

**URBAN COUNTY COUNCIL  
SCHEDULE OF MEETINGS  
November 21-November 28, 2011**

**Monday, November 21**

No Meetings

**Tuesday, November 22**

BIM Workshop for Council Members and Staff.....11:00 am  
Conference Room-5<sup>th</sup> Floor Government Center

Environmental Quality Committee.....1:00 pm  
Council Chambers-2<sup>nd</sup> Floor Government Center

Council Work Session.....3:00pm  
Council Chambers-2<sup>nd</sup> Floor Government Center

Mayor's Youth Council.....5:30pm  
Conference Room-5<sup>th</sup> Floor Government Center

**Wednesday, November 23**

No Meetings

**Thursday, November 24**

**LFUCG Offices Closed**

**Friday, November 25<sup>th</sup>**

**LFUCG Offices Closed**

**Monday, November 28<sup>th</sup>**

No Meetings

URBAN COUNTY COUNCIL  
 WORK SESSION SUMMARY  
 & TABLE OF MOTIONS  
 NOVEMBER 15, 2011

Mayor Gray chaired today's work session meeting, beginning at 3:00pm. All Council Members were present except CM Crosbie and CM Henson.

- I. Public Comment – Issues on Agenda – None
- II. Requested Rezoning / Docket Approval – Yes

A motion by CM Ellinger to approve the docket, seconded by CM Myers, passed without dissent.

A motion by CM Stinnett to place on the docket for the November 17th Council meeting an ordinance declaring portions of sidewalks in Hamburg Place Community, Phase 1 and Phase II of Shetlands Subdivision, to have been dedicated to the Lexington-Fayette Urban County Government as Public Right of Ways, and accepting the dedication, seconded by CM McChord, passed without dissent.

A motion by VM Gorton to place on the docket for the November 17th Council meeting a resolution endorsing and supporting the Bluegrass Economic Advancement Movement (BEAM) and urging members of the Lexington-Fayette County and Jefferson County communities to fully participate in the project and to use this as an opportunity to further the collective goals of both cities as economic engines for all of Kentucky and to provide economic and educational opportunities to its citizens, seconded by CM Lane, passed without dissent.

- III. Approval of Summary – No
- IV. Budget Amendments – Yes

A motion by VM Gorton to approve the budget amendments, seconded by CM Ellinger, passed without dissent.

- V. New Business

A. Authorization to amend Section 21-5 of the Code of Ordinances abolishing one position of Director of Litigation; and amend Section 22-5 of the Code of

Ordinances creating two positions of Attorney, all in the Department of Law. (395-11) (Jarvis/Graham)

B. Authorization to execute Change Order No. 2 with Woodall Construction for the Lexington Streetscape Phase 1 improvements, East Main Streetscape Project. (404-11) (Taylor)

C. Authorization to execute Change Order No. 3 with Woodall Construction for the Lexington Streetscape Phase I Improvements, East Main Streetscape Project. (405-11) (Taylor)

D. Authorization to execute Change Order No. 2 (final) with Charles Deweese Construction for the Lexington Streetscape Phase 1 West Main Street Project. (396-11) (Taylor)

E. Authorization to execute Change Order No. 2 with Woodall Construction Company for the Clays Mill Road Improvements Project. (406-11) (Gooding/Taylor)

F. Authorization to execute Change Order No. 2 (final) with Marrillia Design and Construction for the Maxwell Street Sidewalk and Bike Lane Project. (407-11) (Gooding/Taylor)

G. Authorization to close the right-of-way located between the properties located at 444 Fayette Park and 503 Willy Street and transfer the Right-of-Way to adjacent property owners. (414-11) (Wente/Taylor)

H. Authorization to enter into an exclusive easement agreement granting a 12' by 12' easement to Columbia Gas of Kentucky, INC., to construct, maintain, operate, and replace pipelines and related equipment. (397-11) (Baradaran/Moloney)

I. Authorization to execute agreement with Hazen and Sawyer for the implementation of sanitary sewer Capacity, Management, Operations, and Maintenance (CMOM) program deliverables associated with LFUCG's Consent Decree. (408-11) (Martin/Taylor)

J. Authorization to approve a Statement of Affiliation for the Division of Fire and Emergency Services Rescue Team as a Rescue Squad under KRS Chapter 39F. (412-11) (Dugger/Mason)

K. Authorization to enter into a lease agreement with Pilgram Baptist Church for rental of vacant lot adjacent to Coolavin Park for patron parking. (398-11) (Hancock/Moloney)

- L. Authorization to enter into a Facility Usage Agreement with Fayette County Board of Education for use of the Winburn Middle School gymnasium. (409-11) (Hancock/Moloney)
- M. Authorization to execute an agreement between Jessamine County EMS (JCEMS) and LFUCG Division of Fire and Paramedic Training. (394-11) (Gribbin/Mason)
- N. Authorization to execute agreement with Ad-Success for mobility office marketing campaign for fiscal year 2012. (399-11) (Gooding/Moloney)
- O. Authorization to enter into an agreement with Xavus Solutions, LLC for the purchase and maintenance of a data collection program at the senior center. (401-11) (Stambaugh/Mills)
- P. Authorization to approve contract with Global Compliance for the installation and administration of a fraud tip line. (416-11) (Sahli)
- Q. Authorization to execute the National Safety Council Defensive Driving Course (DDC) Private Sub-Agency Training Agreement between the Division of Risk Management and the Tennessee Regional Safety Council, Inc. (415-11) (Johnston/Moloney)
- R. Authorization to approve amendment to agreement with AMEC Environment and Infrastructure, Inc., for additional Brownfield Site Assessment Services. (411-11) (Gooding/Taylor)
- S. Authorization to accept award from the Kentucky Office of Homeland Security for continuation of the Metropolitan Medical Response System. (MMRS)-FY 2012. (402-11) (Gooding/Mason)
- T. Authorization to accept award of federal funds from the Kentucky Office of Homeland Security for various Public Safety projects under the 2011 States Homeland Security Grant Program. (413-11) (Gooding/Mason)
- U. Authorization to submit application and accept award, if offered, from the Kentucky Division of Emergency Management for a search and rescue project in the Division of Fire and Emergency Services. (410-11) (Gooding/Mason)
- V. Authorization to submit application and to accept award of funds from the Kentucky Board of Emergency Medical Services for purchase of EMS equipment for FY 2013. (403-11) (Gooding/Mason)
- W. Authorization to execute a lease agreement with Denham-Blythe for space for our Wellness Center. (417-11) (Moloney)

A motion by CM Beard to approve new business items, seconded by VM Gorton, passed without dissent.

## VI. Continuing Business / Presentations – Yes

### A. Planning and Public Works Committee Update

Update was given by CM Famer. There were no motions to come forward.

### B. Land Use and Watershed Mgmt Impacts on Stormwater Runoff

Presentation was given by Charles Martin, Division of Water Quality. The presentation is required each year because of Consent Decree mandates.

### C. 800 MHz Radio System Implementations

Presentation was given by Clay Mason, Commissioner of Public Safety and David Lucas, Director of E-911. Update was given regarding the implementation process of the federally mandated radio system in Fayette County. There was a discussion of the use of the consultant and the FCC waiver process.

## VII. Council Report

CM Blues- Stated that on November 17th, Division of GIS, Division of Fire and EMS, and Division of Police will be participating in the regional GIS day on the University of Kentucky campus.

VM Gorton- Stated that she hoped to have the draft 2012 council calendar to the Council Members by Thursday, November 16, 2011. She also welcomed the new Council Administrator, Stacey Maynard.

