

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **June 19, 2012**

RE: **Analysis Report**

Balances As Of:	<u>6/13/12</u>	<u>6/15/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$12,359,151	\$11,853,490
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$41,112,057	\$34,183,634
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**

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2012-300 (MCGUIRE) – This resolution approves an exemption for Taziki’s Mediterranean Café located at 2190 Bandywood Drive in Green Hills 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. RS2012-245 (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 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 (continued on next page)

RESOLUTION NOS. RS2012-273 THROUGH RS2012-275 (continued)

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.

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.

RESOLUTION NO. RS2012-301 (MCGUIRE) - This resolution approves a second amendment to a grant from the Southeast Energy Efficiency Alliance to the mayor's office of environment and sustainability to increase residential energy building retrofits. The original grant was in the amount of \$250,000 for the purpose of designing a marketing and community outreach plan to increase awareness about the Tennessee Valley Authority's in-home energy evaluation program. Metro has used these grant funds to subsidize the upfront cost to the homeowner for the energy evaluation. The amendment to the grant increases the amount by \$507,005 for a new grant total of \$2,307,005. There is no required cash match for this grant.

RESOLUTION NO. RS2012-302 (LANGSTER & MCGUIRE) – This resolution approves a grant in the amount of \$6,175,000 from the state department of agriculture to the Metropolitan health department for retail food store inspection, reporting, and enforcement. The health departments in urban areas provide these inspection services on behalf of the state. These funds will cover the inspection of retail food stores in Davidson County every six months. The term of this grant is from July 1, 2012, through June 30, 2017.

RESOLUTION NO. RS2012-303 (LANGSTER & MCGUIRE) – This resolution approves a sixth amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health for the continued collection of data on the ambient air concentrations for fine particulate matter. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This amendment increases the amount of the grant by \$160,000, for a new grant total of \$675,000, and extends the term of the grant through March 31, 2013.

RESOLUTION NO. RS2012-304 (LANGSTER & MCGUIRE) - This resolution approves a sixth amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health to achieve established ambient air quality standards. These funds are used to collect data and to monitor the ambient air concentrations for ozone, fine particulate matter, regional haze, sulfur dioxide, carbon monoxide, and mercury on behalf of the EPA. The amendment increases the grant amount by \$114,572 for a new grant total of \$1,188,000.

RESOLUTION NO. RS2012-305 (MCGUIRE) – This resolution appropriates \$85,026 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 resolution provides that the \$85,026 is for cost-of-living pay raises for Head Start employees, which amount is not included in the mayor's proposed FY2013 budget for the Metro action commission.

RESOLUTION NO. RS2012-306 (MOORE, S. DAVIS & MCGUIRE) – This resolution approves a grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan board of parks and recreation to provide swimming lessons and water safety training for children living in neighborhoods around community swimming pools. MDHA has funding available for these activities as part of the federal community development block grant program. Children participating in the program between June 1 and July 31, 2012 will complete certified training in swimming and water safety. There is a required in-kind match of \$23,900 for this grant.

RESOLUTION NO. RS2012-307 (WESTERHOLM, MCGUIRE & JERNIGAN) – This resolution approves a grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan board of parks and recreation for summer enrichment programs for youth. MDHA has funding available for these activities as part of the federal community development block grant program. These funds are to cover the costs associated with recreational, educational, social, and cultural art activities provided to youth in the Kirkpatrick neighborhood between June 1 and July 31, 2012. There is a required in-kind match of \$28,860 for the grant.

RESOLUTION NO. RS2012-308 (MATTHEWS, BENNETT & OTHERS) – This resolution approves amendments to three agreements with the state department of environment and conservation (TDEC) regarding the maintenance of closed solid waste facilities. State law requires that all owners of closed landfills either put up a performance bond or execute a contract agreeing to pay a penalty if the site is not adequately maintained. The Metropolitan Government has entered into contracts with TDEC in lieu of a performance bond as assurance of financial responsibility for our solid waste facility maintenance duties. This resolution approves a decrease of the financial responsibility amounts, as follows:

- Bordeaux sanitary landfill – decrease from \$4,993,455 to \$4,772,411;
- Thermal ash monofill – decrease from \$1,109,253 to \$1,093,805;
- Due West dump site – decrease from \$1,314,586 to \$1,287,609.

These amounts would only be paid if Metro failed to adequately maintain the sites.

Ordinance No. BL2010-719 allows amendments to these financial responsibility agreements to be approved by resolution.

RESOLUTION NO. RS2012-309 (GILMORE & HUNT) – This resolution approves a supplemental licensing agreement with CSX Transportation allowing the department of water and sewerage services to install water lines in the railroad right-of-way near the intersection of Herman Street and 17th Avenue North. The original agreement was entered into in 1926 for the installation of a 16-inch water main. This supplemental agreement provides for the abandonment of the existing 16-inch water main and allows for the construction and maintenance of a new 36-inch water main beneath the previously existing line in that location.

