

**HENNEPIN COUNTY WORKFORCE
INNOVATION AND OPPORTUNITY ACT
OPERATING AGREEMENT
BETWEEN
THE HENNEPIN COUNTY BOARD OF COMMISSIONERS
AND
THE HENNEPIN-CARVER WORKFORCE DEVELOPMENT BOARD**

AUTHORITY AND PURPOSE

Section 107 of the Workforce Innovation and Opportunity Act Public Law 113-128, 29 U.S.C.A. Section 3101 et seq. (hereinafter referred to as "WIOA" or the "Act"), as implemented in part through 20 Code of Federal Regulations § 679.320 and Minnesota Statutes § 166L.666, provides for the establishment of local workforce development boards to carry out the programs established by WIOA. (WIOA, its implementing regulations and the state statute are hereafter referred to collectively as "the Workforce Laws.") The Workforce Laws further require chief elected officials in the local areas ("CEOs") to appoint the members of each local workforce development board ("WDB"), and to define, supervise and support WDB activities. Pursuant to a October 18, 2018 Joint Powers Agreement between Hennepin and Carver Counties, the Hennepin County Board of Commissioners assumed the role of CEO over the duly designated Hennepin-Carver Workforce Development Board ("WDB"), Area 9, which services Carver and Suburban Hennepin Counties.

The purpose of this Operating Agreement is to define the rights and responsibilities of the CEO and the WDB, to provide for appointment of WDB members, and to establish policies and procedures to further the purposes of the Workforce Laws.

**ARTICLE I
CEO FUNCTIONS**

1.1 CEO Duties and Responsibilities

Along with those duties delineated in this Operating Agreement as joint duties of the WDB and CEO, the CEO shall have the following duties and responsibilities. The CEO shall, pursuant to Section 107 of the Act, 20 CFR §679.320, and Minn. Stat. §116L.66:

- 1.1.1 Appoint the members of the WDB.
- 1.1.2 Review and approve the WDB's bylaws.
- 1.1.3 Set general policy directions for Workforce Development Service Area 9 (the "Local Area" or "Workforce Development Area") and the WDB.
- 1.1.4 Approve the budget of the WDB once the WDB has submitted it, and disburse funds as authorized by the budget and the terms of funding.

1.1.5 Review and approve the proposed Local Plan.

1.1.6 Review and approve the WDB's Designation of a One-Stop Operator Agreement.

ARTICLE II AUTHORIZATION AND PURPOSE OF WDB; APPOINTMENT OF MEMBERS

2.1 **Authorization.** The CEO hereby authorizes and establishes the WDB, and ratifies all existing duly made decisions of the WDB and its predecessor, the Workforce Investment Board, in accordance with their terms.

2.2 **Purpose.** The WDB and the CEO shall coordinate activities at the local level to do the following: (a) increase the employment, job retention, occupational skills and earnings of the workforce; (b) reduce welfare dependency; (c) enhance productivity and competitiveness of the Local Area's business and industry; (d) address disparities in employment; and (e) encourage continuous improvement in worker preparation from kindergarten through adulthood and support life-long educational development from pre-school through adult learning at all levels. In addition, the WDB shall:

2.2.1 Provide strategic and operational oversight in collaboration with the required and additional partners and workforce stakeholders to help develop a comprehensive and high-quality workforce development system in the local area and larger planning region;

2.2.2 Assist in the achievement of the State and regional strategic and operational vision and goals as outlined in the Unified State Plan; and

2.2.3 Maximize and continue to improve the quality of services, customer satisfaction, effectiveness of the services provided.

2.3 **Local Area.** Consistent with Sections 3, 106 and 107 of the Act and the Hennepin-Carver joint Powers Agreement, the WDB and CEO shall be responsible for the joint oversight of services provided under the Act to the following two geographic areas: Hennepin County (excluding the jurisdiction of the City of Minneapolis) and Carver County. The two counties shall be hereinafter referred to as the "Workforce Development Area," or "the Local Area."

