



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director and Special Counsel
Hannah Zeitlin, Assistant Legal Counsel
Maria Caulder, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: April 21, 2020

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 4/15/20:

4% Reserve Fund	\$18,600,037*
Metro Self Insured Liability Claims	\$2,101,515
Judgments & Losses	\$2,731,151
Schools Self Insured Liability Claims	\$3,546,303
Self-Insured Property Loss Aggregate	\$8,041,371
Employee Blanket Bond Claims	\$712,664
Police Professional Liability Claims	\$2,059,757
Death Benefit	\$1,661,532

*This assumes unrealized estimated revenues in FY20 of \$6,969,222.

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

– RESOLUTIONS –

RESOLUTION NO. RS2020-202 (MENDES, MURPHY, & OTHERS) – This resolution approves an intergovernmental agreement in the form of a general maintenance agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works for the I-440 Traffic Operational Deployment of Blue Toad Spectra Power over Ethernet (PoE) Data Collection Devices project. This project is an advanced traffic monitoring system measuring travel times and traffic patterns using non-intrusive roadside technology (anonymously collected Bluetooth signals from paired vehicles).

The specific 21 intersections where TDOT would install the Blue Toad Spectra traffic data collection devices are included on the deployment document attached to this analysis.

Metro would be responsible for all costs associated with maintenance and operation of these devices.

This has been approved by the planning commission.

Fiscal Note: The Department of Public Works estimates that costs associated with the maintenance and operation of the electrically operated and solar powered devices will be less than \$500 annually for all units.

RESOLUTION NO. RS2020-273 (MENDES, MURPHY, & OTHERS) – This resolution declares seven properties to be surplus and authorizes the Director of Public Property Administration to sell the properties in accordance with the standard procedures for the disposition of surplus property. These parcels are no longer needed for any governmental purpose, and most are small, unbuildable lots.

The sale proceeds would be credited to the General Fund.

These seven properties are as follows:

- 212 Café Road (District 10)
- 1256 Thomas Street (District 17)
- 1224 Lewis Street (District 17)
- 159 Fain Street (District 19)
- 1702 Underwood Street (District 21)
- 0 Clare Avenue, two parcels (District 21)

The sale of these properties has been approved by the planning commission.

Fiscal Note: The total appraised value of these parcels as shown on the Assessor of Property's website is \$239,600.

RESOLUTION NO. RS2020-274 (MENDES, HAGAR, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-275 (MENDES, HAGAR, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-276 (MENDES) – This resolution authorizes the Department of Law to compromise and settle the lawsuit brought by Shaundelle Brooks, individually and as next of kin to Akilah DaSilva, against the Metropolitan Government for the amount of \$35,000. This lawsuit is the result of actions taken by Metro Department of Emergency Communications (DEC) calltakers immediately following the Waffle House shooting in Antioch during the early morning of April 22, 2018.

The first 911 call for the shooting came in at 3:24:33 a.m. Multiple calls began coming in over the next 20 seconds, though the plaintiff's lawsuit focuses on the fifth call answered. This particular calltaker was told there was a shooting at Waffle House. When asked which Waffle House, the caller responded, "Murfreesboro Road." The calltaker then used a third party electronic business directory, Criss-Cross, to ascertain the address. The only Waffle House listed in Criss-Cross on Murfreesboro Pike was 816. However, the shooting took place at a newer Waffle House located at 3571 Murfreesboro Pike and the Criss-Cross listings had not been updated. The calltaker submitted a dispatch to the 816 Murfreesboro Pike address at 3:25:38, which was before the GPS coordinates were known.

A second dispatch request went out from a separate calltaker based upon the GPS coordinates received through another call. However, DEC used the wrong dispatch request and emergency personnel were dispatched to the wrong Waffle House. The mistake was realized and a corrected dispatch request went out 89 seconds later at 3:27:30. The closest officer to the scene left a motor vehicle crash he was working at 3:26:48 after receiving the first dispatch. He reversed course 42 seconds later when the correct address was dispatched and was the first officer to arrive at the scene of the shooting at 3:32:20.

Mr. DaSilva was shot twice causing damage to his heart. He died after arriving at Vanderbilt Medical Center. Metro retained an expert trauma physician to review the medical records, who determined that, given the serious injuries sustained, the delay in emergency response most likely would not have prevented Mr. DaSilva's death.

Tennessee law was amended effective January 1, 2015, to require gross negligence for liability to attach on the part of 911 calltakers or dispatchers if they have been trained in accordance with state law. Tennessee courts have defined gross negligence as "a conscious neglect of duty or a callous indifference to consequences" or "such entire want of care as would raise a presumption of a conscious indifference to consequences." *Jones v. Tenn. Riders Instruction Program, Inc.*, 2007 WL 393630 (Tenn.Ct.App. 2007) (citing *Buckner v. Varner*, 793 S.W.2d 939, 941 (Tenn.Ct.App. 1990)).

DEC has acknowledged significant errors were made regarding this dispatch since the dispatch information should have been updated as soon as the GPS coordinates became available. However, the Department of Law does not believe those errors amount to gross negligence. In

addition to the gross negligence defense, Metro has some causation defenses and comparative fault on the part of the gunman and his father. Thus, the Department of Law believes Metro would ultimately prevail if the case went to trial. However, Metro would incur significant litigation expenses defending the case.

The Department of Law recommends settling this case for \$35,000, which is less than the anticipated defense costs. In addition to the monetary settlement, DEC has agreed to consider proposals submitted by the plaintiff concerning their internal policies for the transmission of GPS coordinates and documentation of employee errors.

Fiscal Note: This \$35,000 settlement, along with the settlement(s) per Resolution No(s). RS2020-281 and RS2020-282, would be the twenty-fourth, twenty-fifth and twenty-sixth payments from the Self-Insured Liability Fund in FY20 for a cumulative total of \$1,191,853. The fund balance would be \$2,101,515 after these payments.

