



## METRO COUNCIL OFFICE

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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: January 15, 2019

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 1/9/19:

4% Reserve Fund	\$32,787,425*
Metro Self Insured Liability Claims	\$4,177,190
Judgments & Losses	\$2,758,009
Schools Self Insured Liability Claims	\$4,763,940
Self-Insured Property Loss Aggregate	\$7,622,802
Employee Blanket Bond Claims	\$682,377
Police Professional Liability Claims	\$2,191,611
Death Benefit	\$1,520,515

\*This assumes unrealized estimated revenues in FY19 of \$24,802,414.

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

**– RESOLUTIONS –**

**RESOLUTION NO. RS2019-1531** (VERCHER) – This resolution would declare surplus certain parcels of real property and approve the disposition of those parcels.

Metro Code of Laws Sec. 2.24.050.G authorizes the Director of Public Property, following approval by the Metro Council, to sell parcels acquired by Metro through a delinquent tax-sale process established by Tennessee Code Annotated § 67-5-2501. The Council can authorize disposition of more than one property as part of the same resolution.

This resolution would declare the following 22 parcels surplus:

- 0 Old Hydes Ferry Pike
- 0 W Trinity Lane
- 1504 Jewel Street
- 0 Olga Avenue
- 0 Litton Avenue
- 0 Big Horn Drive
- 85 Glenrose Avenue
- 36 Shepard Street
- 42 Shepard Street
- 0 Dr. D B Todd Jr Blvd
- 1603 Scovel Street
- 0 Green Street
- 1225 11th Avenue N
- 1403 B 9th Avenue N
- 0 American Road
- 2703 Morena Street
- 2703 Albion Street
- 0 25th Avenue N
- 2941 Torbett Street
- 0 Delaware Avenue
- 0 Hillshire Drive
- 0 Mark Drive

The proceeds from the sale of these parcels would be credited to the General Fund of the district from whose operating budget the last department, commission, board or agency using the property is financed.

These proposals have been approved by the Planning Commission.

An amendment is anticipated that would redact approximately ten (10) parcels, including 284 Ash Grove Drive which was inadvertently omitted from the original Resolution.

*Fiscal Note: The price for the sale of these properties has not yet been determined. However, per Section 2.24.250.G of the Metro Code of Laws (MCL), the price must be no less than the Metro Tax Assessor's appraised value, or the highest offer from an adjacent tract owner if no adjacent owner will offer the appraised value.*

**RESOLUTION NO. RS2019-1545** (VERCHER) – This resolution would authorize the retroactive issuance of no more than \$391,666,020 in inter-fund tax anticipation notes of the Metropolitan Government. These tax anticipation notes would be issued pursuant to state law for the purpose of meeting appropriations made for the current fiscal year in anticipation of the collection of taxes and revenues.

The resolution was prompted by a recent notification from the Comptroller of the State of Tennessee. The Metropolitan Government's annual operating budget is comprised of six primary funds -- the GSD General Fund, the USD General Fund, the MNPS Operations Fund, and the corresponding Debt Service Funds for each. A portion of property tax revenues is allocated to each of these funds each fiscal year, as depicted in the current operating budget ordinance. (See, Substitute Ordinance No. BL2018-1184, pp. 7 and 23).

These fund balances are maintained in the Metro Investment Pool (MIP). Deposits and disbursements are physically made from the MIP with the appropriate debits and credits being entered for each fund. Actual expenses from any of these funds can exceed the total revenue from property tax receipts (and other revenue sources) during the initial portion of the fiscal year. In compliance with state law, when the bulk of property tax receipts are posted in December and February of each year, the total revenue "catch up" to the expenditures is then allocated.

Money within these funds is commingled in the MIP and, historically, Metro has addressed temporary cash flow deficits by borrowing funds from this pooled cash account. (Of the six primary budgetary funds, only the USD General Fund has not needed to engage in inter-fund borrowings to cover expenditures.) This has the technical effect of one fund using money from another fund to pay for expenditures until property tax receipts are sufficient for the intended purpose. Because money within the funds is commingled, these inter-fund transfers are only observable as accounting entries.

The Comptroller of the State of Tennessee has now advised the Metropolitan Government of the need formalize these transfers by issuing inter-fund tax anticipation notes, as permitted under state law with the required prior approval of the Comptroller's office. (This is the first time the Comptroller's office has issued such an alert to the Metropolitan Government.) The pending resolution is intended to bring Metro into compliance with the Comptroller's requirements. On January 4, 2019, the Director of Finance issued a letter to the Council regarding the resolution,

proposing these retroactive inter-fund tax anticipation notes in order to address the Comptroller's concerns.