2.4 **WDB Composition.** The membership composition of the WDB (hereinafter referred to as the "WDB Members") shall satisfy the requirements of WIOA Section 107(b)(2), 20 CFR Part 679.320 and Minn. Stat. §116L.666. All WDB Members shall be individuals with substantial management, hiring or policy responsibility within their respective businesses or organizations. The WDB shall be constituted as follows:

2.4.1. **Business representatives.** A majority of the members of the Local WDB must be representatives of business in the local area. At least two members must

represent small business as defined by the State of Minnesota. Business representatives serving on Local WDBs also may serve on the State WDB. Each business representative must meet the following criteria:

- 2.4.1.1 Be an owner, chief executive officer, chief operating officer, or other individual with substantial management, hiring or policy authority; and
- 2.4.1.2 Provide employment opportunities in in-demand industry sectors or occupations, as those terms are defined in WIOA Section 3(23).
- 2.4.2 **Workforce representatives.** At least 20 percent of the members of the Local WDB must be workforce representatives. These representatives:
 - 2.4.2.1 Must include two or more representatives of labor organizations, where such organizations exist in the local area. Where labor organizations do not exist, representatives must be selected from other employee representatives;
 - 2.4.2.2 Must include one or more representatives of a joint labor-management, or union affiliated, registered apprenticeship program within the area who must be a training director or a member of a labor organization. If no union affiliated registered apprenticeship programs exist in the area, a representative of a registered apprenticeship program with no union affiliation must be appointed, if one exists;
 - 2.4.2.3 May include one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities; and
- 2.4.3 May include one or more 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.
- 2.4.4 **Other required members.** The WDB also must include:
 - 2.4.4.1 At least one eligible training provider administering adult education and literacy activities under WIOA title II;
 - 2.4.4.2 At least one representative from an institution of higher education providing workforce investment activities, including community colleges; and
 - 2.4.4.3 At least one representative from each of the following governmental and economic and community development entities:
 - 2.4.4.3.1 Economic and community development entities;

- 2.4.4.3.2 The State Employment Service office under the Wagner-Peyser Act (29 U.S.C. 49 *et seq.*) serving the local area; and
- 2.4.4.3.3 The programs carried out under title I of the Rehabilitation Act of 1973, other than sec. 112 or part C of that title;
- 2.5 **Optional Board Members.** The CEO may select such other individuals and representatives of entities as it determines to be appropriate and consistent with the Workforce Laws, and subject to the approval of the State of Minnesota, through its Department of Employment and Economic Development (hereinafter "DEED").
- 2.6 **Selection and Term of WDB Members.** WDB Members shall be selected in accordance with procedures set forth by Section 107 of the Act and the CEO. All members shall serve a three (3) year initial term, with all terms beginning on the date assigned by the CEO. After the expiration of the initial term, members may be appointed for an indeterminate number of successive terms. As needed, the WDB Chair shall have authority to appoint members on an interim basis but only subject to subsequent and the final approval of the CEO, in the established standard and customary manner.
- 2.7 **WDB Chairperson.** The WDB shall elect a chairperson from among the Business Members (the "WDB Chair"). Each WDB Member shall have one (1) vote in the election of the WDB Chair. The WDB Chair shall be elected annually by a majority vote of all WDB Members then in office. Nothing in this Operating Agreement or the WDB Bylaws shall prohibit a WDB Chair from serving consecutive terms either as a WDB Member and/or as Chair.
- 2.8 **State Certification.** Consistent with WIOA Section 107(c)(2)(A) and 2(B) and Minn. Stat. §116L.666, the WDB must apply for certification from DEED once every two (2) years. If the WDB is denied state certification, the WDB in cooperation with the CEO shall have the authority to appeal such determination and/or reapply for state certification.

ARTICLE III WDB DUTIES

- 3.1 **General Powers.** The WDB shall have broad planning, goal setting, policy-making, and direct oversight authority for WIOA programs as authorized in the Workforce Laws, which for this purpose shall include the State workforce programs authorized by Minnesota Statutes 116L.20 116L.56-116L.561 (dislocated worker and youth programs) and 116L.666, as amended from time to time. The WDB and CEO shall be accountable for Performance Indicators established under the Act and regulations thereto, and any performance outcomes which are established by Minnesota Statutes 116L.20, 116L.56-116L.561, and 116L.666. The WDB shall have

the specific duties set forth in this Article.

