

**MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,
THROUGH THE DEPARTMENT OF WATER AND SEWAGE SERVICES,
AND THE TENNESSEE HISTORICAL COMMISSION
REGARDING
THE PROCESS ADVANCEMENTS AT OMOHUNDRO WATER TREATMENT PLANT
PROJECT, DAVIDSON COUNTY, TENNESSEE.**

WHEREAS, the Environmental Protection Agency (EPA) plans to provide partial financing to the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services (MWSS), the project sponsor, for the Process Advancements at Omohundro Water Treatment Plant Project (undertaking) pursuant to the Water Infrastructure Finance and Innovation Act and amendments thereto (WIFIA), under 33 USC Ch.52. WIFIA is a federal credit program for eligible water and wastewater infrastructure projects; and

WHEREAS, the EPA has determined that funding the undertaking requires compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA; 54 U.S.C. § 306108) pursuant to its implementing regulations found in 36 Code of Federal Regulations (CFR) Part 800; and which require identification and evaluation of cultural resources; and

WHEREAS, EPA administers the WIFIA Program and is the lead federal agency for the undertaking. EPA has selected MWSS to apply for credit assistance for the undertaking; and

WHEREAS, the MWSS has been invited and accepted to be an invited signatory to this Memorandum of Agreement (MOA); and

WHEREAS, the Cumberland River is the raw water source for the Omohundro Water Treatment Plant (WTP) located at 1400 Pumping Station Road, Nashville, Davidson County, Tennessee. The Omohundro WTP currently utilizes conventional treatment systems (Flocculation, Sedimentation, Filtration). Due to the continued growth of Nashville, MWSS determined that upgraded facilities are needed to increase capacity and continue to provide a reliable water source for the city. Projections by the city show that the Omohundro WTP will need to be expanded to produce from 90 MGD to 150 MGD to meet future demands, and the undertaking consists of construction for the various improvements at the Omohundro WTP; and

WHEREAS, EPA has defined the undertaking's area of potential effects (APE). The archaeological APE encompasses the footprint of all proposed construction and ground disturbing activities, which is approximately 39.56 acres (16.01 hectares). The historic resources APE covers a broader area to account for historic resources that may be directly or indirectly affected by the Project and extends to the parcel boundaries and viewsheds around the plant. The Project Location and APE Map is provided in Attachment A; and

WHEREAS, EPA has determined that the undertaking would have an adverse effect on the National Register of Historic Places (NRHP)-listed resource, the Omohundro Water Treatment Filtration Complex District (Omohundro District), (NR# 87000380), also listed as part of the multiple property Omohundro Waterworks System (NR# 64000818), located within the APE, and has consulted with the Tennessee Historical Commission Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic

Preservation Act (54 U.S.C. § 306108); and

WHEREAS, EPA has notified the potentially interested tribes including Alabama-Coushatta Tribe of Texas, Cherokee Nation, Coushatta Tribe of Louisiana, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, and The Muscogee (Creek) Nation regarding the nature of the Undertaking and invited them to participate in the Section 106 process. As a result of these efforts, none have elected to participate; and

WHEREAS, EPA has notified the Metropolitan Historical Commission, Tennessee Historical Society, and Historic Nashville, Inc. regarding the effects of the undertaking on historic properties and has invited them to participate in the Section 106 process. As a result of these efforts, none have elected to participate; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), EPA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the U.S. Army Corps of Engineers, Nashville District (Corps) is evaluating a Department of the Army Permit application pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), Section 10 of the River and Harbors Act; and

WHEREAS, the Corps have been invited and accepted to be a concurring party to this MOA; and

NOW, THEREFORE, EPA, SHPO, and MWSS (signatories), and the Corps (concurring party) agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

I. ROLES AND RESPONSIBILITIES

A. ENVIRONMENTAL PROTECTION AGENCY

EPA will ensure that the terms of this MOA are carried out and will require, as a condition of any approval of Federal funding for the Undertaking, adherence to the Stipulations set forth herein. As the lead Federal agency, EPA shall be responsible for ensuring the provisions of the MOA are completed and consistent with requirements of 36 CFR Part 800. EPA shall be responsible for the following:

1. Modify the APE as necessary to account for project changes; and notify all Parties to the MOA of any change to the APE. If the undertaking is changed, this would require reinitiating consultation under Section 106.
2. Conduct government-to-government consultation with Federally recognized Native American tribes.
3. Consult with other consulting parties, such as, non-Federally recognized Native American tribes and individuals, the public, and local governments, as appropriate.
4. Circulate documents, comments on documents, and final documents among all signatories to this MOA and any concurring party, as appropriate.
5. Maintain documentation of Section 106 compliance in coordination with MWSS.
6. Respond to written requests from other Federal agencies under 36 CFR § 800.2(a)(2). If EPA receives a written request from another Federal agency that intends to carry out, fund, license, permit, or approve an Undertaking covered by this MOA, EPA

shall notify the signatories and consulting party of such request within fifteen (15) calendar days. EPA may invite such Federal Agency to become a signatory to the MOA pursuant to 36 CFR § 800.6(c)(2). If such Federal agency agrees to become a signatory, EPA shall comply with Stipulation VII. Amendments to amend this MOA.

B. METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, THROUGH THE DEPARTMENT OF WATER AND SEWAGE SERVICES

MWSS is responsible for implementing and coordinating all activities described in the MOA to carry out the Stipulations below.

1. MWSS will consult with EPA in planning and implementing the Stipulations of this MOA.
2. MWSS will submit all documents required by this MOA to EPA for review.
3. MWSS will also ensure that all treatment measures developed by Metro Water Services as a result of consultation are compliant with government-wide policies and regulations.
4. MWSS will ensure that all historic preservation and archaeological work is performed by, or under the direct supervision of, a person or persons who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (48 Federal Register 44738-44739) (Appendix A to 36 CFR § 61) in the relevant field of study, as described under the Administrative Provisions of this Agreement. Hereinafter, such persons will be referred to as Qualified Professionals.

II. STIPULATIONS

A. METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, THROUGH THE DEPARTMENT OF WATER AND SEWAGE SERVICES

MWSS shall ensure that the following measures designed to avoid, minimize, or mitigate any unavoidable adverse effects on significant historic properties are carried out:

1. Amend the NRHP nomination for the Omohundro District (NR# 87000380) to provide new information about the property's physical nature and development history, and to expand the period of significance. EPA will submit the first draft of the amended NRHP nomination to the SHPO for review by December 31, 2025. The SHPO will have 45 days to review and comment on the draft. EPA will have 30 days to incorporate any comments and resubmit the draft to SHPO. This process will continue until a final draft is accepted by EPA and SHPO. Following acceptance of the final NRHP nomination, the nomination will be reviewed by the Tennessee State Review Board at their next meeting. Following the Tennessee State Review Board's approval, the SHPO National Register staff will submit the amended nomination to the National Park Service for final review, approval, and listing in the National Register of Historic Places.
2. Photographic documentation of the 1963 addition to the Robert L. Lawrence, Jr. Filtration Plant, and the Open Tanks, contributing historic buildings that are proposed for demolition, prior to the start of construction and in accordance with guidance from the SHPO. EPA will submit the first draft of the photographic documentation to the SHPO for review by December 31, 2025. The SHPO will have 30 days to review and comment on the draft. EPA will have 30 days to incorporate any comments and resubmit the draft to SHPO. This process will continue until a final draft is accepted by EPA and SHPO.
3. Retention of the Garage Building, a contributing historic building, within the Omohundro District, instead of demolition to avoid adverse effect.

4. Rehabilitation of the Storage Building and Garage Building, contributing historic buildings within the Omohundro District, according to the Secretary of the Interior's (SOI) Standards for Rehabilitation. EPA will submit the first draft of the rehabilitation plans to the SHPO for review by December 31, 2025. The SHPO will have 30 days to review and comment on the draft. EPA will have 30 days to incorporate any comments and resubmit the draft to SHPO. This process will continue until a final draft is accepted by EPA and SHPO. Following acceptance of the final plans, any changes made to the plans will be submitted to SHPO for review and concurrence following the process outlined above. Rehabilitation of the Storage Building and Garage Building will be completed according to the final plans by December 31, 2034.

5. Salvage select components from the 1963 addition to the Robert L. Lawrence, Jr. Filtration Plant, and the Open Tanks, prior to demolition and store on-site for future use in a permanent historical exhibit. EPA will submit the first draft of the salvage plans to the SHPO for review by December 31, 2025. The SHPO will have 30 days to review and comment on the draft. EPA will have 30 days to incorporate any comments and resubmit the draft to SHPO. This process will continue until a final draft is accepted by EPA and SHPO. Salvage of select components from the 1963 addition to the Robert L. Lawrence, Jr. Filtration Plant, and the Open Tanks will be completed according to the final plans by December 31, 2034.

