

Amended Interlocal Cooperative Agreement

Among

The Kentucky Counties of Adair, Casey, Clinton, Cumberland, Green, Laurel, McCreary, Pulaski, Rockcastle, Russell, Taylor, Wayne & Whitley

This Amended Interlocal Cooperative Agreement (this "Agreement") is by and among the aforementioned, all bodies corporate and politic of the Commonwealth of Kentucky, (hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, the Kentucky Interlocal Cooperation Act (the "State Act"), KRS 65.210 through 65.300, permits local governmental units ("Parties") to use the most efficient use of their powers by enabling them to cooperate with other localities in a manner of mutual advantage and to thereby provide services and facilities in manner and form that will best accord with geographic, economic, population and other factors which influence the needs and development of local communities; and

WHEREAS, the Governor of the Commonwealth of Kentucky, pursuant to the Workforce Investment Act of 1998 as such Act may be amended, (the "Act") has the authority to designate the geographic area encompassing the above named Kentucky counties as a Workforce Investment Area ("WIA"); and

WHEREAS, the Parties recognize the serious and complex problems resulting from unemployment and low wages among their citizens; and

WHEREAS, increased workforce development problems and solutions transcend traditional governmental boundaries; and

WHEREAS, a productive workforce investment system can most effectively be created and expanded in partnership with the private sector; and

WHEREAS, the Parties wish to realign and increase the effectiveness of the area's workforce investment system, its Local Workforce Investment Board ("WIB") and its fiscal agent; and

WHEREAS, the Parties, pursuant to the provisions of the Act, desire to enter into this Agreement in order to provide for the formation of the WIB and provide for the roles and responsibilities of the Local Elected Officials, the Chief Local Elected Official, and the Subrecipient of grant funds, as such terms shall be defined herein, all to be consistent with the requirements of the Act and State Law; and

WHEREAS, the Parties desire to replace the current Interlocal Cooperative Agreement, with this amended and restated Interlocal Cooperative Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and understandings contained herein, the Parties agree as follows:

1. Effective Date. The effective date of this Agreement shall become valid upon its approval by the Department of Local Government of the Commonwealth of Kentucky (“DLG”) pursuant to KRS 65.260 and the Education and Workforce Development Cabinet (“EWDC”) pursuant to KRS 65.300. In complying with the State Act, after its approval by the DLG and EWDC, a copy of this Agreement shall be duly recorded in the respective Offices of the County Court Clerks of each County which is a party hereto.

2. Governing Board.

A. A Governing Board is made up of the County Judge Executives of each of the 13 counties and Mayors of all incorporated cities in the Cumberland Workforce Investment Area (the “LEOs”). The Governing Board shall have the following duties and responsibilities:

- Designate a fiscal agent and grant subrecipient that shall be responsible for the WIA grant funds (the “Subrecipient”). Review of this designation shall occur at the conclusion of the initial designation of the local area under the Workforce Innovation and Opportunity Act, HR 803, Section 106 B(b)(2). The designation shall be by a majority vote of the Governing Board. If the designation is for a non-governmental or private non-profit entity, excluding entities organized under 26 U.S.C. 501(c)(1), then the Governing Board may designate by procurement.;
- Elect a chief local elected official, who shall serve as the Chair of the Governing Board (the “CLEO”);
- Establish an Executive Committee made up of the CLEO, who shall serve as the Chair of the Executive Committee, plus six (6) additional members of the Governing Board. The Executive Committee is authorized to perform each and every Governing Board action except the designation of the Subrecipient, the CLEO election and other actions expressly reserved for the full Governing Board;
- Perform all other duties and functions assigned to consortiums of local elected officials by the Act, successor legislation or by implementing Federal or State rules or policies.

B. Subject to the provisions of the Act and its implementing regulations, the Governing Board or its Executive Committee shall engage in discussion with the WIB to reach agreement with respect to the following:

- The content of the workforce plan for the area, including modifications thereto;
- The content of the WIA strategic plan for the area, including modifications thereto;
- One-Stop Career Center chartering and certification;
- Contract awards and the selection of service providers; and
- Acceptance and the resolution of audit and monitoring findings.

C. To the extent that the Governing Board would have any authority under the Act or Regulations, should the Governing Board or its Executive Committee fail to agree to any plan, policy or procedure proposed by the WIB, that particular action, plan, policy or procedure shall not be effective unless and until a mutually acceptable solution is agreed to by both the Governing Board or its Executive Committee and the WIB.

D. As required by the Act and its implementing regulations, the Governing Board or its Executive Committee shall discuss, review and approve or disapprove the WIB's annual budget, including modifications thereto.

4. Governing Board and Executive Committee Decisions. Each of the Governing Board and Executive Committee members shall have one vote. The Governing Board members may each select one alternate who shall have all the powers and rights of the Governing Board member who selected the alternate, who shall also be a local elected official as defined by the Act, and who shall also count towards a quorum when that Board member is absent. A quorum consists of not less than seventeen (17) members. Decisions require approval by a majority vote of a quorum. The Governing Board may adopt bylaws consistent with the Agreement.

