

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **June 5, 2012**

RE: **Analysis Report**

Balances As Of:	<u>5/30/12</u>	<u>5/11/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$12,359,151	\$11,853,490
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$41,112,057	\$34,451,634
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**

– BILLS ON PUBLIC HEARING AND SECOND READING –

ORDINANCE NO. BL2012-159 (MCGUIRE) – This ordinance adopts the capital improvements budget for 2012-2013 through 2017-2018. A separate analysis including a list of projects by district has been provided to the council. The capital improvements budget is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the council, except in the case of a public emergency.

This budget is amendable on third and final reading. The Charter requires the council to adopt the capital improvements budget not later than June 15th of each year. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the mayor, and then be adopted by resolution of the council receiving twenty-seven (27) affirmative votes.

There will be an adjourned meeting of the council on June 12, 2012 in order to consider the capital improvements budget on third and final reading prior to the June 15th deadline set by the Charter.

ORDINANCE NO. BL2012-154 (MCGUIRE) – This ordinance is the operating budget of the Metropolitan Government for the fiscal year 2012-2013. The budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 731,344,100
• Schools Fund of the General Services District	720,420,300
• Schools Debt Service Fund	47,063,600
• Debt Service – General Services District	<u>87,812,700</u>
TOTAL GENERAL SERVICES DISTRICT BUDGET	\$1,586,640,700
• General Fund of the Urban Services District	\$ 108,126,400
• Debt Service – Urban Services District	<u>15,426,000</u>
TOTAL URBAN SERVICES DISTRICT BUDGET	\$ 123,552,400
TOTAL OPERATING BUDGET	\$1,710,193,100

The substitute budget adopted by the council for the current fiscal year is \$1,585,778,700. The mayor's proposed budget represents an overall increase of \$124,414,400 (7.8%).

The budget does not appropriate any money from unreserved fund balances. The budget for the current fiscal year appropriated \$9,661,900 from the schools debt service fund balance and \$13,435,500 from the general fund of the urban services district.

An increase of \$0.53 in the GSD general fund property tax rate is being proposed. This would be an increase of 14.9% in the GSD tax rate. Since no increase in the USD general fund property tax rate is being requested, the net increase for the combined GSD/USD rate would be 12.8%.

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ORDINANCE NO. BL2012-154 (continued)

The increase in the property tax rate is estimated to generate an additional \$100 million in revenue. This would raise the median tax bill by approximately \$192 per year. Along with this increase, the Trustee's Tax Relief Program is being expanded for the elderly, disabled, and veterans who qualify. With this expansion, the state match is being doubled so that the first \$873.75 of property tax would not be paid. The number of participants who pay nothing would also double.

Local option sales tax revenues are projected to be \$294,945,800 in the proposed budget, an increase of \$30,749,200 over the current budget.

Although the revenue increase in the proposed budget is significant, the majority of the items to be funded by the increase are non-discretionary. An analysis prepared by the finance department identifies a total of \$96,597,500 in non-discretionary increases, including the following:

Resolution No. R89-959 established a policy of maintaining a fund balance equal to or greater than 5% of the budget for the GSD General Fund, the USD General Fund, and the General Purpose School Fund. This requirement was expanded in 2006 by an office of management and budget (OMB) policy to include the three primary budgetary debt funds in addition to these operations funds. The mayor's proposed budget is projected to result in the following fund balance percentages by June 30, 2013:

The proposed budget includes \$13,266,800 in the GSD General Fund and \$3,076,500 in the USD General Fund for a new pay plan for Metro employees. This would be the first pay plan increase since July 1, 2007. These amounts would fund a two-tiered plan, with a 4% raise for the majority of employees. Department heads and employees in higher job classifications would receive a 2% raise.

The proposed budget includes reductions in the general fund departments ranging from 0% to 4%. The overall reduction to the operating budgets of the general fund departments is approximately \$3,000,000 (0.5%). These reductions are not projected to result in any employee layoffs.

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ORDINANCE NO. BL2012-154 (continued)

The proposed budget includes a subsidy of \$43,190,700 for the hospital authority, which is the same as the subsidy for fiscal year 2012. From this subsidy, \$35,859,488 is being provided for the operating budget and \$7,331,212 for the final repayment of outstanding debt due to Metro for capital projects.

Other increases in the proposed budget include the following:

The proposed budget includes the same mechanism for appropriating grants to non-profit organizations as the previous four budgets. In addition to a small number of direct contributions to non-profit agencies, the proposed budget for fiscal year 2013 would award funds to other agencies that best meet the priorities of the city from three categories. They are as follows:

The mayor's proposed budget only includes a few new or increased appropriations for specific programs and/or nonprofit organizations. These include:

New stormwater fees went into effect on July 1, 2009. This made it possible for the budget to provide for dedicated stormwater funding of \$13,285,500 in fiscal year 2012. This has been increased to \$13,636,400 for stormwater operations in fiscal year 2013, although \$14,443,200 is budgeted for stormwater revenues. The difference of \$806,800 will be added to the stormwater fund balance.

