

GRANT AWARD AGREEMENT

Fiscal Year 2012 Class B Infrastructure Incentive Grant Program

Feasibility Only Grant

THIS AGREEMENT, made and entered into on the _____ day of _____, 2012, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)**, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A (hereinafter "Government"), on behalf of its Division of Water Quality, and **LEXMARK INTERNATIONAL, INC., 740 W. New Circle Road, Lexington, KY 40511** (hereinafter "Grantee" and "Property Owner").

WITNESSETH:

WHEREAS, the Grantee is a documented fee-payer of the Government's Water Quality Management Fee; and

WHEREAS, the Grantee has proposed a need for the funds requested to develop and implement a proposed project by submitting a valid grant application; and

WHEREAS, the Grantee's grant application has been reviewed and selected for funding by the Water Quality Fees Board in accordance with Sections 16-408 and 16-410 of the Government's Code of Ordinances; and

WHEREAS, the Government has funds available through the Stormwater Quality Projects Incentive Grant Program to assist the qualified Grantee in the development and implementation of projects that meet the goals of the program; and

WHEREAS, the Grantee desires to implement a specific project that meets one or more Incentive Grant program goals to improve water quality, reduce stormwater runoff, and provide public or private education related to stormwater quality; and

WHEREAS, any such improvements funded by the Government shall benefit the public through installed improvements and/or educational programming;

THAT FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN EXPRESSED, GOVERNMENT AND GRANTEE AGREE AS FOLLOWS:

- (1) The Government hereby grants the Grantee the sum of **\$34,000.00** (hereinafter "the Grant"), for use in implementing the project elements as listed in Attachment A which is incorporated herein by reference as if fully set out herein. The Grantee agrees to match the Grant with contributions, labor and other services equal to or greater than 25% of the total project cost.
- (2) The Grantee agrees to use the Grant only for the activities set forth in Attachment A which includes analysis of stormwater control infrastructure at the following site location(s): **740 W. New Circle Road, Lexington, KY 40511** currently owned by the Property Owner.
- (3) The Grantee agrees to meet all design standards specified in the Government's Engineering Manuals or as further described in Attachment A in the design of all Grant-funded improvements. This includes all associated activities including but not limited to erosion and sediment control, traffic control, utility relocations, seeding, etc. The Grantee further

agrees to design the facilities in such a way as not to preclude the potential for future water quality/quantity monitoring by LFUCG.

(4) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.

(5) The Grantee agrees to obtain all necessary local, state, and federal permits, encroachments, permissions, approvals etc. in a timely manner and prior to start of construction.

(6) The Grantee agrees to perform periodic reporting as detailed in Paragraph (7) herein below, and produce a Project Final Report within thirty (30) calendar days of the completion of the project elements in digital and hard copy following a standardized format to be provided by the Government summarizing all work completed and detailing the total grant expenditures. Other deliverables include the following:

- (a) At the end of the Feasibility Phase (if applicable), the following five deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:
- Feasibility report evaluating the use of the potential BMP(s) on the proposed site;
 - Conceptual design concept;
 - Detailed cost estimate for design;
 - Conceptual cost estimate for construction;
 - Letter certifying all BMPs proposed for design as viable and feasible for the specific site and application.

~~(b) At the end of the Design Phase or prior to the start of the Construction Phase, the following six deliverables, sealed by a professional licensed to perform such work in accordance with Kentucky Revised Statutes (KRS), shall be provided:~~

- ~~• Set of all final design calculations;~~
- ~~• Set of final construction plans, including traffic control, erosion and sediment control, grading plans, etc.;~~
- ~~• Set of final specifications and bidding documents (if applicable);~~
- ~~• Final detailed engineer's construction cost estimate including quantities;~~
- ~~• All required permit submittals and approvals;~~
- ~~• Inspection, Operation, and Maintenance Plan laying out the plan for regular inspection and maintenance of each proposed facility for design performance and safety in accordance with manufacturer's specifications and the Government's Stormwater Manual.~~

(N/A to Feasibility Only Grants)

~~(c) At the end of the Construction Phase, the following five deliverables shall be provided:~~

- ~~• Summary of final construction costs and quantities;~~
- ~~• Copies of all federal, state, and local permits obtained for the project;~~
- ~~• Record Drawing showing all field changes, and signed and sealed by the professional of record certifying the project as shown meets all original design intent;~~
- ~~• Photo documentation of site conditions and improvements before, during, and after construction;~~
- ~~• Signed Agreement to Maintain Stormwater Control Facilities.~~

