**AN ORDINANCE REFORMING, AMENDING, AND RE-ESTABLISHING THE WORKFORCE INVESTMENT AREA CONSORTIUM AS THE WORKFORCE DEVELOPMENT AREA CONSORTIUM, A JOINT ENTITY BETWEEN THE COUNTIES OF BLAND, CARROLL, FLOYD, GILES, GRAYSON, MONTGOMERY, PULASKI, SMYTH, WASHINGTON, AND WYTHE AND THE CITIES OF BRISTOL, GALAX, AND RADFORD, VIRGINIA AND BESTOWING ON SUCH ENTITY ALL POWERS NECESSARY AND PROPER FOR THE PERFOMANCE OF ITS DUTIES UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT**

**WHEREAS**, the Workforce Innovation and Opportunity Act (Public Law 113-128, Title 1, Subtitle B, Chapter 2, Section 106) (hereinafter the "Act"), updates and amends previous federal law, providing federal funding to states for the delivery of workforce training and other services; and

**WHEREAS**, the Act permits the governor to designate local workforce development areas to deliver workforce development services within the state; and

**WHEREAS**, Va. Code §15.2-1300 provides that local governments may enter into agreements for the joint or cooperative exercise of any power, privilege or authority which each is capable of exercising individually; and

**WHEREAS**, the Member Jurisdictions have formed a joint entity under Va. Code § 15.2-1300, designated as the New River/Mount Rogers Workforce Investment Area Consortium (the "Consortium") and recognized as Virginia's Area II Local Workforce Development Area, to facilitate the delivery and oversight of workforce services in a manner that ensures accountability to the governing bodies of the Member Jurisdictions; and

**WHEREAS**, the Member Jurisdictions wish to continue to jointly perform the responsibilities prescribed for them under the Act; and

**WHEREAS**, the Member Jurisdictions wish to enter into an amended and updated Consortium Agreement to account for the changes in federal law and to increase flexibility of the Consortium in serving the local Workforce Development Area.

**NOW WHEREFORE**, the Board of Supervisors of _____ County hereby

1. Approves entering into the New River/Mount Rogers Workforce Development Area Consortium Agreement (the “Agreement”) which is attached hereto and made a part of this Ordinance; and

2. Authorizes the Chair of the Board of Supervisors of _____ County to execute the Agreement on behalf of the Board of Supervisors.

This Ordinance shall be effective immediately.

Adopted this the ____ day of _____, 2017.

Attest:

_____

Clerk, _____ County Board of Supervisors

DRAFT

# NEW RIVER/MOUNT ROGERS WORKFORCE DEVELOPMENT AREA CONSORTIUM AGREEMENT

This Agreement is executed by the duly authorized elected officials from the Counties of Bland, Carroll, Floyd, Giles, Grayson, Montgomery, Pulaski, Smyth, Washington, and Wythe and the Cities of Bristol, Galax, and Radford, Virginia (the "Member Jurisdictions") and shall be effective on the latter of April 1, 2017 or on the day that the last Member Jurisdiction enters into this Agreement.

**WHEREAS,** the Workforce Innovation and Opportunity Act (Public Law 113-128, Title 1, Subtitle B, Chapter 2, Section 106) (hereinafter the "Act"), updates and amends previous federal law, providing federal funding to states for the delivery of workforce training and other services; and

**WHEREAS,** the Act allows the Governor of the Commonwealth of Virginia to designate local workforce development areas for the delivery of such services within the state; and

**WHEREAS,** the Member Jurisdictions wish to jointly perform the responsibilities prescribed under the Act; and

**WHEREAS,** Va. Code §15.2-1300 provides that local governments may enter into agreements for joint or cooperative exercise of any power, privilege or authority which each is capable of exercising individually; and

**WHEREAS,** the Member Jurisdictions have formed a joint entity under Va. Code § 15.2-1300, designated as the New River/Mount Rogers Workforce Investment Area Consortium (the "Consortium") and recognized as Virginia's Area II Local Workforce Development Area; and

**WHEREAS,** each Member Jurisdiction by ordinance approved the establishment of a joint entity empowered to exercise the responsibilities of the Chief Local Elected Official as set forth in this Agreement; and

**WHEREAS,** creation of the Consortium has permitted the delivery and oversight of workforce services in a manner that will ensure accountability to local elected officials of the Member Jurisdictions; and

**WHEREAS,** the Member Jurisdictions wish to amend and update the Consortium Agreement to account for the changes in federal law and to increase flexibility of the consortium in serving the local Workforce Development Area.

