

**PARTICIPATION AGREEMENT  
FOR  
THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE**

THIS PARTICIPATION AGREEMENT is entered into by and between Monroe Infrastructure LLC, an Illinois limited liability company (“Monroe”), and The Metropolitan Government of Nashville and Davidson County, acting through the Metropolitan Department of Public Works (“Metro”).

WHEREAS, Monroe and/or its affiliates have assembled (“River North”), real property in an area north of Jefferson Street and east of the Cumberland River; and,

WHEREAS, River North will include public infrastructure (“Phase 1A”), including roadway and intersection improvements and public utilities associated with the first phase of development within River North; and,

WHEREAS, the first 10(+) acre development within River North is anticipated to generate \$5 million (+) of additional property taxes annually and it will not occur without the Phase 1A; and,

WHEREAS, the parties would like to work together to construct Phase 1A; and,

WHEREAS, Metro has already appropriated the funds necessary to pay the cost of Phase 1A in its 2019 Capital Spending Plan; and,

WHEREAS, the work completed within PhaseIA, which will create a new road network, will cost approximately \$20,902,00.00; and,

WHEREAS, Metro’s total contribution shall not exceed \$13,802,000.00 for the scope presently contemplated in Phase 1A; and,

WHEREAS, Monroe is providing approximately five-and-one-half (5.5) acres of land for roads and approximately four (4) acres for a riverfront greenway; and,

WHEREAS, Monroe is responsible for demolition of existing structures, construction, installation and completion of Phase 1A; and,

WHEREAS, Metro and Monroe, in cooperation with other landowners and stakeholders in the proximity of “the Landings” of River North, will establish a Central Business Improvement District pursuant to *Tennessee Code Annotated § 7-84-501, et seq.* for the first 40 acres of the project commonly referred to as “the Landings”, with terms and rates similar to those applied to the downtown CBID.

WHEREAS, the completion of Phase 1A will benefit both parties and the general community of Nashville and Davidson County, Tennessee.

NOW, THEREFORE, MONROE AND METRO AGREE AS FOLLOWS:

I. SCOPE OF WORK:

- A. The scope of work for this Participation Agreement consists of Phase 1A, as shown in Exhibits A and B, attached hereto and incorporated herein, and the River North Phase 1A Roadway & Infrastructure engineering plans.
- B. Monroe shall cause Phase 1A to be commenced and completed as described in Exhibit A, Exhibit B and the River North Phase 1A Roadway and Infrastructure engineering plans. Work will be initiated within 90 days of receipt of Metro Council approval of the Participation Agreement and approval of all Metro permits and authorizations, with all work to be pursued diligently to completion. Monroe shall cause Phase 1A to be completed no later than 24 months from initiation unless delayed through no fault of Monroe.

II. TERMS AND CONDITIONS

- A. Monroe shall provide a full set of completed engineering design and construction documents, approved, sealed, and signed by a civil engineer licensed to practice engineering in the state of Tennessee, for Metro's review and approval for Phase 1A.
- B. Monroe shall be responsible for engaging a qualified contractor to perform the demolition of structures, construction, and installation of Phase 1A. To that end, Monroe shall let one or more construction contracts for Phase I A. Monroe shall supervise the work performed under Phase 1A and will bear full responsibility for any and all acts or omissions of those engaged in work on behalf of Monroe. All contracts entered into by Monroe shall afford Monroe rights against the contractor, which correspond to those rights afforded to the Metropolitan Government against Monroe herein.
- C. To the extent caused by the negligence of Monroe, or the negligence of contractors engaged by Monroe, Monroe shall indemnify, defend, and hold the Metropolitan Government harmless from any and all claims, liability, damages, loss, cost, and expense of every type whatsoever, including, without limitation, attorney fees and expenses. Monroe shall be liable for such claims, liability, damage, loss, cost, or expense due to sickness, personal injury, death, or disease, or the loss or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by the Metropolitan Government.
- D. Monroe shall cause Phase 1A to be performed in accordance with the approved, sealed, and signed River North Phase 1A Roadway and Infrastructure engineering plans, as approved by Metro, and the terms of this Agreement.
- E. Monroe will provide Metro monthly with reports regarding the construction and installation of Phase 1A.