- 3.2 **Local Plan.** Consistent with Section 107(d) of the Act and regulations thereunder, and any performance outcomes which are established by Minnesota Statutes 116L.20, 116L.56-116L.561 and 116L.666, the WDB, in partnership with the CEO, shall develop and submit an annual comprehensive local unified plan for WDB Adult, Dislocated Worker and Youth programs (the "Local Unified Plan") to the Minnesota Department of Employment and Economic Development. The Local Plan must also be consistent with the State Plan created by the State Workforce investment Board (the "State Plan"). The Local Plan shall include the provisions as described in Article IV, Contents of the Local Plan, of this Agreement.
- 3.3 **One-Stop Delivery System.** The WDB shall be responsible for the establishment and supervision of the One-Stop Delivery System, as provided in WIOA Section 121, the terms of which are incorporated herein by reference. To this end, the WDB shall develop and enter into a memorandum of understanding with one-stop partners, designate or certify one-stop operators, and conduct oversight of the one-stop delivery system in the Local Area. The establishment and operation of the One-Stop Delivery System must further be consistent with the State Plan and is subject to the consent of the CEO.
- 3.4 **Identification of Eligible Youth Services Providers.** Consistent with Section 123 of the Act, the WDB shall identify eligible youth activity providers in the Local Workforce Development Area and recommend that the CEO award grants or contracts on a competitive basis based on the recommendations of the Youth Council.
- 3.5 **Identification of Eligible Training Services Providers.** Consistent with Section 123 of the Act, the WDB shall identify eligible training services providers in the Local Workforce Development Area.
- 3.6 **Identification of Eligible Intensive Services Providers.** Consistent with section 122 of the Act, the WDB shall identify eligible providers of intensive training services described in section 134(d)(4) in the Local Area.
- 3.7 **Local Performance Measures.** The WDB, along with the CEO, shall cooperate with DEED to reach agreement on annual performance standards in the Local Area.
- 3.8 **Employer Linkages.** Consistent with Section 107 of the Act and regulations thereunder, the WDB shall coordinate the workforce development activities carried out in the Local Area under the Act with other economic development strategies and develop other employer linkages with such activities.

- 3.9 **Connecting, Brokering and Coaching.** Consistent with Section 107 of the Act and regulations thereunder, the WDB shall promote the participation of private sector employers in the State of Minnesota's Workforce Development system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities through intermediaries such as the One-Stop Operators in the Local Area or through other organizations, to assist such employers in meeting hiring needs.
- 3.10 **Limitations.** The WDB may not provide training services. Further, the WDB may not be designated or certified a One-Stop Operator under the Act without the prior approval of the CEO and the Governor. The WDB's authority extends only to those programs authorized under Title I of the WIOA Act and those authorized under Minnesota Statutes 116L.20, 116L.56-116L.561 and 116L.666.

ARTICLE IV CONTENTS OF THE LOCAL PLAN

- 4.1 **Required Contents.** The Local Plan to be developed by the WDB is subject to the CEO's approval and shall contain the provisions set forth in this Article.
- 4.2 **Workforce Identification** Consistent with Section 107 of the Act and regulations thereunder, an identification of the investment needs of businesses, job seekers, and workers in the Local Area; the current and projected employment opportunities in the Local Area; and the job skills needed to obtain such employment opportunities.
- 4.3 **One-Stop Delivery System.** Consistent with Section 107 of the Act and regulations thereunder, a description of the One-Stop Delivery System to be established in the Workforce Area, to be known as Career Force including (a) a description of how the WDB will ensure continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of the Workforce Area; and (b) a signed Memorandum of Understanding between the WDB and each of the One-Stop Partners, concerning the Workforce Area service delivery system.
- 4.4 **Performance Levels.** Consistent with Section 107 of the Act and regulations thereunder, a description of the local levels of performance to be used to ensure the performance of the Workforce Area and to be used by the WDB for measuring the performance of the Fiscal Agent, eligible providers, and the One- Stop Delivery System in the Workforce Area.
- 4.5 **Adult Employment and Training.** Consistent with Section 107 of the Act and regulations thereunder, a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the Workforce Area.