**NOW, THEREFORE,** the parties do mutually covenant and agree as follows:

## Article I - Entity

Section 1. **Formation of Consortium.** The Member Jurisdictions, having created the New River/Mount Rogers Workforce Investment Area Consortium pursuant to authority granted to

them under Va. Code §15.2-1300, hereby amend the name of the Consortium and re-establish it as the New River/Mount Rogers Workforce Development Area Consortium as an entity to exercise the powers set forth in this Agreement.

Section 2. **Consortium Membership.** The Member Jurisdictions of the Consortium shall be the Counties of Floyd, Giles, Montgomery, and Pulaski and the City of Radford, which are included in the New River Valley Planning District and the Counties of Bland, Carroll, Grayson, Smyth, Washington, and Wythe and the Cities of Bristol and Galax, which are included in the Mount Rogers Planning District.

Section 3. **Consortium as Workforce Development Area.** Subject to the approval of the Governor of Virginia, the thirteen Member Jurisdictions shall also comprise the boundaries of the New River/Mount Rogers Workforce Development Area (the "Area") required by the Act.

## Article II - Consortium Board Membership

Section 1. **Consortium Board Membership.** The Member Jurisdictions shall establish a Consortium Board comprised of one representative from each Member Jurisdiction (the "Representative"). The Consortium Board shall have in addition to the powers set forth herein all the powers, duties, and responsibilities of the Chief Local Elected Official as set forth in the Act.

Section 2. **Representative of Member Jurisdictions and Term.** The Representative to the Consortium Board shall be an elected member of the governing body of the Member Jurisdiction. No person shall serve as a Representative if such person is no longer an elected member of the governing body. Each Member Jurisdiction shall determine the length of term for its Representative and be responsible for filling the vacancy of its Representative who is no longer qualified to serve. Each member Jurisdiction may also designate an alternate to represent their Jurisdiction on the Consortium Board if the official representative is unable to attend a Consortium Board meeting.

Section 3. **Policy Making Authority.** Every Representative appointed to the Consortium Board shall have the authority to speak affirmatively for the Member Jurisdiction and, in conformity with the by-laws of the Consortium, to commit the Consortium to a course of action. Each alternate designated by a Member Jurisdiction shall have the authority to speak affirmatively for the Member Jurisdiction in the absence of the Representative, and commit the Consortium to a course of action.

Section 4. **Removal of Representative.** Under the by-laws and governing rules of the Member Jurisdiction, the Member Jurisdiction may remove its Representative from office.

## Article III - Consortium Powers

Section 1. **Powers Under The Act.** The Consortium Board shall engage in all activities necessary and proper for the execution of its responsibilities that are assigned or reserved to the Chief Local Elected Official under the Act, including:

A. Collectively perform the functions of the Chief Elected Officials of the Member

Jurisdictions as permitted in the Act. For purposes of the Act, the Member Jurisdictions shall act through the Consortium Board.

B. Apply to the Governor of Virginia for Area designation.

C. Appoint the members of the Local Workforce Development Board in accordance with the Act and state policy.

D. Execute an agreement with the Local Workforce Development Board for the operation and functions of the Local Workforce Development Board set out in the Act.

E. Continually establish the vision and priorities of the Consortium in conjunction with the Local Workforce Development Board.

F. Develop the region's strategic plan as the Local Plan under the Act for Member Jurisdictions in partnership with the Local Workforce Development Board. The plan shall be submitted to the Virginia Workforce Council (hereinafter, the "Workforce Council") in the manner prescribed by the Workforce Council.