- F. Monroe will permit Metro to regularly inspect the progress of the construction and installation of Phase 1A.
- G. Upon completion of the construction and installation of the Phase 1A, and upon approval by Metro, Monroe will convey ownership of the public infrastructure to Metro at no cost, and Metro will be responsible for the ongoing operation and maintenance.
- H. Monroe shall cause to be contemporaneously furnished separate performance and payment bonds for all work performed by its Contractor in Phase 1A to Metro. Each bond shall set forth a penal sum in an amount no less than the full contract sum. In the event the cost of Phase 1A is adjusted by change orders approved by Metro, the penal sum of both the performance bond and the payment bond shall be deemed adjusted by the like amount. The performance bond and the payment bond shall be in a form suitable to Metro and shall be executed by a surety, or sureties, licensed to do business in Tennessee and reasonably acceptable to Metro. Bonds shall be accompanied by a power of attorney indicating the person executing the bond is doing so on behalf of the surety.

### III. PAYMENT

- A. Monroe shall pay contractors and vendors and submit to Metro for reimbursement quarterly. Each reimbursement request shall include a description of the work performed, copies of invoices and supporting materials paid by Monroe in connection with the work performed, evidence of payment, and any other information reasonably requested by Metro. Metro shall inspect the construction work and pay Monroe within (30) days of submission of Monroe's application for payment. In no event shall Metro's cumulative obligation exceed \$13,802,000.00 for the scope presently contemplated in Phase 1A.
- B. Monroe shall obtain Public Works' approval of all engineering design and construction documents for the scope of Phase 1A, including construction schedules prior to commencing construction.
- C. Monroe shall be responsible for causing the construction and completion of the scope of Phase 1A as described in Exhibit A, Exhibit B, and River North Phase 1A Roadway and Infrastructure engineering plans. Monroe's contribution is based upon plan-level cost estimates for Phase 1A. If actual cost exceeds \$20,902,000.00, Monroe is responsible for any overage to complete Phase 1A as proposed.
- D. A Clawback Event shall occur in the event all of the following have occurred:
  - i. Monroe does not substantially complete Phase 1A and that failure is not due to Metro's failure to make timely payments; and

ii. Metro is unable to secure substantial completion of Phase 1A through the payment and performance bonds such that Metro is not required to incur any additional expenses to secure substantial completion of Phase 1A.

If a Clawback Event occurs under this Agreement, as described in this Section, Metro shall provide Monroe written notice and Monroe will have ninety (90) days to cure or, in the event a cure would take longer than ninety (90) days, diligently pursue a cure. If Monroe fails to cure, or diligently commence a cure after ninety (90) days, Metro will have the right to terminate the Agreement and Monroe shall be required to return to Metro all payments received under the Agreement or pursue all remedies available to it at law or in equity to compel Monroe to perform its obligations under this Agreement. Notwithstanding the foregoing, Metro acknowledges that the plans for the work on Phase 1A may continue to evolve and be updated. It shall not be a default or determined to be a Clawback Event under this Section in the event that the work on Phase 1A that is substantially similar or achieves the equivalent purpose to what is required under this Agreement is, in the alternative, substantially complete.

#### IV. ESTABLISHMENT OF A CENTRAL BUSINESS IMPROVEMENT DISTRICT

A. Metro and Monroe, in cooperation with other landowners and stakeholders in the proximity of “the Landings” of River North, will establish a Central Business Improvement District pursuant to *Tennessee Code Annotated § 7-84-501, et seq.* for the first 40 acres of the project commonly referred to as “the Landings”, with terms and rates similar to those applied to the downtown CBID.

#### V. MISCELLANEOUS:

- A. This Agreement may be modified, altered, amended, canceled, or terminated only by the written agreement of the parties hereto.
- B. Any amendment to this Agreement must be approved via resolution of the Metropolitan Council.
- C. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee and shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors in interest and assigns. Venue for all matters arising under this Agreement shall be in the courts of Davidson County, Tennessee, and the parties hereto hereby consent to the jurisdiction of such courts for any such legal proceedings.

