MINUTES
WATER QUALITY FEES BOARD
January 12, 2023
Regular Meeting



I. **CALL TO ORDER**: George Woolwine, Chairman, called the January 12th Meeting of the Water Quality Fees Board (WQFB) to order at 9:03 a.m.

Water Quality Fees Board Members in Attendance: Harry Clarke, Donna Fogle, David Lowe, Aaron Vaught and George Woolwine.

Staff Members in Attendance: Charlie Martin, P.E., Director, DWQ; Greg Lubeck, P.E., Deputy Director, DWQ; Lindsie Nicholas, P.E., DWQ; Frank Mabson, DWQ; Denice Bullock, DWQ; Jennifer Carey, P.E., Director, DES; and Evan P. Thompson, Department of Law (via TEAMS).

Guests in Attendance: Scott Southall, Earthcycle Design, LLC, and Leandro "Nachie" Braga, Geomancer Permaculture LLC.

II. **APPROVAL OF MINUTES**: Mr. Woolwine noted that George Ely was listed on the October 14th minutes and should be removed. He asked the WQFB to review the minutes of the October 14, 2021, Water Quality Fees Board Meeting.

**Mr. Lowe moved to accept the minutes removing George Ely from the final version. The motion was seconded by Ms. Fogle, and the motion passed unanimously**.

III. **COMMENTS/SUGGESTIONS FROM CITIZENS ABOUT INCENTIVE GRANT PROGRAM**: Mr. Mabson indicated that Mr. Braga would like to discuss an amendment to the scoring matrix that will include incentives for establishing tree canopies.

Leandro "Nachie" Braga, Geomancer Permaculture LLC presented a packet that included two (2) letters of support, language from Article 26 of the Lexington-Fayette County (LFUCG) Zoning Ordinance about tree canopy credits, and a literature review for Urban Forest and Stormwater.

Mr. Braga requested to amend the scoring matrix for Class B Infrastructure grants as follows:

1. Amend Section 1d to value the establishment of tree canopy square footage at a coefficient of 1.5 times that awarded to reduction in impervious area square footage, and then apply the same point allocations based on the current ranges of 0 SF; < 5,000 SF; 5,001 to 15,000 SF; and > 15,000 SF. Canopy square footage can be calculated using Article 26 of the LFUCG Zoning Ordinance (see attached or https://library.municode.com/ky/lexington-fayette_county/codes/zoning_ordinance). The granular details of which species fit into each size category can then be found in the existing LFUCG Planting Manual starting on page 49 of the PDF (https://www.lexingtonky.gov/planting-manual).
2. Ensure that 1e, 1f, and 1h account for tree canopy establishment as both "a water quality BMP" and "a water quantity BMP" (simply as an administrative means to enable the changes made in point 1, above).

Mr. Braga commented that amending these sections would help establish native tree canopies on projects.

Mr. Mabson directed the Board to the Tree Canopy example, and gave a brief description of the multiplier calculations and example scoresheet revisions:

- A group plans to plant five (5) Red Maple and five (5) Serviceberry trees for a total of 10 trees as part of their SQPIGP project
- Red Maple and Serviceberry trees are categorized at Medium Trees in the LFUCG Planting Manual
- Tree Canopy calculated using Article 26 of the LFUCG Zoning Ordinance would equate to
  400 SF * 10 Medium Trees = 4,000 SF
- The proposal is to multiply this by a multiplier of 1.5
  4,000 SF * 1.5 = 6,000 SF
- The 6,000 SF is then used in the current scoring range in 1d), so it would score 10pts

Example revision to Class BI Scoresheet for item 1d):

1d) The impervious area (in square feet) to be removed, or retrofitted with pervious surface AND/OR the proposed tree canopy area (in square feet) to be added multiplied by 1.5 (tree canopy calculated using Article 26-5(6)(e)2 of the LFUCG Zoning Ordinance with categories of trees found in Section VII of the LFUCG Planting Manual):
   i. >15,000 SF 15pts
   ii. 5,001 to 15,000 SF 10pts
   iii. <5,000 SF 5pts
   iv. 0 SF 0pts

Mr. Martin said that there are different types of credits that don't necessarily apply to the tree canopy in the administrative stormwater management fee. He asked for clarification if the request is suggesting to provide a reduction to the WQMF for projects proposing tree canopy. Mr. Braga said that they are not proposing any reduction to the stormwater management fees.

<u>Board questions and comments</u>: Mr. Vaught indicated his concern with the 15-year maintenance agreement since over time that tree could be cut down. Mr. Braga understood and indicated that their proposal does not alter or complicate the existing grant scoring process, but it relies on the existing LFUCG policies found in the Planting Manual and Zoning Ordinance. This proposal is not just for plantings but to establish a tree canopy, having tangible stormwater benefits, as well as long-term benefits.

Mr. Lowe appreciated that the packet was informative and very well prepared. He asked how the 1.5 multiplier came about. Mr. Braga explained that a 1.5 multiplier is subjective and can be changed, but is an incentive to applicants to establish a tree canopy in accordance with the LFUCG Zoning Ordinance and Planting Manual. This amendment will not impact the stormwater management fee as retrofitting or removing impervious surfaces does.

