



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: September 4, 2018

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 8/29/18:

4% Reserve Fund	\$35,857,425*
Metro Self Insured Liability Claims	\$4,037,327
Judgments & Losses	\$1,998,590
Schools Self Insured Liability Claims	\$4,553,926
Self-Insured Property Loss Aggregate	\$5,380,311
Employee Blanket Bond Claims	\$678,641
Police Professional Liability Claims	\$2,247,016
Death Benefit	\$1,507,548

*This assumes unrealized estimated revenues in FY19 of \$31,482,006.

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

– ORDINANCES ON PUBLIC HEARING –

BILL NO. BL2018-1279 (MENDES & SYRACUSE) – This ordinance would amend the definitions of “alternative financial services” and “financial institution” in Title 17 of the Metropolitan Code of Laws. This ordinance would also clarify that no more than one alternative financial services establishment may be located upon a single parcel.

The definition of “alternative financial services” would be amended to exclude an “industrial loan and thrift company” defined under state law to refer to businesses engaged in making loans and imposing interest rates and loan charges authorized under Title 45, Chapter 5 of the Tennessee Code Annotated and providing only the services authorized under that chapter. An “industrial loan and thrift company” would be included in the definition of “financial institution.”

The ordinance further amends the definition of “alternative financial institutions” to include any entity offering financial services that is *not* determined to be a “financial institution.” In other words, institutions could no longer claim to be in an unregulated “gray zone” not fitting either definition.

Additionally, the ordinance would address concerns arising from current distance requirements whereby “alternative financial institutions” must be 1,320 feet apart *measured from property line to property line*. Because that requirement would theoretically allow multiple alternative financial institutions to be located within a single parcel, the proposed text change would additionally prohibit more than one such institution on any single parcel.

BILL NO. BL2018-1288 (WITHERS) – This ordinance would replace the introductory sentence in Metro Code of Laws 17.20.030. The current introductory sentence states that required parking spaces are established in the Table associated with this section. This ordinance would add a sentence to clarify that each parking space must be made available for use primarily to occupants, tenants and/or residents of the related land use. The clarification is intended to prevent the disposition of parking space areas by owners immediately after compliance with minimum parking standards

– RESOLUTIONS –

RESOLUTION NO. RS2018-1328 (VERCHER & SLEDGE) – This resolution would authorize the issuance of general obligation bonds in an aggregate principal amount not to exceed fifty million dollars (\$50,000,000). Twenty five million dollars (\$25,000,000) would be authorized for purposes of providing improvements, demolition, and/or acquisition of fairgrounds buildings and facilities. Twenty five million dollars (\$25,000,000) would be authorized for purposes of providing infrastructure related to the proposed Major League Soccer (MLS) stadium. Tennessee Code Annotated § 9-21-205 requires the governing body of the local government to adopt a resolution determining to issue the general obligation bonds.

The Council's authorization of the issuance of general obligation bonds was among the conditions imposed before the Sports Authority could issue or sell any bonds for the construction of the proposed stadium, as set forth in Resolution No. RS2017-910 (adopted November 7, 2017).

This resolution was submitted in conjunction with three (3) ordinances, each of which likewise addresses the proposed MLS stadium (BL2018-1289, -1290, and -1291). It was deferred at the August 7, 2018 meeting in order to track with the other stadium-related legislation, currently on third reading.

Fiscal Note: The principal amount of the bonds would not exceed \$50,000,000.

RESOLUTION NO. RS2018-1367 (VERCHER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1368 (VERCHER & VANREECE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1373 (COOPER & VERCHER) – This resolution would call for a county-wide referendum election to ascertain the will of the people regarding the issuance of bonds by the Metropolitan Government for purposes of constructing the proposed Major League Soccer (MLS) stadium and surrounding infrastructure. The resolution would also appropriate an amount not to exceed fifty thousand dollars (\$50,000) from the Undesignated Fund Balance of the General Fund to fund the referendum. (The Davidson County Election Commission provided this election cost estimate.) The resolution calls for the election to be conducted on November 6, 2018 “or as soon as reasonably practicable under the laws of the State of Tennessee.”

Section 7.05 of the Metro Charter authorizes the Council, if it desires, to call an election “for the purpose of ascertaining the will of the qualified electors...with respect to the issuance of any bonds, whether payable from ad valorem taxes or other taxes, or any other revenues, or a combination thereof.”

State law provides that elections on questions submitted to the people may be held on dates set by the county election commission. If the election is to be held with the regular November election, it must be filed with the county election commission not less than 75 days prior to such election. (Tenn. Code Ann. § 2-3-204). 75 days prior to the November 6, 2018 election was August 23, 2018. However, the election commission has the discretion to combine an election that is scheduled within 90 days of another general election.

The proposed referendum language would read:

“Do you favor the expenditure of funds and/or revenues of the Metropolitan Government, through the issuance of general obligation bonds not to exceed fifty million dollars (\$50,000,000) and revenue improvement bonds not to exceed two hundred twenty-five million dollars (\$225,000,000), for the purpose of constructing a new Major League Soccer Stadium and related infrastructure at the Fairgrounds Nashville?”

