

STORMWATER IMPROVEMENT PROJECT PARTICIPATION AGREEMENT
Ensley Office Building

THIS AGREEMENT is entered into by and between 1621 Ensley Partners, LLC, hereinafter known as "Developer", and The Metropolitan Government of Nashville and Davidson County acting through the Metropolitan Department of Water and Sewerage Services, hereinafter known as "**METRO**".

WHEREAS, METRO owns and operates the Municipal Separated Storm System; and,

WHEREAS, METRO desires to make continuing improvements in the Browns Creek Basin; and,

WHEREAS, by improving the stormwater infrastructure, METRO has an opportunity to reduce the potential for localized storm flooding. Furthermore, the improvements to the stormwater system will help to improve overall water quality in the Cumberland River; and,

WHEREAS, Developer has been approved to construct an office building; known as Project No. 202183334 (Ensley Office Building), which is located in the MS4 for the Browns Creek Basin, and,

WHEREAS, METRO is developing the design and construction of dedicated storm infrastructure consistent with the Stormwater Master Plan, and,

WHEREAS, the Developer agrees to provide on-site stormwater control measures and pay fees towards off-site public infrastructure improvements to the Current Stormwater System and construction of a New Stormwater System that has a direct benefit to both parties; and,

WHEREAS, the provision of such storm sewer service improvement will directly benefit both parties and the general community of Nashville and Davidson County, Tennessee; and,

NOW, THEREFORE, DEVELOPER AND METRO AGREE AS FOLLOWS:

I. SCOPE OF WORK:

The design and construction of the new stormwater system shall be completed by Metro. All materials and methods used to construct the proposed infrastructure shall be in keeping with Metro Water Services, Nashville Department of Transportation, and/or Tennessee Department of Transportation standard drawings, construction specifications and approved materials. If there are any conflicts during construction, Metro will address them with the owner of the utility. Metro will provide on-site inspections during the construction of the new stormwater system to ensure that work is proceeding in accordance with approved plans.

A project consisting of construction of stormwater improvements of one 24 inch reinforced concrete pipes.

II. PAYMENT TERMS AND CONDITIONS:

- A. **DEVELOPER** agrees to provide **METRO** the amount of \$60,000.00 (the "Payment"), to fund the design and construction of the current and new stormwater systems located in Exhibit A. As part of Exhibit A, an overall location map for the Browns Creek Stormwater Improvement Project is included with the location of the **DEVELOPER'S** project identified.
- B. **METRO** agrees to begin design and construction of the project within timeframes set forth by Metro Water Services upon receiving the Payment.
- C. **METRO** will inspect the construction and will be responsible for ongoing operation and maintenance for the project included in Exhibit B.
- D. **DEVELOPER** acknowledges and agrees that under no circumstances will the **DEVELOPER** be entitled to receive or will **METRO** be required to provide a refund of any portion of the Payment regardless of the final cost of construction.
- E. Upon acceptance of the Payment for the project, **METRO** may not withhold the **DEVELOPER'S** permits under the authority of Metro due to sewer, water or stormwater concerns for this project including but not limited to the use and occupancy permits. **METRO** may provide the **DEVELOPER** temporary access to the current stormwater, sewer, and water system if the stormwater infrastructure is not constructed when the use and occupancy permit is applied for.
- F. This agreement is subject to the approval through Resolution (one reading) of The Metropolitan Council of Nashville and Davidson County.

III. FUTURE AMENDMENTS:

Any future amendments to this agreement shall be approved by resolution of the Metropolitan Council.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

RECOMMENDED BY:

DocuSigned by:

Scott Potter

Metropolitan Department of Water and Sewerage Services

APPROVED AS TO AVAILABILITY OF FUNDS:

DocuSigned by:

Kelly Flannery/mfw

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Director of Finance

APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:

Tara Ladd

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Metropolitan Attorney

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY:

Metropolitan Mayor

ACCEPTED BY:

1621 Ensley Partners, LLC

By: *Lee Zoller*, PRESIDENT
Developer

Sworn to and subscribed to before me, a Notary Public,
6/14 day of February, 2023 by Lee Zoller, as the
President of Developer and duly authorized to execute this
instrument on Developer's behalf.