G. Provide input into and approve the budget recommended by the Local Workforce Development Board and provide continuing fiscal oversight of all funds received and expended.

H. Work with the Local Workforce Development Board and Governor of Virginia to reach agreement on local performance measures.

I. Approve the Local Workforce Development Board's selection and designation of One-Stop Operator(s), its evaluation of the performance of One-Stop Operator(s), and its termination of their eligibility for cause.

J. From among the Member Jurisdictions, identify annually the Grant Recipient of all funds received under the Workforce Innovation and Opportunity Act.

Section 2. **General Powers.** The Consortium Board shall engage in all things necessary or convenient to carry out the business and affairs of the entity, including, without limitation, the authority to:

A. To sue, be sued, complain and defend in its name.

B. To adopt and amend bylaws, not inconsistent with this Agreement or with the laws of the Commonwealth, for managing the business and regulating the affairs of the Consortium.

C. To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use and otherwise deal with in its own name, real or personal property, or any legal or equitable interest in property, wherever located.

D. To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

E. To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity.

F. To make contracts, incur liabilities, borrow, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

G. To invest and reinvest its funds and receive and hold real and personal property as security for repayment.

H. To elect officers and define their duties.

I. To hire, discharge, establish the terms and conditions of employment, and pay salaries and benefits to employees who provide staffing services to the Consortium Board and the Local Workforce Development Board. Such benefits may include retirement and deferred compensation plans, health and life insurance, and other leave and pay benefits as the Consortium Board determines is consistent with the practices within the Member Jurisdictions. The Executive Director shall report directly to the Consortium Board.

J. To pay compensation, or to pay additional compensation, to any or all employees on account of services previously rendered to the Consortium, whether or not an agreement to pay such compensation was made before such services were rendered.

K. To obtain indemnity insurance for the Consortium, its Board, the Local Workforce Development Board, and any of its officers or employees for any cause of action or claim asserted against them for acts engaged in their official capacities.

L. To employ legal counsel, accountants, and other advisors as the Consortium Board deems necessary as may be permitted under the Act.

M. To have and exercise all powers necessary or convenient to affect any or all of the purposes for which the Consortium is organized.

Section 3. **Consortium Board's Oversight and Control.** The Consortium Board shall perform the following functions:

A. Oversee the local workforce development system.

B. Oversee other programs and fund sources which may from time to time fall under the purview of the Local Workforce Development Board.

C. Assist in the development of the Local Plan and Plan modification review and approval for the Act's programs and other programs for which the Local Workforce Development Board is given responsibility.

D. Adopt a budget for the Workforce Development Area including the operating budget developed by the Local Workforce Development Board.

E. To the extent feasible, align all investments in workforce development in the Area under the policy umbrella of the Consortium Board.

F. When applicable, ensure that policies of the Local Workforce Development Board for workforce development, become integrated into county and city overall policies for economic development, education, and workforce development.

G. Any and all powers necessary and proper to carry out the Consortium's oversight and financial control of the Act's funds and programs.

## Article IV - Governance

Section 1. **Consortium Board Governance and Bylaws.** The Consortium Board may adopt operational and procedural by-laws consistent with this Agreement, applicable federal and state laws, and rules and regulations pursuant thereto. Such by-laws shall be adopted or amended by a majority of the members of the Consortium Board. The Consortium Board shall meet as determined by its members and consistent with applicable law.

Section 2. **Quorum.** A simple majority of the representatives of Member Jurisdictions (7 of 13 jurisdictions) shall constitute a quorum.

Section 3. **Voting.** Except as provided below or required by state or federal law, all votes shall be approved by a simple majority vote. With respect to the powers set forth in Article III, Section 2 of this Agreement, the affirmative vote of the Consortium Board consisting of at least four (4) members of the Mount Rogers planning district and three (3) members of the New River planning district will be required for the following actions:

A. Issuance of long-term debt obligations (i.e., obligations with maturities exceeding one (1) year, such as lease purchase and borrowings).

