

Amended and Restated Workforce Development
Area Agreement

July 2018

Central Virginia

WORKFORCE DEVELOPMENT AREA

(LWDA 7)

COUNCIL AGREEMENT

April, 2000

Revised July 21, 2000

Revision October, 2015

Proposed Revision July, 2018

Council Agreement

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Central Virginia Workforce Development Area Council Agreement

CENTRAL VIRGINIA WORKFORCE DEVELOPMENT AREA

PREAMBLE

The Central Virginia Region of Lynchburg and the surrounding communities recognize that the development of a vibrant, effective workforce is important to the economic competitiveness and resiliency of our communities. We understand that workforce development is an educational process occurring at all ages and is lifelong. We recognize that by working together we can build a stronger workforce development program.

The communities of this region seek to create organizations which will be the focal point of the region's workforce development initiatives. We look for these organizations to both utilize federal Workforce Development funds and also seek other partner organizations to develop a well-rounded, successful program to provide training and education programs appropriate for all ages and for the skills needed by the community's businesses and industries.

To implement this effort, we authorize the creation of the Central Virginia Workforce Development Area and the Central Virginia Workforce Development Board in accordance with the WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)(Public Law 113-128), hereinafter referred to as the "ACT", and all federal and state guidelines for the ACT. It is Made and Entered into by and between the County of AMHERST, the County of APPOMATTOX, the County of BEDFORD, the County of CAMPBELL and the City of LYNCHBURG.

WITNESSETH:

WHEREAS, the respective Boards of Supervisors of the Counties of AMHERST, APPOMATTOX, BEDFORD and CAMPBELL and the City Council of the City of LYNCHBURG in the Commonwealth of Virginia, have adopted resolutions authorizing the execution of this Council Agreement;

NOW THEREFORE THIS AGREEMENT FURTHER WITNESSETH: That for and in consideration of the promises and of the mutual benefits to be derived hereunder, that each and all of the jurisdictions enumerated immediately above, do hereby reciprocally agree as follows:

SECTION 1: CREATION OF THE COUNCIL.

THERE IS HEREBY CREATED, by the undersigned Chief Local Elected Official of the Counties and City, the CENTRAL VIRGINIA WORKFORCE DEVELOPMENT AREA COUNCIL, hereinafter referred to as the "COUNCIL ", which shall exist under and be subject to the terms and conditions of this Council Agreement, and which shall be deemed to constitute the

agreement authorized by Section 15.2-1300 of the Code of Virginia (Repl. Vol. 1997) as amended, for the joint exercise of powers by participating political subdivisions of the Commonwealth of Virginia.

The purpose of the COUNCIL shall be to plan, establish, and operate a LOCAL WORKFORCE DEVELOPMENT AREA and Workforce Development Services Delivery System according to the provisions of the ACT, and the Federal Regulations hereinafter referred to as the "Regulations", issued by the U.S. Department of Labor, for the implementation of the ACT together with any and all other subsequent and relevant federal and Commonwealth of Virginia statutes, policies and interpretations.

SECTION 2: AREA AND POPULATION TO BE SERVED.

The area to be served shall be called the CENTRAL VIRGINIA WORKFORCE DEVELOPMENT AREA, hereinafter referred to as the "WDA", and shall include the jurisdictions noted in this section and consisting of the 2,000 square miles of land in the Counties of Amherst, Appomattox, Bedford and Campbell and the City of Lynchburg (Lynchburg Area). The Weldon Cooper Center for Public Services Demographics Research Group population estimates published on January 27, 2015 indicates the Lynchburg Area has a population of 259,487.

SECTION 3: RESPONSIBILITIES OF THE COUNCIL.

