

MEMORANDUM OF UNDERSTANDING AND RELEASE OF LIABILITY

This Memorandum of Understanding and Release of Liability (“Agreement”) is made this 13th day of December, 2023, by and between the Department of Water and Sewerage Services of the Metropolitan Government of Davidson County and Tee Line, LLC (“Tee Line”).

WITNESSETH:

WHEREAS, on or about June 6, 2019, Tee Line acquired that certain real property located at 104-106 Duluth Avenue, Nashville, Davidson County, Tennessee 37209 (the “Property”) from AJH Holding, LLC, by that certain Warranty Deed dated June 6, 2019 and recorded on June 10, 2019 as Instrument No. 20190610-0055218, Register’s Office for Davidson County, Tennessee, which reference is hereby expressly made to such Warranty Deed for a more particular description of the Property; and,

WHEREAS, prior to Tee Line acquiring the Property, the Property was used as a commercial and/or industrial warehouse by AJH Holding, LLC, and Tee Line sought to and eventually did renovate the building on the Property to serve as a restaurant, bar, and sporting venue;

WHEREAS, the Property is encumbered by a 10-foot sanitary sewer easement (the “Existing Easement”) owned by the Department of Water and Sewerage Services (“Metro”) containing sanitary sewer infrastructure (“Infrastructure”), pursuant to that certain Agreement for Dedication of Easement for Sanitary Sewer and/or Storm Drainage, dated July 9, 1969 and recorded on or about September 17, 1969 at Record Book 4365, Page 286, Register’s Office for Davidson County, Tennessee; and,

WHEREAS, the Parties mutually discovered that the previous owner, AJH Holding, LLC, built an unpermitted addition on the north side of the warehouse building over Metro’s Existing Easement and sewer line (the “Nonconforming Use”) after the Infrastructure collapsed beneath the Nonconforming Use;

WHEREAS, the Infrastructure cannot be repaired in its current state due to the location of the Nonconforming Use;

WHEREAS, after negotiations, Metro and Tee Line desire to reach an agreement whereby Tee Line will convey an easement to Metro (“Proposed Easement”), attached hereto as Exhibit A, that Metro shall reroute the existing sewer line and/or install a new sewer line through the Proposed Easement at Metro’s sole cost and expense, subject to the terms and conditions set forth herein, that Metro will abandon that portion of the Existing Easement which will no longer be in use to service active Infrastructure, and that the parties shall mutually release each other from any and all liability pertaining to the subject matter herein;

NOW THEREFORE, in consideration of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference and are made an integral part hereof.

2. Grant of Easements. Tee Line hereby agrees to dedicate a 30-foot permanent easement to Metro, as further shown and described in Exhibit A, attached hereto, for the relocation of Metro's sanitary sewer infrastructure and shall, upon execution of this Memorandum by the Parties, execute the Proposed Easement in the form attached hereto as Exhibit A in favor of Metro. In consideration for Tee Line granting Metro the Proposed Easement upon the terms and conditions set forth herein, Metro covenants and agrees to submit legislation to the Metropolitan Council requesting approval of this full and unconditional release of Tee Line and requesting abandonment of the Existing Easement and any water and/or sewer lines contained therein. Metro shall support such release and abandonment before the Metropolitan Council and execute such documents as may be necessary in favor of Tee Line for same.

3. Construction of Infrastructure. Metro agrees to solely bear any and all costs, fees, expenses or other amounts of any type associated with the construction and relocation of the sanitary sewer infrastructure ("New Infrastructure") to the new 30-foot easement to be conveyed by Tee Line.

4. Abandonment. Metro agrees to draft legislation and seek Metropolitan Council approval to abandon the 10-foot sanitary sewer easement and associated infrastructure (also referred to herein as the Existing Easement and Infrastructure), as further shown on Exhibit B, attached hereto.

5. Release of Liability. Metro agrees to irrevocably release Tee Line and its members (including but not necessarily limited to Marc Bulger), managers, owners, officers, directors, employees, subsidiaries, affiliates, agents, insurers, attorneys, and representatives from any and all claims, complaints, causes of action, demands, damages, obligations, liabilities, losses, liabilities, suits, debts, costs or expenses of any kind or nature, whether known or unknown, fixed or contingent, suspect or unsuspected (collectively, "Claims") related to or arising out of, in any way whatsoever, the collapse of Infrastructure, the Nonconforming Use, the Easement, and/or the Proposed Easement, and/or any replacement or rerouting of the Sewer Line.