RESOLUTION NO. RS2020-277 (MENDES, HURT, & WELSCH) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-278 (HURT & WELSCH) – This resolution approves a clinical affiliation agreement between the Metropolitan Board of Health and Meharry Medical College to provide public health training for Meharry resident physicians enrolled in its family medicine residency program. Meharry residents will not receive any compensation and are not to be considered employees of Metro. Meharry is required to maintain malpractice insurance for the participating residents in the amount of \$1 million per occurrence and \$3 million in the aggregate. There is no cost to the Metropolitan Government for providing this service. The term of the agreement would become effective upon execution by both parties and continue for 60 months. The agreement may be terminated by either party with 90 days written notice.

Metro participates with several colleges and universities to provide clinical experience to students.

Fiscal Note: There would be no cost to Metropolitan Government for participating in this program.

RESOLUTION NO. RS2020-279 (HURT & WELSCH) – This resolution approves a contract for services between the Tennessee Department of Health and the Metro Board of Health to provide the smoking cessation program, "Baby and Me Tobacco Free".

The term of the contract would be from July 1, 2020 through June 30, 2023. The State may execute up to two renewals of 12 months each, for a total maximum contract term of 60 months. Metro Charter Sec. 10.104(8) requires the Board of Health to contract for services that would further the program and policies of the Board. Contracts such as the one now under consideration must be confirmed by a resolution of the Council.

Fiscal Note: There would be no cost to Metropolitan Government for participating in this program.

RESOLUTION NO. RS2020-280 (TAYLOR, MURPHY, & HENDERSON) – This resolution amends Ordinance No. BL2019-1565 to authorize the Metropolitan Government to abandon existing water main and easements and accept additional sanitary sewer main, sewer manholes, and easements for four properties located on Spruce Street and 21st Avenue North. BL2019-1565 provided that amendments could be made by resolution.

This proposal has been approved by the planning commission.

Fiscal Note: This resolution has no cost to Metro. Donated and abandoned easements do not have a market value according to Metro Water Services.

RESOLUTION NO. RS2020-281 (MENDES) – This resolution authorizes the Department of Law to compromise and settle the property damage claim of Allstate Indemnity Company, as subrogee for property owner Jamie Stroud, in the amount of \$21,555.58. On September 28, 2019, Metro Water Services mistakenly turned on the water at 118 Glen Cove Trail instead of 116 Glen Cove Trail causing flooding and property damage. The home was vacant and being remodeled at the time.

The Department of Law recommends settling the claim for the amount of the property damage cleanup and repair costs.

Fiscal Note: This \$21,555.58 settlement, along with the settlement(s) per Resolution No(s). RS2020-276 and RS2020-282, would be the twenty-fourth, twenty-fifth and twenty-sixth payments from the Self-Insured Liability Fund in FY20 for a cumulative total of \$1,191,853. The fund balance would be \$2,101,515 after these payments.

RESOLUTION NO. RS2020-282 (MENDES) – This resolution authorizes the Department of Law to compromise and settle the personal injury claim of Roselyn Rodriguez, a minor, against the Metropolitan Government in the amount of \$35,000. On March 14, 2019, a Metro Public Works employee rearended a van on I-24 in which Ms. Rodriguez was a passenger. Ms. Rodriguez was transported to Centennial Medical Center where she was treated for pain in her neck, back, ankle, and knee. She was instructed to follow up with her pediatrician, who subsequently prescribed physical therapy. Her medical bills as a result of this accident total \$22,862.67.

The Department of Law recommends settling this claim for the amount of the medical bills plus \$12,137.33 for pain and suffering since Metro would be found to be at fault in the accident. This amount is to be paid out of the self-insured liability fund. Metro has already paid \$18,601.06 for the damage to the Honda Odyssey van.

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

Fiscal Note: This \$35,000 settlement, along with the settlement(s) per Resolution No(s). RS2020-276 and RS2020-281, would be the twenty-fourth, twenty-fifth and twenty-sixth payments from the Self-Insured Liability Fund in FY20 for a cumulative total of \$1,191,853. The fund balance would be \$2,101,515 after these payments.

RESOLUTION NO. RS2020-283 (SLEDGE, CASH, & OTHERS) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metro Department of Public Works for the resurfacing and repair of 2.42 miles of 31st Avenue S., Blakemore Avenue, and Wedgewood Avenue. The total cost of the project is estimated to be \$2,144,900, with TDOT responsible for 75% of the cost (\$1,608,675) and Metro responsible for the remaining 25% (\$536,225). The project is to be completed not later than November 30, 2022. Metro will be responsible for the maintenance of the roadway after construction.

This has been approved by the planning commission.

Fiscal Note: The total estimated cost to Metro is \$536,225, which is 25% of the total estimated project cost towards the resurfacing and repair of 2.42 miles of 31st Avenue S., Blakemore Avenue and Wedgewood Avenue.

RESOLUTION NO. RS2020-284 & RS2020-285 (O'CONNELL, MURPHY, & HENDERSON) – These resolutions authorize the construction, installation, and maintenance of the following aerial encroachments:

- **Resolution No. RS2020-284** – This resolution authorizes One22One Investment Partners, LLC to construct, install, and maintain a building façade encroaching the right-of-way at 1221 Broadway.
- **Resolution No. RS2020-285** – This resolution authorizes Riverbike of Tennessee, Inc. dba Honky Tonk Harley-Davidson, to construct and install one double-faced, illuminated projecting sign at 203 3rd Avenue South.

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

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

Plans for each 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.

Each encroachment's construction must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

These proposals have been approved by the planning commission.

– ORDINANCES ON SECOND READING –

BILL NO. BL2020-196 (PULLEY) – This ordinance recodifies Title 9, adding in certain provisions that were inadvertently left out of Ordinance No. BL2019-1631.

