

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **April 3, 2012**

RE: **Analysis Report**

Balances As Of:	<u>3/14/12</u>	<u>3/30/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$25,836,951	\$23,996,590
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$44,378,057	\$34,451,559
USD	\$8,556,677	\$24,263,010
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$34,449,193	\$27,099,790

*** Assumes estimated revenues in fiscal year 2012 in the amount of \$24,098,500**

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2012-202 (DOWELL) – This resolution approves an exemption for Southern Belles located at 5385 Mt. View Road from the minimum distance requirements for obtaining a beer permit. The Metro code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, the code was amended in September 2010 to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

– RESOLUTIONS –

RESOLUTION NO. RS2012-203 (MCGUIRE) – This resolution appropriates \$13,477,800 from the general fund reserve fund (4% fund) to twenty-one 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 March 14, 2012, was \$25,836,951. This consists of unrealized revenue for fiscal year 2012 in the amount of \$10,256,362. 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:

Assessor of Property - \$56,000 for the replacement of 16 computer tablets for in-field data collection.

Bordeaux Long-Term Care - \$10,800 to replace equipment.

Codes and Building Safety - \$8,000 to replace four printers.

Criminal Court Clerk - \$105,600 for a bond division retrofit and an upgrade to the property and evidence room.

Sheriff – \$650,000 for roof repairs.

Election Commission - \$405,000 for electronic poll books for voting sites and for the replacement of printers and scanners.

Fire - \$600,000 for the replacement of firefighting equipment, personal protective equipment, durable medical equipment, and building repairs.

General Hospital - \$258,100 to replace an imaging system.

General Services – \$5,330,000 for replacement vehicles and a \$30,000 renovation of the arts commission offices. A document provided by the department of general services detailing the vehicles to be purchased is attached to this analysis.

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RESOLUTION NO. RS2012-203 (continued)

Historical Commission - \$20,000 for historic markers and replacement posts.

Information Technology Services – \$1,500,000 for the ITS revolving fund to replace 750 desktop computers and 375 laptops.

Internal Audit - \$45,800 for new computer hardware and software.

Justice Integration Services - \$30,000 for the upgrade and replacement of servers and software.

Knowles Home - \$31,100 to replace a compressor.

Public Defender - \$38,000 for to purchase 25 scanners and 90 file cabinets.

Health - \$75,000 to repair an x-ray machine and for building maintenance/repairs.

Municipal Auditorium - \$400,000 to upgrade the HVAC and electrical system, and to replace doors, a water pipe, a sump pump, and air intake louvers.

Public Library - \$2,000,000 for new and replacement books, periodicals and library materials, and miscellaneous library maintenance and repairs.

Parks & Recreation - \$613,000 for various equipment, maintenance, repairs and renovations, including improvements to Adventure Science Center.

Police - \$927,000 to replace 300 police car laptop computers.

Public Works - \$375,000 for nondescript miscellaneous equipment.

RESOLUTION NO. RS2012-204 (CLAIBORNE & MCGUIRE) – This resolution approves an amendment to a grant from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds.

MDHA has contracted with the Metropolitan historical commission to review MDHA proposals and identify historic properties potentially affected by each proposal.

The resolution provides that the grant will be extended through March 31, 2013, and the grant amount will be increased by \$20,000 for a new grant total of \$40,000. However, the council office has been advised that the intent of the resolution was to only extend the term, not increase in the award. This resolution should be amended to clarify the matter if the grant amount is not to be increased.

RESOLUTION NO. RS2012-205 (LANGSTER & MCGUIRE) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metropolitan board of health for the Healthy Start initiative. The purpose of the Healthy Start program is to provide a variety one-stop service center for pregnant and parenting women to provide assistance regarding child health. These funds are used to provide access to adequate prenatal and well child healthcare, and to promote child development. The amendment authorizes the carryover of unobligated funds in the amount of \$159,514 from year two of the grant to increase the funds for year three from \$745,672 to \$905,186.