The proposed budget for the Schools General Purpose Fund is \$720,420,300, which is the full amount requested by the school board as part of their revised budget. This is an increase of \$46,385,500 over the fiscal year 2012 budget. There is also a separate line item in the ordinance appropriating (continued on next page)

ORDINANCE NO. BL2012-154 (continued)

\$373,600 for administrative support for Metro schools, down from \$404,300 in the current budget. In addition, \$950,300 is included in the ordinance for the Nashville After School Alliance Initiative, up from \$800,300 in the current budget.

The undesignated fund balance of the schools fund is projected to be \$37,400,000 at the end of fiscal year 2013, or 5.2% of the operational budget. According to state law, funds cannot be appropriated from the schools fund balance if such appropriation would cause the balance to drop below 3%.

The budget ordinance is amendable on third reading.

ORDINANCE NO. BL2012-153 (CLAIBORNE, WESTERHOLM & ALLEN) – This ordinance amends the Metro zoning code to delete the requirement that two-family dwellings in the historic overlays be physically connected. The zoning code currently provides that two-family units (duplexes) within the urban zoning overlay (UZO) must be built as an attached unit with a shared common wall or a connection of at least eight feet. The connection must be fully enclosed space with a roof, walls, and floor. Outside of the UZO, a duplex can be two separate structures as long as there is a minimum distance of at least ten feet between the two units.

This ordinance would delete the connection requirement for a two-family unit constructed in a historic overlay district. The connection requirement would remain for properties located outside of a historic zoning overlay. This ordinance has been approved by the planning commission.

– RESOLUTIONS –

RESOLUTION NO. RS2012-245 (MCGUIRE & BARRY) – This resolution provides additional compensation for the Davidson County criminal court clerk in an amount equal to ten percent of his base compensation pursuant to state law. State law sets the minimum salaries for county officials based upon the population of the county and a complicated escalator formula tied to the general increases in state employee compensation. The county officials include the sheriff, the property assessor, the county clerk, the court clerks, the trustee and the register of deeds. State law provides that county officials must all receive the same salary, but includes an exception for the sheriff, as well as for court clerks that serve more than one court. Upon approval of the local legislative body, such court clerks may receive additional compensation in the amount of ten percent of their base salary to compensate them for “the additional duties and time required to serve multiple courts.”

In June 2006, the council approved a ten percent salary increase for the Davidson County circuit court clerk and criminal court clerk. The circuit court clerk serves the eight circuit courts (including the probate court), the civil division of the general sessions court, and the traffic court. The criminal court clerk serves the criminal division of both the general sessions court and the state trial court. As a result of the documented work habits of former clerk David (continued on next page)

RESOLUTION NO. RS2012-245 (continued)

Torrence, the council revoked this additional compensation for the criminal court clerk in June 2011. Subsequently, Mr. Torrence resigned and Howard Gentry was appointed by the council and elected by the voters as criminal court clerk.

If approved, this resolution will restore approximately \$11,500 to the criminal court clerk's salary.

RESOLUTION NOS. RS2012-273 THROUGH RS2012-275 (MCGUIRE) – These three resolutions amend the pay plan for the employees of the Metropolitan Government, with the exception of the board of education, to delay increment raises for another year beginning July 1, 2012, in accordance with the mayor's proposed fiscal year 2013 operating budget, and to provide an across-the-board pay increase for all Metro employees. The last pay plan increase for Metro employees was in 2007. The council approved a freeze of the increment pay increases and longevity pay as part of the fiscal year 2010, 2011, and 2012 budgets. Increments are provided in the pay plan to provide step increases for certain employment classification on a six month, one year, eighteen month, or two year interval depending on the position. Thus, only a relatively small percentage of employees would be eligible for increments next fiscal year if they were funded.

The current operating budget submitted by the mayor provides funding for longevity pay and either a 2% or 4% pay raise for employees, depending on the employee's pay grade. Although the raise differential is based upon pay classification not salary, employees generally making less than \$70,000 would receive a 4% raise and employees making over \$70,000 would receive a 2% raise. These resolutions provide that the increments will be reinstated effective July 1, 2013.

The pay plans may not be amended by the council except by making uniform changes, as the relationship between pay grades must remain the same. The pay plan amendments have been approved by the civil service commission, the health board, and the mayor.

These resolutions should be deferred to track with the budget.

Resolution No. RS2012-273 approves the amendment to the pay plan for general employees of the Metropolitan Government.