5. Governing Board Chair. The Governing Board Chair/CLEO shall sign documents as authorized by and on behalf of the Governing Board or its Executive Committee. The Board Chair/CLEO shall serve until a successor is elected or until resignation. The Governing Board may elect other officers as it sees fit, including a Vice Chair who may act as the CLEO when the Chair/CLEO is unavailable or as authorized by the Chair, the Governing Board or its Executive Committee.

6. Governing Board Meetings. The Governing Board shall meet at least biennially and at such other times as are deemed necessary. Meetings may be called by the CLEO, by the Executive Committee or by any five Local Elected Officials by providing 24 hours written notice to all Governing Board members and to any alternates. Meeting notices shall contain the time, place, and agenda for all meetings and otherwise comply with Kentucky's Open Meetings Act.

7. Workforce Investment Board Appointments.

A. All WIB members shall be appointed in accordance with the criteria setup between the Governor and the Kentucky Workforce Investment Board ("KWIB") in accordance with the Act or its successor.

- B. At the option of the Governing Board or its Executive Committee, the Governing Board shall seek consent from the Governor to immediately implement the WIB constitution requirements of the Workforce Innovation and Opportunity Act. In the event such consent is obtained, the following requirements shall apply:
- a. A majority of WIB members shall be private sector business representatives. Local business organizations or trade associations shall nominate representatives who are business owners, chief executives or operating officers, or who have “optimum policy making or hiring authority,” in compliance with the Act. WIB appointments shall be authorized by the Governing Board or its Executive Committee and shall be made by the CLEO.
 - b. At least 20% of the Board’s members must come from organized labor or from nonprofits that engage in employment and training. These members shall be union representatives or executive directors of nonprofit agencies.
 - c. The WIB shall also include: 1) an Adult Education and Literacy member ; 2) a higher education member; 3) a local economic/community development director; 4) a top State employment service manager; and 5) a top vocational rehabilitation manager. The two education representatives must be nominated by their peers.
- C. In the event that the Governing Board or its Executive Committee does not seek to immediately implement the WIB requirements under the Workforce Innovation and Opportunity Act, the following shall apply: a majority of WIB members shall be private sector business representatives, pursuant to the Act and its implementing regulations. WIB appointments shall be authorized by the Governing Board or its Executive Committee and shall be made by the CLEO. Efforts shall be made to ensure that key business sectors are represented and, to the extent possible, that there is WIB member who either lives or works in each of the thirteen Counties.
- D. Subject to 29 U.S.C. Section 2832(c)(2) and (3), as amended, replaced or modified, and its implementing regulations, WIB appointments shall be for staggered three-year terms and shall continue until a successor is appointed either prior to or after the end of the appointment term.

8. WIB And Subrecipient Duties And Responsibilities.

A. Subrecipient responsibilities shall include:

- Informing the WIB on a regular basis of the progress in achieving strategic goals and objectives;
- Delivering an annual report to the WIB on the activities and the state of the area’s workforce system;

- Acting as the local workforce area's grant subrecipient and fiscal agent;
- Regularly attending WIB, Governing Board and Executive Committee meetings;
- Managing budget and procurement activities;
- Employing and evaluating the area's Workforce Director, subject to approval of a budget line item agreed to by the WIB and the Governing Board or its Executive Committee. The Subrecipient shall evaluate the Workforce Director on annual basis, and shall provide the evaluation to the WIB and the Governing Board or its Executive Committee; and
- Adopting policies necessary to ensure accountability and compliance with Federal, State and local laws, rules and grant terms and agreements, including but not limited to this Agreement.

B. The WIB shall have all responsibilities delegated to it in the WIA and its implementing regulations; subject to any contrary provisions in the WIA or the regulations. Subject to the written memorandum of agreement by and between the Governing Board or its Executive Committee and the WIB, and provided not contrary to any provision in the WIA or its implementing regulations or the successor act, these responsibilities shall include:

- Developing the area's Regional Workforce Strategic Plan;
- Appointing committees to oversee work necessary to accomplish each goal in the strategic plan;
- Establishing standards for and overseeing the area's workforce system, subject to the terms of a "Memorandum of Understanding" executed with partner agencies;
- Performing duties as required by the Act, the Commonwealth of Kentucky, Federal and State grant agreements, other applicable Federal, State and local laws, rules and agreements and this Agreement; and
- Entering into an agreement with both the Subrecipient and the Governing Board or its Executive Committee, which shall further delineate the respective responsibilities of the Subrecipient, the Governing Board or its Executive Committee and the Subrecipient. The agreement shall include the following dispute resolution procedure: "In the event that the WIB, the Governing Board or its Executive Committee or the Subrecipient disagree, an attempt shall be made by the WIB Chair and the CLEO to informally resolve the issue. If informal resolution is unsuccessful, three Governing Board Executive Committee members other than the CLEO and three WIB officers shall meet and shall resolve the issue by majority vote. The meeting shall be chaired by a representative of the Department of Workforce Investment. If a resolution cannot be reached, the matter shall be referred to a mediator selected by the Department of Workforce Development and the parties shall in good faith attend mediation to resolve any dispute."