*Fiscal Note: The tax anticipation notes proposed by this resolution would retroactively formalize the process of using commingled funds in the MIP. The minimal interest to be paid for these notes would essentially match the interest income that would be earned from these funds from being in the MIP. While this resolution would issue inter-fund tax anticipation notes, no new money would be borrowed from any sources outside of Metro and no new notes or bonds would be offered to investors or the general public. Though the total of the notes would be \$391,666,020, no new money would be involved. This would be a record-only change to come into compliance with the Comptroller's requirements.*

**RESOLUTION NO. RS2019-1546** (VERCHER) – This resolution would authorize the Department of Law to settle the property damage claim of Advanced Plating, Inc. against the Metropolitan Government in the amount of \$71,375.27.

On August 25, 2018, a fire occurred at the Advanced Plating, Inc. building at 1425 Cowan Court. The Metropolitan Water and Sewer Department was requested to turn off the water, but did not do so for approximately 36 hours after the fire. As a result, a significant amount of water was released causing contaminated water run-off and extensive property damage.

Advanced Plating, Inc. had to pay for the clean-up of the environmental hazard caused from the water flowing through the building. The company has agreed to accept a total of \$71,375.27 in full settlement of this case, based upon the costs associated with environmental clean-up, repairs, and rental equipment.

The Department of Law recommends settlement of this claim for \$71,375.27.

Disciplinary action against the employee consisted of a reassignment.

*Fiscal Note: This \$71,375.27 settlement, along with the settlements per Resolution Nos. RS2019-1547 and RS2019-1548, would be the nineteenth, twentieth, and twenty-first payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$1,101,674.44. The fund balance would be \$4,177,190 after these payments.*

**RESOLUTION NO. RS2019-1547** (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claim of Margrette Futrell against the Metropolitan Government in the amount of \$18,000.

On April 26, 2016, Ms. Futrell was using a stretching cage at the Centennial Sportsplex. The equipment tipped over on to her, striking her lower legs and right chest wall.

Ms. Futrell sought treatment for a skin tear on her mid-right lower leg, a laceration with skin tear to her back left knee, and a chest wall contusion. She has agreed to accept a total of \$18,000 in full settlement of this case, based upon \$9,774.26 for reimbursement of her medical expenses plus \$8,225.74 for pain and suffering.

The Department of Law recommends settlement of this claim for \$18,000. They anticipate that an expert's inspection of the stretching cage and analysis alone would cost Metro approximately \$17,000, excluding trial testimony.

*Fiscal Note: This \$18,000 settlement, along with the settlements per Resolution Nos. RS2019-1546 and RS2019-1548, would be the nineteenth, twentieth, and twenty-first payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$1,101,674.44. The fund balance would be \$4,177,190 after these payments.*

**RESOLUTION NO. RS2019-1548** (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claim of Logan Harrison against the Metropolitan Government in the amount of \$7,746.30.

On September 18, 2018, Logan Harrison, age 16, was driving a vehicle stopped in traffic on I-40 Eastbound. An officer of the Metropolitan Nashville Police Department rear-ended Mr. Harrison's stopped vehicle while trying to pick up a windshield mounted GPS that had fallen onto the floor of his patrol car. The vehicle driven by Mr. Harrison, owned by Mr. Harrison's father, sustained damage to the front and rear-end of the vehicle and was deemed a total loss. The property claim for the vehicle was previously settled for \$6,375.00.

Mr. Harrison sought treatment for head and neck pain, dizziness, and nausea. He has agreed to accept a total of \$7,746.30 in full settlement of this case, based upon \$7,246.30 for reimbursement of his medical expenses plus \$500 for pain and suffering.

The Department of Law recommends settlement of this claim for \$7,746.30.

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

*Fiscal Note: This \$7,746.30 settlement, along with the settlements per Resolution Nos. RS2019-1546 and RS2019-1547, would be the nineteenth, twentieth, and twenty-first payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$1,101,674.44. The fund balance would be \$4,177,190 after these payments.*

**RESOLUTION NO. RS2019-1549** (VERCHER, GILMORE, & WITHERS) – This resolution would approve the contract of employment of Wendy Long, M.D. as the Chief Medical Director of Health. Pursuant to Metropolitan Charter Sec. 10.105, the Metropolitan Board of Health may employ the

Chief Medical Director of Health through an employment contract with a term not to exceed five years, but the amount of the salary is subject to approval of the Council by resolution.

This resolution would include approval of the compensation of the Chief Medical Director as recommended by the Board of Health, which is to be \$225,000 annually, plus additional pay increases as may be authorized by the Board and any “across-the-board” increases provided to the general employees of the Metropolitan Government. The initial term of this contract is thirty-six months, from March 1, 2019 through February 28, 2022, but would renew automatically for two additional one-year terms. The prior Chief Medical Director’s compensation under a contract approved in 2017 by Resolution No. RS2017-721 was \$217,268.80 annually.