Resolution No. RS2012-274 approves the amendment to the pay plan for employees of the fire and police departments.

Resolution No. RS2012-275 approves the amendment to the pay plan for the board of health employees.

RESOLUTION NO. RS2012-276 (MCGUIRE) – This resolution determines to issue \$297,660,000 in GSD general obligation bonds to provide funding for various projects contained in the mayor’s 2012-2013 capital spending plan. This is the first step in the process toward the ultimate sale of the bonds by public bid to provide the necessary financing for the projects. Approval of this initial resolution will allow the Metropolitan Government to use its commercial paper program to provide short term financing to commence construction prior to the sale of the long term bonds.

The capital spending plan will provide funding for 43 projects. Some of the projects to be financed include:

- \$12,000,000 for sidewalks
- \$9,500,000 to construct a library in Bellevue
- \$34,000,000 for parks improvements
- \$12,000,000 for new fire halls
- \$12,000,000 for building improvements for the general government
- \$13,000,000 for information technology upgrades, including the KIVA system used by various departments for permit issuance and tracking
- 37,660,000 for MTA buses and equipment, as well as infrastructure needed for the proposed Murfreesboro Road bus rapid transit route.
- \$97,000,000 for various schools projects

A detailed list of all capital projects to be funded by this bond issue, including the estimated cost for each project, is attached to this analysis.

This resolution should be deferred to track with the operating budget ordinance.

RESOLUTION NOS. RS2012-277 THROUGH RS2012-280 – These four resolutions propose amendments to the Metropolitan Charter. The council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective.

The election date provided in these resolutions is the November 6, 2012 presidential election. Pursuant to state law, charter amendments must be approved between 45 and 60 days prior to the election in order to be on the ballot. Thus, these resolutions should be deferred until the September 18, 2012 council meeting.

Resolution No. RS2012-277 (Jernigan) proposes to amend the Charter to allow Metro government employees to work as part-time poll workers for the election commission. The Charter currently prohibits employees from holding more than one position with the Metropolitan Government, with the following three exceptions:

- School personnel between school years may be employed to work in other departments;
- Certificated school personnel may be employed on a part-time basis to teach community education classes; and

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RESOLUTION NOS. RS2012-277 THROUGH RS2012-280 (continued)

- Non-elected Metro employees may be employed by the metropolitan board of public education on a part-time basis to lead, teach, or coach students in extra-curricular activities and/or to serve as substitute teachers.

This amendment would add a fourth exception to allow Metro employees to work as part-time poll workers for the election commission. This amendment is the result of an issue raised by the election commission concerning the inability of substitute school teachers to work as poll workers.

Resolution No. RS2012-278 (Tygard) proposes an amendment to the Charter to remove the requirement that the public works director be a licensed engineer. Neither the former nor current interim public works directors are licensed engineers. The director would still be required to have five years' experience in industry or in government public works.

Resolution No. RS2012-279 (Tygard) proposes an amendment to the Charter to align the elections of the mayor, vice mayor, and members of council with the statewide primary election starting in August 2016. This would eliminate the need for a separate election in August 2015 for these offices. The current council terms would be extended one year through August 31, 2016.

Resolution No. RS2012-280 (Gilmore) proposes an amendment to the Metropolitan Charter to allow the council to enact an equal opportunity interviewing policy to be implemented by the civil service commission that would prohibit the Metropolitan Government from inquiring about a job applicant's criminal history on the initial job application unless a criminal background check for the position is required by law or in the interest of public safety. This policy, often referred to as "ban-the-box", has recently been adopted in several cities across the country.

RESOLUTION NO. RS2012-281 (MCGUIRE & JERNIGAN) – This resolution approves a grant in the amount of \$155,000 from the Nashville Public Library Foundation to the Nashville public library to expand the Limitless Library program by renovating Hillwood High School's library. The Limitless Library program is a collaboration between the Nashville public library and Metro schools to integrate the two library systems to better serve students. These grant funds will be used to purchase new technology, furniture, and space configurations at Hillwood to reflect up-to-date services and materials.

RESOLUTION NO. RS2012-282 (MCGUIRE & JERNIGAN) – This resolution approves a second amendment to a grant from Vanderbilt University to the board of parks and recreation to collaborate on the Growing Right Onto Wellness (GROW) program. This 7-year initiative is a behavioral intervention to prevent childhood obesity. The grant funds are used to provide personnel to participate on the study steering committee and to run the intervention, as well as to cover transportation costs and materials. The amendment increases the amount of the grant by \$179,518 for a new grant total of \$376,228.67, and extends the term of the grant through April 30, 2013.

