

Sample  
KSBA – Lead District  
Memorandum of Agreement

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE**

**KENTUCKY SCHOOL BOARDS ASSOCIATION (KSBA)**

**AND**

**<SCHOOL DISTRICT>**

**SCHOOL ENERGY MANAGERS PROJECT**

**THIS MEMORANDUM OF AGREEMENT (the "AGREEMENT")** is made and entered into this <date> by and between the Kentucky School Boards Association, 260 Democrat Drive, Frankfort, Kentucky 40601 (hereinafter "KSBA") and <SCHOOL DISTRICT>, <address>, (hereinafter "District").

**WITNESSETH:**

**WHEREAS**, Commonwealth of Kentucky schools spend more than \$\_\_\_\_\_ million per year on energy costs; and

**WHEREAS**, KRS 160.325 requires school districts to respond to rising energy costs by focusing on the management of its various uses of energy; and

**WHEREAS**, KRS 160.325 requires boards of education to enroll in the Kentucky Energy Efficiency Program for Schools (hereinafter the "KEEPS") which is administered by the Kentucky Pollution Prevention Center (hereinafter the "KPPC") based at the University of Louisville J. B. School of Engineering; and

**WHEREAS**, KRS 160.325 requires KPPC, beginning on or before December 1, 2011, to report to the Kentucky Department of Energy Development and Independence and the Kentucky Legislative Research Commission on the status of the development of energy management plans by boards of education and the anticipated savings to be obtained from those plans; and

**WHEREAS**, KSBA is a nonprofit corporation, governed by a statewide board of directors, comprised of school board members from public school systems in the Commonwealth of Kentucky, and serves school boards and districts in such areas as governmental relations, board member and staff training, facility planning, insurance and risk management, legal, policy, publications, and community relations.; and

**WHEREAS**, The Commonwealth of Kentucky, Energy and Environment Cabinet (hereinafter the "Cabinet") has been awarded American Recovery and Reinvestment Act (hereinafter the "ARRA") funding for energy projects; and

**WHEREAS**, KSBA and the Cabinet entered into a Memorandum of Agreement (hereinafter the "MOA") on March 1, 2010, whereby KSBA agreed to coordinate and administer a \$5.05 million grant to provide funding and support for energy management programs at the district level; and

**WHEREAS KSBA**, pursuant to the MOA, can reimburse districts up to 75 % of the salary and benefits, not to exceed \$41,250, of a new Energy Manager or Energy Curriculum Coordinator position for the period July 1, 2010 through June 30, 2011 and up to 50% of the salary and benefits, not to exceed \$22,900, of an Energy Manager or Energy Curriculum Coordinator position for the period July 1, 2011 through April 30, 2012, or until the end of the MOA period, whichever occurs earlier; and

**WHEREAS KSBA**, pursuant to the terms of the MOA, can reimburse districts with existing Energy Managers as of June 30, 2010 funds to support other energy management activities: and

**WHEREAS, District** is a publically funded educational institution, grades 3 – 12, with a District Board of Education, pursuant to KRS 160.160, having the authority to enter into contracts on behalf of District; and

**WHEREAS**, the District has annual energy costs of \$\_\_\_\_\_ and recognizes the opportunity to conserve both financially and environmentally by implementing an energy management plan; and

**WHEREAS**, the District recognizes a successful energy management program requires commitment and a comprehensive plan;

**WHEREAS**, the expenditure of ARRA funds will be closely monitored and transparent to both federal and state scrutiny; and

**WHEREAS**, the procurement and reporting requirements imposed by the ARRA apply to all expenditures of ARRA funds, of every size and amount; and

**WHEREAS**, the District understands and acknowledges that the federal stimulus funding process is still evolving and that new requirements for ARRA compliance may still be forthcoming from the United States Government and the Commonwealth of Kentucky; and

**WHEREAS**, the District understands and acknowledges that programs supported with temporary federal funds made available through the ARRA may not be continued using state financed appropriations once the temporary ARRA funds are expended.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which is hereby acknowledged by the parties to this AGREEMENT, KSBA and the District hereby COVENANT AND AGREE to partner together in the School Energy Managers Project and to participate in the program as follows:

1. OBLIGATIONS OF THE DISTRICT

1.1 The District shall undertake the following obligations:

1.1.1 Employ a new Energy Manager, Energy Curriculum Coordinator or otherwise use the funding provided hereunder to comply with the energy management grant awarded to District by KSBA after June 30, 2010 or within a twenty-two month period thereafter;

