

LOCAL PARTICIPATION AGREEMENT
FOR
FOUNTAINS AT PALOMAR DEVELOPMENT AREA
BY AND AMONG
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
A Kentucky Urban County Government
AND
DEPARTMENT OF FINANCE FOR
THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
AND
THE FOUNTAINS AT PALOMAR, LLC

- Exhibit A – The Development Area**
- Exhibit B – The Project**
- Exhibit C – The Elements of the Project to be supported with Incremental Revenues**
- Exhibit D – The Plan for Financing the Project**
- Exhibit E – Estimated Incremental Revenues**
- Exhibit F – Easement Area along Harrodsburg Road to be Dedicated for Pedestrian/Bike Path**
- Exhibit G – Sanitary Sewer and Storm Water Improvements**

INDEX
TO
LOCAL PARTICIPATION AGREEMENT
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
AND
DEPARTMENT OF FINANCE FOR THE LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT
AND
THE FOUNTAINS AT PALOMAR, LLC

<u>SUBJECT</u>	<u>PAGE</u>
Recitals	3
SECTION I Recitals	5
SECTION II Definitions	5
SECTION III Parties	12
SECTION IV Duties and Responsibilities of LFUCG	12
SECTION V Duties and Responsibilities of the Agency	14
SECTION VI Duties and Responsibilities of the Developer.....	15
SECTION VII Identification and Pledge of Incremental Revenues	16
SECTION VIII Anticipated Benefits to the LFUCG	18
SECTION IX Description of Development Area	19
SECTION X Description of Project; Costs.....	19
SECTION XI Financing Plan	19
SECTION XII Commencement Date; Activation Date; Termination Date.....	20
SECTION XIII Default	20
SECTION XIV Governing Law	21
SECTION XV Severability	21
SECTION XVI Force Majeure	22
SECTION XVII Notices	22
SECTION XVIII Approvals	23
SECTION XIX Entirety of Agreement.....	24
SECTION XX Successors and Assigns	24
SECTION XXI Headings and Index.....	25
SECTION XXII Exhibits	25
SECTION XXIII No Waiver.....	25
SECTION XXIV Construction.....	25
SECTION XXV Multiple Counterparts	25
SECTION XXVI Relationship of the Parties	26
SECTION XXVII No Third Party Beneficiary	26
SECTION XXVIII Diligent Performance.....	26
SECTION XXIX Assignment of Rights and Delegation of Duties	27

**LOCAL PARTICIPATION AGREEMENT
Fountains at Palomar Development Area**

THIS LOCAL PARTICIPATION AGREEMENT (this "Agreement") is made as of the date of the Tax Incentive Agreement [as hereinafter defined] (the "Effective Date") by and among the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, a Kentucky urban county government (the "LFUCG"), the DEPARTMENT OF FINANCE OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT (the "Agency"), and THE FOUNTAINS AT PALOMAR, LLC, a Kentucky limited liability company, ("Developer"), collectively (the "Parties"):

RECITALS

WHEREAS, pursuant to the Act, as hereinafter defined, the LFUCG has on the 12 day of September 2019, adopted Ordinance Number 63209, (the "Development Area Ordinance"), whereby it established The Fountains at Palomar Development Area (the "Development Area") for the purpose of promoting a mixed-use development of previously developed land; and

WHEREAS, the Council of the LFUCG recognizes and determines individually that the real property that constitutes the Development Area has been and is currently characterized by previously developed parcel and some vacant and underutilized land with inadequate infrastructure, that continuation of the underutilized status of this land within the Development Area will discourage and interfere with LFUCG's growth policies to encourage the sensible development of land within the existing Urban Service Area, and that the acquisition, financing, construction and development of those improvements and buildings, as identified in Exhibit B herein (collectively, the "Project"), will contribute to the public welfare of the citizens of Fayette County, and the Common-

wealth of Kentucky (the "State") and will thereby materially enhance the area and be in furtherance of the general health and welfare of the citizens of Fayette County and the State; and

WHEREAS, the Council of the LFUCG recognizes and determines individually that the project is a mixed-use development which includes both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government; and

WHEREAS, the Parties recognize that the development of the Development Area, will not likely occur as planned without a public-private partnership and financial assistance provided to the Project by the LFUCG and the State; and

WHEREAS, the Parties desire to set forth the duties and responsibilities of the Parties with respect to the administration, financing and pledging of Incremental Revenues in support of the development of the Project within the Development Area; and

WHEREAS, pursuant to the Development Area Ordinance, the Council of the LFUCG has authorized the Mayor to execute and enter into this Agreement with the Agency and Developer, and the LFUCG desires to enter into this Agreement; and

WHEREAS, pursuant to the Development Area Ordinance, the Council of the LFUCG has authorized the Commissioner of Finance to execute and enter into this Agreement with the LFUCG and Developer, and the Agency desires to enter into this Agreement; and

WHEREAS, pursuant to a resolution approved by the Developer, the Developer has authorized its managing member to execute and enter this Agreement with the LFUCG and the Agency, and the Developer desires to enter into this Agreement; and

WHEREAS, pursuant to the Act (as hereinafter defined), the LFUCG, the Agency and Developer desire to set forth their mutual agreements, understandings and obligations in this Local Participation Agreement, in order to facilitate development of the Project within the Development Area.

STATEMENT OF AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, and in consideration of the premises and the mutual covenants and undertakings contained herein, it is agreed and covenanted by and among the Parties hereto as follows:

SECTION I Recitals

The Parties hereto agree that the above "recitals" or "recital clauses" are incorporated herein by reference as if fully restated herein and form a part of the agreement among the Parties hereto.

SECTION II Definitions

For the purposes of this Agreement, the following words and phrases shall have the meanings assigned in this Section II, unless the context clearly indicates that a contrary or different meaning is intended.

1. "Act" or "the Act". Shall mean KRS 65.7041 to KRS 65.7083, KRS 154.30-010-154.30-090.

2. "Activation". Shall mean the 1st day of the calendar year for the computation of LFUCG Incremental Revenues, which shall be determined as provided in Section XII of this Agreement, but which shall be no later than four (4) years from the date of the Tax Incentive Agreement.

3. "Administrative Costs". Shall mean those costs set forth in the Master Development Agreement at Section V(A) to be retained by Agency before reimbursing any costs to the Developer for Public Infrastructure Costs.

4. "Agreement". Shall mean this Local Participation Agreement, including all Exhibits attached hereto.

5. "Approved Public Infrastructure Costs". Shall be the Capital Investment, as defined in the Act, within the Development Area that is approved for reimbursement under the Act by KEDFA, and as further identified in the Tax Incentive Agreement.

6. "Developer" or "Master Developer". Shall mean The Fountains at Palomar, LLC, a Kentucky limited liability company, its successors, affiliates, subsidiaries or related entities.

7. "Development Area". Shall have the meaning given in the Recitals to this Agreement.

8. "Development Area Ordinance". Shall mean Ordinance No. 63-209, adopted by the LFUCG on September 12, 2019.

9. "Easement Area". Shall mean the Commonwealth of Kentucky's right-of-way along Harrodsburg Road for the possible future construction, by the LFUCG, of a pedestrian/bike path (17. to 20 feet in width); or in the event the Commonwealth of Kentucky does not allow the construction of the pedestrian/bike path within its right-of-

way, the Developer grants and shall cause to be granted a ten (10) foot wide easement to LFUCG for a pedestrian/bike path, along Harrodsburg Road, all as delineated on Exhibit F. As reflected on Exhibit F, this easement shall run parallel to the Fountains at Palomar property on Harrodsburg Road and parallel to the Palomar Shopping Center along Harrodsburg Road. It is understood that the Commonwealth of Kentucky will have to grant permission for the use of its right-of-way. Additionally, other property owners, which own property along Harrodsburg Road, will have to grant easements to LFUCG to continue the extension of the pedestrian/bike path should the Commonwealth of Kentucky not allow the construction of the pedestrian/bike path within its right-of-way.

This grant of easement by the Developer to LFUCG is subject to the following: (a) the ground lease with Central Bank or its successor, (b) the necessary functionality of the storm water detention basin located in Palomar Shopping Center and/or any storm water management improvements that may be necessary in furtherance of the Developer's commitment as referenced in this agreement and the Master Development Agreement, (c) the location of this easement shall be within the 20 foot wide landscape buffer area along Harrodsburg Rd that the Developer has previously committed to installing and maintaining and (d) any landscaping that might be installed by LFUCG within this 10 foot easement must be limited in height so that it does not obstruct the view of the Palomar Shopping Center buildings or the buildings to be located in the Fountains at Palomar.

10. "Effective Date". Shall have the meaning given in the introductory paragraph of this Agreement.

11. "Financing Plan". Shall mean the plan for financing the Project as described in Section XI of this Agreement and in Exhibit D attached hereto, as it may be amended with the approval of the Parties.

12. "Footprint". Shall mean the Project area for the calculation of State Incremental Revenues as set forth in the Tax Incentive Agreement.

13. "KEDFA". Shall mean the Kentucky Economic Development Finance Authority.

14. "LFUCG Incremental Revenues". Shall mean the amount of tax revenues received by LFUCG with respect to the Footprint by subtracting Old Revenues from New Revenues in a calendar year after Activation.

15. "LFUCG". Shall mean the Lexington-Fayette Urban County Government, a Kentucky urban county government organized under the provisions of Chapter 67A of the Kentucky Revised Statutes.

16. "LFUCG Authorizations". Shall mean those necessary governmental authorizations, resolutions, orders, hearings, notices, ordinances, and other acts, required by laws, rules, or regulations to provide the LFUCG and its officers with the proper authority to perform all obligations of the LFUCG resulting from this Agreement and perform all other obligations of the LFUCG made necessary by, or resulting from the establishment of the Development Area.

17. "Master Development Agreement". Shall mean the Master Development Agreement among LFUCG, the Agency, and the Developer relating to the Project, dated the 12 day of September, 2019, attached as Exhibit D to the Development Area Ordinance.