In turn, Tee Line agrees to release from any and all liability and hold harmless Metro and the Metropolitan Government of Nashville and Davidson County, and their officers, agents, and employees, from claims, damages, costs, and attorneys' fees, relating to any injury to Tee Line and/or Tee Line's Property arising out of or resulting from this Memorandum and Understanding of Liability, including but not necessarily limited to the construction and installation of Metro's infrastructure within the Proposed Easement. However, Tee Line's agreement to release and hold these parties harmless shall not apply, in any event, to intentional acts, gross negligence, or willful and wanton acts. Furthermore, Tee Line's agreement to release and hold harmless these parties as set forth in this paragraph is contingent and shall apply and be binding if, and only if, all legislation contemplated or referenced herein is actually adopted by the Metropolitan Council and all other

agreements and covenants contemplated herein are valid and binding. Notwithstanding the foregoing, nothing in this paragraph shall be deemed a release or waiver of any obligation by Metro to restore the Property to its pre-construction and original condition as set forth in the Proposed Easement

6. Severability. Should any provision(s) of this Memorandum be declared or be determined by any Court of competent jurisdiction or other applicable authority to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term or provision shall be deemed not to be part of this Memorandum.

7. Counterparts and Facsimile Signatures Acceptable. This Memorandum may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. Facsimile and scanned copies containing signatures shall be provided the same weight and sufficiency as originals.

8. Any Amendment Shall Be In Writing. This Memorandum shall not be amended, altered, revised, modified, terminated, or changed except by a subsequent written agreement executed by the respective Parties or their authorized agents.

9. Venue and Attorneys' Fees. Should a dispute arise over the enforceability of or for breach or failure to perform this Memorandum, and legal action is brought, the parties agree and consent to the jurisdiction of, and such action shall be brought exclusively in, the Chancery Court for Davidson County, Tennessee.

10. Governing Law. This Memorandum shall be governed and construed in accordance with the laws of the State of Tennessee.

11. Voluntariness. Each Party hereby agrees that he, she or it has read and understands this Memorandum, and each Party affixes his, her or its signature hereto voluntarily and without coercion. The Parties acknowledge that they have had an opportunity to consult with all necessary advisors, including accountants and tax planners, as well as an attorney of their own choice concerning the waivers and releases contained in and the terms of this Memorandum, and that the waivers and releases made and the terms they have agreed to herein are knowing, conscious, and with full appreciation that they are forever foreclosed from pursuing any of the rights so waived. The Parties represent and warrant that they are relying solely on their own judgment, belief and knowledge and upon the advice and recommendation of their separate counsel concerning the nature, extent and duration of their rights and obligations deriving from this Memorandum.

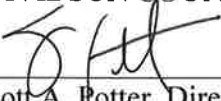
12. Entire Agreement. The Parties acknowledge that this Memorandum constitutes a full, final, and complete agreement between them and supersedes and replaces any and all other written or oral exchanges, agreements or understandings, between or among them relating to the subject matter hereof other than that as set forth herein, and that this Memorandum contains the sole and entire Memorandum by and between them. The Parties warrant and represent that they have not been induced to enter into this Memorandum on the basis of any representations, promises or statements (whether oral or written) except as set forth in this Memorandum. The

Parties further acknowledge and agree that the language proposed for, deleted from, or otherwise changed in any draft of this Memorandum has been mutually drafted and shall not be considered in any way in the interpretation and application of this Memorandum and shall not be construed for or against any party.

The Parties hereby enter into this Memorandum, as evidenced by their respective signatures below, as of the Effective Date set forth above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

