



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: November 20, 2018

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 11/14/18:

4% Reserve Fund	\$32,787,425*
Metro Self Insured Liability Claims	\$4,530,639
Judgments & Losses	\$2,720,318
Schools Self Insured Liability Claims	\$4,754,385
Self-Insured Property Loss Aggregate	\$7,044,093
Employee Blanket Bond Claims	\$674,736
Police Professional Liability Claims	\$2,219,939
Death Benefit	\$1,514,258

*This assumes unrealized estimated revenues in FY19 of \$28,265,629.

Note: No fiscal note is included for legislation that poses no significant financial impact.

– RESOLUTIONS –

RESOLUTION NO. RS2018-1485 (VERCHER & FREEMAN) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1486 (VERCHER & FREEMAN) – This resolution would approve an agreement between the United States Department of Justice (DOJ), Drug Enforcement Administration (DEA) and the Metro Nashville Police Department (MNPd). This agreement would govern the participation of DEA Nashville District Office Task Force participants in the DOJ “Equitable Sharing Program” and formalize MNPd’s participation in the program.

The Comprehensive Crime Control Act of 1984 initially authorized federal officials to implement a national asset forfeiture program and to share forfeiture proceeds with cooperating state and local law enforcement agencies. The Equitable Sharing Program was authorized pursuant to The Controlled Substances Act (USC Title 21, Section 881(e)), and the Civil Asset Forfeiture Reform Act (CAFRA)(USC Title 18, Section 981(e)(2). Under the proposed agreement, following a joint investigation, the MNPd may petition the DEA for a portion of seized or forfeited assets deemed as tools or proceeds of crime. The proceeds from these asset forfeitures would be split evenly among the task force members, subject to approval and at the discretion of the Attorney General. This sharing would not be awarded in a case where the victims have not been fully compensated. For these purposes, state, local, or federal government entities can be considered as victims. According to the MNPd, all cases in which the MNPd submits share requests involve a drug nexus and an arrest. As of this writing, it is not yet known if all MNPd share requests involve criminal convictions. (Share requests must be submitted within 60 days of seizure of the asset, and sharing determinations are generally made 120 to 180 days after forfeiture, although longer periods may be required in complex cases.)

The even split of forfeited assets may be modified in cases where a participating agency has either an unexpected financial burden or a unique or indispensable contribution related to the investigation and/or seizure. Additional adjustments may be necessary so as to ensure the DEA receives a minimum of 20%.

The MNPd has previously participated in the Equitable Sharing Program pursuant to two agreements approved November 7, 2017 per Resolution No. RS2017-920.

Fiscal Note: This is a renewal of the agreement between Metro and the DEA concerning the equitable sharing program. MNPd estimates they would receive approximately \$150,000 from this program.

RESOLUTION NO. RS2018-1487 (VERCHER & FREEMAN) – This resolution would approve a renewal of an intergovernmental agreement between Tennessee State University (TSU) and the Metropolitan Nashville Police Department (MNPd) for the use of off-duty police officers during

various campus events. This is a recurring agreement last adopted in 2017 per Resolution No. RS2017-840. All officers will be assigned exclusively through the MNP Secondary Employment Unit and will be compensated at standard extra-duty hourly rates. TSU will be responsible for paying for the officers' time in advance, unless prior arrangements are made.

The term of the agreement would be for one (1) year, commencing upon execution. This agreement would renew automatically for additional one-year terms, unless notice of termination is given by TSU.

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

Fiscal Note: The rates charged by the MNP in agreements of this type are designed solely to recover their costs. As such, the agreement being approved by this resolution would be revenue-neutral.

RESOLUTION NO. RS2018-1488 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claims of Dan and Sandy Feltner against the Metropolitan Government in the amount of \$175,000.

On March 12, 2016, a Metropolitan Nashville Police Department officer was driving an unmarked police car north on 16th Avenue toward Broadway when he received a call regarding a person with a gun located near Church Street. The officer stopped at a red light at the intersection of 16th Avenue and Broadway. The officer activated his lights and sirens before entering the intersection and through the red light while responding to the call. Mr. and Mrs. Feltner were passengers in a taxi traveling westbound on Broadway. The officer testified that he was unable to see the taxi due to a large truck. The driver of the taxi also testified that he was unable to see the officer due to a large truck. The taxi collided with the officer's vehicle in the intersection.