RESOLUTION NO. RS2012-206 (CLAIBORNE, PRIDEMORE & OTHERS) – This resolution approves a sixth application for a hazard mitigation grant from the Tennessee Emergency Management agency and authorizes the department of water and sewerage services (MWS) to acquire 25 homes located within various floodways/floodplains in Davidson County. Ordinance No. BL2010-765 authorized such action to be taken upon approval of a resolution receiving 21 affirmative votes once the funding was made available. The Tennessee emergency management agency is accepting additional grant applications for the home buyout program in an amount not to exceed \$3,995,600, with a local match of \$570,800. The federal emergency management agency has already awarded Metro \$7,097,318 to acquire 81 homes in the Delray Drive and West Hamilton Avenue areas, which was the subject matter of Resolution No. RS2010-1466 approved in December 2010. The council approved three subsequent grant applications totaling \$31,153,872.50 to acquire 218 additional homes.

RESOLUTION NO. RS2012-207 (HUNT) – This resolution is an annual housekeeping matter required by state law to classify 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. BL2011-55, including any changes since the adoption of the map, will be officially classified as public roads.

RESOLUTION NO. RS2012-208 (GILMORE) – This resolution authorizes Sandwich Stackers, LLC to install and maintain an aerial sign encroachment by Revolution Real Estate over the public right-of-way at 216 4th Avenue South for the benefit of the Which Wich sandwich shop. Sandwich Stackers must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this wall-mounted building sign, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2012-209 (JOHNSON) – This resolution approves the election of one notary public. The recent rule change approved by the council regarding public hearing meetings now allows notary resolutions to be approved at any meeting of the council.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-118 (CLAIBORNE, MCGUIRE & TYGARD) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes for the benefit of the proposed Gaylord-Dollywood water and snow park. Gaylord Entertainment and Dollywood Co. plan to jointly develop a \$50 million water and snow theme park to be located on 114 acres owned by Gaylord at the intersection of Briley Parkway and McGavock Pike. Once constructed, the park will be operated by Dollywood. Construction on the park is expected to begin in 2013, with an opening date not later than June 2015.

The 114 acre site where the park is to be located is currently appraised at \$11,751,400 for property tax purposes, and generates approximately \$194,000 in taxes for Metro annually. Using the \$44.5 million construction cost estimate would result in a total new appraised value of approximately \$56,251,400. Gaylord currently pays approximately \$11 million in property taxes annually for all of the property the company owns in Davidson County.

State law permits local governments to delegate the authority to industrial development boards to enter into payment-in-lieu-of-tax (PILOT) agreements provided that the payments are in furtherance of the public purpose of the board. PILOT agreements essentially provide tax abatements for real and/or personal property taxes the company would otherwise be required to pay to the Metropolitan Government. PILOT programs have been used by Metro in the past to provide incentives to large employers to create more job opportunities, and are subject to approval by the council. The amount of tax abatements over the life of the existing PILOT agreements total approximately \$100,000,000, exclusive of economic incentive grants approved by the council.

Pursuant to this ordinance, the council is delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes over a period of 12 years beginning January 1, 2014, or the date the IDB enters into the lease agreement. The agreement will result in a 60% abatement of real and personal property taxes. Using a real property value of \$56.2 million after construction, the total amount of the property tax abatement over the 12 years would be approximately \$5.8 million. Metro would receive 40% of the property taxes, which would amount to approximately \$371,300 annually after construction is complete compared to the \$194,000 currently being generated on the property annually. The total amount of property taxes paid to Metro over twelve years after the abatement would be approximately \$3.87 million, compared to \$2.33 million if the park was not constructed.

According to an economic impact study prepared by William Fox of the University of Tennessee Center for Business and Economic Research, this park is expected to have an overall economic impact of \$106 million during the construction phase and \$66.9 million annually during the operational phase. The study estimates the creation of 762 jobs at the park (not including construction-related jobs) and total annual spending at the park in the third year of operation to be \$18.7 million, with an increase in total output of \$22.6 million annually resulting from the in-park spending, which would generate \$400,000 in local sales tax annually. This does not include the estimated \$300,000 in local sales tax generated as a result of the purchase of construction materials.

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ORDINANCE NO. BL2012-118 (continued)

Similar to the HCA PILOT deal on third reading (Ordinance No. BL2012-116), this ordinance includes certain performance milestones that must be met in order to continue the tax abatement. The performance milestones Gaylord/Dollywood must meet are as follows:

- Begin construction no later than the end of 2013
- Retain a Nashville-area general contractor
- Conduct a jobs fair prior to opening the park in an attempt to employ Davidson County residents
- Open the park not later than June 2015
- Invest at least \$50 million in Davidson County: \$20 million by 12/31/2014; \$40 million by 7/1/2015; and \$50 million by 7/1/2020

Failure to meet any of these performance milestones will not result in a “claw back” of the abatement, but the PILOT will terminate the year subsequent to the year the milestones are not met.