(N/A to Feasibility Only Grants)

(7) The Grant to the Grantee shall be disbursed in the following manner:

(a) The Grantee shall submit at least once every three (3) months, if not specified otherwise in Attachment A, a Request for Funds to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. Each Request for Funds shall include documentation that the Grantee has already expended the requested funds or shall be in a position to expend properly the requested

- funds within thirty (30) days of receipt of the funds. The Request for Funds shall include full accounting of these eligible grant-related expenses, as listed in Attachment A. Copies of invoices, purchase orders, or receipts showing vendor, date, amount, and items purchased or ordered shall be provided with the Request for Funds. For project specific personnel costs and stipends, documentation of all billed hours shall include copies of employee timesheets, hourly payroll rate, and description of work performed for hours billed.
- (b) Each Request for Funds shall be accompanied by a Project Status Report describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials (e.g. calculations, preliminary plans, etc.) completed to date. For educational events (if applicable), copies of the class rosters or sign-in sheets documenting the number of attendees shall be provided.
- (c) The Government's Grant Manager shall review each Request for Funds and supporting documents for compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program. If the Grant Manager finds the Grantee's Request for Funds is in compliance with the terms of this Agreement and the guidelines of the Stormwater Quality Projects Incentive Grant Program and that the activity progress and management program of the Grantee satisfy the terms of the grant award, he or she shall approve the Request for Funds within 15 calendar days of receipt and then forward it to the Division of Accounting for payment.
- (d) The Government shall release payment of the final 10% of the Grant only after receipt and acceptance of the Project Final Report. The Government's Grant Manager shall review the Project Final Report and provide comments to the Grantee or, if acceptable, forward approval within 15 calendar days of receipt to the Division of Accounting for payment.
- (e) Should the Government's Incentive Grant Program Administrator determine that the Grantee is not in compliance with the terms of this Agreement and/or the Stormwater Quality Projects Incentive Grant Program, including deficiencies in progress and management of the project, the Division of Water Quality shall notify the Grantee, the Mayor's Office, and the appropriate district Council person, and shall meet with the Grantee on matters that prevent approval of the Request for Funds. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (20) herein below.
- (8) The Grantee agrees to obtain written approval from the Government's Grant Manager or Program Administrator for any proposed changes to the Project Team or Project Plan as listed in Attachment A prior to implementing the changes. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (20) herein below.
- (9) The Grantee agrees to complete the project phase(s) (i.e. Design and/or Construction) outlined herein within 18 months from the date of this Agreement. The Grantee shall obtain written approval from the Government's Grant Manager or Program Administrator for any time extensions beyond the schedule. Failure to obtain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph (20) herein below.
- (10) This Agreement may not be modified except by written agreement of the Government and the Grantee.
- (11) The Grantee understands that **the Grant amount shown herein in Paragraph (1) is a not-to-exceed amount**, and any additional funding needed to complete the project elements listed in Attachment A is the responsibility of the Grantee. If it becomes apparent to the Grantee or the Government that the Grantee will be unable to complete the project

- either in the manner or for the amount described in this Agreement, then the Grantee must immediately notify the Government's Grant Manager and Program Administrator by providing a complete and detailed written explanation of its inability to comply with the terms of the Agreement. The Grantee must further provide the Government's Grant Manager and Program Administrator with a complete and detailed written explanation of any proposed changes, and the reasons for those changes.
- (12) The Grantee asserts that it is in full compliance with all applicable provisions of the Lexington-Fayette Urban County Government's Code of Ordinances Chapter 5 – Buildings and Building Regulations, Chapter 7 – Finance and Taxation, Chapter 12 – Housing, and Chapter 16 – Sewage, Garbage, Refuse, and Weeds, or in compliance with Kentucky Department of Housing Buildings and Construction rules and requirements as is appropriate for those state institutions, parcels or buildings which are subject to state regulations and oversight as opposed to local ordinances and regulations. If the Grantee becomes out of compliance with any of these provisions, it will notify the Government's Grant Manager and Program Administrator immediately. Failure to notify the Government and resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph (20) herein below.
- (13) ~~The Grantee agrees to allow the Government access to its property to perform monitoring of the project elements for compliance with this Agreement, as provided in the "Agreement to Maintain Stormwater Control Facilities" (Attachment B). (N/A to Feasibility Only Grants)~~
- (14) In any advertisement of the project funded by the Grant, whether written or oral communications, the Grantee agrees to identify the Lexington-Fayette Urban County Government as the source of the above referenced funds; the Grantee shall not specifically identify any individual or elected official as being responsible for the funds donated by the Government.
- (15) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (16) The Grantee agrees to reference the Lexington-Fayette Urban County Government's Water Quality Management Fee and the Stormwater Quality Projects Incentive Grant Program as a source of funding for the project on any permanent signage or educational brochures, presentations, websites, etc. produced using grant monies.
- (17) ~~The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by a Construction Grant through the Stormwater Quality Projects Incentive Grant Program shall remain in service and maintained by the Grantee or its representatives following the Inspection, Operation, and Maintenance Plan developed for each facility referenced in (6b) above. The Property Owner further accepts and agrees to enter into the "Agreement to Maintain Stormwater Control Facilities" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein. (N/A to Feasibility Only Grants)~~
- (18) The Grantee and Property Owner agree that all stormwater control facilities, including equipment and infrastructure, constructed and funded by this Grant shall remain the property of the current Property Owner, or his successors and assigns, unless otherwise specified in Attachments A and B.
- (19) ~~The Grantee and Property Owner understand that if any of the Grant funded facilities not owned by the Government are removed from service, the property owner of record at the time of removal shall be liable to reimburse the Government for 100% of the Remaining Value of the facility or portion removed, based upon the depreciation schedule provided in Attachment B. (N/A to Feasibility Only Grants)~~
- (20) If, through any cause, the Grantee or Property Owner shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee or Property Own-

