



## METRO COUNCIL OFFICE

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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: September 15, 2020

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 9/9/20:

4% Reserve Fund	\$43,697,682*
Metro Self Insured Liability Claims	\$1,185,168
Judgments & Losses	\$2,245,582
Schools Self Insured Liability Claims	\$3,309,927
Self-Insured Property Loss Aggregate	\$1,951,356
Employee Blanket Bond Claims	\$707,390
Police Professional Liability Claims	\$2,064,853
Death Benefit	\$1,665,643

\*This assumes unrealized estimated revenues in FY21 of \$35,227,133

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

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTIONS NO. RS2020-519 THROUGH RS2020-522** – These resolutions approve exemptions from the minimum distance requirements for obtaining a beer permit for the following establishments:

- **Resolution No. RS2020-519** (WELSCH) – Peachtree Drive-In located at 329 Peachtree Street.
- **Resolution No. RS2020-520** (SLEDGE) – DADS CBS, LLC dba Good Time Charlies located at 1529 4th Avenue South.
- **Resolution No. RS2020-521** (TAYLOR) – Willie Bi's Kitchen & Lounge located at 918 Buchanan Street.
- **Resolution No. RS2020-522** (SLEDGE) – The Basement located at 1604 8th Avenue South.

The Metro Code of Laws (MCL) prevents a beer permit from being issued to any establishment located within 100 feet of a religious institution, school, park, daycare, or one- or two-family residence. However, several exceptions exist to the distance requirements. For example, facilities within the USD separated from these protected establishments by state or federal four-lane highways are exempt, as are retailer on-sale beer permit holders in MUL districts and events catered by holders of caterers' permits. (See, Code section 7.08.090(A)).

Additionally, the Code provides a mechanism to exempt (a) restaurants or (b) any retail food store from Metro's minimum distance requirements, allowing such facilities to obtain beer permits upon the adoption of a resolution by the Council. (See, Code section 7.08.090(E)). Restaurants are no longer required to have state on-premises liquor consumption licenses in order to obtain such exemption.

A public hearing must be held by the Council prior to voting on resolutions brought under Section 7.08.090(E).

**RESOLUTION NO. RS2020-523** (O'CONNELL) – This resolution exempts 11 Music Square East, Apartment #504, from the minimum distance requirements for obtaining a Short Term Rental Property – Not Owner-Occupied permit pursuant to Section 17.16.070.U of the Metropolitan Code.

On July 7, 2020, the Council adopted Substitute Ordinance No. BL2019-78, as amended, which provides that no new STRP – not owner-occupied permit shall be issued to an applicant whose location is less than one hundred feet from a religious institution, a school or its playground, a park, or a licensed day care center or its playground. The Council may approve an exemption from the minimum distance requirements upon adoption of a resolution, after a public hearing, receiving 21 affirmative votes.

– RESOLUTIONS –

**RESOLUTION NO. RS2020-450** (DRUFFEL, MENDES, & OTHERS) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation and the Metropolitan Department of Public Works for the reimbursement of railroad crossing safety improvements at Post Road. This work would involve new signal poles, mast arms, signal heads, traffic signs, and railroad crossing signage.

The total cost of the project is estimated to be \$62,786.06. Metro will be responsible for 10% of the cost, or \$6,278.61, and TDOT will be responsible for 90%, or \$56,507.45.

*Fiscal Note: TDOT would pay 90% of the project costs (\$56,507.45) and Metro would pay 10% (\$6,278.61).*

**SUBSTITUTE RESOLUTION NO. RS2020-480** (MENDES & ROSENBERG) – This resolution proposes an amendment to the Metro Charter to be voted upon at a special election on December 5, 2020. The purpose of this amendment is to address various inconsistencies between existing Charter provisions and the language in a petition that was filed with the Clerk last week, which if enough signatures are verified, will be on the ballot December 5. The petition language reads more like bullet point list of concepts rather than an amendment to the foundational governing document for Metro, but that is the language that would go into the Charter if approved. The petition contains the following limitations:

1. Property taxes could not increase more than 2% per year after January 1, 2020, without a voter referendum.
2. No Metro property could be conveyed without 31 Council votes.
3. A referendum would be required for all property transfers valued over \$5 million and for all leases in excess of 20 years.
4. All bond issuances in excess of \$15 million for a specific project, excluding certain categories, would be subject to a voter referendum.
5. If a professional sports team stopped playing games, all facilities would “revert to the people” and all related contracts would be terminated.
6. “Public instrumentalities” receiving more than \$250,000 per year in Metro taxpayer funds or benefits agree to be bound by the Public Records Act (incorrectly described as the “Tennessee Open Records Act”), and such entities refusing to provide public records would be barred from receiving public funds and liable for treble the Citizen’s damages, including attorney fees.

A number of these provisions likely violate the Tennessee Constitution, state statutory law, and general common law principles. This analysis will not address all of the flaws in the petition language, but as an example, state law provides that the county legislative body has the exclusive responsibility for setting the tax levy and there is no provision in state law authorizing a limitation to the taxing authority of the Metropolitan Council. Further, it is unclear how a Charter provision could negate the provisions of an otherwise valid contract entered into prior to the Charter amendment becoming effective.

A number of other provisions in the petition filed with the Clerk are inconsistent with the existing Metro Charter. For example, the Charter currently includes a property tax limitation (which again is legally suspect) providing that the property tax rates cannot exceed those rates in effect as of November 7, 2006, without a referendum. Further, the Charter grants the authority to Metro, to be implemented through the approval of the Council, for the lease and transfer of real property. The Charter also includes a mechanism to challenge bonds issued under the authority of the Charter by petition signed by 6% of the voters within twenty days after notice of the bonds authorization is published.

The Charter amendment included in this substitute resolution addresses the above concerns. The amendment first provides that, notwithstanding any other provision of the Charter to the contrary, the Metropolitan Government's exercise of power pertaining to the acquisition, lease, or disposal of Metropolitan Government-owned property is subject to public referendum only to the extent required by state law. At present, state law does not require a referendum for property transactions. Second, the amendment provides that leases of Metropolitan Government-owned property must be on commercially reasonable terms, and that no such lease may have a term longer than permitted by state law. Third, the amendment provides that the Council's authority to set property tax levies and issue bonds shall be subject to a referendum to the extent required by the Charter as of January 1, 2019. As noted above, the Charter currently (and on January 1, 2019) provides that the property tax rates cannot exceed those rates in effect as of November 7, 2006, without a referendum. Finally, this amendment would provide that the Charter does not create a private right of legal action unless authorized by state law. This is to address the provision in the petition making public entities liable for treble damages if a public record isn't provided, which is contrary to the remedies provided in the Tennessee Public Records Act.

The Charter Revision Commission will consider this Charter amendment at their September 11 meeting.

**RESOLUTION NO. RS2020-518** (GLOVER) – This resolution proposes three amendments to the Metropolitan Charter. This resolution would set a special election to approve the Charter amendments on December 5, 2020.

Pursuant to Section 19.01 of the Metropolitan Charter, the Council may only adopt two resolutions during the term that submit Charter amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the Council and the resolution itself must be adopted by 27 affirmative votes to become effective. No Charter amendment resolution has been adopted in the current Council term.

The proposed Charter amendments are as follows:

- The first amendment amends Section 6.07 to provide that to the extent permitted by Tennessee law, the property tax rate adopted by the Council may not increase more than 12% over a two year period without approval of the voters at a referendum election. The Council Office would note that the Department of Law issued the attached [legal opinion](#) in 2006 opining that property tax limitations in the Charter violate state law since the county legislative body has the exclusive responsibility for setting the tax levy and

there is no provision in state law authorizing a limitation to the taxing authority of the Metropolitan Council. Thus, a state law change would likely be needed before this amendment could become effective.

