

COMBINED SEWER PROJECT PARTICIPATION AGREEMENT
2221 Elliston Place Location

THIS AGREEMENT is entered into by and between Elliston Hospitality, 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 a combined sewer system located in the Kerrigan basin with combined flow directed to the Central Wastewater Treatment Plant and a combined sewer outfall during heavy rain conditions; and,

WHEREAS, METRO desires to separate the stormwater and sewer flow in the Kerrigan basin, thereby directing stormwater flow to the Cumberland River and the sewage flow to the Central Waste Water Treatment Plant; and,

WHEREAS, by separating the stormwater and sewage, **METRO** has an opportunity to reduce the overall volume load in the Kerrigan basin combined sewer resulting in a reduction in the potential for localized storm flooding, surcharging sewer, and odor. Furthermore, separating the stormwater and sewage will improve overall water quality in the Cumberland River; and,

WHEREAS, Developer has been approved to construct a hotel development on a 0.61 acre site; known as Project No. 2020060039 which is located in the Combined Sewer System for the Kerrigan Basin, and,

WHEREAS, METRO is developing the design and construction of dedicated storm infrastructure consistent with the Combined Sewer 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 and sanitary 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.

II. PAYMENT TERMS AND CONDITIONS:

- A. **DEVELOPER** agrees to provide **METRO** the amount of \$258,124.00 (hereinafter, the "Payment"), to fund the design and construction of the current and new stormwater systems identified on Exhibit A. As part of Exhibit A, an overall location map for the Combined System as part of the Combined Sewer System master planning effort 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 funds.
- C. **METRO** will inspect the construction and will be responsible for ongoing operation and maintenance.
- 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 \$258,124.00 of funding 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 combined sewer and water system if the stormwater infrastructure is not constructed when the use and occupancy permit is applied for so long as all Metro criteria and requirements have been met.
- 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

Director of Metropolitan Department of Water and Sewerage Services

APPROVED AS TO AVAILABILITY OF FUNDS:

DocuSigned by:

Kevin Crumbo/mjw

62377A2A8742469... Director of Finance

APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:

Tara Ladd

E355FC378EF2427... Metropolitan Attorney

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Metropolitan Mayor

ACCEPTED BY:

[Signature]

Developer

Sworn to and subscribed to before me, a Notary Public,
8th day of April 2024
by Davidson County of
Developer and duly authorized to execute this instrument
on Developer's behalf.

[Signature]

Notary Public

My Commission Expires: 1-24-28

ATTEST:

Metropolitan Clerk

Date: _____





April 12, 2024

To: Peggy Deaner Metro Water Services

Re: **Combined Sewer Improvement Project Participation Agreement
Planning Commission Mandatory Referral 2024M-016AG-001
Council District #19 Jacob Kupin, 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 approving a participation agreement between The Metropolitan Government of Nashville and Davidson County acting through the Metropolitan Department of Water and Sewerage Services and Elliston Hospitality, LLC for MWS Project No. 2020060039 (Proposal No. 2024M-016AG-001).

The relevant Metro agencies (Metro Parks, Nashville Department of Transportation, 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. A sketch showing the location of the request is attached to this letter.