ORDINANCE NOS. BL2012-119 & BL2012-120 – These two ordinances authorize the filing of notices of land use restrictions with the register of deeds for property owned by the Metropolitan Government. The property in question consists of a small portion of three parcels adjacent to 28th Avenue North acquired for the 28th Avenue Connector and property located within the Korean Veterans Boulevard right-of-way for the new Cumberland play park on the east bank of the river. Both of these properties contain contaminated soil, which has been remediated to the extent practicable. The Tennessee department of environment and conservation (TDEC) has determined that filing the land use restrictions is an appropriate additional remedial action. Prior to any invasive activity on the property and/or prior to the use of any part of the properties as a residence, daycare, school, or church, evidence must be submitted to TDEC showing that the proposed action will not pose a danger to the public or to the environment. These restrictions will run with the land in perpetuity unless cancelled by TDEC. Amendments to these restrictions may be approved by resolution.

Ordinance No. BL2012-119 (Langster, Claiborne & Hunt) authorizes the execution and filing of a notice of land use restrictions for a small section of property owned by Metro adjacent to 28th Avenue North. This property is the location of contaminated soil and groundwater that has been capped in a manner designed to prevent human contact. The restrictions require TDEC approval before removing soil, disturbing the groundwater, or removing any concrete or asphalt.

Ordinance No. BL2012-120 (Claiborne & Hunt) authorizes the execution and filing of a notice of land use restrictions for property next to the new Cumberland play park downtown. This soil is known to be contaminated with arsenic, lead, and Polyaromatic Hydrocarbons at concentrations that exceed the EPA’s regional screening levels. The soil management plan for the project approved by TDEC involved the reuse of the impacted soil in protective units and engineered covered areas. Metro will be required to notify TDEC prior to any grading or excavation activity on the property if such activity would involve any disturbance of the cap over the subsurface soil.

ORDINANCE NO. BL2012-121 (JOHNSON) – This ordinance amends the “passenger vehicle for hire” regulations in the Metropolitan code to exclude shuttle vans that solely provide transportation to and from a parking facility and the airport. In June 2010, the council enacted Ordinance No. BL2010-685 to provide specific regulations applicable to non-taxi passenger vehicles for hire similar to the regulations in place for taxicabs. In that ordinance, vehicles and services were divided into three categories: livery, shuttle, and special-purpose passenger vehicles for hire. The ordinance defined "shuttle" as a vehicle transporting not more than fifteen passengers, and provides that shuttle services (1) are limited to those vehicles specifically labeled on the exterior as a shuttle; (2) must use pre-approved routes; and (3) must charge a fare based upon a per-passenger basis, not a meter or mileage. Such passenger vehicle-for-hire companies and their drivers must be licensed by the transportation licensing commission (TLC), and a permit must be obtained for each vehicle after an annual inspection.

This ordinance would exempt shuttle vans from regulation if they are only used to transport passengers from a park-and-fly lot to the airport and back. The transportation licensing commission director has estimated that this ordinance would result in a loss of \$1,700 in license and permit fee revenue to the commission.

The council office recommends a housekeeping amendment to this ordinance to also amend the definition of “shuttle service” to specifically exclude these park-and-fly shuttles before this ordinance moves to third reading.

SUBSTITUTE ORDINANCE NO. BL2012-122 (MCGUIRE) – This ordinance approves a third extension to the term of the cable television franchise held by Comcast. The original franchise was granted to Viacom in 1995, which was subsequently transferred to Intermedia and then Comcast. The term of the 1995 franchise agreement, which was originally set to expire on May 5, 2010, was extended for two additional one year periods in order to allow the CATV special committee to negotiate a new franchise agreement with Comcast. The parties continue to negotiate regarding this matter and the CATV special committee has recommended another extension of the cable franchise through May 5, 2013.