The Council office is of the opinion that the issuance of general obligation bonds is an appropriate matter for referendum approval because the bonds are “payable from ad valorem taxes or other taxes, or any other revenues, or a combination thereof”. Additionally, in this particular instance, the general obligation bonds involved would be issued by the Metropolitan Government.

However, while the Charter provides for referendum approval of “any bonds”, the revenue improvement bonds in this instance are to be issued by the Sports Authority, an entity authorized under separate state legislation to issue its own revenue bonds. Issuance of the revenue improvement bonds was previously approved by the Council per Resolution no. RS2017-910, subject to specific conditions – none of which included a referendum.

A substitute is recommended to address this and other technical concerns.

Rule 16 of the Council Rules of Procedure provides that, upon the filing of any ordinance or resolution requiring the appropriation or expenditure of money, the Director of Finance shall be afforded a period of twenty (20) days to furnish a statement to the Metropolitan Council certifying the availability of funds. This resolution was initially filed August 14, 2018 and circulated by published agenda August 15, 2018. The 20 day period will expire by the September 4 Council meeting.

Fiscal Note: The Election Commission staff estimates that it will cost \$50,000 to add a referendum to the ballot for the election to be held on November 6, 2018.

RESOLUTION NO. RS2018-1377 (VERCHER) – This resolution would authorize the Department of Law to settle the claims of Amy Elizabeth Guy against the Metropolitan Government in the amount of \$115,000.

Ms. Guy, a pre-trial detainee, alleges that on September 11, 2013, a corrections officer pepper sprayed her. The officer has testified that Ms. Guy appeared to be turning on her, whereas Ms. Guy maintains that she was merely turning around to ask the officer a question when she was sprayed. Ms. Guy further alleges that Metro failed to properly decontaminate her after she was pepper sprayed, prolonging the burning and discomfort she experienced. The Metro Health Department contracts with Correct Care Solutions, LLC (CCS) to provide healthcare services to inmates and pre-trial detainees in Davidson County corrections facilities. A CCS nurse failed to flush Ms. Guy's eyes following the pepper spraying and improperly instructed Ms. Guy not to wash for 24 hours. Fortunately, Ms. Guy sustained no permanent injuries following the failure to decontaminate her.

Ms. Guy has pursued a 42 U.S.C. § 1983 civil rights lawsuit against Metro and the officer, as well as an allegation that her rights were violated under the Fourth Amendment due to use of excessive force and wrongful prosecution. She has filed a companion case in state court alleging battery, negligence, and malicious prosecution. She also alleges that Metro has an unconstitutional policy of using chemical agents by correctional officers and that the officer in question was improperly trained. She has agreed to accept a total of \$115,000 in full settlement of this case.

It is possible that Metro could incur significant attorney fees and defense costs if this case were to proceed to trial. Pursuant to Tenn. Code Ann. § 8-8-302, Metro could face vicarious liability for the officer's conduct up to the amount of the Sheriff's bond, which is \$100,000. Liability would attach even if Metro is entitled to immunity under the Governmental Tort Liability Act. Defense costs will also be incurred for expert witness services, and total defense costs are estimated to exceed \$100,000 if the matter proceeds to trial. The Department of Law recommends settlement of this claim for \$115,000. CCS has agreed to reimburse Metro in the amount of \$38,000, approximately one third of the total, after the finalization of this settlement.

There was no disciplinary action taken against the Metro corrections officer, who is now retired.

Fiscal Note: This \$115,000 settlement would be the first payment from the Judgments and Losses Fund in FY19. The fund balance would be \$1,998,590 after this payment.

RESOLUTION NO. RS2018-1378 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury and property claims of Stacy Vance-Hall against the Metropolitan Government in the amount of \$13,750.

On December 3, 2014, a Metro Police officer pulled his patrol car behind Ms. Vance-Hall's vehicle on Clarksville Pike to initiate a traffic stop. Ms. Vance-Hall stopped her vehicle in the lane of traffic and the officer's patrol car collided into the rear of the vehicle.

Ms. Vance-Hall sought treatment for lower back pain, which included visiting a chiropractor and physical therapy. She has agreed to accept a total of \$13,750 in full settlement of this case,

based upon \$6,566.00 for reimbursement of her medical expenses plus \$996.43 for damage to her vehicle and \$6,187.57 for pain and suffering.

The officer was driving a Metro-owned patrol car and the accident occurred while in the course and scope of his employment. It is likely that any negligence of the officer would be imputed to the Metropolitan Government. (Tenn. Code Ann. § 29-20-202). The Department of Law recommends settlement of this claim for \$13,750.

Disciplinary action against the employee consisted of a one day suspension.

Fiscal Note: This \$13,750 settlement would be the tenth payment from the Self-Insured Liability Fund in FY19 for a cumulative total of \$533,500. The fund balance would be \$4,037,327 after this payment.

RESOLUTION NO. RS2018-1379 (VERCHER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1380 (VERCHER & WITHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1381 (VERCHER, ELROD, & A. DAVIS) – This resolution would approve a contract between the Metropolitan Department of Public Works and Red River Waste Solutions, LP (Red River), for weekly collection of waste in Districts 7, 8, and 9.

