

CONSORTIUM AGREEMENT

This Consortium Agreement ("Agreement") is made and entered into this 17th day of January 2011, by and among the parties named in this Agreement. The Consortium shall not constitute a separate legal entity, but rather an agreement among the parties to cooperate and work together on the Middle Tennessee Career Center ("Career Center"). Nothing in this Agreement shall be construed as creating a partnership among the parties, or constituting any party as the agent of the other party, and no party shall represent to any third party that the parties are partners or an agent for the other party.

Section I. Powers and General Function

The general functions of the Consortium shall be to provide oversight for the operation of the Career Center and satellite sites. These functions shall include but not be limited to: recommend the annual budget of the Career Center and the respective contributions of each member of the Career Center, developing chartering and service provision standards for member agencies and developing satellite Career Center sites for service to job seekers and employers. In addition, the Consortium may do all things necessary and convenient in implementing the Workforce Investment Act so long as it complies with the plan of the Middle Tennessee Workforce Investment Board and is not prohibited by law or the policies and procedures of the member agency. The Consortium shall have the authority to carry out such general functions.

Section H: Offices

The principal offices of the Consortium shall be located at 2200 Rosa L. Parks Boulevard Nashville, TN 37228. The offices may be moved from time to time as the Consortium deems necessary; however, they shall always be located at the primary location of the Middle Tennessee Career Center (the "Career Center").

Section III: Members

- 3.1. Members of the Consortium shall include a minimum of three (3) or more representatives from the one-stop ("Career Center") partners as described in 29 U.S.C.A. § 2841(b). The members, including the minimum three (3) required Career Center partners, are as follows:

Metropolitan Government of Nashville and Davidson County by and through the Nashville Career Advancement Center; and

The Tennessee Department of Labor and Workforce Development; and

The Tennessee Department of Human Services, Division of Vocational Rehabilitation

3.2. Each member of the Consortium shall have 2 representatives.

Section IV. Voting Authority

Each representative of the members, as designated in 3.1 above, shall have one (1) vote at any meeting of the Consortium.

Section V. Officers

The Consortium shall not elect officers due to small membership of the Consortium.

Section VI: Meetings

6.1. Meetings will be called as needed and will be scheduled for the convenience of all members. Normally, such meetings will be held once a quarter.

6.2. At least five (5) days notice of any special meeting of the Consortium will be given. This requirement will be waived in cases where an emergency exists.

6.3. A majority of the membership shall constitute a quorum.

6.4. There shall be no proxies given. A member unable to attend may designate an alternate in writing to the other members.

Section VII: Relationship of Parties

7.1. Fiduciary Duty: In the conduct of the Consortium each of the Parties shall owe a fiduciary duty to the other to act in the best interest of the Consortium. The relationship between the Parties shall be one of trust, confidence, and cooperation in which each acts in good faith and with fairness.

7.2. Parties' Separate Business: Each Party shall be free to engage in and carry on its separate and distinct business enterprises independently from the other Parties.

Section VIII: Rights and Responsibilities of the Parties

8.1. Ownership of Assets: The Consortium will own no assets. Any assets purchased, created or developed by a party shall be and remain the sole property of that party.

8.2. Financing Consortium Projects: Each Party shall be solely responsible for funding and financing its part of the Consortium. Any joint funding or financing must be approved by all Parties. State agencies shall have no financial liability for the operation of the Consortium except as agreed to in writing by all members.

8.3. Staff: The Parties agree that the Consortium will have no employees. Employees of the Parties will provide services to the Consortium as agreed on each Consortium Project.

8.4. No Agency: Neither Party shall have the power to act for or obligate the other Party. Any joint commitment or undertaking must be approved and signed by all Parties.

Section IX: Term of Consortium

9.1. Term: The Consortium and this Agreement shall be effective beginning as of the date of this Agreement and shall continue for a term of one (1) year, automatically renewing for successive one (1) year periods upon the execution date of this agreement unless either party gives 30 (thirty) days written notice as provided in Section XII that it does not wish to renew the Agreement.