Ordinance No. O98-1393 authorizes these types of agreements with CSX to be approved by resolution.

RESOLUTION NO. RS2012-310 (HARMON, HUNT & MCGUIRE) – This resolution approves an amendment to an agreement between the Tennessee department of transportation and the Metropolitan department of public works for crosswalks and pedestrian signals at four Harding Place intersections. The original agreement approved in October 2011 provided 80% of the costs to construct approximately 4,800 linear feet of sidewalks and bicycle paths along Harding Place from Nolensville Pike to Tampa Drive at a total cost of \$2,206,250. This amendment adds \$168,300 for the construction of the crosswalks and pedestrian signals. There is no local match associated with this increased funding.

RESOLUTION NO. RS2012-311 (HARMON, HUNT & MCGUIRE) – This resolution approves an amendment to an agreement between the state department of transportation (TDOT) and the department of public works for the construction of sidewalks and bikeway enhancements along Harding Place from Timberhill Drive to Danby Drive. TDOT has awarded \$862,840.20 to construct 3,200 linear feet of sidewalk and bikeways along the south side of Harding Place. There is a required local match of \$220,133 to be provided through capital funds. This amendment extends the construction phase deadline from August 25, 2012 to August 25, 2013.

RESOLUTION NO. RS2012-312 (MCGUIRE) – This resolution approves a contract between the Metropolitan Government and Election Systems and Software, LLC, for the lease of voting equipment to be used by the Davidson County election commission. The contract is for the lease of 300 iVotronic voting machines for the November 2012 presidential elections due to the expected high voter turnout. The rental cost for the machines is \$381,000, which is funded through a state grant. These are the same type of voting machines that are already being used by the election commission. The council approved a similar lease agreement for the November 2008 election. The term of the contract is from its date of execution through December 4, 2012.

The Metropolitan Code provides that the lease of equipment in excess of \$5,000 per year must be approved by resolution of the council.

RESOLUTION NO. RS2012-313 (STEINE) – This resolution approves the election of 463 notaries public in accordance with state law. The notary terms are for four years.

RESOLUTION NO. RS2012-314 (GILMORE) – This resolution authorizes the installation, construction, and maintenance of an aerial encroachment for Modern Trousseau located at 421 Church Street. The applicant has agreed to 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. RS2012-315 (GILMORE) – This resolution authorizes LifeWay Christian Resources to install, construct, and maintain a canopy at its Commerce Street entrance. The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this canopy, 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.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2012-161 (TYGARD, MAYNARD & WEINER) – This ordinance amends the Metropolitan Code to require all new employees of the Metropolitan Government to be residents of Davidson County. For many years, the Metro Code required that all employees be residents of the area of Metropolitan Government. However, the council repealed that requirement in 1994 and replaced the residency requirement with one that required employees to be residents of the State of Tennessee only. As of May 2012, there were approximately 3,500 Metro employees living outside Davidson County, excluding employees of the board of education.

This ordinance would require all Metropolitan Government employees hired after the effective date of this ordinance to live within the area of the Metropolitan Government. New employees that do not live within the county at the time they are hired would have 90 days in which to relocate to Davidson County. Existing employees living outside of Davidson County would be grandfathered in. The ordinance includes a hardship waiver for those employees caring for an immediate family member outside Davidson County. The ordinance also allows department heads to provide an exemption in the event there are no qualified applicants for the position that are Davidson County residents.

The United States Supreme Court has ruled that it is constitutional to require that employees of local governments be residents of the jurisdiction of the government, provided that such residency requirement is uniformly applied to similarly situated employees.

There will be an amendment to this ordinance exempting employees of the Nashville career advancement center since they provide services to nine counties under the federal workforce investment act.

ORDINANCE NO. BL2012-162 (TODD, DUVALL & CLAIBORNE) – This ordinance amends the health insurance benefits portion of the Metro code pertaining to term-limited members of council. The Code currently allows all elected officials participating in the comprehensive health care plan to continue participation in the plan after they leave office. If the elected official has served eight years, he/she may continue to participate in the plan by paying the Metro subsidized rate paid by employees, which is 25% of the premium. However, if the elected official has served less than eight years, he/she must pay 100% of the premium in order to continue participation in the plan.

This ordinance would eliminate the subsidized health insurance benefit for members of council after they leave office. The ordinance grandfathers in all current members of council and those former members of council that already participate in the health insurance plan. Those members serving eight or more years after 2019 could participate in the plan after leaving office if they pay 100% of the premium.

According to information provided by the department of human resources, the subsidized health insurance for former members of council costs Metro approximately \$300,000 per year.