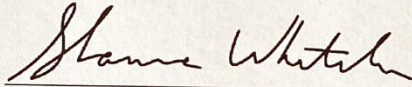
*[Signature Page Attached Hereto]*

IN WITNESS WHEREOF, the parties hereby have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**METRO:**

**THE METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON COUNTY:**

\_\_\_\_\_  
Mayor



Interim Director  
Metropolitan Department of Public Works

**MONROE INFRASTRUCTURE:**

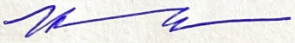
**MONROE INFRASTRUCTURE, LLC**  
an Illinois limited liability company

By:  \_\_\_\_\_


Name: Donald W. Allen

Its: Manager

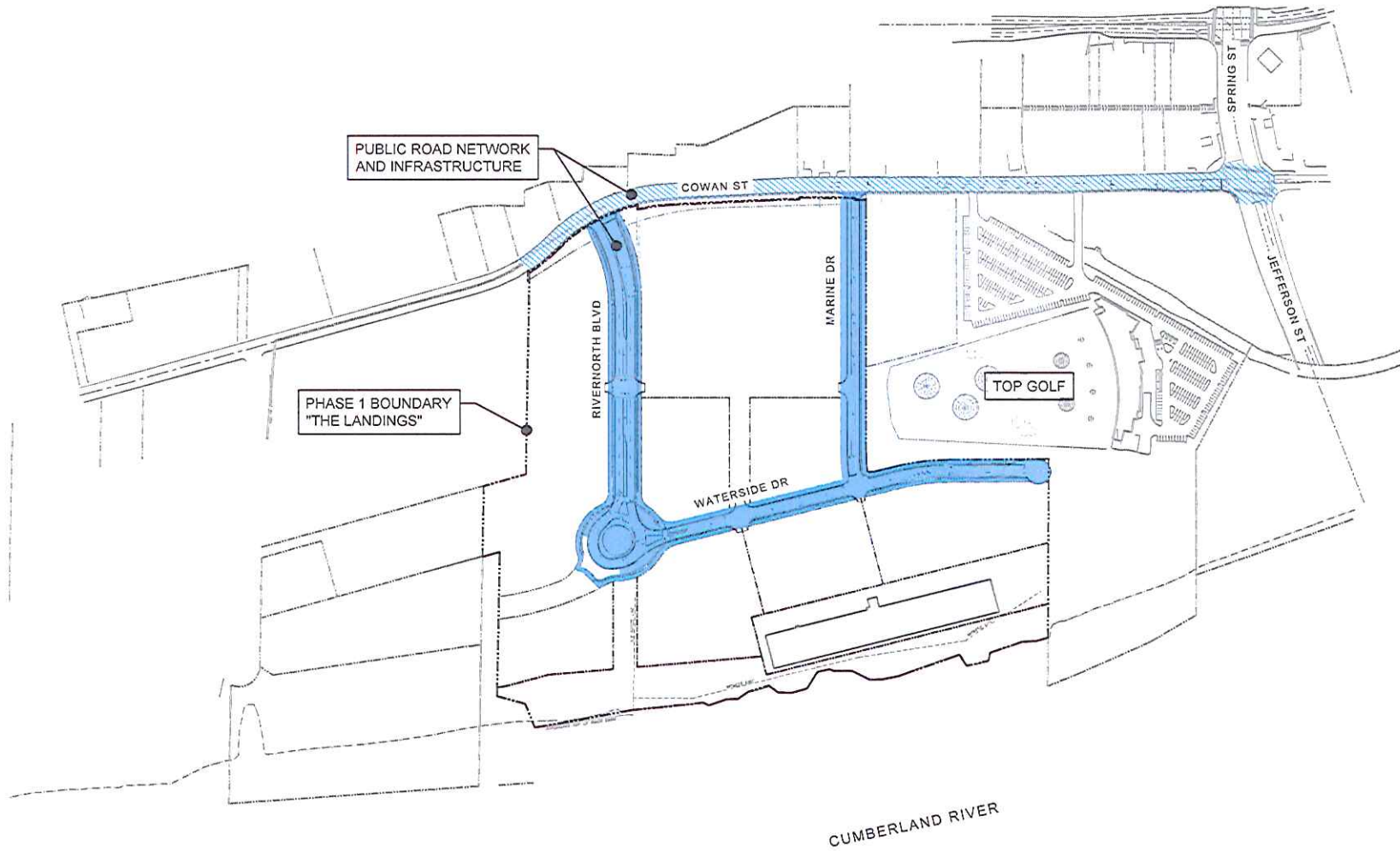
Approved as to Funding Availability:

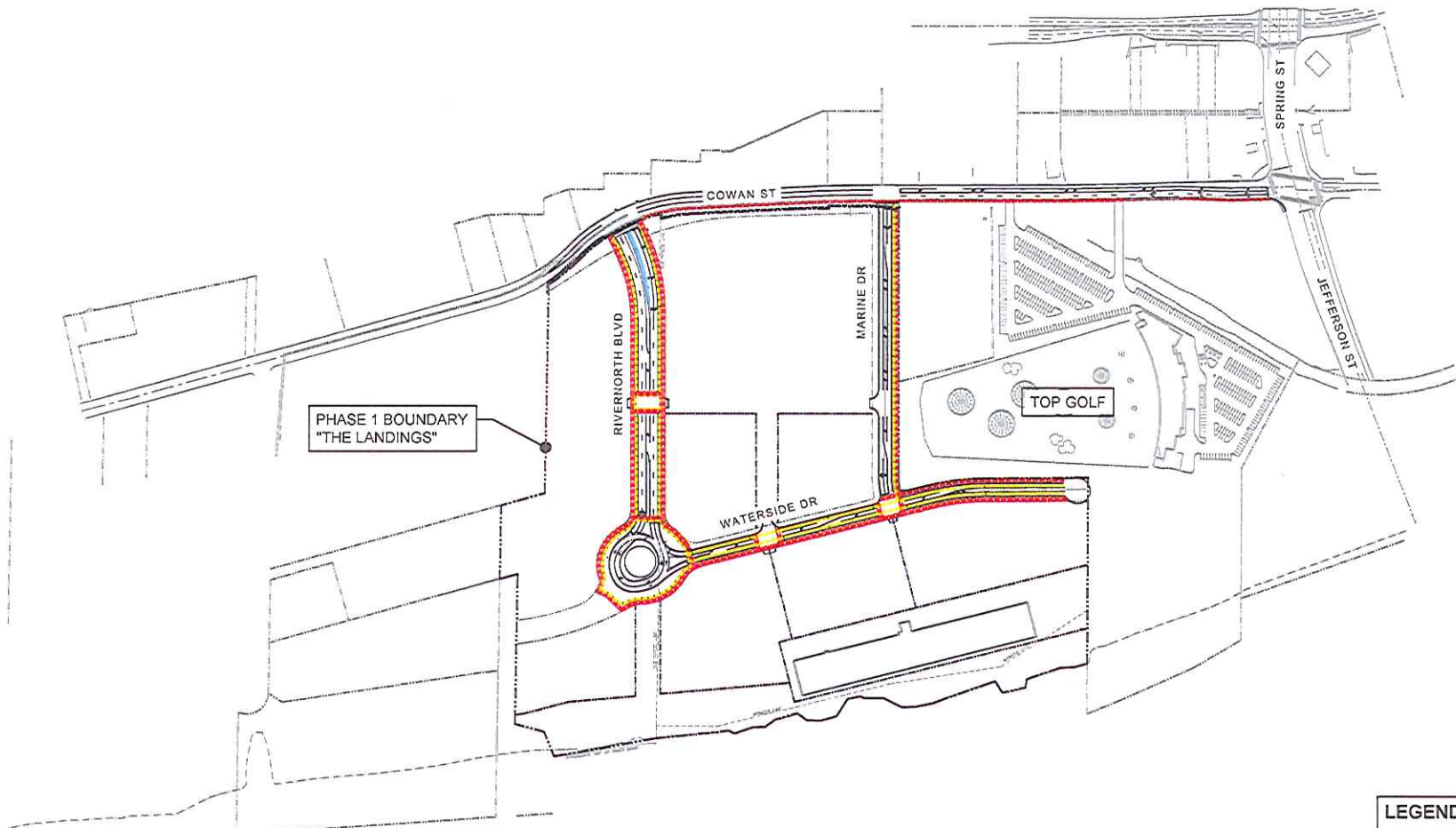
  
\_\_\_\_\_  
Director  
Metropolitan Department of Finance

Approved as to Form and Legality:

  
\_\_\_\_\_  
Metropolitan Department of Law







PHASE 1 BOUNDARY  
"THE LANDINGS"

