

## MEMORANDUM OF UNDERSTANDING

WHEREAS, Greer Land Co Smyrna #2, LLC is the owner of a certain tracts of property located at 1108 South Broadway in Lexington, Kentucky, and which filed an appeal with the Flood Plain Appeals Committee and requested a variance to Article 19-7(a) of the Lexington-Fayette Urban County Zoning Ordinance to permit excavating, grading and filling; and

WHEREAS, Greer Land Co. Smyrna #2, LLC also proposed to construct a box culvert across 330 linear feet of the subject property (equaling 660 linear feet of stream bank) to enclose the existing tributary and provide underground detention; and

WHEREAS, a hearing on this requested variance was heard by the Flood Plain Appeals Committee on March 19, 2021, which approved the requested variance to Article 19-7(a) to permit excavating, grading and filling subject to certain conditions pertaining to off-site mitigation being met and incorporated into a Memorandum of Understanding between Greer Land Co Smyrna #2, LLC and the Lexington-Fayette Urban County Government;

NOW, THEREFORE, Greer Land Co. Smyrna#2, LLC commits to performing the following off-site mitigation on the Gay Brewer, Jr. Golf Course at Picadome (hereinafter Picadome Golf Course) owned by the Lexington-Fayette Urban County Government.

1. Construct a Wetland with a minimum volume of 9,426 cubic feet on the area as referenced on Exhibit A.
2. Replace the tree canopy that will be lost on the properties located at 1108 South Broadway, which is in the amount of 10,000 square feet of canopy, at an agreed upon location, (as all of the trees cannot be planted on Picadome Golf Course and another LFUCG property for placement shall be determined during the design phase) on a 1:1 ratio, with the species of trees set out in the Planting Manual and shall be quantified as following:
  - a. Large Tree 1.5" caliper = 100 square feet canopy
  - b. Medium Tree 1.5" caliper = 75 square feet canopy
  - c. Small Tree 4-6 feet = 50 square feet canopy
3. Institute stream Improvements on the Picadome Golf Course in the area identified on Exhibit A which shall consist of lowering the top of the stream bank for +/- 660 linear feet, stabilize any erosion areas and removing invasive species, all is referenced on Exhibit A. Any stream improvements, other improvements, and/or construction of any type in order to accomplish off-site mitigation on an LFUCG parks property will be pursuant to a written agreement between the Division of Parks and Greer Land Co. Smyrna #2, LLC as to proper location and timing of the improvements and/or construction in order to avoid impacting the golfing activities or other park activities on parks property.

4. Monitoring, maintenance and reporting of these offsite mitigation improvements shall take place for 3-5 years, as specified in the Water Quality Certification as issued by the Commonwealth of Kentucky obtained for the project, from the date of completion which shall include the removal and replacement of any trees that may die or become diseased for the duration of the post-construction period.
5. At the signing of this agreement Greer shall provide to the Lexington Fayette Urban County Government 125% of the estimated cost in the form of a surety bond or letter of credit, as approved by the Lexington Fayette Urban County Government as evidence of its good faith to ensure that the within described mitigation is completed subject to the approval of the Lexington Fayette Urban County Government which said approval shall not be unreasonably withheld. The amount of the surety bond or letter of credit may later be increased or decreased depending on the progress towards completion of the mitigation work as provided for in the scheduled set out in Exhibit B. The amount of any necessary subsequent increase or reduction in the letter of credit or the surety bond shall be based on the estimated costs of construction for design, permitting, construction and post-construction monitoring, reporting and maintenance as set out in Exhibit C but in no event shall the total cost of this mitigation exceed \$169,230. Should the parties disagree on the amount of any such increase or decrease in the amount surety bond or letter of credit the parties shall negotiate in good faith to resolve their differences.
6. A certificate of occupancy for 1108 South Broadway shall not be issued until there is substantial completion of the wetland, stream improvements, and 10,000 square feet of tree canopy planted.
7. Greer Land Co Smyrna #2, LLC shall be required to comply with the terms of this Memorandum This MOU shall be binding and enforceable against any subsequent purchasers of the property from Greer Land Co. Smyrna #2, LLC, its heirs, assigns or other entities as stated herein.