CM Stinnett- Stated that the new Police class funded by the COPS grant will take longer than 6 months to get on the street. He also mentioned R.J. Corman's painting of Railroad overpasses. He asked Law Commissioner Graham for her legal opinion and was told that railroads are under federal law and it supersedes our local sign ordinance. Stated that Eastland Parkway Neighborhood Association has a meeting scheduled for that evening at Christ Center Church at 6:30pm.

CM Martin- Announced Beaumont Neighborhood Association meeting for that evening, at Rosa Parks Elementary at 6:30pm. Mentioned a stream cleanup scheduled for November 19th at 1:00pm along Vaughn's Branch in District 11. Stated that new stop signs have been installed in the 10<sup>th</sup> District. Asked the Administration to update the Council on

the Division of Environmental Quality after the resignation of Commissioner Cheryl Taylor. Mayor Gray told the Council that the decision to release her from her duties was not made lightly. Commissioner Graham said that they will not make a public comment on Taylor's resignation. CM Martin suggested going into closed session to discuss it and Commissioner Graham said that they could not due to KRS 67A, which makes the Mayor the appointing authority of hiring for the Administration. Graham said that they needed to be considering the hiring or dismissal of an employee to go into closed session.

CM Lawless-A motion by CM Lawless to place into the Planning and Public Works Committee a review of the ordinance that Building Inspection uses to determine the percentage of pavement on a lot, and how they are calculating it, seconded by CM Blues, passed without dissent.

Morris Book Shop is having a grand opening on 882 East High Street this Saturday, November 19th.

CM Myers- Thanked the Mayor for looking at converting Downtown streets to two-way streets. He also asked Commissioner Graham about the resignation of Commissioner Taylor. She stated that the legislative body is not involved in the dismissal of an employee that is an at-will employee in the Mayor's Administration. She said a position like the Fire Chief is different because it is under a different provision in state law.

#### VIII. Mayor's Report – No

#### IX. Public Comment – Issues not on the agenda – None

VM Gorton made a motion to go into closed session for discussion of litigation affecting the Urban-County Government and the acquisition of real property, seconded by CM Ellinger, passed without dissent.

A motion by CM Kay to approve the NDF list, seconded by CM Martin, passed without dissent.

A motion by VM Gorton to place on the docket for the November 17th, 2011 Council meeting, a resolution ratifying the Department of Law's executive of a Settlement Agreement, Stipulation, and Recommendation in Public Service Commission Case No. 2011-00161, pertaining to approval of Kentucky Utilities Company's Environmental Surcharge Recovery, seconded by CM Lawless, passed without dissent.

#### X. Adjournment

A motion by CM Blues to adjourn, seconded by CM Ellinger, passed without dissent.

Work Session adjourned at 5:30pm

**LEXINGTON-FAYETTE URBAN COUNTY COUNCIL**

**WORK SESSION AGENDA**

**November 22, 2011**

- I. Public Comment – Issues on Agenda**
- II. Requested Rezoning / Docket Approval – No**
- III. Approval of Summary – Yes, November 15, 2011, pp. 1-6**
- IV. Budget Amendments – No**
- V. New Business – Yes, pp. 11-31**
- VI. Continuing Business / Presentations – Yes**
  - A. 11.15.2011 Public Safety Committee – CM Lawless, pp. 32-37**
- VII. Council Reports**
- VIII. Mayor's Report – No**
- IX. Public Comment – Issues Not on Agenda**
- X. Adjournment**



ADMINISTRATIVE SYNOPSIS  
New Business Items – 11/22/11

- A. Authorization to execute memorandum of agreement, accepting federal funds from the Kentucky Justice and Public Safety Cabinet, Kentucky State Police for Ticketing Aggressive Cars and Trucks (TACT) Grant Program - FY 2012. (418-11) (Gooding/Mason)  
This is a request to execute memorandum of agreement, accepting federal funds in the amount of \$40,000.00 from the Kentucky Justice and Public Safety Cabinet to conduct TACT activities. A required 20% match of \$10,000 will come from existing budgeted staff salaries. Total cost for the project is \$50,000.00. **p.11**
- B. Authorization to accept award from the U.S. Department of Justice under the 2011 State Criminal Alien Assistance Program - FY 2012. (419-11) (Gooding/Mason)  
This is a request to accept award in the amount of \$129,533.00 from the U.S. Department of Justice under the State Criminal Alien Assistance Program. Funds must be used for correctional purposes. No matching funds are required. **p.12**
- C. Authorization to enter into an agreement with the IRS to provide space at LFUCG Centers for free tax preparation for households with low to mid income ranges. (420-11) (Mills)  
This is a request to enter into a sponsorship agreement with the IRS to provide space at the Central Kentucky Job Center and the Family Care Center and insure all information obtained in the tax return preparation is kept confidential throughout the project. **p.13**
- D. Authorization to approve a contract extension/change order to an existing agreement with Hazen and Sawyer, P.S.C. for the Sanitary Sewer Assessment Reports and Remedial Measures Plans. (421-11) (Martin/Bush)  
This is a request to approve a contract extension/change order to an existing agreement with Hazen and Sawyer, P.S.C. for the Sanitary Sewer Assessment Reports and Remedial Measures Plans at a total cost not to exceed \$1,500,000.00. Funds are budgeted. **p.14-18**
- E. Authorization to execute an agreement with CMSText, LLC approving a 10-year local 1% wage assessment to participate in Kentucky Economic Development's Kentucky Business Investment Program. (422-11) (Atkins)  
This is a request to execute an agreement with CMSText, LLC approving a local 10-year agreement with a 1% wage assessment to participate in the Kentucky Business Investment Program. CMSText, LLC plans to create 135 new jobs. **p.19**

- F. Authorization to execute an agreement with GE Lighting, LLC approving a 10-year local 1% wage assessment to participate in Kentucky Economic Development's Kentucky Business Investment Program. (423-11) (Aktins)  
This is a request to execute an agreement with GE Lighting, LLC approving a local 10-year agreement with a 1% wage assessment to participate in the Kentucky Business Investment Program. GE Lighting, LLC plans to create 36 new jobs. **p.20**
- G. Authorization to execute an agreement with Shatterbox, LLC approving a 10-year local 1% wage assessment to participate in Kentucky Economic Development's Kentucky Business Investment Program. (424-11) (Atkins)  
This is a request to execute an agreement with Shatterbox, LLC approving a local 10-year agreement with a 1% wage assessment to participate in the Kentucky Business Investment Program. Shatterbox, LLC plans to create 15 new jobs. **p.21**
- H. Authorization to amend Section 21-5 of the Code of Ordinances, changing the title from Human Resources Manager to Payroll Manager in the Division of Accounting. (425-11) (Jarvis/Driskell)  
This is a request to amend Section 21-5 of the Code of Ordinances, changing the title from Human Resources Manager to Payroll Manager to align the position title with the assigned duties that were transferred when the Human Resources Manager position transferred to the Division of Accounting. **p.22**
- I. Authorization to accept award from the U.S. Department of Housing and Urban Development for the continuation of Housing Opportunities for Persons with AIDS Grant and to execute agreement with Aids Volunteers, Inc. (426-11) (Gooding/Moloney)  
This is a request to accept award from the U.S. Department of Housing and Urban Development in the amount of \$1,430,000.00 for the continuation of this project for an additional 3 years. The project includes leveraged funds in the amount of \$260,000.00 from various community partners. AIDS Volunteers, Inc. has a sub recipient agreement to receive an award in the amount of \$1,391,000.00. **p.23**
- J. Authorization to submit application to the National Police Athletic League and accept award, if offered, for participation in the Police Activities League Mentoring Program (PALYEP) in the Division of Police. (427-11) (Gooding/Mason)  
This is a request to submit application to the National Police Athletic League and accept award in the amount of \$15,000.00, if offered, for participation in the PALYEP, which will implement a mentoring

program during non-school hours that includes dropout prevention curriculum and development of a volunteer group to serve as adult/peer mentors. **p.24**