*Fiscal Note: The proposed \$225,000 annual salary is included in the Health Department’s budget.*

**RESOLUTION NO. RS2019-1550** (VERCHER & GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1551** (VERCHER & GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1552** (VERCHER, GILMORE, & BEDNE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1553** (O’CONNELL, VERCHER, & SYRACUSE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1554** (VERCHER & SYRACUSE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1555** (VERCHER & SYRACUSE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1556** (VERCHER & FREEMAN) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1557** (VERCHER & WITHERS) – This resolution would approve a sole source contract between the Metropolitan Government of Nashville and Davidson County and Azteca Systems, LLC to provide the Enterprise License Agreement for CityWorks Software.

CityWorks software programs are currently in use throughout multiple Metropolitan Government departments and provide a wide variety of platforms for service requests, permit issuances, tracking services, mapping, and related tools.

Sole source contracts may be awarded under the Metro procurement code when it is determined by the Purchasing Agent in writing that there is only one source for the supply or services rendered. (An executed sole source justification form is attached to the Resolution.) Metro Code of Laws Section 4.12.060 requires all sole-source contracts having a total value in excess of \$250,000 to be approved by the Council by resolution.

This contract would become effective upon approval and filing with the Metropolitan Clerk's Office and terminate sixty (60) months from the date of filing.

*Fiscal Note: The estimated value of the contract is \$1,032,000.*

**RESOLUTION NO. RS2019-1558** (VERCHER & O'CONNELL) – This resolution would extend the existing license and franchise of Nashville Gas Company for an additional five year period.

Nashville Gas, whose parent company is Piedmont Natural Gas (Piedmont), has held a franchise to sell and transport natural gas within the area of the Metropolitan Government since 1912. The franchise agreement was extended in 1950 and again in 1974. The current agreement was initially approved by the Council in December 2003 pursuant to Ordinance No. BL2003-36 which extended the license and franchise of Nashville Gas for a period of 30 years. However, after the first 10 years of the term, the agreement terminates unless the Council approves extending the agreement by Resolution for an additional five-year period. The ten year period started on the date of approval of that ordinance, ratified by a referendum held February 10, 2004. (Section 17.02 of the Metropolitan Charter requires that extensions and amendments to franchise agreements for public utilities be approved by Ordinance enacted by the Council and then ratified by a 3/5 majority of the electors voting in the referendum election.) BL2003-36 provides that this license and franchise may be extended for four additional five year periods by resolution of the Metropolitan Council. Resolution No. RS2014-951 extended the franchise for the first additional five year period.

The Council Office would point out that the Metropolitan Government has no authority over the rates Piedmont Gas customers are charged. Such rates are regulated by the Tennessee Regulatory Authority.

*Fiscal Note: Under the existing agreement, Piedmont is required to pay Metro an annual franchise fee of 5% of its gross receipts from the sale, transportation, and distribution of gas. This 5% annual*

*franchise fee amounted to \$10,043,116 in revenue to Metro for fiscal year 2018. In addition, Piedmont paid approximately \$4.2 million in property taxes to Metro for fiscal year 2018.*

*The franchise fee will continue to remain in effect unless the Metropolitan Government grants a franchise to another company to sell, transport, and distribute gas.*

**RESOLUTION NO. RS2019-1559** (O'CONNELL & BEDNE) – Section 2.08.040 of the Metro Code authorizes the mayor to enter professional services contracts with firms listed on a master list of architecture and engineering firms on a project-by-project basis. All government contracts for architect and engineering services must be with firms included on the master list. This resolution would modify the master list, originally approved by Resolution No. RS94-1050, to add sixty-eight firms. This list was most recently amended in 2012 per Resolution No. RS2012-366.

Regulations of the Metropolitan Procurement Standards Board require the Director of Finance to maintain the master list in a central file available to all Metro departments and agencies. This resolution adds the firms to the master list so that the firms will be eligible to bid on Metro projects. It does not necessarily mean that contracts will be awarded to these firms.

A list naming the sixty-eight firms to be added is attached to the resolution as an exhibit.

**RESOLUTION NO. RS2019-1560** (O'CONNELL & BEDNE) - This resolution would authorize Revv, LLC dba The Nash Collection to construct, install, and maintain an aerial encroachment at 212 Broadway. The encroachment would consist of two signs.

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

The 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 signs' 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. RS2019-1561** (O'CONNELL & BEDNE) - This resolution would authorize DBAP, LLC dba Stock and Barrel to construct, install, and maintain an aerial encroachment at 901 Gleaves Street. The encroachment would consist of a blade sign.