Mr. Feltner was thrown to the floor of the taxi upon impact, hit his head, and was knocked unconscious. He was treated at St. Thomas Hospital, then Vanderbilt Medical Center for a traumatic brain injury and multiple facial fractures. He did not require surgery but was monitored at the hospital for two days. After his release from the hospital in Nashville, Mr. Feltner returned home to Kentucky. At home, he experienced drainage from his nose and sought further treatment at the emergency room, where it was determined to be spinal fluid and required a lumbar puncture. The procedure was successful. Mr. and Ms. Feltner have agreed to accept a total of \$175,000 in full settlement of this case, based upon \$100,683.00 for reimbursement of Mr. Feltner's medical expenses, plus \$74,317.00 for pain and suffering and Mrs. Feltner's loss of consortium claim.

The Metro Government is responsible for any negligence on the part of a Metro employee acting within the scope of employment pursuant to the Tennessee Governmental Tort Liability Act. (Tenn. Code Ann. § 29-20-205). The Department of Law recommends settlement of this claim for

\$175,000. The taxi driver has agreed to contribute his insurance policy limit of \$50,000 to settle the Feltner's claims against him. It is anticipated that if this case were to proceed to trial, the Feltner's damages could total between \$450,000 and \$550,000.

No disciplinary action was taken against the officer.

Fiscal Note: This \$175,000 settlement, along with the settlement per Resolution No. RS2018-1489, would be the sixteenth and seventeenth payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$989,552.87. The fund balance would be \$4,530,639 after these payments.

RESOLUTION NO. RS2018-1489 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury and property damage claims of Roger Gordon and Dahlia McLeod against the Metropolitan Government in the amount of \$28,777.87.

On September 5, 2014, Ms. McLeod was stopped in northbound traffic on Gallatin Pike at a traffic light near the intersection of West Eastland Avenue. When the light changed, Ms. McLeod moved forward behind another vehicle which she submits suddenly stopped. Ms. McLeod in turn stopped, but was struck from behind by a Metro vehicle operated by a Metro Public Works employee. Both Ms. McLeod and her passenger, Mr. Gordon, were injured in the accident.

Ms. McLeod sought treatment for neck and back pain and was diagnosed with a cervical sprain. She received a five percent whole body impairment rating. Mr. Gordon also sought treatment for back and neck pain and received a five percent whole body impairment rating. Ms. McLeod and Mr. Gordon have agreed to accept a total of \$28,777.87 in full settlement of this case, which includes \$6,892.30 for reimbursement of Ms. McLeod's medical expenses, \$4,970.00 for reimbursement of Mr. Gordon's medical expenses, plus \$1,777.87 for the property damage to Ms. McLeod's vehicle.

The Metro Government would be responsible for any negligence on the part of the Public Works employee pursuant to the Tennessee Governmental Tort Liability Act. (Tenn. Code Ann. §§ 29-20-202 and 29-20-205). The Department of Law recommends settlement of this claim for \$28,777.87.

Disciplinary action against the employee consisted of a written reprimand.

Fiscal Note: This \$28,777.87 settlement, along with the settlement per Resolution No. RS2018-1488, would be the sixteenth and seventeenth payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$989,552.87. The fund balance would be \$4,530,639 after these payments.

RESOLUTION NO. RS2018-1490 (M. JOHNSON & O'CONNELL) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Government for the acceptance of the Hillwood Boulevard Bridge Rehabilitation over CSX RR and Richland Creek L.M. 0.09. The Metropolitan Government is authorized to enter into an agreement with a public agency such as TDOT by resolution. (Tenn. Code Ann. § 12-9-104.)

Fiscal Note: TDOT would be responsible to pay the costs of this project. The only cost to Metro would be the ongoing maintenance of the improvements following completion of the project.

RESOLUTION NO. RS2018-1491 (O'CONNELL & BEDNE) - This resolution would authorize 401 Union Hotel, LLC to construct, install, and maintain an aerial encroachment at 401 Union Street. The encroachment would consist of three (3) blade signs.

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to provide a \$2 million certificate of public liability insurance, filed with the Metropolitan Clerk and the Department of Public Works, naming the Metropolitan Government as an insured party. The applicant must also hold the Metropolitan Government harmless from all claims connected with the installation.

Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of the applicant. Metro further retains the right to repeal approval of the encroachment without liability.

Plans for the encroachment must be submitted to the Director of Public Works for approval, along with all work and materials; and the installation, when completed, must be approved by the Director. The construction must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2018-1492 (VERCHER & GILMORE) – This resolution would approve a contract between the Metro Board of Health and Monroe Harding, Inc. to hire one part-time administrative assistant for the Adverse Childhood Experiences (ACE) Nashville Initiative.

The ACE Nashville Initiative is a public/private collective impact initiative focused on reducing childhood adversity, promoting family resilience and lifelong health through a public health approach. It focuses on implementing the following strategies:

- Promoting trauma-informed systems and practice
- Advocating for policy change
- Providing parent and community education
- Performing continuous quality improvement

This administrative assistant for ACE Nashville would be hired by the Metro Board of Health with funding to be provided by Monroe Harding, up to \$11,244.

The term of the contract would be for twelve (12) months from the date the contract is approved by all required parties and filed with the Metropolitan Clerk.

Fiscal Note: The estimated value of this contract is \$11,244. There would be no other charges or fees for the performance of this contract.

RESOLUTION NO. RS2018-1493 (GILMORE) – This resolution would approve an agreement between the Centers for Disease Control and Prevention (CDC) and the Metropolitan Board of Health to provide an associate for the Public Health Associate Program (PHAP).

The PHAP is a long-established program whereby the CDC pays for an employee to obtain professional experience by working at a local or state health department for two years. The CDC employee receives two years of real-world public health experience. Metro would be provided with an associate to assist in developing, implementing, and evaluating public health programs.

Pursuant to this agreement, a PHAP associate would be assigned to Metro Public Health Department from October 1, 2018 until October 11, 2020.

RESOLUTION NO. RS2018-1494 (GILMORE) – This resolution would approve a Long-Term Food Information Sharing Confidentiality Agreement between the Metro Board of Health and the U.S. Food and Drug Administration.

Section 10.104(8) of the Metropolitan Charter provides that the Board of Health has the duty to contract for such services as will further the program and policies of the Board, subject to confirmation by resolution of Council.

The confidentiality agreement would facilitate the exchange of non-public food (which includes human and pet foods and animal feed), and cosmetic regulatory, public health, and safety information. The term would be a five (5) year period. (The memorandum attached to the Resolution references “a five-year period that will begin on July 1, 2014”.)

– ORDINANCES ON SECOND READING –

BILL NO. BL2018-1283 (MURPHY, HENDERSON, & M. JOHNSON) – This ordinance would amend Chapter 5.04 of the Metropolitan Code to restrict the use of proceeds from the sale of real property owned by the Metropolitan Government.

This ordinance would prohibit the use of proceeds from the sale of real property owned by the Metropolitan Government from being used for recurring costs of the Metropolitan Government or as a funding source for recurring operating expenses in a proposed operating budget. It would further require the proceeds to be used exclusively for the payment of debt services or the purchase of other real property.

Amendments from the sponsor are anticipated, including an exemption for properties acquired through delinquent tax sales, establishment of a scheduled implementation date, and other minor revisions.

Fiscal Note: The proposed restriction could have an effect on the FY19 operating budget approved by the Council in June. \$10,823,700 of the total revenue budgeted for the GSD General Fund, along with \$13,000,000 of the Schools Operations Fund, were budgeted to come from gains on real property sales that have not yet occurred, for a total of \$23,832,700 in recurring costs. \$15,000,000 budgeted for the Debt Services Fund would be unaffected by this proposed restriction.

An argument could be made that the \$23,823,700 in property sales referenced above is intended to increase the undesignated fund balance rather than funding any recurring costs in the budget. However, these revenue dollars are fungible and pooled together in the general funds rather than being collected for any specific purpose or function.

BILL NO. BL2018-1334 (HENDERSON) – This ordinance would amend the ticket tax for the Major League Soccer Stadium in Title 5 of the Metropolitan Code of Laws (MCL).