er shall violate any of the covenants, agreements or stipulations of this Agreement, the Government shall provide the Grantee or Property Owner thirty (30) calendar days to address the deficiency or violation. If the Grantee or Property Owner does not, after the thirty (30) days, come into compliance with this Agreement, the Government shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In that event, all finished or unfinished documents, receipts and reports prepared by the Grantee shall, at the option of the Government, become its property and the Grantee shall immediately repay to the Government all monies received pursuant to this Agreement less any amount representing just and equitable compensation for the Government's share of any satisfactory work completed pursuant to the Agreement.

(21) The Grantee shall provide equal opportunity in employment as required by applicable federal, state, and local laws, regulations, and ordinances.

(22) The Grantee is solely responsible for assuring that adequate and appropriate insurance or other necessary coverage is maintained during the term of this Agreement.

(23) The Grantee's sole remedy for a breach of this Agreement by the Government shall be limited to the amount of the Grant.

(24) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee and Property Owner shall, to the extent allowed by law, defend, indemnify, and hold harmless Government from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, in whole or in part, from or by Grantee's or Property Owner's or its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, in connection with the activities carried out pursuant to this Agreement, the Grant award or the Stormwater Quality Projects Incentive Grant Program.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Lexington, Fayette County, Kentucky, as of the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: _____

JIM GRAY, MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL

Grantee Organization
and Property Owner:

LEXMARK INTERNATIONAL, INC.
740 W. NEW CIRCLE ROAD
LEXINGTON, KENTUCKY 40511

BY: Everett G. Jacobson, Jr.

NAME: EVERETT G. JACOBSON, JR.

TITLE: MANAGER, CORPORATE FACILITIES ENGINEERING

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Everett G. Jacobson Jr. as the duly authorized representative for and on behalf of LexMark Intl., on this the 26 day of March, 2012.

My commission expires: 10-27-2014.

Shirley Rankin Notary
NOTARY PUBLIC

Project Collaborators:

Dr. Carmen Agouridis, P.E., Asst. Professor – UK Biosystems and Agricultural Engineering, water quality specialist, instructor for engineers continuing education

Dr. Arthur Parola, P.E. – Univ. of Louisville Stream Institute, stream design and hydrodynamic modeling

Tom Biebighauser – USDA Forest Service, wetlands workshops instructor

Amanda Gumbert – UK College of Agriculture, Cane Run Watershed Council Facilitator

Dr. Carol Hanley – UK Research Foundation, Tracy Farmer Institute for Sustainability and the Environment (K-12 teacher education)

PROJECT PLAN ELEMENTS

This grant is for a Feasibility Study to evaluate opportunities to implement stormwater Best Management Practices (BMPs) on the Lexmark site at 740 W. New Circle Road. The Feasibility Study will examine land uses on the property, drainage areas, potential sources of pollutants, and the optimum BMP's to treat those pollutants.

Project Goals include:

- Reduce the amount of floatable trash in the streams flowing through Lexmark's property.
- Reduce the amount of suspended and dissolved pollutants from impervious, urban areas in the Cane Run, the Royal Springs Aquifer, and downstream creeks and rivers.
- Reduce flooding and downstream bank erosion.
- Recharge groundwater supplies by increasing stream baseflows during dry periods.
- Educate students, citizens and professionals about stormwater issues, BMP's, and how pollution affects all of us.