DEPARTMENT OF WATER AND
SEWERAGE SERVICES OF THE
METROPOLITAN GOVERNMENT
DAVIDSON COUNTY



Scott A. Potter, Director
Water and Sewerage Services

TEE LINE, LLC



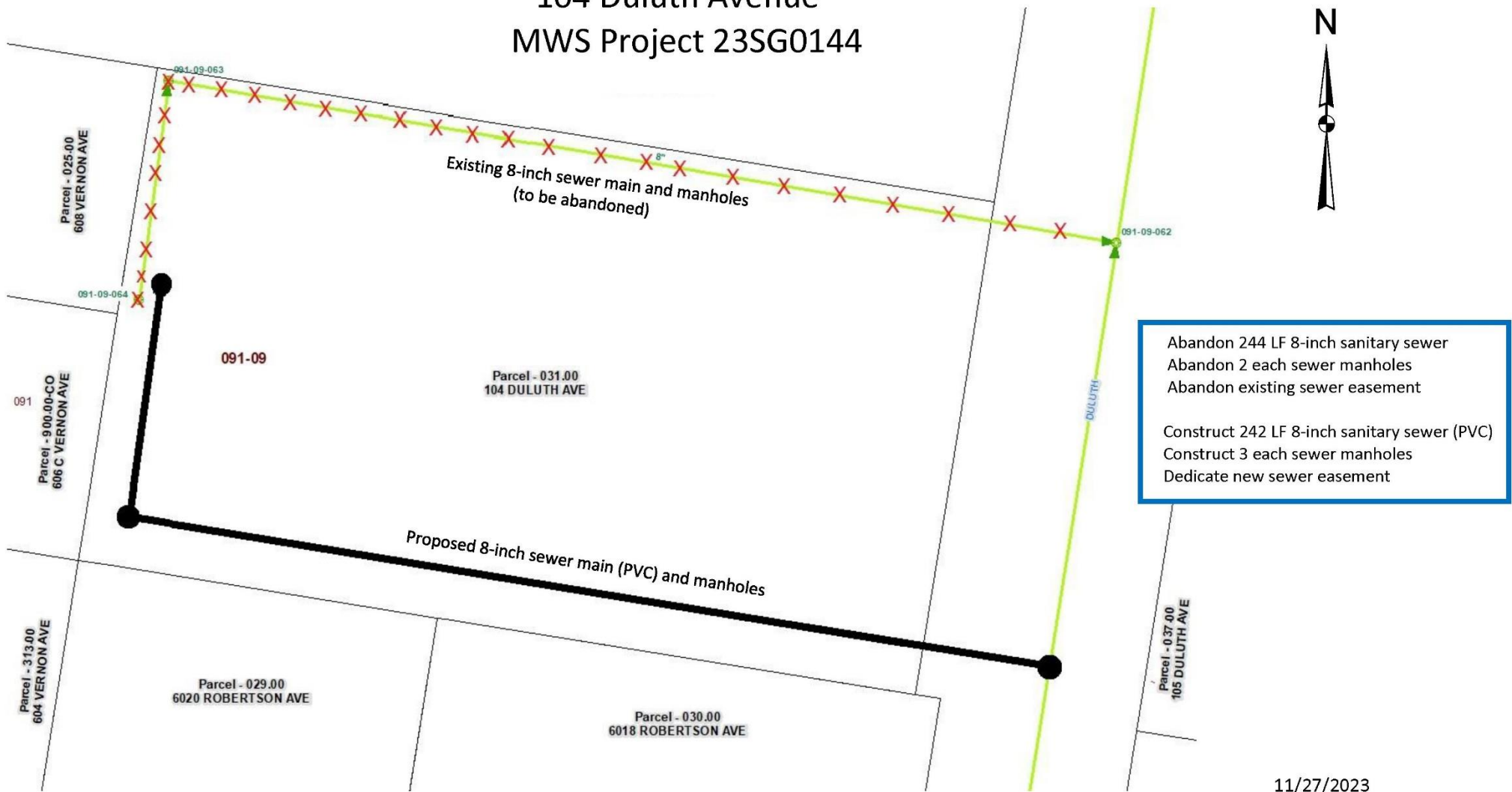
Marc Bulger (Dec 14, 2023 09:45 CST)

APPROVED AS TO FORM
AND LEGALITY:



Assistant Metropolitan Attorney

104 Duluth Avenue
MWS Project 23SG0144





December 06, 2023

To: Mike Atchison Metro Water Services

Re: **104 DULUTH AVENUE**
Planning Commission Mandatory Referral 2023M-188ES-001
Council District #20 Rollin Horton, 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 the abandonment of 244 linear feet of public sanitary sewer mains, two sanitary sewer manholes, and the associated easement, the construction of 242 linear feet of public sanitary sewer mains and three sanitary sewer manholes, and the acceptance of a new public sanitary sewer easement.

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 Delilah Rhodes at Delilah.Rhodes@nashville.gov or 615-862-7208

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa Milligan". The signature is fluid and cursive.

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

Re: 104 DULUTH AVENUE
Planning Commission Mandatory Referral 2023M-188ES-001
Council District #20 Rollin Horton, Council Member

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