- K. Authorization to enter into an amended memorandum of agreement with Fayette County Public Schools to provide meals for students at the Family Care Center, Day Treatment Center and cater child care meals. (428-11) (Mills)

This is a request to enter into an amended memorandum of agreement with Fayette County Public Schools to provide meals for students at the Family Care Center, Day Treatment Center and cater child care meals for the period of 11/2/11 through 12/30/11 and to enter into an additional memorandum of agreement to provide students meals only and no child care meals for 1/2/12 through the end of the school year. **p.25**

- L. Authorization to approve the purchase of Allen-Bradley Automation equipment in order to upgrade the Blower Control System located at the Town Branch Wastewater Treatment Plant. (429-11) (Martin/Bush)

This is a request to approve the purchase of Allen-Bradley Automation equipment in order to upgrade the Blower Control System located at the Town Branch Wastewater Treatment Plant at a cost not to exceed \$42,000.00. The current control system for these blowers is over 20 years old and needs to be upgraded in order to be compatible with future SCADA (Supervisory Control and Data Acquisition) upgrades. Funds are budgeted. **p.26**

- M. Authorization to approve a Class A Incentive Grant Award Agreement with The North Limestone Neighborhood Association, Inc. funded by the Water Quality Management Fee. (430-11) (Martin/Bush)

This is a request to approve a Class A (Neighborhood) Incentive Grant Award Agreement with The North Limestone Neighborhood Association, Inc. in the amount of \$50,000.00 funded by the Water Quality Management Fee. A 20% match of \$12,500.00 is required by the grant recipient. **p.30**

- N. Authorization to approve a Class A Incentive Grant Award Agreement with Spindletop Community Association, Inc. funded by the Water Quality Management Fee. (431-11) (Martin/Bush)

This is a request to approve a Class A (Neighborhood) Incentive Grant Award Agreement with Spindletop Community Association, Inc. in the amount of \$2,180.00 funded by the Water Quality Management Fee. A 20% match of \$545.00 is required by the grant recipient. **p.31**



Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
Division of Grants and Special Programs

TO: JIM GRAY, MAYOR  
URBAN COUNTY COUNCIL

FROM: IRENE GOODING, DIRECTOR  
DIVISION OF GRANTS AND SPECIAL PROGRAMS

DATE: NOVEMBER 8, 2011

SUBJECT: REQUEST COUNCIL AUTHORIZATION TO EXECUTE  
MEMORANDUM OF AGREEMENT, ACCEPTING FEDERAL FUNDS  
FROM THE KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET,  
KENTUCKY STATE POLICE FOR TICKETING AGGRESSIVE CARS  
AND TRUCKS GRANT PROGRAM - FY 2012

The Kentucky State Police has received high priority Motor Carrier Safety Assistance Program funds from the United States Department of Transportation, Federal Motor Carrier Safety Administration for continuation of TACT ("Ticketing Aggressive Cars and Trucks") Grant Program in Kentucky. The Kentucky Justice and Public Safety Cabinet awarded Lexington-Fayette Urban County Government's Division of Police funds to conduct TACT activities.

Federal funding in the amount of \$40,000 will be provided by Kentucky Justice and Public Safety Cabinet to LFUCG for officer overtime in the performance of TACT activities. A 20% match is required. The match of \$10,000 will come from existing budgeted staff salaries in the Division of Police. Total cost of the project is now \$50,000.

Council authorization to execute Memorandum of Agreement, accepting federal funds from the Kentucky Justice and Public Safety Cabinet, is hereby requested.

  
Irene Gooding, Director

Xc: Clay Mason, Commissioner of Public Safety

HORSE CAPITAL OF THE WORLD



Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
Division of Grants and Special Programs

TO: JIM GRAY, MAYOR  
URBAN COUNTY COUNCIL

FROM: IRENE GOODING, DIRECTOR  
DIVISION OF GRANTS AND SPECIAL PROGRAMS

DATE: NOVEMBER 9, 2011


SUBJECT: REQUEST COUNCIL AUTHORIZATION TO ACCEPT AWARD FROM THE U.S.  
DEPARTMENT OF JUSTICE UNDER THE 2011 STATE CRIMINAL ALIEN  
ASSISTANCE PROGRAM— FY 2012

On June 23, 2011 (Resolution No. 256-2011), Council authorized submission of an application requesting federal funding under the 2011 State Criminal Alien Assistance Program (SCAAP). This federal program is offered by the Bureau of Justice Assistance, a part of the Office of Justice Programs in the U.S. Department of Justice in conjunction with Immigration and Customs Enforcement (ICE). This program is governed by the Immigration and Nationality Act, 8 U.S.C. §1231 (i) as amended, and Title II, Subtitle C. Section 20301, Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322.

SCAAP provides funds to States and localities as reimbursement for costs of incarcerated undocumented criminal aliens who have been in custody for at least four consecutive days, and have been convicted of a felony or two misdemeanor offenses. Reimbursable costs are for foreign-born inmates who have 1) entered the U.S. without inspection, 2) was subject of exclusion or deportation proceedings at the time of being taken into custody, and/or 3) admitted as a nonimmigrant at the time of being taken into custody who has failed to maintain the nonimmigrant status. ICE takes responsibility for ensuring that aliens are properly identified and their status verified before awards to state and local governments are made.

The FY 2011 SCAAP payment amounts were determined using a sampling of actual inmate, cost and facility data for a specified reporting period. SCAAP is not a traditional reimbursement program in which the actual cost, facility and data are collected. SCAAP used prior year's data, from the period of July 1, 2009 through June 30, 2010, to determine applicants' annual relative percentages of available funding. The award for 2011 has been announced as \$129,533. For FY 2011 SCAAP awards, the Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162, Title XI) requires that all SCAAP funds be used for correctional purposes only. No matching funds are required.

Council authorization to accept the award is hereby requested.

  
Irene Gooding, Director

Xc: Clay Mason, Commissioner of the Department of Public Safety

HORSE CAPITAL OF THE WORLD



Lexington-Fayette Urban County Government  
DEPARTMENT OF SOCIAL SERVICES

Jim Gray  
Mayor

Beth Mills  
Commissioner

## MEMORANDUM

TO: Mayor Jim Gray  
Richard Moloney, CAO  
Members of the Council

FROM: Beth K. Mills  
Beth Mills, Commissioner of Social Services

DATE: November 3, 2011

SUBJECT: Sponsor Agreement for Volunteer Income Tax Assistance ("VITA") and Civil rights Assurance with Internal Revenue Service

The Central Kentucky Empowerment Project (CKEEP) provides free tax preparation and filing for households with incomes below \$42,000.

The LFUCG will be providing space at the Central Kentucky Job Center and the Family Care Center for this program. The Internal Revenue Service requires that the entity providing the locations sign a document assuring that there will be no discrimination at the sites they provide.

Further, the Sponsor Agreement insures that all information obtained in the preparation of the income tax returns will be kept confidential and all computer data will be deleted at the end of the filing season.

We are requesting authorization for Mayor Gray to approve these documents.




