METROPOLITAN COUNCIL

Metro Council Office

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **March 18, 2014**

RE: **Analysis Report**

Unaudited Fund Balances as of 3/12/14:

4% Reserve Fund	$22,292,406*
Metro Self Insured Liability Claims	$4,789,500
Judgments & Losses	$2,265,784
Schools Self Insured Liability Claims	$2,426,996
Self-Insured Property Loss Aggregate	$6,292,644
Employee Blanket Bond Claims	$637,319
Police Professional Liability Claims	$2,857,579
Death Benefit	$775,476

* Assumes unrealized estimated revenues in fiscal year 2014 of $10,354,198

102 Metropolitan Courthouse Nashville, Tennessee 37201 615/862-6780 Fax 615/862-6784

– BILL ON PUBLIC HEARING –

ORDINANCE NO. BL2014-699 (GILMORE, STEINE & HUNT) – This ordinance approves amendments to the Arts Center, Capitol Mall, Jefferson Street, and Rutledge Hill Redevelopment Plans to extend the duration of the plans through December 31, 2040 and increase the tax increment financing (TIF) capacity. TIF is a form of development incentive whereby the increased property taxes generated by a development are used to pay part of the development costs or pay down a TIF loan. Examples of projects that have been built using TIF as a financing tool include restoration of the Ryman Auditorium, the Viridian, the Bell South Building, the Country Music Hall of Fame, and the Omni convention center hotel. Each of the redevelopment districts includes a maximum TIF capacity, which is basically a cap on the amount of project costs to be financed through TIF within that particular district.

The Arts Center redevelopment district, established in 1998, originally included the old downtown post office, the Union Station Hotel, and Cummins Station. The plan was subsequently amended to add the Music Row area and the area between I-40 and the Gulch to the redevelopment plan area. This amendment extends the term of the plan and increases the TIF capacity from $25 million to $60 million.

The Capitol Mall redevelopment district was established in 1978 for redevelopment activities in downtown Nashville. It has subsequently been amended nine times, and currently has an expiration date of 2030. This amendment increases the TIF capacity from $180 million to $230 million and extends the duration of the plan.

The Jefferson Street redevelopment district was established in 2005 for a thirty year term. This amendment extends the plan duration and increases the TIF capacity from $3 million to $15 million.

The Rutledge Hill redevelopment district was established in 1980 for redevelopment activities in areas south of downtown Nashville. This amendment increases the TIF capacity from $35.5 million to $60 million. This plan was already set to expire in 2040.

This ordinance in and of itself does not authorize TIF funding for any particular projects. TIF is basically one tool in the economic development toolbox that can be used for future qualifying projects.

– RESOLUTIONS –

SUBSTITUTE RESOLUTION NO. RS2014-948 (MITCHELL) – This resolution appropriates $4,300,000 from the undesignated fund balance of the general fund of the general services district (GSD) to Metro Schools. On November 12, 2013, the Metro board of education voted to authorize the use of $19,100,000 of the schools undesignated fund balance to fund a teacher retirement incentive and for technology to implement the Common Core standards. On December 17, 2013, the council appropriated $4,300,000 from the schools undesignated fund balance to Metro Nashville public schools (MMPS) for the teacher retirement buyout incentive, but legislation was not submitted to address the school board's other requests. The Metro schools chief financial officer, Chris Henson, informed the council budget and finance committee on December 16, 2013 that MNPS had decided to pursue other sources of funding for this equipment in the current fiscal year, as opposed to the use of fund balance. Substitute Resolution No. RS2014-963, approved on February 4, 2014, authorized the issuance of bonds to provide $6 million in capital funds to be used for the purchase of these laptop computers for Metro schools.

This substitute resolution would appropriate $4,300,000 that could fund the purchase of laptop computers for teachers to assist in technology training for the implementation of the Common Core testing.

The undesignated fund balance for Metro schools at the end of the fiscal year is estimated to be approximately $60,600,000 after the recent appropriation for the retirement buyout, which represents roughly 8.2% of the total MNPS operating budget. The Metropolitan Government has established a policy of maintaining a minimum undesignated fund balance of 5% in all reserve funds.

The director of finance has refused to sign this resolution as to the availability of funds, opining that it would be fiscally irresponsible to spend a significant amount from the schools fund balance given the funding deficit projected by MNPS going into fiscal year 2014-2015.

RESOLUTION NO. RS2014-1015 (STEINE) – This annual resolution calls the Metropolitan board of equalization (MBE) into regular session convening June 2, 2014, and adjourning June 20, 2014, and calls the MBE into special session convening June 23, 2014 to complete any unfinished business regarding appeals on pro-rated assessments. The special session is not to extend beyond May 31, 2015. The MBE always meets during the month of June to hear appeals of assessments on real property. Historically, the MBE has been required to have special sessions to conclude its work due to the large number of appeals.