18. "New Revenues". Shall mean the total taxes received by LFUCG from the Footprint during each calendar year after Activation, (1) from real property *ad valorem* taxes, including the general rate only applicable to Fayette County, excluding the special tax rates for refuse, street cleaning and street lights, and excluding any portion of the general *ad valorem* tax rate designated for the Lexington Public Library District, and (2) from occupational taxes (net profits taxes and employee payroll taxes); provided that New Revenues from occupational taxes shall not include occupational taxes, including employee payroll taxes, from any business in Fayette County that relocates to the Footprint.

19. "Old Revenues". Shall mean the total taxes received by LFUCG from occupational taxes (net profits taxes and employee payroll taxes) and from real property *ad valorem* taxes, including the general rate only applicable to Fayette County, excluding the special rates for refuse, street cleaning and street lights, and any portion of the general *ad valorem* tax rate designated for the Lexington Public Library District from the Footprint for base year as set forth in the Tax Incentive Agreement.

20. "Project Financing". Shall mean the financing needed to provide for the development and construction of the Project elements or any financing received by the Developer, not including the pledge of LFUCG Incremental Revenues and/or State Incremental Revenues.

21. "Project". Shall mean the improvements within the Development Area.

22. "Public Infrastructure Costs". Shall mean the project costs incurred within the Development Area related to the construction and financing of the Project, including both Approved Public Infrastructure Costs and Redevelopment Assistance, as set forth

and identified in Exhibit C of this Agreement, reimbursable by incremental revenues from the State and LFUCG, respectively, provided that the maximum amount of Public Infrastructure Costs that may be reimbursed from LFUCG Incremental Revenues from occupational taxes from business net profits and employee payroll taxes, shall not exceed the Reimbursement Cap, and further, Public Infrastructure Costs to be reimbursed with LFUCG Incremental Revenues shall not be the same costs submitted for reimbursement from State Incremental Revenues.

23. “Redevelopment Assistance”. Shall mean have the meaning as provided in the Act and shall be limited to the Public Infrastructure Costs as set forth in Exhibit “C”.

24. “Reimbursement Cap”. Shall mean the maximum amount of Public Infrastructure Costs that may be reimbursed from LFUCG Incremental Revenues from occupational taxes, which include business net profits and employee payroll taxes, which shall not include the same costs submitted for reimbursement from State Incremental Revenues pursuant to the Tax Incentive Agreement; and which shall not exceed \$3,000,000, subject to the Project generating at least that amount of pledged LFUCG Incremental Revenues, and subject to the Sanitary Sewer and Storm Water Improvements being completed. The pledge of LFUCG Incremental Revenues from real property *ad valorem* taxes to pay for or reimburse Public Infrastructure Costs shall not be limited by the Reimbursement Cap.

25. “Special Fund”. Shall mean the Fountains at Palomar Development Area Special Fund established in the Development Area Ordinance and maintained by the Agency, for the purpose of holding the LFUCG Incremental Revenues and the State

Incremental Revenues pledged herein or by the Tax Incentive Agreement in connection with the development of the Project.

26. "State". Shall mean the Commonwealth of Kentucky, including any of its agencies and departments.

27. "State Incremental Revenues". Shall mean the incremental state taxes pledged to reimburse Approved Public Infrastructure Costs as set forth in the Tax Incentive Agreement.

28. "Sanitary Sewer and Storm Water Improvements". Shall mean upgrades and improvements to the sanitary sewer system and storm water system, as shown on the plans for the Project, attached as Exhibit "G", including the extension and upsizing of the sanitary sewer line and increased storm water detention facilities for on and off-site areas, which are needed for the Project and which benefit the adjacent neighborhoods, and which improvements must be approved by the LFUCG Division of Water Quality, and with the sanitary and storm water lines dedicated to LFUCG, as determined by the LFUCG Division of Water Quality.

29. "Tax Incentive Agreement". Shall mean the anticipated agreement between KEDFA and the Agency related to the pledge of State Incremental Revenues to pay for Approved Public Infrastructure Costs in connection with the construction of the Project.

30. "TIF Documents". Shall mean the Development Area Ordinance, the Agreement, the Master Development Agreement, and the Tax Incentive Agreement.

31. "Unavoidable Delays". Shall mean delays due to labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, governmental regulations not in effect

at the date of execution of this Agreement, conditions that could not have been reasonably foreseen by the claiming party, inability to obtain construction materials or energy, fire, or unavoidable casualty, provided such matters are beyond the reasonable control of the party claiming such delay.

SECTION III Parties

The parties to this Agreement shall be the LFUCG, the Agency, and the Developer.

SECTION IV Duties and Responsibilities of LFUCG

The LFUCG shall have the following duties and responsibilities in connection with the development of the Development Area:

1. Provide for the establishment of the LFUCG Special Fund for the collection of Incremental Revenues pledged herein from LFUCG real property *ad valorem* taxes and occupational taxes (consisting of business occupational taxes and employee payroll taxes), within the Development Area from the Project.

2. On the condition that the Project is approved for a pledge of State Incremental Revenues and a Tax Incentive Agreement between KEDFA and the Agency is executed related thereto, pledge eighty percent (80%) of the LFUCG Incremental Revenues to pay for Administrative Costs and then to reimburse the Developer for costs expended for Public Infrastructure Costs, which amount shall not exceed the Reimbursement Cap (with the understanding the Reimbursement Cap shall not impact the pledge of LFUCG Incremental Revenues from real property *ad valorem* taxes), for up to a twenty (20) year period, which pledge is made in Section VII herein.

3. Make, in participation with the Agency and the Developer, application to the KEDFA requesting State participation in accordance with applicable provisions of the Act. The application shall request State participation, as provided in the Financing Plan; provided that the Developer shall pay the cost of any application and administrative fees to KEDFA, any consultant fees, and any professional fees incurred by KEDFA related to filing and approval of the application, and/or related to the approval of the Tax Incentive Agreement; and any out of pocket costs, including professional fees, incurred by LFUCG relating to the establishment of the Development Area and the approval of the Tax Incentive Agreement, and any amendments thereto.

4. Designate the Agency as the entity responsible for the oversight, administration, and implementation of the Development Area Ordinance.

5. Meet as may be required with the Developer and the Agency for the purpose of reviewing the progress of the development of the Development Area and prepare an analysis of such progress for distribution to the Agency and the State in accordance with the TIF Documents and Act.

6. Require its Department of Finance, as the "Agency" for purposes of the Act, to prepare by no later than April 1st, or such other date to meet the reporting schedule of KEDFA and/or the State to receive State Incremental Revenues under the Tax Incentive Agreement, of each year during the term of this Agreement an annual report and provide same to the LFUCG and KEDFA including, but not limited to: (a) the New Revenues collected within the Footprint during the previous calendar year; (b) a determination of LFUCG Incremental Revenues collected within the Footprint during the previous calendar year; and (c) the amount, if any, of LFUCG Incremental Revenues

and State Incremental Revenues expended from the Special Fund to pay for or reimburse Public Infrastructure Costs and Administrative Costs in connection with the Project.

7. Upon Developer's request provide, or require the Agency to provide, written confirmation that the Developer is in good standing with its obligations under the terms of this Agreement.

SECTION V
Duties and Responsibilities of the Agency

The Agency shall have the following duties and responsibilities in connection with the development of the Development Area:

1. Act as the entity responsible for the oversight, administration, and implementation of the Development Area Ordinance.

2. Participate with the LFUCG and Developer in the application to KEDFA, requesting State participation in accordance with the applicable provisions of the Act. The application shall request State participation, as provided in the Financing Plan.

3. Meet as may be required with the Developer and the LFUCG for the purpose of reviewing the progress of the development of the Development Area and prepare an analysis of such progress for distribution to the Agency and the State in accordance with the Act.

4. Prepare by no later than April 1st, or such other date to meet the reporting schedule of KEDFA, or the State to receive State Incremental Revenues under the Tax Incentive Agreement, of each year during the term of this Agreement an annual report and provide same to the LFUCG, the Developer and KEDFA including, but not limited to: (a) New Revenues collected within the Development Area during the previous

calendar year; (b) a determination of LFUCG Incremental Revenues collected within the Footprint during the previous calendar year; and (c) the amount, if any, LFUCG Incremental Revenues and State Incremental Revenues expend from the Special Fund on to pay for or reimburse Public Infrastructure Costs and Administrative Costs.

5. Comply with any requirements and carry out any duties and responsibilities as the Agency under the terms of the TIF Documents, including expending LFUCG Incremental Revenues and State Incremental Revenues required by the Agency as required by this Agreement the Tax Incentive Agreement.

SECTION VI
Duties and Responsibilities of the Developer

1. The Developer shall be responsible for managing, coordinating, designing, obtaining necessary Project Financing, and constructing the Project, as provided in the Master Development Agreement,

2. The Developer shall meet with the LFUCG and Agency as requested to provide updates regarding the status of the Project. The Developer, for as long as required by the Master Development Agreement and/or Tax Incentive Agreement, shall provide annually to the Agency a certified account of Capital Investment (as defined in the Act) and Public Infrastructure Costs that have been expended on the Project.

3. The Developer shall provide the Agency information related to the Project in order to enable the Agency to timely comply with any reporting requirements related to the Project as set forth in the Tax Incentive Agreement. The Developer shall also request that businesses within the Development Area to obtain separate local and state business licenses and to assist LFUCG in the tracking and computing of New Revenues related to the computation of the LFUCG Incremental Revenues and State Incremental

Revenues. To the extent a business files consolidated occupational license returns for its business, that business must provide sufficient documentation, as determined by the Agency in its sole discretion, of the amount of LFUCG Incremental Revenues generated from within the Development Area for that businesses occupational taxes to be included with the calculation of New Revenues.

4. In the event the Developer fails to timely comply with the reporting and other requirements in Section VI(3) of this Agreement, the LFUCG, may at its option, suspend the payments of LFUCG Incremental Revenues or State Incremental Revenues to the Developer as required herein, until such time as the Developer complies with the reporting or other requirements; provided, that after notice the Developer fails to provide the requested information, or repeatedly provides the information late, the LFUCG and Agency may terminate this Agreement, which termination shall be provided by written notice to the Developer.

