

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE KENTUCKY AGRICULTURAL DEVELOPMENT BOARD
AND
THE ENERGY AND ENVIRONMENT CABINET**

BACKGROUND RECITALS

1. The Kentucky Agricultural Development Board ("KADB") was created by the General Assembly pursuant to KRS 248.707 and charged with the responsibility of administering funds from the "Rural Development Fund," established in KRS 248.655 to provide economic assistance to the agriculture community of the Commonwealth. The KADB is attached to the Governor's Office of Agricultural Policy ("GOAP") for administrative purposes.
2. The Kentucky Water Resources Board ("KWRB") was created by the General Assembly pursuant to KRS 151.113. The KWRB is tasked with addressing water resource challenges affecting agriculture and rural industries. The KWRB is attached to the Energy and Environment Cabinet ("the Cabinet") for administrative and contracting purposes.
3. The KADB and the EEC pursuant to their individual statutory authority desire to enter into this Memorandum of Understanding in furtherance of their stated purposes, goals and objectives. Said Memorandum of Understanding shall be in full force and effect until such time as the Parties elect to terminate the relationship, as set forth in Section VII, or until the KADB elects to terminate the On-Farm Water Management Program ("the Program") in accordance with Section III below.

Accordingly, the Parties agree to the following:

**SECTION I
FUNDING**

A. Amount of Funding

The KADB, subject to the terms, conditions and restrictions set forth herein, agrees to set aside the sum of ONE MILLION DOLLARS (\$1,000,000) in State funds to establish an On-Farm Water Management Program through January 31, 2020.

B. Requests for Additional Funding

In the event the Parties, their respective administrative agencies, or the On-Farm Water Management Committee, determines that the Program requires additional funds, representatives of the Parties shall make a request to the KADB, in the form of a memo, for consideration. If the request is approved, the KADB shall set aside the approved amount of funds for use in the Program.

SECTION II ON-FARM WATER MANAGEMENT PROGRAM

A. Purpose

The KADB and KWRB seek to establish the On-Farm Water Management Program to promote water resilience on farms. The Program will promote innovation in on-farm water management, increase on-farm water availability and farm profitability, institutionalize practices into traditional funding programs, and normalize innovative practices. Further, the Program shall look to coordinate efforts with individuals and entities interested in the long-term science and planning of water resources.

B. On-Farm Water Management Committee

1. The On-Farm Water Management Committee ("the Committee") shall be established to review individual applications, made under the Program or relating to the management of water resources, and make funding recommendations to the KADB.
2. The Committee shall consist of SIX (6) members, composed of THREE (3) members of the KADB and THREE (3) members of the KWRB.
3. THREE (3) members of the Committee shall be appointed by the Executive Director of the Governor's Office of Agricultural Policy, and THREE (3) members shall be appointed by the Secretary of the Energy and Environment Cabinet.
4. The Committee shall meet Quarterly, or as needed, to evaluate project applications.
5. In order for the Committee to make a recommendation to fund a project to the KADB, the Committee must have a majority vote, quorum being present.

C. Program Categories

1. There shall be established TWO (2) program categories:
 - a. Research, Development and Demonstration (RDD); and
 - b. Practical Implementation Project (PIP).
2. Each program category shall have individual program guidelines (attached hereto as Exhibits A and B) which the Committee shall use in evaluating individual projects for funding.

D. Program Administration

1. The GOAP, on behalf of the KADB, shall administer the Program.
2. All applications for funding shall comply with the general procedures for submitting an application as set forth in the "Project Application Request for Funds Guidelines" located at https://agpolicy.ky.gov/funds/Documents/project_guidelines.pdf
3. All contracts and legal agreements between Program applicants shall be with the KADB and be administered by the GOAP.

SECTION III DURATION OF MEMORANDUM OF UNDERSTANDING

- A. The Memorandum of Understanding (MOU) herein shall be in full force and effect until January 31, 2020.
- B. At the January 2020 KADB meeting, or at some time prior to the expiration of this agreement,

- the KADB shall vote on whether to reauthorize the Program for the next calendar year.
- C. If the KADB elects to continue the Program, then all provisions of this MOU shall remain in full force and effect until January 31 of the next calendar year.
 - D. The procedure for reauthorization shall continue, as set forth in Section III.C., until the KADB elects to not authorize the program.