- The second amendment would provide that, to the extent permitted by Tennessee law, an executive order issued by the Mayor declaring a state of emergency and/or an emergency health order issued by the Metropolitan Director of Health expires after 30 days unless an extension is approved by a resolution of the Metropolitan Council receiving 30 affirmative votes. Such extensions would be limited in duration to fourteen days per extension.
- The third amendment would provide that Charter amendments may be submitted by petition no more often than once per calendar year instead of once in each two years.

The Charter Revision Commission will consider these Charter amendments at their September 11 meeting.

**RESOLUTION NO. RS2020-524** (RUTHERFORD, TOOMBS, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2020-525** (TOOMBS, GAMBLE, & BRADFORD) – This resolution approves an intergovernmental agreement between the Davidson County Sheriff's Office (DCSO) and the U.S. Marshal Service (Marshals) for the detention of federal detainees at the Downtown Detention Center located at 200 James Robertson Parkway. DCSO has been operating under a 1996 agreement with the Marshals to house detainees. That agreement was amended over the years to alter the scope of services and the per diem reimbursement amount.

This resolution approves a new agreement between DCSO and the Marshals to house federal detainees. The agreement only applies for detainees who are charged with federal crimes and are awaiting trial, or who have been sentenced by the federal court and area awaiting transport to a federal Bureau of Prisons facility. It specifically does not apply for the detention of federal immigration detainees.

The agreement contemplates the use of 150 adult male beds at the facility. DCSO will receive a daily per diem of \$95, which will cover the housing and care of the inmates, including medical care provided within the facility. The Marshals will be responsible for the cost of medical care performed outside of the detention facility. The per diem can be increased after 48 months based upon DCSO's actual costs. In addition to the per diem rate, DCSO will be compensated \$22 per hour for guard and transportation services for medical appointments and court appearances.

The Council Office would note that this agreement specifically does not apply to the housing of federal immigration detainees. It is only applicable to federal detainees under Marshal control in the federal criminal system.

Either party may terminate the agreement with 30 days written notice.

*Fiscal Note: Davidson County Sheriff's Office will receive \$95 daily per diem for federal detainees and \$22 per hour for guard and transportation services from the U.S. Marshal Service under this agreement.*

**RESOLUTION NO. RS2020-526** (TOOMBS, GAMBLE, & WELSCH) – This resolution approves a contract between the Metropolitan Government and the Tennessee Department of Mental Health and Substance Abuse Services. Under Tenn. Code Ann. § 33-7-301, et seq., judges are authorized to order defendants charged with misdemeanors to undergo outpatient or inpatient mental health evaluations and treatment. When a General Sessions, Criminal, or Circuit Court orders such evaluation and treatment, the Metropolitan Government is responsible for the payment of the costs incurred at the State's Regional Mental Health Institutes.

This agreement outlines the services the State would provide and the cost for each service, which range between \$100 and \$900 per outpatient service and \$450 per day for inpatient evaluation and treatment. If a court determines that a defendant has the financial means to pay for part or all of the evaluation treatment services, Metro would be required to seek reimbursement from the defendant. The term of this agreement would be from July 1, 2020 through June 30, 2021.

*Fiscal Note: Actual expenditures for FY2019-2020 was \$97,400 according to the General Sessions Court's office. There was no cost recovered from the defendants according to the Criminal Court Clerk's office.*

**RESOLUTION NO. RS2020-527** (HALL) – This resolution appropriates a total of \$1,500,000 from the COVID-19 Pandemic Fund to two organizations – Jefferson Street United Merchants Partnership (JUMP) and Street Works, for COVID-19-related community outreach, testing, and care.

The Council approved and accepted a Coronavirus Relief Fund (CRF) grant from the U.S. Department of the Treasury in an amount not to exceed \$121,122,775 via Resolution No. RS2020-318, as amended.

The resolution would appropriate \$750,000 of the CRF funds to JUMP for community outreach for those impacted by the COVID-19 pandemic and \$750,000 of the CRF funds to Street Works for community outreach, testing, and care for those impacted by the COVID-19 pandemic. The resolution specifies that the appropriations to the nonprofit organizations listed in Section 1 are hereby designated as part of the plan for disbursement of CRF grant funds required by Resolution No. RS2020-318.

Resolution No. RS2020-318, as amended, which was approved by the Council on May 19, 2020, requires approval by resolution of a plan for disbursement of CRF grant funds. As a result of this

requirement, the budget ordinance for Fiscal Year 2021 (Substitute Ordinance No. BL2020-286) established a COVID-19 Financial oversight Committee ("the Committee"). The Committee includes six members appointed by the Mayor, and three councilmembers appointed by the Vice Mayor. The purpose of the Committee is to "collect, consider, and recommend appropriate uses of all federal and state funds provided to the Metropolitan Government specifically for COVID-19 relief and recovery, including but not limited to, federal CARES Act funds."

The Council has appropriated a total of \$18,200,000 thus far through the Committee process. The appropriations included in this resolution have not received a recommendation from the Committee.

**RESOLUTION NO. RS2020-528** (GAMBLE) – This resolution authorizes the Metropolitan Development and Housing Agency (MDHA) to enter into an agreement to accept payments in lieu of taxes (PILOT) for a multi-family housing project located at 579 Hickory Hills Boulevard, known as Hickory Ridge, Phase II. In 2016, Ordinance Nos. BL2015-1281, BL2016-334 and BL2016-435 authorized MDHA to negotiate and accept PILOT payments from operators of low income housing tax credit (LIHTC) properties, capped at \$2,500,000 annually. If approved, this PILOT, would be the twenty-first such PILOT program overall, and the fifth for MDHA in 2020. Before this project, the tax abatements for this year total \$1,910,576, after taking into consideration the property tax increase approved in June 2020.

PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTs were historically used by Metro to provide incentives through the Industrial Development Board (IDB) to large employers to create job opportunities. But Tenn. Code Ann. § 13-20-104 was amended several years ago to give MDHA the authority to enter PILOTs to create affordable rental housing subject to Council approval.

MDHA developed their PILOT program to provide additional financial incentives to developers considering construction or rehabilitation of affordable housing units through a federally funded LIHTC program. Subsidized LIHTC developments serve those at or below 60% of the average median income (AMI) for the Nashville area, which translates to an income cap of \$34,620 for individuals and \$49,380 for families of four in 2020. Once negotiated by MDHA, each PILOT agreement must be approved by the Council by resolution.

The maximum term for the PILOT payments under this program is 10 years. The PILOT agreement would only be available for additional tax liability over and above the pre-development assessed value of the property. The program is available for both existing and new developments, based on financial need. The PILOT lease is to be terminated if the property sits vacant for two years.

MDHA is required by state law to file an annual report with the Council, Assessor of Property, and State Board of Equalization identifying the values of the properties subject to PILOTs, the date

and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

The owner of the property, Hickory Ridge Apartments, Phase II, LP, plans to construct approximately 60 units to be rented to persons at or below 60% AMI. The amount of the PILOT payment to Metro will be \$44,674 in the first year, and the first year amount of the abatement will be approximately \$60,740. The owner will be required to pay a monitoring and reporting fee to MDHA not to exceed 5% of the in lieu of tax payment. The estimated project valuation is \$6,957,088.