RESOLUTION NO. RS2012-283 (MITCHELL, MCGUIRE & JERNIGAN) – This resolution approves a grant in the amount of \$20,000 from the Tennessee Golf Foundation to the Metro board of parks and recreation to provide funding for an agronomy internship program at the VinnyLinks golf course at Shelby Park. The VinnyLinks is operated through a partnership between Metro parks and the Tennessee Golf Foundation’s First Tee of Nashville youth development program. These grant funds will be used to provide \$8,000 in 2012 and \$12,000 in 2013 to fund a seasonal intern position on the agronomy staff. The intern will work exclusively at the VinnyLinks golf course.

Starting in 2013, the intern will be selected from a pool of candidates from the University of Tennessee plant science program through references from the department chair. It is anticipated that this will be an ongoing internship program. Effective with the 2014 internship, the amount of the grant is to increase by five percent every two years to cover cost of living increases.

RESOLUTION NO. RS2012-284 (LANGSTER & MCGUIRE) – This resolution approves an amendment to a grant in 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. This amendment increases the amount of the grant for the home delivered meals by \$9,348, for a new grant total of \$1,019,340. The amendment also increases the amount of the local match by \$1,038.66. The term of the grant is from July 1, 2011 through June 30, 2012.

RESOLUTION NOS. RS2012-285 , RS2012-286 & RS2012-287 (LANGSTER & MCGUIRE) – These three resolutions approve applications for grants from the Greater Nashville Regional Council to the Metropolitan social services commission for personal care, transportation, and meal delivery services.

Resolution No. RS2012-285 approves an application for a pass-through grant in the amount of \$939,992 to provide meals at congregate meal sites and meal delivery services to eligible senior citizens. The breakdown for the grant would be as follows:

- \$450,700 for meal delivery services to eligible seniors, with a required cash match of \$50,078
- \$137,900 for congregate meal sites with no required local match
- \$300,992 to provide meals to be delivered to seniors in their homes, with a required local match of \$33,443.56
- \$50,000 in state funding to provide home delivered meals to seniors, with a required local cash match of \$5,600

Resolution No. RS2012-286 approves an application for a grant in the amount of \$70,300 for personal care and homemaker services. This grant would provide \$20.52 per hour for personal care services and \$20.44 per hour for homemaker services.

Resolution No. RS2012-287 approves an application for a grant in the amount of \$70,000 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide transportation to eligible seniors and handicapped residents. These federal pass-through funds will be used to continue to provide transportation to appointments and congregate meal sites for approximately 625 persons.

RESOLUTION NO. RS2012-288 (LANGSTER & MCGUIRE) – This resolution approves a contract between the Metropolitan board of health and St. Thomas Health to provide licensed medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) through a worksite POD 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 the worksite POD during a public health emergency. St. Thomas Health 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.

The council approved a similar agreement with Tennessee State University in 2011.

RESOLUTION NOS. RS2012-289 THROUGH RS2012-292 (MITCHELL & MCGUIRE) – These four resolutions approve interlocal agreements between the mayor’s office of emergency management and other municipalities to facilitate the purchase of equipment in accordance with the Port Security Grant Program funded by the U.S. Department of Homeland Security. These agreements are essentially to sub-grant a portion of the federal funds.

Similar agreements with Wilson County and Hendersonville were approved in February 2012.

Resolution No. RS2012-289 approves an interlocal agreement with the Tennessee Wildlife Resources Agency to sub-grant \$78,000 for the purchase of training courses.

Resolution No. RS2012-290 approves an interlocal agreement with Ashland City to sub-grant \$200,000 for the purchase of a boat.

Resolution No. RS2012-291 approves an interlocal agreement with the City of Clarksville to sub-grant \$313,000 to purchase a fire rescue boat and a patrol boat.

Resolution No. RS2012-292 approves an interlocal agreement with Stewart County to sub-grant \$51,190 for the purchase of a boat.

RESOLUTION NO. RS2012-293 (MCGUIRE) – This resolution approves a grant in the amount of \$2,038,772 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to establish programs and deliver services to prepare youth workers for entry into the labor force. This federal pass-through grant award provides part of the operational funds for the NCAC. The term of the grant is from April 1, 2012, through June 30, 2014.

RESOLUTION NO. RS2012-294 (HUNT, PRIDEMORE & OTHERS) – This resolution approves an agreement between the Madison Suburban Utility District (MSUD) and Metro water services (MWS) for reading and maintaining water consumption meters. MWS provides sewer transportation and treatment services to MSUD water customers. The billing practice currently in place regarding the sewer service provided by MWS to MSUD customers is for MSUD to bill (continued on next page)

RESOLUTION NO. RS2012-294 (continued)

and collect both the water and sewer charges and to remit the sewer portion to MWS. This new agreement will allow MWS to calculate and individually bill the sewer customers based upon the water meter readings provided by MSUD.