Mr. Lowe referenced the Stormwater Manual noting that this seems reasonable but asked for the staff to comment. Mr. Mabson indicated that there is existing science to support stormwater quality benefits from trees, however staff feels it has not had enough time to fully vet Mr. Braga's current request.

Mr. Vaught asked if an amendment were to be approved would it be implemented for Fiscal Year 24 or Fiscal Year 25. Mr. Mabson replied that the FY24 applications are scheduled to be published on the city website by March 1st. The staff would need time to research, have internal discussions and formulate a recommendation to ensure the Board is able to make an informed decision including updating all applicable documentation (i.e., scoresheets, applications, etc.) before the application documents can be published. It is not impossible but it would be a time crunch.

Mr. Clarke asked when the staff received this request. Mr. Mabson replied that the staff was aware of Mr. Braga's request, but did not receive his proposal until a week prior to today's meeting. He said that staff is not prepared to make a recommendation at this time, but suggested the Board schedule a Special Meeting in the next few weeks for further discussion/review.



Mr. Clarke commented that as a former member of the Tree Board, the importance of this proposal should be reviewed and agreed upon. Staff needs an opportunity to evaluate the proposal to determine how this will impact the overall process of the incentive grant program.

Mr. Woolwine said that the current scoring matrix does consider trees because the University of Kentucky was recently awarded a grant for a project that dealt with soil cells/trees. Mr. Mabson explained that the current scoring matrix does not specifically speak to trees or give points toward trees so projects may be scored lower than other projects. If the scoring matrix included points for trees then that may change the outcome of each project. Ms. Nicholas said that the University of Kentucky project replaced impervious surfaces with trees so the project was scored based on the coverage of the tree canopy and drainage area to the soil cells.

Mr. Woolwine said that before the focus was to reduce impervious surfaces but using trees would be another way to reduce the quantity and improve the quality of stormwater runoff as well as help the stormwater issue. He agreed that the staff needs time to research and review this request to make a recommendation to the Board. He added that certain species of trees are more durable than others and using those trees needs to be encouraged. Mr. Braga indicated that the Planting Manual provides a list of acceptable trees, adding that the list cannot be changed without amending Article 26 of the Zoning Ordinance.

Mr. Woolwine said that as long as a tree is listed in the Planting Manual then it can be used, but if that tree is not listed then that tree will not be used. Mr. Mabson replied affirmatively, adding the staff is inclined to support this request, but time is needed for the staff to review the information.

Mr. Martin said that the concern is whether or not a tree is invasive and/or listed in the Planting Manual. He explained that people want to plant a certain tree, but that tree may not necessarily be the tree the city approves of because it is not listed in the Planting Manual. There are penalties imposed so the staff needs to think about this from the user's standpoint versus creating an administrative nightmare with regard to regulation.

Mr. Vaught asked if it would be beneficial to create a pilot program for one (1) year or perhaps use the Innovative and Experimentation funds to pool these types of projects. Mr. Mabson explained that if a project was a good candidate as an innovative and experimental idea then that project could be eligible for funding under Innovative and Experimentation funds. However, as for the scoring matrix, the staff does not know how to capture the full effects of that project. Ms. Carey said that if an application was submitted proposing a heavy tree planting using the current scoring matrix that project would not score well against the other applications. This would then trigger the Board to look at the Innovative and Experimentation pool to provide funding for that project. Ms. Nicholas said that since the staff has already scored an application that was similar in nature (i.e., University of Kentucky soil cell), without the multiplier being used, the staff needs time to put this on paper. She added that the staff would also like to meet with the Director for further discussions to make an official recommendation to the Board.

Mr. Woolwine said that the concern in Lexington is the loss of the tree canopy. He indicated this proposal makes sense because it will help with the stormwater issues while increasing Lexington tree canopy. Since there is interest in this proposal, he suggested scheduling a Special Meeting to allow staff to present their findings.

Mr. Martin noted that Traffic Engineering, the Division of Engineering, and utility companies would need to be consulted as well.

Mr. Mabson asked that the Board consider whether or not the proposed multiplier is acceptable at the upcoming meeting.

**Mr. Lowe moved to schedule a Special Meeting for February 16, 2023, for further discussions regarding an amendment to the scoring matrix that will include incentives for establishing tree canopies; seconded by Mr. Clarke. The motion passed unanimously.**

**IV. MEMORANDUM REGARDING PROGRAMMATIC CHANGES**: Mr. Woolwine said that the memorandum included some items that the Board has discussed every year, as well as reviewing any potential changes to the requirements. Mr. Mabson replied affirmatively and confirmed that there are new items in the memo to be discussed.

