



WHEREAS, the Property Owner's proposed green infrastructure practices are intended to and will have the potential to reduce the high amount of runoff into the public Combined Sewer System which will provide a significant environmental benefit to the Metro Louisville community and will be ideally suited to showcase green infrastructure.

**NOW THEREFORE**, in consideration of the promises and mutual covenants contained herein, and other good and valuable consideration, the Parties hereto agree as follows:

(1) **SCOPE OF PROJECT:** The Property Owner agrees to and shall construct and install green infrastructure at the Property consisting of the green infrastructure best management practices (BMPs) set forth in Exhibit "A" attached hereto, which Exhibit is hereby incorporated into and made a part of this Agreement ("the Project") as if fully set forth herein. The BMPs shall be constructed in accordance with plans prepared by a qualified professional in accordance with the MSD Design Manual and in accordance with the construction methodology described within Exhibit "A."

(2) **TERM OF AGREEMENT:** The term of this MOA shall be for a period of ten (10) years from the Effective Date unless earlier terminated in accordance with Section (8) herein below.

(3) **COST AND COST RECOVERY:** The Property Owner shall be solely responsible for the cost of design, construction, installation, maintenance, and operation of the BMPs except that MSD agrees to and shall pay Property Owner a stipend per the terms of its Schedule of Rates, Rentals, and Charges in the amount of Thirty-Thousand Three-Hundred Dollars (\$ 30,300.00 ) to enable recovery of a portion of the Property Owner's capital construction costs ("Capital Recovery Stipend"). The Capital Recovery Stipend shall be paid by MSD in accordance with the payment schedule set forth in Exhibit "B" attached hereto and incorporated herein, which is connected with completion by Property Owner and approval by MSD of certain defined milestones.

(4) **PROJECT COMPLETION DEADLINE:** The Property Owner agrees to complete construction and installation of all incentivized green infrastructure BMPs as set forth and described in Exhibit "A" and shall also satisfy all other terms and conditions set forth in this agreement on or before June 30, 2018 ("completion deadline"). If the Project is not fully constructed and approved by MSD by the completion deadline, or the Property Owner does not otherwise fully satisfy the terms of this agreement by the completion deadline, MSD shall be relieved of its obligation to issue the Property Owner the Capital Recovery Stipend and this MOA shall terminate on the day immediately following the completion deadline, unless an amendment to the completion deadline is requested by the Property Owner and such amendment is granted to the Property Owner by MSD, in writing, prior to the completion deadline.

(5) **DRAINAGE SERVICE CHARGE DISCOUNT:** Contingent upon approved credit application that is separate from and in addition to Capital Recovery Stipend application, MSD also agrees to and shall apply up to a twenty-five percent (25%)

discount to the Drainage Service Charge levied by MSD upon that part of the Property (defined by Equivalent Service Units) serviced by the green infrastructure BMPs. The discount, which shall become effective the first billing cycle after approval, shall be applied throughout the term of this Agreement.

(6) **OPERATION AND MAINTENANCE:** The Property Owner agrees to and shall, to the extent practicable, maintain and operate the BMPs during the Term for the purpose of achieving MSD's defined infiltration and other water quality benefits, which maintenance and operation activities shall include, at a minimum, the following:

- a. Consistent and routine observation of infiltration rates.
- b. Annual inspections of bioswale, rain garden and green roof growth rates for trimming, pruning and dividing perennials to prevent overcrowding and to address stress indicators.
- c. Monthly inspections in spring and fall of bioswales, rain gardens, and green roofs to determine the need for and maintain removal of excess sediment, debris, etc. to keep inflow points free of clogging, as well as consistent and routine pruning, trimming, and weeding to maintain attractive appearance, removal of fallen, clipped, and trimmed plant material, removal and replacement of dead or damaged plants, and removal of trash and debris.
- d. Replacing of bioswale and rain garden mulch every 2 to 3 years except that Property Owner shall be required to re-aerate or replace soil and mulch layers sooner if necessary to achieve infiltration rates of approximately 0.5 inches per hour.
- e. Preparing and submitting to MSD an "annual inspection report" as defined in the MSD Design Manual (Chapter 18), which shall be due on each anniversary of the Effective Date of this Agreement. If requested, MSD agrees to and shall assist the Property Owner in preparing the first inspection report to be submitted during the first year of this Agreement.

