

GRANT AWARD AGREEMENT

Fiscal Year 2015 Class A Incentive Grant Program

THIS AGREEMENT, made and entered into on the 30th day of April, 2015, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, 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 **PALOMAR TOWNHOME ASSOCIATION INC.**, 4025 Palmetto Drive, Lexington, Kentucky 40513, (hereinafter "Grantee").

WITNESSETH:

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

WHEREAS, the Grantee represents directly or indirectly a group of single-family residences in Fayette County who are fee-payers 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 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 for the benefit of its members, community, and the general public; and

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

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 **\$12,841.00** (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.
- (2) The Grantee agrees to match the Grant with contributions, labor and other services equal to or greater than 20% of the total project cost.
- (3) The Grantee agrees to use the Grant only for the activities set forth in Attachment A.
- (4) The Grantee agrees to perform periodic reporting as detailed in Paragraph 5 herein below, and provide to the Government a Project Final Report, in digital and hard copy, within thirty (30) calendar days of the completion of the project elements following a standardized format to be provided by the Government summarizing all work completed and detailing the total grant expenditures.

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

- (a) The Grantee shall submit, at least once every three (3) months, a *Grant Reimbursement Form* and a *Request for Funds*, in standardized format provided by the Government, to the Government's Grant Manager designated by the Director of the Division of Water Quality for the project. The *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 all 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*.
 - (b) Each *Request for Funds* shall include documentation of all of the Grantee's Match Costs listed in Attachment A and claimed for the prior period. For cash expenditures this shall include receipts, showing vendor paid, date, amount, and items purchased. For volunteer hours this shall include sign-in sheets describing the events with signatures, name, address, time in and time out (or length of event), for each participant (volunteers must be 12 years of age or older). For mileage, this shall include driver name, type of vehicle, location to and from, date, and miles driven.
 - (c) Each *Request for Funds* shall be accompanied by a *Project Status Report*, in a standardized format provided by the Government, describing the progress of the project to date, including a description and schedule of all activities completed, and hardcopy or electronic copies of materials completed and/or used to date. For educational events (if applicable), copies of the class sign-in sheets documenting the number of attendees shall be provided.
 - (d) 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 Government's Grant Manager finds the Grantee's *Request for Funds* is in compliance with the terms of this Agreement and the Program's guidelines and that the activity progress and management program of the Grantee satisfy the terms of this Agreement, he or she shall approve the *Request for Funds* within 15 days of receipt, and then forward it to the Division of Accounting for payment.
 - (e) Should the Government's 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/or management of the project, the Division of Water Quality shall notify 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 25 herein below.
 - (f) The Government shall release payment of the final 3% 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 within 15 calendar days or, if acceptable, forward approval to the Division of Accounting for payment.
- (6) For any project which includes installation of permanent capital infrastructure as listed in Attachment A (not to include individual rain barrels, small rain gardens, and pond equipment), the Grantee agrees to meet all design standards specified in the Government's Engineering Manuals and/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 the Government.