Mr. Mabson directed the Board's attention to the memorandum dated January 2023, and briefly explained each of the items as follows:



1. **Should we change the "Cost Share" requirements for any of the grant classifications? We have looked at cost share percentages in previous years and the Board has made changes. For FY23, the Board once again decided to continue with the 20% match for Class A and Class B Infrastructure (BI), and for Class B Education (BE) above the first $3,000.00. (A, BE, BI)**
   Pro – If % increases, it would mandate a larger contribution by the applicant (higher dollar project for same LFUCG monetary investment), and if % decreases, the grant program might be more appealing to some applicants and increase competitiveness.
   Con – If % increases, it might discourage some applicants from applying and make the grant program less competitive, and if % decreases, it might decrease the size of the project for the LFUCG monetary investment.

   Staff presentation: Mr. Mabson directed the Board's attention to Item #1, and explained the pros and cons of whether the "cost share" requirements for any of the grant classifications should be changed. He indicated that the staff recommends maintaining the current cost share amounts.

   Board comments and questions: Mr. Woolwine agreed that the cost share should be maintained. Mr. Clarke agreed.

   **Mr. Vaught moved to sustain the current cost-share percentages for all three (3) grant classes; seconded by Mr. Lowe. The motion passed unanimously.**

2. **Should we continue (as is) with the Small Project Target (Projects $60,000 or Less) in the Class B Infrastructure program? Currently, 15% of budgeted funds for Class BI grants are allocated for the Small Project Target Category. None of the eleven (11) Class BI applications scored for FY23 funding competed in the category of Projects $60,000 or Less. (BI only)**

***Table 1 – Current Funding Allocations are as follows:***

| ***Target*** | ***FY23 Allocation*** |
|---|---|
| *Feasibility Only Projects* | *$55,000.00* |
| *Infrastructure Projects $60K or Less* | *15%* |
| *Regular Class B Infrastructure Projects* | *Remaining Class BI balance* |

Pro – Provides an opportunity for some of the smaller projects to be funded, since these typically score lower than the applicants requesting full funding ($360,000 max request amount). Increases the number of applicants who are awarded grants.
Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage. There has been little demand for this Target with only two (2) applications received, one approved in last the three (3) grant cycles.

Staff presentation: Mr. Mabson directed the Board's attention to Item #2, and explained the pros and cons of whether or not to continue with the Small Project Target (Projects $60,000 or Less) in the Class B Infrastructure program.

Board comments and questions: Mr. Woolwine said that having this option gives the smaller projects that were not able to compete against the larger projects the opportunity to be awarded funding through the Stormwater Quality Projects Incentive Grant Program.

Mr. Woolwine asked if the staff has seen an increase in the smaller projects. Mr. Mabson replied with one or two applications per year.

Mr. Clarke asked for clarification that if there are no smaller projects submitted then those funds could be used some place else. Mr. Mabson replied affirmatively.

Mr. Martin commented the trend over the last few grant cycles is showing fewer applications being submitted for smaller projects. With the current market, $60,000.00 does not buy what it used to. He suggested keeping an eye on this moving forward and if needed those funds can be moved elsewhere. Ms. Nicholas affirmed that if no applications are submitted for smaller projects those funds are transferred to the general pool for Class B Infrastructure. Mr. Mabson agreed that $60,000.00 may not be enough and suggested changing the amount to $75,000.00.

Ms. Nicholas commented that Class B Infrastructure is capped at $360,000.00 so a small project could be as much as $100,000.00.

Mr. Vaught indicated that with increasing inflation what was considered a small project has changed. Ms. Nicholas replied if the Board believes smaller projects are costing more, they can change the dollar amount.

Mr. Woolwine asked for the Board's thoughts on increasing the amount. Mr. Lowe said there is no downside to increasing the amount since the funds can be transferred to another pool if not used. Ms. Nicholas confirmed that if the funds are not used then it would be transferred to another pool.

Mr. Lowe indicated that it would be worth testing the theory for one (1) year to see if any applications are submitted. Mr. Clarke agreed and suggested increasing the amount to $75,000.00.

Ms. Nicholas confirmed the following for FY24:

| ***Target*** | ***FY24 Allocation*** |
|---|---|
| *Feasibility Only Projects* | *$55,000.00* |
| *Infrastructure Projects **$75K** or Less* | *15%* |
| *Regular Class B Infrastructure Projects* | *Remaining Class BI balance* |

**Mr. Clarke moved to adjust the Small Project Target from $65,000.00 or Less to $75,000.00 or Less in the Class B Infrastructure program; seconded by Mr. Lowe. The motion passed unanimously.**

3. **Should we continue (as is) with the Feasibility Targets in both the Class A and Class B Infrastructure programs? For FY23, the Board approved increasing the maximum grant amounts across the board resulting in allocations of $45,000.00 and $55,000.00 of budgeted funds, respectively for these categories. Of the ten (10) Class A applications scored, none competed for the Feasibility Only category and of the eleven (11) Class BI applications scored three (3) completed for funding in this category. (A and BI)**
Pro – Provides an opportunity for feasibility projects to be funded since these typically score lower than the applicants requesting funding for design and construction. Allows the Board to anticipate future grant applications for design and construction, and should allow for better use of grant funds. One (1) of the eleven (11) FY23 Class B Infrastructure applications awarded stems from a Feasibility Only project previously awarded.
Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage.