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

RESOLUTION NO. RS2014-1016 (GILMORE, STEINE & HUNT) – This resolution approves an amendment to the lease agreement between the Metropolitan Government and Square Investment Holdings, L.P., for the lease of office space in the Washington Square building on
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RESOLUTION NO. RS2014-1016, continued

Second Avenue for the criminal justice planning unit. Metro has been leasing space in this building for the district attorney's office since 1993. A new lease agreement was approved in 2008 adding another 18,800 square feet to be used by the department of law. In 2013, Metro exercised its right to lease an additional 4,508 square feet of space and extended the term of the lease through November 30, 2023.

This amendment approves the lease of 2,051 square feet of additional space to be used by the criminal justice planning unit. The criminal justice planning unit is an independent Metro department charged with forecasting inmate populations under correctional supervision. Metro will pay rent in the amount of $15.85 per square foot, which is to increase annually up to $18.94 per square foot in 2023. This increases the total amount of leased space to 63,877 square feet. The landlord will be responsible for undertaking the necessary improvements required for the criminal justice planning unit's occupancy.

This lease amendment has been approved by the planning commission.

RESOLUTION NO. RS2014-1017 (STEINE & PARDUE) – This resolution approves a grant in the amount of $1,000 to the Metropolitan Nashville fire department to purchase animal oxygen masks. These masks are specifically to be used by the fire stations located at 130 Broadmoor Avenue and 224 Madison Street.

RESOLUTION NO. RS2014-1018 (STEINE & MAYNARD) – This resolution approves an agreement between the state department of health and the Metropolitan health department for the use of $375,311 of the tobacco settlement funds the state received to fund several local programs to address family tobacco use. The first local initiative to be funded from the proceeds of the tobacco settlement would be to work with landlords, tenants, and the community to voluntarily increase the number of smoke-free multi-family housing properties in Nashville. The second and third projects involve a youth risk behavioral survey to collect data from middle school students regarding attitudes, beliefs, and usage of tobacco products, and the establishment of a youth advisory board for tobacco prevention. The final project to be funded will target clinicians that provide healthcare to small children to ensure their office environment addresses family tobacco use.

RESOLUTION NO. RS2014-1019 (STEINE, MAYNARD & LANGSTER) – This resolution approves an annual grant in the amount of $42,500 from the state department of health to the Metropolitan health department for tobacco use prevention services. These federal pass-through funds are used to pay part of the salary of a program coordinator to help prevent initiation of tobacco use among young people, promote quitting among adult and youth tobacco users, and partner with community organizations to implement counter-marketing campaigns. The term of the grant is from April 1, 2014 through March 31, 2015. There is a required local match in the amount of $7,300 to be provided through the health department's operating budget.

RESOLUTION NO. RS2014-1020 (STEINE, MAYNARD & LANGSTER) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metro board of health to enhance access to community-based care for low income individuals and families with HIV. This grant is used to provide a number of medical and support services for HIV patients. This resolution approves an amendment to the grant to re-obligate $240,117 of the fiscal year 2013 grant funds for use in fiscal year 2014.

RESOLUTION NO. RS2014-1021 (STEINE, MAYNARD & LANGSTER) – This resolution approves a grant in the amount of $353,000 from the state department of health to the Metropolitan health department for chronic disease management and school health promotion services. These federal pass-through funds will be used to fund a public health educator position to promote various health programs that encourage physical activity and healthy eating for students. The term of the grant is from January 1, 2014, through June 30, 2018.

RESOLUTION NO. RS2014-1022 (STEINE, MAYNARD & LANGSTER) – This resolution approves an annual grant in the amount of $512,400 from the state department of health to the Metropolitan board of health for implementation of the state immunization program. The term of this grant is from January 1, 2014, through December 31, 2014. This grant, consisting of $157,800 in state funds and $354,600 in federal pass-through funds, will be used to pay the salaries and benefits of health department employees who provide the immunization services.

RESOLUTION NO. RS2014-1023 (STEINE & DOMINY) – This resolution approves an amendment to an agreement between the U.S. Army and Metro water and sewerage services (MWS) for the Mill Creek Watershed Feasibility Study in Davidson County. This agreement, originally approved by the council in 2003 through the enactment of Ordinance No. BL2003-1365, provides that the U.S. Army and MWS are to contribute cash and in-kind services equal to fifty percent of the study costs.

This amendment expands the scope of the study as a result of unforeseen costs associated with additional hydrologic modeling and economic evaluation. The amendment obligates Metro to provide an additional $50,000 for the study to match the additional $50,000 in federal funds. The revised total cost of the project is $1,687,500 for each party.

Ordinance No. BL2003-1365 provides that amendments to the agreement may be approved by resolution.