- (7) For any project which includes installation of permanent capital infrastructure as listed in Attachment A, the Grantee agrees to provide in hard copy and electronic format the following deliverables as they become available, each sealed by a Professional Engineer licensed in the Commonwealth of Kentucky (or Registered Landscape Architect when allowed by Kentucky Revised Statutes 323A.010):
- Design calculations;
 - Final construction plans, including erosion and sediment control plans, traffic control plans, grading plans, etc.;
 - Final specifications and bidding documents (if applicable);
 - Detailed engineer's construction cost estimate including quantities;
 - 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.
 - Copies of all federal, state, and local permits, approvals, encroachments, etc. 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.
- (8) For any project which includes installation of permanent capital infrastructure listed in Attachment A, the Grantee shall provide, by the end of the design phase, certification by a Professional Engineer or Registered Landscape Architect licensed in Kentucky that all stormwater control facilities proposed for this project are feasible and viable Best Management Practices (BMPs) for controlling stormwater quality and/or quantity and are appropriate for the project site.
- (9) The Grantee agrees that any and all stormwater control facilities, including equipment and infrastructure, constructed or purchased with Grant monies shall remain the property of the Grantee, or the current property owner, or his successors and assigns, unless otherwise noted in Attachment A.
- (10) The Grantee agrees that all stormwater control facilities, including equipment and infrastructure shall remain in service and maintained by the Grantee or its representatives for at least the Service Life listed in Attachment A. For capital infrastructure, this shall include following the Inspection, Operation, and Maintenance Plan developed for each facility referenced in Paragraph 7 above. For capital infrastructure, the Grantee further accepts and agrees to enter into the "*Agreement to Maintain Stormwater Control Facilities for Class A Incentive Grant Projects*" attached hereto as Attachment B and which is incorporated herein by reference as if fully set out herein.
- (11) The Grantee agrees, and all individual property owners with grant-funded improvements installed on their properties shall agree, to allow the Government access to perform monitoring of the project elements for compliance with this Agreement.
- (12) The Grantee agrees to comply with all applicable local, state, and federal rules, regulations, ordinances, and laws in implementation of the project.
- (13) The Grantee agrees to obtain all necessary local, state, and federal permits and approvals in a timely manner and prior to the start of any work requiring such permits or approvals.
- (14) 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 25 herein below.
- (15) The term of this Agreement shall be from the date of this Agreement until completion of the project outlined herein. The Grantee agrees to complete the project within 15 months from the date of this Agreement. The Grantee agrees to obtain written approval from the

Government's Grant Manager or Program Administrator for any time extensions beyond the grant period. Failure to gain written approval prior to making changes may lead to termination of the Agreement for cause pursuant to Paragraph 25 herein below.


- (16) The Grantee understands that the **Grant 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.
- (17) The Grantee asserts that it is an incorporated organization registered in active status with the Commonwealth of Kentucky Secretary of State, and 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 Housings 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 contact the Government's Program Administrator immediately. Failure to resolve any such matters to the satisfaction of the Government may lead to termination of the Agreement for cause pursuant to Paragraph 25 herein below.
- (18) This Agreement may not be modified except by written agreement of the Government and the Grantee.
- (19) In any advertisement of the grant-funded project, whether oral or written 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.
- (20) The Grantee agrees to allow the Government to publicize the Grantee's project through the Government's website and other media.
- (21) 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.
- (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 shall provide equal opportunity in employment as required by applicable federal, state, and local laws, regulations and ordinances.
- (24) The Government assumes no responsibility whatsoever in the Grantee's project activities. Grantee shall defend, indemnify, and hold harmless the Government from and against any and all liability, claims, damages, 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 its contractor(s), agents, or assigns, negligent acts or misconduct, or errors or omissions, or in any way connected with the activities carried out pursuant to this Agreement, the Grant award or the Stormwater Quality Projects Incentive Grant Program.
- (25) If, through any cause, the Grantee shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agree-

ments or stipulations of this Agreement, the Government shall provide the Grantee thirty (30) calendar days to address the deficiency or violation. If the Grantee 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.

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

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

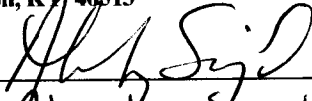
LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: 
JIM GRAY, MAYOR

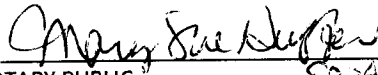
ATTEST:

CLERK, URBAN COUNTY COUNCIL

Grantee Organization: **Palomar Townhome Association Inc.**
4025 Palmetto Drive
Lexington, KY 40513

BY: 
NAME: Alan Jay Siegel
TITLE: Town Home Assn - President

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Alan Jay Siegel, as the duly authorized representative for and on behalf of Townhome Assn, on this the 18 day of March, 2015.
My commission expires: 12-17-17.