Staff presentation: Mr. Mabson directed the Board's attention to Item #3, and explained the pros and cons of whether or not to continue the Feasibility Targets in the Class A and Class B Infrastructure programs.

Board comments and questions: Mr. Woolwine explained that a feasibility project allows for the study of potential BMPs for a particular area/site. The applicant could then submit an application for design and construction.

Mr. Woolwine asked how much has been allocated for feasibility in each Class. Ms. Nicholas responded $45,000.00 for Class A and $55,000.00 for Class B.

Mr. Vaught asked if there had been any grantee who received funds for a feasibility study, and used that study to implement a project without going through the incentive grant program. Mr. Mabson replied negatively, adding that feasibility studies make the way for future projects to be funded, but there is no evidence of projects being implemented without grant funds from a feasibility study funded by the Program.

Mr. Vaught indicated that if funds are awarded for a feasibility study then that helps implement projects in the future. Mr. Mabson replied affirmatively.

Mr. Woolwine said that the University of Kentucky was awarded funds for a feasibility study. Ms. Nicholas replied those funds came from the Class B Infrastructure pool. Mr. Mabson said that the Lexington Center Corporation was awarded funds for feasibility and design; they were ultimately awarded funds for construction.

Mr. Lowe said that since there are no materials associated with feasibility studies then the cost should not increase. Ms. Nicholas agreed and said that the Board increased the allocations by $5,000.00 for each class last year.

**Mr. Lowe moved to continue with the Feasibility Targets in the Class A and Class B Infrastructure programs; seconded by Mr. Vaught. The motion passed unanimously.**

4. **Should we continue with the Innovation and Experimentation (I&E) pool funds for FY24? This was first introduced in FY20; however, to date, the only funding awarded from this category went to support the FY20 University of Kentucky Research Foundation Change Order request. Currently, there is $156,800.00 remaining in this I&E pool funds. (A, BE, BI)**
Pro – Allows LFUCG to fund applications that are innovative, but that might not score well within the existing scoring matrix. Allows LFUCG to fund applications that are innovative, while maintaining funding levels for "traditional" applications.
Con – If the Board does not fund a grant from this allocation, then keeping the $156,800.00 held in reserve for Innovation and Experimentation prohibits using these funds for a "traditional" application.

Staff presentation: Mr. Mabson directed the Board's attention to Item #4, and explained the pros and cons on whether or not to continue with the Innovation and Experimentation funding allocation for FY 2024.

Ms. Nicholas explained that the Innovation and Experimentation pool is not an allocation of funds, it is not replenished, but rather it is an amount that is kept aside in a reserve for projects until the Board decides to use those funds. She noted that the University of Kentucky was awarded $143,200.00 from this pool leaving a balance of $156,800.00.

Board comments and questions: Mr. Woolwine said that the Innovation and Experimental funding allows projects to be considered that might not score well within the existing scoring matrix.

Mr. Woolwine said these funds should be made available versus having the funds just sitting around. Mr. Martin agreed and indicated the Finance Department does not prefer to have funds not being used.

Mr. Woolwine suggested there should be a way for projects to be identified as innovative or not; and if not, those funds could be used on other projects. Mr. Mabson said that if the Board wishes to continue with the Innovation and Experimentation pool they may choose to replenish those funds.

Mr. Woolwine indicated that he thought there was the flexibility to roll over funds from the Innovation and Experimentation pool. Mr. Mabson replied affirmatively and added that the Board has the discretion on whether to continue funding the I&E Pool.

Mr. Lowe said that Item #5 defines the criteria for innovative and/or experimental projects but if the applicants do not have reasonable clarity of what is considered an innovative and/or experimental project then they would be less inclined to invest their time. He would suggest keeping the Innovation and Experimentation funding allocation for FY 2024 but giving more clarity on what is considered to be an innovative and/or experimental project. Mr. Mabson indicated that giving the applicant some type of direction on what is considered an innovative and/or experimental project is reasonable.

Mr. Clarke agreed and indicated that someone may have an innovative or experimental idea but may not be aware the I&E Pool exists, and may not apply. Mr. Martin said that most people do not want to apply for something if they believe the project will not score well. He added that the scoring matrix is not the only way to be awarded grant funds but rather having an innovative and experimental idea could also be awarded funds.



Mr. Martin indicated that the Finance Department does not like funds to keep building but one compromise would be placing a cap on it for a certain amount. If those funds are used during a grant cycle then the Board could replenish the pool in the next fiscal year. Ms. Nicholas clarified that the Board does not currently review the Innovation and Experimentation funding. She explained that Innovation and Experimentation pool was started when a $300,000.00 grant was canceled. She noted that $143,200.00 was used for UKRF leaving a balance of $156,800.00 remaining in the pool. She said that placing a cap could apply in the future, but for right now this pool is not being replenished.

Mr. Vaught indicated that the Board could move funds to this pool or let it stay at the current amount. Ms. Nicholas replied affirmatively. Mr. Mabson was also in agreement, adding that the pool should not be allowed to accumulate over time.