Substitute Ordinance No. BL2018-1289, as amended, was adopted September 5, 2018 and authorized the levy of a privilege tax upon the attendance of events at the municipal soccer stadium. Under this ordinance, the ticket tax at the MLS stadium is scheduled as follows:

- \$1.75 for years 1-5;
- \$2.25 for years 6-7;
- \$2.50 for years 8-9;
- \$2.75 for years 10-14; and
- \$3.00 for years 15 and after.

One dollar seventy-five cents (\$1.75) of the ticket tax is to be dedicated to the payment of debt service on bonds for the construction of the soccer stadium. Any amount collected above \$1.75,

after the fifth year, is to be deposited into a reserve account maintained by the metropolitan finance department for long-term capital expenditures at the stadium.

The ordinance under consideration would change the ticket tax for the Major League Soccer Stadium to set the tax at ten percent (10%) of the price of the ticket. State law authorizes local governments to enact a privilege tax in an amount not to exceed ten percent (10%) of the consideration charged to attend the event. Fifty percent (50%) of the ticket tax would be dedicated to the payment of debt service, while the remaining fifty percent (50%) would be deposited into a reserve account maintained by the metropolitan finance department to be used for long-term capital expenditures at the stadium.

Under MCL Section 5.14.020.A and Tenn. Code Ann. § 7-3-202, “municipal stadiums” consist of arenas used primarily for sporting events with a capacity of 30,000 or more financed by bonds issued by the metropolitan government. The new MLS stadium is anticipated to seat 30,500. With seating capacities of 20,000 and 8,500 respectively, Bridgestone arena and First Tennessee Park are not subject to ticket taxes. However, Nissan Stadium seats nearly 70,000 and currently collects a ticket tax of \$3.00. (From 2010 to 2012, the tax was \$2.00.) Ticket tax collections at Nissan total \$21,776,377 or 27% of all revenues.

Fiscal Note: The original estimate of ticket tax revenues was based on the assumption there would be 17 home games and 2 additional MLS events. The base projection assumed that the stadium would be filled at an average of 87% of capacity for these events. For comparison, there was also an optimistic projection that the average attendance would be at 95% of capacity.

The currently approved ticket tax structure calls for a flat tax of \$1.75 in Years 1 through #5, \$2.25 in Years #6 and #7, \$2.50 in Years #8 and #9, \$2.75 in Years #10 through #14, and \$3.00 thereafter. The 10% restriction would apply, meaning that the tax collected could be less if tickets are priced relatively low. Under this structure, the base assumption would equate to total ticket tax revenue of \$25,390,000 in the first 20 years. The optimistic assumption would equate to \$27,399,100 over the same period.

Ticket prices have not yet been determined for these MLS events. For comparison purposes, the following table shows the potential 20-year ticket tax revenues under the terms of the proposed ordinance for a 10% tax on ticket prices of \$10 through \$50:

<u>Ticket Price</u>	<u>Base Assumption (87% of capacity)</u>	<u>Optimistic Assumption (95% of capacity)</u>
\$10	\$10,156,000	\$10,959,640
\$20	\$20,312,000	\$21,919,280
\$30	\$30,468,000	\$32,878,920
\$40	\$40,624,000	\$43,838,560
\$50	\$50,780,000	\$54,798,200

With the increase in the ticket tax raising the overall price to attend a game, some depression of the overall attendance is possible, though it is unknown how significant this depression could be.

In all cases, 50% of the ticket tax revenue would be dedicated to pay the debt service for the bonds used to construct the stadium. The remaining 50% would be held in a reserve account for long-term capital expenditures at the stadium.

BILL NO. BL2018-1376 (SYRACUSE) – This ordinance would amend Section 7.16.030 of the Metropolitan Code of Laws (MCL) regarding location restrictions for the sale of liquor.

Currently, MCL Sec. 7.16.030.A.2 restricts liquor stores to locations on or with principal access to major streets or roads as shown on the major street plan adopted by the Metropolitan Planning Commission. (This restriction does not apply to artisan distilleries, as defined by MCL Sec. 17.06.040.)

This ordinance would allow liquor sales at retail locations on or with principal access to an arterial-boulevard, as shown on the major street plan. However, the arterial-boulevard access requirement would not apply to retail locations on collector-avenues or local streets no more than 3,960 feet (3/4 of a mile) in length that intersect, at two or more locations, the same existing arterial boulevard (The current exemption for artisan distilleries would continue to apply.)