On behalf of each and all parties hereto, the COUNCIL powers shall include, but not be limited to the following:

- A. Providing overall governance for implementing the provisions of the ACT and Regulations for the WDA to include creation of, and appointment of all members to, the CENTRAL VIRGINIA WORKFORCE DEVELOPMENT BOARD, hereinafter referred to as the "BOARD".
- B. Approving policies, priorities, goals, and objectives of the BOARD and the programs and services to be provided by the BOARD, either directly or by contract with political subdivisions or public or private service providers.
- C. The COUNCIL, in partnership with the Board, shall submit to the Governor a regional strategic workforce development plan that meets the requirements in Section 108 of the ACT.
- D. The COUNCIL shall approve the Board budget annually and receive the BOARD's annual report.

E. The COUNCIL shall enter into an agreement with the BOARD that clearly details the partnership between the two entities for the governance and oversight of activities under the ACT.

3.01: MEMBERSHIP.

The voting members of the COUNCIL shall be the Chief Local Elected Official of each of the jurisdictions that are party to this agreement, or that official's duly appointed elected designee.

3.02: TERMS OF OFFICE.

The term of office for each COUNCIL member shall coincide with the term of office for which the member was elected to public office in the particular jurisdiction the member represents.

3.03: VOTING RIGHTS.

Each COUNCIL member shall have one (1) equal vote on all matters before the COUNCIL. Voting by proxy shall not be permitted except when the Council member is represented by a duly appointed elected designee.

3.04: MEETINGS.

The COUNCIL shall hold meetings from time to time as may be required in order to conduct the affairs of the COUNCIL. At least one meeting shall be held each year.

3.05: BY-LAWS.

The COUNCIL may adopt by-laws and such other rules as it deems necessary to govern its operations.

SECTION 4: WORKFORCE DEVELOPMENT BOARD.

4.01: CREATION of the CENTRAL VIRGINIA WORKFORCE DEVELOPMENT BOARD.

There is hereby created, the CENTRAL VIRGINIA WORKFORCE DEVELOPMENT BOARD, referred to as the "BOARD".

4.02: APPOINTMENT of MEMBERS to the BOARD.

The COUNCIL, shall appoint the members of the BOARD in accordance with the process required by Section 107 of the ACT pertaining to Local Workforce Development Boards and related Commonwealth of Virginia Policy as described immediately below.

The COUNCIL, acting together, shall appoint representatives from each of the following categories:

- A. A majority of the members of each local Board shall be representatives of business in the local area, who shall reflect, to the extent possible, employment opportunities in the region and who:
 - (i) Are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;
 - (ii) Represent businesses, including small businesses, or organizations representing businesses described in this clause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area; and
 - (iii) Are appointed from among individuals nominated by local businesses, business organizations and business trade associations;

- B. Not fewer than twenty (20) percent of the members of each Board shall be representatives of the workforce within the local area, who:
 - (i) Shall include representatives of labor organizations (for a local area in which employees are represented by labor organizations), who have been nominated by local labor federations, or (for a local area in which no employees are represented by such organizations) other representatives of employees;
 - (ii) Shall include a representative who shall be a member of a labor organization or a training director, form a joint labor-management apprenticeship program, and if no such joint program exists in the area, such a representative of an apprenticeship program in the area, if such a program exists;
 - (iii) May include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and

- (iv) May include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of eligible youth, including representatives of organizations that serve out-of-school youth;

C. Each local Board shall include representatives of entities administering education and training activities in the local area, who:

- (i) Shall include a representative of eligible providers administering adult education and literacy activities under Title II;
- (ii) Shall include a representative of institutions of higher education providing workforce development activities (including community colleges);
- (iii) May include representatives of local educational agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;
- (iv) If there are multiple eligible providers serving the local area by administering adult education and literacy activities under Title II, or multiple institutions of higher education serving the local area by providing workforce development activities, each representative on the Board shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively;

D. Each local Board shall include representatives of governmental and economic and community development entities serving the local area who:

- (i) Shall include a representative of economic and community development entities;
- (ii) Shall include an appropriate representative from the State employment service office under the Wagner-Peyser Act (29 U.S.C. 720 et seq.), other than section 122 or part C of that title (29 U.S.C. 732, 741) serving the local area;
- (iii) May include representatives of agencies or entities administering programs serving the local area relating to

- transportation, housing, and public assistance; and
- (iv) May include representatives of philanthropic organizations serving the local area; and

E. Each local board may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

4.03: PURPOSE AND POWERS.