6. Curation and display of a historical exhibit about the Omohundro District. A temporary historical exhibit will be displayed off-site at a publicly accessible location in Nashville, during construction. After construction, a permanent historical exhibit will be installed at the Visitor's Center within the Omohundro WTP complex. EPA will submit the first draft of the historical exhibit plans to the SHPO for review by December 31, 2025. The SHPO will have 30 days to review and comment on the draft. EPA will have 30 days to incorporate any comments and resubmit the draft to SHPO. This process will continue until a final draft is accepted by EPA and SHPO. Installation of the temporary historical exhibit will be completed according to the final plans by December 31, 2026, and the permanent historical exhibit will be completed by December 31, 2034.

III. DURATION

This MOA will expire if its terms are not carried out within eleven (11) years from the date of its execution. Prior to such time, EPA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with the Stipulation VII. Amendments below.

IV. POST-REVIEW DISCOVERIES

A. METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, THROUGH THE DEPARTMENT OF WATER AND SEWAGE SERVICES

MWSS shall ensure that if properties are discovered that may be historically significant or unanticipated effects on historic properties found, the EPA shall implement the discovery plan outlined below:

1. MWSS will notify EPA of the discovery within the same business day.
2. No further construction in the area of discovery or other activities that might affect the newly discovered resource will proceed until the requirements of 36 CFR § 800.13 have been satisfied, including consultation with Tribes that may attach traditional cultural and religious significance to the discovered resource.

3. EPA will consult with SHPO and Tribes, as appropriate, to record, document, and evaluate NRHP eligibility of the resource, assess the undertaking's effect on the resource, and develop a plan to avoid, minimize, or mitigate the adverse effects to eligible resources.

4. If neither the SHPO nor a Tribe(s) file an objection within 120 hours of EPA's plan for resolving adverse effects to an eligible resource, then EPA may carry out the requirements and the ACHP does not need to be notified.

5. MWSS shall not resume construction in the area of discovery or other activities that might affect the newly discovered resource until receipt of written authorization to proceed from the EPA.

V. MONITORING AND REPORTING

Each year, by December 31st, following the execution of this MOA until it expires or is terminated, EPA and MWSS shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall also include any scheduling changes proposed, any problems encountered, and any disputes and objections received in EPA's and MWSS' efforts to carry out the terms of this MOA.

VI. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, EPA shall consult with such party to resolve the objection. If EPA determines that such objection cannot be resolved, EPA will:

1. Forward all documentation relevant to the dispute, including the EPA's proposed resolution, to the ACHP. The ACHP shall provide EPA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, EPA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories to the MOA, and provide signatories, the concurring party, and the ACHP with a copy of such written response. EPA will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, EPA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, EPA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide signatories, concurring party, and the ACHP with a copy of such written response.

3. EPA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VIII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per the

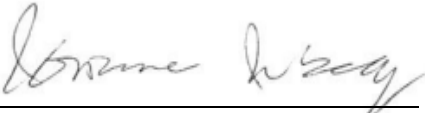
Stipulation VII. Amendments, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, EPA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. EPA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the EPA and SHPO and implementation of its terms evidence that EPA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Environmental Protection Agency

 Date 1/10/2024

Jorianne Jernberg, WIFIA Director

Tennessee Historical Commission Historic Preservation Officer

 Date 1/16/2024

E. Patrick McIntyre, Jr., Executive Director/ SHPO

INVITED SIGNATORIES:

The Metropolitan Government of Nashville and Davidson County:

_____ Date _____

Mayor

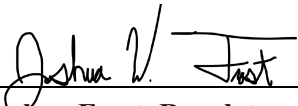
Metropolitan Department of Water and Sewage Services:

DocuSigned by:
 Date 1/22/2024

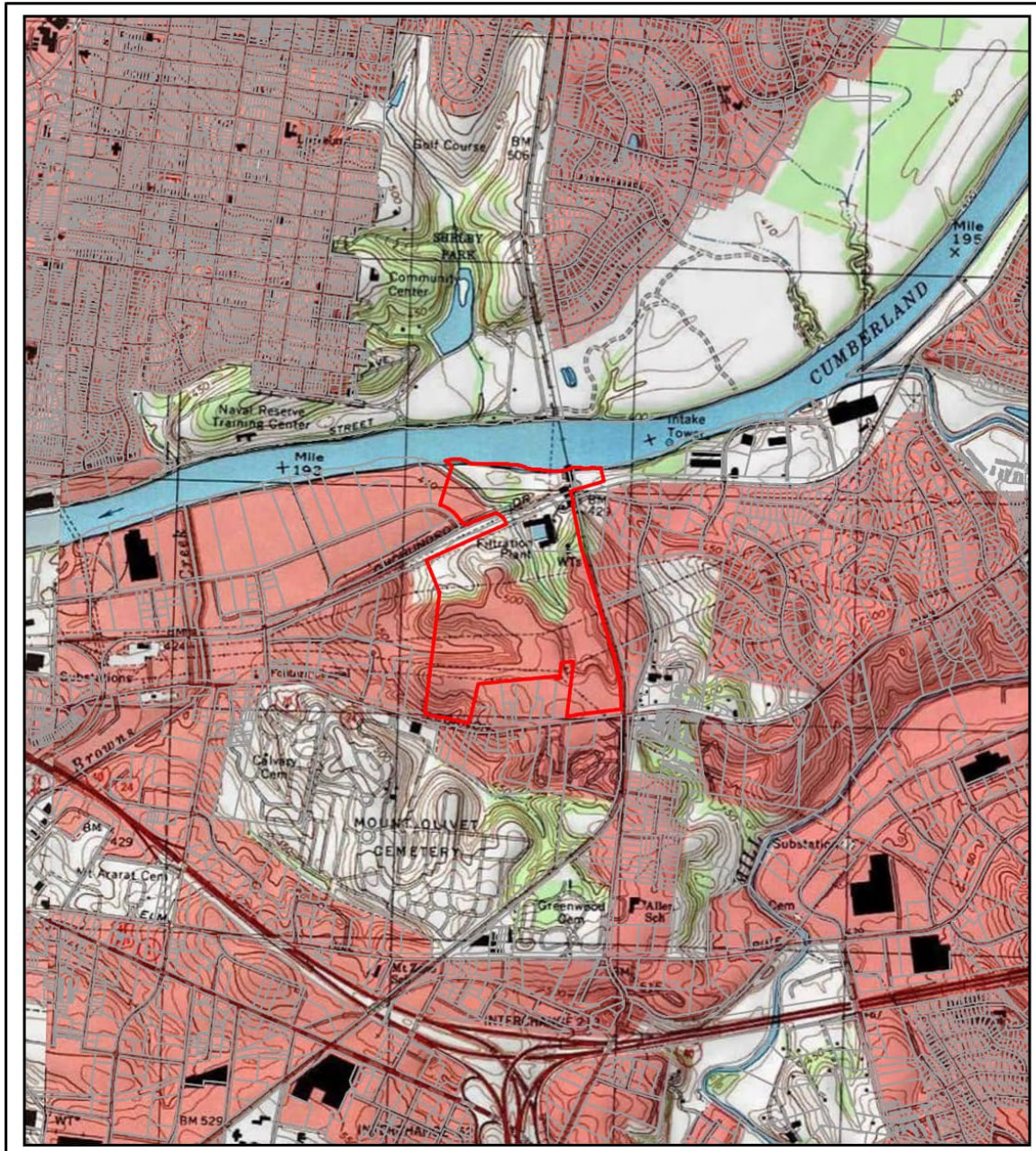
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CONCURRING PARTIES:

United States Army Corps of Engineers

 Date 1/11/2024
Joshua Frost, Regulatory Chief

ATTACHMENT A
PROJECT LOCATION AND APE MAPS



Aerial Date: ESRI 2021 \\\\DC1VS01\\GISPROJ\\NASHVILLEMETROWATERSERVICES\\OMOHUNDRO_KRHARRINGTON_WTP\\MAPFILES\\OMOHUNDROWTP_TOPO.MXD

- Legend**
-  Project Location
 -  Parcel Boundary

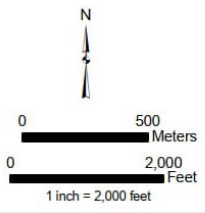


Figure 1-1
Omohundro Water Treatment Plant Project Location
Process Advancements at Omohundro and K.R. Harrington Water Treatment Plants
Nashville, Davidson County, Tennessee

USGS Topographic Quadrangle Nashville East

Date: 12/20/2022



Aerial Date: ESRI 2021

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Legend

- Project Location
- Archaeological APE
- Historic Resources APE
- Parcel Boundary
- Proposed Advancements