Comcast has agreed to make a \$100,000 contribution for public, educational and governmental (PEG) access support, which is the annual contribution amount the company has been making under the existing franchise agreement. The recitals to the ordinance state that the CATV committee is in the process of reviewing Comcast’s performance under the initial agreement and wishes to explore the possibility of informal franchise renewal that would require approval of the council by ordinance. The ordinance also authorizes the CATV special committee to consider whether changes or modernizations need to be made to the code “to remove any unnecessary administrative burdens, reports, and other obsolete requirements and redundancies”, and to recommend such changes to the council at the time the franchise renewal is presented for approval.

ORDINANCE NO. BL2012-123 (TENPENNY, PRIDEMORE & OTHERS) – This ordinance abandons a portion of Alley No. 1863 from Elberta Street southward to Alley No. 1874. This closure has been requested by Ralph James Corrin, III, an adjacent property owner. This ordinance also abandons all easements in the right-of-way.

This ordinance was approved by the traffic and parking commission but disapproved by the planning commission.

ORDINANCE NO. BL2012-124 (MCGUIRE & HUNT) – This ordinance abandons four stormwater easements for properties located at 3711 and 3715 Crestview Drive. These easements are no longer being used by the department of water and sewerage services. David Lipscomb University, the owner of the Crestview Drive properties, has requested the abandonment of these easements.

This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2012-92 (DOMINY, DUVALL & OTHERS) – This ordinance amends the Metropolitan zoning code pertaining to the period of inactivity for nonconforming uses and for nonconforming structures damaged by a natural disaster. The state “grandfather law” allows certain existing nonconforming businesses and multi-family developments to remain and continue operation after a change in local zoning regulations makes the business/development no longer technically in compliance with the law. These protections allow such nonconforming properties to cease operation for up to 30 continuous months before being required to comply with new zoning laws. The 30-month timeframe is tolled while the use of the property is the subject matter of litigation or if actions have been taken within 30 months to restore the structure on the nonconforming property.

The Metro zoning code currently does not reflect this 30 month protection under state law nor does it include the provisions pertaining to litigation. Further, the zoning code does not include any protections for nonconforming residences and businesses that were damaged by flood and remain uninhabitable.

First, this ordinance would codify the 30-month period of inactivity state law provision for nonconforming uses into the Metro zoning code. Although the state nonconforming use law trumps any local law to the contrary, it is appropriate that our zoning code be consistent with the state law provisions. Second, this ordinance would toll the 30-month period of inactivity regarding the use of the property while the property is in litigation or while the property is damaged as a result of a natural disaster for which state and/or federal disaster assistance has been provided (i.e., the May 2010 flood).

Lastly, the ordinance includes provisions for nonconforming structures that are damaged or destroyed by a natural disaster for which state and/or federal disaster assistance has been provided. The 30-month state law provision applies to inactivity of the nonconforming use. Thus, a business that shut down because of flood damage in May 2010 would have to begin reconstruction work not later than November 2012 in order to maintain its protected status. Nonconforming single-family residences, which are not subject to the state 30-month tolling provision, technically only have 12 months under the zoning code to rebuild. Damaged nonconforming duplexes in a RS district have 24 months to rebuild. This ordinance would give all nonconforming structures, whether commercial or residential, 60 months in which to rebuild after such a disaster.

The planning commission approved this ordinance with several suggested revisions, including: (1) making the ordinance applicable for all natural disasters as long as the property owner can show the weather damage was reported and documented; (2) specifying that the tolling provision would apply from the date of damage; and (3) providing that the period of inactivity could not extend beyond 60 months from the date of damage.

ORDINANCE NO. BL2012-110 (JERNIGAN & HARMON) – This ordinance amends the Metropolitan Code to permit the electronic filing of annual disclosure statements and benefits reporting statements required by the Metro ethics laws. Certain Metro officials are required to file these statements in January each year to provide notice to the public regarding any potential conflicts of interest. The disclosure requirements apply to the following officials: (1) the mayor; (2) all employees in the mayor's office, including the members of the mayor's cabinet; (3) the employees in the council office; (4) the holders of all elected offices authorized or created by the Metropolitan Charter; and (5) all directors, executive directors, assistant directors, and associate directors of Metropolitan Government agencies, boards, and commissions, excluding Nashville Electric Service, the Metropolitan Nashville Airport Authority, the Metropolitan Development and Housing Agency and the Metropolitan Transit Authority (as Metro has no authority over these excluded agencies per the Charter and/or state law).