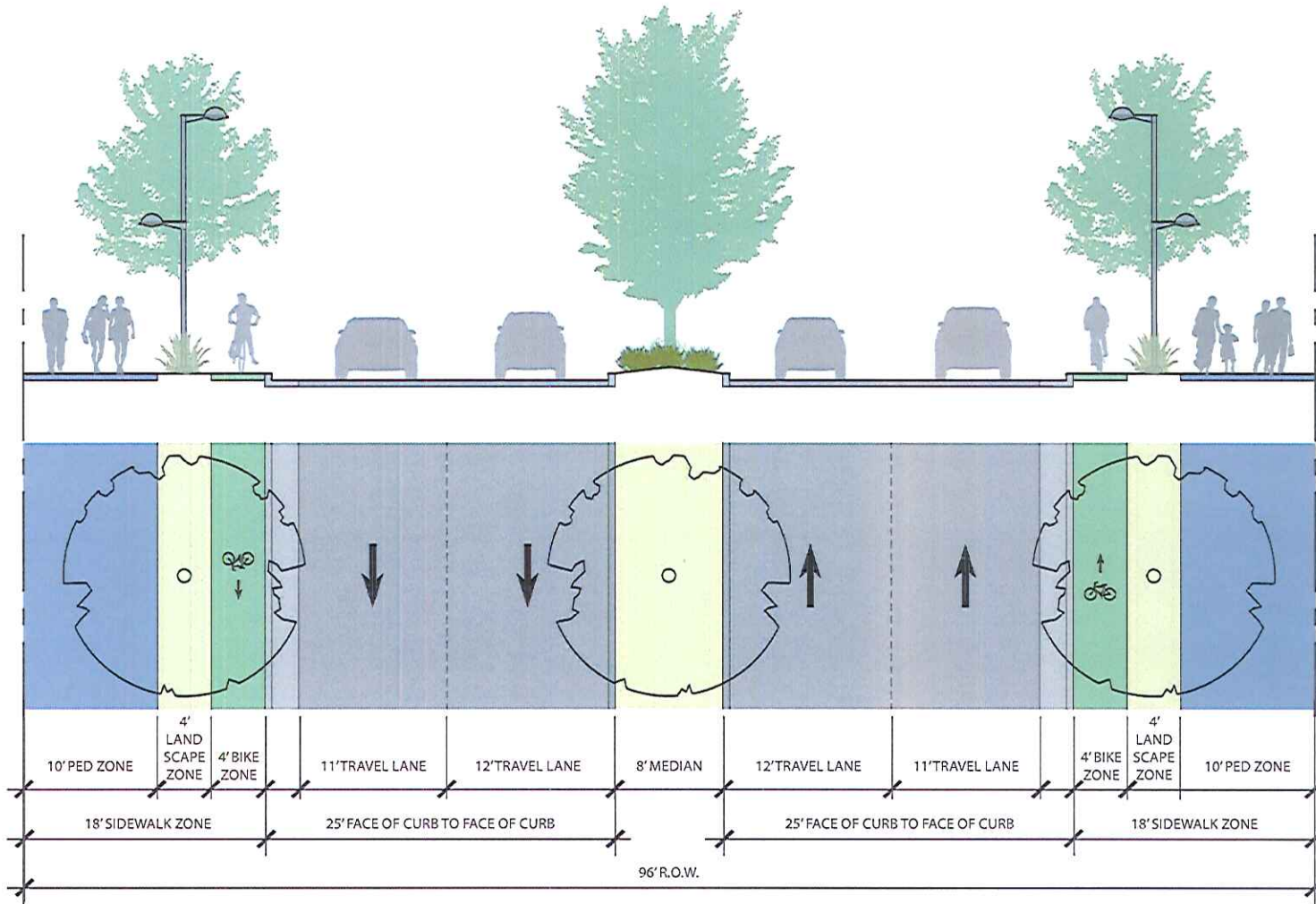
TOP GOLF

**LEGEND**

- SIDEWALKS
- BIKE PATHS

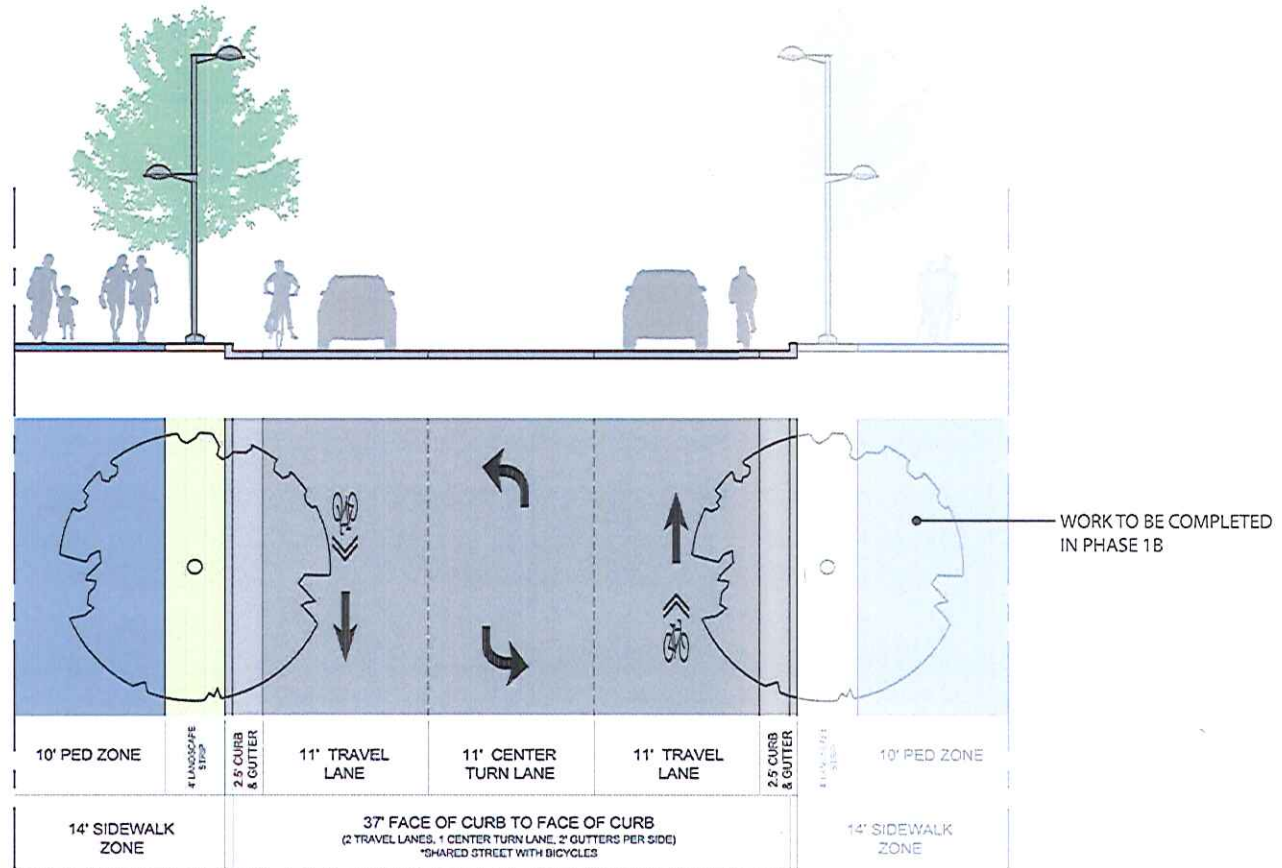
CUMBERLAND RIVER

# RIVERNORTH BOULEVARD





# WATERSIDE DRIVE



# MARINE DRIVE

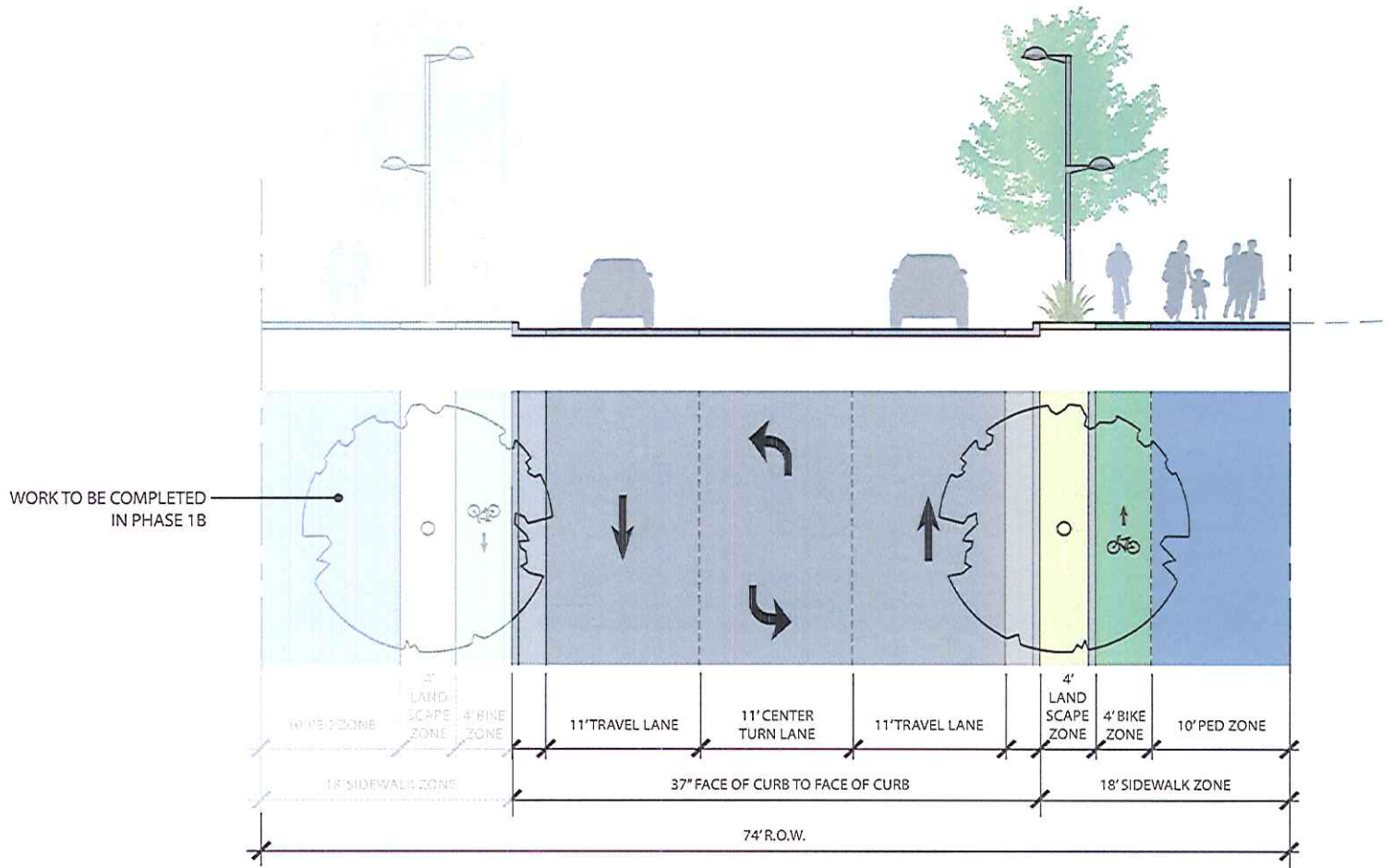


Exhibit B

Type of Work	Costs Based on Part 1A Drawings Dated 9.03.20			METRO/ MONROE WORK ALLOCATIONS			
	West of Cowan	Cowan & Jefferson Intersection	Part 1A Total	Metro Portion	Monroe Portion	Metro %	Monroe %
Demolition and ROW Prep	1,701,247	31,080	1,732,327	335,611	1,396,716	19.4%	80.6%
Erosion Control	223,643	4,357	228,000	167,431	60,569	73.4%	26.6%
Grading Work	2,043,165	127,817	2,170,982	1,594,255	576,727	73.4%	26.6%
Haul off -compensate for fill in ROW	688,110	-	688,110	505,312	182,798	73.4%	26.6%
Allowance for Undercuts	300,000	-	300,000	220,304	79,696	73.4%	26.6%
Water Sewer Work	1,930,568	653,415	2,583,983	1,897,541	686,442	73.4%	26.6%
Stormwater	2,045,608	-	2,045,608	1,502,187	543,421	73.4%	26.6%
Haul-off Spoils	511,890	-	511,890	375,905	135,985	73.4%	26.6%
Site Concrete	763,149	276,899	1,040,048	763,757	276,291	73.4%	26.6%
Bituminous Paving	902,951	288,911	1,191,862	875,241	316,621	73.4%	26.6%
Landscaping	924,803	7,000	931,803	684,267	247,536	73.4%	26.6%
Pavement Markings	135,503	27,600	163,103	119,774	43,329	73.4%	26.6%