Lexington-Fayette Urban County Government  
DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL QUALITY

Jim Gray  
Mayor

Cheryl Taylor  
Commissioner

## Memorandum

To: Mayor Jim Gray  
Urban County Council

From:   
Charles H. Martin, P.E., Director  
Division of Water Quality

Date: November 9, 2011

Re: Contract Extension / FY12 Appropriation Change Order (No. 1) for the Sanitary Sewer Assessment Reports & Sanitary Sewer and WWTP Remedial Measures Plans  
Resolution No. 394-2010

The purpose of this memorandum is to request a resolution authorizing the acceptance of a contract extension / change order to an existing agreement with Hazen and Sawyer, P.S.C., for the Sanitary Sewer Assessment Reports and Remedial Measures Plans (Resolution #394-2010). The original proposal for services listed an estimated fee of \$2,752,000 with a contract scope that included the Sanitary Sewer Remedial Measures Implementation Phase (*please reference Hazen and Sawyer letter dated October 12, 2011*). The FY11 allocation was \$2.0 million. This contract extension utilizes FY12 budget allocations to complete submission of the Remedial Measures Plans and the Sewer System Assessment reports at a cost of \$752,000 and begins RMP implementation at a cost of \$748,000. Total FY12 costs not to exceed \$1,500,000. Funds are budgeted in 4003-303401-3425-92811 Project: REMEDIAL\_2012 and Activity: CONSENT\_DE.

Questions regarding this agreement should be directed to LaJoyce Mullins-Williams at 425-2580.

pc: Cheryl Taylor, Commissioner, Department of Environmental Quality  
Rodney Chervus, P.E., Collection and Conveyance Manager, Division of Water Quality  
Brian Marcum, Director, Central Purchasing  
LaJoyce Mullins-Williams, Project Engineering Coordinator, Division of Water Quality



**CONTRACT HISTORY FORM**Contractor: Hazen and Sawyer, P.S.C.Project Name: Sanitary Sewer Assessment Reports and Sanitary Sewer  
and WWTP Remedial Measures PlansContract Number and Date: Resolution #394-2010 July 6, 2010Responsible LFUCG Division: Division of Water Quality**CHANGE ORDER DETAILS****Summary of Previous Change  
Orders To Date****Dollar Amount****Percent Change to  
Original Contract**

A. Original Contract Amount:	\$ <u>2,000,000.00</u>	
B. Cumulative Amount of Previous Change Orders:	\$ <u>0.00</u>	<u>0%</u> % (Line B / Line A)
C. Total Contract Amount Prior to this Change Order:	\$ <u>2,000,000.00</u>	
<b><u>Current Change Order</u></b>		
D. Amount of This Change Order:	\$ <u>1,500,000.00</u>	<u>75%</u> % (Line D / Line A)
E. New Contract Amount Including this Change Order:	\$ <u>3,500,000.00</u>	<u>175%</u> % (Line E / Line A)

**SIGNATURE LINES**Project Manager:  Date: 11-9-11Reviewed by:  Date:                     Division Director:  Date: 11-9-11



October 12, 2011

Ms. LaJoyce Mullins-Williams  
 Lexington Fayette Urban County Government  
 301 Lisle Industrial Avenue  
 Lexington, KY 40511

Re: Contract Extension  
 LFUCG Sanitary Sewer System Assessment (SSSA)  
 Reports and Remedial Measures Plans  
 LFUCG PO – LF00075485

Ms. Mullins-Williams:

As discussed recently, our current purchase order for the SSSA reports and the Remedial Measures Plans (RMPs) referenced above has a maximum limit of \$2,000,000. Our proposal for professional services, which is a part of our contract with LFUCG, lists an estimated fee of \$2,752,000 for the preparation of three separate SSSA reports and three separate RMPs. Note that this report preparation fee does not include any of the Implementation Phase scope elements that are defined in the Scope of Services.

We have been authorized to proceed with five separate Task Orders to date, and Task Order 6 is required to complete the Reports portion of our scope of work. The table below is a summary of the current task orders.

<b>PO and Task Orders</b>	<b>Authorized</b>
LFUCG PO #LF00075485	\$2,000,000
Task Order 1	\$1,483,012
Task Order 2	\$34,846
Task Order 3	\$239,242
Task Order 4	\$59,400
Task Order 5	\$150,174
<b>Total Task Order Amount</b>	<b>\$1,966,674</b>
<b>Remaining in PO</b>	<b>\$33,326</b>

Ms. LaJoyce Mullins-Williams  
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Task Order 2 and over half of Task Order 3 were for initial Implementation Phase work. The remainder of Task Order 3 and all of task orders 1, 4, 5, and 6 relate to the Reports Phase scope of work.

A draft Task Order 6 has been prepared to complete the remaining portion of the Reports scope of work. The estimated cost for that task order is \$949,672. An amendment to our purchase order is required before Task Order 6 can be authorized, in addition to other future task orders related to Implementation Phase work requested of us during the contract term. The following is a listing of near-term Implementation Phase work that is included in our current scope of services and is necessary for a smooth and continuous transition into the Remedial Measures Plans implementation. The work described is anticipated to be required prior to the termination of our current contract in July 2013.

1. Providing assistance to Division of Water Quality personnel related to streamlining of processes that can result in "bottlenecks" in the program implementation, such as property acquisition, procurement of engineering services, etc.
2. Participation in meetings with LFUCG Council and/or staff, members of the public, and stakeholders as requested by DWQ to communicate the program and address identified needs.
3. Development of design services scoping documents for each capital construction remedial measure initiated during the contract term. We will also provide subsequent assistance with the reviews of design proposals and awarding of the design contracts, as requested by DWQ.
4. Management of the remedial measures design process as described in our Scope of Work item II(F)(2)(e).
5. Assistance with advertisement of the construction services contracts.
6. Attendance at construction progress meetings, and monitoring of the construction progress to ensure compliance with the schedule.
7. Quarterly and annual reporting.
8. Maintenance of the overall Remedial Measures Implementation Schedule.

Based on the current Implementation Plan developed for the Group 1 Remedial Measures Plan, design services are anticipated for nine (9) separate Group 1 projects during FY2013. It is not known at this time how many Group 2 or Group 3 projects will commence during that fiscal year. Significant construction is not anticipated until FY2014.

## HAZEN AND SAWYER

421-11

Ms. LaJoyce Mullins-Williams  
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Based on our estimates of the work that will be required or requested of us, we recommend that our contract amount be increased from the original \$2,000,000 to \$3,500,000 to reflect the work required to complete Task Order 6 and the Implementation Phase items listed above for the duration of the contract term (July 9, 2013).

Please review this information at your earliest convenience, and contact me at (859) 219-1126 with any questions or comments. Thank you for your attention to this matter.

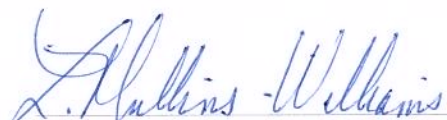
Very truly yours,  
**Hazen and Sawyer, P.S.C.**



John B. Steinmetz, P.E.  
Senior Associate

c: Charles Martin, DWQ  
Gary Haubner

Approved By:

 11-9-11  
DWQ Date

Mayor

Date





Lexington-Fayette Urban County Government  
OFFICE OF THE MAYOR

Jim Gray  
Mayor

To: Mayor Jim Gray  
Urban County Council

From: \_\_\_\_\_  
Kevin Atkins, Chief Development Officer

Date: November 14, 2011

Re: Approve agreement with CMSText, LLC to participate in the Kentucky Business Investment Program

The Kentucky Economic Development Finance Authority has given CMSText, LLC preliminary approval to participate in the Kentucky Business Investment (KBI) Program. The KBI Program requests that the state and local government enter into a 10-year agreement with the approved company under which the business can recover up to 100% of its start-up costs and 50% of the annual rent costs through Kentucky corporate income tax credits and a wage assessment fee of up to 4%.

