications for grants from the U.S. department of justice to the Metropolitan police department for the gang resistance education and training (GREAT) program. The GREAT program is a school-based curriculum taught by police officers to middle school students. The primary goal of GREAT is to prevent youth delinquency, violence, and gang membership.

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RESOLUTION NOS. RS2011-18 and RS2011-20 (continued)

Resolution No. RS2011-18 approves an application for a grant in the amount of \$310,000 from the U.S. department of justice to the Metropolitan police department for the GREAT program. These funds will be used for the continued hosting of a regional GREAT training center to teach the program to police officers from other jurisdictions. Specifically, the funds would cover personnel costs, travel expenses, equipment, and supplies.

Resolution No. RS2011-20 approves an application for a grant in the amount of \$50,000 for the GREAT program to cover personnel costs and fringe benefits, travel expenses, supplies (including T-shirts and other incentives), and a summer camp program. There will be a required local match in the amount of \$42,182 to be provided through the police department's operating budget.

RESOLUTION NO. RS2011-19 (MITCHELL & MCGUIRE) – This resolution approves an amendment to a grant in the amount of \$1,546,019 from the U.S. department of homeland security to the Mayor's office of emergency management to support port-wide risk management for the Port of Nashville. The Port of Nashville has traditionally been defined by the U.S. Coast Guard as ten miles of the Cumberland River extending in each direction from downtown Nashville. These funds are used for protection of critical port infrastructure from terrorist attacks through the development of a port-wide risk management/mitigation plan.

This resolution approves an extension of the term of the grant from July 31, 2011 through July 31, 2012.

RESOLUTION NO. RS2011-21 (MCGUIRE) – This resolution approves an application for and acceptance of a grant in the amount of \$20,000 from Nash20, Frost Insurance, and Fireman's Fund Insurance Company to the mayor's office of emergency management to enhance equipment for the flood and swift water response team. These funds will be used to retrofit a trailer for use in water rescue response, to purchase water rescue equipment, and to provide additional training.

RESOLUTION NO. RS2011-22 (MATTHEWS & MCGUIRE) – This resolution approves a grant in the amount of \$50,625 from Dollar General Literacy Foundation to the Metropolitan Government to provide partial funding of an adult literacy coordinator position in the Mayor's office of children and youth for fiscal year 2011-2012. There is a required local cash match of \$20,000 to be provided through the mayor's office budget.

RESOLUTION NO. RS2011-23 (MCGUIRE & MATTHEWS) – This resolution approves a grant in the amount of \$20,800 from the Tennessee Literacy Coalition to the community education commission. This will enable a full-time AmeriCorps program participant to work with the community education commission for one year. The participant will assist the commission in developing an electronic database to increase contact with past participants and will help rebuild the commission's volunteer base.

RESOLUTION NO. RS2011-24 (JERNIGAN & MCGUIRE) – This resolution approves an annual grant in the amount of \$140,631 from the state library and archives to the Nashville public library system to assist persons that have difficulty using the library. These funds are for general library services, library services to the hearing impaired, materials for the disadvantaged, and to purchase library materials to be used in the interlibrary loan process. The term of this grant is from October 1, 2011, through June 30, 2012.

RESOLUTION NO. RS2011-25 (MATTHEWS, JERNIGAN & MCGUIRE) – This resolution approves an amended memorandum of understanding between the Metropolitan Government, the board of parks and recreation, the Metropolitan Nashville airport authority, the federal aviation administration (FAA), and the Friends of Bells Bend related to the construction of a wetland at Bells Bend Park. The original agreement was approved by the council in August 2011. The amended agreement adds some background information and incorporates correspondence regarding the requirements of the state department of environment and conservation (TDEC). The purpose of this wetland is to provide a compensatory mitigation site as a result of the extension of the runway safety area at John C. Tune Airport, which will be funded by the FAA. Pursuant to this agreement, the airport authority will provide \$51,600 to the Friends of Bells Bend to fully fund the construction and maintenance of the 1.2 acre wetland. The parks department will be responsible for completing the construction of the wetland. The agreement will terminate once the state department of environment and conservation certifies that the mitigation is successful.

RESOLUTION NO. RS2011-26 (MCGUIRE) – This resolution accepts a grant in the amount of \$125,000 from the state department of labor and workforce development to the Nashville career advancement center for the incumbent worker training program. These federal funds, under the Workforce Investment Act of 1998, are used to train employees of businesses that apply for and receive the training assistance. The private businesses participating in the program are responsible for providing matching funds. The term of the grant is from October 1, 2011 through September 30, 2012.