RESOLUTION NO. RS2014-1024 (DOMINY & 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 and the geographic information systems street and alley centerline layer map under Ordinance No. BL2013-600 will be officially classified as public roads.

RESOLUTION NO. RS2014-1025 (GILMORE) – This resolution authorizes TC Restaurant Group, dba Luigi's City Pizza, to install and maintain aerial sign encroachments at 305 Broadway. The encroachment will consist of a 16-foot tall sign to be constructed 12 feet above the sidewalk. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the signs, 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. RS2014-1026 (GILMORE) – This resolution authorizes Premier Parking of Tennessee, LLC, dba White Front Garage Partners, to install and maintain aerial sign encroachments at 207 2nd Avenue North. The encroachment will consist of a 10-foot tall internally illuminated neon sign with the letters "PARK" and an arrow pointing to the garage entrance. The sign will be constructed 15 feet above the sidewalk. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the signs, 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. RS2014-1027 (STEINE) – This resolution authorizes the department of law to settle the personal injury claim of Brandii Brown against the Metropolitan Government for the amount of $13,400. On March 18, 2013, a Metro police car rear-ended Ms. Brown's vehicle on I-24 after she slowed for traffic. Ms. Brown suffered soft tissue injuries to her neck and back, incurring medical bills totaling $10,373.05.

This resolution approves a settlement of the claim for the amount of the medical bills plus $3,026.95 for pain and suffering. This settlement is to be paid out of the self-insured liability fund. Ms. Brown has already been paid $1,065.18 for the damage to her vehicle.

The police officer that caused this accident received disciplinary action consisting of a one day suspension.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2014-685 (HUNT) – This ordinance amends the Metro zoning code to shift the responsibility for the posting of council public hearing notices for zoning bills to the applicant. Currently, the applicant is responsible for posting planning commission public hearing signs and must provide a certificate to the planning department verifying that the signs have been posted. This has been the practice for a number of years. However, the code still requires the council public hearing signs to be posted "by the appropriate department of the metropolitan government".

This ordinance would essentially make the planning department's practice regarding the posting of planning commission public hearing signs applicable to council public hearings, as well. Private applicants would be required to post the public hearing signs. If a Metro council member or Metro department is acting as the applicant, then the council member or appropriate Metro department would be responsible for posting the signs. According to the planning department staff report, the staff is interpreting this change as giving the council member the option of either overseeing the posting of the signs or returning the signs to the planning department for Metro to post.

ORDINANCE NO. BL2014-695 (STEINE, WESTERHOLM & OTHERS) – This ordinance names the Shelby Street pedestrian bridge in honor of John Siegenthaler. Mr. Siegenthaler was a longtime journalist for *The Tennessean* newspaper, and remains Chairman Emeritus of the newspaper. He served in the early 1960s as an assistant to U.S. Attorney Bobby Kennedy. While working in the Justice Department, Mr. Siegenthaler was the chief negotiator with the governor of Alabama during the Freedom Rides, and was attacked and hospitalized while trying to aid the Freedom Riders. In 1982, Mr. Siegenthaler became the founding editor of *USA Today*, a position in which he served until his retirement in 1991. Upon retirement, Mr. Siegenthaler founded the Nashville-based First Amendment Center.

The Metro code provides that no Metropolitan Government building or structure can be named except by ordinance adopted by the council.

ORDINANCE NO. BL2014-696 (CLAIBORNE) – This ordinance amends the Metro code to require the director of finance to submit an annual debt report to the council at the time the mayor's proposed operating budget is submitted. The annual debt summary is to include the following information:

- The total amount of outstanding revenue and general obligation bonds that are secured by any portion of the general fund. This would include the convention center authority and sports authority debt that is backed by the Metro general fund non-tax revenues.
- The anticipated debt service requirements for the next fiscal year.
- A summary of all outstanding bonds, including the date of maturity, interest rate, projects funded with the bond proceeds, and the amount of principal and interest to be paid on each bond in the upcoming fiscal year.

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ORDINANCE NO. BL2014-696, continued

- A summary of commercial paper activity for the previous twelve month period. The commercial paper program is Metro's mechanism for funding capital projects on a short-term basis before the long-term bonds are issued. The report is to include each date commercial paper was taken out, the interest rate, the amount of commercial paper used for each capital project, and the maturity date of the commercial paper.

There may be a proposed amendment modifying some of the reporting requirements and including some additional provisions found in the state's indebtedness report.

ORDINANCE NO. BL2014-697 (BLALOCK) – This ordinance amends the Metro Code to exempt existing on-premises beer permit holders (restaurants and bars) from the distance requirements regarding the sale of beer near school property when a new school locates within 100 feet of the existing establishment. 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. While existing permit holders are essentially "grandfathered in" when a new school locates next to the establishment, the permit holder may not be allowed to expand the footprint of the establishment. Further, a new owner of the establishment may not be able to get a beer permit because of its proximity to the school.