It has been estimated by the Metro Planning Department that this amendment would enable few new retail locations for liquor sales -- perhaps as few as two (2) in Davidson County.

BILL NO. BL2018-1385 (HENDERSON) – This ordinance would require that any individual or entity to which a permit is issued by Metro or any Metro department, agency, board, or commission, must act at all times in compliance with the terms, conditions and requirements of the permit until the permit terminates or expires. The ordinance would, in essence, adopt permit compliance as a law of general application.

If an individual or entity does not comply with the terms, conditions, or requirements of the permit, that permit may be revoked or suspended following any notice requirements and subject to any recognized rights of appeal. Permits issued based on false, inaccurate, or misleading information from an applicant could further be revoked or suspended. Appellate decisions in Tennessee have recognized the Metropolitan Government's authority to rescind a permit issued in error, or where it was illegally issued, unauthorized, or violates or does not comply with zoning laws, or where it was issued under a mistake of fact. Revocation or suspension of a permit would be in addition to other penalties or enforcement measures authorized by relevant Metropolitan Code provisions governing the issuance of a particular permit.

BILL NO. BL2018-1386 (O'CONNELL) – This ordinance would approve a temporary “Special Event Zone” for specified areas of downtown Nashville, in conjunction with the 2018 New Year’s Eve Celebration scheduled for December 30, 2018 through January 1, 2019. Similar zones have previously been approved by the Council for celebrations of the CMA Fest (BL2018-1160), July 4th (BL2018-1206), and the NCAA Women’s Final Four (BL2014-687).

The boundaries of the Special Event Zone established under this ordinance would be Charlotte Avenue from 10th Circle North to 5th Avenue North, 5th Avenue North from Charlotte Avenue to Gay Street, Gay Street from 5th Avenue North to 3rd Avenue North, 3rd Avenue North from Gay Street to Jefferson Street, Jefferson Street from 3rd Avenue North to Rosa L. Parks Blvd., Rosa L. Parks Blvd. from Jefferson Street to 10th Circle North, 10th Circle North at Rosa L. Parks Boulevard to Charlotte Avenue.

Activity restrictions within the Special Event Zone would begin at nine o’clock (9:00) p.m. on Sunday December 30, 2018 and end at six o’clock (6:00) a.m. on Tuesday January 1, 2019.

Activities on public property or in the public right-of-way within the Special Event Zone are regulated as follows:

1. The sale of any food, beverages, goods, or merchandise would be prohibited, unless street vendors obtain a “Special Event Zone” permit from the Nashville Convention and Visitors Corporation (CVC) in order to sell within the geographic area listed above.
2. Alcoholic beverages provided, served, or sold from any temporary outdoor would be prohibited, except as authorized.
3. The sale or distribution of merchandise pertaining to the New Year’s Eve Celebration where it is apparent on its face that the merchandise is not licensed by the CVC, would be prohibited.
4. No tents or membrane structures of any kind would be permitted, except as authorized by the CVC or Metro for public safety purposes.
5. The construction, placement, occupation, or use of any temporary structure would be prohibited except those sanctioned and authorized by the CVC.
6. The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned and authorized by the CVC would be prohibited, except within any Public Participation Area.
7. Vehicles would be allowed only as directed by Metropolitan Nashville Police.
8. No shared urban mobility devices, as defined by Metropolitan Code of Laws Section 12.62.010, would be permitted within the Special Event Zone.
9. No handguns, rifles, or firearms would be permitted. (Tennessee Code Annotated § 39-17-1359)
10. No knives, swords, or other fighting devices would be permitted.
11. No fireworks, firecrackers, or explosive devices of any type would be permitted.
12. The Special Event Zone would be a “no fly zone.” (Tenn. Comp. R. & Regs. 0400-02-02-.02)

This ordinance would establish at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area would allow for the reasonable expression by the public in a manner that is not disruptive to the 2018 New Year's Eve Celebration, activities and events.

An amendment from the sponsor is anticipated which would clarify that Tennessee State Parks Department rules and regulations would continue to govern conduct on state park property.

Fiscal Note: This ordinance would place restrictions on the activities that would be allowed to take place within the special event zone during the New Year's Eve Celebration. However, no additional Metro personnel or overtime would be required solely for the enforcement of these restrictions.