**HAVE SEEN AND AGREED:**

*Linda Gorton*

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Linda Gorton, Mayor

Date 3/18/2022

**Greer Land Co. Smyrna #2, LLC**

By: *Phil Greer*

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**Phil Greer**, its authorized representative

Date 3/14/22

# Exhibit A

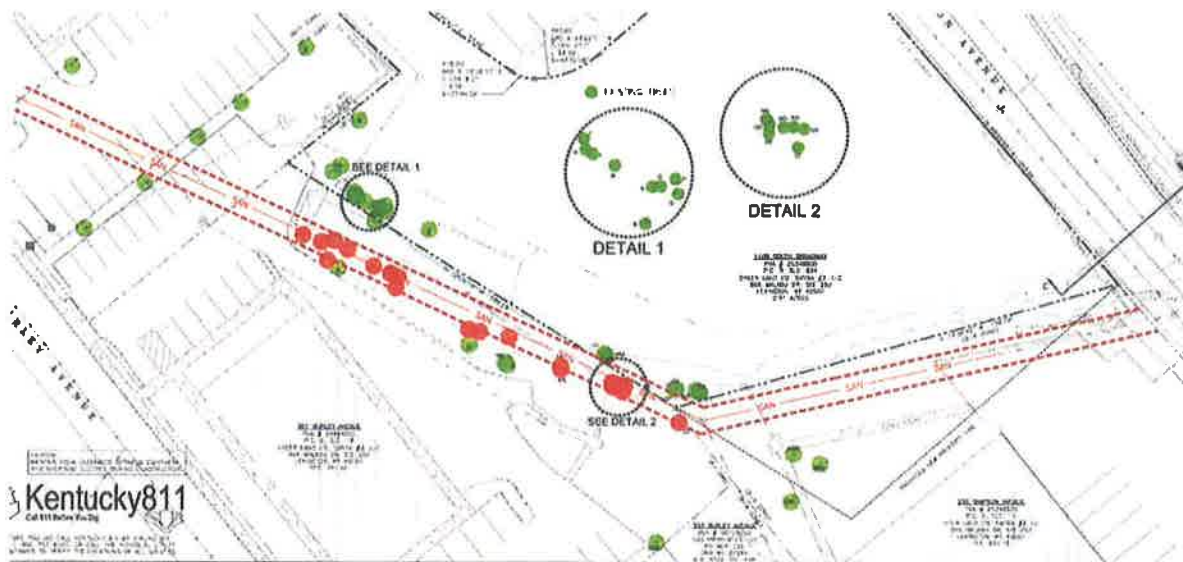
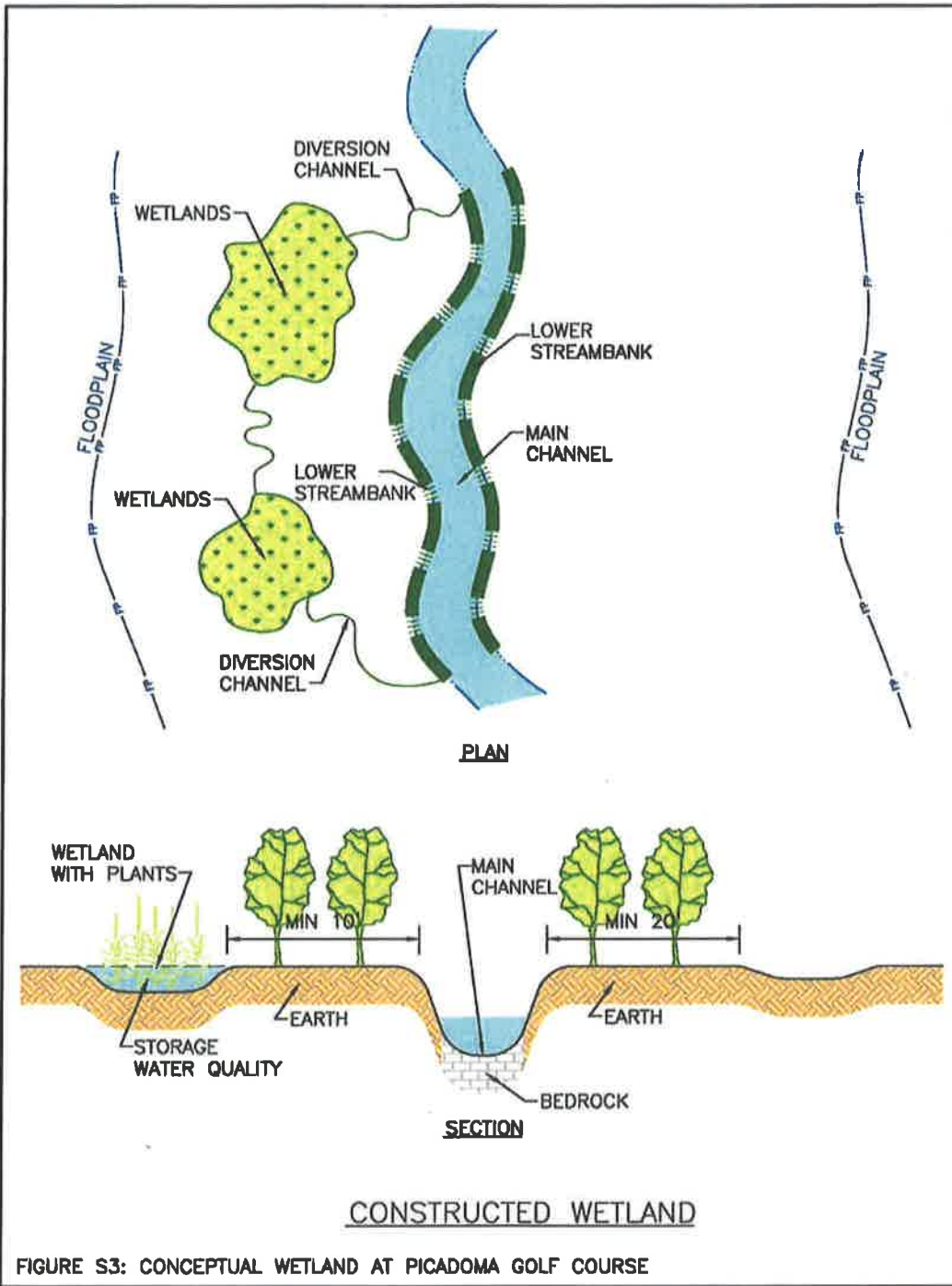