MSUD will electronically submit the meter readings to MWS. If a customer fails to pay MWS for the sewer service when due, the agreement provides that MSUD will disconnect the water service at Metro's request. MWS will pay MSUD \$0.45 for each meter reading.

The term of this agreement is for 10 years commencing July 1, 2012, but may be terminated by either party upon 180 days written notice.

State law provides that agreements between public agencies may be approved by resolution.

RESOLUTION NO. RS2012-295 (ALLEN, HUNT & MCGUIRE) – This resolution approves agreements between Metro water services (MWS), Nashville electric service (NES), and the Tennessee Valley Authority (TVA) for the purchase of electricity generated by wind and solar units. The council approved an agreement in 2011 between MWS and Vanderbilt University for a pilot program to install wind and solar power generating facilities on the MWS reservoir at the top of Love Circle. The purpose of this pilot program is to demonstrate the feasibility of setting up alternative energy power generation facilities for remote areas. MWS agreed to fund the \$97,000 cost of installing wind and solar power generating facilities on the reservoir property, and to maintain the facilities. Vanderbilt is responsible for supervising the purchase and installation of the wind turbine and solar panels, and is responsible for the engineering and research services for the project. At the time the agreement was approved, it was estimated that the facilities placed on the property would generate approximately 30 kilowatts of power per day, which is the average daily electricity consumption per household in the United States.

These agreements provide the mechanism by which MWS will receive a credit on its electric bill as a result of the electricity generated by the Love Circle wind and solar units.

RESOLUTION NO. RS2012-296 (GILMORE, MCGUIRE & HUNT) – This resolution authorizes the director of public property administration to exercise an option to purchase three parcels of property for the benefit of Metro water services. The Metro code provides that whenever land is to be purchased for government purposes other than as public right-of-way, the director of public property administration is to obtain an option to purchase the property at a fixed price subject to the approval of the council by resolution. An option has been negotiated to purchase 125.85 acres of property located at 0 Pumping Station Road, 1214 Lebanon Pike and 1450 Lebanon Pike for \$12,439,000. The purchase price is equal to the value assigned to the property by an independent appraiser retained by MWS.

This property is located next to the existing Omohundro water treatment plant. Metro water services desires to acquire these three parcels to address long term capital needs in order to comply with environmental regulations and with the terms of the 2009 consent decree with the (continued on next page)

RESOLUTION NO. RS2012-296 (continued)

U.S. environmental protection agency (EPA). Metro entered into this agreement with the federal courts to clean up Nashville's waterways by reducing the flow of sewage into the Cumberland River and its tributaries through the combined sewer overflow system during periods of heavy rain. The consent decree called for a corrective action plan and a long term capital plan to address these needs. One of the projects included in the corrective action plan is the construction of four 15 million gallon above-ground tanks with a 100 million gallons-per-day wet weather pumping station. Most if not all of this project would fit on the Pumping Station Road parcel to be acquired. This project will work in conjunction with a new trunk sewer line that will run through the other two parcels. These two projects total approximately \$300 million, which is over one-third of the corrective action plan total cost.

According to MWS, this property would also be an excellent site for a future new water treatment plant or the expansion of the Omohundro plant. As the council will recall, the May 2010 flood shut down the K.R. Harrington treatment plant for a month and came within a few feet of shutting down the Omohundro plant, which would have left Nashville without a source for safe drinking water. Finally, this property includes several buildings that could be used by MWS as administrative offices.

The funds for this property acquisition will be from bond proceeds issued for water/sewer capital projects.

The option contract provides that if the option is not fully executed before June 8, 2012, the offer to purchase will be rescinded. The seller will be required to pay property taxes owed for the current year pro-rated as of the date of closing. The term of the option contract is for 90 days from the date the council approves this resolution.

RESOLUTION NO. RS2012-297 (CLAIBORNE & MCGUIRE) – This resolution approves a grant in the amount of \$4,000 from the Tennessee Historical Commission to provide continuing education for staff and commissioners. These funds will be used to send four persons to the National Alliance of Preservation Commissions' biannual forum in Norfolk, VA in July 2012. There is a required local match of \$2,666.66 for this grant.

RESOLUTION NO. RS2012-298 (CLAIBORNE & MCGUIRE) – This resolution accepts certain incomplete infrastructure and property interests located within the Enclave at Twin Hills subdivision. This subdivision is one of the subdivisions abandoned mid-construction as a result of the downturn in the housing market prior to the completion of the necessary infrastructure intended for dedication to public use. In order to address the health and safety concerns associated with such unfinished subdivisions, the council enacted Ordinance No. BL2011-82 in February 2012 to create a mechanism for the acceptance of incomplete infrastructure. The ordinance allows Metro, upon the adoption of a resolution by the council, to accept incomplete (continued on next page)