BILL NO. BL2018-1387 (LEE) – This ordinance would readopt the Metropolitan Code prepared by Municipal Code Corporation (MCC) to include supplemental and replacement pages for ordinances enacted on or before September 5, 2018.

Per their contract with the Metropolitan Government, the MCC provides Metro Code updates four (4) times annually. This ordinance is a routine re-adoption to ensure the Metro Code remains up to date.

BILL NO. BL2018-1389 (O'CONNELL & BEDNE) – This ordinance would abandon existing easements rights located at Omohundro Place (unnumbered).

Easement rights that were retained by the warranty deed between the Metropolitan Government of Nashville and Davidson County and Fitzpatrick Family Members, LLC, for public water mains located at Omohundro Place (unnumbered) are no longer needed. The abandonment has been requested by Music City Pick-A-Part Partnership, owner.

This has been approved by the Planning Commission. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2018-1390 (O'CONNELL & BEDNE) – This ordinance would abandon existing easement rights located between Division Street and an unnamed alley adjacent to Interstate 40, formerly known as an unnamed alley parallel to Eighth Avenue South.

Easement rights that were retained by Council Bill No.O82-974, for any existing utilities and an un-named alley are no longer needed. The abandonment has been requested by Tim Reynolds, owner.

This has been approved by the Planning Commission. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2018-1391 (BEDNE & O'CONNELL) – This ordinance would abandon existing sanitary sewer main and accept new sanitary sewer main, sanitary sewer manholes and easements for properties located at 100 and 104 Fern Avenue.

This has been approved by the Planning Commission. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2018-1392 (BEDNE, O'CONNELL, & KINDALL) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 940 right-of-way and easement. The abandonment has been requested by Catalyst Design Group, applicant.

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

– ORDINANCES ON THIRD READING –

BILL NO. BL2018-1342 (SLEDGE, BEDNE, & OTHERS) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning portions of Alley Number 1805 right-of-way. This has been requested by Catalyst Design Group, applicant.

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

BILL NO. BL2018-1373 (MURPHY, VERCHER, & BEDNE) – This ordinance would declare surplus and approve the disposition of a parcel owned by the Metropolitan Government located at 3800 Charlotte Avenue.

The Public Works Department has declared this certain parcel of property surplus and Metro has determined that this certain parcel of property is no longer needed for governmental purposes.

Section 2.24.250 of the Metropolitan Code of Laws requires the Director of Public Property Administration to make all surplus property available to Metro departments, boards, and commissions. If none require the property, the director of public property administration is authorized, with the approval of the Metro Council, to sell such property, with the proceeds to be deposited in the general fund. If the assessor of property values the property in excess of five hundred thousand dollars, the director of public property must first obtain an independent appraisal from a state certified real estate appraiser. (An appraisal was distributed to Council members by the Finance department on November 1, 2018.)

Fiscal Note: Per the appraisal provided by the Department of Finance, the “as-is” assessed property value as of June 29, 2018 was between \$8,800,000 and \$9,200,000. If the property were rezoned to MUL-A zoning, the value would be between \$9,100,000 and \$9,500,000.

BILL NO. BL2018-1374 (PULLEY, VERCHER, & BEDNE) – This ordinance would declare surplus and approve the disposition of a parcel owned by the Metropolitan Government located at 2025 Richard Jones Road.

The Metropolitan Fire Department has declared this certain parcel of property surplus and Metro has determined that this certain parcel of property is no longer needed for governmental purposes.

Section 2.24.250 of the Metropolitan Code of Laws requires the Director of Public Property Administration to make all surplus property available to Metro departments, boards, and commissions. If none require the property, the director of public property administration is authorized, with the approval of the Metro Council, to sell such property, with the proceeds to be deposited in the general fund. If the assessor of property values the property in excess of five hundred thousand dollars, the director of public property must first obtain an independent

appraisal from a state certified real estate appraiser. (An appraisal was distributed to Council members by the Finance department on November 1, 2018.)

Fiscal Note: Per the appraisal provided by the Department of Finance, the assessed property value as of May 23, 2018 is \$5,870,000.

BILL NO. BL2018-1375 (MENDES) – This ordinance would amend Section 2.206.010 of the Metropolitan Code to correct a minor grammatical error.

