



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel
Mike Curl, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: **December 15, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 12/9/15:

4% Reserve Fund	\$36,477,396*
Metro Self Insured Liability Claims	\$3,760,779
Judgments & Losses	\$2,481,450
Schools Self Insured Liability Claims	\$2,933,444
Self-Insured Property Loss Aggregate	\$5,877,307
Employee Blanket Bond Claims	\$658,137
Police Professional Liability Claims	\$2,614,337
Death Benefit	\$1,182,128

*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$24,229,463.

– RESOLUTIONS –

RESOLUTION NO. RS2015-69 (PRIDEMORE) – This resolution approves an application for an annual grant in the amount of \$100,000 from the Tennessee Arts Commission to the Metropolitan Nashville Arts Commission for general operational support. The Arts Commission typically receives an annual state grant to help cover its operating costs. If awarded, a local match of \$100,000 will be required.

RESOLUTION NO. RS2015-70 (PRIDEMORE & PARDUE) – This resolution approves a grant in the amount of \$525,258.48 from the Tennessee Emergency Management Agency (TEMA) to the Office of Emergency Management (OEM) to recoup eligible costs incurred as a result of the February, 2015 severe winter ice storms and flooding. There is no local cash match, but an "in-kind" match of \$74,677.05 will be required. The term of the grant is from February 15, 2015 through February 14, 2020.

The following reimbursements are to be made from the grant proceeds, combined with the required local "in-kind" match:

Public Works - \$6,297.89 for removing and disposing of scattered storm-related vegetative debris within city limits;

State Fairgrounds and Fire House #22 - \$3,736.27 for repairs on three (3) furnaces heating the Wilson Building Shelter and replacing conduit wires and a digital electric meter on the Fire House;

Police Department - \$98,187.01 for emergency protective measures, including welfare checks, cold patrols, transporting stranded residents to shelters, and closing roads due to downed power lines as well as water and gas line breakage;

Water and Sewer Services - \$82,535.37 for responding to, replacing, and/or repairing fifty-one (51) damaged water mains;

EOC/ECC/IT - \$42,514.72 for staffing the Emergency Operations Center (EOC), performing cold weather patrols, meals for emergency staff unable to leave their workstations, taking and dispatching emergency calls, and working on emergency computer systems;

Shelter and Sidewalks - \$15,828.86 for preparation, operations, and security for emergency shelters in the Vaughn and Wilson Buildings at the State Fairgrounds;

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RESOLUTION NO. RS2015-70, continued

Metro Nashville School Buildings - \$329,084.68 for roof replacements and/or repairs due to extreme damage, replacing a BAC Cooling Tower, and repairing a sprinkler system;

Shelter Operations- \$21,750.71 for shelter operations in the Vaughn and Wilson Buildings at the State Fairgrounds

RESOLUTION NO. RS2014-71 (PRIDEMORE & PARDUE) – This resolution approves a renewal of an intergovernmental agreement between Tennessee State University (TSU) and the Metropolitan Nashville Police Department for the use of off-duty police officers during various campus events. All officers will be assigned exclusively through the Metro Police Secondary Employment Unit and will be compensated at the standard extra-duty hourly rates. TSU is responsible for paying for the officers' time in advance unless prior arrangements are made. The term of the agreement is through June 30, 2016.

State law allows the Metropolitan Government to enter into intergovernmental agreements with other government entities with approval of the council by resolution.

RESOLUTION NO. RS2015-72 (PRIDEMORE & HENDERSON) – The original grant in the amount of \$37,300 was awarded by the Nashville Public Library Foundation to the Nashville Public Library to fund a part-time position to initiate partnerships with local colleges and universities to recruit volunteers for use throughout the library system. The purpose of this position was to help offset staff reductions in the library system through the use of college students as volunteers. In Fiscal Year 2014, 767 individuals provided 35,211 volunteer hours in the libraries.

The Foundation has entered into a direct contract with a vendor to perform the necessary pre-employment checks of the volunteers at a cost of \$10,000. The amendment proposed by this resolution reduces the grant by this same \$10,000 because it is no longer necessary for the Library to perform these checks.

Although the grant total is being reduced to \$27,300, this will have no effect on the amount available for paying operational expenses. The termination date of the grant remains June 30, 2016.

RESOLUTION NO. RS2015-73 (PRIDEMORE & GILMORE) – This resolution approves Amendments #2 and #3 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 funds a number of medical and support services for HIV patients under the Ryan White HIV/AIDS Treatment Extension Act of 2009.

Amendment #2 changes the end date of the grant to February 29, 2016. The original end date was shown incorrectly as February 28, 2016.

Amendment #3 increases the amount of the grant by \$169,125 for a new total of \$4,851,239. There will still be no local cash match required for this grant.