ORDINANCE NO. BL2012-164 (MITCHELL) – This ordinance approves an affiliation agreement between Volunteer State Community College and the emergency medical services (EMS) division of the Metro fire department permitting students from the college to participate in a clinical experience with EMS. Students will work directly with EMS personnel. The college is required to provide liability insurance for the students. This agreement is for a term of one year, which may be extended for four additional annual terms. This is basically a continuation of an agreement that was initially approved in 2003 and extended in 2007.

ORDINANCE NO. BL2012-165 (DOMINY, STITES & OTHERS) – This ordinance approves a lease agreement between Nashville Soccer, LLC and the board of parks and recreation for the development and maintenance of a soccer complex. The lease is with the owner of the Nashville Metros professional soccer team and will be used by the team for practices and games. The lease agreement is for a term of ten years. Nashville Soccer will not pay any rent for use of the park, but is required to make \$300,000 of capital improvements to the property, which will remain under the ownership of Metro parks at the end of the lease term. The capital improvements are to be made in accordance with a master development plan approved by Metro. The facility is to include ten first-class soccer fields. When not being used by the Nashville Metros soccer team, the facility is to be made available for use by youth and amateur soccer teams and organizations at rates established annually and approved by Metro parks.

The facility itself is to be fenced off, but this is not to interfere with the public's use of the greenway. Metro is to be allowed to use the facility at least one day per year for public events. Nashville Soccer will be responsible for all maintenance and operating costs associated with the facility, and agrees to our standard liability insurance and indemnification requirements. Nashville Soccer will be entitled to all revenue generated at the facility, including concessions, sponsorships, endorsements, and gate receipts. Nashville Soccer will also have naming rights to the facility.

This lease agreement has been approved by the board of parks and recreation and the planning commission.

ORDINANCE NOS. BL2012-166 & BL2012-167 (LANGSTER, MCGUIRE & HUNT) – These two ordinances authorize the Metropolitan Government to enter into participation agreements with private developers/property owners regarding the construction repair of water and sewer infrastructure. The property owners have agreed to make a cash contribution to Metro toward the cost of the improvements. The funds are to be deposited into the water/sewer extension and maintenance fund.

Ordinance No. BL2012-166 approves a participation agreement with Southern Land Company to repair approximately 50 linear feet of an 18-inch sewer main and to install one manhole near 2300 Elliston Place. Southern Land Company has agreed to pay 50% of the costs up to \$22,000.

Ordinance No. BL2012-167 approves a participation agreement with 40th Avenue Church of Christ for the construction of approximately 2,300 feet of a 12-inch water main within the 40th Avenue North right-of-way from Charlotte Avenue to Catherine Johnson Parkway. The church has agreed to contribute \$20,000 toward the cost of the project in aid of construction.

ORDINANCE NOS. BL2012-168 (GILMORE) – This ordinance abandons a portion of Elm Hill Pike from the current Murfreesboro Pike intersection approximately 460 feet eastward to the new intersection. This closure has been requested by Dale and Associates. A new connection to Murfreesboro Pike is being constructed and the right-of-way will soon be dedicated to Metro to take the place of the right-of-way proposed for abandonment. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NOS. BL2012-169 (MCGUIRE) – This ordinance abandons a portion of Pittman Place from Granny White Pike eastward to its terminus, and abandons a portion of Rosemont Avenue from the 3708 Rosemont Avenue property line to its terminus. These road closures have been requested by David Lipscomb University for the continued development of the Lipscomb campus. The ordinance also abandons all easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2012-170 (HARRISON) – This ordinance renames a portion of Terrace Avenue as "Summitt Avenue". This section of roadway is located between Curtis Street and the curve where it becomes Summitt Avenue. The name change is for the stated purpose of assisting emergency service in quickly locating property by having one continuous street name.

This name change has been approved by the planning commission and has been referred to the emergency communications district board.

ORDINANCE NOS. BL2012-171 (GILMORE) – This ordinance abandons a portion of Jefferson Street right-of-way adjacent to property located at 305 Jefferson Street next to the Third Avenue North intersection. This closure has been requested by Crescent Enterprises, Inc., the abutting property owner. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NOS. BL2012-172 (S. DAVIS) – This ordinance abandons a portion of an unnumbered alley from Joseph Avenue eastward to its terminus. The ordinance also abandons all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

– BILLS ON THIRD READING –

SUBSTITUTE ORDINANCE NO. BL2012-107 (JOHNSON) – This ordinance amends the Metropolitan zoning code to require replacement panels in multi-tenant developments to be consistent with the other signage on the property. The zoning code currently provides that on-premises signs on a lot with more than one business (i.e., a strip mall) must be in accordance with the overall signage plan for the development. All signs must be consistent with at least four of the following: material; location on the building; sign proportions; color scheme; lighting; and letter/graphic style. The signage plan is supposed to be approved by the zoning administrator before permits are issued. The sign plan may be amended from time to time, but all signs must be brought into compliance with the amended plan within six months. The council office has been advised by the codes department that this requirement has historically not been enforced.