BL2019-1631 consolidated various noise provisions present throughout the Metropolitan Code of Laws into one centralized location. However, some sections were inadvertently left out or deleted from the ordinance. The ordinance under consideration would add those provisions inadvertently left out of BL2019-1631, but otherwise in effect on August 20, 2019 — the date that BL2019-1631 was adopted. The ordinance also makes other minor typographical corrections.

BILL NO. BL2020-223 (MURPHY) – This ordinance amends section 7.16.110 of the Metro Code to provide a mechanism for retail liquor establishments to obtain an exemption from the minimum distance requirements for obtaining a certificate of compliance upon approval of the Council by resolution. Although retail liquor stores are primarily regulated under state law, T.C.A. § 57-3-208 requires liquor store applicants to obtain a certificate of compliance signed by the mayor stating that the applicant hasn't been convicted of a felony within the past ten years and that the store complies with local location restrictions. Section 7.16.110 of the Metro Code generally prohibits liquor stores from being located within 50 yards of a private residence or a branch of the Nashville Public Library on the same side of the street as the proposed retail store, within 100 yards of any place of worship, or within 200 yards of a school or college campus.

This ordinance would allow a waiver from these location restrictions upon approval of a Council resolution after a public hearing in the same manner that waivers of the beer permit distance requirements for restaurants are approved. Notice of the public hearing must be sent by mail to all property owners within 600 feet of the proposed liquor store seeking the exemption from the minimum distance requirements not later than 14 days prior to the scheduled public hearing on the resolution. Further, posting of a public notice sign meeting the general requirements of Section 17.40.730 of the Metropolitan Code must be posted on the property at least 14 days prior to the scheduled public hearing. The costs for the public notification requirements are to be paid by the applicant. The applicant would coordinate the scheduling of the public hearing with the metropolitan clerk's office prior to the filing of the resolution.

There is a proposed amendment for this ordinance requiring the applicant to notify the district councilmember within five days of submitting the request for a distance waiver. The ordinance as filed would have required the department of law to provide the notification.

BILL NO. BL2020-224 (TAYLOR, SUARA & OTHERS) – This ordinance amends Chapter 11.22 of the Metropolitan Code to require landlords to provide notice to tenants prior to a sale of the property. The ordinance would create a new requirement that landlords provide a minimum of 90 days' written notice to tenants prior to closing on a sale of the leased premises.

This is similar to Bill No. BL2020-149 on third reading, which would require landlords to provide at least 90 days' written notice to tenants before increasing the tenant's rent.

BILL NO. BL2020-225 (HAGAR) – This ordinance amends Section 13.24.400 of the Metropolitan Code to allow the landing of parachutes on park property in conjunction with the Tennessee Women's Suffrage Centennial Celebration. This section of the Metro Code currently prohibits landing an airplane, hot air balloon, or parachute on any park property. As part of the Tennessee Women's Suffrage Centennial Celebration in Centennial Park in August 2020, women plan to parachute out of an airplane and land in the park.

This ordinance creates a very narrow and specific exception from the parachute prohibition in the code for parachuting activities in conjunction with the Tennessee Women's Suffrage Centennial Celebration in Centennial Park.

BILL NO. BL2020-226 (O'CONNELL & SWOPE) – This ordinance would approve a temporary "Special Event Zone" for the downtown area, in conjunction with the 2020 CMA Music Fest that was scheduled for June 3 to 8, 2020.

The Special Event Zone established under this ordinance would consist of two areas. Area 1 would extend from First Avenue to Rosa L Parks Blvd, and from Korean Veterans Blvd to Commerce Street, with an extension from Commerce Street to Church Street along Second and First Avenues North. Area 2 would extend from the east side of the Woodland Street Bridge, to South 1st Street, to Interstate Drive, then to Shelby Avenue and Korean Veterans Boulevard, then north to Woodland Street.

Activity restrictions within the Special Event Zone would begin at six o'clock (6:00) a.m. on Wednesday, June 3, 2020, and end at midnight (12:00) on Monday, June 8, 2020.

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

1. The sale of any food, beverages, goods, or merchandise would be prohibited, unless street vendors obtain a "Special Event Zone" permit from the Nashville Convention and Visitors Corporation (CVC) in order to sell within the geographic area listed above.
2. Alcoholic beverages provided, served, or sold from any temporary outdoor would be prohibited, except as authorized.
3. The sale or distribution of merchandise pertaining to CMA Fest, where it is apparent on its face that the merchandise is not licensed by CMA, would be prohibited.
4. No tents or membrane structures of any kind would be permitted, except as authorized by CMA or Metro for public safety purposes.
5. The construction, placement, occupation, or use of any temporary structure would be prohibited except those sanctioned and authorized by the CMA.

6. The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned and authorized by CMA would be prohibited, except within any Public Participation Area.
7. Vehicles would be allowed only as directed by Metropolitan Nashville Police.
8. No shared urban mobility devices, as defined by Metropolitan Code of Laws Section 12.62.010, would be permitted within the Special Event Zone.
9. No handguns, rifles, or firearms would be permitted. (Tennessee Code Annotated § 39-17-1359)
10. No knives, swords, or other fighting devices would be permitted.
11. No fireworks, firecrackers, or explosive devices of any type would be permitted, except exhibitions permitted by CMA.
12. The Special Event Zone would be a “no fly zone.”

This ordinance would establish at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area would allow for the reasonable expression by the public in a manner that is not disruptive to the 2020 CMA Fest, activities, and events.

Since the 2020 CMA Music Fest has been cancelled as a result of the COVID-19 pandemic, it is anticipated that this ordinance will be withdrawn.

Fiscal Note: This ordinance places restrictions on the activities that would be allowed to take place within the special event zone during the 2020 CMA Music Fest. However, no additional Metro personnel or overtime would be required just for the enforcement of these restrictions.