SECTION IV MODIFICATION

- A. **Procedure for Amendment**
If, during the life of the MOU, either Party wishes to modify or amend the MOU, the Party shall make a formal written request to the other Party with specific suggested changes or additions to the MOU.
- B. **Incorporation of Amendment**
If the Parties approve said modification or amendment, it shall be incorporated as an Amendment to the original MOU.

SECTION V REPORTING

- A. A Member of the Committee, with the assistance of GOAP staff, shall make a quarterly report detailing the number of applicants, monies distributed and account balances for the Program.
- B. The Committee shall also provide any information and documentation deemed necessary by the KADB to determine the status of the Program and to support expenditure of KADB funds.
- C. In addition, the report shall address the expected measurable outcomes (detailed in Exhibit D) and contain comparative data illuminating the effectiveness of various segments and strategies associated with the Program.

SECTION VI MISCELLANEOUS PROVISIONS

- A. This MOU shall not be assigned to any other entity. Any attempted assignment of this MOU by either Party shall be void;
- B. This MOU is governed by KRS Chapter 248. If any material portion of this MOU conflicts with said laws or regulations, such portion shall be void with the remainder of this MOU to continue in full force and effect;
- C. Should a conflict between the Parties arise, the conflict shall be resolved by the procedures set forth in KRS 12.100; and
- D. Both Parties further agree that all questions as to the execution, validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of the

Commonwealth of Kentucky.

**SECTION VII
TERMINATION**

Either Party may terminate this MOU upon thirty (30) days written notice to the other Party.

IN WITNESS WHEREOF, the Parties have set their hands by and through the duly authorized officers and agents.

KENTUCKY AGRICULTURAL DEVELOPMENT BOARD

WARREN BEELER

Executive Director

Governor's Office of Agricultural Policy

Authorized Representative of KADB

Date

THE ENERGY AND ENVIRONMENT CABINET

Charles Snavely

CHARLES SNAVELY

Cabinet Secretary

Energy & Environment Cabinet

Authorized Representative of the Energy and Environment Cabinet

3/23/2018

Date

APPROVED AS TO FORM AND LEGALITY:

Steve Doan

General Counsel

Governor's Office of Agricultural Policy

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Memorandum of Understanding between the Kentucky Agricultural Development Board and the Energy and Environment Cabinet was mailed on this _____ day of _____, 2018 to:

Kentucky Division of Water
c/o Peter Goodmann
300 Sower Blvd
3rd Floor
Frankfort, KY 40601
Recipient

And the original shall be maintained on file at the Governor's Office of Agricultural Policy

Steve Doan
General Counsel

Exhibit A



On-Farm Water Management Program: Research, Development and Demonstration (RDD) Project Guidelines

The On-Farm Water Management Program provides funding to promote water resilience on farms. A Research, Development and Demonstration (RDD) project is a proving ground for water management practices on public regional farms.

The Kentucky Agricultural Development Fund and the Kentucky Water Resources Board are dedicated to helping Kentucky agriculture become more sustainable and profitable for generations to come by supporting this program.

A. Application Submission

1. Prior to submitting an application, applicants are advised to review the "Guiding Principles for Board Investment," and Project "Guidelines – Request for Funds" which is available on-line at: <http://agpolicy.ky.gov/funds.Pages/program-portal.aspx>.
2. Prior to submitting an application, applicants must schedule a site visit by a member of the KWRB technical advisory group, to determine if your project qualifies for funding and to help refine your application. To schedule an appointment for your farm/organization contact XXXXXX
3. A completed KADF application shall be submitted to the Kentucky Agricultural Development Board for final decision.
4. Application will include business plan that includes an education component and implements best management practices must be submitted with the application. The educational component must include but is not limited to:
 - a. Scheduling tours and hosting events
 - b. Provide examples and information on how the practices demonstrated may be implemented; and
 - c. Be open to the public.
5. Application must provide current or updated agricultural plans (ex, AWQP, CNMP, Forestry) as needed/requested based on Best Management practices to be implemented on site.
6. Application must provide milestones with project expected timeline.
7. Application must identify and work with an appropriate agency, such as Kentucky Cooperative Extension, in developing best management practices.