Section 2.01 of the Metropolitan Charter authorizes Metro to collect and dispose of garbage and refuse within the urban services district. Section 4.12.220 of the Metro Code of Laws requires Council approval of certain waste collection contracts by resolution.

The proposed contract was publicly bid and initiated by RFP process through the Procurement Code. Red River is currently providing waste collection services for other areas pursuant to an existing contract. The rate proposed for Red River for this additional annexation area would be less than current rates for existing service areas. Pursuant to the contract, Red River would agree to provide weekly waste collection at approximately 7,200 addresses in Districts 7, 8, and 9 which were recently annexed into the urban services district. The exact number of addresses may increase or decrease during the contract period. This contract would extend for sixty (60) months, beginning on July 1, 2018 and ending on June 30, 2023.

Fiscal Note: The estimated contract value is two million dollars (\$2,000,000).

RESOLUTION NO. RS2018-1382 (VERCHER & ELROD) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1383 (VERCHER, BEDNE, & ELROD) – This resolution would approve an agreement between the United States Department of the Army (the Army) and the Metropolitan Department of Water and Sewerage Services to provide relocation assistance for the Mill Creek Flood Risk Management Project (Mill Creek Project) in Davidson County.

In December 2017, the Metropolitan Council approved Resolution No. RS2017-976, which set forth a project including bridge modifications and channel improvements for the Mill Creek Project and the buyout of forty-four (44) flood-prone properties in the Mill Creek, Sorghum Branch, and Whittemore Branch watersheds. The agreement provided that Metro would assist homeowners with relocation costs.

The resolution under consideration would modify the original agreement to enable the Army to provide relocation assistance for citizens displaced during the Mill Creek Project. While relocation assistance was part of the original agreement, Metro was to perform both the appraisal and purchase of the affected properties and assist the homeowners with relocation costs. In subsequent discussions, it was determined that separating these activities to allow different parties to purchase the properties and assist with relocation costs was preferable. The Army has agreed to provide relocation assistance instead of Metro. Either party may terminate this agreement upon sixty (60) days written notice to the other party.

Fiscal Note: The original agreement per Resolution No. RS2017-976 called for Metro and the Army to fund the cost of the project jointly. Construction costs allocated to structural flood risk management were projected to be \$3,037,000. The Army was to pay \$1,519,000 of this amount, with Metro paying the remaining \$1,518,000.

Construction costs allocated to nonstructural flood risk management were projected to be \$9,772,000. The Army was to pay \$6,353,000 of this amount, with the remaining \$3,419,000 paid by Metro (35% of the total). This revised distribution of labor between Metro and the Army does not change the cost share agreement and does not increase the cost to Metro for this project.

RESOLUTION NO. RS2018-1384 (HAYWOOD) – This resolution would approve the election of six hundred and five (605) Notaries Public in accordance with state law. Per Rule 27 of the Metro Council Rules of Procedure, the Davidson County Clerk has advised that each of the applicants meets the qualifications for the office.

– ORDINANCES ON SECOND READING –

BILL NO. BL2018-1293 (GILMORE) – This ordinance would amend Title 5 of the Metro Code of Laws to define “Municipal soccer stadium” and impose a privilege tax in the amount of \$3.00 per ticket on the sale of tickets of any event at a municipal soccer stadium. However, Ordinance no. BL2018-1289, scheduled for third reading, imposes a privilege tax on the sale of tickets to events at the proposed new Major League Soccer stadium, though at a lesser escalating rate.

It should further be noted that Resolution No. RS2017-910, adopted by Council on November 7, 2018, authorized the Sports Authority to issue bonds for the MLS Soccer Stadium construction, provided the Council approved a ticket tax in the specific amounts of \$1.75 during years 1-5, \$2.25 during years 6-7, and \$2.50 after year 7.

Ticket taxes are authorized pursuant to Tenn. Code Ann. § 7-3-202. This law states that the privilege tax cannot exceed ten percent (10%) of the consideration charged for spectators attending the event. Further, the state law requires that funds collected from the tax be used only to defray the cost of operating and constructing the stadium or to pay debt service on bonds issued in connection with the stadium. The tax must be approved by twenty seven (27) votes pursuant to the state law.

Although the tax proposed pursuant to this ordinance would be \$3.00 per ticket, the tax would be capped at ten percent (10%) of the ticket price if the ticket price was below \$30.00. \$1.75 of the ticket tax for the municipal soccer stadium would be dedicated to the payment of debt service on the bonds for the construction of the stadium. Any amount of the ticket tax above \$1.75 would be deposited into a reserve account maintained by the Metro Finance Department and would be used for long-term capital expenditures at the municipal soccer stadium.

Fiscal Note: The amount of the ticket tax to be charged would depend on the price of the tickets charged for events at the stadium. For ticket prices below \$30.00, the tax would be charged at the rate of 10% of the ticket price. For ticket prices of \$30.00 or above, the ticket tax would be charged at the flat rate of \$3.00.