The ordinance provides that a beer permit holder could not be denied a permit solely because the footprint of the building was expanded to fall within 100 feet of a school that subsequently located near the establishment. The ordinance also provides that a beer permit could not be denied to a new owner of the business solely because of the distance from a school that received an occupancy permit after the initial beer permit for the establishment was obtained.

ORDINANCE NO. BL2014-698 (CLAIBORNE) – This ordinance amends the Metro code to create a specific mechanism for the department of codes administration to notify publishers regarding the discontinuance of delivering nonsubscription newspapers at the request of the resident. The code currently requires distributors of nonsubscription newspapers to stop delivery within ten days after receiving written notice, sent by U.S. Mail, from an occupant of the premises to which delivery is being made requesting that delivery be stopped. Constituents have complained that they continue to receive these unsolicited newspapers even after notifying the publisher in writing to stop delivering them.

This ordinance provides that upon presenting evidence to the codes department that an occupant has requested, by certified mail, that the publisher/distributor of a nonsubscription newspaper or similar material stop delivery, and that the distributor has continued to deliver such material after ten days from the date the request to stop delivery was received, the codes department is to send a written notice of violation by certified mail to the publisher/distributor advising that the delivery of such material to the premises is a violation of the Metro code and directing the publisher/distributor to cease delivery to the premises. If delivery of such material continues after receiving the notice of violation, the ordinance provides that the department of codes administration is to initiate a court action seeking injunctive relief and penalties.

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ORDINANCE NO. BL2014-698, continued

As the council is aware, newspaper publishers and distributors have very broad protection under the freedom of speech provisions contained in the First Amendment to the U.S. Constitution. Governments are allowed to impose reasonable time, place, and manner restrictions on the delivery of published materials. However, in order to survive a constitutional challenge, the government would have to show that the restrictions are narrowly-tailored to a significant governmental interest. To the extent the existing Metro ordinance on the books restricting the delivery of nonsubscription newspapers is constitutional, this ordinance does not appear to impose a greater First Amendment restriction on newspapers. The codes department already has the authority to take the enforcement measures specified in this ordinance, including seeking injunctive relief. This ordinance simply spells out a process for the codes department to follow.

The council office has not found a Tennessee or 6th Circuit Court of Appeals decision that directly addresses the issue of whether the government can enforce a resident's request not to receive unsolicited written material at their personal residence. Most of the federal court cases regarding the distribution of newspapers concern newsracks in the right-of-way. The council enacted an ordinance in 2007 placing restrictions on newsracks in the right-of-way, but this ordinance was vetoed by Mayor Purcell.

The 9th Circuit Court of Appeals has ruled that an army base can limit nonsubscription newspaper delivery on the base itself since it was not considered a public forum. Likewise, a court in New York ruled that a publisher or distributor does not have a constitutional right to "continue to throw a newspaper onto the property of an unwilling recipient after having been notified not to do so". On the other hand, a federal court in New York ruled that a village ordinance prohibiting the delivery of unsolicited written material to any resident that had notified the village that they do not want to receive *any* written material was not a valid time, place, and manner restriction since the notice was not limited to specific published material. Metro's ordinance can be distinguished from this New York village ordinance since the burden is on the resident to first notify the publisher in writing that they do not want to receive that particular publication.

ORDINANCE NO. BL2014-700 (STEINE & HUNT) – This ordinance approves a lease agreement between the Metropolitan Government and Southern Land Commercial Construction, LLC for a portion of the fire hall property located at 2025 Richard Jones Road in Green Hills. Southern Land would be leasing the 6,500 square foot existing storage building and surrounding property to be used as a construction office/storage facility and parking area while the company's new high rise mixed-use development is being constructed at the corner of Hillsboro Pike and Richard Jones Road. The term of the lease is from the date of final council approval through December 31, 2015, but may be renewed on a month-to-month basis after that. After the first nine months, the lease may be cancelled by either party upon 30 days written notice.

Southern Land will pay a total rent amount of $65,640 during the first year of the lease term. After the first year, Southern Land would only pay utility service charges. Southern Land may make improvements to the property subject to Metro's reasonable approval. All improvements (continued on next page)

ORDINANCE NO. BL2014-700, continued

will revert to Metro at the end of the lease term. Southern Land will be responsible for all maintenance costs associated with the property. The lease agreement includes the standard insurance and indemnification requirements typically found in such Metro leases.

Amendments to this lease may be approved by resolution of the council receiving 21 affirmative votes.