5. The Developer after the completion of the Project shall dedicate the Easement Area, if necessary, for the possible future construction of the pedestrian/bike path referenced herein and depicted on Exhibit "F".

SECTION VII Identification and Pledge of Incremental Revenues

1. On the condition that the Project is approved for a pledge of State Incremental Revenues and a Tax Incentive Agreement between KEDFA and the Agency is executed related thereto, the LFUCG hereby pledges eighty percent (80%) of the LFUCG Incremental Revenues, to pay for Administrative Costs and then to reimburse the Developer for costs expended for Public Infrastructure Costs, not to exceed the Reimbursement Cap, except that the Reimbursement Cap shall not impact

the pledge of LFUCG Incremental Revenues from real property *ad valorem* taxes, for up to a twenty (20) year period after Activation of the Development Area and the release of LFUCG Incremental Revenues shall not occur until any Minimum Capital Investment, as defined in the Tax Incentive Agreement, has been achieved and certified, and the Sanitary Sewer and Storm Water Improvements have been completed and dedicated to LFUCG, if required, and the Easement Area, if necessary, has been dedicated to LFUCG as required by Section VI(5) of this Agreement. The LFUCG Incremental Revenues shall be determined by calculating the New Revenues collected from the Footprint, and subtracting the Old Revenues collected from within the Footprint. New Revenues shall be determined by the actual amount of New Revenues received within the calendar year for the respective calendar year in question, and shall not include the applicable LFUCG tax revenues pledged as New Revenues from taxpayers within the Footprint for the respective calendar year paid after the end of the calendar year, and shall not include interest of penalty paid on delinquent taxes.

2. An estimate of the Old Revenues collected by the LFUCG from within the Development Area is included in Exhibit E.

3. LFUCG Incremental Revenues pledged by the LFUCG in this Section shall be deposited at least annually, no later than each June 1st after the first calendar year of Activation, to the Special Fund and shall be held by the Agency and used solely for to pay Administrative Costs and then to reimburse the Developer for Public Infrastructure Costs, up to the amount of the Reimbursement Cap from LFUCG Incremental Revenues from occupational taxes, and for no other purpose. Such Special Fund shall be continued and maintained until the Termination Date (as defined in the Development

Area Ordinance) of the Development Area. Amounts in the Special Fund, together with interest accruing thereon, are hereby irrevocably pledged for the payment of costs as provided in this Section VII of this Agreement, and for no other purpose.

4. LFUCG Incremental Revenues and State Incremental Revenues that are deposited in the Special Fund and due to the Developer shall be paid to the Developer no later than sixty (60) days from the date they are deposited in the Special Fund, but subject to the conditions on the release of LFUCG Incremental Revenues as set forth in Section VII(1) of this Agreement, and provided that the payments to the Developer from LFUCG Incremental Revenues from occupational taxes shall not exceed the Reimbursement Cap.

5. At the Termination Date (as defined in the Development Area Ordinance), after all amounts due the Developer as provided herein have been paid, any amounts remaining in the Special Fund shall be transferred to the General Fund of the LFUCG.

SECTION VIII Anticipated Benefits to the LFUCG

The LFUCG anticipates receiving substantial benefits as a result of the pledge of their Incremental Revenues to support development of the Development Area as set forth herein. Estimates of Old Revenues and projected New Revenues for the LFUCG on an annual basis during the term of this Agreement are attached as Exhibit E hereto. The maximum amount of LFUCG Incremental Revenues to be paid by the LFUCG shall be eighty percent (80%) of the LFUCG Incremental Revenues generated from the Development Area, but subject to the other conditions of this Agreement, and the maximum number of years the payment of Incremental Revenues to support the development of the Development Area will be made is twenty (20) years.

SECTION IX
Description of Development Area

A detailed description of the Development Area is set forth in Exhibit A hereto.

SECTION X
Description of Project; Costs

A description of the Project as planned is set forth in Exhibit B hereto. Also included in Exhibit B is an estimate of the costs of construction and development of the proposed Project. The elements of the Project planned to be supported or paid for with LFUCG Incremental Revenues and State Incremental Revenues are listed on the attached Exhibit C, subject to further amendment with approval by the Parties.

SECTION XI
Financing Plan

The financing for the Project shall generally be in accordance with the Financing Plan set forth in Exhibit D attached hereto. It is understood that the Financing Plan for the Project may be modified as development of the Project progresses and that more specific details of the nature of each aspect of financing the Project shall be more particularly contained in any Project Financing and other documents at the time that each aspect of the financing needed for the Project is obtained; provided, the LFUCG Incremental Revenues and the State Incremental Revenues shall be used to reimburse Public Infrastructure Costs expended by the Developer, and LFUCG will not issue bonds to pay for the Public Infrastructure Costs.

IT IS UNDERSTOOD BY THE PARTIES THAT THE PROJECT FINANCING FOR THE PROJECT AS PROVIDED IN THIS AGREEMENT SHALL NOT CONSTITUTE A DEBT OF THE LFUCG, THE AGENCY OR THE STATE OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE LFUCG, THE AGENCY OR THE STATE AND

THE LFUCG, THE AGENCY AND THE STATE SHALL HAVE NO OBLIGATION, WHATSOEVER, TOWARD THE PAYMENT OF ANY DEVELOPER'S COSTS FOR THE PROJECT BEYOND THE PLEDGE OF LFUCG INCREMENTAL REVENUES OR STATE INCREMENTAL REVENUES AS PROVIDED FOR IN THIS AGREEMENT, AND THAT ANY PROJECT FINANCING NEEDED FOR THE PROJECT SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.

SECTION XII

Commencement Date; Activation Date; Termination Date

This Agreement shall commence and be effective as of the date of execution hereof by the LFUCG. The Activation date for the pledge of Incremental Revenues as set forth in Section VI hereof shall be determined by the LFUCG and Developer in accordance with the Act. This Agreement shall terminate twenty (20) years after the Activation date as set forth above. This Agreement shall not terminate upon the execution of any deeds or other agreements required or contemplated by this Agreement, or referred to herein, and the provisions of this Agreement shall not be deemed to be merged into the deeds, or any other such deeds or other agreements, it being the intent of the parties hereto that this Agreement shall survive the execution and delivery of any such agreements.

SECTION XIII

Default

If the LFUCG or the Agency (a "Defaulting Party") shall default in its obligation to make payments of Incremental Revenues set forth herein, the Agency (unless it is the Defaulting Party), the Developer and/or the indenture trustee or trustees for outstanding financing obligations secured by such Incremental Revenues shall have the power to enforce the provisions of this Agreement against the Defaulting Party. If the LFUCG or

the Agency materially breaches or defaults on any of its nonpayment related obligations under this Agreement, The Developer, and/or the indenture trustee or trustees for the outstanding financing obligations may give notice that remedial action must be taken within thirty (30) days. The Defaulting Party shall correct such breach or default within thirty (30) days after such notice, provided however that if (i) the default is one which cannot with due diligence be remedied by the Defaulting Party within thirty (30) days and (ii) the Defaulting Party proceeds as promptly as reasonably possible after such notice and with all due diligence to remedy such default, the period after such notice within which to remedy the default shall be extended for such period of time as may be necessary to remedy the same with all due diligence.

SECTION XIV
Governing Law

The laws of the Commonwealth of Kentucky shall govern as to the interpretation, validity and effect of this Agreement.

SECTION XV
Severability

If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties essential objectives as expressed herein.

SECTION XVI
Force Majeure

The LFUCG shall not be deemed to be in default in the performance of any obligation on such parties' part to be performed under this Agreement, other than an obligation requiring the payment of a sum of money, if and so long as the non-performance of such obligation shall be directly caused by Unavoidable Delays; provided, that within fifteen (15) days after the commencement of such Unavoidable Delay, the non-performing party shall notify the other party in writing of the existence and nature of any such Unavoidable Delay and the steps, if any, which the non-performing party shall have taken or planned to take to eliminate such Unavoidable Delay. Thereafter, the non-performing party shall, from time to time, on written request of the other party, keep the other party fully informed, in writing, of further developments concerning such Unavoidable Delay and the effort being made by the non-performing party to perform such obligation as to which it is in default. All provisions of any construction schedule shall be adjusted in accordance with such Unavoidable Delay.

SECTION XVII
Notices

Any notice to be given under this Agreement shall be in writing, shall be addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three (3) days following deposit in the U.S. Mail with proper postage prepaid, Certified or Registered, (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by telecopy or personal delivery:

If to the LFUCG: Linda Gorton
Mayor
200 East Main Street
Lexington, Kentucky 40507

With a Copy to: Susan Speckert
Commissioner of Law
200 East Main Street
Lexington, Kentucky 40507

With additional
Copies to: Kevin Atkins
Chief Development Officer
200 E. Main Street
Lexington, Kentucky 40507

If to the Agency: William O'Mara
Commissioner of Finance
200 East Main Street
Lexington, Kentucky 40507

With additional
Copies to: Kevin Atkins
Chief Development Officer
200 East Main Street
Lexington, KY 40507

If to Developer: The Fountains at Palomar, LLC
Attn: Phillip Lee Greer
866 Malibu Drive
#350
Lexington, KY 40502

With Copies
(which shall not
constitute notice) to: Bruce Simpson
Stoll Keenon Ogden PLLC
300 W. Vine Street, Suite 2100
Lexington, KY 40507

SECTION XVIII
Approvals

Whenever a party to this Agreement is required to consent to, or approve, an action by the other party, or to approve any such action to be taken by another party, unless the context clearly specifies a contrary intention, or a specific time limitation,

such approval or consent shall be given within thirty (30) business days and shall not be unreasonably withheld or delayed by the party from whom such approval or consent is required.

SECTION XIX
Entirety of Agreement

As used herein, the term "Agreement" shall mean this Local Participation Agreement and the Exhibits attached hereto. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter herein contained, and supersedes all prior agreements, correspondence, arrangements, and understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party which has not been embodied in this Agreement, and no party shall be bound by or be liable for any alleged representation, promise, inducement, or statement of intention not so set forth. This Agreement may be amended, modified, superseded, or cancelled only by a written instrument signed by all of the parties hereto, and any of the terms, provisions, and conditions hereof may be waived only by a written instrument signed by the waiving party. Failure of any party at any time or times to require performance of any provision hereof shall not be considered to be a waiver of any succeeding breach of any such provision by any part.