C. In order to protect the objective oversight responsibilities of the WIB, the WIB shall not engage in the direct delivery of services, unless this Agreement is amended by all of the parties, the WIB obtains consent of the Governor and the Governing Board to engage in direct services and other otherwise complies with the Act, as amended. The WIB may hire staff if the WIB believes that such staff is necessary for oversight purposes, subject to the Governing Board or its Executive Committee's approval of the budget line item for such staff.

9. Liability. The local jurisdictions of each LEO shall always remain liable for misuse of funds. In the event liability for the misuse of funds, the following priorities for recouping those funds shall apply:

- A. First Priority: Subrecipient shall attempt to recover funds from the contractor, agent or third party causing the liability;
- B. Second Priority: Subrecipient shall attempt to recover funds from an insurance carrier or bond issuer;
- C. Third Priority: Subrecipient shall attempt to obtain a waiver of liability or offset liability against current or future grant revenues;
- D. Fourth Priority: Subrecipient shall repay the liability from its funds to the extent permitted by law; and
- E. Fifth Priority: As a last resort and only to the extent required by the Act, the Parties agree to cover unmet liabilities to the State and Federal governments. The Parties shall share liability to the State and Federal governments in proportion to their respective populations using the most recent census data available on the date the negligent or wrongful acts occurred which gave rise to the unmet liability.

This priority system shall not be construed as an attempt to avoid liability under the Act, its regulations or any agreement between the CLEO and the Commonwealth of Kentucky. Likewise, nothing in this agreement shall be interpreted in a manner that would violate any constitutional or statutory limitation on liability applicable to a Party government, or shall be construed as a waiver of any defense to or limitation on liability to which a Party government or its agents would otherwise be entitled under the constitution or laws of the Commonwealth of Kentucky.

10. Termination.

- A. This Agreement shall remain in effect until terminated pursuant to this section. In the event one of the local governmental parties withdraws from this agreement, this agreement shall be null and void with respect to that government. The term "Area" as

used in this agreement shall refer only to the geographic boundaries covered by signatory local governments.

- B. Subject to state and federal law, any Party may withdraw by notifying the other Parties, Subrecipient and to all appropriate agencies of the Commonwealth of Kentucky in writing of its intent to do so at least one hundred eighty (180) days prior to the end of the WIA program year (June 30th). Withdrawal shall become effective at midnight on the last day of the program year in which notice is given, and shall not affect the participation of the remaining Parties or the validity of this Agreement with respect to the remaining Parties.
- C. This agreement completely replaces the previous Interlocal Cooperative Agreement between the Parties. That agreement shall be null and void when this agreement is executed and becomes effective according to Kentucky law.

11. Indemnification. To the extent allowable by the Kentucky Constitution and the Kentucky Revised Statutes, each of the Parties hereto agrees to indemnify and save the other harmless from any claims, liability or damages fees arising out of or resulting from any error, omission or act of negligence on the part of the indemnifying party, its officers, or employees in the performance of this Agreement.

12. Amendments. This Agreement may be amended from time to time by written consent of all the Parties.

13. Signatures. By signing this Agreement, each local elected official certifies that his or her signature has been duly authorized by official action of his or her governmental body. The agreement may be executed in one or more counterparts, each of which, when combined with all other counterparts, will constitute a completely executed agreement. See **Attachment A** for signatures, IN TESTIMONY WHEREOF, after due adoption of resolutions and/or ordinances authorizing the same, acting by and through its Local Elected Official have executed and delivered this Agreement as of its effective date.

**REVIEWED AND APPROVED, WITH RESPECT TO COORDINATION AND
NONDUPLICATION OF SERVICES, BY:**

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

By: _____
Beth A. Brinly, Deputy Secretary

Date: _____

REVIEWED AND APPROVED BY:

DEPARTMENT FOR LOCAL GOVERNMENT

By: _____
Tony Wilder, Commissioner

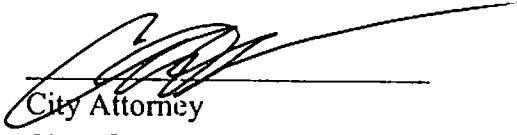
Date: _____

REVIEWED AND APPROVED, WITH RESPECT TO LEGALITY AND FORM, BY:

By: _____
Charla Sands, Staff Attorney

Date: _____

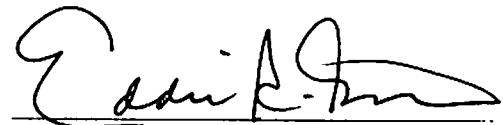
Agreement Approved as to Form and Legality:



City Attorney
City of Somerset


Adopted by the City Council of the City of Somerset at a meeting on the 9th Day of FEBRUARY, 2015, and on the same occasion signed in open session by Mayor Eddie Girdler, attested under seal by the Somerset City Clerk and declared to be in full force and effect.

(SEAL)



Eddie Girdler, Mayor
on Behalf of the City of Somerset
Pulaski County, Kentucky

Attest:



City Clerk
Somerset, Kentucky