Mr. Woolwine said that there is a balance of $156,800.00 remaining in the pool and this amount will not increase unless the Board decides to move funds over for the fiscal year. Mr. Mabson replied affirmatively.

Mr. Woolwine then said that if the $156,800.00 was set aside, the Board has the flexibility to use any amount from the pool for other projects, if there are no worthy projects for that classification. However, the pool would not be replenished so there is no need to put a cap on the amount.

Mr. Martin asked if funds could be rolled over. Mr. Mabson replied affirmatively, but the staff is requesting additional funds for the proposed Change Order pool that is coming up for discussion under Item #6. Mr. Martin commented that there is always a balance left over at the end of the year that could be transferred to the Innovation and Experimentation pool with the understanding those funds would not pass a certain amount. Ms. Nicholas explained that the remaining funds from the FY22 cycle were included in the FY23 cycle and with the exception of $6,000.00, all of the FY23 funds were awarded to projects. She added that since then there have been a couple of grants canceled so the staff felt those funds could be used for the proposed Change Order (Item #6) request. This does not mean the Board cannot fund the other pools.

Mr. Woolwine said that the Board should focus their attention on whether or not the Innovation and Experimental funding should be continued.

Mr. Vaught said that since Items #4 and #5 are related, he suggested leaving Item #4 “as is” and looking at adding language for Item #5 for Fiscal Year 2024.

Mr. Lowe said the Board should continue the program, and suggested the staff reach out to past contractors letting them know the funding is available and perhaps solicit written feedback from them. Market research on this subject would be helpful. Mr. Mabson said that the staff could coordinate with DES to come up with some sort of campaign to market the Innovation and Experimental funds. If approved, item #5 would help establish basic criteria of whether a project is innovative and/or experimental in nature.

Mr. Clarke agreed that spreading the word would help.

Mr. Mabson said that there have been applications submitted for Innovation and Experimental funding, but funding that project will depend if there are any funds remaining from the general pool to fund that project.

In response to a question from Ms. Fogle, Mr. Mabson said there is $156,800.00 in the Innovation and Experimental pool. He added that with the increase across the Board to all classification including targets staff prefers to see the impact before making a commitment to replenish the I&E pool.

Ms. Woolwine agreed and said that the Board should focus on continuing the Innovation and Experimental program. He explained that there is $156,800.00 in the pool and if Item #4 is approved then Item #5 would also be approved since those are related to each other. He suggested that the Board ensure that any available funds are used at the end of the year on projects. He agreed with having the $300,000.00 cap on the Innovation and Experimental program, but for right now the focus should be whether or not to continue the Innovation and Experimental program.

**Mr. Clarke moved to continue the Innovation and Experimentation pool funds as is for the FY 2024 grant application cycle; seconded by Ms. Fogle. The motion passed unanimously.**



**5. Should we establish criteria for considering whether a project is innovative and/or experimental to be used during the grant application evaluation process? Staff recommends the following language:**

> *The criteria for the I&E Pool Funds shall be defined as items not currently prescribed in the LFUCG Stormwater Manual, but meet the goals of the Stormwater Quality Projects Incentive Grant Program as defined by Section 16-410 of Code of Ordinance. I&E projects are considered a deviation from previously approved applications and propose new or experimental methods or approaches to stormwater quantity and quality management. The applicant is required to provide the research behind the proposed innovative and/or experimental project element(s).*

Pros – It would provide clarity to applicants on whether a proposal qualifies for the use of I&E funds and help the staff and Board makes informed decisions on how to award I&E funds.
Cons – It is very difficult to pinpoint what is or is not innovative/experimental.

Board comments and questions: There was no discussion from the Board.

**Mr. Vaught moved to add the following language to establish criteria for considering whether a project is innovative and/or experimental to be used during the grant application evaluation process; seconded by Mr. Lowe. The motion passed unanimously.**

> *"The criteria for the I&E Pool Funds shall be defined as items not currently prescribed in the LFUCG Stormwater Manual, but meet the goals of the Stormwater Quality Projects Incentive Grant Program as defined by Section 16-410 of Code of Ordinance. I&E projects are considered a deviation from previously approved applications and propose new or experimental methods or approaches to stormwater quantity and quality management. The applicant is required to provide the research behind the proposed innovative and/or experimental project element(s)."*

Discussion of motion: Mr. Clarke asked for clarification on the last sentence of the proposed language. Mr. Martin said that the intent of the language is for the applicant to provide that information after the fact.

Mr. Clarke commented that language should be added to reflect the applicant should provide information after the project is completed.