SECTION XX
Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

SECTION XXI
Headings and Index

The headings in this Agreement and the Index are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof.

SECTION XXII
Exhibits

All exhibits to this Agreement shall be deemed to be incorporated herein by reference and made a part hereof, above the signatures of the parties hereto, as if set out in full herein.

SECTION XXIII
No Waiver

No waiver of any condition or covenant of this Agreement to be satisfied or performed by the LFUCG shall be deemed to imply or constitute a further waiver of the same, or any like condition or covenant, and nothing contained in this Agreement nor any act of either party, except a written waiver signed by such party, shall be construed to be a waiver of any condition or covenant to be performed by the other party.

SECTION XXIV
Construction

No provisions of this Agreement shall be construed against a party by reason of such party having drafted such provisions.

SECTION XXV
Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

SECTION XXVI
Relationship of the Parties

Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the Parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association among any of the Parties of this Agreement.

SECTION XXVII
No Third Party Beneficiary

Except as otherwise specified herein, the provisions of this Agreement are for the exclusive benefit of the LFUCG, the Agency, and the Developer, their successors and permitted assigns, and not for the benefit of any other person or entity, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any other person or entity.

SECTION XXVIII
Diligent Performance

With respect to any duty or obligation imposed on a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of the performance thereof. Notwithstanding the above, time is of the essence with respect to any time limit specified herein.

SECTION XXIX
Assignment of Rights and Delegation of Duties

No Party to this Agreement may assign this Agreement, or any part hereof, except as provided herein, without the prior written consent of the other Parties, except that the Developer may assign its rights to receive reimbursement for Public Infrastructure Costs to a financial institution that provides Project Financing. Nothing in this Section shall be construed to require prior written consent for the Developer to assign any of its rights or obligations under this Agreement to a subsidiary, affiliate or related entity.


(End of Document – Signature Page Follows)


Signature Page to Local Participation Agreement

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands on the date and year first above set forth herein, to be effective as of the Effective Date.

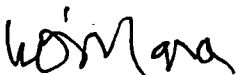
LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT
a Kentucky urban county government

Approval as to Form:

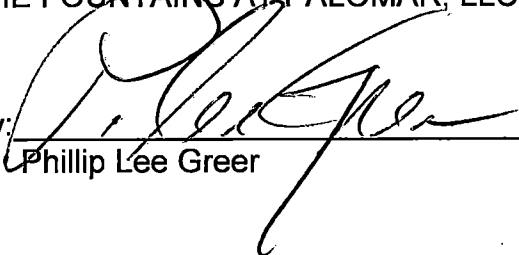
By: 
Linda Gorton, Mayor
Lexington-Fayette Urban County
Government


Susan Speckert
Commissioner of Law for the
Lexington-Fayette Urban County
Government

DEPARTMENT OF FINANCE FOR THE LEXINGTON-
FAYETTE URBAN COUNTY GOVERNMENT

By: 
William O'Mara
Commissioner of Finance for the
Lexington-Fayette Urban County
Government

THE FOUNTAINS AT PALOMAR, LLC

By: 
Phillip Lee Greer

EXHIBITS

Exhibit A: Development Area Map and Description

Exhibit B: The Project

Exhibit C: Elements of Project to be Financed with Incremental Revenues

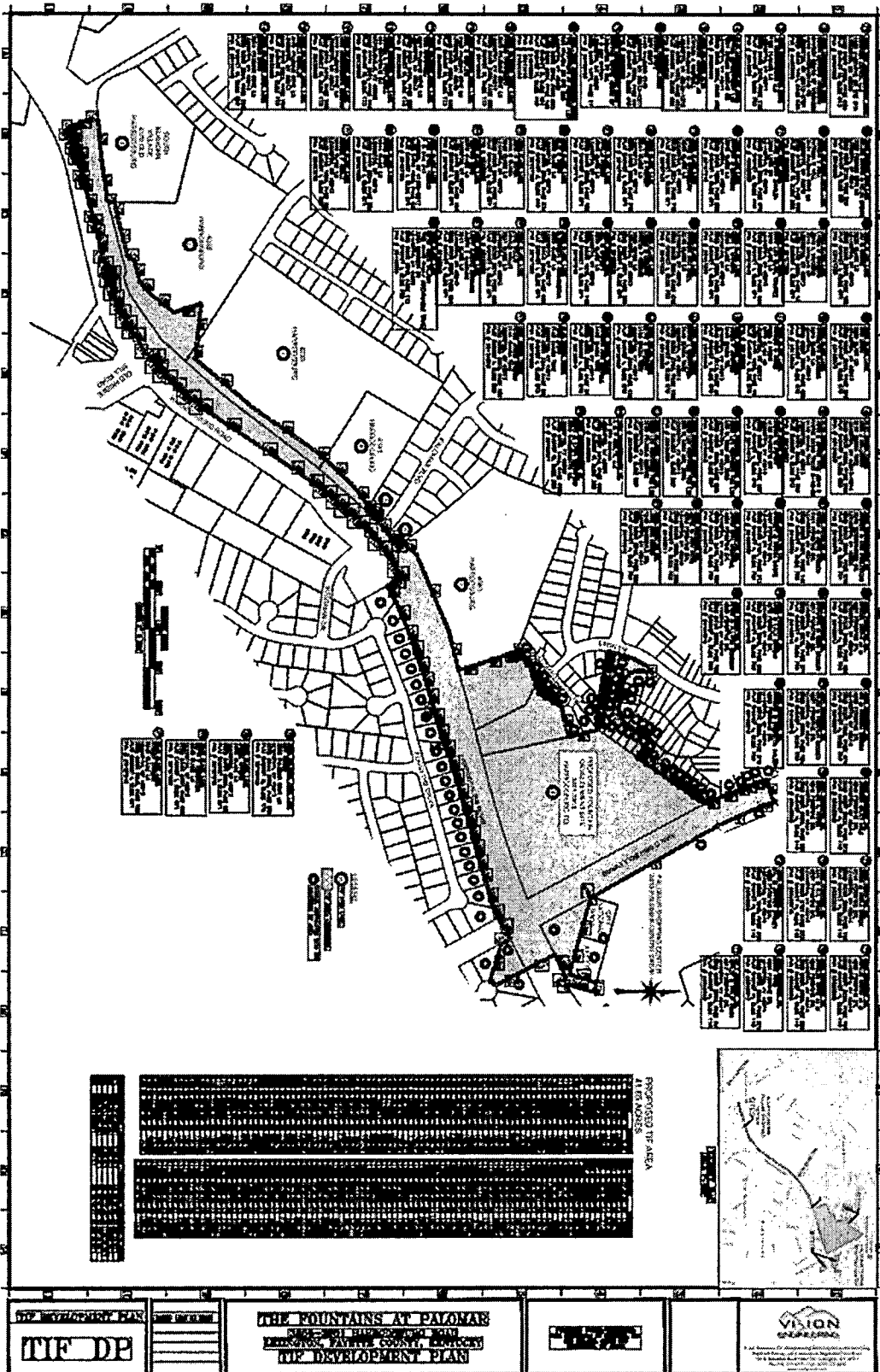
Exhibit D: Financing Plan

Exhibit E: Estimated Incremental Revenues

Exhibit F: Easement Area along Man O War Boulevard to be dedicated for pedestrian/bike path

Exhibit G: Sanitary Sewer and Storm Water Improvements

Exhibit A: Development Area Map and Description



BEGINNING AT THE POINT OF INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF MAN O' WAR BLVD. AND THE SOUTHERN RIGHT-OF-WAY OF HARRODSBURG RD.; THENCE CROSSING SAID MAN O' WAR BLVD. FOR ONE (1) CALL:

1. S58°58'51"W A DISTANCE OF 120.03' TO THE NORTHEAST CORNER ON GRASMERE SUBDIVISION, UNIT 2A AS DEPICTED IN PLAT CABINET A, SLIDE 759 OF THE FAYETTE COUNTY CLERK'S RECORDS; THENCE WITH THE NORTHERN AND WESTERN LINE OF SAID GRASMERE SUBDIVISION, UNIT 2A FOR THIRTEEN (13) CALLS:

2. S66°36'33"W A DISTANCE OF 55.97';
3. S73°05'48"W A DISTANCE OF 124.47';
4. S72°23'18"W A DISTANCE OF 77.48';
5. S74°07'13"W A DISTANCE OF 70.58';
6. S74°56'50"W A DISTANCE OF 74.98';
7. S74°42'24"W A DISTANCE OF 79.88';
8. S72°56'06"W A DISTANCE OF 69.13';
9. S73°53'26"W A DISTANCE OF 76.61';
10. S74°08'19"W A DISTANCE OF 72.07';
11. S72°11'55"W A DISTANCE OF 73.42';
12. S73°12'18"W A DISTANCE OF 78.66';
13. S72°39'01"W A DISTANCE OF 62.91';
14. S06°05'22"W A DISTANCE OF 10.72' TO THE NORTHEAST CORNER OF GRASMERE SUBDIVISION, UNIT 4 AS DEPICTED IN PLAT CABINET H, SLIDE 110; THENCE WITH THE NORTHERN LINE OF SAID GRASMERE SUBDIVISION, UNIT 4 FOR TEN (10) CALLS:

15. S74°30'48"W A DISTANCE OF 110.07';
16. S74°30'12"W A DISTANCE OF 50.58';
17. S74°12'35"W A DISTANCE OF 29.40';
18. S72°55'25"W A DISTANCE OF 100.22';
19. S73°32'27"W A DISTANCE OF 77.72';
20. S70°57'39"W A DISTANCE OF 84.36';
21. S70°34'12"W A DISTANCE OF 79.95';
22. S68°41'57"W A DISTANCE OF 79.03';
23. S66°43'23"W A DISTANCE OF 144.62';
24. S59°28'52"W A DISTANCE OF 87.54' TO THE NORTHWEST CORNER OF SAID GRASMERE SUBDIVISION, UNIT 4; THENCE SEVERING THE RIGHT-OF-WAY OF HARRODSBURG RD. FOR ONE (1) CALL:

25. N35°30'44"W A DISTANCE OF 85.81' TO A POINT ON THE CENTERLINE OF SAID HARRODSBURG RD.; THENCE WITH SAID CENTERLINE AND CONTINUING RIGHT-OF-WAY SEVERANCE FOR SIXTY FOUR (64) CALLS:

26. S59°55'53"W A DISTANCE OF 9.15';
27. S56°10'37"W A DISTANCE OF 57.63';
28. S56°52'45"W A DISTANCE OF 61.11';
29. S54°17'20"W A DISTANCE OF 58.38';
30. S50°01'51"W A DISTANCE OF 45.74';
31. S47°31'29"W A DISTANCE OF 76.48';
32. S46°00'35"W A DISTANCE OF 34.98';

33. S44°09'58"W A DISTANCE OF 42.60';
34. S42°49'28"W A DISTANCE OF 49.64';
35. S43°23'09"W A DISTANCE OF 26.69';
36. S41°58'50"W A DISTANCE OF 31.93';
37. S38°42'55"W A DISTANCE OF 39.69';
38. S39°38'30"W A DISTANCE OF 39.88';
39. S36°25'17"W A DISTANCE OF 45.63';
40. S36°23'47"W A DISTANCE OF 41.36';
41. S33°54'07"W A DISTANCE OF 187.67';
42. S33°54'07"W A DISTANCE OF 145.68';
43. S33°24'18"W A DISTANCE OF 301.49';
44. S34°31'35"W A DISTANCE OF 35.40';
45. S36°02'00"W A DISTANCE OF 37.22';
46. S37°24'27"W A DISTANCE OF 38.99';
47. S38°49'14"W A DISTANCE OF 48.10';
48. S41°24'56"W A DISTANCE OF 62.09';
49. S43°44'10"W A DISTANCE OF 58.72';
50. S48°07'26"W A DISTANCE OF 36.61';
51. S50°11'30"W A DISTANCE OF 17.53';
52. S50°11'34"W A DISTANCE OF 18.24';
53. S51°20'25"W A DISTANCE OF 37.82';
54. S53°19'37"W A DISTANCE OF 2.30';
55. S55°18'49"W A DISTANCE OF 99.57';
56. S55°29'43"W A DISTANCE OF 49.81';
57. S57°31'24"W A DISTANCE OF 34.04';
58. S59°01'49"W A DISTANCE OF 35.47';
59. S61°02'37"W A DISTANCE OF 31.71';
60. S62°30'41"W A DISTANCE OF 38.15';
61. S64°01'34"W A DISTANCE OF 35.97';
62. S68°11'35"W A DISTANCE OF 41.16';
63. S70°23'57"W A DISTANCE OF 39.12';
64. S72°28'22"W A DISTANCE OF 34.74';
65. S73°18'09"W A DISTANCE OF 20.60';
66. S73°18'14"W A DISTANCE OF 10.48';
67. S73°17'54"W A DISTANCE OF 5.25';
68. S75°15'43"W A DISTANCE OF 34.23';
69. S76°06'56"W A DISTANCE OF 33.11';
70. S76°06'52"W A DISTANCE OF 46.31';
71. S76°06'54"W A DISTANCE OF 86.56';
72. S76°06'55"W A DISTANCE OF 37.28';
73. S76°06'55"W A DISTANCE OF 19.43';
74. S75°23'14"W A DISTANCE OF 35.75';
75. S75°12'52"W A DISTANCE OF 17.32';
76. S74°43'48"W A DISTANCE OF 132.44';
77. S74°13'58"W A DISTANCE OF 23.71';
78. S74°03'52"W A DISTANCE OF 26.03';
79. S73°38'35"W A DISTANCE OF 25.69';
80. S73°07'18"W A DISTANCE OF 4.02';
81. S72°22'35"W A DISTANCE OF 59.97';
82. S71°16'01"W A DISTANCE OF 19.50';
83. S70°50'59"W A DISTANCE OF 13.25';

84. S70°44'17"W A DISTANCE OF 3.29';
85. S70°04'43"W A DISTANCE OF 36.46';
86. S69°21'18"W A DISTANCE OF 14.92';
87. S68°44'00"W A DISTANCE OF 32.94';
88. S66°15'22"W A DISTANCE OF 21.68';
89. S65°36'35"W A DISTANCE OF 22.76';
90. S64°16'10"W A DISTANCE OF 10.40'; THENCE LEAVING SAID CENTERLINE AND CONTINUING RIGHT-OF-WAY SEVERANCE FOR THREE (3) CALLS:

91. N25°43'50"W A DISTANCE OF 96.11';
92. N12°26'47"W A DISTANCE OF 20.00';
93. N04°56'02"W A DISTANCE OF 61.09' TO A POINT IN THE SOUTHERN LINE OF SOUTH ELKHORN VILLAGE SUBDIVISION AS DEPICTED IN PLAT CABINET M, SLIDE 613; THENCE WITH SAID SOUTHERN LINE FOR TWO (2) CALLS:

94. N85°03'58"E A DISTANCE OF 204.89';
95. N81°07'17"E A DISTANCE OF 210.78' TO THE SOUTHWEST CORNER OF THE PARCEL CONVEYED TO SOUTH ELKHORN CHRISTIAN CHURCH IN DEED BOOK 1447, PAGE 686; THENCE WITH THE COMMON LINE OF SAID SOUTH ELKHORN VILLAGE AND SOUTH ELKHORN CHRISTIAN CHURCH FOR ONE (1) CALL:

96. N00°35'47"E A DISTANCE OF 35.93' ; THENCE SEVERING SAID SOUTH ELKHORN CHRISTIAN CHURCH PARCEL FOR EIGHT (8) CALLS:

97. N79°47'19"E A DISTANCE OF 77.40';
98. N75°07'42"E A DISTANCE OF 198.38';
99. N35°35'37"E A DISTANCE OF 43.98';
100. N76°04'19"E A DISTANCE OF 106.42';
101. N47°21'47"E A DISTANCE OF 93.08';
102. N37°23'45"E A DISTANCE OF 140.70';
103. N17°31'26"W A DISTANCE OF 143.03';
104. S84°01'24"E A DISTANCE OF 202.13' TO A POINT ON THE SOUTHERN LINE OF THE PARCEL CONVEYED TO JN HARRODSBURG, LLC IN DEED BOOK 3472, PAGE 732; THENCE SEVERING SAID JN HARRODSBURG, LLC PARCEL FOR FOUR (4) CALLS:

105. S84°01'24"E A DISTANCE OF 75.83';
106. N39°45'02"E A DISTANCE OF 388.36';
107. N34°16'55"E A DISTANCE OF 400.79';
108. N42°52'09"E A DISTANCE OF 37.67' TO A POINT ON THE SOUTHERN LINE OF THE PARCEL CONVEYED TO DIXIANA DEVELOPMENT, LLC IN DEED BOOK 3206, PAGE 408; THENCE SEVERING SAID DIXIANA DEVELOPMENT, LLC PARCEL FOR TWO (2) CALLS:

109. N42°52'09"E A DISTANCE OF 193.62';
110. N51°55'11"E A DISTANCE OF 131.78' TO A POINT ON THE SOUTHERN LINE OF SOUTH ELKHORN SUBDIVISION, UNIT 1A; THENCE WITH SOUTHERN, EASTERN AND NORTHERN LINE OF SAID SOUTH ELKHORN SUBDIVISION, UNITY 1A FOR TEN (10) CALLS:

111. S58°28'12"E A DISTANCE OF 15.40';

112. N41°23'49"E A DISTANCE OF 20.70';
113. N47°36'07"E A DISTANCE OF 20.19';
114. N54°07'22"E A DISTANCE OF 19.70';
115. N56°21'13"E A DISTANCE OF 4.07';
116. N51°47'06"E A DISTANCE OF 127.83';
117. N45°46'02"E A DISTANCE OF 15.97';
118. N51°07'38"E A DISTANCE OF 15.64';
119. N56°42'39"E A DISTANCE OF 15.33';
120. N28°37'08"W A DISTANCE OF 27.72' TO THE SOUTHWESTERN CORNER OF THE PARCEL CONVEYED TO MASONIC TEMPLE ASSOCIATION OF LEXINGTON, KENTUCKY, INC. IN DEED BOOK 1377, PAGE 17; THENCE WITH THE EASTERN AND NORTHERN LINE OF SAID MASONIC TEMPLE ASSOCIATION OF LEXINGTON, KY, INC. PARCEL FOR SEVEN (7) CALLS:

121. N39°20'24"E A DISTANCE OF 94.09';
122. N66°49'23"E A DISTANCE OF 419.85';
123. N75°55'13"E A DISTANCE OF 202.68';
124. N17°29'04"W A DISTANCE OF 118.66';
125. N17°29'03"W A DISTANCE OF 146.06';
126. N18°16'07"W A DISTANCE OF 24.19';
127. N17°52'33"W A DISTANCE OF 20.51' TO THE SOUTHERN MOST CORNER OF PALOMAR COVE SUBDIVISION AS DEPICTED IN PLAT CABINET M, SLIDE 173 AND PLAT CABINET M, SLIDE 350; THENCE WITH THE LINE OF SAID PALOMAR COVE SUBDIVISION FOR THIRTEEN (13) CALLS:

128. N47°23'04"E A DISTANCE OF 72.15';
129. N49°00'52"E A DISTANCE OF 23.27';
130. N70°39'42"E A DISTANCE OF 72.08';
131. N71°14'10"E A DISTANCE OF 27.22';
132. N70°36'53"E A DISTANCE OF 48.78';
133. N29°58'47"E A DISTANCE OF 22.69';
134. N29°58'48"E A DISTANCE OF 47.12';
135. N29°58'46"E A DISTANCE OF 61.36';
136. N76°57'25"E A DISTANCE OF 155.08';
137. N13°36'52"W A DISTANCE OF 155.39';
138. S76°12'03"W A DISTANCE OF 59.83';
139. N79°13'46"W A DISTANCE OF 59.66';
140. N79°50'27"W A DISTANCE OF 44.00' TO THE EASTERN MOST CORNER OF PALOMAR HILLS SUBDIVISION, UNIT 3-1A, SECTION 5 AS DEPICTED IN PLAT CABINET J, SLIDE 419; THENCE WITH THE LINE OF SAID PALOMAR HILLS SUBDIVISION, UNIT 3-A1, SECTION 5 FOR FIVE (5) CALLS:

141. N79°29'21"W A DISTANCE OF 40.00';
142. N79°29'20"W A DISTANCE OF 44.00';
143. N79°29'21"W A DISTANCE OF 59.35';
144. N79°29'21"W A DISTANCE OF 42.09';
145. N79°37'16"W A DISTANCE OF 50.46' TO A POINT ON THE EASTERN RIGHT-OF-WAY OF LYON DR.; THENCE WITH SAID EASTERN RIGHT-OF-WAY LINE FOR ONE (1) CALL:

146. ALONG A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 227.63', A RADIUS OF 549.39', A CHORD BEARING OF N20°47'02"E , AND A CHORD

LENGTH OF 226.01' to a corner of PALOMAR HILLS SUBDIVISION AS DEPICTED IN PLAT CABINET I, SLIDE 671; THENCE WITH THE LINE OF SAID PALOMAR HILLS SUBDIVISION FOR ONE (1) CALL:

147. S73°20'42"E A DISTANCE OF 28.94' TO A POINT ON THE CENTERLINE OF GLADE LANE; THENCE WITH SAID CENTERLINE FOR FOUR (4) CALLS:

148. ALONG A CURVE TURNING TO THE LEFT HAVING AN ARC LENGTH OF 164.50', A RADIUS OF 85.55', A CHORD BEARING OF S24°19'49"E , AND A CHORD LENGTH OF 140.31';

149. S79°25'03"E A DISTANCE OF 100.07';

150. ALONG A CURVE TURNING TO THE LEFT HAVING AN ARC LENGTH OF 142.95', A RADIUS OF 100.81', A CHORD BEARING OF N59°57'39"E , AND A CHORD LENGTH OF 131.27';

151. ALONG A REVERSE CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 110.01', A RADIUS OF 283.72', A CHORD BEARING OF N30°26'50"E , AND A CHORD LENGTH OF 109.32' ; THENCE LEAVING SAID CENTERLINE AND WITH THE LINE OF PALOMAR HILLS SUBDIVISION, UNIT 3-A, SECTION 4 AS DEPICTED IN PLAT CABINET I, SLIDE 708 AND PLAT CABINET I, SLIDE 670 FOR ELEVEN (11) CALLS:

152. S55°23'00"E A DISTANCE OF 116.93';

153. N34°46'11"E A DISTANCE OF 36.00';

154. N34°36'59"E A DISTANCE OF 61.34';

155. N34°37'01"E A DISTANCE OF 70.66';

156. N34°37'01"E A DISTANCE OF 40.00';

157. N33°49'43"E A DISTANCE OF 44.01';

158. N35°29'00"E A DISTANCE OF 40.00';

159. N33°59'51"E A DISTANCE OF 44.00';

160. N34°59'08"E A DISTANCE OF 40.00';

161. N34°59'05"E A DISTANCE OF 37.92';

162. N21°33'55"W A DISTANCE OF 91.58' TO THE SOUTHEAST CORNER OF PALOMAR HILLS SUBDIVISION, UNIT 3-A, SECTION 3 AS DEPICTED IN PLAT CABINET I, SLIDE 613; THENCE WITH THE LINE OF SAID PALOMAR HILLS SUBDIVISION, UNIT 3-A, SECTION 3 FOR FIVE (5) CALLS:

163. N22°16'50"W A DISTANCE OF 97.77';

164. N21°35'36"W A DISTANCE OF 44.00'

165. N20°45'08"W A DISTANCE OF 42.00';

166. N19°54'55"W A DISTANCE OF 43.40';

167. N18°31'51"W A DISTANCE OF 20.00'; THENCE CROSSING MAN O' WAR BLVD. FOR ONE CALL:

168. N71°28'09"E A DISTANCE OF 120.89' TO A POINT ON THE LINE OF THE PALOMAR CENTER SUBDIVISION AS DEPICTED IN PLAT CABINET I, SLIDE 097; THENCE WITH THE LINE OF SAID PALOMAR CENTER SUBDIVISION FOR THIRTEEN (13) CALLS:

169. S18°31'51"E A DISTANCE OF 79.80';

170. S23°57'45"E A DISTANCE OF 225.70';

171. S29°22'20"E A DISTANCE OF 736.90';

172. S29°35'38"E A DISTANCE OF 6.60';
173. S74°16'25"E A DISTANCE OF 200.24';
174. S74°13'55"E A DISTANCE OF 200.29';
175. N15°50'31"E A DISTANCE OF 145.02';
176. S74°09'29"E A DISTANCE OF 50.00';
177. S15°50'31"W A DISTANCE OF 149.91';
178. S56°12'17"W A DISTANCE OF 24.99';
179. N40°53'40"W A DISTANCE OF 22.53';
180. S62°32'23"W A DISTANCE OF 125.60';
181. S27°27'37"E A DISTANCE OF 166.06' TO THE NORTHWEST CORNER OF LOT 9A OF GRASMERE SUBDIVISION, UNIT 2C AS DEPICTED IN PLAT CABINET B, SLIDE 285; THENCE WITH THE LINE OF SAID LOT 9A FOR ONE (1) CALL:

182. S27°10'27"E A DISTANCE OF 171.32 TO A POINT ON THE RIGHT-OF-WAY LINE OF SUMMERHAVEN COURT'; THENCE WITH SAID RIGHT-OF-WAY LINE FOR ONE (1) CALL:

183. ALONG A CURVE TURNING TO THE LEFT HAVING AN ARC LENGTH OF 38.05', A RADIUS OF 50.00', A CHORD BEARING OF S35°49'31"W , AND A CHORD LENGTH OF 37.14' TO THE SOUTHEAST CORNER OF LOT 8 OF SAID GRASMERE SUBDIVISION, UNIT 2C; THENCE WITH THE LINE OF SAID LOT 8 FOR TWO (2) CALLS:

184. N72°11'27"W A DISTANCE OF 199.96';
185. N28°33'23"W A DISTANCE OF 48.40' TO THE POINT OF BEGINNING CONTAINING 41.648 ACRES.

THIS DESCRIPTION IS BASED ON OPEN PORTAL GIS MAPPING DATA BY THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AND DATA AVAILABLE VIA THE FAYETTE COUNTY PROPERTY VALUATION ADMINISTRATOR AND THE RECORDS OF THE FAYETTE COUNTY CLERK, AND DOES NOT REPRESENT A FIELD SURVEY.

Exhibit B: The Project

The Developer is planning to redevelop a site at the corner of Harrodsburg Road and Man O' War Boulevard in Lexington, Kentucky into a mixed-use commercial development. The goal is to redevelop underutilized parcels as supportive commercial developments using the TIF program to support necessary Public Infrastructure Costs and amenities that will benefit the State and local community.

Planning is currently underway for the proposed redevelopment, which is anticipated to include various infrastructure improvements that will support an estimated 125-room hotel, 13,575 square feet of office space, 33,750 square feet of restaurant space, and 12,750 square feet of retail space. Based on construction, site work, and miscellaneous costs, the total construction cost is estimated to be approximately \$46.9 million (excluding land).

Exhibit C: Elements of Project to be Financed with Incremental Revenues

It is anticipated that \$16.0 million of the total cost would qualify as approved public infrastructure, including:

- **Sanitary Sewer Improvements** – will extend the existing line and tie in to a trunk line that will provide sanitary sewer services for more than 55+ acres inside the Urban Service Boundary. The extension also decreases the likelihood of sanitary sewer overflow in nearby neighborhoods, raising the overall quality of life for residents throughout the area;
- **Storm Water Management Improvements** – will utilize an oversized detention basin and promote low-impact best management practices and ground water recharge to reduce the amount of flooding for downstream residents and structural flooding events not addressed by LFUCG;
- **Other Infrastructure Improvements** – site prep and demolition, utility work, roadways, streetscape/landscape and parking.

Exhibit D: Financing Plan

To provide funding support for the needed capital improvements set forth in the Development Plan and to provide support for the Project and provide Redevelopment Assistance, the Lexington-Fayette Urban County Government (LFUCG) has established the Fountains at Palomar Development Area (the "Development Area"), pursuant to the provisions of KRS 65.7041 to KRS 65.7083, to allow the utilization of a portion of the LFUCG and State Incremental Revenues generated to provide Redevelopment Assistance and support the financing of Public Infrastructure Costs.

The Financing Plan provides that the LFUCG will pledge 80% of LFUCG Incremental Revenues, generated from within the Development Area, from real property taxes and occupational taxes over up to a 20-year period, along with any State Incremental Revenues that it receives, to pay for or reimburse Public Infrastructure Costs incurred by the Developer related to the Project. .

In addition, the Financing Plan provides for the submission of an application to the Kentucky Economic Development Finance Authority (KEDFA) to receive a pledge of State Incremental Revenues from the Footprint of the Project, to provide funding for Public Infrastructure Costs approved by KEDFA as Approved Public Infrastructure Costs; provided that no LFUCG Incremental Revenue will be used to pay for or reimburse Public Infrastructure Costs if KEDFA fails to approve the Project for a pledge of State Incremental Revenues.

Financing Plan

The Project is made up of both public and private components. The total cost of the project is estimated to be approximately \$46.9 million, which includes approximately \$16.0 million in qualifying Public Infrastructure Costs.

The Public Infrastructure Costs and all private development costs will be financed privately by the Developer, with the LFUCG and State Incremental Revenues being used to reimburse Public Infrastructure Costs incurred by the Developer, with the understanding that the LFUCG and State Incremental Revenues may be paid directly to the Developer's lender(s) that provides financing to pay for such Public Infrastructure Costs.