RESOLUTION NO. RS2015-74 (PRIDEMORE) – This resolution authorizes the Metropolitan Department of Law to compromise and settle the claims of Mr. Horace Scott Harris and Ms. Terri Lynn Harris, individually and as next of kin of Mr. Chandler Harris, against the Metropolitan Government for the amount of \$300,000.

Mr. Chandler Harris was an employee of the Metro Public Works Department. On July 14, 2015, another employee was backing a Public Works garbage truck down an alley adjacent to 520 Commerce Street. Mr. Harris was standing on the rear platform of the truck -- his assigned position. The driver accidentally struck a building with the rear platform, causing Mr. Harris to fall under the truck's back tire. Mr. Harris died at the scene as a result of the injuries he sustained in the accident.

The analysis by the Department of Law has determined the driver was negligent, constituting a breach of his duty to use reasonable care in backing the truck. Tennessee's wrongful death statute allows certain surviving relatives to bring this claim against Metro for the death of Mr. Harris. Tenn. Code Ann. §20-5-106, *et seq.*

Under Tenn. Code Ann. §20-5-113, damages are recoverable for injuries to the deceased, including physical and mental pain and suffering from the time of the injury until the time of death, funeral expenses, the pecuniary value of the decedent's life (lost wages and earning capacity), and loss of filial consortium.

Because the claim in this case results from the negligent operation of a motor vehicle, all governmental immunity is removed under the terms of the Governmental Tort Liability Act. As a result, Metro is solely responsible for the damages in this case, and there is no individual GTLA liability on the part of the employee driving the vehicle. Regardless of the amount of actual damages, recovery is capped at \$300,000.

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RESOLUTION NO. RS2015-74, continued

To prevent recovery of damages at trial, it would be necessary for the decedent Mr. Harris to be found more than 50% at fault. The Law Department's analysis did not find any comparative fault that could be attributed to him. As a result, it is recommended that \$300,000 be paid in full settlement of the claims resulting from this accident.

RESOLUTION NO. RS2015-75 (PRIDEMORE) – This resolution authorizes the Metropolitan Department of Law to compromise and settle the personal injury claim of Mr. Rontez T. Parker against the Metropolitan Government for the amount of \$40,500.

On March 25, 2015, Mr. Parker was riding as a passenger in a Metro Water & Sewer Services vehicle in his capacity as a temporary employee of the department. The driver of the vehicle, a regular full-time employee, was following another vehicle too closely and was unable to stop in time when that vehicle stopped at a yield sign.

Mr. Parker was transported from the scene to a hospital, complaining of chest, abdominal, head, back, and neck pain. He was discharged from the hospital following treatment, but later sought additional treatment on April 16, 2015 at a Concentra Medical Center, complaining of continued neck and back pain. He was diagnosed with cervical and lumbar strains and prescribed physical therapy three times a week for two weeks.

Mr. Parker's direct medical expenses now total \$29,560.58. He is willing to accept a total of \$40,500 in full settlement of all claims resulting from this accident.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2015-45 (PRIDEMORE) – This ordinance revises Section 2.24.250 of the Metropolitan Code. From time to time, Metro acquires parcels of real property through the delinquent tax process. Often, these parcels are too small or share some other features which prohibit any substantial improvements from being built upon them. In these cases, the administrative, appraisal, and other costs of disposing of these parcels are more than the price Metro can receive from the sale of the parcels.

This ordinance establishes a new process for selling these parcels, following confirmation that no Metro department or agency has any need for them. The Director of Public Property would be authorized to sell such parcels to the owner of any adjacent tract for a price not less than the most current appraised value listed in the records of the Metro Tax Assessor. If no adjacent property owner is willing to pay this appraised value, the highest offered price may be accepted. Approval by Council resolution will be required before the Director is authorized to make any such sale. If the sale of more than one parcel is pending, approval may be given for them all as part of the same resolution.

ORDINANCE NO. BL2015-67 (O’CONNELL & PRIDEMORE) – According to the terms of the Central Business Improvement District Act of 1990, property owners within a specific confined area can petition the Council to create a Central Business Improvement District (CBID) to enhance the local business climate and to help manage the district. This requires the agreement of a majority of the real property owners within the proposed district having an assessed value of at least two thirds of the assessed value of all real property within the area. See, Tenn. Code Ann. § 7-84-511.

Nashville currently has two CBIDs -- the Downtown Central Business Improvement District (DCBID) and the Gulch Central Business Improvement District (GCBID). Property owners in the DCBID currently pay an additional \$0.2361 per \$100 of assessed real property value. The rate paid by property owners in the GCBID is lower, \$0.20 per \$100 of assessed real property value.