The code currently requires the disclosures to be personally signed by the employee and signed by a witness before filing. This ordinance will enable officials to file the statements online through the Metro clerk's website in essentially the same format used by the state ethics commission. The electronic disclosure must include the printed first and last name of the public official with an acknowledgment that the information included on the form is true to the best of the official's belief. The electronic statement must also include the first and last name of one witness attesting that the official's name was entered on the form in the presence of the witness.

This ordinance will not only save time and effort for the officials filing the disclosures, but will also hopefully enable the information to one day be accessible by the public online instead of obtaining a paper copy from the Metro clerk's office. The department of information technology services has already begun developing the necessary program to implement the ordinance.

ORDINANCE NO. BL2012-111 (ALLEN) – This ordinance amends the Metropolitan Code to enable the use of curb and street surface painting to identify areas where parking is prohibited or where a parking time restriction is imposed. The code currently provides that it is the duty of the department of public works to erect appropriate signs giving notice when any parking time is imposed or when parking is prohibited on designated streets. No such regulations are to be effective unless the signs have been installed.

This ordinance would allow the department of public works, at the department's discretion, to paint the curbs or street surface giving notice of the designated area in lieu of the erection of signs. According to information provided by public works, the cost to install a standard no parking sign is \$50, with an average life span of 12 years. The cost to paint concrete curbs is approximately five dollars per foot with an average service life of four years.

ORDINANCE NO. BL2012-112 (HUNT & MCGUIRE) – This ordinance authorizes the acquisition of two utility easements for properties located at 7218 and 7220 Nolensville Road for a sewer project in the Town of Nolensville. Metro currently provides sewer service to residents of Nolensville. These customers pay the same rate as all other customers of the department of water and sewerage services.

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ORDINANCE NO. BL2012-112 (continued)

The estimated total cost for these easement acquisitions is \$4,000, which is to be paid from the water and sewer extension and replacement fund. The acquisition of additional easements for this same project may be approved by resolution.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-114 (HARRISON) – This ordinance amends the Metropolitan Code to allow beer distributors to have two places of businesses if the two locations are on contiguous properties. The former city of Nashville council enacted an ordinance in 1960 prohibiting beer wholesalers or distributors from maintaining more than one place of business except for those distributing only draft beer. This restriction was retained after the consolidation of the city and county governments in 1963, and has remained on the books ever since.

This ordinance would allow beer distributors to have a second place of business as long as the additional place of business is on contiguous property and is operated by the same legal entity.

ORDINANCE NO. BL2012-115 (ALLEN, LANGSTER & OTHERS) – This ordinance, as amended, amends the Metropolitan Code to prohibit smoking on hospital grounds and within the public right-of-way in the vicinity of hospital entrances. In 1994, the state legislature passed a law preempting local governments in Tennessee from enacting any legislation regulating the use of tobacco products. This law was amended by the General Assembly last year to carve out a narrow exception allowing local governments to prohibit smoking near hospital entrances. The state law now provides that local governments may prohibit smoking on the grounds of a hospital or in the public areas immediately outside of a hospital building and its entrances, including public sidewalks. The state law further provides that the local government may prohibit smoking within 50 feet from a hospital's entrance unless the application of a fifty foot limit would place hospital patients in a potentially unsafe condition, in which case the fifty foot limit may be extended to such distance as is necessary to ensure patient safety as determined by the local government's legislative body in consultation with representatives of any hospitals that are subject to the ordinance.

St. Thomas Health Services (St. Thomas Hospital and Baptist Hospital), Vanderbilt University, and Nashville General Hospital have submitted written requests seeking to have the 50 foot limitation extended to two hundred 200 feet in the vicinity of their hospitals in the interest of protecting public health. This ordinance would prohibit smoking on all hospital property and within 50 feet of hospital entrances, except that the 50-foot limitation will be extended to 200 feet for St. Thomas, Baptist, Vanderbilt, and Nashville General hospital facilities as long as signs are posted designating the area as nonsmoking. Violators would be subject to a \$50 fine if cited by a police officer and found guilty in environmental court.

