

PRELIMINARY ENGINEERING AGREEMENT

NERR25032

This Preliminary Engineering Agreement (this "Agreement") is made as of June 13, 2025, by and between R.J. Corman Railroad Company/Nashville & Eastern Railroad Line, with its principal place of business located at PO Box 788, 101 R.J. Corman Drive, Nicholasville, KY 40356 ("RJC"), and Metro Nashville Water Services, a body corporate and political subdivision of the State of Tennessee with its principal place of business located at 1400 Pumping Station Rd., Nashville, TN 37210 ("Agency").

EXPLANATORY STATEMENT

1. Agency wishes to facilitate the development of the proposed drainage improvements for resolution of sink hole at MP 2.8 with a site address of 1201 Freightliner Drive in Nashville, Davidson County, Tennessee across RJC track (the "**Project**").
2. Agency has requested that RJC proceed with certain necessary engineering and/or design services for the Project to facilitate the parties' consideration of the Project.
3. Subject to the approval of RJC, which approval may be withheld for any reason directly or indirectly related to safety or RJC operations, property, or facilities, the Project is to be constructed, if at all, at no cost to RJC, under a separate construction agreement to be executed by the parties at a future date.

NOW, THEREFORE, for and in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Scope of Work

1.1. Generally. The work to be done by RJC under this Agreement shall consist of: (i) the preparation or review and approval of preliminary and final engineering and design plans, specifications, drawings, agreements, and other documents pertaining to the Project, (ii) the preparation of cost estimates for RJC's work in connection with the Project, and (iii) the review of construction cost estimates, site surveys, assessments, studies, agreements and related construction documents submitted to RJC by Agency for the Project (collectively, the "**Engineering Work**"). Engineering Work may also include office reviews, field reviews, attending hearings and meetings, and preparing correspondence, reports, and other documentation in connection with the Project. Nothing contained in this Agreement shall oblige RJC to perform work which, in RJC's opinion, is not relevant to RJC's participation in the Project.

1.2. Effect of RJC Approval or Preparation of Documents. By its review, approval, or preparation of plans, specifications, drawings, or other documents pursuant to this Agreement (collectively, the "**Plans**"), RJC signifies only that the Plans and the Project proposed to be constructed in accordance with the Plans satisfy RJC's requirements. RJC expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability, or fitness for the purposes of Agency or any other persons of such Plans or the Project constructed in accordance with the Plans.

2. Project Construction. Nothing contained in this Agreement shall be deemed to constitute RJC's approval or consent to the construction of the Project, which approval or consent may be withheld for any reason directly or indirectly related to safety or RJC operations, property, or facilities. The Project if constructed is to be constructed, if at all, under a separate construction agreement to be executed by the parties at a future date.

3. Reimbursement of RJC Expenses

3.1. Reimbursable Expenses. Agency shall reimburse RJC for all costs and expenses incurred by RJC in connection with the Engineering Work, including, without limitation: (i) all out of pocket expenses, (ii) travel and lodging expenses, (iii) telephone, facsimile, and mailing expenses, (iv) costs for equipment, tools, materials, and supplies, (v) sums paid to consultants and subcontractors, and (vi) labor, together with labor overhead percentages established by RJC pursuant to applicable law (collectively, the "**Reimbursable Expenses**").

3.2. Estimate. RJC has estimated the total Reimbursable Expenses for the Preliminary Engineering phase for the Project to be approximately \$15,000.00 (the "**Estimate**" as amended or revised). In the event RJC anticipates that actual Reimbursable Expenses may exceed such Estimate, it shall provide Agency with the revised Estimate of total Reimbursable Expenses for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses as reflected in the revised Estimate. RJC may elect, by delivery of notice to Agency, to immediately cease all further Engineering Work, unless and until Agency provides such approval and confirmation.

3.3. Payment Terms.

3.3.1. Progress Payments in Arrears. Notwithstanding anything to the contrary set forth in this Agreement, Agency shall pay RJC in arrears for its Reimbursable Expenses, rather than in advance, as the parties mutually agree. Accordingly, Agency shall remit payment to RJC for its Reimbursable Expenses within Thirty (30) days following delivery to, and approval by, Agency of an invoice. Invoicing for Reimbursable Expenses shall be done on an "as you go" basis.