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

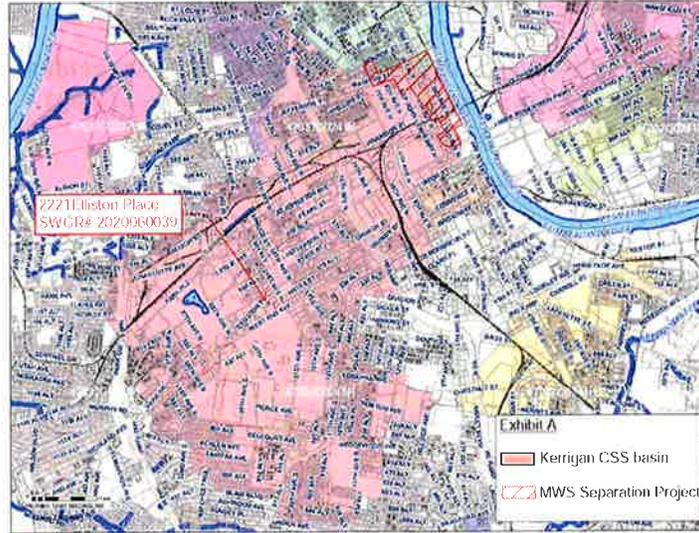
Sincerely,

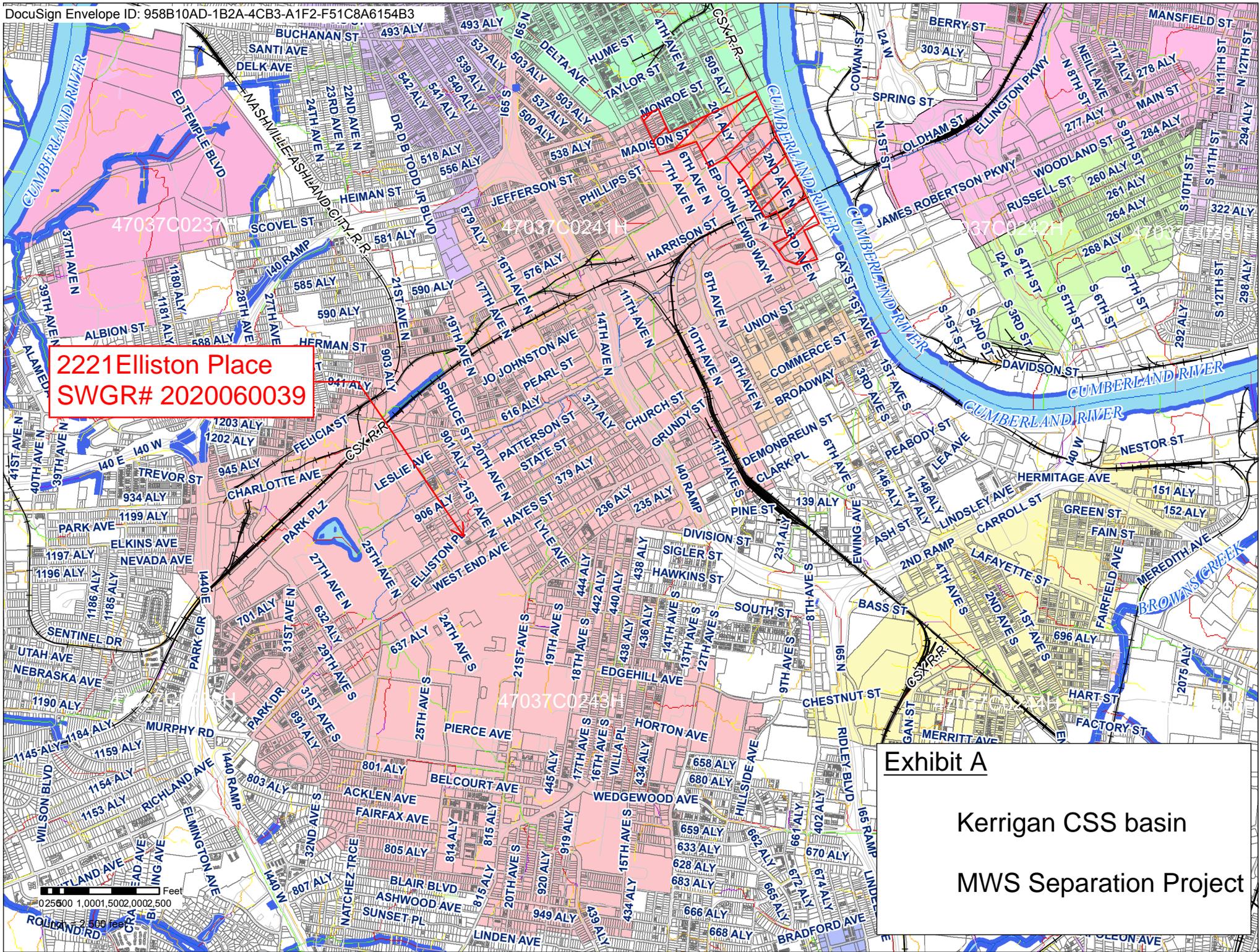
A handwritten signature in blue ink, appearing to read "Lisa Milligan".