ORDINANCE NO. BL2014-701 (GLOVER) – This ordinance renames Hermitage Park Lane from Old Hickory Boulevard to its terminus as "Crosshill Way". The name change is for the stated purpose of preventing confusion with the street named Hermitage Park Drive, which is an access street to an adjacent apartment complex.

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

– BILLS ON THIRD READING –

<u>SECOND SUBSTITUTE ORDINANCE NO. BL2014-651</u> (ALLEN & MITCHELL) – This second substitute ordinance amends the Metro zoning code to regulate small outdoor music events on commercial property located in close proximity to residential areas. Aside from the Metro noise ordinance, the code currently does not regulate or expressly authorize small concerts on commercially-zoned property. Such concerts have become an issue in certain areas that have a mixture of commercial and residential uses within close proximity to each other.

This ordinance would make temporary music events a use permitted with conditions in the CS, CA, and CF zoning districts. The specific requirements for small outdoor music events would be as follows:

- The entertainment would be limited to live acoustic music.
- The stage and sound amplification equipment cannot be oriented toward any residence located within 300 feet of the property line where the music event is to be held, and the amplification equipment must be oriented away from other residential property to the greatest extent possible.
- Sound would be limited to 75 decibels measured at the boundary line of the nearest residential property.
- No more than one event could be held per month, and no more than eight events per year.
- All activity must take place between 11:00 a.m. and 9:00 p.m. on weekdays, and between 11:00 a.m. and 10:00 p.m. on weekends, with a maximum event duration of 4 hours.
- Adequate off-street parking must be provided, and access must be from a nonresidential collector street. The applicant is required to submit a traffic and parking management plan that includes the number of vehicles expected, a list of streets for ingress and egress, and the location of parking lots to accommodate the event.
- Attendance would be limited to 150 people at each event for properties less than 20,000 square feet.
- All lighting and glare must be directed on site.

The zoning administrator would have the authority to revoke a small outdoor music event permit upon the violation of any of the terms and conditions of the use permit or of the provisions of this ordinance after receiving a petition signed by at least one half of the neighbors evidencing the violation. Upon revocation, applicants could not apply for another small outdoor music event permit for a period of one year. The substitute ordinance expressly states that the conditions set forth in the ordinance do not apply to any event on public property or to private events on property that is not zoned CS, CF, and CA.

This ordinance has been referred to the planning commission. Since more than 30 days has passed without a planning commission recommendation, this bill is deemed approved by the planning commission per the Metro Charter.

ORDINANCE NO. BL2014-684 (HUNT) – This ordinance amends the Metro zoning code to allow for the possibility of detached accessory dwelling units within certain urban design overlay (UDO) districts. Currently, detached accessory dwelling units are only allowed within a historic overlay district. The accessory unit must be smaller in size and height than the primary structure. This ordinance would allow such structures within a UDO that has specific development standards for detached accessory dwellings. The only UDO that would be impacted by this ordinance at this point is the pending Clayton Avenue UDO, which is the subject matter of Ordinance No. BL2014-682 on third reading.

ORDINANCE NO. BL2014-686 (GILMORE, STEINE & TYGARD) – This ordinance authorizes the director of public property to accept two parcels of property from the Metropolitan development and housing agency (MDHA) for the construction of the West Riverfront Park improvements and amphitheater. The council approved $25 million in capital funding for the riverfront improvements and open space acquisition as part of the 2013 capital spending plan in June 2013. This ordinance accepts two parcels on Korean Veterans Boulevard totaling 0.81 acres that is within the footprint of the proposed development. The property is being transferred by MDHA at no cost to Metro.

ORDINANCE NO. BL2014-687 (GILMORE) – This ordinance approves a "Special Event Zone" for the downtown area in conjunction with the 2014 NCAA Women's Final Four basketball tournament to be held in Nashville in April 2014. The purpose of this temporary ordinance is basically to protect the NCAA and its sponsors from outside interference. This type of ordinance has become a popular request in recent years for major sporting events, such as the NCAA Final Four and Super Bowl. The NCAA initially requested that Nashville enact an ordinance that would basically prohibit the transaction of business on the public streets or sidewalks, including food/beverage and merchandise, as well as a ban on signage not sanctioned by the NCAA. Such a broad ban on commercial activity and signs could be construed as a violation of the free speech protections of the First Amendment to the United States Constitution. The council office and the department of law negotiated with the NCAA to come up with a more narrowly tailored ordinance that addresses the NCAA's concerns, while attempting to protect the everyday business activity and fabric of our downtown area.