Section 2.26.010 currently provides that, as a matter of policy, all Metro Government departments, agencies, boards, and commissions should comply with the Metro Code. The last sentence of this section further provides that these Metro entities cannot exempt themselves from compliance (except by resolution); but the sentence is ambiguously worded.

“The metropolitan government nor any of its departments, agencies, boards or commissions shall have the authority to exempt itself from compliance, except by resolution requiring twenty-one votes of the metropolitan council for just cause.”

This ordinance would clarify the wording as follows:

“*Neither [t]he* metropolitan government nor any of its departments, agencies, boards or commissions shall have the authority to exempt itself from compliance, except by resolution requiring twenty-one votes of the metropolitan council for just cause.”

BILL NO. BL2018-1377 (O’CONNELL & BEDNE) – This ordinance would facilitate the relocation of the Molloy Street right of way located between 2nd Avenue South and 3rd Avenue South.

The ordinance would approve a Right of Way Relocation Agreement (Agreement) between CBR 217 2nd Avenue, LLC (CBR 217), CBR Ragland Parking Lot, LLC (CBR Ragland), and the Metropolitan Government. The Metropolitan Mayor would be authorized to execute and deliver the Agreement. The Mayor, Director of Finance, and other officers of the Metro Government would be authorized to take any actions required to comply with the terms of the Agreement.

Pursuant to the terms of the Agreement, Metro would agree to abandon the area on the southern portion of Molloy Street, described by Exhibits 4 and 5 attached to the ordinance. Upon the abandonment, Metro would retain a pedestrian zone easement and an easement for the underground district energy system lines and vault. The area on the northern portion of Molloy Street would be dedicated as right of way, described by Exhibits 2 and 3 attached to the ordinance. Both the abandonment and the dedication would occur only upon CBR 217 and/or CBR Ragland obtaining a building permit to redevelop the property to the north or south of Molloy Street within five years of the effective date of the ordinance. After the abandonment and

dedication, CBR 217 would re-plat the North Molloy Property and CBR Ragland would re-plat the South Molloy Property.

CBR 217 and CBR Ragland would further agreed to realign Molloy Street between 2nd Avenue South and 3rd Avenue South. Upon completion of the realignment, CBR 217 would be authorized to use a portion of Molloy Street for a valet lane or lay-by lane, after obtaining any necessary permits from the Metro Public Works Department.

Future amendments to the Agreement or ordinance could be approved by resolution receiving twenty-one affirmative votes.

BILL NO. BL2018-1378 (SYRACUSE, VERCHER, & RHOTEN) – This ordinance would approve an amendment to an agreement between the Metropolitan Government and Plaza 2750, LLC, (Plaza) concerning the acquisition of real property for use as the site of a new public library in Donelson.

This ordinance would approve an amendment to an agreement initially approved by the Council on May 15, 2018 pursuant to Ordinance No. BL2018-1161. The amendment would remove certain conditions regarding Plaza's obligations to close on the property, including those related to the proposed Transit-Oriented Redevelopment Plan and a requirement that Plaza and the Metropolitan Development and Housing Agency enter into a development agreement for a tax increment financing loan. The revised conditions would be required to occur within 90 days after the effective date of the amendment. Exhibit C would be replaced with the Revised Donelson Plaza Master Plan, dated August 22, 2018. This revised Exhibit C is attached to the ordinance. Plaza's completion deadline for public infrastructure would be extended from 210 days to 365 days.

Fiscal Note: Metro's obligation toward the cost of designing and completing public infrastructure improvements would be increased from \$2,000,000 to \$3,250,000. This additional \$1,250,000 is included in Capital Fund #40017 for the new Donelson Library. No new bonds would need to be issued for this expenditure.

BILL NO. BL2018-1379 (SYRACUSE, SLEDGE, & GILMORE) – This ordinance would approve an agreement between the Metropolitan Department of Parks and Recreation (Parks) and Memphis Basketball, LLC (Memphis Basketball) to allow Parks to participate in the youth basketball program operated by Memphis Basketball. Memphis Basketball owns the Memphis Grizzlies, an NBA basketball team, and also owns and operates the "Junior Grizzlies" youth basketball program. A similar agreement was approved in 2017 per Ordinance No. BL2017-987.