*Fiscal Note: This PILOT request would require the developer to make a first-year payment of \$44,674 in lieu of property taxes, with a 3% annual increase through the remainder of the 10-year period.*

*In addition to the PILOT payments, the developer would be required to pay a monitoring and reporting fee to MDHA. This fee would be set by MDHA not to exceed five percent (5%) of the amount of the PILOT payment due each year.*

*The final assessed value of this project will not be known until completion. However, the value of the project when completed is estimated to be \$6,957,088. For purposes of this analysis, this number will be used as a reasonable estimate of the final project value.*

*Over the 10-year life of this PILOT agreement, a total of \$542,002 would be abated, although Metro would still receive \$512,136 in property taxes from this project, as depicted in the following table:*

<b>Real Property Tax (New)</b>						
	<b>Year</b>	<b>Total Value</b>	<b>Standard Tax</b>	<b>Still Pay</b>	<b>Abatement</b>	<b>Abatement %</b>
	1	\$6,957,088	\$105,414	\$44,674	\$60,740	57.6%
	2	\$6,957,088	\$105,414	\$46,014	\$59,400	56.3%
	3	\$6,957,088	\$105,414	\$47,395	\$58,019	55.0%
	4	\$6,957,088	\$105,414	\$48,816	\$56,598	53.7%
	5	\$6,957,088	\$105,414	\$50,281	\$55,133	52.3%
	6	\$6,957,088	\$105,414	\$51,789	\$53,625	50.9%
	7	\$6,957,088	\$105,414	\$53,343	\$52,071	49.4%
	8	\$6,957,088	\$105,414	\$54,943	\$50,471	47.9%
	9	\$6,957,088	\$105,414	\$56,592	\$48,822	46.3%
	10	\$6,957,088	\$105,414	\$58,289	\$47,125	44.7%
	<b>Totals</b>		<b>\$1,054,138</b>	<b>\$512,136</b>	<b>\$542,002</b>	<b>51.4%</b>

*After the property tax abatement from this project, \$528,684 would still be available within MDHA's annual cap of \$2.5 million for other PILOT projects in 2020.*



**RESOLUTION NO. RS2020-529** (TOOMBS, WELSCH, & SUARA) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2020-530** (TOOMBS & WELSCH) – This resolution approves an agreement between the Metropolitan Board of Health and the state Department of Human Services to pay the health department for voluntary paternity acknowledgements. The Metro health department acts as the agent for the state for vital records in Davidson County. This is a continuation of an agreement with the state to pay Metro for each voluntary paternity acknowledgement it obtains. If a father is not present when the hospital's birth registrar completes the paperwork, then only the mother's name is listed on the child's birth certificate. In such a case, there is a process whereby both parents can voluntarily acknowledge paternity and have the birth certificate changed to reflect the child's father. Under this agreement, the state pays the health department \$20 for each voluntary acknowledgment it obtains from each birthing facility up to the total number for the facility in the previous year. Metro would be compensated for any voluntarily acknowledgements over last year's number per facility at a rate of \$70. This agreement is through June 30, 2021.

*Fiscal Note: Metro Board of Health Department will receive \$20 for each voluntary paternity acknowledgement up to the total number for the facility in the previous year and \$70 for voluntary acknowledgement over that total number. The total amount received in FY20 was approximately \$820.*

**RESOLUTION NO. RS2020-531** (TOOMBS, WELSCH, & SUARA) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2020-532** (WELSCH) – This resolution approves amendment two to a contract between the Metro Board of Health and the Nashville Academy of Medicine to provide access to the Charisma Salus database system for patient and prescription tracking, originally approved by Resolution No. RS2018-1348 and previously amended by RS2019-93. The contract facilitates the efforts of the Board of Health to link uninsured residents of Davidson County to community healthcare services that serve the uninsured, based upon their ability to pay using the Nashville Academy of Medicine database.

The resolution under consideration would extend the end date of the contract from June 30, 2020 to June 30, 2021. All other terms and conditions in the original agreement would remain in effect.

*Fiscal Note: There is no additional cost to Metro for the extension of the contract.*

**RESOLUTION NO. RS2020-533** (WELSCH) – This resolution approves a dental provider service agreement between the Metropolitan Board of Health and DENTAQUEST USA Insurance

Company, Inc. (DentaQuest). The Metropolitan Public Health Department would become an in-network provider with TennCare CoverKids Dental Services. The term of the agreement would be one year, which would automatically renew for additional one year terms. DentaQuest could terminate the agreement upon 30 days prior written notice without cause. Metro could terminate the agreement upon 60 days prior written notice without cause.

**RESOLUTION NO. RS2020-534** (TOOMBS, BRADFORD, & HANCOCK) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2020-535** (TOOMBS, BRADFORD, & HANCOCK) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2020-536** (TOOMBS, GAMBLE, & WELSCH) – This resolution approves an amendment to a sole source contract between the Metropolitan Government and Infor, Inc. to provide maintenance and support of workforce time and attendance software for the Metropolitan Police Department (MNPd). 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. Metro Code 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. The Council approved a three year sole source contract with this vendor in August 2018 pursuant to Resolution No. RS2018-1338.

This amendment adds a works order exhibit and amends the compensation and pricing. The previous estimated contract value was \$385,500. The new contract value under the amendment would be \$738,900. MNPd received a recent 4% fund allocation to upgrade their WorkBrain system that is maintained by Infor, Inc. The additional cost is for Infor's application version upgrade, including all custom functions and interfaces.

*Fiscal Note: The new estimated contract value is \$738,900 for MNPd's maintenance and support of workforce time and attendance software system to be paid from Fund #30003, Business Unit #31201000.*

**RESOLUTION NO. RS2020-537** (TOOMBS) – This resolution authorizes the Department of Law to compromise and settle the claims of Samuel and Hannah Galluzi against the Metropolitan Government for the amount of \$260,000 to be paid out of the self-insured liability fund.

On the evening of October 5, 2018, then-North Precinct Police Officer Samuel Galluzi responded to a shots fired call at an apartment complex located on Buena Vista Pike. He and the other responding officers were told the suspect had shot a man in the parking lot and then forced his way into an apartment with three female hostages. The officers knocked several times on the

apartment door and received no response. Officer Galluzi called Sergeant Wells for guidance, who in turn called Lieutenant Lee. Lt. Lee said to file a report and leave the scene. Officer Galluzi questioned this directive, so he called Sgt. Boone, who also called Lt. Lee and received the same directive. Galluzi then called a detective who also reached out to Lt. Lee.

Lt. Lee and the two sergeants arrived on the scene approximately thirty minutes to an hour after Officer Galuzzi requested direction from his superiors. Lt. Lee obtained a key to the apartment and headed for the apartment door with the officers following. Galluzi and four other officers lined up behind Lt. Lee and across from each other with weapons drawn. Lt. Lee used the key to open the apartment door. The suspect fired shots through the door and rushed out. The officers then fired upon the suspect killing him with gun in hand. Officer Galluzi was shot twice in the leg during the crossfire, requiring surgery and the placement of permanent hardware in his leg.

Mr. Galluzi was 24 years old at the time of the accident, and an active participant in sports and outdoor activities. He is no longer able to participate in such activities, and left MNPD to work for the TBI at a reduced salary because he didn't feel comfortable working under the same superiors. He was also a newlywed, and his wife had to provide significant care for him during his recovery. Mr. Galuzzi also testified that he has gained weight due to his inability to engage in the same level of physical activity, which has contributed to depression.

The MNPD Office of Professional Accountability (OPA) determined that Lt. Wells and the two sergeants negligently discharged their duties by not calling the SWAT team and by taking matters into their own hands, so to speak. Mr. Galluzi testified that he tried repeatedly to convey the severity of the situation to his superiors. Had MNPD SWAT been called in, their policy would have required de-escalation efforts before entering the apartment. Officers are also now trained to line up on one side of the door to minimize the potential for crossfire.

The Department of Law recommends settling this case for \$260,000, which will include settling Mr. Galluzi's personal injury claim and his wife's loss of consortium claim, since it is likely that a court would fine Metro to be negligent given the actions of Mr. Galluzi's superiors. If the case went to trial, Mr. Galluzi could be awarded up to \$300,000 under the Governmental Tort Liability Act for his claim alone, not including the substantial loss of consortium award his wife would likely receive.

After the OPA investigation was completed, Lt. Lee and Sgt. Wells were demoted to a Police Officer 2 level, and Sgt. Boone received disciplinary action consisting of a five day suspension.