The boundaries of the Special Event Zone are basically the area surrounding Bridgestone Arena, the Music City Center, and lower Broadway. The boundaries extend from 1st Avenue South to 8th Avenue South, and from Korean Veterans Boulevard to Commerce Street. The Special Event Zone ordinance will be in effect from 6:00 a.m. on Wednesday, April 2nd, through 6:00 p.m. on Wednesday, April 9th. The ordinance sets forth the types of activity that will be allowed in the area while the Special Event Zone is in effect. All licensed street vendors with a valid permit will be allowed to continue their everyday operations. Existing street vendors will be limited to selling the types of food, beverages, and/or merchandise listed on their general street vending permit application. All other temporary vending within the zone will be prohibited without the permission of the NCAA. The ordinance also prohibits the sale or distribution of unlicensed Final Four or college basketball merchandise within the area, as well as promotional giveaways ("sampling") without the permission of the NCAA. The ordinance requires that a "public participation area" be set up within the zone to allow for free speech expressive activity by the public.

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ORDINANCE NO. BL2014-687, continued

The ordinance recognizes that temporary and portable signs and banners are already prohibited by the Metro zoning code. The ordinance grants the NCAA an exception to this prohibition while the Special Event Zone is in effect to allow displays sanctioned or authorized by the NCAA. Tents, temporary structures, and mobile wireless communication facilities will be prohibited unless sanctioned and authorized by the NCAA or erected by Metro for public safety purposes.

ORDINANCE NO. BL2014-688 (MAYNARD, STEINE & MATTHEWS) – This ordinance approves agreements between the Metropolitan Government, the Metropolitan hospital authority, and several private entities for the privatization and continued operation of the Bordeaux Long Term Care and J.B. Knowles Home facilities. Bordeaux Long Term Care, located at 1414 County Hospital Road, is a 419-bed skilled nursing facility that currently has an average daily census of 220. The Knowles Home is a 100-bed assisted living facility located at 1010 Camilla Caldwell Lane that is operating close to full capacity. These two facilities, which are currently operated by the hospital authority, have been operating at a substantial financial loss for a number of years. The Bordeaux Long Term Care facility was transferred from the old Metro board of hospitals to the hospital authority when the authority was created in 1994. Operation of the Knowles Home was transferred by Metro to the hospital authority in 2004. The Metro operating budget is currently subsidizing these facilities at a cost to the taxpayers of $10.5 million per year.

Metro and the hospital authority have determined that the private sector is best suited for the operation of these two facilities given the economies of scale available to private operators. In April 2013, Metro's consultant contacted hundreds of potential buyers for the facilities requesting that they submit proposals to Metro. Six finalists were submitted to Metro for review. After completing the analysis, Metro and the hospital authority decided upon the proposed plan involving several private operators/developers that will ensure the continued operation of the facilities and eliminate Metro's subsidy entirely by fiscal year 2017.

The primary parties to this rather complex deal are Signature Healthcare, Ed Street Company, Autumn Assisted Living Partners, and Vision Real Estate Investment Corp. Signature Healthcare, based in Louisville, KY, operates 87 long-term care communities in seven states including a facility in Nashville. Of Signature's 35 urban facilities, 27 have the highest (five star) rating a nursing home can receive from the federal Centers for Medicare and Medicaid Services. Signature would take over operation of Bordeaux Long Term Care starting in May 2014, and will commit to operating a 120-bed nursing home at the Bordeaux campus for at least 10 years. Signature will also have a new $18 million 168-bed skilled nursing facility built on Dickerson Pike near Skyline Medical Center.

Ed Street Company will be the contractor for the new Dickerson Pike facility. This company, based in Johnson City, Tennessee, has more than 40 years of experience in the development of residential housing, office buildings, commercial developments, and senior care/senior housing facilities. Ed Street Company has built facilities in Tennessee, Kentucky, Indiana, Virginia, West Virginia, North Carolina, South Carolina, and Florida, with a total value in excess of $400 million.

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ORDINANCE NO. BL2014-688, continued

Once the new facility is built, Signature will have the option of either continuing operation of the existing Bordeaux Long Term Care facility or build a new nursing home on the campus. Signature will be required to immediately invest at least $250,000 in renovations to the existing Bordeaux facility.

Starting July 1, 2014, operation of the Knowles Home will be transferred to Autumn Assisted Living Partners, which is an affiliate of Vision Real Estate Investment Corp. The president of Autumn Assisted Living Partners is Paul Miller, who was formerly with the managed care organization Amerigroup Corp. Mr. Miller most recently operated an adult care program in Green Hills. The chairman of Vision Real Estate is Nashville native and workforce housing developer Mike Hampton. Two of Mr. Hampton's most recent projects are the East River Place and Seven Fifteen Woodland developments in East Nashville. Autumn will lease (and ultimately purchase) the facility from Metro and will enter into a separate agreement with MJM Associates, which is an operator of senior health facilities.