Signs	14,130	-	14,130	10,376	3,754	73.4%	26.6%
Traffic Signal	-	96,364	96,364	70,765	25,599	73.4%	26.6%
Dry Utilities	1,763,018	-	1,763,018	1,294,668	468,350	73.4%	26.6%
2" Conduit between StreetLights	101,187	-	101,187	74,306	26,881	73.4%	26.6%
Electrical & Streetlights	468,146	-	468,146	343,782	124,364	73.4%	26.6%
MBE Premium	160,000	-	160,000	117,496	42,504	73.4%	26.6%
GC & Fees	250,721	54,372	305,093	224,044	81,049	73.4%	26.6%
<b>SUB-TOTAL: CIVIL CONSTRUCTORS COST</b>	<b>14,927,839</b>	<b>1,567,815</b>	<b>16,495,654</b>	<b>11,177,023</b>	<b>5,318,630</b>	<b>67.8%</b>	<b>32.2%</b>
NES	2,275,224	-	2,275,224	1,670,805	604,419	73.4%	26.6%
Developer Demolition	494,776	-	494,776	-	494,776	0.0%	100.0%
Top Golf ROW Work	480,000	-	480,000	352,487	127,513	73.4%	26.6%
Construction Management & Administration	303,000	34,000	337,000	-	337,000	0.0%	100.0%
4% Contingency	739,234	80,113	819,346	601,685	217,661	73.4%	26.6%
<b>SUB-TOTAL: OTHER CONSTRUCTION COSTS</b>	<b>4,292,234</b>	<b>114,113</b>	<b>4,406,346</b>	<b>2,624,977</b>	<b>1,781,370</b>	<b>59.6%</b>	<b>40.4%</b>
<b>TOTAL CONSTRUCTION COSTS</b>	<b>19,220,072</b>	<b>1,681,927</b>	<b>20,902,000</b>	<b>13,802,000</b>	<b>7,100,000</b>	<b>66.0%</b>	<b>34.0%</b>