CMSText's decision to remain and grow in our community and expand its operations in Lexington will create wealth and provide additional job opportunities for citizens. The company plans to create 135 new jobs with an average wage of approximately \$40,000.00 per year plus benefits. CMSText plans to invest \$4,400,000.00 in equipment, building improvements and start-up costs.

It is recommended by Gina Greathouse, with Commerce Lexington for LFUCG to approve the 10-year local 1% wage assessment through KBI. There is no budgetary impact on LFUCG.

FOLLOW MAYOR GRAY:

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Lexington-Fayette Urban County Government  
OFFICE OF THE MAYOR

Jim Gray  
Mayor

To: Mayor Jim Gray  
Urban County Council

From: \_\_\_\_\_  
Kevin Atkins, Chief Development Officer

Date: November 14, 2011

Re: Approve agreement for GE Lighting, LLC with Kentucky Business Investment Program

The Kentucky Economic Development Finance Authority has given GE Lighting, LLC preliminary approval to participate in the Kentucky Business Investment Program (KBI program). The KBI program requests that the state and local government enter into a 10-year agreement with the approved company under which the business can recover up to 100% of its start-up costs and 50% of the annual rent costs through Kentucky corporate income tax credits and a wage assessment fee of up to 4%.

GE Lighting's decision to remain and grow in our community and expand its operations in Lexington will create wealth and provide additional job opportunities for citizens. The company plans to create 36 new jobs with an average wage of approximately \$35,000.00 per year plus benefits. GE Lighting plans to invest \$7,250,000.00 in equipment, building improvements and start-up costs.

It is recommended by Gina Greathouse, with Commerce Lexington for LFUCG to approve the 10-year local 1% wage assessment through KBI. There is no budgetary impact on LFUCG.

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Lexington-Fayette Urban County Government  
OFFICE OF THE MAYOR

Jim Gray  
Mayor

To: Mayor Jim Gray  
Urban County Council

From: \_\_\_\_\_  
Kevin Atkins, Chief Development Officer

Date: November 14, 2011

Re: Approve agreement for Shatterbox, LLC with Kentucky Business Investment Program

The Kentucky Economic Development Finance Authority has given Shatterbox, LLC preliminary approval to participate in the Kentucky Business Investment Program (KBI program). The KBI program requests that the state and local government enter into a 10-year agreement with the approved company under which the business can recover up to 100% of its start-up costs and 50% of the annual rent costs through Kentucky corporate income tax credits and a wage assessment fee of up to 4%.

Shatterbox's decision to invest in our community and establish a new media and design firm in Lexington will create wealth and provide additional job opportunities for citizens. The company plans to create 15 new jobs with an average wage of approximately \$60,000.00 per year plus benefits. Shatterbox plans to invest \$926,000.00 in equipment, building improvements, start-up costs and lease costs for 10 years.

It is recommended by Gina Greathouse, with Commerce Lexington for LFUCG to approve the 10-year local 1% wage assessment through KBI. There is no budgetary impact on LFUCG.

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Lexington-Fayette Urban County Government  
DIVISION OF HUMAN RESOURCES

Jim Gray  
Mayor

Janet Graham  
Commissioner

**M E M O R A N D U M**

**TO:** Jim Gray, Mayor  
Richard Moloney, Chief Administrative Officer  
Council Members

**FROM:** \_\_\_\_\_  
Leslie Jarvis, Acting Director  
Division of Human Resources

**DATE:** November 14, 2011

**SUBJECT:** Title Change

The attached action amends Section 21-5 of the Code of Ordinances, changing the title from Human Resources Manager to Payroll Manager in the Division of Accounting, effective upon passage by Council.

The Division requests this action in order to align the position title in the Division of Accounting with the assigned duties that were transferred when the Human Resources Manager position was transferred from the Division of Human Resources to the Division of Accounting..

The fiscal impact for FY2012 is budget neutral.

If you have questions or need additional information, please contact Daniel H. Fischer at 258-3030.

Attachment

cc: Jane Driskoll, Commissioner, Department of Finance

Log #12-0023



Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Division of Grants and Special Programs

TO: JIM GRAY, MAYOR  
URBAN COUNTY COUNCIL

FROM: IRENE GOODING, DIRECTOR  
DIVISION OF GRANTS AND SPECIAL PROGRAMS


DATE: NOVEMBER 14, 2011

SUBJECT: REQUEST COUNCIL AUTHORIZATION TO ACCEPT AWARD OF FEDERAL FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE CONTINUATION OF HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANT AND TO EXECUTE AGREEMENT WITH AIDS VOLUNTEERS, INC.

The Lexington-Fayette Urban County Government received federal funds in the amount of \$1 million from the U.S. Department of Housing and Urban Development in 1994 under the Housing Opportunities for Persons with AIDS (HOPWA) program for the development of housing facilities for persons with AIDS. AIDS Volunteers, Inc., served as the sponsoring organization for this project. The LFUCG was selected again for funding in 1998 to receive federal funds in the amount of \$1.144 million under HUD's Special Projects of National Significance. In 2001, the project received renewal funds in the amount of \$1,362,860 for a three year continuation. In 2005, the project was renewed in the amount of \$1,426,690, and again in 2008, the project was renewed in the amount of \$1,430,000.

On March 3, 2011 (Resolution No. 83-2011), Council approved the submission of a grant application to continue the project for an additional three years. The U.S. Department of Housing and Urban Development has now approved federal funds in the amount of \$1,430,000 for continuation of this project for an additional three years. The AVOL AIDS Housing Program provides permanent supportive housing and transitional housing services for persons living with HIV/AIDS through two housing facilities (Rainbow Apartments and Solomon House). Solomon House is a community residence which provides permanent supportive housing for individuals living with HIV/AIDS who are in the advanced stages of their illness and require personal care, supervision and supportive services. Rainbow Apartments is a transitional housing program designed to respond to persons with HIV/AIDS who are homeless or at risk for homelessness and in need of a spectrum of supportive services while they work through those issues that may have contributed to their homelessness. Over the three year grant period, this program will serve 75 persons with HIV/AIDS through the housing facilities and an additional 300 individuals will receive housing information services. The approved project includes leveraged funds in the amount of \$260,000 from the following community partners: Bluegrass Care Clinic, Moveable Feast Lexington, Hospice of the Bluegrass, Kentucky AIDS Drug Assistance Program, Infectious Disease Research Program, and AIDS Volunteers, Inc. A subrecipient agreement in the amount of \$1,391,000 will be entered into with AIDS Volunteers, Inc.

Council authorization to accept the award and to execute subrecipient agreement with AIDS Volunteers, Inc., is hereby requested

  
Irene Gooding, Director

Xc: Richard Moloney, Chief Administrative Officer

HORSE CAPITAL OF THE WORLD

200 East Main Street 6<sup>th</sup> Fl Lexington, KY 40507 PH (859)258-3070 FAX (859)258-3081 www.lexingtonky.gov





Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
Division of Grants and Special Programs

TO: JIM GRAY, MAYOR  
URBAN COUNTY COUNCIL

FROM: IRENE GOODING, DIRECTOR  
DIVISION OF GRANTS AND SPECIAL PROGRAMS

DATE: NOVEMBER 14, 2011

SUBJECT: REQUEST COUNCIL AUTHORIZATION TO SUBMIT  
APPLICATION TO THE NATIONAL POLICE ATHLETIC  
LEAGUE, AND ACCEPT AWARD IF OFFERED, FOR  
PARTICIPATION IN THE POLICE ACTIVITIES LEAGUE  
MENTORING PROGRAM (PALYEP) IN THE DIVISION OF  
POLICE

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The Division of Police, Police Activities League has prepared grant application for submission to the National Police Athletic/Activities League, Inc., requesting \$15,000 for operation of a National Police Activities League Mentoring Program.