Up to the first \$1.75 of each tax collected per ticket would be dedicated to the payment of debt service on the bonds for the construction of the soccer stadium. All taxes collected above \$1.75 per ticket (\$1.25 maximum) would be deposited in a reserve account for the long-term capital expenditures at the stadium.

BILL NO. BL2018-1313 (VERCHER) – This ordinance would approve a contract between Metro and the United Way for the continuation of the Nashville Financial Empowerment Center.

Metro was the recipient of a grant from Bloomberg Philanthropies for the purpose of operating the financial empowerment program through December 2015. Ordinances No. BL2016-387 and BL2017-869 have extended the Nashville Financial Empowerment Center for one year terms.

The Financial Empowerment Center provides one-on-one financial counseling and other financial education activities at no charge to low income residents.

The term of this contract would be from July 1, 2018 through June 30, 2019. The United Way would conduct a minimum of 2,160 counseling sessions during this period. At least three (3) full-time (or equivalent) counselors would be retained and supervised to provide these services.

Fiscal Note: Metro would pay the United Way an amount not to exceed \$250,000, which would include all labor, overhead, profit, and expenses.

BILL NO. BL2018-1314 (COOPER & VERCHER) – This ordinance would establish a Blue Ribbon Commission to identify government inefficiencies.

Previously, Substitute Ordinance No. BL2018-1184 approved the Annual Operating Budget for Fiscal Year 2019 and, by amendment, authorized the establishment of a Blue Ribbon Commission by September 30, 2018. The goals of the Blue Ribbon Commission would be to find budgetary cost savings.

This ordinance would revise various provisions of the Blue Ribbon committee as originally established under Substitute BL2018-1184 and establish a fifteen (15) member Blue Ribbon Commission (the Commission). There would be twelve (12) voting members, with five (5) appointed by the Mayor, four (4) appointed by the Mayor and assented to by the Vice Mayor, and three (3) designated from the membership of the Council, including the Vice Mayor or a designee, the Budget and Finance Committee chair, and a councilmember chosen by the Vice Mayor. There would be three (3) ex officio, non-voting members appointed by the Mayor, representing the Mayor's Office, the Department of Finance, and the Department of Law. The term of the non-councilmembers would be three (3) years.

The Commission would be authorized to contract for professional consulting services for a term of six months and a contract value not to exceed \$250,000. The Commission would be required to propose and vote on expense and saving ideas and revenue generating proposals. Upon approval of the Commission, these proposals would be reported to the Mayor's Office and Council by March 31 of each year. The Commission would sunset upon the adoption of the annual operating budget, but could be reauthorized in each subsequent budget.

Fiscal Note: The Blue Ribbon Commission as proposed by this ordinance was authorized by amendment to the approved Substitute FY19 Operational Budget. However, there were no funds appropriated for the operations of this Commission.

The proposed ordinance would authorize the Commission to contract with professional consulting services at a cost up to Two Hundred Fifty Thousand Dollars (\$250,000). No appropriation was included to pay for the cost of these contracted services.

The targeted goal of this Commission is to achieve cost savings of Twenty Million Dollars (\$20,000,000) in annual savings. The consultant fees would represent 1.25% of this total if it is achieved. However, there is no guarantee of any particular amount of savings resulting from the activities of this Commission.

BILL NO. BL2018-1315 (MENDES) – This ordinance would establish a Tax Increment Financing (TIF) Study and Formulating Committee.

TIF is authorized under state law at Tennessee Code Annotated Title 7, Chapter 53, Title 9, Chapter 23 and Title 13, Chapter 20, Part 7.

The TIF Study and Formulating Committee (the Committee) would consist of seven (7) members approved by Metro Council resolution. Within thirty (30) days of adoption of this ordinance, two (2) members would be nominated by the chief executive of the Metropolitan Development and Housing Agency (MDHA), two (2) members would be nominated by the mayor, and three (3) members would be appointed by election of the Metro Council.

The Committee would study how Metro uses TIF and formulate recommendations for its implementation in a more transparent, equitable, effective, and understandable manner. The study would assess: (i) how TIF is awarded, (ii) strengths and weaknesses of how TIF is currently awarded, (iii) whether alternative lawful approaches exist for structuring TIF awards, and (iv) whether methods for awarding TIF should be revised following the emergence of transit-oriented redevelopment districts and other developments. The Committee would be authorized to obtain from any department, board, commission, agency, officer, or employee of Metro any information and data regarding TIF or any other pertinent information and data as the Committee may require. Within six (6) months of its appointment, unless extended by Metro Council resolution, the Committee would submit to the Council and to MDHA its complete report and recommendations.

Fiscal Note: No funds would be appropriated by this ordinance for this Committee's operations. There is no projection of the costs for the activities of the Committee, but they should be minimal.

– ORDINANCES ON THIRD READING –

BILL NO. BL2018-1203 (ROSENBERG) – This ordinance, as substituted, would amend Metro Code of Laws Title 12 by defining types of scooters, amending operating requirements, and modifying certain other requirements.