Under the terms of the Resolution, 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 \$4 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party. The applicant must also hold the Metropolitan Government harmless from all claims connected with the installation.

The 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 sign's 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.

**– ORDINANCES ON SECOND READING –**

**BILL NO. BL2018-1388** (MURPHY, BEDNE, & O’CONNELL) – This ordinance would abandon existing sanitary sewer main and easements and accept new sanitary sewer main, sanitary sewer manholes and easements for property located at 3964 Woodlawn Drive.

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

**BILL NO. BL2018-1404** (RHOTEN, O’CONNELL, & M. JOHNSON) – This ordinance would amend Sections 6.80.550 and 12.08.150 of the Metro Code of Laws to remove certain storage fees for recovered stolen vehicles.

As proposed by this ordinance, effective June 30, 2019, if a vehicle stored by a towing or wrecker service licensed under Chapter 6.80 of the Metro Code or by an impound lot designated or maintained by the Metropolitan Nashville Police Department (MNPd) or the Metropolitan Government is determined to be stolen, the owner could have storage fees for the vehicle waived. Individuals requesting the waiver would need to present both a police report or other official documentation from the MNPd confirming that the vehicle was stolen and an affidavit signed by the owner, authorized operator, or lien holder attesting that the storage fees are not eligible for coverage under any applicable insurance policy.

Under state law, towing firms are entitled to a lien upon all vehicles that lawfully come into their possession and are retained in their possession until “all reasonable charges” due are paid. (Tenn. Code Ann. § 66-19-103). The proposed ordinance would not prohibit the assessment of towing fees or fees for required notices by towing firms. But elimination of storage fees should presumably be predicated upon the determination that such a charge is not “reasonable” when a vehicle is stolen.

*Fiscal Note: Wrecker and towing service fees were last increased in January per Ordinance No. BL2017-984. This was in recognition of the increased costs of operations experienced by the companies providing these services. These new rate schedules still allowed companies to charge owners fees related to services provided regarding stolen vehicles.*

*Storage fees for tow-in lots under the jurisdiction of the MNPd are currently waived for owners of stolen vehicles. However, fees are currently charged for vehicles at private towing and impound lots. The ordinance under consideration would waive fees at both Metropolitan Government lots and private lots, beginning on June 30, 2019.*

*The waived fees would have no financial impact on Metro, as fees are currently waived at lots under the jurisdiction of the MNPd. This ordinance may impact the revenues of private towing and wrecker companies.*

**BILL NO. BL2018-1407** (O'CONNELL & SYRACUSE) – This ordinance would clarify a requirement that construction of certain types of structures within the floodway, specifically listed in the existing Metro Code of Laws, would need to be consistent with Stormwater Management Manual requirements.

Currently, Section 15.64.170.A. of the Metropolitan Code of Laws states that no new structures shall be constructed within the floodway. Section 15.64.170.B. allows for limited exceptions to this prohibition for certain types of structures, provided that the structure is designed and engineered in such a manner as to have no adverse impact.

This ordinance would clarify the requirement implicit in Subsection B that construction within the floodway must be consistent with the provisions of the Stormwater Management Manual.

The Council office would propose a minor technical amendment clarifying that Section 15.64.170(B) is not being deleted “in its entirety.”

**BILL NO. BL2018-1441** (ELROD) – This ordinance, as substituted, would amend the Metropolitan Code regarding shared urban mobility devices (SUMDs).

On August 21, 2018, the Metropolitan Council adopted Ordinance No. BL2018-1202 which amended Title 12 of the Metro Code to regulate shared urban mobility devices or SUMDs (e.g., scooters, bicycles, etc.). The regulatory provisions established therein created a permitting system for SUMD operators overseen by the Metro Transportation Licensing Commission (MTLC). These same regulations provide that “[t]he number of permitted operators shall not be limited by the metropolitan government.” (See, Section 12.62.020.D of the Metro Code).

Under the proposed ordinance, the number of permitted operators of SUMDs that are not bicycles would now be limited to four (4), although the MTLC could approve additional operators after conducting hearings to review applications. If more than four (4) operators held a certificate of public convenience and necessity as of the effective date of the proposed ordinance, the MTLC would be required to revoke the certificate of any operator that received its certificate after four were already issued.

According to the Metropolitan Transportation Licensing Commission, three (3) companies currently possess SUMD certificates (Lime, Bird, and Lyft); two additional companies have established their qualification and are expected to obtain certificates soon (Jump, an Uber-affiliated company; and Spin); and an application from a sixth company (Gotcha) is expected.

The ordinance sets forth the parameters for the hearings to be conducted by the MTLC, including the frequency thereof, notice provisions, filing allowances, and fees.

The ordinance would also require SUMDs to be operated only by individuals over the age of 18, setting out penalties related to this requirement.