The functions and responsibilities of the BOARD shall include, but are not limited to:

- A. Development of all plans and priorities for service and subsequent modifications.
- B. Development and implementation of policies and operating guidelines as required by the Cooperative Agreement by and between the BOARD and the COUNCIL for the administration of the workforce development programs operated, or proposed, within the WDA.
- C. Approval of all proposed program designs and delivery systems for the purpose of providing workforce development services for the WDA.
- D. Evaluation of the performance of individual services providers pursuant to relevant federal and state statutes, regulations and policy interpretations as revised or amended.
- E. Development of the vision, goals, objectives, and policies for the regional workforce development area. The vision should be aligned with both the region's Comprehensive Economic Development Strategy and the Virginia Board of Workforce Development's goals. The Board shall solicit support and comment from the general public in providing a comprehensive plan for workforce development programs for this local workforce development area.
- F. Serve as sub recipient of all funds disbursed under the ACT for the local WDA and the subsequent disbursement of such funds to designated service providers and/or subcontractors in accordance with the approved Workforce Development Plan and, pursuant to approved procedures as provided for in the Cooperative Agreement by and between the COUNCIL and the BOARD.
- G. Advising the COUNCIL of problems that may arise from time to time that may impact policy considerations of the COUNCIL and recommend corrective action.

H. Reporting at least annually to the COUNCIL on the state of the Workforce Development Program and the matters related to carrying out the requirements of the Workforce Development Plan.

I. Such other functions as the BOARD may deem appropriate provided such functions are allowable under the ACT and Regulations, as amended.

4.04: NOMINATION PROCESS.

The Chief Local Elected Officials must contact the appropriate entities in the local area for nominations to appoint members and/or to fill vacancies on the local Board from business, local educational entities, and labor representatives. Chief Local Elected Officials may also design a process for nominations of individuals and other types of representation the officials would like to include on the local Board. Vacancies subsequent to the establishment of the local Board must be filled in the same manner as the original appointments.

Private sector representatives are to be selected from among individuals nominated by local business organizations (ex. business trade associations, chamber of commerce, economic development agencies). Individual businesses may also nominate themselves or provide nominations of other businesses to the Chief Local Elected Officials. Private sector representatives can include owners of businesses, chief executives or operating officers of businesses, and other business executives with optimum policy making or hiring authority.

Local educational entity representatives must be selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities including local school boards, entities providing vocational education, entities providing secondary adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist). Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse geographic areas within the local area.

Labor representatives must be selected from among individuals nominated by local labor federations (or in a local area in which no employees are represented by such organizations, other representatives of employees, such as employee organizations and/or the state AFL-CIO).

For all other members, local chief elected officials should consult with the appropriate groups in the local area for possible individuals to serve including:

- Representatives of community-based organizations, including organizations representing individuals with disabilities and veterans where such organizations exist in the area.
- Representatives of local economic development agencies, including private sector economic development entities.

Nomination for membership to the BOARD shall be accomplished in accordance with the provisions of the ACT and Regulations, as amended. The nomination process under this agreement shall be for the Member Jurisdictions, as defined in Section 2, to seek and receive nominations and submit the list of nominees to the COUNCIL. The COUNCIL shall review the nominations and any other recommendations from member jurisdictions that may be received and make the appointments in accordance with Section 4.02 herein above.

4.05: TERMS OF OFFICE.

The term of office for BOARD members shall be two (2) years and members may be eligible for reappointment. The initial terms of members of the BOARD shall be staggered and the manner and method of staggering the term of office shall be set forth in the by-laws of the BOARD. Individuals serving on the local Board who subsequently retire or no longer hold the position that made them eligible board members may not continue to serve on the local Board. The entity affiliated with the vacating board member may nominate a new representative to the local Board. Vacancies resulting from resignations or removal of mandatory members should be filled within ninety (90) days.