**<u>Mr. Clarke moved to amend the motion to modify the last sentence to read: "The applicant is required to provide the research behind the proposed innovative and/or experimental project element(s) *at the completion of the project*"; seconded by Ms. Fogle. The motion passed unanimously</u>.**

6. **Should we allocate funds for a Change Order (CO) pool to allow organizations to request additional funding to help cover extraordinary costs caused by certain unforeseen economic challenges, e.g., a rise in material costs. The change order pool would be capped at 10% of the annual fiscal year budget. Each year the CO Pool would be replenished, but not to exceed the capped amount. Staff recommends utilizing the $157,908.00 in remaining funds to seed this pool.**

***Table 2 – Remaining Funds Summary:***

| ***Item Description*** | ***Amount*** |
|---|---|
| *Funds Remaining after FY23 Awards* | *$ 6,941.07* |
| *Unused from previous projects that came in under budget or canceled* | *$ 150,966.93* |
| ***Total of all remaining funds:*** | ***$ 157,908.00*** |

Pros – Provides an opportunity to salvage projects that might otherwise be canceled due to lack of additional funds warranted by certain economic challenges.
Cons – Reduces available funding for new grant applications. Increases responsibilities for LFUCG staff to manage.

<u>Staff presentation</u>: Mr. Mabson directed the Board's attention to Item #6, and explained the pros and cons of whether or not to allocate funds for a Change Order (CO) pool to allow organizations to request additional funding to help cover extraordinary costs caused by certain unforeseen economic challenges, e.g., a rise in material costs. He noted that this would only be a temporary solution.

<u>Board comments and questions</u>: Mr. Woolwine asked what happens if there are two applications. Mr. Mabson said that Item #7 addresses the criteria for determining whether a project qualifies to receive Change Order funds.

Ms. Fogle asked if the Change Order would apply to a project that the Board already awarded, but the cost of material has increased. Mr. Mabon replied affirmatively. Ms. Fogle said that this would not be a long-term solution and suggested that the Board move forward.

Mr. Martin noted his concern with an applicant requesting additional funds because the project changed from what the Board approved. He added that the challenge will be to weed out legitimate change order requests from non-legitimate requests.

Mr. Clarke directed the Board to Item #7 and indicated that the last bullet (*Change orders are capped at the maximum grant award amount for each grant class as well as the respective targets within the grant classes)* relates to Item #6. He is concerned that the first amount would be intentionally underfunded so they could apply for a Change Order to receive additional funds. Ms. Nicholas said that scope changes (design cost) are not part of the Change Order request, only materials and labor costs, which will require three (3) bids to be submitted with the request.

Mr. Lowe said that there is evidence of hardship and was in agreement with piloting the Change Order request. He asked when the Board should receive an update from the staff. Mr. Mabson replied that the staff could present their findings at the January 2024 meeting, and at that time, the Board could decide if they would like to continue funding the Change Order pool. Ms. Nicholas indicated that the FY21 and FY22 projects are the ones showing financial hardship. Mr. Mabson indicated that Class B Infrastructure projects are those ones being mostly impacted by increased material/labor costs.

Mr. Clarke said that this request would be beneficial to projects, but the staff needs to be particular and thoroughly investigate the incoming request.

Mr. Martin said that there are three (3) categories being funded: Small Project Target, Innovation and Experimentation and now Change Orders. He indicated that the staff believes the number one propriety is funding the Change Order pool because we are losing projects. Ms. Nicholas indicated that it is hard to see what will happen with these projects. Mr. Woolwine agreed and said that this pool will help complete a project.

Mr. Mabson briefly explained Table 2.

***Table 2 – Remaining Funds Summary:***

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| ***Total of all remaining funds:*** | ***$ 157,908.00*** |

**Ms. Fogle moved to allocate funds for a Change Order (CO) pool to allow organizations to request additional funding to help cover extraordinary costs caused by certain unforeseen economic challenges, e.g., a rise in material costs; seconded by Mr. Clarke. The motion passed unanimously.**

7. **If funds are approved to be set aside for use for change orders, should we establish criteria for determining whether a project qualifies to receive CO funds?**
**Staff recommends the following criteria:**

- *Grantee is required to submit a revised executive summary, Change Order Application, and revised budget that explains the circumstances surrounding the need for additional funds.* ***NOTE:*** *Draft Change Order Application form (attached) will require the grantee to provide current grant/contract information, original opinion of probable construction cost or quote, current quotes/bids, justification of need for change order, documentation of how costs are determined, commitment on additional match, and a map/site plan, if applicable.*
- *Change Order funds are made available on a first come first serve basis.*
- *Requests for Change Order funds are evaluated for increases to material and labor costs from bids received.* ***NOTE:*** *Design fees are not an eligible expense for change order funds.*
- *When two or more requests are received at the same time, staff will provide recommendations to the Board based on projects original scores and comparing the above-mentioned criteria.*
- *Upon staff recommendations, Grantee to present Change Order requests to the Board during a regularly scheduled meeting or pre-approved special meeting.*
- *Change orders are capped at the maximum grant award amount for each grant class as well as the respective targets within the grant classes.*

Pros – Establishing criteria would allow staff and the Board to make more informed decisions on whether circumstances qualify a project to receive change order funding.
Cons – If the criteria are too simple, demand for these requests might lead to applicants taking advantage of the CO Program.



Board comments and questions: Mr. Woolwine directed the Board's attention to Item #7, and explained the pros and cons of establishing criteria for determining whether a project qualifies to receive Change Order funds.