In addition to participation in league games, each participant would receive a terrace-level ticket to a Memphis Grizzlies regular season home game. Each player would receive a Junior Grizzlies jersey and shorts, a rubber basketball, a drawstring bag, and a Certificate of Achievement.

Discounted tickets for parents, friends, and family members may be offered to certain games. All coaches, administrators and volunteers would be invited to a clinic hosted by a Grizzlies coach.

The only payment per this agreement would be \$40 per basketball participant, built into the registration fee. No other charges or fees are required for performance of the agreement. This agreement would terminate June 30, 2019.

Future amendments to this agreement may be approved by a resolution receiving at least twenty-one (21) affirmative votes.

BILL NO. BL2018-1380 (O'CONNELL & BEDNE) – This ordinance would authorize SWVP Nashville Hotel, LLC (SWVP) to install, construct, and maintain aerial and underground encroachments located in the right-of-way at 1000 Broadway. These would consist of ten movable planters, two bike racks, an overhead canopy, and a Nashville Electric Service vault under the sidewalk encroaching the right-of-way.

SWVP has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a \$2 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

Pursuant to the ordinance, the Metropolitan Government would retain its right to regulate use of the street and to order the relocation of facilities at SWVP's expense if necessary. Plans for the encroachments must be submitted to the Director of Public Works for approval before work is begun; and all work and materials must be approved by the Director. Construction must be carefully guarded and completed promptly so as to cause the least public inconvenience.

This proposal has been approved by the Planning Commission.

BILL NO. BL2018-1381 (O'CONNELL & BEDNE) – This ordinance would authorize LC Germantown, LLC to install, construct, and maintain underground encroachments in the right-of-way located at 1226 2nd Avenue North. These would consist of landscape lighting and irrigation encroaching the right-of-way.

LC Germantown, LLC has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a \$2 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

Pursuant to the ordinance, the Metropolitan Government would retain its right to regulate use of the street and to order the relocation of facilities at LC Germantown's expense if necessary. Plans for the encroachments must be submitted to the Director of Public Works for approval before work

is begun; and all work and materials must be approved by the Director. Construction must be carefully guarded and completed promptly so as to cause the least public inconvenience.

This proposal has been approved by the Planning Commission.

BILL NO. BL2018-1382 (O'CONNELL & BEDNE) – This ordinance would authorize Fountains Germantown Holdings, LLC to install, construct, and maintain underground encroachments in the right-of-way located at 1401 3rd Avenue North. These would consist of a portion of a planter wall and steps encroaching the right-of-way.

Fountains Germantown Holdings, LLC has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a \$2 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

Pursuant to the ordinance, the Metropolitan Government would retain its right to regulate use of the street and to order the relocation of facilities at Fountains Germantown Holdings, LLC's expense if necessary. Plans for the encroachments must be submitted to the Director of Public Works for approval before work is begun; and all work and materials must be approved by the Director. Construction must be carefully guarded and completed promptly so as to cause the least public inconvenience.

This proposal has been approved by the Planning Commission.

BILL NO. BL2018-1383 (O'CONNELL & BEDNE) – This ordinance would authorize Pizzuti Nashville Hotel Owner, LLC (Pizzuti) to install, construct, and maintain aerial and underground encroachments in the right-of-way located at 401 Korean Veterans Boulevard. These would consist of a flag pole, transformer vault, retaining wall, and LED lighting encroaching the right-of-way.

Pizzuti has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a \$2 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

Pursuant to the ordinance, the Metropolitan Government would retain its right to regulate use of the street and to order the relocation of facilities at Pizzuti's expense if necessary. Plans for the encroachments must be submitted to the Director of Public Works for approval before work is begun; and all work and materials must be approved by the Director. Construction must be carefully guarded and completed promptly so as to cause the least public inconvenience.

This proposal has been approved by the Planning Commission.

GRANTS LEGISLATION – NOVEMBER 20, 2018

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1485	<p>From: Tennessee Department of Finance and Administration</p> <p>To: Office of Family Safety</p>	Increase by \$49,790.00	\$0	N/A	<p>This would be the first amendment to a grant approved by RS2018-1191. The grant amount would be increased from \$328,000 to \$377,790.</p> <p>Grant proceeds are used for a Family Justice Center Navigator position.</p>