Exhibit E: Estimated Incremental Revenues

The Fountains at Palomar Redevelopment Project - Ad Valorem TIF Incremental Tax Revenues Generated for Project									
	Total	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 20	20-Year Total
State Incremental Tax Revenues from Project									
Transient Room Tax*	\$699,285	\$27,375	\$28,059	\$28,761	\$29,480	\$30,217	\$34,188	\$43,763	\$699,285
Sales and Use Tax Revenues*	\$33,287,499	\$1,303,110	\$1,335,688	\$1,369,080	\$1,403,307	\$1,438,390	\$1,627,406	\$2,083,217	\$33,287,499
Individual Income Tax*	\$3,350,404	\$131,159	\$134,438	\$137,799	\$141,244	\$144,775	\$163,799	\$209,677	\$3,350,404
Property Tax Revenues	\$816,233	\$31,953	\$32,752	\$33,571	\$34,410	\$35,270	\$39,905	\$51,082	\$816,233
Total State Incremental Tax Revenues	\$38,153,421	\$1,493,597	\$1,530,937	\$1,569,210	\$1,608,440	\$1,648,651	\$1,865,298	\$2,387,739	\$38,153,421
LFUCG Incremental Tax Revenues from Project									
Property Tax - Full Service	\$1,159,452	\$45,389	\$46,524	\$47,687	\$48,879	\$50,101	\$56,685	\$72,561	\$1,159,452
Property Tax - Library	\$334,522	\$13,096	\$13,423	\$13,759	\$14,102	\$14,455	\$16,355	\$20,935	\$334,522
Property Tax - School*	\$5,419,251	\$212,148	\$217,452	\$222,888	\$228,460	\$234,172	\$264,944	\$339,151	\$5,419,251
Property Tax - All Other Services	\$616,189	\$24,122	\$24,725	\$25,343	\$25,977	\$26,626	\$30,125	\$38,563	\$616,189
Transient Room Tax*	\$5,943,923	\$232,688	\$238,505	\$244,467	\$250,579	\$256,843	\$290,595	\$371,986	\$5,943,923
Property Tax - General Service	\$200,713	\$7,857	\$8,054	\$8,255	\$8,461	\$8,673	\$9,813	\$12,561	\$200,713
Occupational License Tax	\$4,236,573	\$165,850	\$169,996	\$174,246	\$178,602	\$183,067	\$207,123	\$265,136	\$4,236,573
Total LFUCG Incremental Tax Revenues	\$17,910,622	\$701,149	\$718,678	\$736,645	\$755,061	\$773,938	\$875,640	\$1,120,893	\$17,910,622
Total Incremental Tax Revenues from Project	\$56,064,042	\$2,194,746	\$2,249,615	\$2,305,855	\$2,363,502	\$2,422,589	\$2,740,937	\$3,508,632	\$56,064,042
Incremental Taxes Retained by State									
Transient Room Tax*	\$699,285	\$27,375	\$28,059	\$28,761	\$29,480	\$30,217	\$34,188	\$43,763	\$699,285
Sales and Use Tax Revenues*	\$33,287,499	\$1,303,110	\$1,335,688	\$1,369,080	\$1,403,307	\$1,438,390	\$1,627,406	\$2,083,217	\$33,287,499
Individual Income Tax*	\$3,350,404	\$131,159	\$134,438	\$137,799	\$141,244	\$144,775	\$163,799	\$209,677	\$3,350,404
Property Tax Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total State Incremental Taxes Retained	\$37,337,188	\$1,461,644	\$1,498,185	\$1,535,639	\$1,574,030	\$1,613,381	\$1,825,393	\$2,336,657	\$37,337,188
Incremental Taxes Retained by LFUCG									
Property Tax - Full Service	\$1,159,452	\$45,389	\$46,524	\$47,687	\$48,879	\$50,101	\$56,685	\$72,561	\$1,159,452
Property Tax - Library	\$334,522	\$13,096	\$13,423	\$13,759	\$14,102	\$14,455	\$16,355	\$20,935	\$334,522
Property Tax - School*	\$5,419,251	\$212,148	\$217,452	\$222,888	\$228,460	\$234,172	\$264,944	\$339,151	\$5,419,251
Property Tax - All Other Services	\$616,189	\$24,122	\$24,725	\$25,343	\$25,977	\$26,626	\$30,125	\$38,563	\$616,189
Transient Room Tax*	\$5,943,923	\$232,688	\$238,505	\$244,467	\$250,579	\$256,843	\$290,595	\$371,986	\$5,943,923
Property Tax - General Service	\$40,143	\$1,571	\$1,611	\$1,651	\$1,692	\$1,735	\$1,963	\$2,512	\$40,143
Occupational License Tax	\$847,315	\$33,170	\$33,999	\$34,849	\$35,720	\$36,613	\$41,425	\$53,027	\$847,315
Total LFUCG Incremental Taxes Retained	\$14,360,793	\$562,184	\$576,238	\$590,644	\$605,410	\$620,546	\$702,091	\$898,735	\$14,360,793
Total Incremental Tax Revenue Available for TIF Participation	\$4,366,061	\$170,919	\$175,192	\$179,572	\$184,061	\$188,662	\$213,454	\$273,239	\$4,366,061
State Incr. Tax Rev. Available for TIF Participation**	\$816,233	\$31,953	\$32,752	\$33,571	\$34,410	\$35,270	\$39,905	\$51,082	\$816,233
LFUCG Incr. Tax Rev. Available for TIF Participation	\$3,549,828	\$138,966	\$142,440	\$146,001	\$149,651	\$153,392	\$173,549	\$222,157	\$3,549,828

*Not a TIF-Eligible Incremental Tax Revenue

**Subject to State Review

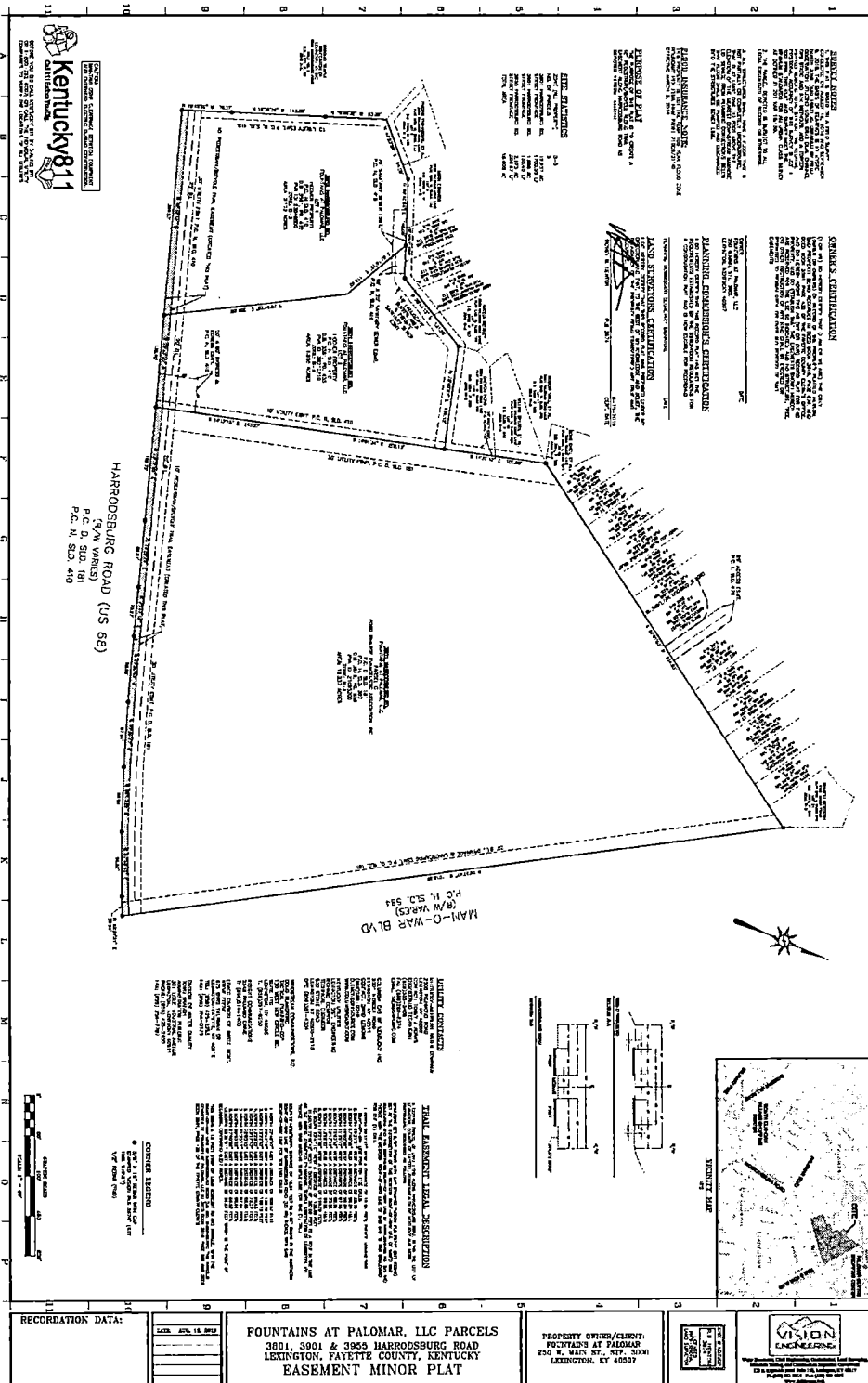
**The Fountains at Palomar Redevelopment Project - Mixed-use TIF
Incremental Tax Revenues Generated for Project**