RESOLUTION NO. RS2012-298 (continued)

roads, streets, sidewalks, water/sewer lines, storm water lines, and other similar infrastructure, along with the related property interests, in limited circumstances if the following conditions are satisfied:

1. An application to have the public infrastructure and/or property rights accepted is filed with the planning department by a member of council or by the department of public works, department of Metro water services, health department, fire department, police department, planning department, or codes administration.
2. The department of public works, Metro water services, and the department of finance review the application and make recommendations to the planning department for inclusion as part of the recommendation to the council.
3. The planning commission makes a recommendation to the council stating the reasons why the incomplete infrastructure presents a public health or safety concern in its present condition, identifying the infrastructure that must be completed in order to abate the health or safety concern, and describing characteristics that make it unlikely the infrastructure will be completed within a reasonable time by any private entity.
4. The incomplete infrastructure to be accepted must be shown on a subdivision plat approved by the planning commission between November 23, 1999 and January 17, 2008.

This resolution accepts certain incomplete road infrastructure in the Enclave at Twin Hills subdivision. The plat for this subdivision was approved by the planning commission in 2008. The cost for Metro to complete the roads is estimated to be \$162,450. Debt Solutions, LLC, which is the current owner of the 28 remaining vacant lots, has agreed to complete the remaining water, sewer, and storm water infrastructure for a total amount of \$164,270.42. The costs associated with the completion of sidewalks are to be borne by the builders of residences on the individual lots.

The planning, public works, water, and finance departments have all reviewed the application for the acceptance of this incomplete infrastructure and recommended its approval.

RESOLUTION NO. RS2012-299 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the personal injury and property damage claims of Timothy and Jennifer Babbs against the Metropolitan Government for the amount of \$153,000. On July 31, 2007, Timothy Babbs was injured at the fairgrounds property while working for Hugh Bennett Productions, who was an independent contractor that was installing new sound equipment in the agricultural sheds. Mr. Babbs was primarily employed as a truck driver, but helped out with sound equipment installations when driving work was slow. Mr. Babbs was assisting another employee with running speaker wire on the roof of Shed 4 when he fell through a concealed fiberglass skylight twenty feet to the ground. The skylight was not visible because it had been painted a white color and matched the corrugated roof of the shed. Mr. Babbs sustained injuries to his wrist and leg, which ultimately required four surgeries with a total medical cost of \$154,713.16. Mr. Babbs is also claiming \$12,000 in lost wages. Jennifer Babbs is claiming loss of consortium damages, as they had two small children at the time of the accident and their third child was born six weeks after the accident.

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RESOLUTION NO. RS2012-299 (continued)

If this case went to trial, the court would likely find that the shed roof was dangerous and that Metro had notice of it. Metro has a duty to warn independent contractors about dangerous or defective conditions on the premises. No employees of the fairgrounds have been able to assure that Hugh Bennett Productions was warned about the existence of the hidden skylights.

In light of the relatively clear liability, the extent of the injuries sustained, and the amount of medical bills, the department of law recommends settling the case for a total amount of \$153,000 to be paid from the self-insured liability fund.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-155 (MCGUIRE) – This ordinance adopts the property tax levy for fiscal year 2012-2013. The Metropolitan Charter provides that the council’s next order of business upon adopting the annual operating budget must be to adopt a tax levy that fully funds the operating budget. The pending tax levy proposed by the mayor is \$4.09 per \$100 of assessed value in the general services district (GSD) and an additional \$0.57 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.66 in the USD. This is a proposed increase of \$0.53 above the fiscal year 2012 tax levy. Each penny of the property tax generates approximately \$1.9 million in revenue.

The breakdown of the tax levy by fund is as follows:

1. GSD General Fund - \$2.01 per \$100 of assessed value
2. GSD School Fund - \$1.40 per \$100 of assessed value
3. GSD Debt Service Fund - \$0.43 per \$100 of assessed value
4. GSD School Debt Service Fund - \$0.25 per \$100 of assessed value
5. USD General Fund - \$0.46 per \$100 of assessed value
6. USD Debt Service Fund - \$0.11 per \$100 of assessed value

The mayor will propose a substitute tax levy to be offered on third reading to shift five cents from the GSD levy to the USD to ensure no referendum is triggered pursuant to the Charter. This means that if the mayor’s substitute levy is approved by the council, those living in the GSD would pay \$0.05 less per \$100 of assessed value than what the mayor originally proposed. An amendment to the Charter approved by the voters in 2007 provides that the tax rates cannot be increased above their 2007 levels unless approved by the voters at a referendum election. The 2007 property tax levy was \$4.04 in the GSD and \$0.65 in the USD for a total combined tax levy of \$4.69.

The tax levy is amendable on third reading.