NOTARY PUBLIC SC2483

ATTACHMENT A
to the GRANT AWARD AGREEMENT
between Lexington-Fayette Urban County Government (LFUCG) and
Palomar Townhome Association, Inc.

GRANT PROGRAM: FY2015 Stormwater Quality Projects Incentive Grant Program
Class A (Neighborhood) Projects

- Funded through the LFUCG Water Quality Management Fee
- Administered by the LFUCG Division of Water Quality in the Department of Environmental Quality and Public Works

PROJECT TEAM AND CONTACT INFORMATION

Organization: Palomar Townhome Association, Inc. *ajs*
a.k.a. Palomar Hills Townhome Association
4025 Palmetto Drive
Lexington, KY 40513
KY Organization #: 0710361

Organization President: Alan Siegel
859-333-1917
ajsiegel1952@icloud.com / alan_siegel@georgetowncollege.edu

Primary Project Contact and Project Manager: Patrick (Joe) Lyons
859-797-4818
ghlyons@windstream.net

Secondary Project Contact: Victoria Marshall, Administrator
Palomar Hills Community Association
859-223-3740
admin@palomarhills.com

Project Site Location(s): Various properties listed below in the Palomar Hills Townhome Association area generally located near Terrace Woods Court, Terrace Woods Lane, and Terrace Woods Park.

Properties and Property Owners: 2201 Terrace Woods Court; Master& Associates LLLP
2205 Terrace Woods Court; Nemecek
2209 Terrace Woods Court; Stump
2213 Terrace Woods Court; Booth
2217 Terrace Woods Court; Conley
3945 Terrace Woods Lane; Jackson
2249 Terrace Woods Park; Fee
2253 Terrace Woods Park; Renfro
2257 Terrace Woods Park; Taylor
2261 Terrace Woods Park; Freeman

Project Participants: Construction Consultants (Preliminary):
D&M Landscaping, Donald Workman
Van Dale Howard Construction
Arlington Tree Service, Kenneth Littrell

PROJECT PLAN ELEMENTS

Design and installation of an infiltration trench on properties at Terrace Woods Court, Terrace Woods Lane, and Terrace Woods Park. The project plans to address drainage from an existing walking path. Some components of the project include pavers to redirect flow, designed dry creek bed type infiltration trench, perforated pipe under drain, and landscaping. The preliminary design plan and section schematics are provided in the *Supplemental Project Element*

Information section of this document. The exact locations of improvements are to be determined by Grantee and Construction Consultant(s) during project.

Design guidance for infiltration trenches can be located in the *LFUCG – Stormwater Management Low Impact Development Guidelines for New Development and Redevelopment* found at Lexington’s website.

The Water Quality Fees Board, at the time of approval, voiced a preference of planting trees, shrubs, and native grasses instead of sod. This is not a requirement of this grant, only a suggestion to be considered during design and construction.

REPORTING REQUIREMENTS

In addition to the detailed reporting requirements listed in the Grant Award Agreement, the following special items are noted for this project:

1. The Grantee shall obtain written approval/agreement prior to work being done on properties not owned by the Grantee. Copies of the written approval/agreements for all properties shall be provided to the LFUCG Grant Manager prior to beginning any work.
2. The Grantee shall provide a set of record drawing schematics, of actually installed field elements, to LFUCG Grant Manager with the Final Project Report.
3. An Operation and Maintenance Plan (O&M) shall be generated and provided to Grantee and LFUCG Grant Manager. A copy of the O&M Plan shall be made available to property owners with improvements on their property.
4. Grantee is responsible for obtaining any applicable local, state, or federal permits then providing them to the LFUCG Grant Manager.

PERMANENT FACILITIES/INFRASTRUCTURE

Permanent Capital Infrastructure: This grant includes Permanent Capital Infrastructure for purposes of the Grant Award Agreement.

Ownership: The proposed permanent facilities are expected to reside on private property in Fayette County and be owned by the property owners.

