



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2024-229, **Version:** 1

A resolution approving a Memorandum of Agreement between United States Environmental Protection Agency, the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services, and The Tennessee Historical Commission, for the Process Advancements at Omohundro Water Treatment Plant Project, Davidson County, Tennessee (MWS Project No. 21-WC-121).

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”), 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, 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

WHEREAS, EPA, SHPO, and MWSS (“Signatories”), and the Corps (“Concurring party”) agree that the undertaking shall be implemented in accordance with the stipulations listed in this MOA, attached hereto as Exhibit 1, in order to take into account the effect of the Undertaking on historic properties; and,

WHEREAS, approval of this agreement will benefit the citizens of The Metropolitan Government of Nashville and Davidson County.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Memorandum of Agreement between United States Environmental Protection Agency, the Metropolitan Government of Nashville and Davidson County, through the Department of Water and Sewerage Services, and The Tennessee Historical Commission, for the Process Advancements at Omohundro Water Treatment Plant Project, Davidson County, Tennessee, attached hereto and incorporated herein, is hereby approved, and the Metropolitan Mayor is authorized to execute the same.

Section 2. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution approves a memorandum of agreement between the United States Environmental Protection Agency (“EPA”), the Department of Water and Sewerage Services (“MWS”), and the Tennessee Historical Commission regarding process advancements for and the expansion of the Omohundro Water Treatment Plant Project (“the Project”).

The EPA plans to provide partial funding to MWS for the Project through a federal credit program for eligible water and wastewater infrastructure projects. This funding requires compliance with the National Historic Preservation Act of 1966, which requires identification and evaluation of cultural resources.

The EPA defined the Project’s area of potential effects and has determined that the Project would adversely affect the Omohundro Water Treatment Filtration Complex District, which is listed on the National Register of Historic Places.

Under the agreement, the EPA ensures that the provisions of the memorandum are completed and consistent with federal laws and regulations. It will also modify the area of potential effects as needed and consult with Native American tribes and other consulting parties. MWS will ensure that all treatment measures comply with government policies and regulations and ensure that all historic preservation and archeological work is

performed by qualified professionals under federal regulations.

MWS will amend the National Register of Historic Places nomination for the Omohundro District to provide new information about the property's physical nature, development history, and period of significance. A first draft of this nomination is due for the Tennessee Historical Commission to review by December 31, 2025. Photographic documentation of the 1963 addition to the Robert L. Lawrence, Jr., Filtration Plant and the Open Tanks must also be submitted for review by December 31, 2025.

As part of the Project, MWS must also retain the Garage Building and rehabilitate the Storage Building and Garage Building. Draft rehabilitation plans must be submitted for review by December 31, 2025, and the project must be completed by December 31, 2034. On December 31, 2025, salvage plans must be submitted for components of the Robert L. Lawrence, Jr. Filtration Plant and Open Tanks prior to demolition. The components must be salvaged by the completion of the project by December 31, 2034. Lastly, MWS must submit plans by December 31, 2025, for a permanent historical exhibit to be installed at the visitor's center within the Omohundro complex. A temporary historical exhibit must be installed off-site by December 31, 2026, and the permanent historical exhibit will be completed by December 31, 2024.

The Project will also include a plan in case properties are discovered that may be historically significant or have unanticipated effects on historic properties.

The memorandum will expire if its terms are not completed within 11 years from its date of execution.