The Council Office would note potential legal concerns with this proposed ordinance. The provisions limiting the number of operators to four of SUMDs that are not bicycles may run afoul of Article I, Section 22 of the Tennessee Constitution, which prohibits monopolies. In 2017, the Tennessee Attorney General issued an opinion in a matter regarding the ability of municipalities to establish exclusive contracts and franchises. The AG noted the Tennessee constitutional prohibitions against monopolies, stating:

The Tennessee Constitution, article I, section 22, provides "[t]hat perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed." For purposes of this constitutional prohibition, a "monopoly" is "'an exclusive right granted to a few, which was previously a common right.' If there is no common right in existence prior to the granting of the privilege for franchise, the grant is not a monopoly. '" (Citations omitted).

To illustrate the perils of municipalities limiting business opportunities to a limited few, the Tennessee Attorney General cited to a Tennessee Supreme Court decision -- *Checker Cab v. City of Johnson City* -- which held that a municipality did not have authority to establish a virtual monopoly among a handful of taxi cab businesses. The facts in *Checker Cab* bear some resemblance to the current ordinance. A local private act established a new system for operation of taxicabs in Johnson City. The process required issuance of a certificate of public convenience and necessity, but only after (1) a public hearing, (2) a finding of need for additional taxi services, and (3) upon such finding of need, allowance of a "reasonable time" for current taxicab operators to provide the additional service. The act thereby effectively limited the number of taxicab operators in Johnson City to three. The Supreme Court observed: "The monopoly of the taxi business in Johnson City granted to the appellants...is just about as exclusive and complete as may be conceived." In declaring the local act to be in violation of anti-monopoly provisions, the Court stated: "All persons inclined to pursue such an occupation should have an opportunity of conforming to such regulations."

The Court did note that "the anti-monopoly clause of [the Tennessee] constitution does not prohibit the legislature from granting a monopoly, in so far as such monopoly has a reasonable tendency to aid in the promotion of the health, safety, morals and well-being of the people". However, the Court concluded that no legitimate relationship existed between the public purpose sought by the private act and preserving a monopoly for those in business at the time of enactment.

As the Tennessee Attorney General has observed, the anti-monopoly clause in article I, section 22 of the Tennessee Constitution prevents the legislature from granting a monopoly when a common right exists, unless the monopoly "has a reasonable tendency to aid in the promotion of the health, safety, morals and well-being of the people." The test is whether the grant of a monopoly "has any real tendency to carry into effect the purposes designed -- that is, the protection of public safety, the public health, or the public morals -- and whether that is really the end had in view." Sections 1 and 2 of the proposed ordinance, as currently drafted, seemingly

serve only to limit the number of companies eligible for certificates – with no protective purposes identified.

Additionally, the ordinance poses potential due process concerns associated with the revocation of existing certificates of public convenience and necessity that have previously been, or will soon be, issued by the Metropolitan Government.

**BILL NO. BL2018-1442** (VERCHER, O’CONNELL, & BEDNE) – This ordinance, as amended, would approve the acquisition of interests in a parcel of real property from four parties and approve a participation agreement, license agreement, and easement agreement between the Metropolitan Government and Uptown Property Holdings, LLC (UPH) connected to the development of the Nashville Yards project.

The participation agreement reflects UPH’s public infrastructure improvements including (i) environmental clean-up in the public right-of-way; (ii) traffic signalization; (iii) street and sidewalk work at 10th Avenue, 9th Avenue, Church Street, 8th Avenue and Commerce Street; and (iv) separation of certain water and sewer utilities and related utility infrastructure and upgrades – all identified in Exhibit A to the participation agreement and totaling an estimated \$79,470,000. Of those improvements, the Metropolitan Government would agree to reimburse UPH for certain infrastructure, identified in Exhibit B to the agreement, presumably requiring the completion of these projects. The estimated expense of these reimbursable infrastructure items totals \$16,693,699, but the participation agreement caps Metro’s reimbursement payment at \$15,250,000 – the equivalent of 19.2% of the total infrastructure costs.

With respect to proposed street and sidewalk work at 10th Avenue, the capital spending plan adopted in October, 2018 under Resolution No. RS2018-1454 designated a total of \$15,000,000 for “Roads” projects by the Public Works Department, identified as project no. 02PW020. The FY19 Capital Improvements Budget designated \$10,000,000 for “10th Avenue North / Broadway area – Traffic signalization, sidewalks and road improvements”, identified as project no. 19PW0003. The Metro Public Works Department has previously advised that, of the \$15,000,000 designated for “roads” in the Capital Spending Plan, \$3,000,000 would be earmarked for “10th Ave N & Broadway Infrastructure Improvements.” According to the Mayor’s Office of Economic and Community Development, Metro Water Services will fund an additional \$3,250,000, leaving \$9,000,000 to be funded in future capital spending plans.