9.2. Termination: The Parties may jointly terminate the Consortium and this Agreement by unanimous action at any time. Any member shall have the authority to terminate its participation and membership for its convenience upon thirty (30) days written notice to all other members as provided in Section XI; provided, however, that the withdrawal of less than all the Parties shall not act as a termination of the Agreement as to other remaining members unless otherwise required by State or Federal law or regulation.

Section X: Indemnification

The Parties shall exercise reasonable business judgment and act in good faith in the performance of their duties, and shall take all necessary steps to correct any mistakes, errors or shortcomings in the performance and fulfillment of such Party's duties and responsibilities. Each Party (an "Indemnifying Party") shall indemnify, defend and hold harmless the other Parties and its directors, officers, employees and agents (each, an "Indemnified Party") against any loss, liability, claim or expense incurred or suffered by the Indemnified Party in connection with a claim by a third party as a result of the negligence or failure of performance by the Indemnifying Party or any of its directors, officers, employees and agents. The terms of this section are intended to apply only to losses and expenses incurred as a result of third party claims, and not to any direct monetary loss, damage, or expense suffered by one party as a result of the failure of the other party to perform under the Agreement. Provided, however, that the State of Tennessee and its officers and/or employees, including the Department of Labor and Workforce Development, and the Division of Vocational Rehabilitation, shall not be an Indemnifying Party.

The Metropolitan Government of Nashville and Davidson County being a political subdivision of the State, is governed by the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

Section XI: Dispute Resolution

- 11.1. Should an impasse occur in the operation of the Career Center System, the Middle Tennessee Workforce Investment Board shall have the power, as Administrator of the Career Center System and responsible for oversight, to resolve such impasse to the extent that such action does not violate any law, regulation, or policy of the member agency providing services through the Career Center System. The decision of the Board may be appealed to the Commissioner of the Tennessee Department of Labor and Workforce Development as described under the State Plan, Part III(B)(1)(h)(i).

Section XII: Miscellaneous

- 12.1. Entire Agreement: This Agreement embodies the entire agreement of the Parties with respect to the Consortium.
- 12.2. Modification: This Agreement may be amended or modified pursuant to a writing signed by all Parties.
- 12.3. Notices: All notices required or permitted under this Agreement shall be in writing and shall conclusively be deemed to have been delivered upon (a) personal delivery to an officer of any Party, (b) successful facsimile transmission to any Party, or (c) receipt of such notice via express courier (e.g., D.H.L., Federal Express, etc.) to the addresses shown herein or to such other address as any of the Parties may provide in writing. For the purpose of all notices required or permitted under this Agreement, the Parties designate the following addresses:

TDOL & WFD, Field Operations
220 French Landing Dr
Nashville, TN 37243-1002

TDHS Division of V.R. Services
5th Fl. Citizens Plaza
400 Deadrick Street
Nashville TN 37248

Nashville Career Advancement Center
621 Mainstream Dr. Suite 210
Nashville TN 37228

12.4. Governing Law: This Agreement and the Parties' rights and obligations hereunder shall be governed by the substantive laws of the United States of America and the State of Tennessee, without regard to principles of conflicts of laws.

12.5. Severability: The provisions of this Agreement shall be severable, and the invalidity of a provision shall not render the entire Agreement invalid unless the invalid provision causes the Agreement to fail of its essential purpose.

12.6. Counterparts: This Agreement may be executed in one or more counterparts and such **IN WITNESS WHEREOF**, this Agreement has been executed as of the date first written above.

TDOL & WD

By: Wicki Crasie
Title: Director of Field Operations
Date: 1/25/11

TDHS Division of Rehabilitation Services

Joel O. Blackford
By: Joel Blackford
Title: Director, Partnerships & Outreach
Date: 1-20-11

Nashville Career Advancement Ctr

Paul Haynes
By: Paul Haynes
Title: Executive Director
Date: January 25, 2011

Middle TN Workforce Investment Board

Robert W. Grimes
By: Robert W. Grimes
Title: Chairperson
Date: January 25, 2011