The purpose of the program is to implement a mentoring program during non-school hours that includes a dropout prevention curriculum and development of a group of volunteers to serve as adult/peer mentors. Funds will be used to support costs of mentoring personnel (under contract), travel, field trips minor equipment, training materials, snacks, and operating supplies.

Federal funds for the program are from the U.S. Department of Justice/Office of Juvenile Justice and Delinquency Prevention Program.

Council authorization to submit the application, and accept the award if offered, is hereby requested.

  
\_\_\_\_\_  
Irene Gooding, Director

XC: Clay Mason, Commissioner of the Department of Public Safety

HORSE CAPITAL OF THE WORLD



Lexington-Fayette Urban County Government  
DEPARTMENT OF SOCIAL SERVICES

Jim Gray  
Mayor

Beth Mills  
Commissioner

**MEMORANDUM**

TO: MAYOR JIM GRAY  
RICHARD MOLONEY, CAO  
URBAN COUNTY COUNCIL

FROM: \_\_\_\_\_  
BETH MILLS, COMMISSIONER  
DEPARTMENT OF SOCIAL SERVICES

DATE: NOVEMBER 14, 2011

SUBJECT: MOA WITH FAYETTE COUNTY PUBLIC SCHOOLS TO PROVIDE MEALS  
AT THE FAMILY CARE CENTER, DAY TREATMENT CENTER

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This is a request that the Council authorize the Mayor to enter into an amended MOA with the Fayette County Public Schools to provide meals to students at the Family Care Center/Day Treatment Center and cater child care meals for the period 11/2/11 to 12/ 30 /11. The Council is also requested to authorize the Mayor to enter into a MOA to provide student meals only and no child care meals for the period of 1/2/ 12 through the end of the school year.




Lexington-Fayette Urban County Government  
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray  
Mayor

Susan C. Bush  
Acting Commissioner

To: Mayor Jim Gray  
Urban County Council

From:   
Charles H. Martin, P.E., Director  
Division of Water Quality

Via: \_\_\_\_\_  
Susan C. Bush, Acting Commissioner  
Department of Environmental Quality & Public Works

Date: November 10, 2011

Re: **Request Approval for the purchase of Allen-Bradley Automation Equipment to upgrade the Blower Control System located at the Town Branch WWTP.**

The Division of Water Quality requests approval for the purchase of **Allen-Bradley Automation Equipment** in order to upgrade the Blower Control System located at the Town Branch Wastewater Treatment Plant. The current control system for these blowers is over 20 years old and needs to be upgraded in order to be compatible with future **SCADA** (Supervisory Control and Data Acquisition) upgrades currently underway at the Town Branch Wastewater Treatment Plant.

RS Logix 5000 Software has already been installed in preparation for the SCADA upgrade, and is currently controlling the Programmable Logic Controllers (PLC's) at several areas of the Treatment Plant including the Headworks, Dewatering and Screw Pump Buildings.

I have included with this request sole source documentation for CED of Lexington through Rockwell Automation, which is the only appointed distributor authorized to sell Allen Bradley and Rockwell Software products in the geographic area in which the Town Branch WWTP is located.

The cost of the upgrade will not exceed \$42,000.00 and is fully budgeted at 4002-303402-0001-91017.

Please contact me at 425-2455 should you have questions or need further information..

Attachment

Pc: Susan C. Bush, Acting Commissioner, Department of Environmental Quality & Public Works  
Brian Marcum, Director of Central Purchasing  
Mark Stager, Plant Superintendent Town Branch WWTP



## JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

**Sole Source Purchases** are defined clearly, based upon a legitimate need, and are limited to a single supplier. Sole source purchases are normally not allowed except when based upon strong technological grounds such as operational compatibility with existing equipment and related parts or upon a clearly unique and/or cost effective feature requirement. The use of sole source purchases must be justified and shall be limited only to those specific instances in which compatibility or technical performance needs are being satisfied.

**Sole Source Services** are defined as a service provider providing technical expertise of such a unique nature that the service provider is clearly and justifiably the only practicable source available to provide the service. The justification shall be based on the uniqueness of the service, sole availability at the location required, or warranty or defect correction service obligations of the service provider.

This form must be filled out for the request to purchase any good or non-professional service that requires a competitive procurement process (informal quotes (\$1001-\$10,000), formal quotes (\$10,001 - \$19,999.99), or formal bid (\$20,000 or more) as defined in the LFUCG's Purchasing Manual. This form must be completed in its entirety and attached to the purchase requisition.

**Note: Sole Source Purchase requests for goods exceeding \$20,000 will require approval by the Urban County Council by submitting an Administrative Review Form. A copy of this form must be signed off by Central Purchasing and attached to the Administrative Review Form.**

### Requesting Division

Name Frank H. Mabson Jr. Division/Dept DWQ-Town Branch WWTP

Phone (859) 367-4942 Email fmabson@lexingtonky.gov

Type of Purchase: ☒ Goods/Materials/Equipment ☐ Services

Cost: \$42,000.00

Sole Source Request for the Purchase of: Allen-Bradley Automation Equipment

to upgrade the Blower Control System at the Town Branch WWTP.

☒ One Time Purchase ☐ To Establish Sole Source Provider Contract  
(subject to annual review and approval by Central Purchasing and/or Urban County Council)

### Vendor Information

Business Name CED-Lexington (Distributor for Rockwell Automation)

Contact Name John Farley

Address 1720 Fortune Court, Ste. 140

Phone (859) 293-0573 Email jfarley@cedlexington.com

**STATEMENT OF NEED:** (Add additional pages as needed)





## JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

My division/department's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of the LFUCG. I know of no conflict of interest on my part, and I have no personal involvement in any way with this request. No gratuities, favors, or compromising actions have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials, persons or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers to exist.

**1. Describe the product or service and list the necessary features this product provides that are not available from any other option.**

The Town Branch Wastewater Treatment Plant Currently own's RS Logix 5000 Software which is compatible with Allen Bradley Automation Equipment and CED-Lexington is the Rockwell Automation appointed distributor currently authorized to sell Allen Bradley and Rockwell Software products, along with related services, in this area. As a matter of Company policy, full factory product & sales support is made available only to the local authorized distributor.

**2. Below are eligible reasons for sole source. Check one and describe.**

☐ Licensed or patented product or service. No other vendor provides this. Warranty or defect correction service obligations to the consultant. Describe why it is mandatory to use this licensed or patented product or service.

☒ Existing LFUCG equipment, inventory, custom-built information system, custom-built data inventory system, or similar products or programs. Describe. If product is off-the-shelf, list efforts to find other vendors (i.e. web site search, contacting the manufacturer to see if other dealers are available to service this region, etc.)

☐ Uniqueness of the service. Describe.

☐ The LFUCG has established a standard for this manufacturer, supplier, or provider and there is only one vendor. Attach documentation from manufacturer to confirm that only one dealer provides the product.

☒ Factory-authorized warranty service available only from this single dealer. Sole availability at the location required. Describe.

☐ Used item with bargain price (describe what a new item would cost). Describe.

☐ Other – The above reasons are the most common and established causes for an eligible sole source. If you have a different reason, please describe:

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## JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

**3. Describe efforts to find other vendors or consultants (i.e. phone inquiries, web site search, contacting the manufacturer to see if other dealers are available to service region, etc.).**

Plant superintendant, Mark Stager received an estimate from Dresser Root, the manufacturer of the four blowers installed at the Town Branch WWTP. Dresser Roots estimated cost would exceed \$125,000.00 per blower to upgrade PLC's, HMI's and all other necessary parts and components.