*Fiscal Note: This \$260,000 settlement would be the 12<sup>th</sup> payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$939,785. The fund balance would be \$982,691 after this payment.*

**RESOLUTION NO. RS2020-538** (TOOMBS, MURPHY, & NASH) – This resolution approves Amendment 1 to an agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works, originally approved by Resolution RS2015-1536, for the acceptance of work in connection with the construction of sidewalks along Dickerson Road from Douglas Avenue to Trinity Lane. The amendment replaces the agreement in its entirety add language referencing applicable state law and policy to allow Metro to use TDOT’s Local Programs procured On-Call Consultants for the provision of engineering and design related service or right-of-way acquisition services. This amendment also extends the completion date of the original agreement from May 30, 2020 to May 31, 2022. Exhibit A would also be updated to adjust the categories of estimated costs. The total project cost would remain \$6,150,000, of which Metro pays 20%.

*Fiscal Note: Metropolitan Department of Public Works would pay \$1,230,000, which is 20% of the estimated total project costs.*

**RESOLUTION NO. RS2020-539** (YOUNG, TOOMBS, & NASH) – This resolution approves a cooperative agreement between the Metropolitan Government and the United States Department of Agriculture – Natural Resources Conservation Service to stabilize the stream banks and protect a main sewer line along Mansker Creek near Old Springfield Pike in Davidson County. The total cost of the project will be \$107,462.37. NRCS would pay \$74,973.75 for construction costs and \$7,497.37 in technical assistance costs. Metro would pay a fixed cost not to exceed \$24,991.25

**– ORDINANCES ON SECOND READING –**

**SUBSTITUTE BILL NO. BL2020-224** (TAYLOR, HAUSSER, & OTHERS) – This ordinance, as substituted, amends Chapter 11.22 of the Metropolitan Code to require landlords to provide notice to tenants prior to the sale of the leased property. The ordinance would create a new requirement that landlords provide a minimum of 90 days’ written notice to tenants prior to listing the property. The landlord would also be required to notify tenants within five days of a binding sale agreement of the closing date and the anticipated date by which a tenant would need to vacate, which would be no less than 30 days from the date of notice of the closing date.

This is similar to Bill No. BL2020-149, adopted at the April 21 meeting, which requires landlords to provide at least 90 days’ written notice to tenants before increasing the tenant’s rent.

**BILL NO. BL2020-387** (HANCOCK, EVANS, & OTHERS) – This ordinance amends Section 3.24.010 of the Metropolitan Code pertaining to health insurance benefits for councilmembers after they leave office. Section 3.24.010 currently allows councilmembers to participate in Metro’s health insurance program under the same terms and conditions as are available to regular Metro employees. After leaving office, members who were participants in the health care plan are allowed to continue, provided they pay the full amount of the premium with no subsidy from Metro. However, the code allows members who hold office for eight years or more -- as well as members serving on or after August 31, 2007 that served part of one term and a full consecutive term -- to continue the health care plan, provided they pay the contribution rates equivalent to those paid by regular Metro employees (which is currently 25% of the insurance premium paid by the employee and 75% paid by Metro).

The ordinance under consideration would modify this language to state that councilmembers holding office for less than eight years prior to August 31, 2023 who were participants in the plan may continue coverage, provided they pay the full amount of the premium. Council members serving eight years or more prior to August 31, 2023 would still be allowed to continue the health care plan, provided they pay the contribution rates equivalent to those paid by regular Metro employees. Councilmembers not covered by the above conditions could participate in the health care plan under the same terms and conditions as retired Metro employees at the following contribution rates:

- For former councilmembers who served at least eight years, but less than fifteen, Metro would contribute 25% and the former councilmember would contribute 75%;
- For former members who served fifteen years or more, Metro would contribute a portion of the contribution rate based on years of service as provided in Section 3.16.020c.3. of the Metro Code applicable to retired employees hired after January 1, 2013, as follows:

Time of Service	Former Councilmember Responsibility	Metro Responsibility
8-15 years	75%	25%
15-16 years	50%	50%
16-17 years	45%	55%

17-18 years	40%	60%
18-19 years	35%	65%
19-20 years	30%	70%
20 or more years	25%	75%

Councilmembers serving eight years who would otherwise qualify for health care coverage at the contribution rates paid by regular Metro employees could elect to participate in the health care plan at the higher rates set forth in this ordinance. Except as detailed above, no councilmember serving after August 31, 2023 would be eligible for the subsidized health care plan after leaving office.

Similar legislation was considered by the Council in 2012, 2015, and 2017, but was not enacted.

This ordinance was reinstated onto the Council agenda pursuant to Rule 8 by a vote of the Council at the September 1 meeting.

*Fiscal Note: The estimated annual cost of the health care premium paid by Metro for current councilmembers is \$352,908 and past councilmembers is \$484,530, a total of 837,438 in 2020. Over the last three (3) years, this expense has been comprised of approximately 45% current Council members and 55% past Council members. The projected costs in 2024 would be \$1,208,134 if the number of participants remains the same. The cost could fluctuate and will depend on the number of individuals participating in the plan, according to the Human Resources Department.*

*For comparison purposes, a summary of the equivalent post-employment health benefits offered to councilmembers in ten (10) peer cities is attached to this analysis. This information was obtained in 2015.*

**BILL NO. BL2020-423** (SUARA) – This ordinance amends Section 4.36.020 of the Metropolitan Code of Laws regarding suspension or debarment of a person under the Procurement Code. Suspension and debarment are two remedies in the Procurement Code for a contractor’s failure to follow the terms of the contract and/or applicable laws. After providing reasonable notice and an opportunity to be heard, the purchasing agent, upon consultation with the using agency and the director of law, has the authority to debar a contractor for cause from consideration for award of contracts. The debarment cannot be for a period of more than three years. As an alternative to debarment, the purchasing agent may suspend a contractor from consideration for award of contracts for up to three months if there is probable cause for debarment. The authority to debar or suspend must be exercised in accordance with regulations promulgated by the Procurement Standards Committee.

This ordinance would create a public list, available online, of persons suspended or debarred under Section 4.36.020. This would be updated whenever a person is debarred, suspended, or no longer subject to debarment or suspension.

**BILL NO. BL2020-424** (MURPHY & SLEDGE) – This ordinance requires public notice regarding applications for Stormwater Management Committee (SWMC) variances. The application would be required to give 21 days’ notice to property owners within one thousand feet of the subject property before the SWMC could take an action on the variance request. The application would be responsible for the costs associated with preparation and mailing of the notice. The application would also be required to post public notice sign on the subject property no less than 21 days prior to the SWMC meeting. The signs would be posted along each 300 feet of public street frontage.

There will likely be an amendment offered by the sponsor at the request of Metro Water Services to adjust the number of required days’ notice.

**BILL NO. BL2020-425** (ROSENBERG) – This ordinance amends Section 16.24.330 of the Metropolitan Code of Laws to restrict the amount of fill material that can be placed upon a property near a river. No owner or occupant of a property could cause or allow more than 200 cubic yards of fill material per day to be placed upon a property if the property abuts a river or is within 500 feet of a river unless (a) the property is classified and permitted by the Tennessee Department of Environment and Conservation as a landfill; or (b) the Metropolitan Council approves fill in excess of 200 cubic yards upon adoption of a resolution. Before the Council could approve the excess fill material, a determination would need to be made that the fill material will not pose a significant threat to water quality or aquatic life.

**BILL NO. BL2020-426** (TOOMBS, SLEDGE, & OTHERS) – This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for Fiscal Year 2020-2021. This is essentially an extension of an existing tax relief program that has been in existence for many years and is renewed annually.

Tennessee Code Annotated § 5-9-112 authorizes county legislative bodies to appropriate funds for the purpose of providing assistance to low-income elderly residents in the county on an annual basis, based on the particular needs of eligible recipients. The county legislative body is also authorized to develop guidelines for eligibility. Additionally, Tennessee Code Annotated § 67-5-702 provides that the general funds of the state shall be paid to certain low-income taxpayers 65 years of age or older necessary to pay or reimburse such taxpayers for all or part of their local property taxes. For many years, Metro has provided a double match of the state funds for the program. \$5,187,000 has been included in the proposed FY21 operating budget in the Property Tax Relief Program Account.