All of the Knowles Home employees and all but 32 of the Bordeaux Long Term Care employees must be offered continued employment at the same or greater rate of pay. The administration has stated it will attempt to find other positions within Metro for as many of these 32 employees as possible. All transferred employees will receive a one-time lump sum payment from Metro based upon years of service and will receive the difference in health insurance plan costs for one year. The amount of the one-time payment will be as follows:

0-5 years	$1,500
6-10 years	$2,500
11-15 years	$3,500
16-20 years	$4,500
20+ years	$6,000

Those employees whose positions are eliminated and cannot be placed elsewhere in Metro will receive a one-time severance payment based upon years of service equal to the above amounts in addition to the payment given to all employees. For example, an employee with 12 years of service whose position is being eliminated will receive a total one-time payment of $7,000.

Section 1.05 of the Metro Charter identifies "hospitals" and "housing for the aged" as two of the many identified functions of the Metropolitan Government, but provides that Metro does not have to continue any service that the council by ordinance has determined to be obsolete and unnecessary. Given the rationale for the privatization of these facilities, this ordinance includes language stating that long term care services by Metro is obsolete and unnecessary in accordance with this Charter provision.

An analysis of the proposed individual agreements approved by this ordinance is as follows:

Bordeaux Operating Lease with Signature

This agreement is between Metro, the hospital authority, and LP North Nashville, LLC, which is a wholly-owned subsidiary of Signature. The term of the lease agreement is from May 1, 2014 through April 30, 2016, plus a possible two year extension. However, the lease will continue (continued on next page)

beyond the termination date until the necessary state legislation has been approved allowing a division of the bed licenses and the new Dickerson Pike facility has obtained its Medicare and Medicaid certification. Signature will be responsible for all expenses associated with the operation of the facility, including general maintenance and utility costs. The facility is being leased "as-is", and Metro will only be responsible for making major structural repairs if needed. The lease requires Signature to spend at least $250,000 for interior improvements to the facility. The property cannot be subleased or the lease transferred without Metro's approval. The lease includes standard indemnification and insurance provisions for Metro's protection, including general liability, professional liability, and malpractice insurance.

Metro will be required to cover losses on the facility up to $3 million during the first six months, $2.5 million in the second six months, $2 million in the third six months, and $1.5 million in the fourth six months. Regardless of the actual amount of the losses, Metro's minimum subsidy will be $5 million in the first year and $3.5 million in the second year. This includes a management fee in the amount of 3% of the facility's revenue.

Signature must permit all existing residents/patients to remain at the Bordeaux facility during the term of the lease, regardless of ability to pay or health status. However, a patient could be transferred to another facility if Signature determines that it cannot appropriately provide for a patient's needs.

All but 32 of the existing Bordeaux Long Term Care employees must be offered employment with Signature at the same or greater rate of pay. The 32 employees that will not be transferred are non-clinical back office positions. Signature cannot terminate any transferred registered nurse, licensed practical nurse, or certified nursing assistant for six months without cause. All other transferred employees cannot be terminated without cause for the first 60 days.

Bordeaux Transfer and Development Agreement

This agreement between Metro, the hospital authority, LP North Nashville, LLC (Signature), and Investors II, LLC (Ed Street Company) sets forth the duties and requirements pertaining to the construction of the new Signature skilled nursing facility on Dickerson Pike and the continued operation of a skilled nursing facility on the Bordeaux campus. Ed Street Company will be responsible for building the 168-bed Dickerson Pike facility and will work with Signature and the hospital authority on the preparation of the required Certificate of Need (CON) to be submitted to the state. The 159 remaining bed licenses will be surrendered. Street Company must begin work on the new facility within 90 days of obtaining the CON, and must complete the facility within 20 months after construction commences.

Signature will pay Metro $1.3 million once the CON is approved. Signature will also pay all costs associated with changing the state law to allow the splitting of the existing bed licenses between the two facilities and the issuance of the CON. The contract obligates Signature to operate a skilled nursing facility on the Bordeaux campus for a minimum of 10 years.

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ORDINANCE NO. BL2014-688, continued

Once the new facility on Dickerson Pike is complete, Bordeaux residents will have an opportunity to transfer to the new facility. Signature will be required to provide placement for any patients and/or residents being served at the Bordeaux facility at the time the new Dickerson Pike facility is licensed at either the Bordeaux facility or the new facility.

Agreement to Purchase Bordeaux Campus

This agreement between Metro and Vision Real Estate provides for the phased sale of 76.6 acres of the Bordeaux campus to Vision for future development. For purposes of these transactions, the property has been divided into three tracts. Tract 1, totaling 31.8 acres, is the site of the existing Bordeaux Long Term Care facility. Metro agrees to sell this tract to Vision for $1.4 million, conditioned upon the $300,000 in capital improvements to be made at the Knowles Home by Vision's affiliate, Autumn Assisted Living Partners. After the new Dickerson Pike facility is constructed, one half of the current Bordeaux facility is to be converted into 62 senior living apartments. The other half of the facility will remain a skilled nursing facility unless/until a replacement facility is built on the Bordeaux campus. Vision must complete the development of Tract 1 within two years, with a capital improvement cost of at least $6.2 million.