BILL NO. BL2020-227 (WITHERS, MENDES, & OTHERS) – This ordinance authorizes the grant of permanent and temporary construction easements to Piedmont Natural Gas Co. on property owned by the Metropolitan Government. The easements would be across a portion of Shelby Park located at 2009 Sevier Street. The easement would be used for the purposes of installing a new natural gas line and above ground improvements to upgrade and improve service to the area. Piedmont has agreed to pay \$225,000 as compensation for this easement, reflecting fair market compensation for the easements.

Fiscal Note: Metro will receive \$225,000 for the conveyance of these easements which represents the fair market value of the easements.

BILL NOS. BL2020-228 through BL2020-232 – These five ordinances amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government by abandoning portions of Metro rights-of-way that are no longer needed by Metro. Metro will retain all utility easements within the rights-of-way to be abandoned. Future amendments to the ordinances may be approved by resolution. These ordinances have all been approved by the planning commission and the traffic and parking commission.

BILL NO. BL2020-228 (MURPHY, HENDERSON & OTHERS) – This ordinance abandons a very small portion of Collins Park Drive in front of property located 510 Collins Park Drive. This closure has been requested by Nanu Patel, the property owner.

BILL NO. BL2020-229 (SLEDGE, MURPHY & OTHERS) – This ordinance abandons a portion of Merritt Avenue from the railroad right-of-way eastward approximately 240 feet, between Hagan Street and the railroad right-of-way. This closure has been requested by Fulmer Engineering, LLC.

BILL NO. BL2020-230 (PARKER, MURPHY & OTHERS) – This ordinance abandons a portion of Alley #312 from N. 9th Street to Alley #278, between N. 9th Street and Neil Avenue. This closure has been requested by Rick Wells.

BILL NO. BL2020-231 (MURPHY, HENDERSON & OTHERS) – This ordinance abandons a portion of Alley #2005 from the dead-end south of Fern Avenue to the dead-end north of Fern Avenue, between Burch Avenue and Katie Avenue. This closure has been requested by Shawn O' Malley.

BILL NO. BL2020-232 (O'CONNELL, MURPHY & HENDERSON) – This ordinance abandons a portion of Alley #146 from Lafayette Street northwestward to Elm Street, between 4th Ave. S. and 5th Ave. S. This closure has been requested by Barge Design Solutions.

Fiscal Note: These ordinances have no cost to Metro. In the opinion of the Public Works, abandoned right of way has no market value when the Department has agreed that the abandoning of said right of way is considered acceptable.

BILL NO. BL2020-234 (SYRACUSE, SUARA, & OTHERS) – This ordinance provides a waiver of certain building permit fees for the repair or rebuilding of property damaged as a result of the March 3, 2020 tornado.

The fees for a building permit will be waived for all property owners (or their authorized agents) who meet the following conditions:

- The permits are obtained to repair damage to the owner's property caused by the March 3, 2020 tornado.
- The permits are obtained on or before June 3, 2020.
- The permits are issued to construct, alter, repair, enlarge, move or demolish any building or structure or part thereof or any appurtenances connected or attached thereto.
- The owner must provide evidence satisfactory to the Director of Codes Administration, or his designee, that the work is being performed as a result of damage sustained as a result of the March 3, 2020 tornado.
- Property owners who paid building permit fees prior to the adoption of the ordinance will be entitled to a refund if they provide evidence satisfactory to the Director of Codes

Administration, or his designee, that the work is being performed as a result of damage sustained as a result of the March 3, 2020 tornado.

This ordinance is similar to a permit fee waiver ordinance enacted by the Council after the 2010 flood.

Fiscal Note: The Department of Codes Administration estimates the total cost of this legislation to be \$60,000 based on the month of March and, depending on the number of permits applied for by June 3, 2020. However, costs may exceed this estimate based on the specifics of the permits issued.

BILL NO. BL2020-235 (MENDES, HENDERSON & OTHERS) – This ordinance amends Sections 2.62.040 and Metropolitan Code Section 12.56.170 to increase special event and parade permit fees. These fees were last increased in 2016. The current special event permit fees consist of a \$230 application fee plus a \$100 administrative fee for events within the Right-of-Way Permit High Impact Area (“HIA”) (as defined in Metropolitan Code Section 13.20.030.D.1), and a \$50 administrative fee for events outside of the HIA. For parades, there is currently a \$100 administrative fee for events within the HIA, and a \$50 administrative fee for events outside of the HIA.

This ordinance adopts new fee schedules based upon anticipated attendance.

For a special event being held within the HIA:

Expected Attendees	Application Fee	Administration Fee
Less Than 100	\$250.00	\$100
100 - 299	\$500.00	\$100
300 - 499	\$1,100.00	\$100
500 or Greater	\$2,300.00	\$100

For events being held outside of the HIA:

Expected Attendees	Application Fee	Administration Fee
Less Than 100	\$100.00	\$50
100 - 299	\$250.00	\$50
300 - 499	\$500.00	\$50
500 or Greater	\$1,100.00	\$50

For a parade within the HIA:

Expected Attendees	Application Fee	Administration Fee
Less Than 100	\$200.00	\$100
100 - 299	\$400.00	\$100
300 - 499	\$800.00	\$100
500 or Greater	\$1,600.00	\$100

For a parade event being held outside of the HIA:

Expected Attendees	Application Fee	Administration Fee
Less Than 100	\$100.00	\$50
100 - 299	\$200.00	\$50
300 - 499	\$400.00	\$50
500 or Greater	\$800.00	\$50

BILL NO. BL2020-236 (SLEDGE) – This ordinance prohibits work related to a grading permit on Sundays and between the hours of 9 p.m. and 6 a.m. if within or adjacent to a residential zone district. A project information sign would be required to be posted at all project sites, excluding public infrastructure projects, in English and Spanish, for all projects requiring a grading permit. The sign would include information such as the phone number for the applicant and a phone number to file complaints with the stormwater division.