ORDINANCE NO. BL2012-156 (MCGUIRE & CLAIBORNE) - This ordinance amends the Metro code to shift the collection authority for certain taxes from the county clerk to the department of finance. In 1991, the Tennessee General Assembly enacted legislation authorizing the council to designate a tax collection official for certain taxes. Using this state enabling legislation, the council designated the county clerk as the tax collection official. This ordinance has been brought in response to recent issues pertaining to the inability of the county clerk’s office to collect certain taxes and/or post the tax collection in a timely manner. There also has not been an adequate mechanism in place in the county clerk’s office to monitor and ensure compliance with the payment of required taxes.

The ordinance will move the collection of hotel occupancy and other tourist accommodation taxes (such as the rental car tax and the tax on contract vehicles leaving the airport pledged toward the convention center debt), wholesale beer and liquor taxes, and franchise fees from the county clerk’s office to the finance department. These taxes/fees account for approximately \$60 million in annual revenue.

The mayor’s proposed budget includes a \$157,300 reduction in the county clerk’s budget for the transfer of two FTE positions as a result of this ordinance.

ORDINANCE NO. BL2012-157 (MCGUIRE) - This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for fiscal year 2012-2013. This is an extension of a program that has been in place for a number of years. State law provides that funds shall be appropriated from the state general fund to qualifying low-income taxpayers 65 years of age or older to pay or reimburse such taxpayers for all or part of their local property taxes. In addition, state law allows county legislative bodies to appropriate funds for the purpose of providing assistance to low-income elderly residents of the county and to establish guidelines for participation in the program and the disbursement of such funds.

The council appropriated \$2,100,000 in the current fiscal year's operating budget for the property tax relief program for the elderly. The mayor's proposed fiscal year 2012-2013 budget includes a \$3,100,000 appropriation for this program, which means Metro would be doubling the amount the state has allocated.

This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$26,830 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2013.

ORDINANCE NO. BL2012-160 (STEINE) – This ordinance amends the victim-offender mediation litigation tax provisions to authorize the collection of an additional \$1.00 litigation tax on all cases in the general sessions and juvenile courts to fund centers that handle victim-offender mediation and other community mediation matters. The council enacted a \$1.00 litigation tax in 2004 for all cases in the general sessions and juvenile courts to provide funds that must be used exclusively for victim mediation centers duly certified under state law. At the time, state law allowed local governments to impose such a tax as long as all of the revenue is distributed monthly to qualified victim-offender mediation centers. The 2004 ordinance provided that the district attorney would be responsible for developing guidelines for the administration of the funds in consultation with judicial officials and the Nashville Bar Association. The ordinance was amended by Ordinance No. BL2011-2 in December 2011 to allow the tax funds to be used for other mediation programs as a result of a 2011 state law change.

The state law was amended again in 2012 to allow local governments to increase this litigation tax by \$1.00 for a total tax of \$2.00 to be used for mediation services. This ordinance would approve the \$1.00 increase and would provide that all funds be deposited into the Metro general fund and be administered by the finance department. The district attorney no longer deems it necessary that his office have involvement in the collection and disbursement of the funds. The proceeds of this litigation tax are to be disbursed on a monthly basis to the Nashville Conflict Resolution Center, as provided in the fiscal year 2013 operating budget ordinance.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2012-144 (BAKER & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O92-290 when a portion of the 45th Avenue North right-of-way was abandoned at 4414 and 4502 Illinois Avenue. The easements are no longer being used by the department of water and sewerage services, or any other public utility, and there is no reason for them to be retained. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-145 (MCGUIRE) – This ordinance approves a lease agreement between the Metropolitan Government and G4S Youth Services, LLC for 56,200 square feet of space on property located at 5131 Harding Place to be used as a secure facility to house female youth currently housed at New Visions Youth Development Center in Nashville. This property was formerly used by the sheriff's office as the offender re-entry center for the purpose of housing work-release inmates. The facility is no longer being used by the sheriff's office.

The lease is for a five year term to begin upon the date of occupancy and extending through June 6, 2017, with an optional three year extension. The rent to be paid to Metro for the first year will be \$105,375, which is to increase four percent every year thereafter, including throughout the renewal option period. G4S Youth Services is accepting the property in its present condition "as is". G4S will have the right to make additions and improvements to the property at its own expense with the prior written consent of Metro. All such work must be inspected and approved by Metro after its completion. G4S agrees to comply with Metro's signage standards and will not put up any signs without Metro's consent.