Future Inspection and Maintenance: The Organization (and/or Property Owner) agrees to sign and abide by the terms of the *Maintenance Agreement for Stormwater Control Facilities for Class A Incentive Grant Projects* included as Attachment B to the Grant Award Agreement. At the end of construction, the Organization may choose to: a) enter into the Agreement with LFUCG and assume responsibility for maintenance, or b) enter into the Agreement with LFUCG for responsibility to ensure maintenance, and enter into a second private agreement with the property owners to perform the future maintenance.

Monitoring by LFUCG: The Organization agrees to allow LFUCG staff future access to any property on which work is performed to monitor the installed features for compliance with this Agreement during the grant period. After the grant period has ended, the Organization agrees to allow LFUCG access for monitoring per the terms of the Maintenance Agreement. Water quality sampling via grab samples or other methods may be employed by LFUCG staff as part of LFUCG’s annual reporting requirement of its Kentucky Pollutant Discharge Elimination System (KPDES) MS4 Phase 1 permit.

ADDITIONAL GRANT STIPULATIONS

- a) Grantee shall obtain written approval/agreement prior to work being done on properties not owned by the applicant.
- b) Infiltration trench or pavers shall not be installed within 10’ of either side of existing sanitary sewer and measures shall be taken to prevent infiltrating water from entering into the sanitary sewer stone trench.
- c) The Operations and Maintenance Plan for the infiltration trench and pavers shall include prohibitions against storage of certain materials on the trench or pavers.

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 – PRELIMINARY PROJECT SCHEDULE

Activity	Anticipated Date (s)
Notice to Proceed (NTP)	April 2015
Purchase pavers, sod, and landscape for side garden	May 2015 (within first week of project)
Purchase supplies and install creek bed	May 2015
Landscape creek bed and surrounding area	May 2015
Sod surrounding areas	May 2015
Project Closeout	June 2015
Provide Project Final Report to LFUCG	June 2015 (30 days after project completion)
Final Payment (3% Retainer)	After acceptance of Project Final Report

PROJECT BUDGET – GRANT ELIGIBLE EXPENSES

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

Hours worked by participants under the age of 12 shall not be counted toward the cost share. Any donated professional service hours not currently listed in the Eligible Expenses shall be valued, at a maximum, at the Median Hourly Wage for the expertise provided – from the U.S. Department of Labor, Bureau of Labor Statistics, State Occupational Employment and Wage Estimates for Kentucky (current website: www.bls.gov/oes/current/oes_ky.htm).