Project Elements include:

1) EVALUATE STORMWATER CONTROL BMPs FOR THE LEXMARK SITE

BMPs to be considered include:

A. In-stream floatable trash collection systems (IFTCS): Water Quality BMP. An in-depth analysis of an ISFTCS BMP to remove floatable trash from the streams on the property will be performed. A preliminary design will be developed by project team engineers. A two-dimensional hydrodynamic model will be used to evaluate its effectiveness during storm flows and extreme flood flows. A laboratory scale version of the system will be built and tested in the Hydraulics Laboratory at the UK Biosystems and Agricultural Engineering Department.

B. Stream and Floodplain Restoration: Dual water quality/water quantity BMP. Cane Run and IBM Tributaries.

C. Permeable Pavement and removal of Parking Lots: Retrofits of existing parking lots with permeable pavement and removal of parking lots. Lexmark's facilities have over five (5) million square feet of impervious area. This Feasibility Study will evaluate removal or the retrofit of over 15,000 square feet of impervious area. Dual water quality/water quantity BMP.

D. Constructed Wetlands: Dual water quality/water quantity BMP.

- E. **Riparian Buffer:** Water quality BMP.
- F. **Rainwater Harvesting Systems:** Water quantity BMP.
- G. **Water Quality Manholes:** Water quality BMP.
- H. **Infiltration Chamber Systems:** Dual water quality/water quantity BMP.
- I. **Rain gardens (bioretention systems):** Dual water quality/water quantity BMP.

A copy of the BMP Conceptual Plan is included at the end of this document.

2) EDUCATIONAL PROGRAMMING

- A. **UK Biosystems and Agricultural Engineering Department Junior and Senior Level Design Courses:** Students will build and test a scale model of the IFTCS BMP in the BAE Hydraulics Laboratory as part of the Junior/Senior level engineering design class. The grant will fund the materials used in the construction of the scale model.
- B. **UK Research Foundation:** The existing FY2011 Incentive Grant with UKRF for educational programming, as well as the FY2012 Incentive Grant with UKRF will both have collaborative elements with this project. This will include:
 - Professional Development training for K-12 teachers
 - Continuing education classes for professional engineers
 - Hosting community watershed meetings.

3) FINAL FEASIBILITY REPORT

The results of the Feasibility Study will be presented in a final report that will include:

- A. A list of BMP's that are determined to be effective and suitable for installation at Lexmark. They will be prioritized for implementation according to input from Lexmark, LFUCG, and other watershed groups.
- B. A Stormwater BMP Master Plan of the Lexmark site will show proposed BMP locations, the area draining to the BMP that will be treated, and its discharge location.
- C. The preliminary design of the IFTCS BMP.
- D. Design and construction cost estimates.
- E. The estimated pollutant removal effectiveness of the BMP.
- F. Special design and construction conditions such as necessary permits, etc.
- G. Letter certifying all BMPs proposed for design are viable and feasible for the specific site and application.

REPORTING REQUIREMENTS

In addition to the reporting requirements outlined in the Grant Award Agreement, the following special items are noted for this project: None.

EQUIPMENT

Any equipment purchased with the Grant shall remain the property of the Organization.

PERMANENT CAPITAL INFRASTRUCTURE

Does not apply to this grant. Attachment B is not required for this Agreement.

GRANT PERIOD & PROJECT SCHEDULE

The grant period starts on the date of execution by the Mayor and extends for the time period as listed in the Grant Award Agreement. Any time extensions must be approved in writing by the LFUCG Grant Manager. The project schedule shown in Table 1 is preliminary. Proposed changes to the project which alter this schedule significantly shall be discussed with the LFUCG Grant Manager prior to implementation.

TABLE 1. PROJECT SCHEDULE

Activity	Time Period	Anticipated Date
Notice to Proceed		March - April 2012
Stakeholders Meetings		April – May 2012
Identify BMP Opportunities, Preliminary Engineering Calculations		May – September 2012
Create Lab Scale Model of In-stream Floatable Trash Collection System (UK BAE Senior Design Class)	Fall Semester: Design Model Spring Semester: Construct Model	August 2012 - April 2013
Create 2-D Model of In-stream Floatable Trash Collection System	In conjunction with Lab Model	November 2012 – Jan. 2013
Prepare BMP Conceptual Plan and Design and Construction Estimates		Jan. – April 2013
Prepare Final Feasibility Study Report		May 2013
LFUCG review		June 2013
Project Final Report		June 2013
Final Payment (10% retainer)	After acceptance of Final Report	July 2013

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES & ORGANIZATION MATCH

Table 2. lists the Eligible Expenses for this project. Only properly invoiced items shall be reimbursed with grant monies or counted toward the Organization’s match.