This ordinance directs the Metropolitan Trustee to disburse funds to eligible taxpayers and further authorizes the Trustee to establish rules and procedures for implementation of the program. All persons who qualify for the state property tax relief program and whose income does not exceed a state-mandated cap of \$30,700 annually will qualify for this program. Because this budgetary appropriation is non-recurring, this program would expire June 30, 2021.

*Fiscal Note: The FY21 operating budget includes \$5,187,000 for the property tax relief program for the elderly. \$3,900,000 was appropriated for this program in FY20.*

**BILL NO. BL2020-427** (ROBERTS, MURPHY, & NASH) – This ordinance abandons easement rights that were retained by Council Bill O56-72 for any existing utilities for five properties located at 4427 Michigan Avenue, formerly a portion of an unnumbered Alley right-of way. The abandonment has been requested by O.I.C. 4461-4491 Michigan Avenue Commons and L & S Development, LLC & 114 Property, LLC, owners.

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

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

**BILL NO. BL2020-428** (TOOMBS, MURPHY, & NASH) – This ordinance authorizes Metro to negotiate and accept permanent and temporary easements for the 14th Avenue North Stormwater Improvement Project for six properties located on 14th Avenue North and Middle Street.

This ordinance has been approved by the planning commission. Further 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. BL2020-429** (BENEDICT, MURPHY, & NASH) – This ordinance authorizes Metro to negotiate and accept permanent and temporary easements for the Pennington Avenue Stormwater Improvement Project for eight properties located on Pennington Avenue and Burns Street.

This ordinance has been approved by the planning commission. Further 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. BL2020-430** (O'CONNELL, MURPHY, & NASH) – This ordinance abandons approximately 609 linear feet of existing six inch water main, two fire hydrant assemblies and easements, the relocation of 10 linear feet of existing six inch water main (DIP), and accepts approximately 609 linear feet of new eight inch water main (DIP), two fire hydrant assemblies and



easements, for property located at 1419 Rosa L. Parks Boulevard.

This ordinance has been approved by the planning commission. Further 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. BL2020-431** (TAYLOR, MURPHY, & NASH) – This ordinance abandons approximately 890 linear feet of existing six inch water main, approximately 65 linear feet of existing eight inch water main and easements, and accepts approximately 1,324 linear feet of new eight inch water main (DIP), two fire hydrants and easements, for property located at 640 21st Avenue North.

This ordinance has been approved by the planning commission. Further 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. BL2020-432** (PULLEY, MURPHY, & NASH) – This ordinance abandons approximately 827 linear feet of existing eight inch water main (DIP), approximately 507 linear feet of existing six inch water main (DIP), three fire hydrant assemblies and easements, and accepts approximately 1,679 linear feet of new eight inch water main (DIP), approximately 1,183 linear feet of new eight inch sanitary sewer main (PVC), approximately 486 linear feet of new eight inch sanitary sewer main (DIP), three fire hydrant assemblies, 11 sanitary sewer manholes and easements, for property located at 1120 Glendale Lane.

This ordinance has been approved by the planning commission. Further 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. BL2020-433** (TOOMBS, MURPHY, & NASH) – This ordinance accepts approximately 515 linear feet of new eight inch sanitary sewer main (PVC), approximately 55 linear feet of new eight inch sanitary sewer main (DIP), three sanitary sewer manholes and easements, for six properties located on Youngs Lane and West Trinity Lane, also known as New Cumberland Townhomes.

This ordinance has been approved by the planning commission. Further 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. BL2020-434** (BENEDICT, MURPHY, & NASH) – This ordinance abandons easement rights for an existing 20-foot sanitary sewer easement for property located at 4810 Gallatin Pike. The abandonment has been requested by Barge Cauthen and Associates, on behalf of the owner.

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

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

**– ORDINANCES ON THIRD READING –**

**SUBSTITUTE BILL NO. BL2019-11** (ALLEN, TOOMBS, & OTHERS) – This ordinance, as substituted and amended, approves amendment three to the ground lease for Rose Park between Metro, acting by and through the Department of Parks and Recreation, and Belmont University, and approves a new ground lease between Metro, acting by and through the Metropolitan Board of Public Education, and Belmont University for the construction and operation of an indoor batting and locker/training facility on the Rose Park Middle School property.

Ordinance No. BL2007-1544, enacted by the Council in August 2007, approved a 40 year lease agreement between Belmont University and the Board of Parks and Recreation for the development and shared use of Rose Park (the “Park Lease”). Under the terms of the original Park Lease, Belmont constructed athletic facilities for its baseball, softball, soccer, and track teams within the 25-acre Rose Park. These facilities are used by Belmont for games and practices, and shared by Belmont, Metro and the Edgehill community. The Park Lease provided that Belmont would construct the athletic facilities on the property, as well as build a concessions building, locker rooms, and improvements to common areas, all at its own expense, at an estimated cost of approximately \$7 million. Belmont estimated that the sports fields would be available for community uses at least 80% of the time during the park’s regular operating hours.

Ordinance No. BL2016-458 approved the first amendment to the Park Lease to specify that 20% of the lease payment would be allocated and evenly distributed to Carter Lawrence and Rose Park public schools, as opposed to the parent teacher organizations of those schools. The Park Lease was amended again by BL2017-662 (Amendment 2) to authorize Belmont to construct an 80’ x 120’ indoor batting facility and related training space, office, and meeting room on the property abutting the northern edge of the Olympic Street parking lot. Construction of this batting facility on the Rose Park property never commenced, and Belmont subsequently negotiated an agreement with MNPS to construct the facility on the Rose Park School property.

First, this ordinance approves Amendment 3 to the existing Park Lease to remove the indoor batting and locker/training facility from the Rose Park property. All other provisions of the existing lease remain the same.

Second, this ordinance approves a new lease for the construction and operation of an indoor batting and locker/training facility on the Rose Park Middle School property (the “School Lease”), which includes the following provisions:

- The term of the School Lease is for 30 years with two 10-year renewal periods. The two renewal periods would be subject to approval by the Board of Education and the Metro Council.
- Either party may terminate for convenience with one years’ notice. If Metro terminates the School Lease early, Metro will be required to pay Belmont the appraised fair market value of the improvements to the school property.
- Belmont would be granted a temporary construction right of access to the school property. No construction can commence until the construction plans are approved by MNPS.

- Belmont will be responsible for all construction costs of the facility, and will be responsible for all ongoing maintenance and operating costs.
- Once constructed, Belmont would be responsible for all scheduling for the use of the facility, and is to provide a building supervisor to provide scheduled access to MNPS. Belmont must provide annual usage statistics of the new facility to MNPS for the MNPS report that will be incorporated into the Parks Annual report on the Rose Park Facilities. Statistics will include names of groups utilizing the batting facility and hours used annually.
- MNPS will have access whenever there isn't a previously scheduled Belmont use, and must have reasonable access during the daytime and evening hours.
- Belmont is also to build out shared office space on the first floor of the facility.
- MNPS is to operate an extended learning site at Rose Park.
- Belmont will be required to pay annual lease payments of \$35,000, which will increase by 3% per year. MNPS must report annually regarding the utilization of the lease payments to ensure the payments are being used to best serve the Edgehill Community and MNPS students. This information is to include specific programs, persons served, and the usage hours.
- Belmont is required to provide full replacement cost insurance for the facility. The School Lease also includes the standard indemnification provisions protecting Metro.

The ordinance also requires Metro Parks and MNPS to convene an advisory group representing a broad cross section of Edgehill community perspectives to review all aspects of the partnerships between Belmont, MNPS, and Metro Parks to ensure that the benefits to all parties are being realized. The ordinance specifies the composition of the advisory group, which is to include representatives for MNPS, Parks, and Belmont, as well as community representatives appointed by the district 17, 18, and 19 councilmembers.

The Park Lease amendment has been approved by the Board of Parks and Recreation, and the School Lease has been approved by the Board of Education.