Each district is governed by a District Management Corporation as defined in the ordinance. The Board of Directors in each of these corporations currently contracts with the Nashville Downtown Partnership to provide additional services, such as trash removal, sidewalk sweeping and pressure washing, graffiti and handbill removal, public space management, security enhancement, beautification efforts, communications, and marketing. These services are in addition to, and do not replace, normal services otherwise provided within the Urban Services District.

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ORDINANCE NO. RS2015-67, continued

The revenue from the special assessments are collected by Metro and posted in separate special revenue funds. The District Management Corporation in each CBID acts as an advisory board for the purpose of making and carrying out recommendations for the use of these funds. Both CBID annual budgets are approved as part of the overall Metro operating budget each year.

The current GCBID was created on August 15, 2006 per Ordinance No. BL2006-1123. According to the terms of that ordinance, the District will be dissolved on January 1, 2017 if the Council does not take action to continue the District. The ordinance under consideration will extend this dissolution date to December 31, 2026.

The proposed area within the GCBID is being expanded in this ordinance. The current northern boundary ends at the alley between McGavock and Broadway, bounded by 13th Avenue South to the west and the railroad property to the east. The new northern boundary would extend to Broadway. Similarly, the current southeastern border ends at 8th Avenue South. The new boundary would include the triangular area bounded by 8th Avenue South, the interstate, and the railroad property. A map of the proposed GCBID area is attached to this analysis.

The initial special assessment rate established for the GCBID was \$0.15 per \$100. This was increased on June 3, 2008 per Ordinance No. BL2008-213 to \$0.91 per \$100 for calendar year 2009. This was reduced to \$0.43 per \$100 for Calendar Year 2010, \$0.25 per \$100 for Calendar Year 2011, and further reduced to \$0.20 per \$100 for Calendar Year 2012 and each subsequent year.

As part of the renewal of the GCBID being authorized by this ordinance, the special assessment rate in the GCBID will decrease from the current \$0.20 to \$0.18 per \$100 for calendar year 2017. This will drop further to \$0.15 per \$100 for 2018 and each remaining year through 2026. By state law, the Council must approve by ordinance any increase in the special assessment rate before it becomes effective, and must hold a public hearing prior to the vote on third and final reading.

Tenn. Code Ann. § 7-84-515(a) requires all readings to have been held prior to the public hearing, except the final such reading, so that the adoption may take place at the conclusion of such hearing.

ORDINANCE NO. BL2015-68 (PRIDEMORE, MURPHY, & WITHERS) – The purpose of this ordinance is to amend Metro’s retirement plans, qualified under Section 401(a) of the Internal Revenue Code, to recognize qualified domestic relations order (QDROs) in accordance with new Tennessee law.

A “domestic relations order” is a judgment, decree, or order (including the approval of a property settlement) made pursuant to state domestic relations law (including community property law) which relate to the provision of child support, alimony payments, or marital property rights for the benefit of a spouse, former spouse, child, or other dependent of a participant.

A state authority, generally a court, must actually issue a judgment, order, or decree or otherwise formally approve a property settlement agreement before it can be a domestic relations order under ERISA. The mere fact that a property settlement is agreed to and signed by the parties will not, in and of itself, cause the agreement to be a domestic relations order.

A "qualified domestic relations order" (QDRO) is a domestic relations order that creates or recognizes an alternate payee's right to receive, or assigns to an alternate payee the right to receive, all or a portion of the benefits payable with respect to a participant under a retirement plan, and which includes certain information and meets certain other requirements. As of July 1, 2015, the state of Tennessee requires Metro’s qualified retirement plans to honor claims under QDROs if the order relates only to the provision of marital property rights for the benefit of the former spouse of a plan participant.

The Metro Employee Benefit Board has met several times to consider the QDRO requirements and process. The Board approved the new QDRO policy at their meeting on November 3, 2015. The Board’s actuarial consultants have determined an estimated cost of \$34,000 to implement the program that will ensure Metro is in compliance with the State regulations. This will be an ongoing annual cost and is not included in Human Resources’ current operating budget.

The Board also issued a recommendation that the dollars for the QDRO budget not come out of the Pension Fund. In lieu of this, Metro would request the State Government to create legislation to enable all communities to recoup the cost of implementing this new law. However, no source of funding for this purpose has been identified.

ORDINANCE NO. BL2015-69 (ELROD & ALLEN) – This ordinance adopts the Geographic Information Systems Street and Alley Centerline Layer, with the changes as reflected on the Centerline Layer to date, as the official street and alley acceptance and maintenance record for

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ORDINANCE NO. RS2015-69, continued

Metro. The updated Centerline Layer shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro since it was last adopted.