1.1.2 Develop an Energy Management Plan ("EMP") and identify anticipated savings as required by KRS 160.325;

- 1.1.3 Provide for its Energy Manager or Energy Curriculum Coordinator to attend KSBA orientation and management training, as required by KSBA;
- 1.1.4 Adopt an energy policy;
- 1.1.5 Establish an energy team;
- 1.1.6 Establish goals for achieving energy savings;
- 1.1.7 Assess energy performance;
- 1.1.8 Utilize Kentucky Energy Efficiency Program for Schools ("KEEPS") approved energy efficiency training;
- 1.1.9 Conduct energy assessments using techniques and calculation tools provided by the "KPPC" and/ or other providers such as utility companies;
- 1.1.10 Consider implementing Kentucky National Energy Education Development (NEED) program;
- 1.1.11 Comply with the applicable requirements of the MOA, including the MOA Appendix A. . The MOA and the MOA Appendix A, which are attached hereto, are hereby incorporated into this AGREEMENT;
- 1.1.12 Comply with all requirements that are later issued for ARRA compliance from the United States Government or from the Commonwealth of Kentucky;
- 1.1.13 District shall retain all records relating to the Project for at least three (3) years after the end of the term of this AGREEMENT;

## 2. OBLIGATIONS OF KSBA

### 2.1 KSBA shall undertake the following obligations:

- 2.1.1 Pay the District up to \$\_\_\_\_\_ over the period July 1, 2010 through June 30, 2011, prorated on a monthly basis, to be applied toward the salary and benefits of an Energy Manager or an Energy Curriculum Coordinator and pay the district

- up to \_\_\_\_\_ for the period July 1, 2011 through April 30, 2012, or until termination of the MOA, whichever occurs earlier, prorated on a monthly basis, to be applied toward the salary and benefits of an Energy Manager or an Energy Curriculum Coordinator, or pay the District for other KSBA-approved energy management activities as allowed by the terms of the KSBA grant and the MOA;
- 2.1.2 Payment will be made within 30 days of receipt of payroll and experience records from the District;
  - 2.1.3 Pay up to \$130 per quarter for the Energy Manager or Energy Curriculum Coordinator to attend KSBA training and status reporting meetings;
  - 2.1.4 Assist the District with the employment, training, coaching and the establishment, monitoring and evaluation of performance goals of an Energy Manager or Energy Curriculum Coordinator;
  - 2.1.5 Coordinate with KEEPS the planning and scheduling of technical and training services provided by KEEPS;
  - 2.1.6 Assist the District in complying with the requirements of KRS 160.325 and the MOA;
  - 2.1.7 Facilitate development of an Energy Manager Sharing Agreement with other districts, as needed;
  - 2.1.8 Provide quarterly status and training meetings for the Energy Manager or Energy Curriculum Coordinator;
  - 2.1.9 Assist the District with development of an Energy Policy and in setting energy goals; and
  - 2.1.10 Assist the District Energy Manager or Energy Curriculum Coordinator in marketing success to the school administration and the local community.

### 3. MUTUALITY OF OBLIGATIONS

- 3.1 The obligations imposed upon the parties to this AGREEMENT are for the benefit of the parties and we each hereby agree that timely fulfillment of each and every obligation in accordance with this AGREEMENT is material and necessary. In the event of a material breach by either party to this AGREEMENT, the other party may terminate this AGREEMENT upon notice without further obligation to the other party.
- 3.2 Except as otherwise provided in this AGREEMENT, the parties to this AGREEMENT shall be solely responsible for any costs incurred in fulfilling their obligations under this AGREEMENT, and no party shall have any claim against the other party for reimbursement of such costs.
- 3.3 The District agrees and understands that this AGREEMENT allows for a potential grant funding source which, subject to conditions of the grant and as set out herein, may apply towards certain costs of energy positions and the District further agrees and understands that the District shall be solely responsible for any and all legal, statutory, contractual, and financial obligations (over and above proper application of grant funding) which apply by and between the District and individuals hired by the District in energy related positions. Nothing herein shall be deemed to create an employment or third party beneficiary relationship between individuals hired by the district in energy related positions and KSBA, the Commonwealth of Kentucky, or any agency thereof.



4. TERM OF AGREEMENT

4.1 The term of this AGREEMENT is from May \_\_\_\_, 2010 through April 30, 2012, or until termination of the MOA, whichever occurs earlier.

5. CANCELLATION

5.1 Either party has the right to terminate this AGREEMENT without cause upon thirty (30) days prior written notice to the other party, or for cause at any time upon written notice.

6. NOTICE

6.1 Notice shall be mailed by registered or certified mail, or hand-delivered, to the Superintendent of the District at the address at the beginning of this AGREEMENT and to the KSBA Executive Director at the address at the beginning of this AGREEMENT.

IN WITNESS WHEREOF, KSBA and the District have executed this AGREEMENT as of the date first written above.

AGREED TO BY:

Kentucky School Boards Association

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Board Chair

Date: \_\_\_\_\_

Attested by: \_\_\_\_\_  
Board Secretary

Date: \_\_\_\_\_