This ordinance would specify that all modifications to building signs located within developments where more than one use or business is located on a lot, including the replacement of individual building sign panels for new tenants, must be consistent with the other existing sign panels within the development as to materials, lighting, and size. This would prohibit the insertion of a sign panel made out of plywood or some other material that is not consistent with the rest of the panels.

This ordinance has been approved by the planning commission.

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.

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ORDINANCE NO. BL2012-154 (continued)

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%.

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.

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ORDINANCE NO. BL2012-154 (continued)

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.

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:

- Police (COPS grant, overtime, and crime lab) \$6,300,000
- MTA (Murfreesboro Road BRT, University Connector) 3,300,000
- Maintain Longevity Pay 3,100,000
- Public Works (Horticulturalist, brush collection, contractual) 880,700
- Public Library (expansion of the Limitless Libraries program) 647,900
- Increase in subsidy for the farmers' market 227,000
- New general fund subsidy for the state fair 200,000

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:

- Domestic violence agencies \$675,000
- Education and afterschool care 675,000
- Miscellaneous community agencies 450,000

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

- Scholars Academy \$370,200
- Nashville Entrepreneur Center 250,000
- The Hermitage 150,000
- Poverty and literacy initiatives (increase of \$50,000) 275,000
- TSU Foundation (increase of \$50,000) 100,000

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.

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ORDINANCE NO. BL2012-154 (continued)

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 \$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. BL2012-155 (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. BL2012-157 (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
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ORDINANCE NO. BL2012-157 (continued)

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. BL2012-163 (MCGUIRE) – This ordinance authorizes the department of law to compromise and settle the lawsuit against XO Communications Services, LLC ("XO") for unpaid right-of-way franchise fees. The ordinance also approves a new interim franchise agreement with XO and approves a two year extension of a contract with XO for the use of dark fiber by Metro. XO's predecessor, U.S. Signal of Nashville, LP, was granted a franchise by the council in 1994 for the use of Metro right-of-way to install and maintain fiber optic cable. The franchise ordinance required XO to pay 5% of its gross revenues to Metro for the use of the right-of-way. The franchise also required XO to provide two dark fibers for use by Metro, which is used to carry most of the Internet services for Metro. XO paid a total of \$60,000 in 1995 and 1996, but then stopped paying. Metro subsequently brought suit against XO for the unpaid franchise fees. In defending the lawsuit, XO argued that the franchise fee in the amount of 5% of its gross revenues was not legal because it was not reasonably related to Metro's costs for maintaining the right-of-way. XO further counterclaimed that Metro owed XO \$2,500,000 for the value of the dark fiber it provided.

This lawsuit has been pending for ten years. The trial court recently ruled that 5% of gross revenue is not a legal basis for the amount of the franchise fee. Instead, Metro can only charge for its reasonable costs associated with XO's use of the right-of-way. Metro hired experts to determine an appropriate fee. The experts painstakingly calculated the total costs incurred by Metro to maintain the right-of-way and essentially divided that by the amount of space XO's facilities take up within the right-of-way. This formula would result in a charge to XO over the 16 year period of approximately \$8,000,000. XO disputed this valuation saying the amount should be based solely upon the additional costs XO's facilities actually cause Metro, not Metro's total costs for maintaining the right-of-way.

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ORDINANCE NO. BL2012-163 (continued)

Metro and XO have finally reached a settlement both parties have determined is fair and reasonable. XO agrees to pay \$1,000,000 to Metro within seven days after this settlement agreement is approved and executed. XO will also give Metro a \$480,000 credit toward Metro's use of the dark fiber and extends the dark fiber contract for two years. The ordinance also approves a new interim franchise agreement with XO that will require the company to pay \$60,000 per year for the use of the right-of-way. The interim agreement will be in effect until Metro adopts a new comprehensive telecommunications franchise ordinance. If AT&T is authorized to continue to operate under its existing franchise, XO will be allowed to operate under the same terms for a period not to exceed seven years.

The council office is of the opinion that approval of this settlement is in the best interest of the Metropolitan Government. While the Metro department of law could legitimately continue to fight in court about the methodology for ascertaining the amount of the franchise fee, doing so would require Metro to continue to pay our experts. Metro has paid approximately \$500,000 to experts over the past ten years as a result of this lawsuit.

Since this ordinance has a revenue implication, it is appropriate that it be considered on third reading at the same time as the operating budget ordinance.