**EXHIBIT B**  
**THE LANDINGS AT RIVER NORTH DEVELOPMENT**

**PHASE IA INFRASTRUCTURE WORK SUMMARY**

**Roads and Infrastructure - West of Cowan Budget Items**

**Roadwork & Improvements:** Demolition and Site Preparation, including concrete crushing of slabs and foundations for sub-grade and bridging, Mass Grading (including haul-off of materials for road construction to balance the new imported fill); Curbs, medians, pavement, striping, and traffic signage to be constructed for new RiverNorth Blvd, Roundabout, Waterside Dr (Road C south of Roundabout) and Marine Dr.

**Construction of Utilities:** New storm drainage system with connection provided to future flood storage facilities at each parcel; New sanitary system in road network to future pump station; Initial sanitary connection for first three buildings connected to existing 30" sanitary line; install new 12" waterline loop in The Landings; Install 625 LF of new 12" waterline at Vashti to loop the existing "dead-end" situation; New electrical and telecom backbone within the road network

**Equipment & Finishes:** Vehicular and Pedestrian streetlights, trees, plantings, landscaping and ground cover on both sides of RiverNorth Blvd (Road A), west side of Waterside Dr (Road C) and south side of Marine Dr (Road B)

**Developer Work Items West of Cowan**

**Sidewalks and Bike paths:** Construct 4,880 LF of sidewalks and 3,160 LF of bike paths, includes sidewalks and bike paths on both sides of River North Blvd; west side of Waterside Dr; south side of Marine Dr

**Developer Work:** Building demolition; Construction Management and Administration

**Cowan & Jefferson Improvements**

**Roadwork and Improvements:** Widen Cowan St for new dedicated right turn lane from south bound Cowan St to west bound Jefferson St and new dedicated left turn lane from south bound Cowan to east bound Jefferson St, including grading, excavation, curbs, new pavement, and striping; Construct new retaining wall at the NW corner to allow widening at turn lane; Mill and overlay pavement at the intersection; Re-stripe Cowan for new lane configuration.

**Utilities:** Install new 12" waterline on Cowan from Jefferson St to The Landings and connect to existing at north end of The Landings; Provide connections to new 12" line to existing properties from Jefferson St to Marine Dr

**Equipment & Finishes:** Upgrade existing signals to accommodate new lane configuration; Landscape restoration as required after construction.

**Developer Work:** Construct approximately 1,560 LF of 5' sidewalk from existing walk at TopGolf to RiverNorth Blvd; Construction Management and Administration.