(7) **ACCESS AND USE:** Property Owner agrees to provide site access to MSD personnel for the purposes of green infrastructure inspection, observation, testing, and demonstration to third parties. Property Owner agrees to allow MSD to collect data, review records, and take photographs for the purpose of demonstrating green infrastructure feasibility and effectiveness in technical studies, promotional materials, etc. MSD agrees to provide reasonable notice for access and to seek Property Owner's consent if MSD intends to be accompanied by third parties.

(8) **INDEMNIFICATION:** Property Owner agrees to hold harmless and indemnify MSD from any and all claims or damages, to the fullest extent permitted by law, which may arise as a result of the implementation, planning, design, construction, installation, operation or maintenance of the BMPs and does release MSD fully, finally and completely from any and all claims, liabilities, obligations and warranties associated herewith and any and all damages which may result from any work performed in connection with this agreement.

(9) **TERMINATION:** If, within the term of this agreement, the Property Owner chooses to remove the green infrastructure BMPs, make modifications that negate the intended purpose of the Project, or fails to operate, maintain, or repair the green infrastructure BMPs as required by this Agreement, then the Property Owner shall be deemed to be in default of this Agreement and shall be obligated to reimburse MSD the greater of: 25% of the Capital Recovery Stipend; or, a straight line 10 year depreciation of the stipend amount. In the event of the occurrence of default, MSD shall provide the Property Owner written notice (by certified, first class, or overnight mail) of default setting forth the nature of the default, and Property Owner shall have sixty days (60) days after receipt of such notice to cure such default. If the Property fails or refuses to cure said default within this time period, the reimbursement shall become immediately due and payable and this Agreement shall terminate. The Parties also agree that performance of reimbursement shall be enforceable notwithstanding termination.

(10) **SUCCESSORS AND ASSIGNS:** This Agreement shall inure to the benefit of and shall be binding on the Parties hereto and their successors, grantees, and assigns and shall run with the property after it is recorded by MSD.

(11) **ENTIRE AGREEMENT:** This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter herein, and may only be amended or modified in writing signed by the Parties hereto.

(12) **GOVERNING LAW/ENFORCEABILITY:** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event any provision is determined to be invalid or unenforceable, the same shall not impair the validity or enforceability of the remainder of the Agreement.



COMMONWEALTH OF KENTUCKY COUNTY

OF JEFFERSON

I, the undersigned, a Notary Public within and for the State and County aforesaid, do hereby certify that the foregoing instrument was this day produced before me by Angela Akridge, who, being by me first duly sworn, did acknowledge and declare that he signed the foregoing instrument as Chief Engineer of the LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT, by authority and direction of its Board of Directors, as his free and authorized act and deed.

Witness my hand this 14<sup>th</sup> day of December, 2017.

My Commission Expires: December 2, 2021.

Eugenia M. Davis  
NOTARY PUBLIC

This Instrument prepared by:

[Signature]

Legal Counsel  
Louisville and Jefferson County  
Metropolitan Sewer District 700  
West Liberty Street  
Louisville, Kentucky 40203-1911  
(502) 540-6000  
(502) 540-6565 (Fax)

## EXHIBIT B

### Option One

MOA between MSD and \_\_\_\_\_  
Re: Green Infrastructure Project

#### Lump Sum Payment Schedule

The Property Owner shall request inspection(s) at key milestones of the Project, providing at least fourteen (14) days notice. Key milestones, applicable to the various types of green infrastructure BMPs, shall include:

- Full depth excavation of subsurface green infrastructure - This may include excavation to the bottom of an infiltration trench, bioswale, rain garden, etc.;
- Installation of engineered soil or other infiltration material;
- Installation of vegetative materials;
- Installation of pervious pavers/concrete/asphalt;
- Installation of diversion drains or other source water conveyances; and,
- Installation of subsurface/surface tanks, pumps and piping systems (for water harvesting systems).