The license agreement, attached to the ordinance as Exhibit 2, would grant a license from Metro to UPH to enter upon the property located under Broadway at 10th Avenue. This area is designated on Exhibit A to the license agreement. The term of the license would be twenty (20) years and would renew automatically for five (5) years unless written notice is given by Metro at least 180 days prior to the expiration of the term. UPH would be given access and use of the property and could make improvements to the property with the permission of Metro.

Metro would also acquire interests in real property by quitclaim deeds from four parties, as shown in Exhibit 3 attached to the ordinance. UPH, the Young Men's Christian Association of Middle Tennessee (YMCA), the State of Tennessee, and the Nashville Electric Service would each grant Metro any interest they have in the separate properties that encompass the proposed 10th Avenue North. Each property is described on Exhibits A and B, attached to each quitclaim deed.

The ordinance would also approve an irrevocable easement and maintenance agreement between Metro and UPH, attached as Exhibit 4 to the ordinance. This agreement would include (1) a temporary, non-exclusive construction easement; (2) a permanent, exclusive, irrevocable right-of-way and easement for the placement, ownership, use and maintenance of the roadway improvements, as well as an exclusive and irrevocable right and easement in the airspace directly above the area for the construction of a pedestrian bridge over, above and spanning Tenth Avenue; (3) a permanent, exclusive, irrevocable easement for the purpose of constructing vehicular turnaround related improvements. The agreement lays out conditions precedent, including delivery plans and specifications for the roadway and turnout improvements and copies of all permits, approvals, ordinances, resolutions and licenses required to commence construction of the improvements to Metro, which would be required to be completed before the easements would become effective. The easements could be terminated if the required conditions precedent do not occur within five (5) years from the date of the agreement. UPH would be permitted to transfer or assign its rights under this agreement. UPH would further agree to maintain and operate the improvements in a safe, clean and secure condition.

An amendment adopted at the January 3, 2019 Council meeting added a clawback provision to the participation agreement.

*Fiscal Note: Upon completion of these infrastructure projects, UPH would convey ownership of the signalization, streets, sidewalks and water utilities to Metro at no cost; although Metro would be responsible for the ongoing operation and maintenance.*

*Metro would reimburse UPH for (i) construction; (ii) design and project management costs; and (iii) inspection expenses and other miscellaneous costs associated with the work. Metro would compensate UPH up to \$15,250,000 for infrastructure projects, listed on Exhibit B attached to the participation agreement. UPH estimates the total cost of this work to be \$16,693,699.*

*Metro would make payments annually over a multi-year period not to exceed four years. Payments would not exceed \$6,000,000 in any one fiscal year. This agreement could be amended by resolution of Council. Infrastructure projects for the Nashville Yards project to be undertaken by UPH are also listed on Exhibit A to the participation agreement and total an estimated \$79,470,000.*

**BILL NO. BL2018-1458** (BEDNE & O'CONNELL) – This ordinance would authorize Hickory Woods Senior Living, LLC to install, construct and maintain aerial and underground encroachments in the right-of-way located at 0 Murfreesboro Pike. These would consist of an 8

feet wide pedestrian bridge to connect two buildings within The Preserve at Hickory Woods SP Development encroaching the right-of-way.

Hickory Woods Senior Living, 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.

This proposal has been approved by the Planning Commission.

**BILL NO. BL2018-1459** (BEDNE & O'CONNELL) – This ordinance would authorize SP/LLU Opus 29 LLC to install, construct, and maintain underground and structural encroachments in the right-of-way located at 300 31st Avenue North. These encroachments would consist of an irrigation system spanning 66 linear feet, with sprinkler heads every 12 feet, encroaching the right-of-way.

SP/LLU Opus 29 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.

This proposal has been approved by the Planning Commission.

**BILL NO. BL2019-1472** (BEDNE & SLEDGE) – This ordinance would establish a matching requirement wherein, for every economic and community development incentive grant provided by the Metropolitan Government to qualified companies under Section 2.210.020 of the Metro Code, an appropriation of an equivalent amount must be made to the Barnes Fund for Affordable Housing (Barnes Fund).

Section 2.210.020 of the Metropolitan Code authorizes economic and community development incentive grants to qualified projects. The incentive is determined by multiplying the average number of new full time equivalent employees of the qualified company within the boundaries of the Metropolitan Government during the preceding year by an amount up to five hundred dollars (\$500).

This ordinance would require an appropriation equal to any economic and community development incentive grants appropriated pursuant to Sec. 2.210.020 of the Metro Code. Appropriations made to the Barnes Fund pursuant to this matching requirement would not be in lieu of other appropriations made by the Metropolitan Government.