**4. How was the price offered determined to be fair and reasonable?**

(Explain what the basis was for comparison and include cost analyses as applicable.)

After receiving estimates from the Dresser Root, manufacture of the current blowers at the Town Branch WWTP as well as checking prices listed on the internet for other area's with similar needs the price offered by CED of Lexington is said to be fair and reasonable.

**5. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.**

At this time no other Automation Equipment would be compatible with the RS Logix Software currently owned and operated at the Town Branch WWTP. Therefore, to avoid thousands of dollars in additional cost of replacement software, it is in the best interest of the Lexington-Fayette Urban County Government to purchase the Allen Bradley Automation Equipment (PLC's, HMI, parts and components).



Lexington-Fayette Urban County Government  
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray  
Mayor

Susan Bush  
Acting Commissioner

To: Mayor Jim Gray  
Urban County Council

From:   
Charles H. Martin, P.E., Director

Date: November 14, 2011

**Re: Request to Approve a Grant Award Agreement with the North Limestone Neighborhood Association, Inc. for a Class A (Neighborhood) Stormwater Quality Projects Incentive Grant in the Amount of \$50,000.00.**

The grant application of The North Limestone Neighborhood Association, Inc. was reviewed and recommended by the Water Quality Fees Board at its July 21<sup>st</sup> meeting. Funding is provided by revenue from the Water Quality Management Fee and is budgeted and available in the Fund 4051 303204 3373 78112. All Class A grants require a minimum 20% match by the grant recipient. The Grant Award Agreement requires the Mayor's signature.

**Grantee: The North Limestone Neighborhood Association, Inc.**

**Incentive Grant Amount: \$50,000.00**

Minimum Match Required: \$12,500.00

Target Watershed: Cane Run

Project Overview: Develop an Environmental Improvement Plan for the Limestone/Loudon area that identifies stormwater management problems, and proposes solutions for future possible implementation. Hold community educational outreach workshops on the improvement plan, rain barrels, water quality, and rain gardens.

Questions regarding this agreement should be directed to Susan Plueger, the Incentive Grant Program Administrator, at 859-425-2482.

Attachment

Pc: Susan Bush, Acting Commissioner, Department of Environmental Quality & Public Works  
Ed Gardner, Department of Law  
Julie Mantrom, Division of Water Quality  
Susan Plueger, P.E., Division of Water Quality



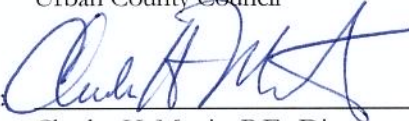


Lexington-Fayette Urban County Government  
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray  
Mayor

Susan Bush  
Acting Commissioner

To: Mayor Jim Gray  
Urban County Council

From:   
Charles H. Martin, P.E., Director

Date: November 14, 2011

**Re: Request to Approve a Grant Award Agreement with the Spindletop Community Association, Inc. for a Class A (Neighborhood) Stormwater Quality Projects Incentive Grant in the Amount of \$2,180.00.**

The grant application of the Spindletop Community Association, Inc. was reviewed and recommended by the Water Quality Fees Board at its July 21<sup>st</sup> meeting. Funding is provided by revenue from the Water Quality Management Fee and is budgeted and available in the Fund 4051 303204 3373 78112. All Class A grants require a minimum 20% match by the grant recipient. The Grant Award Agreement requires the Mayor's signature.

**Grantee: Spindletop Community Association, Inc.**

**Incentive Grant Amount: \$2,180.00**

Minimum Match Required: \$545.00

Target Watershed: Cane Run

Project Overview: Improve water quality in the subdivision pond with a bottom aerator, hold educational seminars on the Royal Springs Aquifer and topics related to what residents can do to improve water quality, stencil neighborhood storm drains, and hold a stream cleaning event.

Questions regarding this agreement should be directed to Susan Plueger, the Incentive Grant Program Administrator, at 859-425-2482.

Attachment

Pc: Susan Bush, Acting Commissioner, Department of Environmental Quality & Public Works  
Ed Gardner, Department of Law  
Julie Mantrom, Division of Water Quality  
Susan Plueger, P.E., Division of Water Quality



Public Safety Committee  
Meeting Summary  
November 17, 2011

Councilmember Diane Lawless chaired the meeting. The committee members present were as follows; Doug Martin, Chuck Ellinger, Chris Ford, Julian Beard, Bill Farmer, Kevin Stinnett, KC Crosbie, Jay McChord, Peggy Henson.

Additionally, Councilmembers Steve Kay, Tom Blues and Vice Mayor Linda Gorton attended as non-voting members.

The meeting was called to order at 1:02pm.

**Noise Ordinance**

Chairperson Lawless made a statement that time would not be able to be yielded for this meeting and that each speaker would have three minutes to speak. There was some discussion about traditions regarding speaking.

**Presenter: Councilmember Blues/Vice Mayor Gorton**

CM Blues acknowledged and thanked the members of the Noise Ordinance Task Force who were in attendance. CM Blues also thanked the Council Staff who helped and the members of the public who had attended meetings of the task force. CM Blues called Vice Mayor Gorton to speak on the history and review of early decisions the task force made.

Vice Mayor Gorton stated that the task force was created to look at all noise issues. She made note of various organizations and agencies that had been involved in the discussions over the creation of the ordinance. Vice Mayor Gorton also mentioned that there had been one public hearing on the draft noise ordinance.

Vice Mayor Gorton made reference to Tab 6 of the committee members binders' that reference an engine break that is a separate ordinance from the main noise ordinance. Vice Mayor Gorton told the committee that there were some early decisions necessary before the main ordinance could be written.

One of those decisions referenced decibel levels. The task force wanted to decided early on if decibel levels would be used to define noise level with regard to enforcement. The task force determined it would be problematic to use decibel levels because of the cost and the regular intensive training it entails. She stated that the task force opted to not include the use of decibel levels at this time. However, in the future when there is a money to fund equipment and training, it should be considered.

Vice Mayor Gorton then referenced, Tab 3, page 13, section 14-80 of the committee members binder. She discussed that the task force discussed that in order to have a civil penalty scenario, our government would need to put into place a hearing process, a hearing board and perhaps another division to manage a civil enforcement division. The

task force decided to recommend it be a criminal process with a fine attached for now because of the obstacles relating to the civil penalty process.

Another early decision Vice Mayor Gorton mentioned dealt with vehicle noise. Page 3 of Tab 3 Section 14-71.1 deals specifically with vehicle noise.

Councilmember Blues resumed presentation.

CM Blues gave a brief overview of the draft ordinance sections. CM Blues also discussed the four points that guided the task force. 1. What contributes to our quality of life can sometimes work against it, referencing specifically economic development and entertainment sectors. 2. In an urban environment, it is sometime impossible to \_\_\_\_\_ noisemakers from noise receivers. 3. Not all noise issues will be resolved to everyone's satisfaction 4. Noisemakers and noise recipients must have a recourse where complaints and issues about noise can be heard and vetted.

CM Blues stated that because of #4 is why the Noise Board is requested to be created as part of the ordinance. The Noise Board will deal with specific prohibitions, exceptions, and legitimate conflicts of interest.

Coleman Bush, member of the Noise Ordinance Task Force spoke in favor of the draft Noise Ordinance.

**Committee Members Questions/Comments:**

CM Martin asked about Tab3, page 3, Section d-2 referencing garbage cans. CM Blues read the section aloud. CM Martin asked if he would be in violation if he took his garbage can out after 9pm. CM Blues said no. CM Martin asked if he can let fireworks off until 10:00pm. Vice Mayor clarified that the intention of that particular section CM Martin is referencing is that if a disturbance is created and someone calls to complain then it would be a violation. Its not intended to prohibit an activity. CM Blues added to the conversation in an attempt to clarify.