This ordinance would first establish definitions for “motorized” and “non-motorized” scooters, with the former defined as a device with front and rear wheels with a footboard between, steered by a handlebar and propelled with aid of a motor or other non-manual propulsion device. “Non-motorized scooters” would be similarly defined, but propelled without the aid of a motor or other propulsion device. The definition for “business district” would be updated to match the definition in state law and the recently adopted Ordinance No. BL2018-1202 regarding shared urban mobility devices.

The regulations in this ordinance would apply to scooters, roller skates, and in-line skates not governed under BL2018-1202. Motorized scooters could be operated upon sidewalks, except within a “business district”, defined as territory next to a highway in which, along any 600 feet of frontage, there are buildings for business or industrial uses occupying at least 300 feet. Non-motorized scooters, in-line skates, or roller skates could be operated on sidewalks, except within a “Central Business Improvement District.” Under state law, “central business improvement districts” consist of areas designated by municipalities to provide for additional services and improvements, typically through additional tax assessments and bond issuances. (Tenn. Code Ann. §7-84-501, et seq.) In Davidson County, such districts have been established in downtown, the Gulch area, and South Nashville.

Under current Metro law, operators of scooters, in-line skates, and roller skates must wear an approved helmet, as well as wrist guards, elbow pads, and kneepads. This ordinance would remove those requirements but keep an existing provision regulating lamps and reflectors required for scooters, in-line skates, and roller-skates.

BILL NO. BL2018-1280 (HASTINGS) – This ordinance would approve the plans for a non-hazardous liquid waste processing facility at 2832 Whites Creek Pike. This consists of parts of two (2) large parcels of land, including 0 Whites Creek Pike. The proposed facility would accept non-hazardous liquid waste to be recycled into various products.

Onsite Environmental, located at 1421 Baptist World Center Drive, has submitted an application and plans for a processing facility to the Division of Solid Waste Management of the Tennessee Department of Environment and Conservation (TDEC). This application was forwarded to the Department of Public Works. The location of the proposed facility is zoned SP-Industrial and is not within the 100-year floodplain. The facility would accept no more than 195,000 gallons of non-hazardous liquids per day.

On August 10, 2018, the Planning and Codes Departments issued a joint memorandum clarifying that the proposed facility would be categorized as a Recycling Facility. The current SP zoning for this location is divided into three districts: A, B and C. District B of the Specific Plan would permit a Recycling Facility use under current zoning. Districts A and C would not. In the event the Council did not approve this ordinance, it is the opinion of the Council office that a law of specific application (Tenn. Code Ann. §68-211-701, et seq.) would prohibit the intended use despite general zoning allowances.

The Council office has been advised by the applicant that the proposed facility would collect grease trap liquids, oily wastewater, and leachate. Grease collected from containers at restaurants and wastewater treatment units constitutes a “recovered material” that does not otherwise enter the waste stream. As such, the Jackson Law (Tenn. Code Ann. § 68-211-701, et seq.) would not apply to a facility collecting only grease trap liquids. The Tennessee Department of Environment and Conservation has confirmed, however, that oily wastewater and leachate constitute solid waste to which the Jackson Law does apply.

Pursuant to Tenn. Code Ann. § 68-211-704(b), the criteria to be considered by the Council in evaluating this proposal include the following:

1. the type of waste to be disposed of;
2. the method of disposal to be used;
3. the projected impact on surrounding areas from the noise and odor created;
4. the projected impact on property values on surrounding areas;
5. the adequacy of existing roads and bridges to carry the projected increased traffic;
6. the economic impact on the country, city, or both;
7. the compatibility with existing development or zoning plans; and
8. any other factor which may affect the public health, safety, or welfare.

Per Ordinance No. BL2016-484, the Council must approve all solid waste processing facilities and similar facilities prior to their construction. The provisions of Tennessee Code Annotated § 68-211-704 requires a public hearing and that final approval must be voted upon within thirty (30) days of the public hearing. The public hearing occurred August 7, 2018, and the September 4, 2018 meeting would be the last remaining regular meeting within the 30 day period.

ORDINANCE NO. BL2018-1289 (SLEDGE & VERCHER) – This ordinance would approve the demolition of certain buildings and structures necessary for the construction of a new Major League Soccer (MLS) Stadium at the Nashville Fairgrounds and would amend the Metropolitan Code of Laws to impose a privilege tax on the sale of tickets to events at the MLS Stadium.

Section 1 of the ordinance would approve the demolition of certain buildings and structures on the Fairgrounds Nashville premises. These buildings and structures are specifically identified on Exhibit A, attached to the ordinance. Pursuant to Sec. 11.602 of the Metropolitan Charter, no

demolition of the Fairgrounds Nashville premises can occur without approval by ordinance of the Council receiving twenty-seven (27) affirmative votes, or a Charter amendment.

Section 2 of the ordinance would amend Title 5 of the Metro Code of Laws to define “Municipal soccer stadium” and impose a privilege tax on the sale of tickets of any event at a municipal soccer stadium. The tax would be \$1.75 for events scheduled to occur during the first five (5) years of the operation of the stadium, \$2.25 during years six (6) and seven (7), and \$2.50 for events scheduled after the seventh year. \$1.75 of the ticket tax for the municipal soccer stadium would be dedicated to the payment of debt service on the bonds for the construction of the stadium. Beginning after the fifth year, any amount of the ticket tax above \$1.75 would be deposited into a reserve account maintained by the Metro Finance Department to be used for long-term capital expenditures at the municipal soccer stadium.