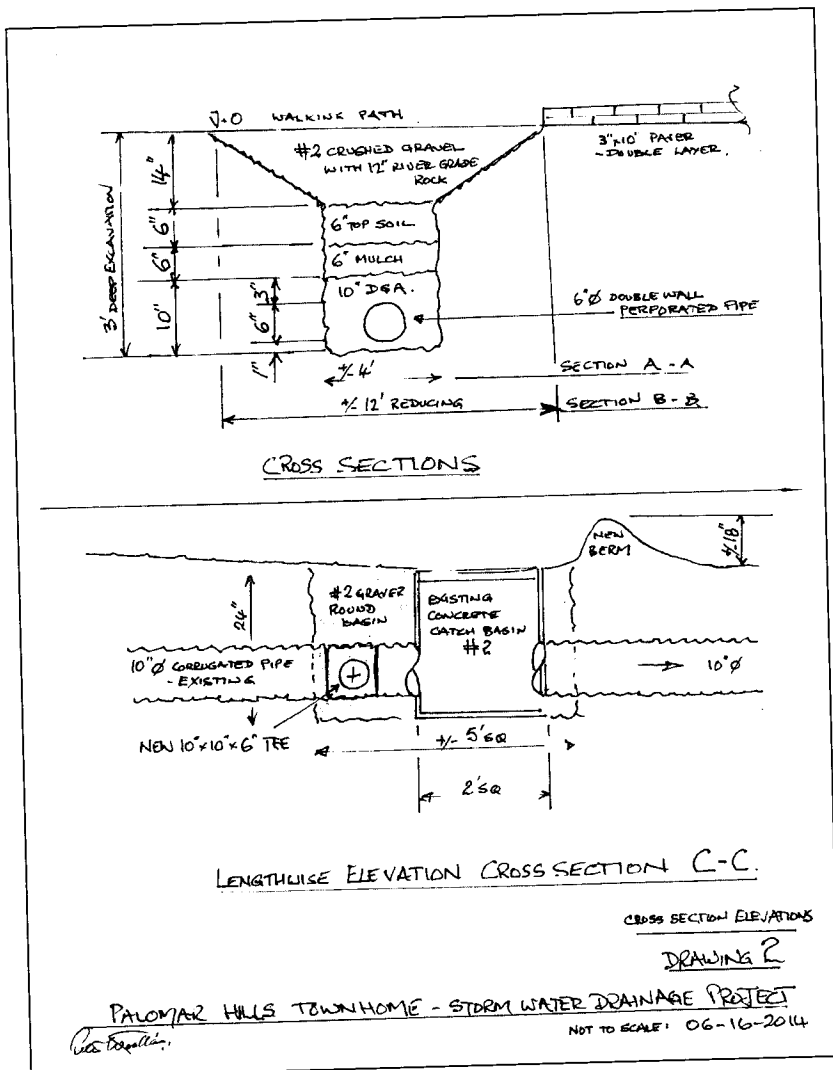
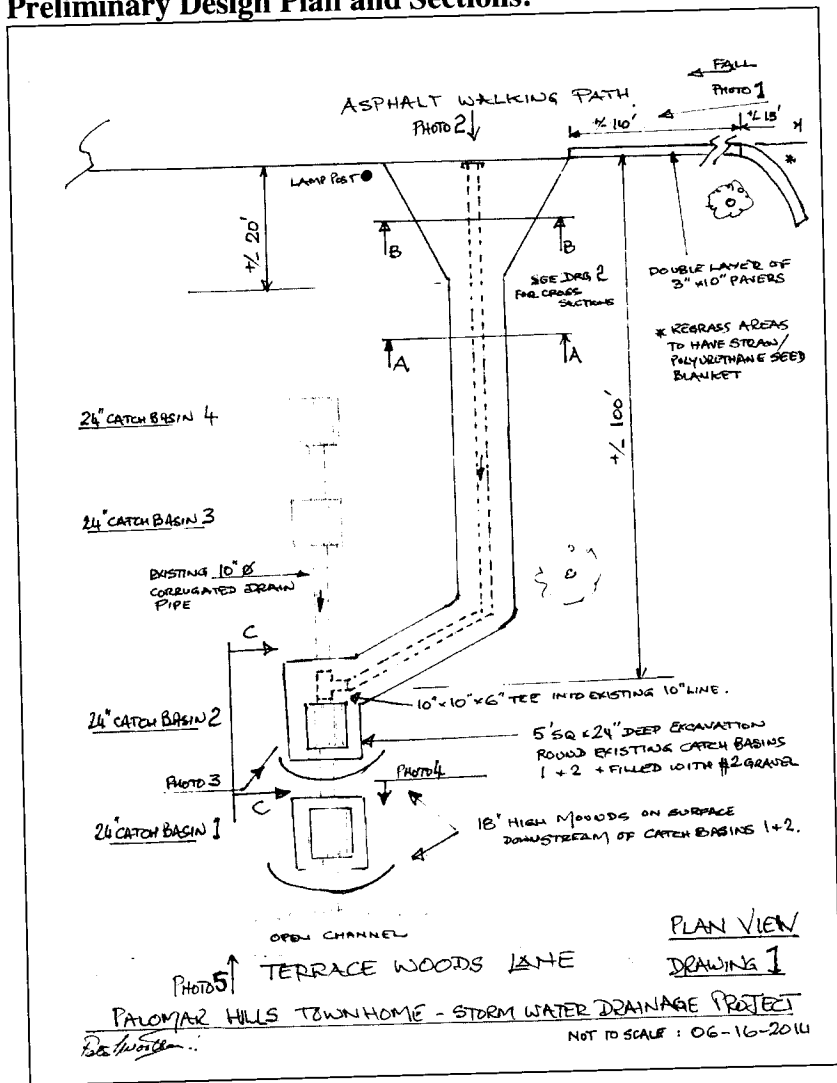
The construction estimate will be revised as part of the design process. The Grant is a not-to-exceed amount, and any cost overruns are the responsibility of the Grantee.