B. Eligible Projects

1. Entities eligible to apply for funds are those organizations whose primary mission incorporates agriculture and/or land-use practices, with emphasis on education and outreach to the wider community. Examples may include but are not limited to privately-run experimental farms, state-run nurseries, academic institutions, and private land owners with a history of regular outreach activities.
2. Eligible items for a demonstration farm project include:
 - a. Expenses related to the construction of a facility or expansion/renovation of an existing facility;
 - b. Expenses for project related equipment;
 - c. Expenses for documented, contracted labor associated with the project; and

- d. Expenses related to installation of water resource BMPs as approved by the most recent NRCS guidelines, University of Kentucky's written BMP guidance documents, or any innovative designs for water resources management as approved by the board.
3. Request for funding will be evaluated for completeness and the ability to quantify and substantiate the benefit to Kentucky farmers.
4. RDD projects will be required to institute practices applicable to multiple types of agricultural use and must at minimum include one water harvesting BMP. Projects with multiple proposed BMPs will receive higher priority.
5. Organizations must be engaged in the production of food, feed, fiber, or agriculture-related product.
6. For RDD projects where buildings or implements will be constructed on property not owned by the Applicant, the Applicant must submit a written document detailing the rights, responsibilities and future plans of the parties as it relates to the project.

C. Exclusions

1. Self-propelled vehicles/equipment are not eligible for cost-share, such as tractors, trucks, all-terrain vehicles, skid steers, etc.
2. Applicants with one or more active Notices of Violation from the Energy and Environment Cabinet, Division of Waste, Water or Air Quality are not eligible for funding.

D. Funding Limitations

1. Only expenditures incurred after the date the application is received by the GOAP are eligible for consideration.
2. KADF (state and county) cannot be more than 50% of the total project cost.
3. The KADF Project shall be defined as all practices conducted within a single RDD.
4. Match shall be new project expenses or documented third party donated materials and equipment utilized in installation of approved BMPs as part of the KADF project. Land is not an eligible match.
5. Applicants will be limited to no more than \$250,000 in state and county KADB funds.
6. All construction projects should submit two (2) separate bids with the application.
7. KADB funds for administrative costs shall be capped at no more than 10%

E. Post Approval Requirements

1. Recipients will be required to provide detailed listing and verification of all expenditures related to the project. Verification shall be made by submitting itemized receipts/invoices and either cancelled checks or copies of credit card statements as proof of payment. Cash receipts are not an acceptable proof of payment.
2. Recipients will comply with all reporting requirements.

Please return application and all documentation to:

Governor's Office of Agricultural Policy

404 Ann Street

Frankfort, KY 40601

(502) 782-1762

<http://agpolicy.ky.gov>

Exhibits

Exhibit B



On-Farm Water Management Program: Practical Implementation Project (PIP) Guidelines

The On-Farm Water Management Program provides funding to promote water resilience on farms. A Practical Implementation Project (PIP) is for private farms who wish to implement best management practices for water management on their farm.

The Kentucky Agricultural Development Fund and the Kentucky Water Resources Board are dedicated to helping Kentucky agriculture become more sustainable and profitable for generations to come by supporting this program.

A. Application Submission

1. Prior to submitting an application, applicants are advised to review the "Guiding Principles for Board Investment," and Project "Guidelines -- Request for Funds" which is available on-line at: <http://agpolicy.ky.gov/funds.Pages/program-portal.aspx>.
2. Prior to submitting an application, applicants must schedule a site visit by a member of the KWRB technical advisory group, to determine if your project qualifies for funding and to help refine your application. To schedule an appointment for your farm/organization contact XXXXXX.
3. A completed KADF application will be forwarded to the Kentucky Agricultural Development Board and submitted to the On-Farm Water Management Committee.
4. Applicant must indicate willingness to participate in the statewide reporting and have information about their farm practices published and made publicly available. Must include pre and post information and pictures.
5. Applicant must commit to maintain installed BMPs for the life of the practices.
6. Application must provide current or updated agriculture plans (for example: AWQP, CNMP, Forestry) as needed/requested based on Best Management Practices to be implemented on site.
7. Application must provide milestones with project expected timeline.
8. Application should include how the applicant will work with an existing Research, Development and Demonstration (RDD) to execute the grant goals (for example, will the project leader consult with RDD staff, visit the RDD site, provide feedback on the effectiveness of BMP implementation, participate in RDD field events).