B. Sale, conveyance, mortgage, pledge, lease, exchanges and otherwise disposing of all or any part of its real property.

C. Grants or other contractual obligations which require local matching funding from the Member Jurisdictions.

D. Hiring and discharging the Executive Director.

E. Designation of a Fiscal Agent.

## Article V - Operational Provisions

Section 1. **Allocation of Funds.** Funds allocated under the Act shall be expended for the mutual benefit of the residents of the Member Jurisdictions without regard to place of residence or as required by applicable law, regulation or in the approved Local Plan.

The Representatives or their designees may execute an Operational Agreement to specify the use of general funds that each Member Jurisdiction may provide for services and administration under the Act.

Section 2. **Designation of Grant Recipient and Fiscal Agent.** The Consortium Board shall identify annually the Member Jurisdiction to serve as the Grant Recipient. The Consortium Board shall select a fiscal agent for all funds awarded by the federal government, the Commonwealth of Virginia, local jurisdictions, or other funding sources to the Member Jurisdictions for workforce development activities, including funds provided by the Act. The Consortium Board may in the future designate a different fiscal agent and/or grant recipient.

Section 3. **Responsibility for Funds.** The Member Jurisdictions shall be financially responsible for the expenditure of state or federal funds awarded to the Consortium Board under the Act.

Section 4. **Allocation of Financial Responsibility.** Disallowed costs shall be allocated to the Member Jurisdiction(s) on a pro-rata share for the services provided in their jurisdiction(s) in the prior fiscal year under the program(s) for which such costs were disallowed.

Section 5. **Return of Local Funds.** If Member Jurisdictions contribute funds, assets or resources to the programs of the Consortium Board other than funds obtained under the Act, each shall be entitled to the return of the pro rata portion of any remaining funds, assets and resources under the control of the Consortium Board in the event of the termination or expiration of this Agreement.

Section 6. **Liability Insurance.**

A. The Consortium Board, or its authorized representatives, shall provide from eligible funds, liability insurance policies for itself and its affiliate entities, the Local Workforce Development Board and its representatives and its officers, members, employees, volunteers, and Member Jurisdictions ("the covered persons") as it deems appropriate and shall provide legal defense of claims in accordance with the terms of the policies of insurance.

B. The liability insurance should be in such amounts as are sufficient to cover any and all claims resulting from the performance of the official duties and responsibilities of the covered person. The Consortium Board, or its authorized representatives, shall retain legal counsel to represent the covered persons to the extent deemed necessary to supplement legal counsel provided under said liability insurance policies.

C. Nothing contained in this Agreement shall be construed to abrogate or waive any

defense of governmental or sovereign immunity on behalf of the covered persons or entities.

## Article VI - Local Workforce Development Board

Section 1. **Membership.** The Consortium Board shall appoint the members of the Local Workforce Development Board in accordance with the criteria in the Act and State Policy, as they may be amended from time to time. The Consortium Board shall make every effort to appoint creative and visionary individuals to the Local Workforce Development Board. Each Member Jurisdiction shall recommend nominees to the Consortium Board. The Consortium Board shall coordinate with and consult with the Member Jurisdictions when necessary to ensure appropriate representation of the Member Jurisdictions, the regional labor market, the adult educational providers, economic development leaders, and the mandatory partner programs prescribed by the Act.

In making appointments, the Consortium Board shall ensure that resources and programs, although regional in nature, will address the critical workforce needs present and future of each Member Jurisdiction.

Section 2. **Duties Under the Act.** The Local Workforce Development Board (the "Local Board") shall enter into an agreement with the Consortium Board clearly detailing the partnership between the two entities for the governance and oversight of activities under the WIOA, including but not limited to budgeting, development of goals and objectives, reporting to state and federal authorities as required by law or regulation, and any and all other activities as required by the Workforce Innovation and Opportunity Act, Section 107 (d) or by the Governor.