4.06: VOTING RIGHTS.

Each BOARD member shall have one (1) equal vote on all matters before the BOARD. Voting by proxy shall not be permitted.

4.07: OFFICERS.

A Chair and Vice Chair shall be elected by and from the membership of the BOARD; and, shall serve for terms of one (1) year and may be eligible for re-election for one additional term of one year. Eligibility for election of both the Chair and Vice Chair shall be limited to the private sector business category of BOARD membership as referenced in Section 4.02(A) of this Agreement. The Chair serves as the Executive committee chair and selects the Chairs for all standing committees and special committees of the BOARD.

4.08: MEETINGS.

The BOARD shall hold regular or called meetings at such times, dates, and places as may be established in the by-laws of the BOARD.

4.09: STANDING COMMITTEES.

A. IN GENERAL.—the BOARD may designate and direct the activities of standing committees to provide information and to assist the local board in carrying out activities under this section. Such standing committees shall be chaired by a member of the local board, may include other members of the local board, and shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise. At a minimum, the local board may designate each of the following:

(i) A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system, which may include as members representatives of the one-stop partners.

(ii) A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.

(iii) A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding providing programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.

B. ADDITIONAL COMMITTEES.—The Board may designate standing committees in addition to the standing committees specified in subparagraph (A).

4.10: BY-LAWS.

The Board shall adopt by-laws and such other rules or operational procedures as it deems necessary to govern its operations.

SECTION 5: ADMINISTRATION.

5.01: GRANT RECIPIENT.

The City of Lynchburg has been designated by the COUNCIL to be the grant recipient for the Central Virginia Workforce Development Area COUNCIL, and is responsible for ensuring compliance with the terms and conditions of the WDA grant. Therefore, the City shall have the ability, for cause, to terminate the appointment of the fiscal agent selected if the City, in its sole discretion, determines there is good cause to do so by giving written notice of termination and specifying the cause for the termination and the effective date thereof. In the event the City terminates the appointment of the fiscal agent as provided herein, the fiscal agent will be paid for the reasonable services provided and the allowable expenses incurred by the fiscal agent prior to the termination of the appointment. If the City terminates the appointment of the fiscal agent the BOARD with the advice and consent of the COUNCIL shall appoint a new fiscal agent.

5.02: FISCAL AGENT.

In order to facilitate and expedite the process of implementing the workforce development system in Central Virginia, the COUNCIL has determined it to be appropriate to make the initial appointment of the Fiscal Agent for both the COUNCIL and the BOARD. Future appointment of the Fiscal Agent shall be by the BOARD with the advice and consent of the COUNCIL. Pursuant to the ACT, this Agreement, and the Cooperative Agreement between the COUNCIL, and the BOARD, the Fiscal Agent shall be the responsible to the BOARD for management and control. The Fiscal Agent shall provide administrative and staff support to both the COUNCIL and the BOARD performing those duties and responsibilities as may be required to carry out the requirements of the ACT as prescribed by the BOARD and approved by the COUNCIL. Additionally, the ACT prohibits the Fiscal Agent from providing direct services.

Accordingly, the COUNCIL does hereby appoint the Central Virginia Planning District Commission as the Fiscal Agent for the WDA.

5.03: DUTIES AND RESPONSIBILITIES OF THE FISCAL AGENT.

The FISCAL AGENT shall have the following duties and responsibilities and such other duties as may be assigned by the COUNCIL initially and the BOARD subsequently:

- A. Prepare the Workforce Development plans as directed by the BOARD;
- B. Develop a program budget for submission to the BOARD prepared in accordance with federal and state guidelines and provisions of the ACT;

C. Develop an Administrative Budget for submission to the BOARD for the purpose of carrying out the responsibilities as may be assigned by the BOARD;

D. Provide professional, technical, and clerical support to the COUNCIL under the direction of the BOARD on all matters relating to planning, operation, monitoring, oversight, and evaluation of Workforce Development programs and activities in and for the WDA;

E. Develop and carry out monitoring procedures necessary to meet the requirements of the Workforce Development Plan and the ACT;

F. Provide for the operation of all programs and activities which are carried out for the COUNCIL under the authority of the BOARD; and

G. To perform such other duties as may be assigned from time to time.

SECTION 6: SPECIAL COMMITTEES.