Every fifty feet of the site frontage, a double-sided 24" (vertical) × 36" (horizontal) sign would be required with the following information:

- If located within or adjacent to a residential zone district, that no work is permitted on Sunday or between 9:00p.m. and 6:00a.m.
- If not located within or adjacent to a residential zone district, that no work is permitted on Sunday.

These requirements are similar to those required of building permits.

BILL NO. BL2020-237 (MENDES, HENDERSON, & ALLEN) – This ordinance approves Amendment 2 to the contract between Waste Management, Inc. of Tennessee and Metro, through the Department of Public Works, for the processing and marketing of recyclable material collected by Metro, and approves the contract term through 2025. Metro entered into a ten year renewal of a contract with Waste Management in the fall of 2015 to process and sell recyclable materials collected by Metro. This renewal was the result of a request for proposals solicitation through the purchasing division of the Finance Department. Section 4.12.160 of the procurement code provides that contracts with a term in excess of five years must be approved by the Council. Due to an administrative error, this contract was not submitted to the Council for approval in 2015.

First, this ordinance approves a five year extension of the 2015 contract through November 2025 to basically ratify the 2015 action. Second, the ordinance approves an amendment to the contract to increase the contract amount. Waste Management, Inc., has taken the position that a change in Chinese law amounts to a change in applicable law under the contract, which would trigger a contract amendment. Waste Management asserts that a 2018 Chinese law prohibits the import of all recyclable materials containing 0.05% or more contamination, and bans the import of all

unsorted, mixed wastepaper, which has made China no longer a viable export market for recyclables and increased Waste Management's costs.

The 2015 contract provides that in the event there is a change in applicable law, the parties are to negotiate an amendment to the contract in good faith. In addition, Waste Management has taken the position that the quality of recyclable materials delivered has not met contractual requirements. The amendment to be approved by this ordinance provides for a one time payment of \$1,057,678.97 from Metro to Waste Management, Inc. to address the issue regarding whether the tariff modification constituted a change in applicable law. Waste Management, Inc. agrees to waive any claims that it wasn't adequately compensated for services rendered prior to June 30, 2020. The estimated value for this contract going forward is \$2,250,000 annually.

The Council Office would note that if this amendment is not approved, and Waste Management decided to terminate the contract, Metro would have to find another emergency processing source for its recyclable material, which would likely result in a higher cost to Metro than this contract amendment.

Fiscal Note: Metro will pay Waste Management monthly for the processing and transportation of recycleables. This includes a processing fee for residential single stream and/or loose containers, processing fees for different types of materials, and a fee for the transportation and disposal of residue, less the value of Metro's recyclable material.

Amendment Changes in Fees per Ton

	<u>FY20</u>	<u>FY21</u>
<i>Residential Single Stream</i>	<i>\$77.25</i>	<i>\$101.40</i>
<i>Loose Container Stream (Plastic, Aluminum, Steel)</i>	<i>\$75.00</i>	<i>\$101.40</i>
<i>Glass</i>	<i>\$41.20</i>	<i>\$42.44</i>
<i>OCC (Cardboard)</i>	<i>\$25.75</i>	<i>\$33.87</i>
<i>Mixed Paper</i>	<i>\$41.20</i>	<i>\$53.88</i>
<i>Refuse Disposal</i>	<i>\$54.50</i>	<i>\$56.14</i>

The fees will be adjusted in accordance with increases and decreases in the applicable Consumer Price Index based on the formula in Section 3.2.2 of the agreement. The value of Metro's recyclable material is deducted from these fees, based on 70% of the material's value. The value of the materials will be calculated as defined in Exhibit A of the agreement.

Waste Management will provide Metro \$50,000 per calendar year for education and outreach on recycling.

Metro will pay a one-time sum of \$1,057,678.97 on or about July 1, 2020. If Metro increases its collection of recyclables from its current once per month schedule, Metro will pay \$50,000 for each additional collection performed prior to July 1, 2020.

The estimated annual contract value of \$2,250,000 will be paid from Fund 30501, Business Unit 42804300. Additional information has been requested from the Public Works Department to verify funding sources.

BILL NO. BL2020-238 (MENDES & MURPHY) – This ordinance approves a lease agreement between the Metro and Midwest Communications, Inc. for real property located at 8072 Old Charlotte Pike for a communication tower. Metro constructed a broadcasting tower and a facility for related communication equipment on this property in 1998. This ordinance approves a new 20 year lease for the tower site. Metro will pay rent in the amount of \$1,455.25 per month, which is to increase by 5% each year. Metro will also be responsible for paying for all utilities associated with its use of the property. The property is being leased on an as-is basis. Metro agrees that it will not interfere with the landlord's communications operations on the property.

This lease has been approved by the planning commission.

Fiscal Note: Metro's rent cost for the first year of this agreement is \$17,463 and is to increase by 5% annually thereafter.

BILL NO. BL2020-239 (SLEDGE, MENDES & OTHERS) – This ordinance authorizes the grant of permanent and temporary construction easements to Brand Berry Hill Apartments, LLC, on a parcel or property owned by the Metropolitan Government. The easement would be used for vehicular and pedestrian access, ingress, and egress between Brand Berry Hill Apartment's property and Bransford Avenue. Brand Berry Hill Apartments has agreed to pay \$250,000 as compensation for this easement.

This easement conveyance has been approved by the Metro Board of Education.

Fiscal Note: Metro will receive \$250,000 for conveying this easement, which represents the fair market value of the easement.

BILL NO. BL2020-240 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance authorizes the Metropolitan Government to abandon existing easement rights located at 804 4th Avenue South, formerly a portion of Alley #147. The abandonment has been requested by Thomas & Hutton on behalf of the owner. Future amendments to this legislation may be approved by resolution.

This has been approved by the planning commission.

Fiscal Note: This ordinance has no cost to Metro. Abandoned easements have no market value according to the Department of Water Services.