TABLE 2 – PROJECT BUDGET

							Grants by	Total
							Grant	Expense
2	Materials/Supplies	Contractor(s)	Fescue seed - 50 lbs.	\$ 70.00	per each	1	\$ - \$ 70.00	\$ 70.00
3	Materials/Supplies	Contractor(s)	6" double wall perforator drainage tile	\$ 2.60	per foot	100	\$ - \$ 260.00	\$ 260.00
4	Materials/Supplies	Contractor(s)	10" to 6" reducer tee	\$ 117.17	per each	1	\$ - \$ 117.17	\$ 117.17
5	Materials/Supplies	Contractor(s)	Blanket staples	\$ 10.58	per box	2	\$ - \$ 21.16	\$ 21.16
6	Materials/Supplies	Contractor(s)	Erosion control blanket	\$ 46.40	per each	4	\$ - \$ 185.60	\$ 185.60
7	Materials/Supplies	Contractor(s)	DGA	\$ 27.50	per ton	3	\$ - \$ 82.50	\$ 82.50
8	Materials/Supplies	Contractor(s)	Landscape paver	\$ 1.25	per each	260	\$ - \$ 325.00	\$ 325.00
9	Materials/Supplies	Contractor(s)	#2 Rock - 22.4 ton load	\$ 500.00	load	1	\$ - \$ 500.00	\$ 500.00
10	Materials/Supplies	Contractor(s)	Geotextile fabric liner	\$ 120.00	per each	1	\$ - \$ 120.00	\$ 120.00
11	Materials/Supplies	Contractor(s)	Mulch	\$ 25.00	per yard	6	\$ - \$ 150.00	\$ 150.00
12	Materials/Supplies	Contractor(s)	Topsoil	\$ 30.00	per yard	6	\$ - \$ 180.00	\$ 180.00
13	Materials/Supplies	Contractor(s)	Dogwood trees	\$ 130.00	per tree	7	\$ - \$ 910.00	\$ 910.00
14	Materials/Supplies	Contractor(s)	Azalea trees	\$ 30.00	per tree	16	\$ - \$ 480.00	\$ 480.00
15						Sub-Total:	\$ - \$ 3,401.43	\$ 3,401.43
16								
18	Labor/Services	Construction Consultant(s)	Pine tree removal and stump round	\$ 250.00	lump sum	1	\$ - \$ 250.00	\$ 250.00
19	Labor/Services	Construction Consultant(s)	Landscaping Labor	\$ 1,500.00	lump sum	1	\$ - \$ 1,500.00	\$ 1,500.00
20	Labor/Services	Construction Consultant(s)	Dry creek bed and infiltration system trench installation	\$ 7,690.00	lump sum	1	\$ - \$ 7,690.00	\$ 7,690.00
21	Labor/Services	Construction Consultant(s)	Dry creek bed and infiltration system trench installation	\$ 3,210.00	lump sum	1	\$ 3,210.00 \$ -	\$ 3,210.00
						Sub-Total:	\$ 3,210.00 \$ 9,440.00	\$ 12,650.00
22								
23								
24						TOTAL PROJECT BUDGET:	\$ 3,210.00 \$ 12,841.43	\$ 16,051.43
25						ORGANIZATION	GRANT	
26						SHARE**	SHARE	
27						20.0%	80.0%	
28						** Class A grants require a minimum 20% cost share.		