ORDINANCE NO. BL2012-116 (MCGUIRE, BEDNE & OTHERS) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes for the benefit of HCA – Information Technology & Services, Inc. HCA currently operates four technology/data centers in Tennessee, two of which are located in Davidson County at 2555 One Park Plaza and 490 Metroplex Drive. HCA employs approximately 1,200 full-time employees and 180 contract employees at these two facilities. HCA plans to build a 76,000 square-foot regional data center on 55 acres of property (consisting of three separate parcels to be consolidated) located at the Crossings on Old Franklin Road in Antioch. HCA is also planning to expand two of its four ITS facilities. The first phase of the new regional data center is expected to be completed in 2013, with the final phase completed by December 31, 2017.

The new facility and expansion of the two existing facilities are expected to result in a total investment by HCA of \$200 million by December 31, 2017, and the creation of 155 new full-time jobs. The 55 acre site where the new facility will be constructed is currently appraised at \$1,576,900 for property tax purposes, and generates approximately \$26,000 in taxes for Metro annually. HCA purchased the property in July 2011 for \$2,229,484. Once constructed, the value of the new data center is estimated to be \$21,600,000.

According to its latest SEC filing, HCA is the largest non-governmental hospital operator in the U.S. and is a leading comprehensive, integrated provider of health care and related services. As of December 31, 2011, HCA operated 163 hospitals and 108 freestanding surgery centers. In 2011, HCA generated revenues of approximately \$30 billion and had a net income of approximately \$2.5 billion.

State law permits local governments to delegate the authority to industrial development boards to enter into payment-in-lieu-of-tax (PILOT) agreements provided that the payments are in furtherance of the public purpose of the board. PILOT agreements essentially provide tax abatements for real and/or personal property taxes the company would otherwise be required to pay to the Metropolitan Government. PILOT programs have been used by Metro in the past to provide incentives to large employers to create more job opportunities, and are subject to approval by the council. Some of the PILOT agreements from previous years include Columbia/HCA Healthcare Corporation, Inc., Dell Computer Corporation, Omni Hotel (for the convention center headquarters hotel), and LifePoint. The amount of tax abatements over the life of the existing PILOT agreements totals approximately \$100,000,000, exclusive of economic incentive grants approved by the council. The previous PILOT for HCA was approved in 1995 for a 100% abatement for 10 years.

Pursuant to this ordinance, the council is delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes over a period of 7 years from the date the PILOT agreement is entered into with the IDB. The agreement will result in a 60% abatement of real and personal property taxes for the new data center, and a 60% abatement of personal property taxes for the personal property (mostly computer equipment) acquired and used in connection with the expansion of the existing facilities. Using a property value of \$21.6 million, the total amount of the real property tax abatement over the seven years would be approximately \$1.5 million. The value of the taxable personal property for the new data center (continued on next page)

ORDINANCE NO. BL2012-116 (continued)

and the expanded centers is estimated to be \$50 million, which will depreciate over time. The Mayor's office of economic and community development has estimated the total personal property tax abatement to be \$1,546,272 over seven years, for a total abatement of real and personal property taxes of approximately \$3 million.

Unlike other PILOT deals the council has recently approved, this ordinance includes certain performance milestones that must be met in order to continue the tax abatement. HCA must create at least 155 full time jobs in Davidson County over the life of the abatement: 50 by the end of 2013, 80 total by 2014, 110 total by 2015, 140 total by 2016, and 155 by 2017. Also, HCA must invest at least \$200 million over the life of the abatement: \$75 million by the end of 2013, \$125 million by 2014, \$150 million by 2015, \$175 million by 2016, and \$200 million by 2017. HCA will be required to provide the IDB with proof that the performance milestones have been met on an annual basis. Failure to meet any of these performance milestones will not result in a "claw back" of the abatement, but the PILOT will terminate the year subsequent to the year the milestones are not met. It is important to note that any new full time job created in Davidson County and any new investment made in Davidson County after January of this year will count towards these milestones, regardless of whether the jobs and investment are a direct result of the new and expanded data centers.

Although not a part of this deal, the council's approval in May 2011 of an agreement with HCA for the exchange of property and construction of a new public health center contemplated that HCA may obtain a tax abatement on the Lentz property in the form of a PILOT agreement through the IDB. Such PILOT agreement would provide a 100% tax abatement for the first five years, and a 50% abatement for the next five years. The IDB authority to negotiate a PILOT agreement with HCA would be subject to approval of the council by ordinance.

Ordinance No. BL2012-118 on second reading would provide another property tax abatement in the form of a PILOT agreement for the Gaylord/Dollywood snow and water park.