CM Stinnett thanked the task force for their work. CM Stinnett addressed David Barberie with the LFUCG Law Department asking about how Public Safety would be trained to understand defining noise as mentioned in Subsection C, page 2 of Tab 3. David Barberie explained that criteria listed would have to be considered upon citation. David Barberie said that each police officer or anyone else with the ability to cite would have to complete training in understanding the criteria included in the ordinance.

CM Stinnett asked about the noise board and whether there was another existing board that could hear the noise issues without creation of a new board. David Barberie explained that from their research, it was determined that no other board in existence could hear these issues. CM Stinnett asked about corporations that received deliveries during the night and whether or not they would need to go before the board for a variance. David Barberie said there would be some grandfathering in but some may need to present to the Noise Board for variances. CM Stinnett asked about whether railroads are excluded. David Barberie said yes. CM Stinnett asked about highways. David

Barberie said that because of some state and federal mandates there would be some agencies exempt, such as the airport. CM Stinnett asked about paving projects occurring in the evenings. David Barberie responded saying that construction projects would not be considered a violation if permitted and operating within the permit guidelines and are generally considered legitimate noise.

CM Stinnett asked CM Blues about 24 hour businesses and referenced that Louisville has adopted language specific to 24 hour business. CM Blues stated that they looked at 24-hour businesses and attempted to make provisions for them to make their case without prohibiting them. CM Blues stated that there is nothing in the ordinance that would put them out of business.

CM Farmer acknowledged the work of the task force. He referenced a resident concern about a New Circle Road intersection relating to truck traffic. Vice Mayor Gorton referred him to the exception section of the draft ordinance which dealt exactly with the stated concern.

CM Ellinger asked David Barberie about the absence of land use provision in the draft ordinance. David Barberie explained that the task force had discussed this particular issue and that the task force had voted to not include the land use provision in the draft ordinance.

CM Martin also asked David Barberie about land use and passed around a handout referenced in his comments. CM Martin stated that as presented, the draft ordinance appears to create some type of zoning overlay.

CM Martin made a motion to amend the draft ordinance to include:  
14-71 (c)(9) The nature and land use of the area from which the noise emanates. In considering this standard, due regard shall be given to distinctions between those noises that are associated with the normal and reasonable operation of a business, and those noises that are unnecessary or excessive. Seconded by CM Ellinger.

CM Blues spoke on the motion. CM Blues said that the noise board could address this particular issue of land use without adding a section referencing zoning specifically.

CM McChord asking if any changes to the proposed draft could be held until the public had a chance to comment on the draft that had been presented. CM Martin agreed and the motion was held.

#### **Public Comment:**

Bill Lear spoke on behalf of his client Smuckers Company. He passed around a draft of an amendment similar to CM Martin's. He also spoke on loading and unloading zones.

Chris Buzard spoke to the committee. He works at Amazon.com. His primary concern dealt with the 24hour 7 days per week issue.



Bill Young with WT Young Storage spoke on the 24/7 operations of warehouses they own.

Bill Erickson, Plant Manager with Smuckers spoke about unintended impact on Smuckers. He shared with the committee that their jars come in on trucks (about 1 per hour) 24 hours per day in order to meet demand. He is worried about the 24/7 operations.

CM Lawless addressed Bill Erickson saying that she is a nearby neighbor of Jif and she doesn't hear their trucks, but had in the past heard their overhead paging and whistles; however, this has been much improved recently.

Al Yeagley, Vice President with Smuckers spoke on the desire for Smuckers to remain and grow in Lexington. He also asked the committee to give consideration to Bill Lear's amendment.

Brandon Gross and Charlotte McCoy spoke on behalf of a business organization. They spoke in favor of businesses who are operating legally and within all guidelines to not be negatively impacted by this ordinance.

Marty Clifford, President of the North Limestone Neighborhood Association spoke to the committee referencing vehicle horns. Mr. Clifford said that people use their horns as doorbells. He referenced the state law relating to vehicle horns and suggested that what's being proposed is more liberal than state law. He says that he supports the noise board. He also said hiring an attorney is not something reasonable for a low income community. Mr. Clifford asks that the ordinance be passed.

Darby Turner spoke representing WT Young Storage. He suggested there were unintended consequences associated with this ordinance. He suggested the committee consider Bill Lear's amendment.

Don Bertoldo presented to the committee. He showed a map of north side and south side industrial sites. He stated that he does not believe responsible businesses are the target, only those irresponsible business will be affected. He suggested that if this is not passed as is and there is an opportunity to amend, he'd like to see abutting properties addressed specifically. He said that businesses were late to the table.

Evan Tramer spoke to the committee and stated that there does need to be an ordinance in place. He mentioned concerns about the timings and the noise board. He believes timing could have negative impact on government services, such as waste management and believes the board should have business representatives and resident representatives.

Mark Cross spoke to the committee and thanked the task force. He said he had attended many of the meetings. He said decibel levels should be used because it a citing officer's hearing could be questioned. He believes it's a mistake if not using decibels. He loves Jif peanut butter and has great respect for Mr. Young and his family and their contributions to Transylvania University and the city of Lexington.

Miki Wright spoke on behalf of residents of Elsmere Park Neighborhood. She asked that the committee pass the ordinance as drafted.

Tom Ritchie with Elsmere Park also asked the committee to pass the ordinance. He spoke about living so closely to an industrial area and how difficult it's been to enforce without this ordinance.

Bob Quick with Commerce Lexington spoke about balance of jobs and quality of life. Wants to protect business and trying to give good discourse. He has concerns about Noise Ordinance Board because of the added bureaucracy. Mr. Quick likes Bill Lear's amendment.

Ronald Wolfe spoke. He represents a business on Trade Street. He is concerned about the early morning loading/unloading. Supports Bill Lear's amendment.

Melissa Thompson with Baker Iron and Steel addressed the committee. She said people choose to move into industrial zones and businesses are zoned for specific uses. Limiting business is unfounded and unfair. Ms. Thompson says that her company strongly objects to any law limiting businesses. She supports exceptions.

Seth Brewer spoke as a northside resident, business owner and member of the Northside Neighborhood Association. He showed a map of the area showing residential near industrial sites and their close proximity. He gave an example where residents spent a lot of money to fight an industry without resolve. He supports the noise ordinance as written.

Carl Leonard spoke to the committee stating that the current ordinance gives no hope. The draft ordinance is fair and balanced and gives hope for the residents. Mr. Leonard said that no one wants to put anyone out of business.

#### **Committee Member Discussion:**

Councilmember Martin made a motion to amend the exception section 14-72 of the draft ordinance to include:

Noise caused by activities in Industrial, Business, Economic Development and Professional zones which are: (i) authorized by the applicable zoning regulations for those zones; (ii) consistent with the standard practices for the business, office or industry involved; and (iii) necessary or appropriate for the business, office or industry involved. Seconded by CM Ellinger.

CM Farmer asked for further explanation of the amendment and asked for clarification about how this tied into the earlier amendment.

CM Martin explained that he desired to include Bill Lear's amendment as well as his own. CM Farmer suggested that the committee be given some time to consider these amendments, as well as the original draft ordinance.

CM Lawless suggested that this item be tabled until February meeting of the Public Safety Committee.

**CAP Agenda Item**

It was intended to address this item at 25 minutes remaining in the committee meeting; however, the noise ordinance issue took the entirety of the meeting.

**Update on Committee Items:**

CM Lawless gave update of the items in committee.

A motion by CM Crosbie, seconded by CM McChord to adjourn was made. No dissensions.

**Adjourn**

Meeting adjourned at 2:58pm.