# AGREEMENT

between the

## Louisville/Jefferson County Metro Government, acting by and through its Department of Public Works and Assets;

and

## Glenmary Homeowners Association, Inc.

pertaining to:

The installation of a landscaping and irrigation system on the Bardstown Road Berm of the Glenmary Subdivision located in Jefferson County, Kentucky

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**THIS AGREEMENT** is by and between the Louisville/Jefferson County Metro Government, acting by and through its Department of Public Works and Assets (hereinafter "Metro Government") and the Glenmary Homeowners Association, Inc. ("Glenmary").

**WITNESSETH:**

**WHEREAS**, the Commonwealth of Kentucky, acting by and through its Transportation Cabinet, has agreed to provide $100,368.00 to the Metro Government for the installation of landscaping and an irrigation system on the Bardstown Road Berm of the Glenmary Subdivision located in Jefferson County, Kentucky (the "Improvements"); and

**WHEREAS,** the Metro Government has agreed to accept those funds; and

**WHEREAS,** the Metro Government has agreed to be the lead agency in the construction and installation of the Improvements; and

**WHEREAS,** Glenmary hereby agrees to accept the Improvements; and

**WHEREAS,** Glenmary is willing to pay for any costs incurred by the Metro Government above the $100,368.00 the Commonwealth has provided for the construction of the Improvements; and

**WHEREAS,** Glenmary is willing to maintain the Improvements after Glenmary has accepted the project as completed;

**NOW, THEREFORE,** for consideration, the Metro Government and Glenmary agree as follows:

**1. SERVICES**.

a. The Metro Government has agreed to accept $100,368 funding from KYTC to fund this project for construction of the Improvements. The Metro Government agrees to install the Improvements per the plans provided by the Glenmary Homeowners Association. The Metro Government shall bid for the installation of the Improvements and the contractor it chooses shall perform the work to be done under this Agreement. The Metro Government agrees to seek the input of Glenmary regarding the installation of the improvements and Glenmary agrees that the Metro Government shall have the authority to make all decisions regarding them.

b. Glenmary shall maintain the Improvements beginning upon completion of the project. The Metro Government shall have no obligation for maintenance of the Improvements after their successful installation.

c. Glenmary agrees to reimburse the Metro Government for any project costs in excess of $100,368. Upon completion of the project, the Metro Government shall submit an invoice to Glenmary for any costs above the $100,368 provided by the Commonwealth. Glenmary shall pay that invoice within 30 days after Glenmary receives it.

   The project will provide for the Improvements on Bardstown road near the Glenmary Subdivision, the location of the Improvements being described on the map attached hereto as Attachment A attached hereto and fully incorporated herein.

d. Glenmary shall be responsible for the application for a necessary 2" water meter from the Louisville Water Company.

**2. Period of Performance:** This Agreement shall begin August 1, 2007 and shall continue until the Improvements are installed, functioning to the satisfaction of Glenmary, which shall indicate its acceptance of the Improvements by written notice to the Metro Government, which notice shall be sent no later than thirty (30) days after acceptance has occurred. This Agreement shall not be modified except by the written agreement of all parties. No work may begin under this Agreement until all parties have signed it.

**3. Causes and Termination**: METRO may terminate this contract without cause after thirty days written notice or for cause immediately at any time. In the event of termination, payment for services complete up to and including the date of termination shall be based upon work completed at that time.

**4. Conflict of Interest**: The parties certify, by the signatures of duly authorized representatives on this Agreement, that they are legally entitled to enter into this Agreement and that

they shall not be violating, either directly or indirectly, any conflict of interest statute of the Commonwealth of Kentucky by the performance of this Agreement.

**5. Entire Agreement:** This Agreement is the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement.

**6. Successors:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

**7. Severability:** If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

**8. Counterparts:** This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

**APPROVED:**

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

_____ _____
Ted Pullen, Director Date
Department of Public Works and Assets

GLENMARY HOMEOWNERS
ASSOCIATION, INC.

By:_____ _____
Date

**APPROVED AS TO FORM AND LEGALITY:**

_____ _____
Assistant Jefferson County Attorney Date

# ATTACHMENT A