The BOARD and the COUNCIL, jointly or separately, shall from time to time establish such special committees as deemed necessary to effectively plan for and efficiently respond to the workforce needs of the WDA.

SECTION 7: RESOLUTION OF CONFLICT.

In the event there is an unresolved dispute between the BOARD and the COUNCIL, the Governor of the Commonwealth of Virginia shall exercise the authority vested in the state governor by the ACT and Regulations, as amended.

SECTION 8: LIABILITY.

The COUNCIL as a unit and distinguished from the sum or any number of its individual members shall indemnify, and hold harmless, the individual members of the BOARD and COUNCIL from the restitution of any funds required by the misapplication, erroneous expenditure or other action by the BOARD or COUNCIL which results in a claim against any individual member or combination of members of the COUNCIL or the BOARD to the extent allowed by law; this duty to indemnify is subject to all immunities that inure to any individual COUNCIL member as an officer, agent or employee of any political subdivision of the Commonwealth of Virginia and to the immunities that inure to the benefit of any political subdivision of the Commonwealth of Virginia who is a party hereto or a beneficiary hereof, its officers, agents and employees to include sovereign immunity.

8.01: LIMITATION OF LIABILITY.

The extent of liability of any single jurisdiction in this COUNCIL, for any of the funds appropriated to the WDA, shall be limited to the prorated share of the total funds allocated the particular jurisdiction during the particular fiscal year in which an issue of liability may arise.

8.02: INSURANCE REQUIREMENT.

The Fiscal Agent shall procure and maintain appropriate Public Liability and Errors and Omissions Insurance policies sufficient to protect the COUNCIL from potential errors and omissions in the ordinary administration and use of these particular public funds and provide proof thereof to the COUNCIL prior to entering into its duties as Fiscal Agent.

SECTION 9: DURATION.

This Council Agreement shall be terminated upon the repeal of the ACT and other related legislation regarding Workforce Development or upon mutual consent of at least two-thirds (2/3) of the members of the COUNCIL.

SECTION 10: MEMBERSHIP ADDITIONS AND WITHDRAWALS.

10.01: ADDITIONS.

Any local jurisdiction which is not a party to this Council Agreement on the effective date thereof may thereafter join the COUNCIL provided that such local jurisdiction is made a part of a Local Workforce Development Area designated by the Governor of the Commonwealth of Virginia in accordance with the provisions of the ACT and Regulations, as amended; and that, that jurisdiction adopts and executes this Council Agreement.

10.02: WITHDRAWALS.

Any party to this Council Agreement shall have the right to withdraw at any time after written notification of at least ninety (90) days to the COUNCIL of the party's intention to withdraw from the Council Agreement. In the event that any locality that is a party to this agreement exercises its right to withdrawal then the term of any BOARD member appointed by such locality as well as the term of the Chief Elected Official representing the locality on the COUNCIL shall end on the date of the withdrawal.

10.03: DISPOSITION OF PROPERTY UPON TERMINATION.

Upon termination of this agreement any property owned by the Council or the Fiscal Agent shall be distributed to the local jurisdictions on a proportionate basis equal to the

amount of funding through grant receipts or otherwise during the period of time when the agreement was in effect.

SECTION 11: AMENDMENTS.

This Council Agreement may be amended only by concurring resolutions by the governing bodies of two-thirds (2/3) of the members of this Council Agreement.

SECTION 12: EFFECTIVE DATE.

This Council Agreement shall become effective on the date that two-thirds (2/3) of the members agree.