- 4.6. **Activity Coordination.** Consistent with Section 107 of the Act and regulations thereunder, a description of how the WDB will coordinate workforce development activities carried out in the Workforce Area with statewide rapid response activities, as appropriate.
- 4.7 **Youth Activities.** Consistent with Section 107 of the Act and regulations thereunder, a description and assessment of the type and availability of youth activities in the Workforce Area, including an identification of successful providers of such activities.
- 4.8 **Public Comment.** Consistent with Section 107 of the Act and regulations thereunder, a description of the process used by the WDB to provide an opportunity for public comment and input, including comment from representatives of business and labor, into the development of the Local Plan prior to submission of the Local Plan to DEED. At a minimum, the WDB shall do the following prior to submitting the Local Plan to the State: (a) make available copies of a proposed Local Plan to the public through such means as public hearings or local news media; (b) allow members of the WDB and the public, including representatives of business and labor, to submit comments on the proposed Local Plan to the WDB within thirty (30) days of making the proposed Local Plan available for comment; and (c) include with the submission of the Local Plan to DEED any comments that represent disagreement with the Local Plan.
- 4.9 **Fiscal Agent.** Consistent with Section 107 of the Act and regulations thereunder, identification of Hennepin County through the Department of Human Resources as the "Fiscal Agent" responsible for the disbursement of grant funds and the creation of an annual budget for WDB activities, in accordance with Section 5.2 of this Agreement.
- 4.10 **Competitive Process.** Consistent with Section 107 of the Act and regulations thereunder, a description of the competitive process to be used to award the grants and contracts in the Local Area for activities carried out under the Act.
- 4.11 **Other Information.** Such other information that may be required by DEED or the Governor of the State of Minnesota shall be provided, consistent with Section 107 of the Act and regulations thereunder.

ARTICLE V BUDGET AND ADMINISTRATION

- 5.1 **Grant Recipient.** Consistent with Section 107 of the Act and regulations thereunder, the CEO shall serve as the grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the Workforce Area under the Act.

- 5.1.1 **Fiscal Agent.** In order to assist in the administration of the grant funds, the CEO shall designate Hennepin County Department of Human Resources to serve as the "Fiscal Agent" for the Workforce Area. Such designation shall not relieve the CEO of the liability for the misuse of grant funds.
- 5.1.2 **Disbursal of Funds.** In its capacity as the Fiscal Agent for the Workforce Area, the Hennepin County Department of Human Resources shall disburse the funds for workforce development activities at the direction of the WDB, pursuant to the requirements of the Act. The Hennepin County Department of Human Resources shall disburse the funds immediately on receiving such direction from the WDB.
- 5.2 **Budget.** Consistent with Section 107 of the Act and regulations thereunder, the Hennepin County Department of Human Resources, as the Fiscal Agent for the WDB, shall develop an annual budget for the purpose of carrying out the obligations and duties of the WDB under the Act, subject to the written approval of the WDB. The budget, once developed and agreed to, shall provide for an equitable allocation of all funds received under the Act.

ARTICLE VI ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM

- 6.1 **One-Stop Operators.** Consistent with Section 121 of the Act and regulations thereunder, and with the State Plan, and subject to the consent of the CEO, the WDB shall designate or certify a One-Stop Operator for the Workforce Area through a competitive process at least once every four years, as provided in this Article. The CEO and WDB shall have the authority to terminate the One-Stop Operator(s) for cause.
 - 6.1.1 **Eligible Entities.** A One-Stop Operator may be an entity or consortium of entities, of demonstrated effectiveness, located in the Workforce Area, including but not limited to the following: (a) a post- secondary educational institution; (b) an employment service agency established under the Wagner-Peyser Act on behalf of the local office of the agency; (c) a private nonprofit organization (including a community based organization); (d) a private for profit entity; (e) a governmental agency; and (f) another interested organization or entity, which may include a local chamber of commerce or other business organization. Notwithstanding the foregoing, an elementary school or secondary school shall not be eligible for designation or certification as the One-Stop Operator(s).
 - 6.1.2 **Duties of the One-Stop Operators.** The One-Stop Operator shall have those duties delineated and outlined in this Agreement and required by Section 121 of the Act, which shall include the following functions.

- 6.1.2.1. Shall provide for oversight of all One-Stop Center(s) operations and ensure coordination of One-Stop operations, including by facilitating such meetings as may be necessary with One-Stop Partners, focusing on coordinating partner services with the County and WDB.
- 6.1.2.2. Shall provide dispute/grievance processes for any dispute not resolved by the One- Stops.
- 6.1.2.3. Shall provide recommendations to the Executive Committee of the WDB with any unresolved disputes within a 30 day period from presentation of the grievance.
- 6.1.2.4. Shall provide periodic reports of One-Stop Center operations and activities including reports on usage of the One-Stop Center by participants, employers and other One- Stop Center partners. Such reports may include recommendations for partnership development and improvement as well as continuous improvement of the One-Stop system as a whole.
- 6.1.2.5. Shall ensure that the provisions, services and procedures outlined in Memorandum of Understanding (MOU) attached hereto as Exhibit 1 of One-Stop Partners is implemented as described in the MOU.
- 6.1.2.6. Upon request, assist staff with designing programs to meet goals of the CEO and the WDB, and with developing policies, plans and programs to meet performance standards for workforce development programs.