Vision is to acquire the 21.3 acre Tract 2 for $300,000 once the following conditions have been met: (1) Vision completes the redevelopment of the existing Bordeaux facility into senior housing apartments; (2) 70% of the new apartment units are occupied; and (3) Vision has obtained Metro's approval of a plan to develop cottage-style homes on the property with a total development cost of $2 million to be used for affordable senior housing. Upon acquiring Tract 2, Vision must give a right of first refusal to Ed Street Company for 7.5 acres of the property to build a new skilled nursing facility. If Ed Street exercises this option, Vision is to pay Metro $150,000. Once Tract 2 has been built out, Vision is to purchase the third tract consisting of 23.5 acres for $300,000. The plan for Tract 3 is for Vision to build a 32-unit townhouse development and community garden.

Part of the existing Bordeaux facility is currently leased to Kindred Healthcare Long Term Acute Care Hospital through June 2018, plus two possible five-year extensions. The agreement to purchase the Bordeaux property requires Vision to continue this existing lease.

All property is to be purchased "as-is", and Vision will be responsible for paying all closing costs. Metro agrees to support Vision's application to rezone the property to allow the construction of senior independent housing.

Agreement to Lease and Purchase Knowles Home

Under this agreement between Metro and Autumn Assisted Living Partners (an affiliate of Vision Real Estate), Autumn will either purchase the Knowles Home facility by July 1, 2014 for $500,000, or will enter into a two year lease agreement and then purchase the facility in 2016. The rent paid to Metro during this two year period would be a nominal $1,000 per year. However, Autumn is required to make at least $300,000 in capital improvements to the facility during the first 18 months. Autumn must offer employment to all existing Knowles Home (continued on next page)

ORDINANCE NO. BL2014-688, continued

employees at the same or greater rate of pay, and cannot terminate these employees without cause for one year. All existing residents at the facility are to remain unless they voluntarily move or no longer medically need assisted living.

One aspect of the contract that will be of interest to some is the requirement that Autumn resume adult daycare services at the Knowles Home facility. The hospital authority stopped providing adult daycare at the Knowles Home in August 2013.

Autumn will be assuming all financial risk for the facility, and Metro's subsidy for the Knowles Home will end upon the effective date of this agreement. Autumn will be entitled to receive a portion of the outstanding accounts receivable. During the two year lease term, Autumn will be responsible for all maintenance and operation expenses. The agreement includes standard indemnification and liability insurance requirements.

Summary

In summary, this ordinance will result in the reduction of the subsidy for Bordeaux Long Term Care and the Knowles Home from $10.5 million in the current fiscal year down to $5.5 million in fiscal year 2015, $3.5 million in fiscal year 2016, and no subsidy in fiscal year 2017 and beyond. The ordinance also ensures that the facilities will continue to operate in the Bordeaux area, provides for a new $18 million skilled nursing facility near Skyline Hospital, $550,000 in capital improvements to the existing facilities, a $3.8 million cash purchase price to Metro, and the potential for new senior housing and amenities in the Bordeaux area. The agreements also provide some protection and transition assistance for existing employees.

ORDINANCE NO. BL2014-689 (BENNETT, DOMINY & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O92-161 when the former right-of-way of Old Ben Allen Road was abandoned for properties located at 3803 Saunders Avenue and Hart Lane, unnumbered. Metro water services no longer has a need for this easement. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-690 (BAKER, DOMINY & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O92-290 when the former right-of-way of 45th Avenue North was abandoned for property located at 4502 Illinois Avenue. Metro water services no longer has a need for this easement. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-691 (A. DAVIS, DOMINY & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O69-905 when the former Alley No. 1017-B right-of-way was abandoned for a parcel of property on Chester Avenue. Metro water services no longer has a need for this easement. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-692 (GILMORE, STEINE & DOMINY) – This ordinance abandons 1,500 linear feet of a 6" public water main along with fire hydrants, as well as 8" public sewer mains for properties located along George E. Davis Boulevard, Charlotte Avenue, Shankland Street, and Nelson Merry Street. This abandonment is necessary for the proposed Capitol View development at the corner of Charlotte Avenue and 11th Avenue North, which is to be the location of the new HCA development. The ordinance also abandons all associated water and sewer easement rights. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2014-693 (GLOVER, DOMINY & HUNT) – This ordinance authorizes Metro water services to negotiate and accept easements for the Tulip Grove stormwater improvement projects for properties located at 906 and 910 Tulip Grove Road, and Tulip Grove Road, unnumbered. There is no anticipated acquisition costs associated with these easements. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.