	Total	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 20	20-Year Total
State Incremental Tax Revenues from Project									
Transient Room Tax*	\$559,428	\$21,900	\$22,448	\$23,009	\$23,584	\$24,174	\$27,350	\$35,010	\$559,428
Property Tax Revenues	\$1,085,307	\$42,487	\$43,549	\$44,638	\$45,753	\$46,897	\$53,060	\$67,921	\$1,085,307
Sales and Use Tax Revenues	\$50,685,326	\$1,984,185	\$2,033,790	\$2,084,634	\$2,136,750	\$2,190,169	\$2,477,975	\$3,172,018	\$50,685,326
Individual Income Tax	\$11,016,134	\$431,250	\$442,031	\$453,082	\$464,409	\$476,019	\$538,572	\$689,418	\$11,016,134
Total State Incremental Tax Revenues	\$63,346,195	\$2,479,822	\$2,541,817	\$2,605,363	\$2,670,497	\$2,737,259	\$3,096,957	\$3,964,367	\$63,346,195
LFUCG Incremental Tax Revenues from Project									
Property Tax - Full Service	\$1,541,670	\$60,352	\$61,861	\$63,407	\$64,992	\$66,617	\$75,371	\$96,482	\$1,541,670
Property Tax - Library	\$444,798	\$17,413	\$17,848	\$18,294	\$18,751	\$19,220	\$21,746	\$27,837	\$444,798
Property Tax - School*	\$7,205,727	\$282,084	\$289,136	\$296,364	\$303,773	\$311,367	\$352,284	\$450,953	\$7,205,727
Property Tax - All Other Services	\$819,318	\$32,074	\$32,876	\$33,698	\$34,540	\$35,404	\$40,056	\$51,275	\$819,318
Transient Room Tax*	\$4,755,138	\$186,150	\$190,804	\$195,574	\$200,463	\$205,475	\$232,476	\$297,589	\$4,755,138
Property Tax - General Service	\$266,879	\$10,448	\$10,709	\$10,976	\$11,251	\$11,532	\$13,048	\$16,702	\$266,879
Occupational License Tax	\$4,957,260	\$194,063	\$198,914	\$203,887	\$208,984	\$214,209	\$242,357	\$310,238	\$4,957,260
Total LFUCG Incremental Tax Revenues	\$19,990,789	\$782,582	\$802,147	\$822,200	\$842,755	\$863,824	\$977,338	\$1,251,075	\$19,990,789
Total Incremental Tax Revenues from Project	\$83,336,984	\$3,262,404	\$3,343,964	\$3,427,563	\$3,513,252	\$3,601,083	\$4,074,295	\$5,215,442	\$83,336,984
Incremental Taxes Retained by State									
Transient Room Tax* at 100%	\$559,428	\$21,900	\$22,448	\$23,009	\$23,584	\$24,174	\$27,350	\$35,010	\$559,428
Property Tax Revenues at 20%	\$217,061	\$8,497	\$8,710	\$8,928	\$9,151	\$9,379	\$10,612	\$13,584	\$217,061
Sales and Use Tax Revenues at 20%	\$10,137,065	\$396,837	\$406,758	\$416,927	\$427,350	\$438,034	\$495,595	\$634,404	\$10,137,065
Individual Income Tax at 20%	\$2,203,227	\$86,250	\$88,406	\$90,616	\$92,882	\$95,204	\$107,714	\$137,884	\$2,203,227
Total State Incremental Taxes Retained	\$12,557,353	\$513,484	\$526,321	\$539,479	\$552,966	\$566,791	\$641,272	\$820,882	\$13,116,781
Incremental Taxes Retained by LFUCG									
Property Tax - Full Service at 100%	\$1,541,670	\$60,352	\$61,861	\$63,407	\$64,992	\$66,617	\$75,371	\$96,482	\$1,541,670
Property Tax - Library at 100%	\$444,798	\$17,413	\$17,848	\$18,294	\$18,751	\$19,220	\$21,746	\$27,837	\$444,798
Property Tax - School* at 100%	\$7,205,727	\$282,084	\$289,136	\$296,364	\$303,773	\$311,367	\$352,284	\$450,953	\$7,205,727
Property Tax - All Other Services at 100%	\$819,318	\$32,074	\$32,876	\$33,698	\$34,540	\$35,404	\$40,056	\$51,275	\$819,318
Transient Room Tax* at 100%	\$4,755,138	\$186,150	\$190,804	\$195,574	\$200,463	\$205,475	\$232,476	\$297,589	\$4,755,138
Property Tax - General Service at 20%	\$53,376	\$2,090	\$2,142	\$2,195	\$2,250	\$2,306	\$2,610	\$3,340	\$53,376
Occupational License Tax at 20%	\$991,452	\$38,813	\$39,783	\$40,777	\$41,797	\$42,842	\$48,471	\$62,048	\$991,452
Total LFUCG Incremental Taxes Retained	\$15,811,478	\$618,974	\$634,448	\$650,310	\$666,567	\$683,231	\$773,014	\$989,523	\$15,811,478
Total Incremental Tax Revenue Available for TIF Participation	\$54,408,725	\$2,129,945	\$2,183,194	\$2,237,774	\$2,293,718	\$2,351,061	\$2,660,010	\$3,405,038	\$54,408,725
State Incr. Tax Rev. Available for TIF Participation** at 80%	\$50,229,414	\$1,966,337	\$2,015,496	\$2,065,883	\$2,117,530	\$2,170,468	\$2,455,686	\$3,143,486	\$50,229,414
LFUCG Incr. Tax Rev. Available for TIF Participation at 80%	\$4,179,311	\$163,608	\$167,698	\$171,891	\$176,188	\$180,593	\$204,324	\$261,552	\$4,179,311

*Not a TIF-Eligible Incremental Tax Revenue

**Subject to State Review and Net New Study Cap

Exhibit F: Easement Area along Harrodsburg Road to be Dedicated for Pedestrian/Bike Path



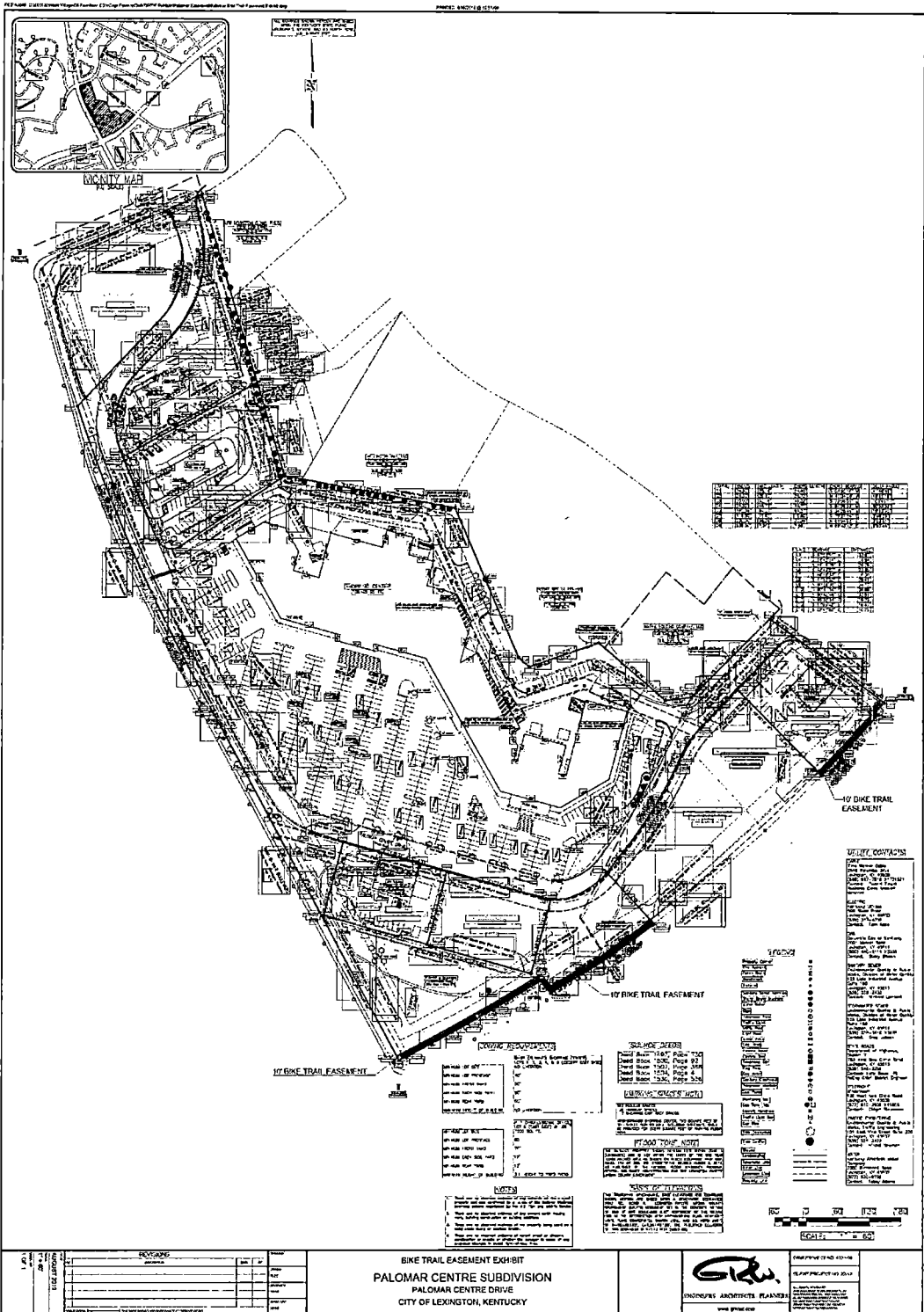


Exhibit G: Sanitary Sewer and Storm Water Improvements

SANITARY SEWERS: Installation of an upsized sanitary sewer line, approximately one mile in length from the Project Site to the public sanitary sewer located next to the South Elkhorn Villages, with the design to be approved by the LFUCG Division of Water Quality. By installing this public sanitary sewer line along Harrodsburg Rd, it will also eliminate the need for another lift station to be installed to serve the future development of this mainly vacant 12-acre parcel, located at 4085 Harrodsburg Rd. Similarly, the 3.3-acre vacant property located at 4145 Harrodsburg Rd would be able to directly connect to this new sanitary sewer line.

STORM WATER MANAGEMENT: The Project will include the construction of an oversized detention basin, with the design to be approved by the LFUCG Division of Water Quality, and promote low-impact best management practices and ground water recharge to reduce the amount of flooding for downstream residents and structural flooding events not addressed by LFUCG.