BILL NO. BL2020-241 (PULLEY, MURPHY, & HENDERSON) – This ordinance authorizes the Metropolitan Government to negotiate and accept permanent and temporary easements for the Ackerman Court Stormwater Improvement Project for 37 properties located along Ackerman Court, Dodge Court, Grandview Drive, Granny White Pike, Graybar Lane, and Lealand Lane. Future amendments to this legislation may be approved by resolution.

This has been approved by the planning commission.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-242 (MENDES, HENDERSON, & ALLEN) – This ordinance authorizes Metro, acting by and through the Metropolitan Department of Water and Sewerage Services (MWS), to enter into an agreement with Cumberland River Compact (“CRC”), to continue to fund initiatives established as the result of the consent decree with the U.S. Department of Justice and the State of Tennessee. Pursuant to the 2009 consent decree, as authorized by Substitute Resolution No. RS2007-2144, Metro engaged CRC to provide various services relating to the enhancement of water quality in Davidson County. CRC is a nonprofit organization whose mission is to enhance the water quality of the Cumberland River through education and by promoting cooperation with citizens, businesses, and agencies. Specifically, the consent decree required Metro to make a grant to CRC in the amount of \$282,019 to address water quality issues by restoring small streams, building rain gardens, and planting trees.

This ordinance approves a new five year agreement with CRC for water quality initiatives. MWS will pay CRC \$75,000 per year for five years (\$375,000 total) to perform the following deliverables:

- Maintain and replenish raingardens at selected schools
- Provide free consultation and education about building raingardens
- Planting and maintaining trees
- Bank stabilization projects
- Facilitate a stream adoption program
- Host stream cleanups
- Public education and outreach
- Provide recreational opportunities

Future amendments to this agreement may be approved by resolution.

Fiscal Note: The total cost of the five year agreement is \$375,000 and will be effective May 2020. The annual payment of \$75,000 is included in the Stormwater operating budget, Fund 67431, which is funded through Stormwater Fees.

BILL NO. BL2020-243 (JOHNSTON, MURPHY, & HENDERSON) – This ordinance accepts new sanitary sewer mains and sanitary sewer manholes for property located at Wallace Road (unnumbered).

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-244 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance accepts water main, a fire hydrant assembly, a sanitary sewer manhole and easements for property located at 1501 Herman Street.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-245 (RUTHERFORD, MURPHY, & HENDERSON) – This ordinance accepts new water mains and easements for properties located at 6820 Nolensville Pike and 7115 Southpoint Parkway.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-246 (LEE, MURPHY, & HENDERSON) – This ordinance abandons existing public sanitary sewer force mains, sanitary sewer manholes and easements, and accepts new water and sanitary sewer mains and force mains, fire hydrant assemblies, sanitary sewer manholes, and easements for property located at 4309 Maxwell Road.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-247 (MURPHY & HENDERSON) – This ordinance abandons existing public sanitary sewer main and easements and accepts new water and sanitary sewer mains, fire hydrant assembly, sanitary sewer manholes and easements for property located at 4317 Harding Pike.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-248 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance abandons existing brick sanitary sewer main and easements and accepts new sanitary sewer mains, sanitary sewer manholes and easements for properties located at 1206 and 1212 9th Avenue North.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-249 (JOHNSTON, MURPHY, & HENDERSON) – This ordinance accepts new sanitary sewer mains, sanitary sewer manholes and easements for four properties located on Nolensville Pike.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-250 (RUTHERFORD, MURPHY, & HENDERSON) – This ordinance accepts new water and sanitary sewer mains, a fire hydrant assembly, sanitary sewer manholes and easements for properties located at 6424 and 6434 Pettus Road.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-251 (LEE, MURPHY, & HENDERSON) – This ordinance accepts new water and sanitary sewer mains, fire hydrant assemblies, sanitary sewer manholes and easements for property located at Hamilton Church Road (unnumbered), also known as Timber Trails Phase 2.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-252 (SLEDGE, MURPHY, & HENDERSON) – This ordinance accepts new water and sanitary sewer mains, sanitary sewer manholes and easements for properties located at 522, 524, and 526 Southgate Avenue, also known as Southgate Station Phase 2.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water Services.

– ORDINANCES ON THIRD READING –

BILL NO. BL2019-109 (O’CONNELL, HENDERSON, & ALLEN) – This ordinance, as amended, amends Chapter 12.62 of the Metropolitan Code regarding shared urban mobility devices (SUMDs). In July 2019, the Council enacted Substitute Ordinance No. BL2019-1658, as amended, to terminate SUMD permits then in existence and allow the companies to continue operating at 50% capacity while a request for proposals (RFP) process was in progress. The ordinance directed the Metropolitan Transportation Licensing Commission (MTLC) to conduct the RFP process. The RFP was to select up to three companies to operate a fleet of SUMDs in Nashville, and the RFP process was to be completed within 100 days from the effective date of BL2019-1658.

Substitute BL2019-1658 further directed the MTLC to enact temporary regulations to govern until the operator(s) are selected pursuant to the RFP. These regulations included use of technology to create no ride and slow zones, nighttime operation restrictions, safety education, signage, a complaint hotline, and a 30 minute response times for ADA related issues or complaints.

On November 12, 2019, the MTLC submitted a notice to the Council that the RFP timeline mandated by BL2019-1658 could not be met, and requested the Council’s cooperation regarding an extension of time to complete the process, which resulted in the filing of this ordinance.