6.2 **One-Stop Partners.** Consistent with Section 121 of the Act and regulations thereunder, subject to the consent of the CEO and consistent with the State Plan, the WDB shall enter into a Memorandum of Understanding ("MOU") attached hereto as Exhibit 1, with each One-Stop Partner for the Workforce Area (the "One-Stop Partner") concerning the operation of the One-Stop Delivery System. Each MOU shall contain provisions describing the following: (a) the services to be provided through the One-Stop Delivery System; (b) how the costs of such services and the operating costs of the system will be funded; (c) methods for referral of individuals between the One-Stop Partners for the appropriate services and activities; (d) the duration of the MOU and the procedure for amending the MOU during the term of the MOU; (e) methods to ensure the needs of workers and youth, and individuals with barriers to employment, are addressed in the provision of necessary and appropriate access to services made available through the one-stop delivery service; and (f) such other provisions consistent with the Act that the parties deem to be appropriate.

6.3 **WDB Oversight.** The WDB shall conduct oversight with respect to the One-Stop

Delivery System in the Workforce Area.

- 6.4 **Full Service Center.** At least one (1) "full service" center shall exist within a Workforce Area at which individuals may learn about services from each of the One-Stop Partners. This one, comprehensive service center may be augmented by additional "full-service" centers through a network of One-Stop Partners at physical sites and/or via electronic access points.
- 6.5 **Additional Service Centers.** The One-Stop Delivery System may also make selected one-stop programs, services, and activities available (a) through a network of affiliated sites that can provide 1 or more of the programs, services, and activities to individuals; (b) through a network of eligible one-stop partners (i) in which each partner provides 1 or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and (ii) that assures individuals that information on the availability of the career services will be available regardless of where the individuals initially enter the statewide workforce development system, including information made available through an access point described in subclause 6.5(i), above.
- 6.6 **Specialized Centers.** The One-Stop Delivery System may also have specialized centers to address special needs, such as the needs of dislocated workers, youth, or key industry sectors or clusters; and as applicable and practicable, shall make programs, services, and activities accessible to individuals through electronic means in a manner that improves efficiency, coordination, and quality in the delivery of one-stop partner services.

ARTICLE VII MISCELLANEOUS

- 7.1 **Sunshine Provision.** Consistent with Section 107(e) of the Act and 20 CFR §679.390, the WDB shall comply with the Open Meeting Law, Minn. Stat. Chap. 13D and the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13, and make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the WDB, including: (a) the Local Plan prior to submission of the plan to the Minnesota Department of Employment and Economic Development; (b) membership of the WDB; (c) the designation and certification of One-Stop Operators; (d) the award of grants or contracts to eligible providers of youth activities; and, (e) notices and minutes of formal meetings of the WDB.
- 7.2 **Conflict of Interest.** Consistent with Section 107(h) of the Act and regulations there under, a WDB Member shall not vote on a matter under consideration by the WDB regarding the provision of services by such member (or by an entity that such member represents), or that would provide direct financial benefit to such member or the immediate family of such member. A WDB Member shall also not engage in any other activity determined to constitute a conflict of interest as described in the State Plan and according to state and local policies regarding conflict of interest.

- 7.3 **Amendment and Termination.** This Agreement may be amended or terminated at any time by agreement of the CEO and WDB, in accordance with their duly authorized procedures, but always consistent with the Workforce Laws. The CEO may terminate this Agreement for any breach by the WDB.
- 7.4 **Duration.** This Operating Agreement shall have perpetual duration, unless terminated in accordance with section 7.3 hereof.

COUNTY BOARD AUTHORIZATION

The Hennepin-Carver Workforce Development Board, having signed this Agreement, and the County having duly approved this Agreement on the ___ day of ___, 2019, and pursuant to such approval, the proper County officials having signed this Agreement, the parties hereto agree to be bound to the provisions herein set forth.

Reviewed by the County
Attorney's Office

By: Thomas Pursell

Date: 5/20/19

By: Chad Cooper
County Administrator

By: Jennica Sarmas
Chair, Hennepin-Carver
Workforce Development Board

Date: 5-16-19

COUNTY OF Hennepin County

By: Chario Jones
Board Chair

ATTEST: Sam J. Keller
Deputy Clerk

Date: 5/24/19