When the Property Owner believes the Project is finally complete and is ready for a final inspection, the Property Owner shall notify MSD in writing and shall submit a written pay request for the Capital Recovery Stipend. Thereupon MSD will perform a final inspection. If MSD confirms that the Project is complete and that all work performed by the Contractor or Property Owner has been completed in accordance with the Agreement, MSD will tender a written approval certifying completion and that the Property Owner is entitled to payment which shall be tendered within thirty (30) days of the request. If MSD does not confirm that the Project is complete and/or that all work performed by the Contractor or Property Owner has been completed in accordance with the Agreement, written approval shall be withheld until acceptable completion.

## Green Infrastructure Board Application Form

### ***Property Information***

Property Owner		Date Submitted	
Project Name			
Property Address			
City	State		Zip
Telephone	E-mail		

### ***Green Infrastructure Data***

	1	2	3	4	5
GMP Type	INF. TRENCH	INF. TRENCH	INF. TRENCH	INF. TRENCH	
Captured Impervious Area (sf)	9,970 SF	850 SF	8,565 SF	815 SF	
Captured Pervious Area (sf)	19,375 SF	4,963 SF	67,852 SF	2,155 SF	
Area of GMP* (sf)	900 SF	40 SF	550 SF	40 SF	
Depth of GMP* (ft)	5.0'	5.5'	5.5'	5.5'	
BMP Storage Volume (cf) (Below Overflow Elevation)	1,800 CF	88 CF	1,210 CF	88 CF	
Overflow Elevation (ft)	451.25	451.52	+/- 450.40	450.00	
Rain Event Size Captured (in)	6.2 IN	6.2 IN	6.2 IN	6.2 IN	
Infiltration Rate (in/hr) (at full excavation depth)	> 6 IN/HR	> 6 IN/HR	> 6 IN/HR	> 6 IN/HR	
Estimated or Bidded Construction Cost					
Daily Water Usage (gal) (For Water Harvesting)	0 GAL	0 GAL	0 GAL	0 GAL	

\*GMP – Green Management Practice

\*\* If more practices than 5 are a part of this project, please make a copy of this sheet and fill out the table above for all other practices.

Please attach a property map with proposed green infrastructure locations and their delineated drainage areas. An attached example is provided for reference.



## ***Green Infrastructure Approval Process***

Upon approval of funding for your green infrastructure project, you will receive a letter alerting you to the approval as well as a Memorandum of Agreement (MOA) between you and MSD. The agreement needs to be completed as well as signed and notarized and returned to MSD. You must also return the form that shows at what milestones you would like to be paid. The agreement allows us to inspect the green infrastructure on your property and requires you to maintain the green infrastructure for a period of 10 years. If, during this time, the project goes without maintenance or is removed, then you will be required to pay back a portion of the stipend outlined in the agreement. We will also send you a credit application that will allow you to apply for a drainage fee credit based on the impervious area captured for a period of 10 years. If the green infrastructure is still intact and functioning after a period of 10 years, you may reapply for the credit at this time.

After your design is completed you will be required to submit the plan to MSD Plan Review for approval. Green infrastructure project designs should include an approved piezometer for post construction inspection for each practice that captures more than 5,000 square feet and an overflow pipe for any project that captures an area larger than 2,500 square feet. If flow goes directly into the below ground storage media, suitable grit collection and cleanouts should be provided for the subsurface pipe. This will ensure that proper maintenance can be provided to avoid clogging of the below ground infrastructure and porous storage media. The design should also highlight the green infrastructure data that was provided above.

At the start of construction of the green infrastructure, you will be required to contact MSD for construction inspection. An inspector needs to approve the final excavation of the project, any media going into the project and the final product. Depending on the milestone schedule you selected, you will need to submit an invoice or invoices during the construction process or after final inspection (depending on your milestone schedule).