This ordinance deletes the substance of Chapter 12.62 and replaces it with new provisions. The ordinance retains the 50% fleet size reduction currently in place and establishes a new RFP process. The process is to be completed within 120 days after enactment of this ordinance. Unlike BL2019-1658, this ordinance does not include a limitation on the number of potential operators. Each selected operator would be allowed a maximum of 500 units in its fleet, which could be increased by the MTLC. The MTLC is to evaluate potential operators in the following areas:

1. Commitment to participate in regular stakeholder meetings.
2. Commitment to address safety and security concerns.
3. Commitment to partner with Metro on an ongoing basis to address needs and concerns including geographic coverage, affordability, and technology.
4. Commitment to ensure rider compliance with applicable laws, including DUI laws and minimum rider age requirements.
5. Commitment to safety, including use of helmets and safety education.
6. Use of staffing, technology, and other means to prohibit use in restricted areas, including sidewalks.
7. Ability to adequately and address improper parking, ADA issues, and to rebalance SUMDs evenly throughout the city.
8. Plans for special event coordination with Metro.
9. The ability to conform to adaptive and outcome-based, and risk-weighted regulations.
10. Willingness and ability to provide pricing and availability options for lower income persons.
11. Proposals for addressing sustainability and environmental concerns.
12. Ability to provide Metro with real time data.

This ordinance authorizes the MTLC to set the SUMD regulations and to establish fees going forward necessary to carry out and enforce the ordinance without further Council action. The MTLC could not modify the regulations without the opportunity for input from the SUMD industry. The ordinance directs the MTLC to establish publicly available privacy principles and a summary of its implemented data security measures. The ordinance also grants authority to MTLC to impose a limit on the number of operators.

BILL NO. BL2020-149 (TOOMBS, TAYLOR, & OTHERS) – This ordinance, as amended, amends Title 11 of the Metro Code to create a new Chapter 11.22 requiring landlords to provide at least 90 days’ written notice to tenants before increasing the tenant’s rent. If there is a written rental agreement, it may allow for 60 days or more written notice of an increase. The ordinance also provides that, after proper notice has been given, any increase in rent may not become effective prior to the completion of the term of the rental agreement. This notice requirement would not apply to any housing funded through any program regulated by federal, state, or the metropolitan government. These provisions would apply to residential leases entered into on or after July 1, 2020.

Although the Uniform Residential Landlord and Tenant Act (URLTA) includes provisions governing rental agreements and the payment of rent, there is no express preemption in the URLTA that would prohibit the Council from requiring landlords to provide notice prior to a rent increase.

BILL NO. BL2020-193 (WITHERS, MURPHY, & OTHERS) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Tillman Lane right-of-way and easement from Riverside Drive to the Railroad right-of-way.

The abandonment has been requested by Baird Blake with Blake Realty Investments, property owner applicant.

This has been approved by the traffic and parking commission and the planning commission.

Fiscal Note: This ordinance has no cost to Metro. In the opinion of Public Works, abandoned right of way has no market value when the Department has agreed that the abandoning of said right of way is considered acceptable.

BILL NO. BL2020-198 (O’CONNELL, MENDES, & OTHERS) – This ordinance approves and authorizes the Director of Public Property Administration, or his designee, to accept a donation of real property at 128 Lifeway Plaza and 1008 Dr. Martin Luther King Jr. Boulevard for use as part of the parks system.

This property is donated by Capitol View Joint Venture. The Board of Parks and Recreation recommends acceptance of the donation of property.

Fiscal Note: The total appraised value of these parcels as shown on the Assessor or Property's website is \$213,800.

BILL NO. BL2020-199 (MENDES, MURPHY, & HENDERSON) – This ordinance amends a prior ordinance, BL2017-1000, to include three additional tracts. BL2017-1000 authorized Metro to acquire by negotiation or condemnation easements listed on Exhibit 1 to the bill, for use in public projects. These easements are needed for the West Hamilton Avenue Sidewalk Improvements, between Haynes Park Drive and Harold Prewett Drive.

Fiscal Note: According to the Department of Public Works, the cost of the easement acquisition, damages, closings, and appraisals is \$41,800 for the additional three tracts, for a total of \$60,000 for all tracts.

BILL NO. BL2020-200 (MURPHY, MENDES, & OTHERS) – This ordinance authorizes 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 of the Metropolitan Government, initially for purposes of the Bowling Avenue Sidewalk Improvements between Forrest Park Avenue and Woodlawn Drive.

This has been approved by the planning commission.

Fiscal Note: According to the Department of Public Works, the cost of the easement acquisition, damages, closings, and appraisals is \$21,880 for this legislation.

BILL NO. BL2020-201 (PULLEY, MURPHY, & OTHERS) – This ordinance authorizes Green Hills Mall TRG, LLC to install, construct, and maintain underground encroachments in the right-of-way located at 2130 Abbott Martin Road. These would consist of a cable rail structure encroaching the right-of-way.

Green Hills Mall TRG, 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. BL2020-202 (HAGAR, WELSCH, & STYLES) – This ordinance approves an agreement between the Metro Parks and Recreation Department (“Parks”) and Belmont University to allow occupational therapy students the opportunity to participate in experiential learning.

Under the terms of the agreement, Belmont would assure that students comply with necessary laws, codes of ethics, and regulations. Belmont would further assure that students possess appropriate health and professional liability insurance. In exchange, Parks would provide students with training and experiential learning. The term of this agreement is five years. No party agrees to indemnify the other.

Fiscal Note: There would be no cost to Metro for this agreement.

BILL NO. BL2020-203 THROUGH BL2020-208 AND BL2020-222 (O’CONNELL, MURPHY, & OTHERS) – These ordinances authorize CVA, Inc. to install, construct, and maintain underground encroachments in the right-of-way located various locations. These would consist of intersection paving, tree well barrier, benches, lighting, bike racks, trash bins, planter boxes, handrails, underground electrical and receptacles, landscape and irrigation and various types of paving, encroaching the right-of-way.

The locations of these encroachments would be as follows:

- 500 11th Avenue North (BL2020-203)
- 1 Lifeway Plaza (BL2020-204)
- 530 11th Avenue North (BL2020-205)
- 406 11th Avenue North (BL2020-206)
- 500 11th Avenue North (BL2020-207)
- 515 11th Avenue North (BL2020-208)
- 1100 Dr. Martin Luther King Blvd (BL2020-222)

CVA, Inc. 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 for each ordinance.