The ticket tax is authorized pursuant to Tenn. Code Ann. § 7-3-202 which states that the privilege tax cannot exceed ten percent (10%) of the consideration charged for spectators attending the event. Further, the state law requires that funds collected from the tax be used only to defray the cost of operating and constructing the stadium or to pay debt service on bonds issued in connection with the stadium. The tax must likewise be approved by twenty seven (27) votes pursuant to the state law.

The demolition proposal has been approved by the Planning Commission as a mandatory referral.

Fiscal Note: This ordinance would approve a tax on the sale of tickets at the soccer stadium. The amount of the tax would increase over time. The amount of this tax per ticket would be \$1.75 during each of the first five years, increasing to \$2.25 for the sixth and seventh years, and \$2.50 thereafter.

Starting in the sixth year, all taxes collected above \$1.75 per ticket (a maximum of \$0.75, beginning in the eighth year) would be deposited in a reserve account and used for long-term capital expenditures at the stadium.

Because of state law restrictions, the ticket tax cannot be more than 10% of the cost of the ticket. This would mean that the full tax could be charged for tickets costing \$17.50 per ticket during each of the first five years, \$22.50 for the sixth and seventh years, and \$25.00 thereafter. If ticket prices are ever below these amounts, the amount of the ticket taxes would be restricted to 10% of this ticket cost.

BILL NO. BL2018-1291 (SLEDGE & VERCHER) – This ordinance, as amended, would declare a portion of the parcel located at 300 Rains Avenue (the Fairgrounds Nashville) surplus and approve the execution and delivery of a ground lease between the Metropolitan Board of Fair Commissioners (Board) and Nashville Soccer Holdings Development LLC (NSH).

As recently amended in March 2018 by Ordinance No. BL2018-1054, Metro Code of Laws Sec. 2.24.250.H now requires any property owned by Metro that is to be leased for a term greater than fifty (50) years to be declared surplus prior to the lease taking effect. Additionally, in August 2018, the Council adopted Ordinance No. BL2018-1282 revising requirements for appraisals of Metro-owned property prior to disposition, with the aim to include prospective values that may result from anticipated changes in entitlements such as zoning classifications. Pursuant to these new requirements, the Finance Department submitted a revised appraisal to all members of Council on Wednesday, August 29, 2018, listing a prospective value of \$20,735,000.

The term of the ground lease under consideration would begin on the Commencement Date and continue for ninety-nine (99) years. The site would be delivered to NSH no later than June 30, 2019. NSH would pay to the Board a minimum annual rent of two hundred thousand dollars (\$200,000), for the full term of the lease, increasing five percent (5%) every ten years after the 30th year. The lease payments would be offset by the amount of any parking revenues remitted to the Board with respect to non-Soccer Events at the stadium. Development would occur at the sole expense of NSH and the mixed used development would have a project cost of not less than \$150,000,000.

The lease would prohibit certain uses of the property, as follows:

1. Any use that creates, causes, maintains, or permits a public or private nuisance;
2. Any use that violates any applicable law or a special use permit or other use restrictions currently in effect;
3. The sale or commercial display of any obscene sign or advertisement;
4. Any sexually oriented business as defined in Chapter 6.54 of the Metro Code of Laws;
5. The sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the illegal taking or use of drugs;
6. A shooting gallery, target range, vehicle repair facility, warehouse, convalescent care facility or mortuary, or any assembly, manufacture, distillation, refining, smelting or other industrial operation or use (alcohol distilleries or breweries connected with a restaurant would not violate this provision); and
7. A massage parlor or tanning parlor.

Future amendments to the lease would become effective after approved in writing by NSH and the Board and upon approval by resolution of the Council.

The Board of Fair Commissioners and the Planning Commission have approved this ground lease.

Fiscal Note: Although the development costs are expected to be no less than \$150,000,000, no part of this would be paid by Metro. There is also no property tax abatement associated with this development.

The developers have agreed to pay Metro 50% of any parking revenues that result from non-Soccer events at the stadium over the next 30 years. The amount of the shared parking revenues would be allowed as an offset to the lease payments.

The original lease proposal for the 10 acres per this agreement called for payments of \$200,000 per year for a term of 30 years. This has now been changed to a term of 99 years. Also, the \$200,000 lease payments would increase by 10% every 10 years after the first 30 years.

The total payments per the original lease proposal would have been \$6.00 million over 30 years. However, the total present value of these payments would be less. The amount of the present value would depend on the assumed interest rate. As an example, \$200,000 per year for 30 years with an interest rate of 5.1% would have a present value of \$3.19 million.

The total payments per the amended lease proposal would be \$22.82 million over 99 years. The total present value of these payments, assuming the same rate of 5.1%, would be \$4.20 million. Therefore, the amended lease payments over 99 years would have a present value of \$1.01 million more than the original proposal.