*Fiscal Note: Belmont would pay for the entire cost of the construction and will be responsible for the maintenance and repair costs. In addition, Belmont would pay for the utilities and janitorial costs. MNPS will receive \$35,000 annual lease payments to support the MNPS's Extended Learning Site at Rose Park including the Saturday operating hours at the Easley Center and to support Edgehill community baseball programs through RBI Nashville. The amendment removed the payment reduction and added a 3% annual escalation after the first-year payment for a total payment of \$3.9 million to MNPS over the life of the lease agreement.*

**BILL NO. BL2020-386** (ALLEN, HANCOCK, & BRADFORD) – This ordinance, as amended, amends Sections 2.24.225 and 2.24.230 of the Metropolitan Code regarding the selection of appraisers for the sale, purchase, lease, sublease, or other disposition of real property owned by the Metropolitan Government, and to require a community meeting prior to the consideration of lease agreements by the Council.

Ordinance No. BL2018-1282, approved in August of 2018, amended Section 2.24.225 to establish a requirement that all legislation pertaining to the sale, purchase, lease, sublease, or other disposition of Metropolitan Government real property (other than through the flood-prone property home buy-out program) be accompanied by an appraisal report to include both a current value and a prospective value reflecting any anticipated changes in entitlements upon the property, including changes in zoning classification, use restrictions, and/or deed restrictions. This was amended in December of 2019 by Ordinance No. BL2019-42 to do away with the prospective value appraisal requirement when Metro is acquiring property.

Section 2.24.230 currently requires a copy of the lease or sublease agreement, including all terms and conditions thereof, to be filed as a public record with the metropolitan clerk whenever the Metropolitan Government or any agency thereof leases or subleases real estate to a private individual, partnership, corporation or other private agency.

This ordinance would further amend these provisions to require all appraisal reports to be prepared by an independent state certified real estate appraiser, as defined in state law, and selected by the Department of Finance in accordance with applicable procurement regulations. This ordinance would also require all legislation approving the lease of Metropolitan Government-owned property valued in excess of \$1 million to a private entity for a lease term of more than five years, including permitted extensions, to have a publicly noticed community meeting before the Council can consider the legislation. Notice of the community meeting must be provided on the Metro website and by U.S. mail or email at least one week prior to the meeting to neighborhood associations and community organizations registered with the Mayor's Office of Neighborhoods that are located within a one mile radius of the property to be leased.

An amendment added at the September 1 meeting further clarifies the community meeting and notice requirements. Mailed notices would be sent to property owners within 1,000 feet of the subject property. Neighborhood Associations and community organizations registered with the Mayor's Office of Neighborhoods or condominium associations registered with the Metro Clerk would be notified if located within a one mile radius of the property. Public notice signs would need to be posted on the subject property by the proposed lessee with one sign posted along each 300 feet of public street frontage. Further, the district council member for the area where the property is located must coordinate the scheduling of the required community meeting. A representative from the Metro department, board, agency or commission to whom the property is assigned must attend the meeting.

**BILL NO. BL2020-388** (SLEDGE) – This ordinance, as amended, amends Section 16.24.330 of the Metropolitan Code of Laws regarding parking on private property. Section 16.24.330.K. 3 currently provides that every motor vehicle located on private property must either be stored inside a fully enclosed structure, or parked or stored in a safe manner on a paved or graveled area, other than a sidewalk. Such paved or graveled parking area for private residential property shall not exceed twenty-five percent of the total lot area.

This ordinance makes the following two minor changes to this provision:

Such paved or graveled ~~parking~~ area for private residential property shall not exceed 25% of the ~~total~~ unimproved lot area.

The ordinance further adds a definition a “paved or gravel area” which includes, but is not limited to, parking areas which use asphalt, concrete, gravel, and pavers.

**BILL NO. BL2020-390** (MENDES, MURPHY, & HENDERSON) – This ordinance grants a franchise to Google Fiber Tennessee, LLC to construct, operate, and maintain a fiber optic communications system within Metropolitan Nashville and Davidson County under the provisions of Chapter 6.26 of the Metro Code applicable to franchises for Fiber Optic Communications Services.

Section 6.26.020 defines "fiber optic communications" or "fiber optic services" as a network of cables, wires, lines, towers, wave guides, optic fiber, microwave, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing audio, video or other forms of electronic signals to or from subscribers or locations within Metropolitan Nashville and Davidson County, but not including the offering to the public cable television services. The current holders of these franchises under Chapter 6.26 are:

- Tennessee Backhaul (Mobilitie)
- Extenet
- Crown Castle
- XO Communications (acquired by Verizon)
- TCG/Teleport
- Zayo
- Windstream KDL

In accordance with Chapter 6.26, Google Fiber would have a 15 year franchise for the operation of its fiberoptic network, which will include aerial and underground cables and electronic equipment. Google Fiber will be required to pay \$15,198 per year as a reasonable estimate of Metro’s costs associated with owning, maintaining, and managing the public rights-of-way used by the company. This amount will increase if Google Fiber decides to use additional rights-of-way. Further, the fee will be subject to renegotiation if Metro conducts a new cost study or revises Chapter 6.26 of the Metropolitan Code prior to the expiration of the franchise term.

Section 6.26.240 provides that fiber optic providers are to pay a franchise fee in an amount equal to 5% of gross revenues. However, Tennessee courts have held that the 5% gross revenue amount applicable to telecommunications/fiber optic providers is not allowed. Rather, the franchise fee must be based upon the reasonable cost to Metro associated with maintaining the public rights-of-way used by the company. In Metro’s version of the famous fictional Charles

Dickens seemingly endless *Jarndyce v. Jarndyce* lawsuit, Metro reached a settlement with XO Communications Services, LLC in 2012 to settle over a decade of litigation regarding the franchise fee dispute. Metro agreed to a franchise fee payment of \$60,000 per year for XO's use of the Metro rights-of-way. In calculating the amount to be paid by Google Fiber under this franchise agreement, Metro and Google Fiber agreed that the company is using approximately one quarter of the volume of space in the rights-of-way used by XO. Thus, the franchise fee was set at \$15,198 per year.

It is important to note that the amount of the franchise fee that can be charged for cable and video service providers (i.e., Comcast) differs from what can be legally charged for telecommunications/fiber optic providers. 47 U.S.C.A. § 542 allows a franchise fees paid by a cable operator to be 5% of such cable operator's gross revenues derived in a 12 month period from the operation of the cable system. Comcast's franchise is pursuant to Metro Code Chapter 6.08, which governs Cable Communications Franchises, and charges a franchise fee of 5% of gross revenues in that context, consistent with 47 U.S.C.A. § 542, rather than Chapter 6.26. Since Google Fiber is ceasing to offer cable television equivalent services, the company is not subject to the 5% franchise fee paid by Comcast.

Google Fiber has provided a \$6 million certificate of insurance naming Metro as an insured party.

This ordinance has been approved by the Planning Commission.

*Fiscal Note: Metro will receive \$15,198 per year as a reasonable estimate costs associated with owning, managing and maintaining the public right-of-way until the expiration of this agreement or until a new study is performed to determine the cost.*

**BILL NO. BL2020-401** (MENDES, TOOMBS, & OTHERS) – This ordinance authorizes the future authorization of subpoenas issued on behalf of the Metropolitan Community Oversight Board (COB) to be approved by resolution of the Metro Council. The Charter amendment that established the COB provided that the board would be endowed with subpoena powers afforded to other Metropolitan agencies, boards, and entities identified in Section 18.10 of the Metro Charter. However, subsequent to its approval by the voters, the Tennessee General Assembly enacted T.C.A. § 38-8-352 to remove the subpoena power from the COB. As an alternative, the state law provides that subpoenas can be issued for documents or to compel witness testimony on behalf of the COB upon approval of the Metro Council. Such subpoena authorization must be approved by a majority of the Council and cannot be approved in the form of a blanket authorization. Rather, the legislative approval but must specify each document to be produced or witness to testify. The state law further provides that subpoenas cannot be issued for documents that are confidential under the Tennessee Public Records Act.