Linda L. Miller
Notary Public

My Commission Expires: *7.6.2026*

ATTEST:

Metropolitan Clerk

Date: _____

Exhibit A

GIS Sewer and Storm locations and the Driftwood Basin

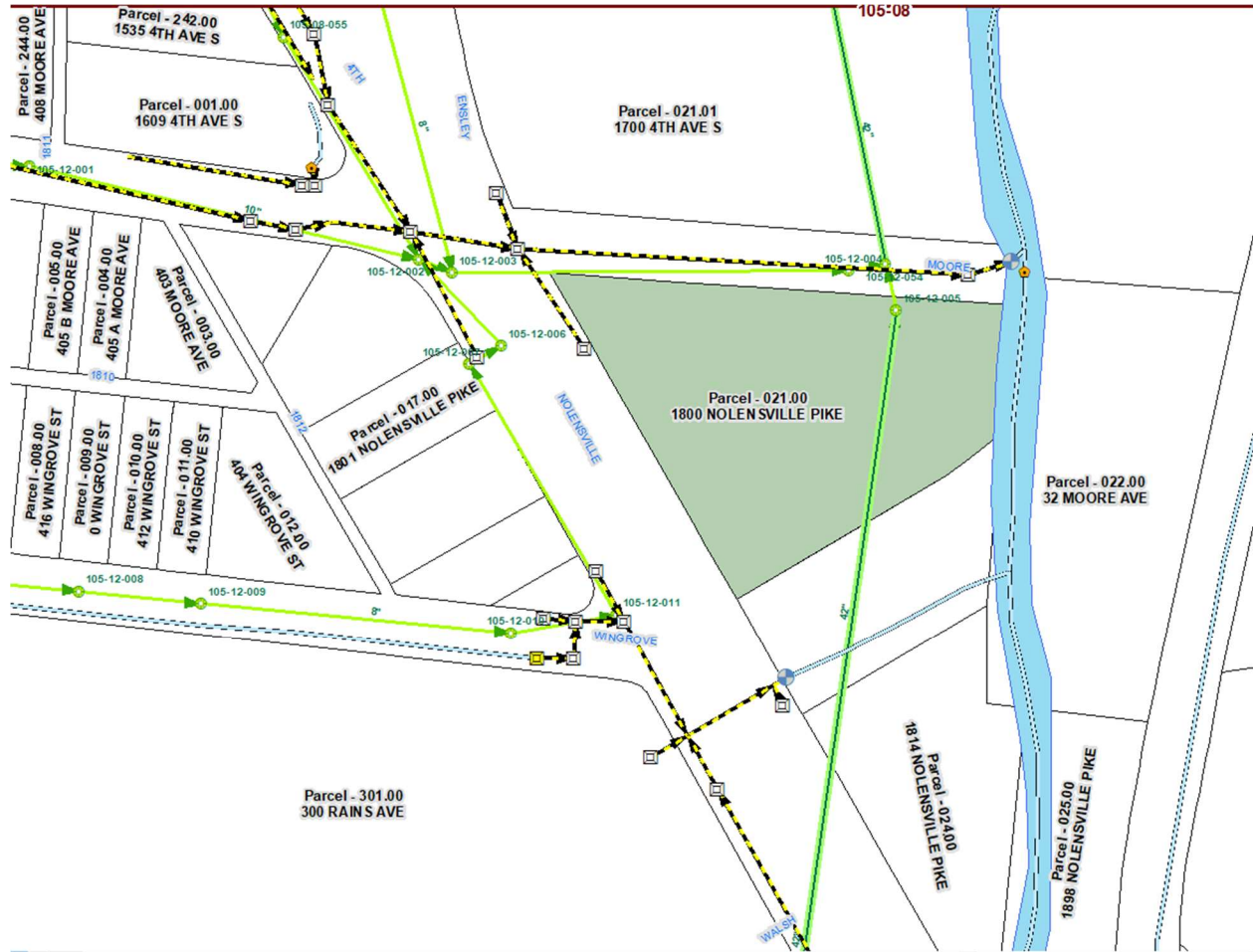
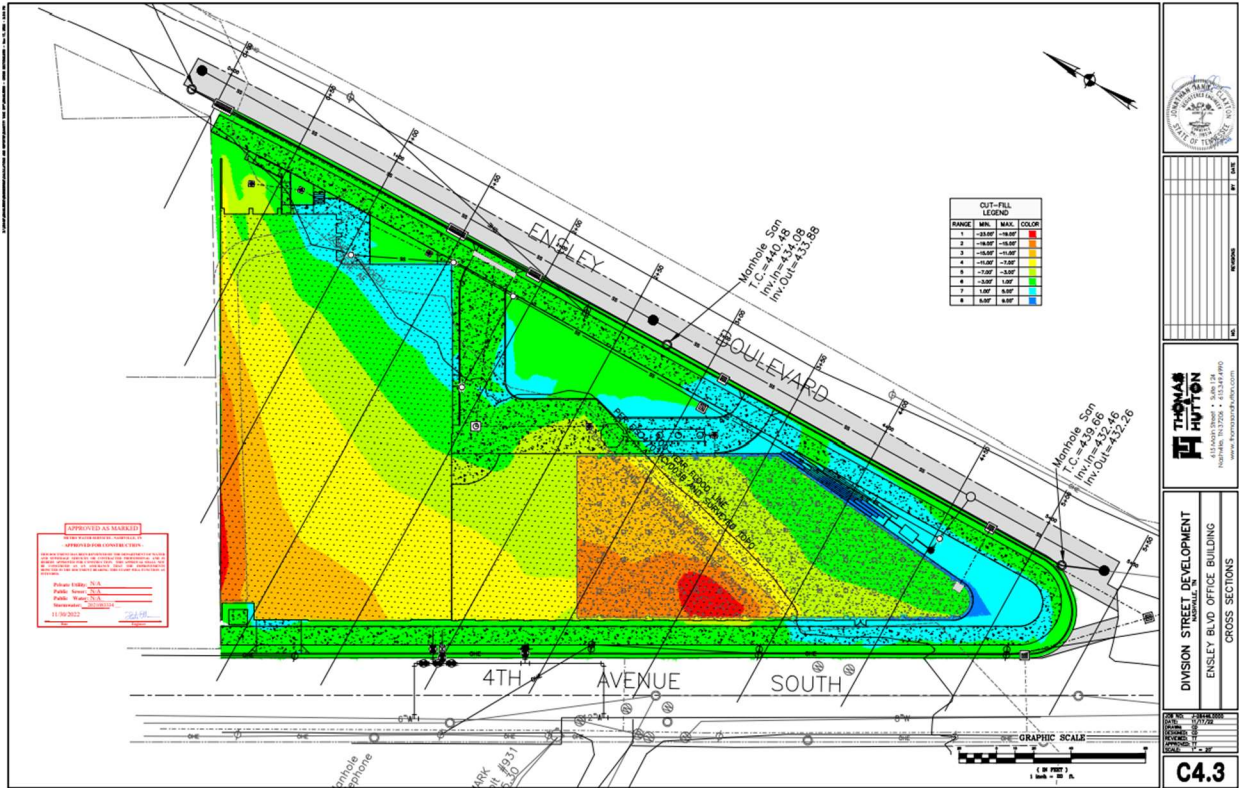