Figure S-1: Tree Inventory within the sanitary sewer easement DB 727-PG 266



Figure S-2: Proposed Location of the constructed wetland and stream improvement at Picadoma Golf Course.



# Exhibit B

## **SCHEDULE FOR OFFSITE IMPROVEMENTS**

- Site Survey - 2 weeks from receiving the notice from Parks permitting us to be on their property
- Geotechnical Investigation - 4 weeks from notice to proceed to Parks.
- Preliminary Design (50% stage) - 6 weeks from the notice
- LFUCG review of the 50% phase - 3 weeks from submittal to LFUCG
- Final Design - 3 weeks from receiving comments from LFUCG.
- Permitting from COE and KDOW - 15 weeks from park notice.
- LFUCG review of the final design - 3 weeks
- Start construction - 3 weeks from receiving LFUCG final design comments.
- Substantial completion - 11 weeks from start construction.

Summary: Final Design 15 weeks from notice to proceed from park including 3 weeks  
LFUCG review of 50% design stage

Permitting 15 weeks from notice to proceed  
Start Construction: 21 weeks from park notice  
Substantial Completion: 32 weeks from the notice.

# Exhibit C



**1100-1108 South Broadway-Offsite Stormwater Improvement**

**PRELIMINARY ENGINEERING COST ESTIMATE**

<b>Project Name :</b>	<b>1100-1108 South Broadway-Offsite stormwater Improvement</b>
<b>Engineering Firm:</b>	<b>Vision Engineering, LLC</b>
<b>Date:</b>	<b>9/16/2021</b>
<b>Engineering Firm Contact Person:</b>	<b>Jihad A. Hallany - (859) 333-8015 - Jhallany@visionengr.com</b>

<b>Items</b>	<b>Unit</b>	<b>Cost / Unit</b>	<b>Quantity</b>	<b>Cost</b>	<b>Total Cost</b>
<b>Site General</b>					
General Condition	Lump Sum	\$10,000	1	\$10,000	
Clearing and Grubbing	Acre	\$2,500	1.0	\$2,500	
Erosion and Sediment Control	Lump Sum	\$3,000	1	\$3,000	
					<b>\$15,500</b>
<b>Earthwork</b>					
Embankment	C.Y.	\$10	2,500	\$25,000	
Seeding and Mulching Disturbed Areas	Acre	\$2,000	2.0	\$4,000	
					<b>\$29,000</b>
<b>Wetland</b>					
Amended Soilt	C.Y.	\$25	500	\$12,500	
Planting	Lump Sum	\$15,000	1.0	\$15,000	
					<b>\$27,500</b>
<b>Stream Mitigation</b>					
Stream Improvement	L.F.	\$100	660	\$66,000	
					<b>\$66,000</b>
<b>Monitoring</b>					
Yearly Monitoring, survey and Report	Each	\$2,500	3	\$7,500	
					<b>\$7,500</b>
				<b>Subtotal</b>	<b>\$145,500</b>
				<b>Engineering @ 6%</b>	<b>\$8,730</b>
				<b>Geotechnical Report</b>	<b>\$10,000</b>
				<b>Inspection &amp; Geotech</b>	<b>\$5,000</b>
				<b>Total</b>	<b>\$169,230</b>