Lisa Milligan
Assistant Director Land Development
Metro Planning Department
cc: Metro Clerk

**Re: Combined Sewer Improvement Project Participation Agreement
Planning Commission Mandatory Referral 2024M-016AG-001
Council District #19 Jacob Kupin, Council Member**

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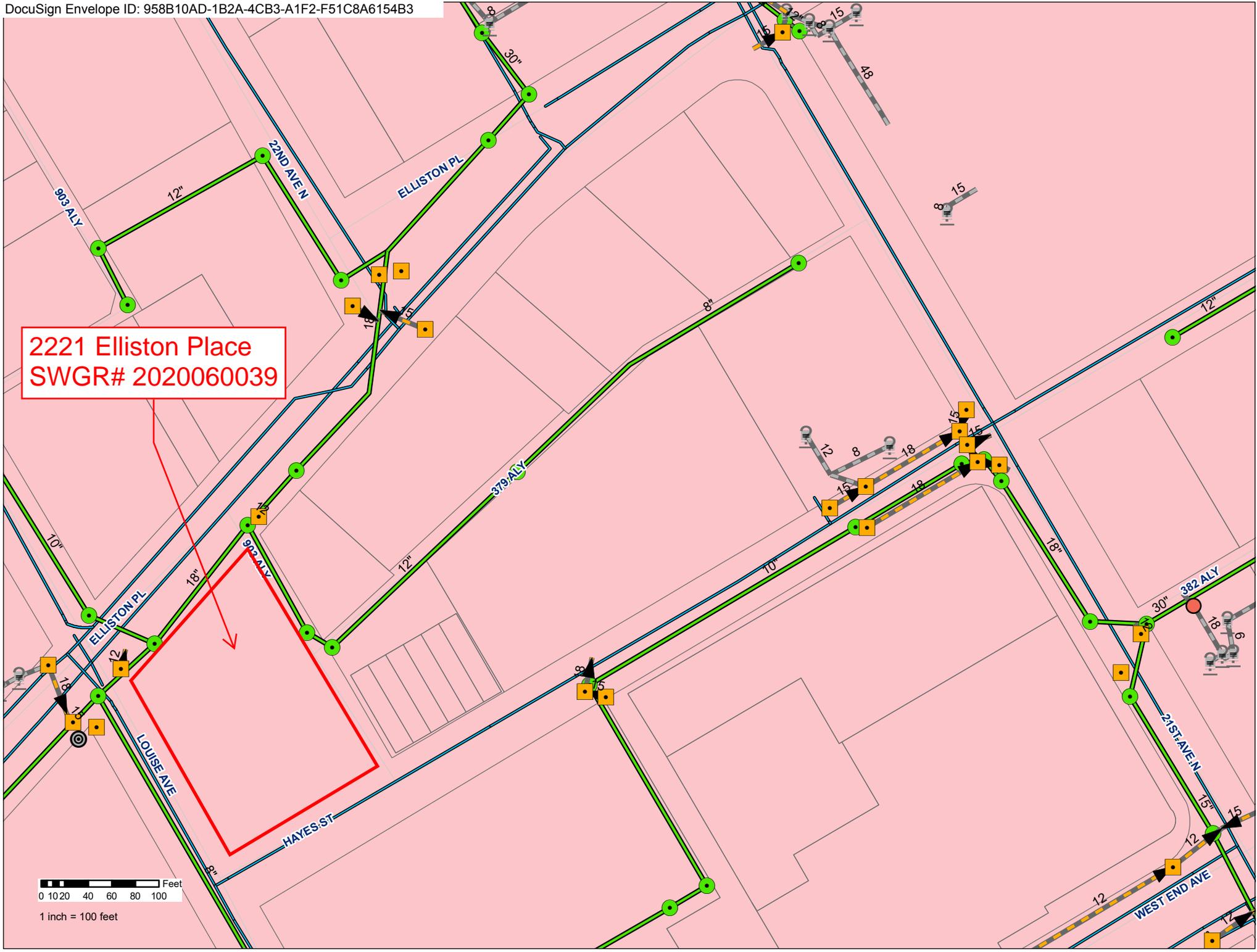
2221 Elliston Place
SWGR# 2020060039

Exhibit A

Kerrigan CSS basin

MWS Separation Project

2221 Elliston Place
SWGR# 2020060039



0 10 20 40 60 80 100 Feet
1 inch = 100 feet

ORIGINAL

METROPOLITAN COUNTY COUNCIL

Resolution No. _____

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 Elliston Hospitality, LLC, to provide improved public sanitary sewer service through the construction of an improved stormwater system (Project No. 2020060039 and Proposal Number 2024M-016AG-001).

Introduced _____

Amended _____

Adopted _____

Approved _____

By _____
Metropolitan Mayor