RESOLUTION NOS. RS2011-27 (MCGUIRE) – This resolution approves a grant in the amount of \$10,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to cover administrative costs for NCAC associated with providing programs and services to assist dislocated workers, adults, and youth facing barriers to employment. The term of the grant is from October 1, 2011 through September 30, 2012.

RESOLUTION NO. RS2011-28 – (STANLEY, HUNT & MCGUIRE) This resolution authorizes the acquisition of additional easements or other property rights necessary for an upgrade to the Munn Road Pump Station. Ordinance No. BL2011-947, approved in July 2011, authorized the acquisition of a 100 square foot utility easement for this project. The ordinance also provided that the acquisition of additional easements for this same project may be approved by resolution. This resolution authorizes the acquisition of two easements located on Munn Road.

RESOLUTION NO. RS2011-29 (MCGUIRE & HUNT) – This resolution approves an application for a fast track infrastructure development program (FIDP) grant from the state department of economic and community development to the department of public works to rehabilitate and renovate a trolley barn located on the Rolling Mill Hill property to accommodate the Nashville Entrepreneur Center headquarters. The FIDP is a state program in which the state, the Metropolitan Government, and private businesses participate to facilitate infrastructure improvements to promote economic development. The funds are available to businesses that create new jobs through the expansion of new facilities. In November 2004, the council approved the transfer of the administration of this program from the industrial development board and the Mayor’s office of economic development to the department of public works.

The Nashville Entrepreneur Center is a 501c3 nonprofit corporation formed in 2010 to connect entrepreneurs with the training and resources they need to incubate their innovations and advance economic growth. The Entrepreneur Center is seeking \$700,000 in state funds for the renovation of one of the six historic trolley barns at Rolling Mill Hill in order to relocate from its existing facility located at 105 Broadway. The improvements will include brick replacement, roofing, electrical, plumbing, interior framing, HVAC, and fire protection. The total estimated cost for the project is \$1,170,395, with the Entrepreneur Center providing the remaining \$470,395. No Metro funds will be obligated for this grant. This facility will provide 72 business incubator spaces, which is estimated to result in the creation of 150-200 jobs annually.

Although the renovations to the trolley barn are not typically considered infrastructure improvements for purposes of this grant program, the state apparently made a \$750,000 commitment for this project, \$50,000 of which has already been released. The description of the grant program on the state’s website states that “other improvements to the physical infrastructure of a site may be considered if communities can demonstrate such improvements are required for the location or expansion of a business that creates jobs.”

If the grant is awarded, two additional contracts will be submitted for approval by the council.

RESOLUTION NO. RS2011-30 – (MCGUIRE & HUNT) This resolution approves an intergovernmental agreement between the Metropolitan Government and the City of Forest Hills for the removal and relocation of a water main near Cliftee Drive. Forest Hills is undertaking a project to repair part of Cliftee Drive that was damaged by a landslide following the May 2010 flood. This project will require the removal and relocation of an eight inch water main in the roadway. Pursuant to the agreement, Metro will reimburse Forest Hills up to \$61,000 for the removal and relocation of the water main, thereby relieving Metro of any further responsibility regarding the project.

State law allows intergovernmental agreements to be approved by resolution.

RESOLUTION NO. RS2011-31 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government’s property damage claim against James F. Eurton for the amount of \$7,226.24. On December 7, 2010, a Metro police officer was traveling on Old Hickory Boulevard when his vehicle was struck by a vehicle driven by James F. Eurton. Mr. Eurton failed to yield the right-of-way as he was attempting to make a left turn out of a parking lot. The 2005 Chevrolet Impala driven by the police officer was deemed to be a total loss. This settlement accepts the fair market value of the Metro vehicle at the time of the accident.

RESOLUTION NO. RS2011- 32 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government’s claim against Keiona Evans for the amount of \$5,635.35. On March 21, 2011, a Metro fire department employee was traveling east on Elm Hill Pike when his vehicle was struck by a vehicle driven by Keiona Evans who was attempting a left turn at the intersection of Elm Hill Pike and Airport Center Drive. Ms. Evans failed to yield the right of way. The Metro pickup truck sustained damage to the front of the vehicle and engine. This settlement accepts the repair expenses for the Metro vehicle.

