

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this ____ day of _____, 2021, by and between The Metropolitan Department of Water and Sewerage Services (“MWS”) and The Metropolitan Department of Public Works (“MPW”), but shall have an effective date of July 1, 2021.

WITNESSETH

WHEREAS, it is desirable to create a Department of Transportation (DOT) within the Metropolitan Government, as growth has occurred in the Metropolitan area, and there needs to be a consolidation and alignment of efforts and investment that support building our future on the foundation of our history, as described throughout the Metro Nashville Transportation Plan, recently endorsed per Resolution No. RS2020-656; and,

WHEREAS, an experienced review of the organization to better align structures, processes, skills, roles, systems and tools was undertaken with our continued commitment to get the most from every tax dollar; and,

WHEREAS, currently, transportation activities are housed in multiple departments across the Metropolitan Government, and we require consistent organization and priority of effort essential to the performance of transportation infrastructure; and,

WHEREAS, a DOT would align the key functions of a modern transportation organization with development, delivery, operations, and asset management portfolios so that the key functions create the structure needed to provide best value to the residents and businesses of the Metropolitan Government; and,

WHEREAS, a DOT would create a structure for coordination, with partner departments and organizations such as WeGo and Parks, which would be well-suited to critical measurements of departmental performance that supports superior management and accountability; and,

WHEREAS, clear roles and responsibilities would enhance the DOT’s position in recruitment and development of existing talent; and,

WHEREAS, the transportation activities of the Metropolitan Government need an organizational framework and refreshed culture to support, encourage, align and continue the skill development of our existing talent, and to send a message to our vendors that the Metropolitan Government requires the sharpest minds and sharpest pencils (best solutions, best price) which will be achieved through a new DOT; and,

WHEREAS, since the majority of functions performed by the Department of Public Works are in some way transportation-related and appropriate for a DOT, transferring functions currently performed by the Department of Public Works that are not related to transportation away from that department would, in essence, leave a streamlined department that could function as a new DOT; and,

WHEREAS, pursuant to Metropolitan Charter § 8.402, MPW is responsible for “the collection and disposal of garbage and other refuse, and maintenance and operation of facilities for the disposal of same,” which has been interpreted to include all operations and services related to the disposal of solid waste and recycling provided by the Metropolitan Government, including refuse collections in the

urban services district and refuse disposal in the general services district as contemplated in Section 1.05 of the Metropolitan Charter (the "Solid Waste Disposal Responsibilities"); and,

WHEREAS, there would be many advantages to transferring Solid Waste Disposal Responsibilities to MWS, particularly in terms of sustainability, since MWS has a demonstrated focus on sustainability efforts that include stormwater initiatives; supporting the Soil and Water Conservation District; and Water/Sewer energy savings programs such as the reuse of biosolids gases and the installation of large-scale photovoltaic solar facilities; and,

WHEREAS, the current Division of Solid Waste's sustainability efforts for composting and recycling could gain from MWS' experience with anaerobic digestion and solids reduction, and thus could be better leveraged in a combined department; and,

WHEREAS, MWS could additionally provide the umbrella to explore creation of a Solid Waste enterprise fund since MWS is a long-standing enterprise fund for water and sewer service and has demonstrated experience in providing both to the individual customer as well as the community as a whole; and,

WHEREAS, since MWS recently went through the process of creating an enterprise fund for the management of Stormwater, which involved evaluating cost of service, engaging stakeholders, and studying long-term organizational implications; and,

WHEREAS, from a practical standpoint, MWS has a support system in place that aligns with the Solid Waste Disposal Responsibilities such as a call center, a fleet management program (working with the Office of Fleet Management), external daily customer interactions, and administrative support (Human Resources/Finance/Information Technology); and,

WHEREAS, pursuant to the terms of this instrument, the parties have proposed that the public interest will best be served by placing the personnel and operational activities relating to the Solid Waste Disposal Responsibilities with MWS.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- . The term of this memorandum shall be ~~indefinite~~ for three years, beginning on the effective date. The term of the memorandum may be extended by a resolution adopted by the Metropolitan Council. Either party may terminate this memorandum with written notice delivered to the director of the other department to be effective not sooner than 90 days after delivery.
- . After July 1, 2021, all MPW personnel (the "Solid Waste Disposal Employees") currently involved in activities relating to the Solid Waste Disposal Responsibilities shall, together with their materials and equipment relating to such activities, transfer to offices under the administration of MWS.
- . After their transfer to MWS, the Solid Waste Disposal Employees shall become employees of MWS and shall abide by and be subject to the employment rules and regulations that apply to MWS employees and further shall be subject to the supervision and direction of the MWS director or others he may designate.