Exhibit B

Project Site





**METROPOLITAN GOVERNMENT OF NASHVILLE
AND DAVIDSON COUNTY**

Metro Office Building
800 President Ronald Reagan Way
P.O. Box 196300
Nashville, TN 37219-6300

February 6, 2023

To: Peggy Deaner Metro Water Services

**Re: STORMWATER IMPROVEMENT PROJECT PARTICIPATION AGREEMENT - ENSLEY
OFFICE BUILDING
Planning Commission Mandatory Referral # 2023M-006AG-001
Council District #17 Colby Sledge, Council Member**

On behalf of the Metropolitan Planning Commission, the following item, referred to the Commission as required by the Metro Charter, has been recommended for *approval* to the Metropolitan Council:

A request for a resolution approving a participation agreement between The Metropolitan Government of Nashville and Davidson County acting by and through the Metropolitan Department of Water and Sewerage Services, and Development Street Development, LLC for Project No. 202183334 (Proposal Number 2023M-006AG-001).

The relevant Metro agencies (Metro Parks, Metro Public Works, Metro Water Services, Metro Emergency Communications, the Nashville Electric Service, Metro Finance – Public Property and the Metro Historical Commission) have reviewed the proposal and concur in the recommendation for approval. This request must be approved by the Metro Council to become effective.

Conditions that apply to this approval: none

This recommendation for approval is given as set forth in the Metropolitan Planning Commission Rules and Procedures. If you have any questions about this matter, please contact Delilah Rhodes at delilah.rhodes@nashville.gov or 615-862-7208.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Milligan".

Lisa Milligan
Land Development Manager
Metro Planning Department
cc: *Metro Clerk*

STORMWATER IMPROVEMENT PROJECT PARTICIPATION AGREEMENT - ENSLEY OFFICE BUILDING

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