SUPPLEMENTAL PROJECT ELEMENT INFORMATION

Preliminary Design Plan and Sections:



**ATTACHMENT B
TO FY2015 CLASS A GRANT AWARD AGREEMENTS**

DO NOT WRITE ABOVE THIS LINE

Agreement to Maintain Stormwater Control Facilities for Class A Incentive Grant Projects

The upkeep and maintenance of stormwater control facilities is essential to the protection of aquatic resources. All property owners receiving grant funds from the Lexington-Fayette Urban County Government through the Stormwater Quality Projects Incentive Grant Program for construction of any stormwater control facility are expected to conduct business in a manner that promotes resource protection. For purposes of this document, a "stormwater control facility" is an equivalent term for "stormwater control device" or "stormwater management system or facility," and is any detention basin, detention pond, drainage way, extended detention basin, retention basin, catch basin, outlet, or any other structure or equipment or feature thereof, in whole or in part, designed to control stormwater quantity or improve stormwater quality. This Agreement contains specific provisions with respect to maintenance of the stormwater control facilities described below.

PROPERTY SITE ADDRESS: _____

PROPERTY OWNER NAME: _____

DESCRIPTION:

Funded by Stormwater Quality Projects Incentive Grant: Fiscal Year _____, Class A

Whereas, <property owner name> , has proposed to construct stormwater control facilities on the property described above and whereas the goals of the Lexington-Fayette Urban County Government are to ensure the protection and enhancement of Fayette County's aquatic resources, the **Lexington-Fayette Urban County Government (LFUCG)** and <property owner name> hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

THE <property owner name> HEREBY:

1. Agrees to implement the stormwater control facility Inspection, Operations, and Maintenance Plan developed for each facility and incorporated by reference herein.
2. Agrees to maintain the stormwater control facilities in good working condition, acceptable to the LFUCG, so that they are performing their design functions.
3. Grants permission to the LFUCG, its authorized agents and employees, to enter upon the property with reasonable advance notice of at least 24 hours and proper identification, except in such circumstances where advance notice is inappropriate for the purpose of entry, and to inspect the stormwater control facilities whenever the LFUCG deems necessary. The purpose

of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When deficiencies are noted, the LFUCG shall give <property owner name>, its successors and assigns, copies of the inspection report with findings and evaluations.

4. Agrees that in the event <property owner name>, its successors and assigns, fails to maintain the stormwater control facilities in good working condition acceptable to the LFUCG, the LFUCG may enter upon the property and take whatever steps it deems necessary to maintain said stormwater control facilities and to charge the costs of the repairs to <property owner name>, its successors and assigns. This provision shall not be construed to allow the LFUCG to erect any structure of a permanent nature on the land of <property owner name>, outside of an easement belonging to the LFUCG. It is expressly understood and agreed that the LFUCG is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any obligation on the LFUCG.

5. Agrees that in the event the LFUCG, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like on account of <property owner name> or its successors and assigns, <property owner name> shall reimburse the LFUCG upon demand, within 30 days of receipt thereof for all costs incurred by the LFUCG hereunder. If not paid within such 30 day period, the LFUCG shall have a lien against the property in the amount of such costs, plus interest at the Judgment Rate, and may enforce same in the same manner as a lien for real property taxes may be enforced.

6. Agrees to indemnify and hold harmless the LFUCG and its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the LFUCG related to the construction or maintenance of the stormwater facilities by <property owner name> or its agents.

In the event a claim is asserted against the LFUCG, its agents or employees for such matters, the LFUCG shall promptly notify <property owner name>, their successors and assigns, and they shall defend, at their own expense, any suit based on such claim. If any judgment or claims against the LFUCG, its agents or employees shall be allowed, <property owner name>, its successors, and assigns shall pay all costs and expenses in connection herewith.