RESOLUTION NO. RS2011-33 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government’s property damage claim against Abddella Habib for the amount of \$8,155.20. On September 23, 2010, a Metro fire department employee was traveling north on Nolensville Road when his vehicle was struck on the left side by a vehicle driven by Abddella Habib. Mr. Habib failed to yield the right of way as he was turning onto Nolensville Road from Rosedale Avenue. This resolution accepts diminished value damages in the amount of \$1,063.64 plus the repair costs of \$7,091.56 for a total of \$8,155.20.

The Metro employee was transported from the scene of the accident to St. Thomas Hospital. This resolution does not authorize the settlement of a claim for any medical expenses paid by Metro.

RESOLUTION NO. RS2011-34 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the claim of Yolanda Mitchell against the Metropolitan Government for the amount of \$30,000. On November 7, 2010, Yolanda Mitchell was arrested and taken to the Criminal Justice Center to be booked. Ms. Mitchell was intoxicated at the time of her arrest. While going through the booking process under the control of two police officers, she became verbally abusive to another Metro police officer who was there doing unrelated paperwork. The officer pushed Ms. Mitchell away from him and left, but returned after being called back by booking personnel. Ms. Mitchell once again confronted the police officer, who pushed her a second time while she was handcuffed causing her to hit her head on the ground. Ms. Mitchell sustained head injuries resulting from the fall. The Metropolitan Government has already paid over \$27,000 in medical expenses for treating Ms. Mitchell. She subsequently filed a personal injury lawsuit against the Metro police officer and the Metropolitan Government as a result of this incident.

The department of law recommends settling this lawsuit for \$30,000 given the injuries incurred and damages sustained. A court could find that the officer acted intentionally in pushing Ms. Mitchell, in which case Metro would have no liability. However, Metro would be liable if the court determined Metro was negligent. Such liability could result if the police department was negligent in hiring or supervising the officer, if the officer negligently assessed the level of force needed to respond to Ms. Mitchell, or if the other two officers at the scene negligently failed to control Ms. Mitchell while under their control, any of which may be a colorable claim.

The Metro police officer involved was terminated as a result of this incident. The officer has appealed this termination, which will be decided by the civil service commission. The officer was also criminally indicted for aggravated assault.

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

RESOLUTION NO. RS2011-35 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the personal injury and property damage claims of Timothy T. Mower against the Metropolitan Government for the total amount of \$36,403.66. On August 3, 2010, a Metro public works employee was exiting I-40 West onto the Church Street exit when he stated that his brakes failed and he was unable to stop. The Metro employee ran the vehicle into a guardrail in an attempt to slow it down. The Metro vehicle struck Mr. Mower's vehicle causing a chain reaction accident which included three other vehicles. Mr. Mower experienced soft tissue injuries to his shoulder and lower back resulting in medical expenses of \$7,290.88. His 2008 Honda Accord was also totaled, resulting in a loss of \$16,403.66.

The department of law recommends settling the personal injury claim for \$20,000 and the property damage claim for \$16,403.66. Even though the Metro employee attempted to avoid the accident by striking the guardrail, the Metropolitan Government would likely be found liable for the accident. An inspection of the Metro truck's brakes after the accident did not show evidence of failure. The department of law believes the settlement amount is fair and reasonable given the injuries incurred and damages sustained.

The Metro employee involved in this accident did not receive disciplinary action because the public works department believes the employee took appropriate defensive action to try to avoid the accident. In February 2011, the council approved the settlement of another claim resulting from this same accident in the amount of \$30,205.65.

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

RESOLUTION NO. RS2011-36 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's property damage claim against Elcy J. Shootes for the amount of \$7,028.40. On October 4, 2011, a Metro police officer was traveling westbound on Murfreesboro Road with his emergency equipment activated when his vehicle was struck in the rear by a vehicle driven by Elcy J. Shootes at the intersection of Murfreesboro Road and Donelson Pike. Ms. Shootes failed to yield to an emergency vehicle. The Metro police vehicle received property damage totaling \$7,028.40. This resolution accepts the full amount of property damage.

The officer was injured as a result of this accident and Metro has a pending injury-on-duty subrogation claim.

RESOLUTION NO. RS2011-37 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's property damage claim against Kathryn Taylor for the amount of \$11,143.40. On October 11, 2010, a Metro police officer was traveling north on Lebanon Pike when a vehicle driven by Kathryn Taylor turned left into his path at the intersection of Lebanon Pike and Briley Parkway. The Metro police vehicle was determined to be a total loss.

The police officer involved in the accident was transported to Vanderbilt Hospital and is still receiving treatment for his injuries. This resolution does not settle any subrogation claim Metro has for the officer's medical expenses paid by Metro.