*Fiscal Note: The practical impact of this ordinance is that future economic and community development incentive grants would require commensurate funding to the Barnes Fund, essentially doubling the expense of ECD incentives to the Metropolitan Government.*

*Depending on the available fund balances at the time of future proposed ECD grant projects, the decision would need to be made if it would be feasible for Metro to enter into these projects and still maintain required fund balance percentages.*

**BILL NO. BL2019-1473** (PULLEY & WITHERS) – This ordinance would amend the Metropolitan Code to exempt educational institutions from certain sound amplification standards.

Section 11.12.070 of the Metropolitan Code of Laws regulates excessive noise within the jurisdiction of the Metropolitan Government. Subsection A(1) regulates sound amplification equipment. Under the current regulations, no person may operate any sound equipment so as to create sounds that are plainly audible from the boundary line of the nearest residentially occupied property. This restriction does not apply to special events, mass gatherings or other permitted activity by Metro of a board or commission, nor does it apply to entertainment facilities constructed to provide outdoor entertainment owned by Metro or its agencies, or parks under the control of the Metro Board of Parks and Recreation.

This ordinance would add an exemption for educational institutions during typical on-campus activities, such as athletic events, musical performances, and student festivals.

**BILL NO. BL2019-1475** (HALL) – This ordinance would amend the Metropolitan Code of Laws (MCL) to establish a time period for which grading permits remain valid and would make amendments to the review of grading permits and drainage plans.

This ordinance would make a grading permit valid for eighteen months from the date of issuance. Permits could be renewed for successive eighteen month periods.

The ordinance would also make housekeeping changes to MCL Sec.15.64.140.C. regarding the review of a grading and drainage plan. These changes would include clean-up of a numbering sequence and a clarification regarding non-compliance determinations. Section 15.64.140.C.4.a currently provides that a determination of non-compliance with a grading permit and drainage plan requires a finding of at least two of three recited findings. The pending ordinance would clarify that establishment of two findings does not necessarily *require* a determination of non-compliance.



**– ORDINANCES ON THIRD READING –**

**BILL NO. BL2018-1403** (SYRACUSE & BEDNE) – This ordinance would amend Metro Code of Laws Sec. 17.28.103 regarding underground utilities. Currently, there is an exemption to the underground utility requirements for “utility equipment utilized for street lighting purposes.” This ordinance would clarify that this exemption applies only to “utility equipment utilized *exclusively* for street lighting purposes.” (Emphasis added.)

This ordinance has been approved by the Planning Commission.

**BILL NO. BL2018-1440** (O’CONNELL) – This ordinance would amend the Metropolitan Code pertaining to dance permits and the permitted hours of beer sales and delivery.

Section 7.08.140.N of the Metropolitan Code of Laws currently provides that it is unlawful for any beer permit holder, or his agent or employee, to “allow any dancing on his premises without a dance permit.” But the Metropolitan government no longer issues or enforces dance permits. The Metro Code section regulating dances and dance halls was entirely eliminated in 2016 by Ordinance No. BL2016-221. The current ordinance would therefore delete this subsection.

In 2014, Ordinance no. BL2014-654 created a new subsection 7.08.140.O of the Metropolitan Code of Laws to prohibit the sale, delivery, or vehicular carrying of beer between the hours of 11 pm and 3:00 a.m. Upon subsequent review, however, the Metro Nashville Beer Permit Board has determined that no particular benefit was derived from this provision. This ordinance would therefore also delete this subsection from Section 7.08.140.

**BILL NO. BL2018-1443** (WITHERS & O’CONNELL) – This ordinance would approve a license agreement between the Metropolitan Government and Verizon Wireless (Verizon) to install in-building radio-distribution devices (IBRDs) to enhance wireless reception on or within the Richard Fulton Main Office Building and the Howard Office Building. The IBRDs would amplify Verizon’s wireless signal within these buildings, creating better reception for the wireless users in these buildings.

The term for the agreement is five (5) years, but may be extended for an additional five (5) year term.

Amendments to this legislation could be passed by resolution.

*Fiscal Note: There will be no cost to Metro for the installation or operation of these devices.*

**BILL NO. BL2018-1444** (O’CONNELL & BEDNE) – This ordinance would adopt 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 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 per Ordinance Number BL2018-1060, as amended, on February 20, 2018.

This has been approved by the Planning Commission.

**BILL NO. BL2018-1445** (GLOVER, O'CONNELL, & BEDNE) – This ordinance would abandon an existing sanitary sewer main and easement and accept a new sanitary sewer main, sanitary sewer manholes, and easements for property located at 5502 Old Hickory Boulevard.