Mr. Lowe said that everyone is concerned with making sure the Change Orders submitted are valid and reasonable. As a protection, a set of criteria will be established that must be met. Mr. Mabson said that the UKRF project was a great template to use in establishing the criteria and comparing the original application to the Change Order application to see where the increases occurred.

Mr. Woolwine asked how the staff would obtain bids from two other contractors when there is already a hired contractor on that project. Mr. Mabson said that when the Board awards the grants very rarely are the contractors named, but rather the project is put out to bid after the project is awarded. He then said that the Grantee will submit a conceptual budget during the application phase that is used in the review process. By the time the grant is approved by Urban County Council and they receive the Notice-to-Proceed the market/cost has changed from the conceptual budget.

Mr. Woolwine said that the staff is looking for documentation showing the cost of materials/labor had increased to justify the Change Order request, but the probability of having three (3) new bids will be low. Ms. Nicholas said that the Change Order is not for the overall project, only for the material/labor cost associated with the construction.

Mr. Clarke asked if the staff is making the decision on the Change Order request or will the request require Board approval. Ms. Nicholas indicated that the staff would present their findings to the Board, the Grantee would make their presentation to the Board then the Board would make the recommendation to approve or disapprove the request. This funding will not be promoted on the LFUCG website, it is more to help with unforeseen challenges of past projects. Mr. Clarke agreed.

Mr. Mabson said that should there be two applications submitted, perhaps the funds could be distributed between the two requests, but it would be at the staff's discretion to make that recommendation. Mr. Woolwine indicated his agreement.

Ms. Nicholas said that Change Orders are capped at the maximum grant award amount for each grant class. Mr. Woolwine said that Class B Infrastructure is capped at $360,000.00. Ms. Nicholas replied affirmatively.

Mr. Lowe was confident the staff has created strong guardrails to prevent abuse and agreed with the Grantee submitting three (3) bids. Mr. Clarke also agreed.

**Mr. Lowe moved to approve the established criteria for determining whether a project qualifies to receive Change Order funds; seconded by Mr. Vaught. The motion passed unanimously.**

8. **Should we add language to the Grant Award Agreement and provide a separate attachment regarding maintenance responsibilities for Class B Education grants that incorporate construction on private properties. This came up during staff discussions about establishing an inspection program to track the status of maintenance of previously funded grant projects.**
Pros – This will help establish acknowledgment of maintenance responsibilities for Class B Education grants similar to the Class A and B Infrastructure attachments.
Cons – Some applicants might see this as an undue burden. Increases responsibilities for LFUCG staff to manage.

Staff presentation: Mr. Mabson directed the Board's attention to Item #8, and explained the pros and cons of whether or not to add language to the Grant Award Agreement and provide a separate attachment regarding maintenance responsibilities for Class B Education grants that incorporate construction on private properties.

Board comments and questions: Mr. Clarke agreed with the concept, but he was concerned with the increased responsibility on the staff's time. Mr. Mabson briefly explained that this is a simpler version of the Class A and Class B Infrastructure maintenance responsibilities. This will help establish acknowledgment of maintenance responsibilities from the Grantee, but will not be recorded with the County Clerk's Office.

Ms. Nicholas explained that the staff had spoken with the Law Department about adding language to the Grant Award Agreement, and if the Board is in agreement those could be implemented with the FY24 applications. Ms. Mabson replied along with the Grant Award Agreement. Mr. Clarke replied as long as the staff is comfortable. Mr. Mabson indicated that the staff thought this would be fair to both Class A and Class B Infrastructure applicants that are on the hook for maintenance.

Mr. Woolwine asked if this would be primarily for rain garden maintenance. Ms. Nicholas said that it would be for the Class B Education projects that provided outside education such as rain gardens.

Mr. Woolwine asked for clarification that to date Class B Education projects are not liable to maintain their rain garden once it has been installed. Mr. Mabson replied affirmatively, adding that typically a Class B Education project deals with curriculum development, workshops, etc. Ms. Nicholas said that some of the Class B Education projects are installing infrastructure (rain gardens) as part of their curriculum.

Mr. Woolwine said that this will help to ensure the infrastructure that was funded through the Stormwater Quality Projects Incentive Grant Program is maintained.

Mr. Clarke said that this change would make the Grantee think about their responsibilities. Mr. Mabson said that this would help add to the value of Class B Education projects incorporating rain gardens.

**Mr. Clarke moved to approve adding language to the Grant Award Agreement and provide a separate attachment regarding maintenance responsibilities for Class B Education grants that incorporate construction on private properties; seconded by Mr. Vaught. The motion passed unanimously.**

Discussion of motion: Mr. Mabson clarified that the motion included adding language to Attachment B documents as well. Mr. Clarke agreed.