BILL NO. BL2018-1292 (SLEDGE) – This ordinance, as amended, would amend Chapter 2.140 of the Metro Code of Laws regarding the public records commission. Pursuant to Tenn. Code Ann. § 10-7-401, the Metro Council is authorized to create a county public records commission. A public records commission was created in 1997. Subsequently, in May 2014, Ordinance No. BL2014-727 designated the Metro Archivist as an additional member of the public records commission, but the total count of the commission was inadvertently not increased.

This ordinance would raise the total number of members from seven (7) to eight (8) to accurately reflect the number of members provided for under the Section. Further, the staff of the commission would be changed from “the archives division of the public library and the records division of the Metropolitan Clerk’s office” and instead allow for the secretarial duties to be performed by the Metropolitan Clerk or a designee.

BILL NO. BL2018-1295 (O’CONNELL) – This ordinance, as substituted, would amend the restrictions in the Metro Code of Law where street vendors are not permitted to operate to include Symphony Place and the John Seigenthaler Pedestrian Street Bridge.

Currently, Metro Code of Laws Sec. 13.08.040.B.6.f. restricts the locations where street vendors are permitted to operate. This includes certain marked spaces in the area of Demonbreun Street within the DTC and CF districts. Further, street vendors are prohibited from operating within the DTC and CF districts on Second Avenue North between Broadway and Church Street, and on Commerce Street between Second Avenue North and Third Avenue North.

The ordinance under consideration would extend this prohibition to preclude street vendors from operating within the DTC and CF districts on Symphony Place between Third Avenue South and Fourth Avenue South and the John Seigenthaler Pedestrian Street Bridge.

BILL NO. BL2018-1296 (VERCHER, RHOTEN, & O'CONNELL) – This ordinance would approve a revocable license agreement between the Metro Board of Parks and Recreation and Glowco, LLC for the use of Riverfront Park and Ascend Amphitheater.

The Board of Parks and Recreation has the authority to enter into license agreements such as this under Metro Charter Sec. 11.1002.

Under the Revocable License Agreement, Metro would grant a revocable license to Glowco to use Riverfront Park and Ascend Amphitheater during certain seasons, defined below. This agreement would not include the dog park at Riverfront Park. As a condition to this license agreement, Glowco would be required to enter into agreements with a Metro-approved turf vendor, to repair any damage to the turf that may occur, and with Live Nation Worldwide, Inc. to address the use of the facilities and concession rights.

The term of the Agreement would be from the Effective Date and continue until December 31, 2025. Glowco would be authorized to use the facilities for eight use intervals or “seasons.” The eight (8) seasons would be as follows:

- Season 1: 12:01 AM November 6, 2018 until 11:59 PM January 6, 2019
- Season 2: 12:01 AM November 6, 2019 until 11:59 PM January 6, 2020
- Season 3: 12:01 AM November 6, 2020 until 11:59 PM January 6, 2021
- Season 4: 12:01 AM November 6, 2021 until 11:59 PM January 6, 2022
- Season 5: 12:01 AM November 6, 2022 until 11:59 PM January 6, 2023
- Season 6: 12:01 AM November 6, 2023 until 11:59 PM January 6, 2024
- Season 7: 12:01 AM November 6, 2024 until 11:59 PM January 6, 2025
- Season 8: 12:01 AM November 6, 2025 until 11:59 PM December 31, 2025

Glowco would have access to Riverfront Park and Ascend Amphitheater 24 hours a day during these seasons, but could only open these facilities to the public between 5pm and 11pm.

Glowco would pay Metro a flat fee of \$75,000 for each season, which could be reduced to \$37,500 if Glowco does not use the Riverfront Park Green during a given season. After Glowco recoups its costs related to planning and operating an event, plus half, Glowco would also pay Metro a ticket share of \$1.00 per ticket, up to thirty-five thousand (35,000) tickets sold, and \$2.00 per ticket for any ticket sold after the first thirty-five thousand (35,000). Glowco would pay Metro a concessions fee equal to fifty percent (50%) of net revenues of concessions or of any fee paid to Glowco by a concessionaire.

Future amendments to this Revocable License Agreement may be approved by a Resolution receiving twenty-one affirmative votes.

Fiscal Note: During each of the first seven seasons covered by the proposed license, Glowco, LLC would be permitted to use the Riverfront Park facilities from November 6 through January 6. During the eighth season, Glowco would be permitted to use the facilities from November 6 through December 31, 2025.

The agreement defines “Recoupment Amount” as the portion of gross revenue from the Event Use that equals the costs incurred by Glowco relating to planning and operation of the Event Use. The agreement also defines “ROI Amount” as the portion of gross revenue from the Event Uses that equals the sum of the Recoupment Amount plus 50%.