B. Eligible Projects

1. Entities eligible to apply for funds are privately-owned farms. No minimum size requirements.
2. Eligible items for a practical implementation project include:
 - a. Expenses related to the construction of a facility or expansion/renovation of an existing facility;
 - b. Expenses for project related equipment;
 - c. Expenses for documented, contracted labor associated with the project; and
 - d. Expenses related to installation of water resource BMPs as approved by the most recent NRCS guidelines, University of Kentucky's written BMP guidance documents, or any innovative designs for water resources management as approved by the board.

3. PIP projects will be required to institute practices applicable to multiple types BMPs and must at minimum include one water harvesting BMP, which may be a new practice or the updating of a current practice. Projects with multiple proposed BMPs will receive higher priority.

C. Exclusions

1. Self-propelled vehicles/equipment are not eligible for cost-share, such as tractors, trucks, all-terrain vehicles, skid steers, etc.
2. Applicant's own labor is not eligible.
3. Applicants with one or more active Notices of Violation from the Energy and Environment Cabinet, Division of Waste, Water or Air Quality are not eligible for funding.

D. Funding Limitations

1. Only expenditures incurred after the date the application is received by the GOAP are eligible for consideration.
2. KADF (state and county) cannot be more than 50% of the total project cost.
3. The KADF Project shall be defined as all practices conducted within a single PIP.
4. Match shall be new project expenses or documented third party donated materials and equipment. Land is not an eligible match.
5. Applicants will be limited to no more than \$50,000 in state funds. All applicants are encouraged to seek county funds.
6. All construction projects requiring outside labor should submit two (2) separate bids with the application.

E. Post Approval Requirements

1. Recipients will be required to provide detailed listing and verification of all expenditures related to the project. Verification shall be made by submitting itemized receipts/invoices and either cancelled checks or copies of credit card statements as proof of payment. Cash receipts are not an acceptable proof of payment.
2. The reimbursement rate shall be \$0.50 per dollar of approved documented expenses.
3. Recipients will comply with all reporting requirements.

Please return application and all documentation to:

Governor's Office of Agricultural Policy

404 Ann Street

Frankfort, KY 40601

(502) 782-1762

<http://agpolicy.ky.gov>

Exhibit C

Kentucky Water Resource Board 2018-2019

Expected Measurable Outcomes



Project 1: Purpose and Benchmarks for the Research, Development and Demonstration (RDD) Farms for the On-Farm Water Management Program

The On-Farm Management Program provides farmers with resources to improve water management, promote innovation, increase profitability and water availability. The Research, Development and Demonstration (RDD) Farms are to provide a public proving ground for water resources best management practices on regional farms.

Goals and Benchmarks

- No more than \$400,000 in Kentucky Agricultural Development Funds shall be committed to RDD projects in years 2018-2019.
- Focus on developing Best Management Practices (BMPs) that address water harvesting and water quantity that can be institutionalized into traditional funding sources (CAIP, Farm Bill programs and State Cost Share).
- Work with RDDs to host meaningful Field Days to promote On-Farm Water Management Program to local farmers.
- Provide technical assistance and guidance to land managers
- Track the below metrics for each report:
 1. Return on Investments and paybacks
 2. Pre and Post water consumption and use
 3. Increased efficiency and productivity
 4. Short-term and long-term maintenance Requirements
- Publish technical guidance documents
- Present at about the On-Farm Water Management Program at various statewide conferences.
- Determine what plans are needed for the property and assist with updating or creating plans.
- Applicants with more than one type agricultural BMPs will be given higher priority.
- Consideration shall be given toward RDD applicant's geography and agricultural practice.

Project 2: Purpose and Benchmarks for Practical Implementation Project (PIP) Farms for the On-Farm Water Management Program.

The On-Farm Water Management Program provides farmers with resources to improve water management, promote innovation, increase profitability and water availability. The Practical Implementation Project (PIP) Farms are to provide peer-to-peer training opportunities to implement water harvesting best management practices on private farms.

Goals and Benchmarks

- No more than \$600,000 in Kentucky Agricultural Development Funds shall be committed to RDD projects in years 2018-2019.
- Work with private landowners to apply for funding to implement water management BMPs.
- Provide technical assistance and guidance to landowners prior to application submission.
- Determine what plans are needed for the property and assist with updating or creating plans.
- To be eligible for reimbursement, each PIP farm must provide a 50% cash match for BMPs implemented.
- Track the below metrics for each report:
 1. Return on investments and paybacks
 2. Pre and post water consumption and use
 3. Increased efficiency and productivity