**RUNDLE ERNSTBERGER ASSOCIATES**  
 4611 W. Maple Valley Drive, Suite 100  
 Louisville, KY 40220  
 Tel: (502) 262-2878 Fax: (502) 262-0176  
 www.rea.com

**LOUISVILLE METRO PARKS**  
 Louisville Metro Parks  
 1295 Terminal Way  
 Louisville, KY 40203  
 Tel: (502) 573-3200

**Olmsted Parks Conservancy**  
 1295 Terminal Way  
 Louisville, KY 40203  
 Tel: (502) 573-3200

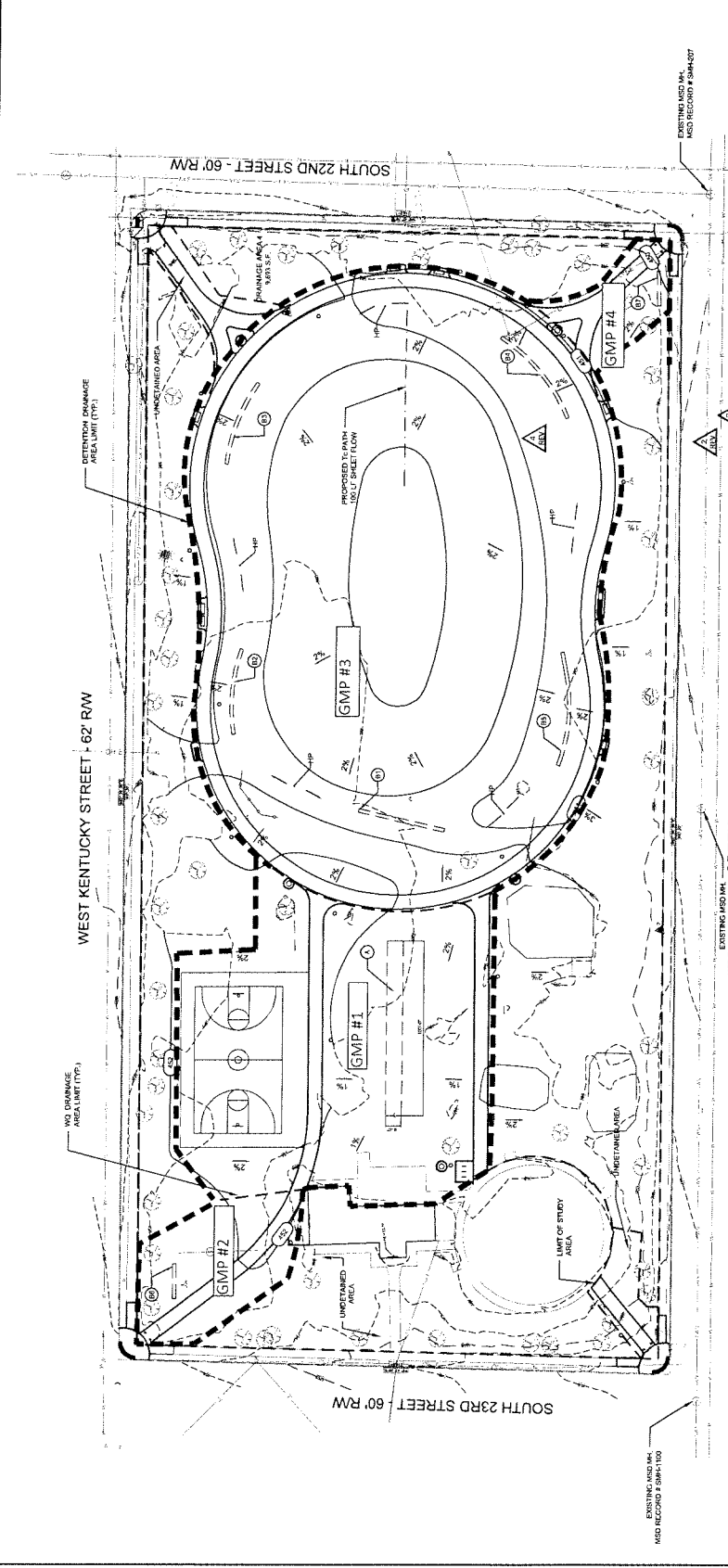
**Greham, Smith and Partners**  
 Architects, Engineers, Planners, Managers  
 1295 Terminal Way  
 Louisville, KY 40203  
 Tel: (502) 573-3200