4. After the effective date of this memorandum, Solid Waste Disposal Employees or others that may be assigned to such work by the MWS director shall carry out the Solid Waste Disposal Responsibilities.
5. MWS shall keep separate accounting records pertaining to the Solid Waste Disposal Responsibilities and shall provide copies of such records to the MPW director annually, or more frequently, if requested.
6. MWS shall recommend to and coordinate with the MPW director in seeking approval for necessary amendments to solid waste disposal management and recycling rules and regulations that MPW is responsible for enforcing under federal, state or local law. Further, MWS shall enforce such solid waste disposal management and recycling rules and regulations on behalf of MPW. The MPW director shall assist MWS in its enforcement activities, including participating in enforcement proceedings as necessary.
7. MWS shall comply with regulatory requirements and obligations such as reporting, paying fees, and ensuring regulatory compliance obligations are met relating to permits that have been issued for the Solid Waste Disposal Responsibilities by other governmental entities, such as for Metropolitan Government landfills in post-closure status, will staff the Solid Waste Region Board, and assist it in meeting its responsibilities, and will coordinate with the MPW director to ensure all of these requirements are met.
8. MWS shall apply for the same grant opportunities relating to Solid Waste Disposal Responsibilities that MPW has applied for in the past and make every effort to maintain the Metropolitan Government's eligibility for these grants so long as they remain available and applicable, as well as looking out for new grant opportunities that may manifest in future.
9. Yearly on the anniversary of the effective date of this memorandum, MWS shall submit to the MPW director a detailed report of activities undertaken and funds expended in connection with the Solid Waste Disposal Responsibilities during the preceding year. The report shall also detail projects expected to be proposed in the following year's Capital Improvements Budget, together with estimated budgets and proposed sources of funding. MPW shall review and consult on this report prior to MWS submitting that portion of the Capital Improvements Budget relating to the Solid Waste Disposal Responsibilities for approval by the Metropolitan Council.
10. Quarterly during the term of this memorandum, one or more MWS employees designated by the MWS director and one or more MPW employees designated by the MPW director shall meet to discuss the status of projects undertaken and funds expended in connection with the Solid Waste Disposal Responsibilities. Reports of such meetings shall be developed and delivered to both directors, who shall confer as necessary to resolve problems arising in connection with the subject of this memorandum.

11. Not later than November 1, 2021 and continuing quarterly thereafter during the term of this memorandum, the MWS director shall submit a written performance report to the Council of the Metropolitan Government of Nashville & Davidson County regarding Solid Waste Disposal Responsibilities. The quarterly written performance report shall address the following:

A. Operations, customer experience, and cost monitoring and management metrics, including, at a minimum, the following data for the immediately preceding quarter, stated in comparison to comparable data for the quarter prior to the immediately preceding quarter:

- i) The number of active convenience center customers;
- ii) Total recycling tonnage;
- iii) Total waste tonnage;
- iv) On-schedule pickup ratio (*i.e.*, the percentage of missed solid waste retrievals);
- v) Missed recycling pickup turnaround (*i.e.*, the duration required to resolve complaints);
- vi) Missed waste pickup turnaround;
- vii) Total cost per ton of trash collected; and
- viii) Total cost per ton of recycling collected.

B. A narrative report from the MWS director regarding the transition of Public Works Department employees to MWS, including the number of employee transitions completed, the remaining transitions anticipated, transition tasks which remain to be completed, and the director's assessment of the success of the transition process to date.

C. No less than ten (10) days prior to submission to the Metropolitan Council, the report shall be provided by MWS to the Office of the Mayor, the Metropolitan Finance Department, and the Metropolitan Legal Department for review and for the inclusion of additional comment or reporting prior to submission to the Metropolitan Council, including without limitation any information considered material to the Metro Council fully understanding the status of transitioning employees from Public Works to MWS, and the status and quality of solid waste services being provided under the Memorandum of Understanding.

- ~~11~~-12. To the extent the MPW director is required to attend meetings, generate reports or make presentations relating to the Solid Waste Disposal Responsibilities, the MWS director or his designee shall attend such meetings, generate such reports or make such presentations.
- ~~12~~-13. Funds appropriated by the Metropolitan Council or otherwise made available for carrying out the Solid Waste Disposal Responsibilities shall be assigned as necessary to MWS. The parties agree to execute such instruments as may be necessary to effect the provisions of this paragraph.
- ~~13~~-14. In the event this memorandum is terminated for any reason, the employees then involved in activities relating to the Solid Waste Disposal Responsibilities shall, together with their materials and equipment relating to such activities, transfer to offices under the administration of MPW, become employees of MPW, abide by and be subject to the employment rules and regulations that apply to MPW employees and subject to the supervision and direction of the MPW director or others she may designate.
- ~~14~~-15. Nothing in this memorandum shall be construed as a transfer of or a limitation on the authority of MPW to issue permits for the construction of streets, roads, and sidewalks. The parties shall cooperate in the development of procedures governing the plan review and approval process to assure the Solid Waste Responsibilities and other functions contemplated by the Metropolitan Code and Charter are performed.
- ~~15~~-16. The parties recognize the likelihood that unanticipated problems may arise during the term of this memorandum and agree to work cooperatively to resolve such problems for the benefit of the Metropolitan Government.
- ~~16~~. The responsibilities established in this memorandum may not be assigned.

Metropolitan Department of Water
and Sewerage Services

Recommended by:



Scott Potter, Director

Approved:



Assistant Metropolitan Attorney

Metropolitan Department of Public
Works

Recommended by:



Shanna Whitelaw, Interim Director

Approved:

John Cooper, Mayor

Approved:



Kevin Crumbo, Director of Finance

Filed with the Metropolitan Clerk:

Elizabeth Waites, Metropolitan Clerk

Date: _____