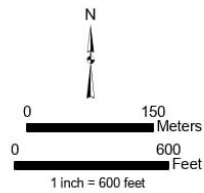
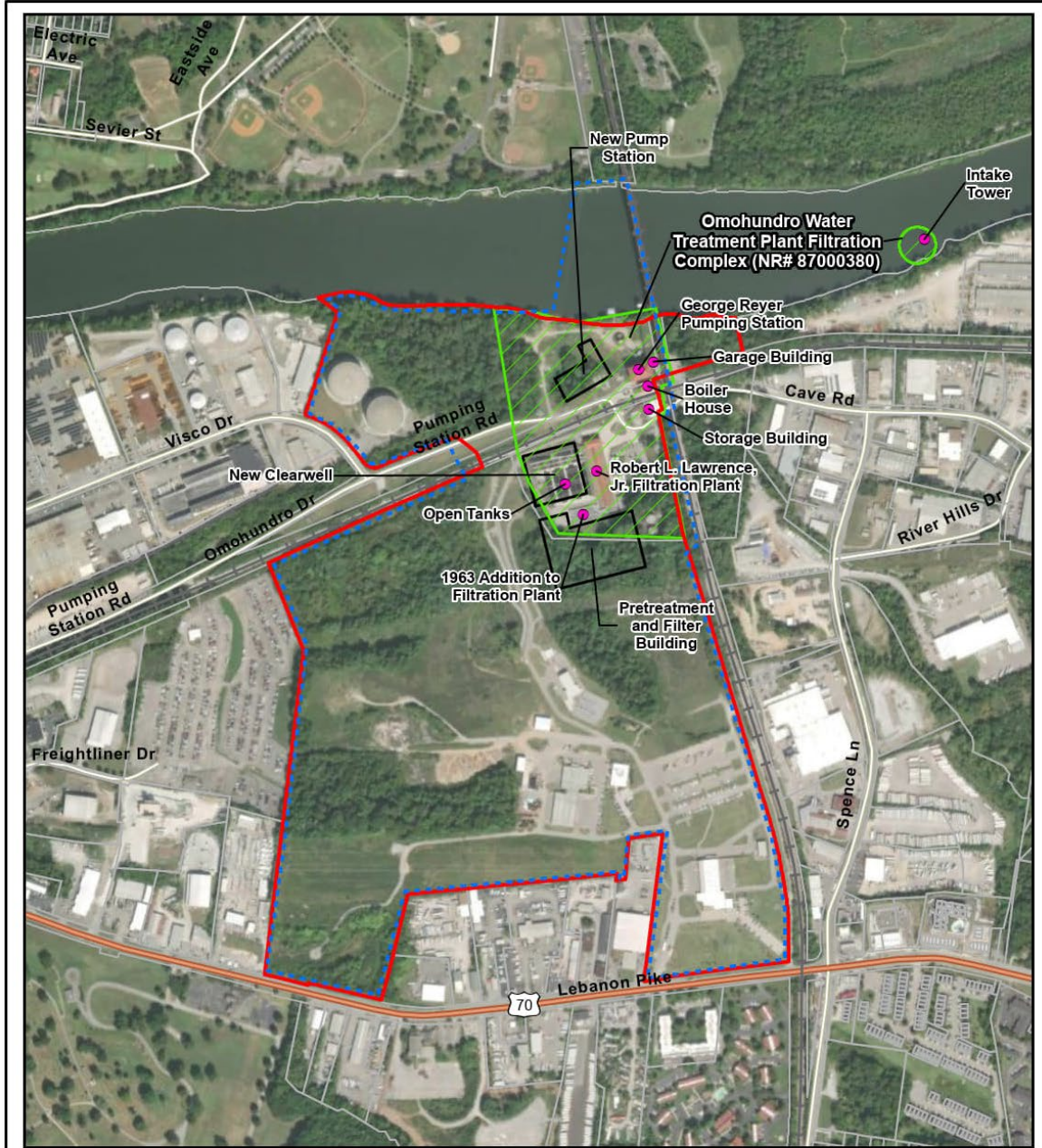


Figure 1-2
Omohundro Water Treatment Plant Project Location and Area of Potential Effect (APE)

Process Advancements at Omohundro and K.R. Harrington Water Treatment Plants
 Nashville, Davidson County, Tennessee

Date: 6/27/2023



Aerial Date: ESRI 2021 \\DC1V501\GISPROJ\NASHVILLEMETROWATERSERVICES\OMOHUNDRO_KRHARRINGTON_WTPS\MAPFILES\OMOHUNDROWTP_RESOURCES_V2.MXD

Legend

- Project Location
- Historic Resources APE
- Parcel Boundary
- NRHP-listed Historic District
- Contributing Buildings within NRHP-Listed Historic District
- Proposed Advancements

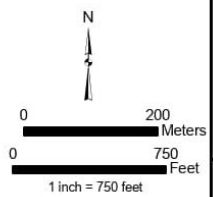


Figure 1.3
Omohundro Water Treatment Plant Historic Resources
 Process Advancements at Omohundro and K.R. Harrington Water Treatment Plants
 Nashville, Davidson County, Tennessee

Date: 9/12/2023