

MODERA GERMANTOWN PARTICIPATION AGREEMENT

THIS AGREEMENT is entered into by and between Germantown JV LLC, a Delaware limited liability company, 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, both **DEVELOPER** and **METRO** desire to provide improved public stormwater service for both its proposed development as well as the existing properties in this area; and

WHEREAS, such improved water service has been approved to serve **DEVELOPER's** development "Modera Germantown", known as Project No. [SWGR# 2020044500], and

WHEREAS, the provision of such stormwater service 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:

A project consisting of the installation of approximately 539 linear feet of a +/- 1.72 inch structural geopolymer lining within the existing 72-inch brick storm line and construction of 1 new storm manhole at or near 1420 Adams Street, Nashville, TN to serve the Van Buren stormwater drainage basin, Project No: SWGR# 2020044500. All existing storm lines and structures will remain, and pavement repair will be provided per plans within Adams Street. All proposed storm structures and materials will meet Metro Water Services minimum specifications and details for construction. This project will allow for current and future expansion of the drainage basin, working towards the goal of separation reducing stormwater treatment costs at the receiving sewerage treatment plant. The project allows for the **DEVELOPER** to utilize the existing system and extends the life of the existing infrastructure for **METRO**.

II. PAYMENT TERMS AND CONDITIONS:

- A. **DEVELOPER** will contract and oversee construction of the Work which meets all **METRO** specifications and requirements including telemetry and any required repeater sites.
- B. **METRO** will inspect the construction and will be responsible for ongoing operation and maintenance.
- C. **METRO's** level of participation is based on a determination by **METRO** utilizing a benefit/cost analysis to the project area's existing customer base and overall systemic operational needs. For this specific project, the actual project cost is \$596,890.01. **METRO's** level of participation will be, and not to exceed, \$346,890.01, to be reimbursed after completion and inspection of the project. ("**Maximum Cost of the Work**"). Maximum Cost of the Work is based on the secured competitive bid price of a licensed contractor. The awarded bid amount and unit prices are within range of recently bid public projects of similar scope and size.
- D. **DEVELOPER** will complete the Work within eighteen (18) months of commencement of the Work ("**Completion Date**"). The Completion Date may be extended at **METRO's** discretion for such time as is reasonable on account of any delay in the commencement or progress of the Work resulting from force majeure. For purposes of this Agreement, "force majeure" shall mean any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, pandemic (including impacts from COVID 19), act of Government, act of public enemy, or other causes of similar or dissimilar nature beyond its control.
- E. This agreement is subject to the approval through Ordinance (three readings) of The Metropolitan Council of Nashville and Davidson County and will be null and void if the improvements are not operational within eighteen (18) months from the date this document is executed.
- F. This project must be constructed or obligated for this Funding Agreement to become binding on either party.

III. FUTURE AMENDMENTS:

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

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

RECOMMENDED BY:

ACCEPTED BY:

DocuSigned by:

Scott Potter

994E7206F02B458
Metropolitan Department of Water and Sewerage Services

Germantown JV LLC, a Delaware limited liability company

By: MCRT Germantown LLC, a Delaware limited liability company, its Managing Member

APPROVED AS TO AVAILABILITY OF FUNDS:

DocuSigned by:

Kevin Crumboltlo

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Director of Finance

By: *Luca Barber*
Name: *Luca Barber*
Title: *Vice President*
Developer

APPROVED AS TO FORM AND LEGALITY:

Sworn to and subscribed to before me, a Notary Public,
12 day of March 2021 by
Luca Barber of Developer and
duly authorized to execute this instrument on
Developer's behalf.

DocuSigned by:

Tara Ladd

E355FC378EF2427...
Metropolitan Attorney

THE METROPOLITAN GOVERNMENT OF NASHVILLE
AND DAVIDSON COUNTY:

Andrae C. Bynum
Notary Public
ANDRAE C. BYNUM
STATE OF TENNESSEE
NOTARY PUBLIC
DAVIDSON COUNTY

Metropolitan Mayor

My Commission Expires: 07/03/2023

ATTEST:

Metropolitan Clerk

Date: _____



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department
Metro Office Building
800 Second Avenue South
Nashville, Tennessee 37201

March 23, 2021

To: Peggy Deaner, Metro Water Services

**Re: Moderna Germantown Participation Agreement
Planning Commission Mandatory Referral #2021M-014AG-001**
Council District #19 – Freddie O'Connell, 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 an ordinance authorizing the Metropolitan Government of Nashville and Davidson County, acting by and through the Metropolitan Department of Water and Sewerage Services, to provide public stormwater service improvements for Germantown JV, LLC proposed development, as well as other existing properties in the area (MWS Project No. SWGR# 2020044500 and Proposal No. 2021M-014AG-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. 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 Sharon O'Conner at Sharon.oconner@nashville.gov or 615-862-7208.

Sincerely,

A handwritten signature in cursive script that reads "Lucy Alden Kempf".

Lucy Kempf
Director
Metro Planning Department
cc: Metro Clerk, Elizabeth Waites

**Re: Moderna Germantown Participation Agreement
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