Any work performed on this project prior to grant award by Urban County Council and Notice to Proceed from the LFUCG Grant Administrator is not an eligible expense and shall not be reimbursed or counted toward the match with the following exception:

- Due to the critical timing of the school calendar and impact on collaborating grants, eligible expenses occurring in April 2012 and within 30 days of Notice-to-Proceed will be allowed for inclusion in Request for Grant Reimbursement. The Grantee assumes all risk associated with these expenses.

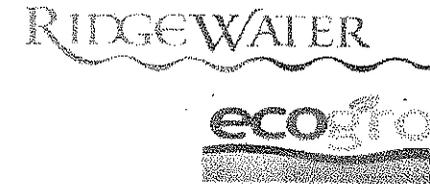
The Grant budget is broken into the following components:

Feasibility Phase:	\$ 34,000.00	Total Grant Amount
	\$ 15,700.00	Proposed Match to be Provided
	\$ 49,700.00	Total Project Budget

This grant requires a minimum match of 25% of Total Project Cost. Therefore, the minimum required match is \$11,333.00.

Lexmark Stormwater Improvement and Education Project
Feasibility Study: Scope, Tasks and Costs

By: ELD
 Date: 9/19/2011
 Chkd: JMH
 Date: 9/19/2011



Scope: This scope of work includes examining the feasibility of installing Stormwater Best Management Practices (BMP's) to:

1. *Improve Water Quality in the Cane Run*
2. *Reduce Stormwater Runoff and Flooding*
3. *Educate about Stormwater Quality*

It includes meeting with LFUCG personnel and other stake holders, identifying opportunities on-site to install Stormwater BMP's, performing preliminary engineering computations, preparing a conceptual plan showing BMP locations, design and construction cost estimate, and a report.

It will be prepared and stamped by a licensed professional engineer(s) that specialize in stream restoration, stormwater management, flood studies, and urban water quality BMP's.

The feasibility of an In-stream Floatable Trash Collection System will be evaluated for the IBM Tributary downstream of the CSX railroad bridge. A 2-D hydraulic computer model will be developed to evaluate the flow characteristics. A laboratory scale model of the system will be built at the UK Biosystems and Agricultural Engineering Hydraulics laboratory to evaluate its effectiveness at removing floatable trash. It will be constructed by students as part of their Junior and Senior level design courses.

The BMP's proposed in the feasibility study will be used in the **Lexmark Living Laboratory** to educate students, professionals, and the public about stormwater quality, biology, ecology, and stream health.

Consulting Fees:

Task	Description	Hourly Rates	STAFF								
			Project Manager	Project Engineer	Survey Crew	CADD / Technician	Env. Specialist/ Technical Writer	Senior Hydraulic Engineer			
			\$90.00	\$75.00	\$125.00	\$65.00	\$55.00	\$130.00			
1.1	Kickoff Meeting		4				4	4			
1.2	Stakeholder meetings		16				16				
1.3	Identify BMP Opportunities		16	40			24				
1.4	Preliminary Engineering Computations		8	40			40				
1.5	Prepare Conceptual Plan		8	24		40					
1.6	Create 2-D Computer Model of In-stream Floatable Trash Collection System		8	24	8	16				40	
1.7	Create Hydraulic Lab Scale Model of In-stream Floatable Trash Collection System		8	40						8	
1.8	Prepare Design and Construction Cost Estimates		8	40							
1.9	Prepare Report		8	24		16	40			4	
1.10	Project Management, misc. meetings, phone calls, etc.		8	8			8				
		Subtotal Hours	92	240	8	72	132			56	
		Cost	\$8,280.00	\$18,000.00	\$1,000.00	\$4,680.00	\$7,260.00			\$7,280.00	
										Subtotal: Consulting Fees	\$46,500.00

Equipment and Supplies:

Printing and Misc. Expenses:	\$200.00	
Materials for Hydraulic Laboratory Scale Model (for Item 1.7):	\$3,000.00	
Subtotal: Equipment and Supplies		\$3,200.00

Feasibility Study Cost: \$49,700.00

FIGURE 1. BMP CONCEPTUAL PLAN FROM INCENTIVE GRANT APPLICATION