7. Grants permission to the LFUCG, its authorized agents and employees, to enter upon the property with reasonable advance notice to <property owner name> and proper identification, and, at LFUCG expense, to install, operate, and maintain equipment to monitor the flow rate and pollutant content of the input flow, the effluent, and at intermediate points in the facility, all in such a manner that does not unreasonably interfere with the use of the property by <property owner name>. <property owner name> further agrees to design and construct the facility to provide reasonable access for such monitoring.

8. Agrees to maintain a record (in the form of a logbook) of steps taken to implement the programs referenced in (1) and (2) above. The logbook shall be available for inspection by the LFUCG staff at <property owner address or business office> during normal business hours. The logbook shall catalog the action taken, who took it, when the action was done, how it was done, and any problems encountered or follow-up actions recommended.

On property where a stormwater control device is located fully or partially underground, <property owner name> further understands that an annual inspection of the underground facility is required by LFUCG Code of Ordinances 16-88(c), and an annual inspection report, prepared by a Professional Engineer licensed to practice in Kentucky, must be submitted to the LFUCG compliance representative listed in this document. This report shall address the condition of the device for meeting its intended purpose, and shall be included with the annual report described in Section (9) below.

9. Agrees to submit an **Annual Report** to the LFUCG regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before January 31st of each calendar year and shall contain, at a minimum, the following items:
- A. Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.
 - B. Time period covered by the report.
 - C. Copy of all inspection reports performed as part of the operations and maintenance program referenced in (1) above, including if applicable, the annual inspection for underground devices described in (8) above.
 - D. A chronological summary of activities conducted to implement the program referenced in (1) and (2) above. A photocopy of the applicable sections of the logbook, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with <property owner name>, include a copy of the invoice for services.
 - E. An outline of planned activities for the next year.

<PROPERTY OWNER>

<BUSINESS ADDRESS>

BY: _____

NAME: _____

TITLE: _____

DATE: _____

The foregoing Agreement was subscribed, sworn and acknowledged before me by _____, as my authorized representative for and on behalf of _____, on this the _____ of _____, 20____.
My commission expires: _____.

NOTARY PUBLIC

On property where a stormwater control device is located fully or partially underground, <property owner name> further understands that an annual inspection of the underground facility is required by LFUCG Code of Ordinances 16-88(c), and an annual inspection report, prepared by a Professional Engineer licensed to practice in Kentucky, must be submitted to the LFUCG compliance representative listed in this document. This report shall address the condition of the device for meeting its intended purpose, and shall be included with the annual report described in Section (9) below.

9. Agrees to submit an **Annual Report** to the LFUCG regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before January 31st of each calendar year and shall contain, at a minimum, the following items:
- A. Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.
 - B. Time period covered by the report.
 - C. Copy of all inspection reports performed as part of the operations and maintenance program referenced in (1) above, including if applicable, the annual inspection for underground devices described in (8) above.
 - D. A chronological summary of activities conducted to implement the program referenced in (1) and (2) above. A photocopy of the applicable sections of the logbook, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with <property owner name>, include a copy of the invoice for services.
 - E. An outline of planned activities for the next year.

<PROPERTY OWNER>

<BUSINESS ADDRESS>

BY: _____

NAME: _____

TITLE: _____

DATE: _____

The foregoing Agreement was subscribed, sworn to and acknowledged before me by _____, as the duly authorized representative for and on behalf of _____, on this the ____ day of _____, 20____.

My commission expires: _____.

NOTARY PUBLIC

Maintenance Agreement Contact Information for Compliance

Owner Representative Name: _____

Business Address: _____

Representative's Phone Number: _____

Representative's E-Mail: _____

Urban County Government Information for compliance issues:

Contact: _____ LFUCG's MS4 Permit Coordinator

Address: _____ LFUCG Division of Water Quality

_____ 125 Lisle Industrial Avenue, Suite 125

_____ Lexington, KY 40511

Phone: _____ (859) 425-2400

Email: _____ MS4@lexingtonky.gov