This ordinance allows such future COB subpoenas to be approved by resolution. Section 3.05 of the Metro Charter provides that the Council shall exercise its legislative authority only by ordinance, except as otherwise specifically provided by this Charter or by general law. Since there

is no other provision in the Charter or general law that would allow the issuance of COB subpoenas by resolution, an ordinance approved on three separate readings would be required for each subpoena absent this legislation.

This ordinance doesn't authorize the issuance of any specific subpoenas. It just creates the mechanism to allow future COB subpoenas, if any, to be approved by resolution.

**BILL NO. BL2020-402** (MURPHY, GAMBLE, & OTHERS) – This ordinance amends Chapter 2.196 of the Metropolitan Code regarding lobbyist registration. On August 4, 2020, the Council adopted Second Substitute Ordinance No. BL2020-147, which made various updates to the lobbyist registration and disclosure requirements of the Metropolitan Code of Laws. This ordinance makes various amendments and clarifications to that ordinance. The definition of “lobbying” would be amended to take out redundant language regarding “consideration”, which is addressed instead by the definition of “lobbyist”. Section 2.196.030.A.7 would be amended to reference the correct source for charges for copies in the public records policy. The date by which the Clerk must send a reminder letter to lobbyists who have not filed their required reports would be extended from February 1<sup>st</sup> of each year to February 5<sup>th</sup>, to give the Clerk’s Office more time to review documents. The violation for filing a false complaint would be removed, which was requested by the Board of Ethical Conduct. The cooling off period for department heads, employees of the mayor’s office, and elected officials would be reduced from 12 months to 6 months.

*Fiscal Note: There will be an additional fee of \$50 due to the Metro Clerk’s Office if the required report is not filed by the February 5 due date. This fee was added by Second Substitute Ordinance No. BL2020-147.*

**SUBSTITUTE BILL NO. BL2020-403** (PARKER, TOOMBS, & OTHERS) – This ordinance, as substituted, amends Chapter 13.32 of the Metropolitan Code relative to sidewalk cafes, Chapter 7.08 of the Metropolitan Code relative to retail sales and storage of beer, and authorizes businesses to use parking areas for additional parking under certain conditions. Section 13.32.165 of the Code currently includes provisions allowing for sidewalk cafés in the downtown area upon obtaining a permit from Metro Public Works. A minimum of four feet of sidewalk must be left clear for pedestrian traffic, and the placement of tables must not obstruct ingress or egress from vehicles parked at the curb.

In order to address the impact COVID-19 is having on restaurants and the resulting social distancing requirements, this ordinance would temporarily allow sidewalk café dining facilities within the public right-of-way throughout the jurisdiction of the Metropolitan Government, not just downtown. A permit would still be required from Public Works, and the sidewalk café dining facilities must comply with all other provisions of Section 13.32.165. This would remain in effect until January 1, 2021, unless extended by a resolution adopted by the Metro Council. Any fees associated with a sidewalk café permit would be waived while this ordinance is in effect.



This ordinance also amends Section 7.08.190 pertaining to the location of beer sales to allow permit holders operating a permitted sidewalk café to sell beer on the sidewalk, parking area, or other rights-of-way adjacent to the property, or as otherwise authorized by the Metro Beer Board.

Any business operating at a reduced capacity due to a public health order related to COVID-19 would be allowed to use parking areas owned or operated by the business to seat additional customers in order to facilitate social distancing. The business would be required to maintain accessible parking spaces for persons with disabilities. This provision would expire January 1, 2021, unless extended by a resolution adopted by the Council.

*Fiscal Note: The sidewalk café permit is \$100 according to the Metro Public Works Department. This fee would be waived for new permits issued pursuant to this ordinance until January 1, 2021.*

**BILL NO. BL2020-406** (MENDES) – This ordinance approves Amendment 2 to the contract for staff augmentation services between CBRE Heery, Inc. and the Metropolitan Government to extend the contract term for twelve months and make certain changes to the scope of services. Metro entered into this five year contract with CBRE Heery in 2015 to provide staff augmentation for General Services and other Metro departments regarding capital projects.

Section 4.12.160(A) of the Metropolitan Code limits the term of contracts for services to 60 months, unless otherwise authorized by the Council. The ordinance notes that given the involvement of CRBE Heery in a number of ongoing capital projects, replacing the firm would likely result in additional costs to the Metropolitan Government and potential project delays, thus warranting the twelve month extension. The scope of work in the contract includes project management, facility assessments, cost estimating, construction management, and other related services.

This amendment also modifies the scope or services to limit the work to the ongoing capital projects for which the firm is involved for General Services, Public Library, and Metro Water Services.

**BILL NO. BL2020-407** (MENDES) – This ordinance amends Section 4.48.080 of the Metropolitan Procurement Code to address procedures for the procurement of real estate brokerage services. Section 4.48.080 current provides that it is a breach of ethical standards for a person to be retained to solicit or secure a Metro contract upon a contingency or brokerage fee except for “bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.” This language acts as a limitation on Metro retaining commercial real estate agents to assist with leasing Metro property since many such agents are compensated based upon a percentage of the sales price. The recitals in the ordinance note that Metro has the need for the services of licensed real estate brokers to assist Metro in identifying available properties for lease that are suitable for Metro departments, boards, and commissions.

This ordinance revises this language to allow the Purchasing Agent, upon approval of the Director of Finance and the Director of Law, to procure the services of licensed real estate brokers to assist Metro in real property lease transactions. Such real estate brokers may be compensated on a commercially reasonable commission basis, including options for payment of brokerage fees by Metro or the lessor of the property.

**ORDINANCE NO. BL2020-408** (SYRACUSE, HAGAR, & OTHERS) – This ordinance authorizes the director of public property administration to accept a greenway conservation easement for property located at 2841 Lebanon Pike for use in the development of Metro’s greenway system. The easement will be 12 feet wide, resulting in a total easement area of 0.12 acre. There is no cost to Metro to acquire the easement. Further amendments to this easement agreement may be approved by resolution.

This ordinance has been approved by the planning commission.

*Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to Metro Parks and Recreation.*

**ORDINANCE NO. BL2020-409** (YOUNG, HAGAR, & OTHERS) – This ordinance authorizes the director of public property administration to accept a greenway conservation easement for property located at North Graycroft Avenue, unnumbered. The property is located along Dry Creek, and the total easement area is 22 acres. Further amendments to this easement agreement may be approved by resolution.

This ordinance has been approved by the planning commission.

*Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to Metro Parks and Recreation.*

**ORDINANCE NO. BL2020-410** (VANREECE, MENDES, & MURPHY) This ordinance declares property located at W. Due West Avenue, unnumbered to be surplus and authorizes the sale of the property to Goodpasture Christian School. This 0.78 acre parcel is unused by Metro Public Works and is bordered on both sides by Goodpasture. The school is paying \$14,400 to acquire the property, which is the appraised value for tax purposes.

This ordinance has been approved by the planning commission.

*Fiscal Note: Metro will receive the appraised value of \$14,400 for the sale of the property.*

**ORDINANCE NO. BL2020-411** (HANCOCK, MENDES, & MURPHY) This ordinance authorizes the Director of Public Property Administration to transfer any remaining interest Metro may still have in property located at 310 Myatt Drive, excluding the present Myatt Drive right-of-way. Ordinance No. O68-75 authorized the acquisition of the property by negotiation or condemnation for the construction of Myatt Drive. A portion of the frontage of Mr. Fielding Brown Williams and Mrs. Betty Williams Jones' property was condemned in 1971 by Metro Public Works for the Myatt Drive roadway project and the owners were compensated \$400. However, due to an error in the final court order, the entirety of the Williams' parcel was granted to Metro, while the Williams' family continued to reside at the property. Metro has been asked by the Estate of Betty Williams Jones to execute the quitclaim deed authorized by this ordinance for the purpose of clarifying ownership of the parcel.

This ordinance has been approved by the planning commission.