**VICTORY PARK PHASE 1**  
 SITE CONSTRUCTION PLANS  
 1051 S 23rd Street  
 Louisville, Kentucky

NO.	DATE	DESCRIPTION
1	11/14/17	REVISED PER COMMENTS
2	11/14/17	REVISED PER COMMENTS
3	11/14/17	REVISED PER COMMENTS
4	11/14/17	REVISED PER COMMENTS
5	11/14/17	REVISED PER COMMENTS

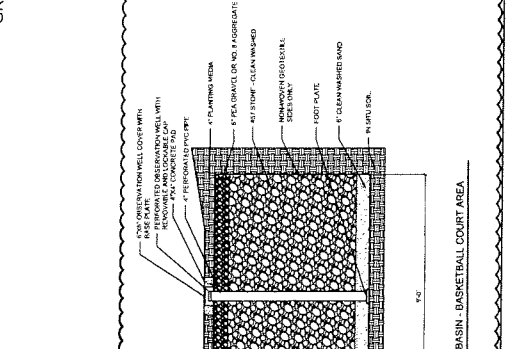
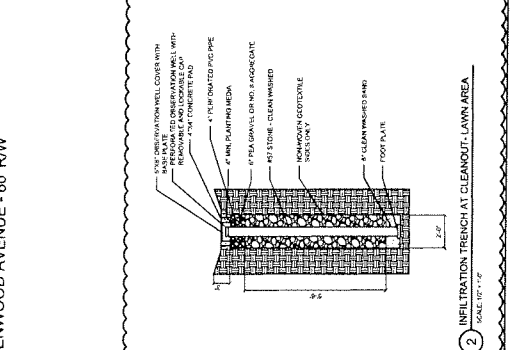
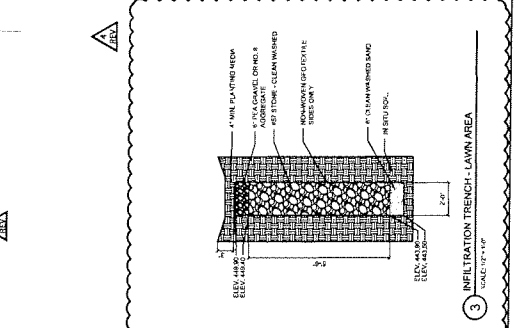
**Post-Construction Detention Area Plan**  
 Project No.: 17-1384  
 Date: 10/07/2018  
 Drawn By: AG  
 Checked By: JG  
 Scale: AS SHOWN

**SD 4.2**



**LEGEND**

- GSP CONTROL MONUMENT
- GAS LINE
- WATER LINE
- SEWER LINE
- TELEPHONE LINE
- UNDERGROUND ELECTRIC LINE
- OVERHEAD ELECTRIC LINE
- ELECTRIC METER
- GAS VALVE
- WATER VALVE
- FIRE HYDRANT
- SEWER MANHOLE
- CATCH BASIN
- POWER LINE
- GUY WIRE
- LIGHT POLE - 3 HEAD
- LIGHT POLE - 2 HEAD
- EX. TREE - DECIDUOUS
- EX. TREE - CONIFER
- PIPE FLOW
- SURFACE FLOW



- STRUCTURE NOTES:**
- 4' x 4' x 1/2' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 4' x 4' x 1/2' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 25' x 2' x 5.5' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 8' x 2' x 5.5' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 8' x 2' x 5.5' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 8' x 2' x 5.5' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET
  - 20' x 2' x 5.5' DEEP INFILTRATION TRENCH REFER TO DETAILS 2 AND 3 THIS SHEET