In exchange for these rights, Glowco would be required to pay the following fees:

- *Flat Fee – For each of the eight use intervals, Glowco would be required to pay a flat fee of \$75,000. \$37,500 of this amount would be allocated of use of the Riverfront Park Bowl. The remaining \$37,500 would be allocated for use of the Riverfront Park Green.*
- *Concession Share – After Glowco has earned the “Recoupment Amount”, they would be required to pay an aggregate amount equal to 50% of all net concession revenues (or of the fee paid by Glowco to a concessionaire).*
- *Ticket Share – After Glowco has earned the ROI Amount (Recoupment Amount + 50%), they would be required to pay \$1.00 per ticket sold at face value to the Event Use up to a total of 35,000 tickets above the ROI. For more than 35,000 tickets sold above the ROI, Glowco would pay \$2.00 per ticket sold.*

BILL NO. BL2018-1297 (RHOTEN, VERCHER, & OTHERS) – This ordinance would authorize the Department of Water and Sewerage Services (Metro) to enter into an agreement with KJPL Riverwood, LLC (Riverwood), to fund the operation and maintenance of a public pressure sewer extension for its development at the Village of Riverwood (Phase 2).

Pursuant to the agreement, Riverwood would agree to fund the additional operation and maintenance costs for the proposed pump station and force main in the amount of \$411,000. Metro would not contribute any funds toward the project.

Future amendments to this legislation could be approved by Resolution. This has been approved by the Planning Commission.

Fiscal Note: KJPL Riverwood, LLC would pay \$411,000 to Metro for the additional operational and maintenance costs of their proposed sewerage pump station and force main. Metro would not contribute any funds for the construction of the project, but would be responsible for ongoing operation and maintenance upon acceptance.

BILL NO. BL2018-1298 (VERCHER, BEDNE, & ELROD) – This ordinance would authorize the acquisition of certain right-of-way easements, drainage easements, temporary construction easements and property rights by negotiation or condemnation for use in public projects, initially for Brewer Drive Sidewalk Improvements.

This has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY18 Capital Projects Fund.

BILL NO. BL2018-1299 (PULLEY, BEDNE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easements and accept new sanitary sewer main, a sanitary sewer manhole and easements for property located at 4000 Hillsboro Pike.

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

BILL NO. BL2018-1300 (MURPHY, BEDNE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easements for property located at 211 and 231 Ensworth Place.

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

BILL NO. BL2018-1301 (WITHERS, BENDE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easement and accept new sanitary sewer mains, sanitary sewer manholes, fire hydrants and easements, for six properties located on South 6th Street, as follows:

- 820 South 6th Street
- 818 South 6th Street
- 814 South 6th Street
- 812 South 6th Street
- 810 South 6th Street
- 806 South 6th Street

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

BILL NO. BL2018-1302 (KINDALL, BEDNE, & ELROD) – This ordinance would authorize the Metropolitan Government to remove existing clay sanitary sewer mains and sanitary sewer manholes and to replace with new sanitary sewer mains and sanitary sewer manholes within the existing Public Utility easement, for property located at 2300 Patterson Street.

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

BILL NO. BL2018-1303 (WITHERS, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 451 right-of-way and easement.

The abandonment has been requested by Perry Engineering, LLC, applicant. It has been approved by the Traffic and Parking Commission and the Planning Commission.

BILL NO. BL2018-1304 (O'CONNELL, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Magazine Street right-of-way.

This abandonment has been requested by Civil Site Design Group, PLLC, applicant. It has been approved by the Traffic and Parking Commission and the Planning Commission.

GRANTS LEGISLATION – SEPTEMBER 4, 2018

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1367	<p>From: Tennessee Department of Finance and Administration</p> <p>To: Metropolitan Nashville Police Department</p>	Increase by \$109,876.00	Increase by \$27,470.00	N/A	<p>This fourth amendment to the grant approved by RS2015-1543 would increase the award from \$1,616,902.00 to \$1,726,778.00 and increase the cash match from \$404,226.00 to \$431,696.00.</p> <p>Grant proceeds are used to support the provision of mental health services and criminal justice system advocacy to victims of violent crime.</p>
RS2018-1368	<p>From: Tennessee Department of Transportation</p> <p>To: Davidson County Sheriff's Office</p>	Not to exceed \$180,300.00	\$0	July 1, 2018 through June 30, 2019	The grant proceeds would be used to provide litter pickup along state and county roads and education on litter abatement and prevention.
RS2018-1379	<p>From: United States Department of Justice</p> <p>To: Metropolitan Nashville Police Department</p>	\$495,317.00	\$0	N/A	<p>This resolution would approve an application for the Edward Byrne Memorial Justice Assistance Grant.</p> <p>If approved, the grant proceeds would be used for specialized training and equipment to ensure personnel maintain needed certifications for criminal investigation and crime reduction initiatives.</p>

<p>RS2018-1380</p>	<p>From: Tennessee Department of Labor and Workforce Development</p> <p>To: Nashville Career Advancement Center</p>	<p>Not to exceed \$889,621.00</p>	<p>\$0</p>	<p>April 1, 2018 through November 14, 2018</p>	<p>The grant proceeds would be used to establish programs and services to be used for the Youth Program.</p>
<p>RS2018-1382</p>	<p>From: Tennessee Department of Transportation</p> <p>To: Metropolitan Nashville Public Works Department</p>	<p>Not to exceed \$200,000.00</p>	<p>\$0</p>	<p>July 1, 2018 through June 30, 2020</p>	<p>The grant proceeds would be used to conduct a comprehensive litter awareness and reduction campaign involving various community partners and a roundtable of government agencies.</p>