**BILL NO. BL2020-412** (SLEDGE, MENDES, & OTHERS) – This ordinance authorizes the acquisition of various right-of-way easements, drainage easements, temporary construction easements and other property rights by negotiation or condemnation for fifteen properties for the Vaulx Lane sidewalk improvement project between Inverness Avenue and Kirkwood Avenue.

This ordinance has been approved by the planning commission.

**BILL NO. BL2020-413** (NASH, MENDES, & OTHERS) – This ordinance authorizes the acquisition of various right-of-way easements and temporary construction easements for eight properties for the Brewer Drive sidewalk improvement project between McMurray Drive and Green Leaf Drive.

This ordinance has been approved by the planning commission.

**BILL NO. BL2020-414** (HAGAR, MURPHY, & OTHERS) – This ordinance amends the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County by abandoning a portion of an unnumbered alley right-of-way and easement from Center Street northeastward approximately 125 feet along the southeast property line of Parcel No. 06405003300. The abandonment has been requested by Margie Russell, property owner/applicant.

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

**BILL NO. BL2020-415** (O'CONNELL, MURPHY, & HENDERSON) – This ordinance amends the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County by abandoning a 78 square-foot portion of right-of-way and easement at the southeast corner of Union Street and Rosa L. Parks Avenue. The abandonment has been requested by Barge Cauthen and Associates, applicant.

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

**BILL NO. BL2020-416** (VANREECE, MURPHY, & HENDERSON) – This ordinance abandons 541 linear feet of existing eight inch sanitary sewer main, one sanitary sewer manhole and easements, and accepts approximately 516 linear feet of new eight inch sanitary sewer main, 131 linear feet of new eight inch sanitary sewer main, five sanitary sewer manholes and easements, for property located at 514 Madison Station Boulevard.

This ordinance 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. BL2020-421** (MENDES, PULLEY, & OTHERS) – This ordinance amends Title 10, Title 13, Title 15, and Title 16 of the Metro Code to permit the Fire Marshal's Office, Metro Public Works, Metro Water Services, and the Department of Codes Administration to enforce emergency health orders. T.C.A. § 68-2-609, Metropolitan Charter Section 10.103, and Metropolitan Code Section 2.36.020 authorize the Medical Director of the Metropolitan Department of Health to close public establishments, facilities, or buildings if the county health officer finds unsanitary conditions of such a nature and extent to significantly threaten the public health.

The Fire Marshal's Office, Codes, Metro Water Services, and Metro Public Works all issue permits for projects and activities within their respective purviews. This ordinance would make it a condition of any permit or work authorization issued by these departments, including those issued prior to the effective date of this ordinance, that the permittee and its employees abide by applicable laws, rules, regulations and orders, including those emergency orders issued by the Chief Medical Director in connection with a declared state of emergency. Employees of a department that has authorized work or issued a permit would be granted the authority to issue stop work orders or suspend a permit, on any work site operating under such permit for a violation of an emergency order. Any violation of the stop work order would be assessed as a civil penalty at the rate of fifty dollars per day. In addition, where a violation exists, the director of the department or the director's agent may request that utility service be cut off until the violation is corrected or abated. Appeals from the stop work order may be made to the relevant board or commission that oversees the authorization of the work or issuance of the permit.

**BILL NO. BL2020-422** (MENDES, PULLEY, & OTHERS) – This ordinance amends Section 1.24.030 of the Metro Code to permit the Mayor to enlist Metro employees outside of the Health Department and MNPD to issue citations to enforce emergency health orders. T.C.A. § 68-2-609, Metropolitan Charter Section 10.103, and Metropolitan Code Section 2.36.020 authorize the Medical Director of the Metropolitan Department of Health to take such action as may become necessary to assure the maintenance of public health and the prevention of disease. Section 1.24.030 of the Metro Code permits employees of specific departments, boards, and commissions to issue citations related to code violations within those departments, boards, and commissions. This ordinance expands these provisions to provide that after a state of emergency declaration, the Mayor is authorized by written order to appoint the employees of any Metropolitan Government department to assist in the enforcement of orders issued by the Chief Medical Director, including without limitation the issuance of citations for violations of such orders.

**GRANTS LEGISLATION – SEPTEMBER 15, 2020**

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2020-524	<p><b>From:</b> U.S. Department of Commerce, Economic Development Administration</p> <p><b>To:</b> Metropolitan Government</p>	\$1,422,400	\$443,600	N/A	<p>This approves an application for a Public Works and Economic Adjustment Assistance Programs grant.</p> <p>If the grant is awarded, the proceeds would be used in conjunction with the Native American Indian Association to provide a new structure to house a Circle of Life Cultural Center with administrative offices, exhibit space, and a cultural heritage museum.</p>
RS2020-529	<p><b>From:</b> Tennessee Department of Finance and Administration</p> <p><b>To:</b> Nashville Public Library</p>	Increase by \$18,656	N/A	N/A	<p>This approves amendment two to a Youth Development Center Grant approved by RS2019-1555. The amendment would increase the grant amount from \$329,577 to \$348,233. The grant project, grant budget, and federal award identification worksheet attachments would be updated accordingly.</p> <p>The grant is 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.</p>

<p><b>RS2020-531</b></p>	<p><b>From:</b> Tennessee Department of Health</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>Not to exceed \$736,900</p>	<p>\$0</p>	<p>September 1, 2020 through August 31, 2021</p>	<p>The grant proceeds will be used to build local capacity to improve public health response to the substance misuse epidemic in the Middle Tennessee High-Impact Area (HIA).</p>
<p><b>RS2020-534</b></p>	<p><b>From:</b> Friends of Metro Animal Care &amp; Control</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>Not to exceed \$20,000</p>	<p>\$0</p>	<p>N/A</p>	<p>The grant proceeds will be used to provide low cost medical services and behavioral vouchers to assist in decreasing the relinquishment of animals.</p>
<p><b>RS2020-535</b></p>	<p><b>From:</b> Friends of Metro Animal Care &amp; Control</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>Not to exceed \$3,700</p>	<p>\$0</p>	<p>N/A</p>	<p>The proceeds from this grant will be used to provide low cost supplies to assist in decreasing the relinquishment of animals to Metro Animal Care and Control.</p>

## **Council Post-Employment Health Benefit Comparisons**

**Atlanta** – The Council member is not vested until they have worked for 15 years and must be age 60 or older. The former member would then pay 50% of the premiums with Atlanta paying the other 50%.

**Indianapolis** – The Council member must serve for 10 consecutive years in order to vest in the plan. The former member then pays 100% of the premium (no subsidy). Also, coverage only stays in effect until age 65. Medicare is then expected to take over.

**Kansas City, MO** – After retiring from the Council, the employee pays 100% of the premiums. However, they do receive a \$200 credit towards the cost.

**Louisville** – Only COBRA continuation insurance is offered for a limited time.

**Mecklenburg County** – Only COBRA continuation insurance is offered for a limited time.

**Memphis** – If the Council member has served for less than 25 years, they are only offered COBRA continuation insurance for a limited time.

If they have enough service to be eligible for retirement as a regular employee and are under age 65, Memphis pays 30% of the premiums with the other 70% being paid by the former Council member.

If the employee has Medicare, Memphis will only pay 25% of the premiums with the other 75% being paid by the former Council member.

**Milwaukee** – It requires 5 years of service in order to vest in the plan. However, the former Council member pays 100% of the premiums. If they are not eligible to retire, they just receive COBRA continuation insurance for a limited time.

It is possible for the former Council member to receive 100% subsidization of their premiums, but they would need to have at least 15 years of service and have started employment before 1994.

**Oklahoma City** – After serving two terms (8 years), former Council members pay 42% of the premiums with the city paying the other 58%. This will go up 2% per year until the former member will be paying 50% by 2020.

**San Antonio** – Only COBRA continuation insurance is offered for a limited time.

**St. Louis** – Like all other employees, the Council member vests in the plan after 5 years of service. They can stay on the group plan after leaving the Council, but the former Council member pays 100% of the premiums.