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

**BILL NO. BL2018-1446** (ELROD, O'CONNELL, & BEDNE) – This ordinance would authorize the acquisition of certain permanent and temporary easements for the Blackman Road Stormwater Improvement Project for four properties located on Blackman Road and Overcrest Drive.

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

*Fiscal Note: The final price for these easements has not yet been determined.*

**BILL NO. BL2018-1447** (SWOPE, O'CONNELL, & BEDNE) – This ordinance would abandon existing sanitary sewer main, sanitary sewer manholes, and easements and accept new sanitary sewer mains, sanitary sewer manholes, water mains, fire hydrants and easements for property located at 1203 Pineview Lane.

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

**BILL NO. BL2018-1448** (O'CONNELL & BEDNE) – This ordinance would abandon existing sanitary sewer mains, sanitary sewer manholes, and easements and accept new water and sanitary sewer mains, sanitary sewer manholes, a fire hydrant, and easements for property located at 1430 Bell Road.

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

**BILL NO. BL2018-1449** (O'CONNELL & BEDNE) – This ordinance would authorize Broadstone Stockyard Flats, LLC to install, construct, and maintain aerial and underground encroachments in the right-of-way located at 901 2nd Avenue North. These would consist of an awning, an elevated bridge, and steps to the historic stockyard building encroaching the right-of-way.

Broadstone Stockyard Flats, 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.

This proposal has been approved by the Planning Commission.

**BILL NO. BL2018-1450** (O'CONNELL & BEDNE) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 120 right-of-way and easement, located south of Palmer Place in Council District 19.

The abandonment has been requested by OHM Advisors, applicant.

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

**BILL NO. BL2018-1451** (O'CONNELL & BEDNE) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 938 right-of-way and easement, located off of Clifton Avenue in Council District 19.

The abandonment has been requested by Catalyst Design Group, applicant.

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

**GRANTS LEGISLATION – JANUARY 15, 2019**

<b>Legislative Number</b>	<b>Parties</b>	<b>Amount</b>	<b>Local Cash Match</b>	<b>Term</b>	<b>Purpose</b>
<b>RS2019-1550</b>	<b>From:</b> Tennessee Department of Health  <b>To:</b> Metropolitan Board of Health	Not to exceed \$318,600.00	\$0	July 1, 2019 through June 30, 2020	The proceeds from this grant would be used to provide public health activities to enhance the health and well-being of women, infants, and families by improving community resources and service delivery systems available to them.
<b>RS2019-1551</b>	<b>From:</b> Nashville Predators Foundation  <b>To:</b> Metropolitan Board of Health	Not to exceed \$7,000	\$0	N/A	The grant proceeds would be used to help support reduced pet adoption fees to reduced overcrowding at Metro Animal Care and Control.
<b>RS2019-1552</b>	<b>From:</b> Tennessee Housing Development Agency  <b>To:</b> Metropolitan Action Commission	Increase by \$6,322,453.00	N/A	N/A	<p>This would approve the first amendment to a grant approved for the Low Income Home Energy Assistance Program (LIHEAP).</p> <p>This amendment would increase the grant from \$6,160,733 to \$12,483,186, for LIHEAP services targeted toward the elderly, disabled, veterans, and households with children under the age of six years.</p>

<b>RS2019-1553</b>	<p><b>From:</b> Tennessee Department of Environment and Conservation</p> <p><b>To:</b> Metropolitan Board of Parks and Recreation</p>	Not to exceed \$100,000.00	\$100,000.00	February 22, 2019 through February 21, 2021	The proceeds from this Local Parks and Recreation Fund Grant would be used to develop Capitol View Park.
<b>RS2019-1554</b>	<p><b>From:</b> Friends of Warner Parks</p> <p><b>To:</b> Metropolitan Parks and Recreation Department</p>	Not to exceed \$51,936.00	\$22,981.91	January 1, 2019 through December 31, 2019	The proceeds from this grant would provide partial funding for one employee's salary.
<b>RS2019-1555</b>	<p><b>From:</b> Tennessee Department of Finance and Administration</p> <p><b>To:</b> Nashville Public Library</p>	Not to exceed \$298,539.00	\$103,486.00	February 1, 2019 through June 30, 2021	The proceeds from this Youth Development Center Grant would be used to improve community adults (out-of-school-time educators, families, and school staff) readiness to support positive child/youth development and cultivate safe environments in the lives of children/youth.
<b>RS2019-1556</b>	<p><b>From:</b> Tennessee Emergency Management Agency</p> <p><b>To:</b> Office of Emergency Management</p>	Not to exceed \$294,452.00	\$0	January 25, 2019 through April 30, 2021	The proceeds of this Homeland Security Grant would be used to fund costs related to enhancing preventative capabilities for chemical, biological, radiological, nuclear, and improvised explosive device detection and response.