Section 3. **Joint Exercise of Functions.** In partnership with the Consortium Board, the Local Workforce Development Board shall perform such planning, oversight, and program implementation functions as required by law and state policy, and as detailed in the Agreement between the Consortium Board and the Local Board. The Local Board shall at all times be accountable to the Consortium Board for its activities.

## Article VII - Conflict of Interest

Section 1. **Certain Votes Prohibited.** No member of the Consortium Board, or Local Workforce Development Board:

A. Vote on a matter under consideration by the respective Board

1. regarding the provision of services by such member (or by an entity that such member represents); or

2. that would provide direct financial benefit to such member or the immediate family of such member; or

B. Engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

Section 2. **Virginia Conflict of Interest Act.** The provisions of the Virginia Conflicts of Interest Act, Va. Code §2.2-3100 et. seq. apply to the officers, members and employees of the Consortium Board and the Local Workforce Development Board.

## Article VIII - Dissolution

Section 1. **Dissolution of Consortium.** This Agreement may be terminated and the Consortium dissolved upon the occurrence of any of the following events:

A. The Governor's re-designation of the Area that excludes any of the Member Jurisdictions, or includes any localities that are not Member Jurisdictions.

B. The cessation of funding under the Act.

C. Approval by ordinance of an agreement which supersedes or rescinds this Agreement by all Member Jurisdictions. If the new agreement alters the boundaries of the Area, it shall not become effective prior to approval by the Governor of Virginia.

## Article IX - Miscellaneous

Section 1. **Effective Date of Agreement.** This Agreement shall be effective upon approval by ordinance by the governing bodies of all of the Member Jurisdictions and execution by the Chief Elected Officials thereof.

Section 2. **Amendments.** The Member Jurisdictions may amend this Agreement by ordinance upon approval of a written amendment by all of their governing bodies and execution by the chief elected officials thereof.

Section 3. **Repeal of Prior Agreements.** This Agreement shall repeal and supersede any and all prior written or oral agreements including but not limited to the Charter Chief Local Government Officials Agreement of February 15, 2000 and agreements under P.L. 102-367 (the Job Training Partnership Act) and P.L. 105-220 (the Workforce Investment Act). On the effective date of this Agreement all the duties and responsibilities of any Board or Council operating under such prior agreements shall immediately and simultaneously cease operating and the responsibilities under the Act shall vest in the Consortium Board created in this Agreement. This Agreement supersedes and replaces the New River/Mount Rogers Workforce Investment Consortium Agreement of 2009.

Section 4. **Effective.** This Agreement shall be effective on April 1, 2017 or on the day that the last Member Jurisdiction adopts the ordinance, whichever date comes first, authorizing entering into this Agreement between the Member Jurisdictions.

Section 5. **Severability.** Should any part of this Agreement be invalidated or otherwise rendered null and void, the remainder of this Agreement shall remain in full force and effect.

Section 6. **Duplicate Originals.** This Agreement may be entered into by each Member Jurisdiction as an original document. The signature on such Agreement shall bind the Member Jurisdiction.

**IN WITNESS WHEREOF**, the Chief Elected Officials of the Member Jurisdictions execute this Agreement pursuant to an ordinance enacted by each of the Member Jurisdiction.

**BLAND COUNTY**

_____
Chair, Board of Supervisors
Printed Name:_____
Date:_____

**CARROLL COUNTY**

_____
Chair, Board of Supervisors
Printed Name:_____
Date:_____

**FLOYD COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**GILES COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**GRAYSON COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**MONTGOMERY COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**PULASKI COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**SMYTH COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**WASHINGTON COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**WYTHE COUNTY**

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Chair, Board of Supervisors
Printed Name:_____
Date:_____

**CITY OF BRISTOL**

_____
Chair, City Council
Printed Name:_____
Date:_____

**CITY OF GALAX**

_____
Chair, City Council
Printed Name:_____
Date:_____

**CITY OF RADFORD**

_____
Chair, City Council
Printed Name:_____
Date:_____