3.3.2. Following completion of all Engineering Work, RJC shall reconcile the total Reimbursable Expenses incurred by RJC against the total payments received from Agency and shall submit to Agency a final invoice if required. Agency shall pay to RJC the amount by which actual Reimbursable Expenses exceed total payments, as shown by the final invoice, within thirty (30) days following delivery to, and approval by, Agency of the final invoice.

3.3.3. In the event that Agency fails to pay RJC any sums due RJC under this Agreement: and such failure to pay continues for ten (10) days after written notification from RJC to Agency of such breach RJC may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum; and/or (B) to terminate this Agreement.

3.4. Effect of Termination. Agency's obligation to pay RJC Reimbursable Expenses in accordance with this Section shall survive termination of this Agreement for any reason.

4. Appropriations. Agency represents to RJC that: (i) Agency has obtained appropriations sufficient to reimburse RJC for the Reimbursable Expenses encompassed by the initial Estimate; (ii) Agency shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify RJC in the event that Agency is unable to obtain such additional appropriations.

5. Termination.

5.1. By Agency. Agency may terminate this Agreement, for any reason, by delivery of notice to RJC. Such termination shall become effective upon the expiration of fifteen (15) calendar days following delivery of notice to RJC or such later date designated by the notice.

5.2. By RJC. RJC may terminate this Agreement (i) as provided pursuant to Section 3.3.3., or (ii) upon Agency's breach of any of the terms of, or its obligations under, this Agreement and such breach continues without cure for a period of ninety (90) days after written notification from RJC to Agency of such breach.

5.3. Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical to immediately stop the Engineering Work. Accordingly, both parties agree that, in such instance a party may continue to perform Engineering Work until it has reached a point where it may reasonably and/or safely suspend the Engineering Work. Agency shall reimburse RJC pursuant to this Agreement for the Engineering Work performed, plus all costs reasonably incurred by RJC to discontinue the Engineering Work and all other costs of RJC incurred as a result of the Project up to the time of full suspension of the Engineering Work. Termination of this Agreement or Engineering Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay RJC for Reimbursable Expenses incurred through the date of termination in accordance with this Agreement. In the event of the termination of this Agreement or the Engineering Work for any reason, RJC's only remaining obligation to Agency shall be to refund to Agency payments made to RJC in excess of Reimbursable Expenses incurred through the date of termination in accordance with Section 2.

6. Subcontracts. RJC shall be permitted to engage outside consultants, counsel, and subcontractors to perform all or any portion of the Engineering Work.

7. Notices. All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered (i) on the expiration of three (3) days following mailing by first class U.S. mail, (ii) on the next business day following mailing by a nationally recognized overnight carrier, or (iii) on the date of transmission, as evidenced by written confirmation of successful transmission, if by facsimile or other electronic transmission if sent on a business day (or if not sent on a business day, then on the next business day after the date sent), to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to RJC: **Cara Sparkman**
Director – Contracts & Real Estate
PO Box 788, 101 RJ Corman Dr,
Nicholasville, KY 40356
Cara.sparkman@rjcorman.com

If to Agency: Matt Tays
Metro Nashville Water Services
1400 Pumping Station Rd.
Nashville, TN 37210
Matt.Tays@nashville.gov

8. Entire Agreement. This Agreement embodies the entire understanding of the parties, may not be waived, or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements, or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.

9. Waiver. If either party fails to enforce its respective rights under this Agreement or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

10. Assignment. RJC may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by RJC and the assumption by RJC's assignee of RJC's obligations under this Agreement, RJC shall have no further obligations under this Agreement. Agency shall not assign its rights or obligations under this Agreement without RJC's prior written consent, which consent may be withheld for any reason.

11. Applicable Law. This Agreement shall be governed by the laws of the state of Tennessee exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Davidson County, Tennessee, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Davidson County, Tennessee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

Metro Nashville Water Services

By: _____

Print Name: _____

Title: _____

APPROVED AS TO THE
AVAILABILITY OF FUNDS:

Jenneen Reed, Director
Department of Finance

APPROVED AS TO FORM
AND LEGALITY:

Assistant Metropolitan Attorney

R.J. Corman Railroad Company/Nashville & Eastern Railroad Line
By: _____
Cara Sparkman
Director: Contracts & Real Estate