Metro's only maintenance responsibilities will be for the roof, foundation, electrical wiring, and major repairs and replacement of the HVAC system. G4S will be responsible for all other maintenance and repairs, and will be required to pay \$24,420 for utilities. The utility payment will be reviewed every six months and adjusted based upon past actual usage. G4S is required to maintain commercial general liability insurance in the amount of \$1,000,000 plus \$750,000 in property insurance and a \$5,000,000 excess insurance policy. G4S agrees to indemnify Metro from all damages or theft on the property, as well as all claims arising from the negligence of G4S's employees or contractors. This lease agreement may be terminated by either party upon 120 days written notice.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-146 (MCGUIRE & HUNT) – This ordinance approves a new contract between the Metro traffic and parking commission and the Nashville Downtown Partnership for management of Metro's parking facilities. Metro has had a contract with the Downtown Partnership for operation of the parking garages since 2002. The last agreement was approved in August 2007 for a five year term.

The terms of this contract are basically the same as the previous contract. The Downtown Partnership will operate the Church Street garage located behind the downtown public library and the Public Square garage located next to the courthouse. The Downtown Partnership will (continued on next page)

ORDINANCE NO. BL2012-146 (continued)

be paid a fixed monthly management fee in the amount of \$5,250 for the Church Street garage and \$3,750 for the public square garage, which is the same amount paid under the 2007 contract. Metro will receive 16% of all the revenues generated from the Church Street garage. The Downtown Partnership guarantees that the minimum payment to Metro generated by the Church Street garage will not be less than the 2006 payment of \$301,200. Metro will receive all of the net operating revenue for the Public Square garage since these funds are pledged toward debt service for the garage.

Any surplus revenue generated will be equally divided between the Metropolitan Government and the Downtown Partnership. The surplus revenue is defined as the gross profit of the Church Street garage less the payment to Metro, the Partnership management fee, and the expenses incurred by the Partnership for operating the shuttle program transporting workers from the parking lots surrounding LP Field, including the lots used by Metro employees.

Payments and financial reports must be submitted to Metro on a monthly basis. In addition, an annual financial audit must be delivered to the traffic and parking commission within 60 days of the end of the reporting year. The rates to be charged and hours of operation for the parking facilities will be set by the traffic and parking commission. The Downtown Partnership will annually review parking rates in the downtown area and make recommendations to the commission regarding adjustments. Ordinary expenses for the operation and maintenance of the garages will be paid by the Downtown Partnership from the parking facility revenues. The Partnership agrees to indemnify Metro from any claims arising out of their performance of the contract and will be required to maintain workers' compensation, garage public liability and property damage, and garage keeper's legal liability insurance. The Downtown Partnership would also be responsible for Metro's attorney fees in the event Metro prevails in any litigation concerning the performance of the contract.

Over the past five years, this arrangement with the Downtown Partnership has generated approximately \$1.7 million for the general fund plus \$950,000 for repairs and capital improvements to the library garage. The \$950,000 in surplus revenue retained by the Downtown Partnership has been used for various downtown projects such as flower boxes, shuttle repairs, and sidewalk cleaning equipment.

The term of this lease is from July 1, 2012 through June 30, 2017, although Metro and the Downtown Partnership each have the right to terminate the agreement for any reason with 30 days written notice.

ORDINANCE NO. BL2012-147 (MCGUIRE & HUNT) – This ordinance authorizes the Metropolitan Government to enter into an agreement with Wilson Bank and Trust to provide public sewer service to the Grove at Cane Ridge subdivision on Cane Ridge Road in Antioch. Pursuant to this agreement, Wilson Bank and Trust will contribute \$150,000 toward the cost of constructing 991 linear feet of a sewer force main and pump station. These funds are to be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the department of water and sewerage services (continued on next page)

ORDINANCE NO. BL2012-147 (continued)

whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

The operation and maintenance agreement attached to the ordinance includes a provision stating that "future amendments to this ordinance may be approved by resolution". However, such language is not actually included in the ordinance. Including this language in the operation and maintenance agreement has no operative effect. If the council desires to allow amendments to the agreement to be approved by resolution, the ordinance should be amended to expressly include this language.

ORDINANCE NOS. BL2012-148, BL2012-149 AND BL2012-150 – These three ordinances abandon water and sewer facilities and/or easements no longer needed by the department of water and sewerage services. These ordinances have been approved by the planning commission.

Ordinance No. BL2012-148 (Allen & Hunt) abandons 250 feet of a six inch water main and accepts 28 feet of an eight inch water main and one public fire hydrant located at 2014 Bernard Circle.

Ordinance No. BL2012-149 (Gilmore & Hunt) abandons 166 feet of a 40-foot-wide utility and drainage easement on properties located at 311 Demonbreun Street, 210 Fourth Avenue South, Fourth Avenue South, unnumbered, and Almond Street, unnumbered.

Ordinance No. BL2012-150 (Todd & Hunt) abandons 142 feet of an easement retained when the former Cross Hill Road right-of-way was abandoned by the council in 1993. The easement to be abandoned is located on a portion of the properties located at 124A and 128 Alton Road and at 127 and 131 Brookfield Avenue.