

MEMORANDUM OF AGREEMENT

BETWEEN THE

KENTUCKY SCHOOL BOARDS ASSOCIATION (KSBA)

AND

HARDIN COUNTY SCHOOLS

LGE-KU SCHOOL ENERGY MANAGERS PROJECT

THIS MEMORANDUM OF AGREEMENT (the "AGREEMENT") is made and entered into this June 16, 2013 by and between the Kentucky School Boards Association, 260 Democrat Drive, Frankfort, Kentucky 40601 (hereinafter "KSBA") and Hardin County Schools, 60 W. A. Jenkins Rd., Elizabethtown, KY 42701, (hereinafter "Hardin").

W I T N E S S E T H:

WHEREAS, Commonwealth of Kentucky schools spend over \$100 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 the Kentucky Pollution Prevention Center (hereinafter the "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, board policy 05.23 requires the Superintendent to direct the development of an energy management plan (EMP) and oversee the implementation and maintenance of the plan; 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

WHEREAS, KSBA in 2010 implemented the School Energy Managers Project ("SEMP") to support district efforts in compliance with KRS 160.325; and

WHEREAS, Hardin recognizes the opportunity to conserve both financially and environmentally by implementing an energy management plan; and

WHEREAS, The Louisville Gas and Electric ("LGE") and Kentucky Utilities ("KU") Companies have been authorized by the Kentucky Public Service Commission in PSC Case No. 2013-00067 to establish an Energy Management Program for Schools that makes available \$1,450,000 during the FY2014 – FY2015 period to provide matching funds for energy managers employed to serve public districts with schools located in their service territory; and

WHEREAS, KSBA and LGE-KU have entered into an Energy Management Program Agreement (the "Program Agreement") whereby KSBA agreed to coordinate and administer through SEMP a grant program to provide the matching funds and support for energy management programs at the district level; and

WHEREAS, KSBA, pursuant to the Program Agreement, can reimburse districts based on the relationship of LGE-KU served K-12 schools to total district K-12 schools up to 50 percent of the salary, not to exceed \$27,500 annually, for a full-time Energy Manager position during FY2014 and up to 25 percent of the salary, not to exceed \$13,750 annually, for a full-time Energy Manager position during FY2015; and

WHEREAS, the expenditure of funds shall be monitored and subject to KU review within the terms of the Program Agreement; and

WHEREAS, Hardin is a body politic and corporate, pursuant to KRS 160.160, having the authority to contract.

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 Hardin hereby COVENANT AND AGREE to partner together in the School Energy Managers Project and to participate in the program as follows:

1. OBLIGATIONS OF Hardin

1.1 Hardin shall undertake the following obligations for LGE-KU served K-12 schools:

- 1.1.1 Employ an Energy Manager to comply with the energy management grant awarded to District by KSBA beginning July 1, 2013 and continuing through June 30, 2015;
- 1.1.2 Develop and implement an Energy Management Plan ("EMP") and identify anticipated savings as consistent with KRS 160.325;
- 1.1.3 Provide for its Energy Manager to participate in energy management training, as coordinated by KSBA;
- 1.1.4 Submit to KSBA within 30 days of the last day of each calendar quarter for FY2013-14 and FY2014-15 the following information as required by the Program Agreement:
 - a. Energy management initiatives implemented in the quarter.
 - b. Total monthly electric and gas demand and energy usage separated by LGE-KU and non LGE-KU service and by demand billed and non-demand billed on forms provided KSBA.
- 1.1.5 Develop a job description for the energy manager position that includes the following responsibilities:
 - Assist district energy committee with implementation and maintenance of district EMP.
 - Analyze utility bill correctness and develop baselines to facilitate computation of ongoing energy savings.
 - Facilitate and/or conduct building energy assessments and identify actions to enhance efficient use of energy.
 - Review existing building operation procedures and implement revised procedures to facilitate more efficient energy use practices.
 - Implement and support Energy Teams at the individual school level.

- Maintain accurate records and databases for efficient program monitoring and evaluation.
 - Communicate efficient energy usage practices and achievements to faculty, staff, students and the community.
 - Evaluate opportunities for ENERGY STAR Certification and develop and implement practices to achieve such certification.
 - Participate in Professional Development opportunities to better understand relationship between energy management, school districts and its relationship to educational, financial and environmental goals and objectives.
 - Collaborate with teachers in developing energy efficiency as a core curriculum element.
- 1.1.6 Coordinate with KSBA an annual work plan for the Energy Manager to facilitate the following goals for LGE-KU served K-12 schools:
- Reduction of school Energy Utilization Index by 2.5 percent
 - Compliance with KRS160.325 and Board Policy
 - Completion up to five building energy assessments
 - Certification of one or more new ENERGY STAR Rated Schools as applicable
 - Support of student energy team projects
- 1.1.7 Provide invoice(s) and supporting documentation quarterly as required to KSBA for costs to be reimbursed subject to terms of this Agreement;
- 1.1.8 Provide KSBA monthly timesheets for the Energy Manager;
- 1.1.9 Comply with the applicable requirements of the attached Program Agreement, which is attached and is hereby incorporated into this AGREEMENT;
- 1.1.10 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 Hardin the amounts as listed under "LGE-KU Funding" as set forth on Attachment A for FY2014 and FY2015 or until termination of the MOA, whichever

occurs earlier, prorated on a monthly basis as allowed by the terms of the Program Agreement

- 2.1.2 Payment will be made no less than quarterly within 30 days of receipt of payroll records from Hardin;
- 2.1.3 Assist with the training, coaching and the establishment, monitoring and evaluation of performance goals of the Energy Manager;
- 2.1.4 Coordinate planning and scheduling of technical and professional development for the Energy Manager;
- 2.1.5 Assist the District in complying with the requirements of KRS 160.325 and Board Policy 05.23;
- 2.1.6 Assist the Energy Manager in communicating with the school administration and the local community regarding the program.

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 shall give written notice of the breach to the breaching party and the opportunity to cure such breach within (10) business days. Upon the failure of the breaching party to cure within said timeframe, the non-breaching 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 the AGREEMENT, and no party shall have any claim against the other party for reimbursement of such costs.

3.3 Hardin 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 Hardin further agrees and understands that Hardin shall be solely responsible for any and all legal, statutory, contractual, and financial obligations (over and above proper application of grant funding, including, but not limited to employee benefits) which apply by and between Hardin and individuals hired by Hardin 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 July 1, 2013 through June 30, 2015, or until termination of the Grant Agreement, whichever occurs earlier.

5. CANCELLATION

5.1 This AGREEMENT can be terminated without cause by mutual consent of the parties following thirty (30) days prior written notice to the other party, or by KSBA at anytime upon depletion of the grant funding and for cause as provided for in paragraph 3.1.

6. NOTICE

6.1 Notices required under this agreement shall be mailed by registered or certified mail, or hand-delivered, to the Hardin County Schools' Superintendent 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 Hardin have executed this AGREEMENT as of the date first written above.

AGREED TO BY:

Kentucky School Boards Association

David Baird, Interim Executive Director

Date: _____

Hardin County School Board of Education

Board Chairperson

Date: _____

Attested by: _____
Board Secretary

Date: _____