9. **To expand on differentiating the Class B Infrastructure applications should we update the Class BI scoresheet to provide a breakdown of the 10 points allocated for question 3a) regarding future educational opportunities for personnel or public?**

***Table 2 – Current Format***

| | | |
|---|---|---|
| *3a)* | *Will the project be used for future educational opportunities for personnel or the public?* | *If YES: 10* |

***Table 3 – Proposed Format***

| | | |
|---|---|---|
| *4a)* | *Will the project be used for future educational opportunities for personnel or the public?* | *0 to 10 points:* |

Pro – If the Class BI applications are competitive, this will help staff to differentiate the impact of educational opportunities in the applications. The breakdown will allow scorers to penalize applicants who simply answer "yes", and provide little to no details about educational components. The breakdown would include a range of 0-10 points and allow for more points to be awarded to applications with greater detail and context.
Con – None.

Staff presentation: Mr. Mabson directed the Board's attention to Item #9, and explained the pros and cons of whether or not to expand on differentiating the Class B Infrastructure applications should we update the Class BI scoresheet to provide a breakdown of the ten (10) points allocated for question 3a) regarding future educational opportunities for personnel or public.

Board comments and questions: Mr. Woolwine said that having more detail in the applications helps the staff differentiate between the applications. Ms. Nicholas agreed.

Mr. Clarke asked if the staff is asking for more information in the application. Mr. Mabson replied negatively, adding that this would allow a range (0-10) for more points to be awarded to applications with greater detail and context.

Mr. Woolwine said that an application with more detail would receive higher points on the scoresheet.

**Mr. Vaught moved to approve updating the Class BI scoresheet to provide a breakdown of the 10 points allocated for question 3a) regarding future educational opportunities for personnel or the public; seconded by Mr. Fogle. The motion passed unanimously.**

10. **As we adjust the scoresheets for the FY24 grant cycle, we realize the need for even greater differentiation between applications. Should we adjust some questions in the FY24 Class B Education scoresheet to include ranges? The adjustment would not impact questions 1c), 1d), 1e), 1f) and 2b), but would be applicable for all other questions. See example Class B Education Scoresheet attached.**
Pro – If the Class BI applications are competitive, this will help staff to differentiate the impact of educational opportunities in the applications. The breakdown will allow scorers to penalize applicants who simply answer "yes", and provide little to no details when explicitly asked in the application document.
Cons – none

Staff presentation: Mr. Mabson directed the Board's attention to Item #10, and explained the pros and cons of whether or not to adjust the scoresheets for the FY24 grant cycle. The staff realizes the need for even greater differentiation between applications. Should the Board approve the staff's request, the adjustment would not impact questions 1c through 1f) or 2b), but would be applicable to all other questions.

Ms. Nicholas noted that Class BI applications are competitive, this will help staff to differentiate the impact of educational opportunities.

Law Department: Mr. Thompson said that the range 0-10 needs to be made clear on the application as to what would allow the Grantee to receive more points on the scoresheet - more detail provided may result in a higher score. Ms. Nicholas replied that the scoresheets will be available for the Grantee to review the changes as they are filling out the application.

Board comments and questions: Mr. Woolwine said that right now the breakdown penalizes applicants who simply answer "yes", and provide little to no details when the application explicitly asked to do so. This would be a method to give greater points to those applicants who give greater detail in their proposed education plan. Ms. Nicholas said that the staff is coming at the issue in more of a negative way because when the applicant just reponds "yes" then the scorer feels they have to give them the full point.

**Mr. Lowe moved to approve adjusting the scoresheets for the FY24 grant cycle to allow even greater differentiation between applications, seconded by Mr. Fogle. The motion passed unanimously.**

**V. FY 2024 GRANT APPLICATION DOCUMENTS**: Mr. Mabson presented a brief overview of the Class A Neighborhood, Class B Education, and Class B Infrastructure FY24 applications. He then requested approval to make the necessary changes to the applications and to implement the changes approved by the Board during this meeting.

Board comments and questions: Mr. Woolwine confirmed that the staff would make the necessary changes to the application packet. Mr. Mabson replied affirmatively.

**VI. INCENTIVE GRANT STATUS UPDATE**: Mr. Mabson briefly provided an update on the Incentive Grants between FY 2016 to FY 2023; commenting on a few select projects.

Comments: Scott Southall, Earthcycle Design, LLC briefly provided an update on a few select projects, he is involved with.

**VII. OTHER MATTERS**: Mr. Clarke requested the staff to continue giving the members packets in person versus online to review. Ms. Nicholas said that the Board will continue to receive paperbound copies of the submitted FY24 Grantee applications. The reason the draft FY24 grant application documents were not printed was the volume of paper required for each of the documents, only to be recycled. Mr. Mabson said that the reason the Board did not receive the FY24 grant applications was due to minor changes on the FY24 application, which was going from Fiscal Year 2023 to Fiscal Year 2024.

Mr. Woolwine requested the changes made today that will be implemented in the FY24 grant applications be given at the February 16th meeting. Mr. Mabson clarified the entire application for each class or just what the Board approved. Mr. Woolwine indicated the sections the Board approved. Ms. Nicholas clarified the Board would prefer to review printouts or Google Drive. Mr. Woolwine replied with printouts. Mr. Clarke and Ms. Fogle agreed.

**VIII. ADJOURNMENT**: The meeting was adjourned at 11:07 a.m.