This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-70 (HAGAR, ELROD, & ALLEN) – This ordinance amends the official Street and Alley Centerline Layer by abandoning a portion of Cumberland Avenue right-of-way and easement. There is no future need for this right-of-way and easement by Metro for any purpose.

This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2015-42 (ALLEN) – This ordinance abandons approximately 250 linear feet of existing sanitary sewer main and easement and to accept 332 linear feet of eight inch sanitary sewer main and easement and two manholes for properties located at 2209, 2211, 2213, 2215, and 2217 29th Avenue South.

This was approved by the Planning Commission on July 9, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-60 (ROBERTS & ELROD) – This ordinance abandons easement rights that were previously retained by Council Ordinance #O61-224 within a portion of the right of way of former Franklin Street for property located at 619 Ries Avenue. These are no longer needed by Metro for any purpose.

This was approved by the Planning Commission on September 23, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-61 (FREEMAN, ELROD, & ALLEN) – This ordinance authorizes Metro Water Services to negotiate and accept permanent and temporary easements for four properties located at 716, 720, 724, and 728 Glenduff Court for the Glenduff Court Stormwater Improvement Project.

This was approved by the Planning Commission on September 23, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-62 (SLEDGE, ELROD, & ALLEN) – This ordinance abandons 380 linear feet of existing two inch water main and 75 linear feet of six inch existing water main for property located at 2535 Franklin Pike.

This was approved by the Planning Commission on September 25, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-63 (ROBERTS, ELROD, & ALLEN) – This ordinance authorizes Metro Water Services to negotiate and accept permanent and temporary easements for 47

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ORDINANCE NO. RS2015-63, continued

properties located along Maxon Avenue, Lovell Street, Robertson Avenue, and Snyder Avenue for the Lovell Street Stormwater Improvement Project.

This was approved by the Planning Commission on October 9, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-64 (ROSENBERG, ELROD, & ALLEN) – This ordinance authorizes Metro Water Services to negotiate and accept permanent and temporary easements for property located at 7663 Lakeview Drive for the Lakeview Drive Stormwater Improvement Project.

This was approved by the Planning Commission on October 19, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-65 (HENDERSON & PRIDEMORE) – The construction of the Warner Park pedestrian tunnel is part of the Warner Park Trails Linkage Improvement project, originally approved per Resolution No. RS2011-1520 on January 18, 2011. The overall project includes construction of a 10-foot wide asphalt trail, pedestrian tunnel, retaining wall, ADA accessibility, landscaping, and pedestrian amenities. The total projected cost of the project was initially estimated to be \$1,565,339.75. The Tennessee Department of Transportation (TDOT) agreed to reimburse Metro \$1,252,271.80 (80%) of the total construction costs. Metro was to be responsible for paying the remaining cost of \$313,067.95.

The costs of constructing the pedestrian tunnel were initially included as part of the total that was eligible to be reimbursed by TDOT at the 80% rate. The Metro Council Office has been informed through TDOT that the tunnel costs are not eligible for this reimbursement. Metro is therefore responsible for paying 100% of the costs of the tunnel.

The ordinance currently under consideration will authorize Metro to reimburse CSXT for its construction engineering, inspection, and flagging costs for the construction of the tunnel, estimated to be \$208,459. It is intended that all work by CSXT or on CSXT property shall conclude no later than December 31, 2016.

Future amendments to this agreement may be approved by resolution.

ORDINANCE NO. BL2015-66 (WITHERS, HENDERSON, & ALLEN) – This ordinance grants a License Agreement between Metro and Tennessee’s Commissioner of Transportation. This agreement authorizes the installation and operation of the Cayce Landing Riverfront Park Project on property owned by the state. This property is not needed by the state for any other purpose.

The Riverfront Master Plan for downtown Nashville was developed in 2007. This was further refined and completed in 2011. Metro received an Army Corps of Engineers Individual Permit for the overall downtown riverfront plans in 2012, which were then approved by the Metro Board of Parks and Recreation. With these permits in place, the city can move straight to construction on these projects as funding is allocated over time.

Projects that have been funded and completed so far include Cumberland Park, the NABRICO building rehabilitation, the Landing on the east bank, and the development of the site that now includes the Ascend Amphitheater.

The Cayce Landing project is proposed under the Silliman Evans Bridge on the east bank of the river in unused TDOT right-of-way with river access. The project would include an accessible concrete river ramp, pile-supported platform, and floating dock kayak launch with accessible gangway. The estimated construction cost for the Casey Landing project in 2011 was \$2,308,500.

This ordinance does not appropriate any additional funding for this purpose. The License Agreement being approved by this ordinance simply gives Metro permission to use this land for this project if it is ever funded in the future.

Proposed Gulch CBID per BL2015-67



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