These proposals have been approved by the planning commission.

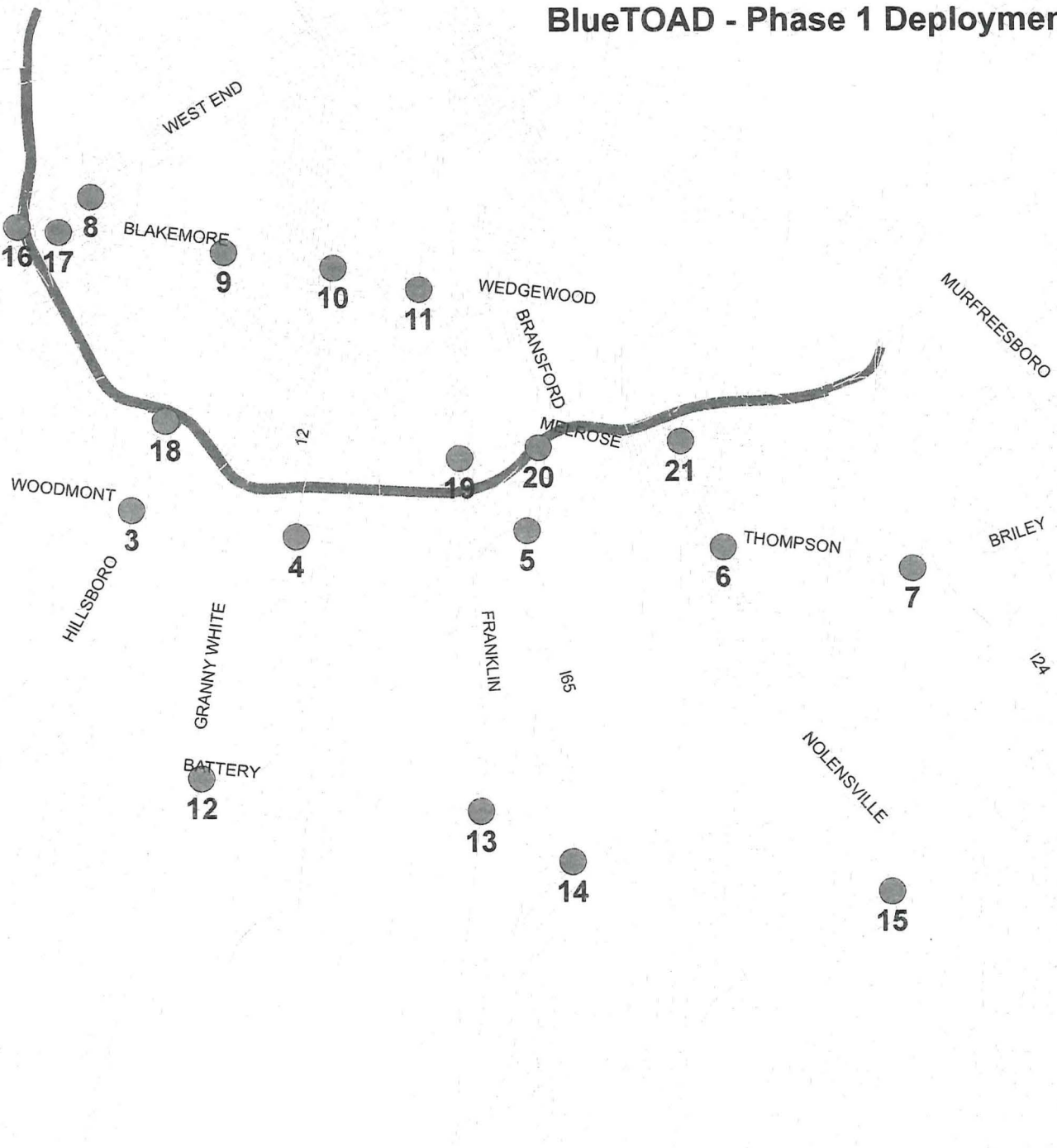
GRANTS LEGISLATION – APRIL 21, 2020

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2020-274	From: Tennessee Arts Commission To: Metropolitan Arts Commission	Not to exceed \$49,380	\$49,380	July 1, 2020 through June 30, 2021	The proceeds from this grant will be used for funding to non-profit organizations to nurture artists, arts organizations, and arts supporters in Davidson County.
RS2020-275	From: Tennessee Arts Commission To: Metropolitan Arts Commission	Increased by \$10,000	N/A	N/A	<p>This approves the first amendment to a grant approved by RS2019-1824.</p> <p>This amendment increases the grant amount from \$72,400 to \$82,400. Related provisions would be amended, including the addition of an updated grant budget attachment. No other changes would be made to the grant.</p>
RS2020-277	From: Tennessee Department of Health To: Metropolitan Board of Health	Not to exceed \$1,944,100	\$0	July 1, 2020 through June 30, 2021	The proceeds from this grant will be used to provide the Community Health Access and Navigation in Tennessee (CHANT) Program to deliver comprehensive care coordination services to eligible families and children.

BlueTOAD - Phase 1 Deployment (I-440)

1
CHARLOTTE

2
HARDING



Id	STREET	X_STREET
1	White Bridge	Charlotte
2	White Bridge	Harding
3	Woodmont	Hillsboro
4	Woodmont	Granny White
5	Thompson	Bransford
6	Thompson	Nolensville
7	Thompson	EB I-24 Ramps
8	Blakemore	West End
9	Blakemore	21st
10	Wedgewood	12th
11	Wedgewood	8th
12	Battery	Granny White
13	Harding	Franklin
14	Harding	NB I-65 Ramps
15	Harding	Nolensville
16	Murphy	EB I-440 Ramp
17	Murphy	West End
18	21st	EB I-440 Ramps
19	Franklin	Berry
20	Bransford	Melrose
21	Nolensville	Melrose